József Boda, Philipp Fluri (Eds.)

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This is the first book to come out of the Budapest Former Soviet Union (FSU) Internal Security Governance Monitoring and Coordination Initiative. This book is divided into two parts: the first part contains participants' contributions regarding Security Sector Reform in the FSU, whilst the second part consists of comparative self assessments of Lessons Learned from the Western Balkans concerning Security Sector Reform.

Это первая книга, которая выходит при содействии Будапештской организации по мониторингу и координации процессов реформирования сектора безопасности в странах бывшего Советского Союза (БСС). Она состоит из двух разделов: в первой части представлены статьи, анализирующие ситуацию в области реформирования сектора безопасности в странах БСС; вторая часть сборника посвящена проблемам анализа ситуации по реформированию сектора безопасности в западнобалканских странах.

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INTRODUCTION

József Boda, Philipp Fluri (Eds.)

We are delighted to present this book **Internal Security Reform – Proceedings of the Budapest Working Group 2007**. This is the first book to come out of the Budapest Former Soviet Union (FSU) Internal Security Governance Monitoring and Coordination Initiative.

In the FSU, Defence Reform has been initiated and is being monitored, supported and coordinated by a multitude of actors (NATO, PfP, OSCE, UNDP, individual donor countries). Unfortunately, the same cannot be said for internal security reform which has been left largely unmonitored and undocumented. As a result, approaches have been varied and democratic oversight of internal security governance and reforms have remained, for the most part, unaddressed.

The Budapest FSU Internal Security Governance Monitoring and Coordination Initiative seeks to:

(1) regularly document the status of internal security sector reform in the light of practices observed by established democracies in cooperation with the concerned governments, services, and civil societies;

(2) make available comprehensive information on ongoing and planned cooperation projects in internal security governance and reform;

(3) make available seminal documentation of good practice in the national languages of the FSU successor states;

(4) invite representatives of concerned and interested countries and organisations to form a working group/steering committee on internal security governance in the FSU.

(5) bring together Police Commanders from the FSU analogous to the South East Europe Police Chiefs Association. (SEPCA).

The first Budapest conference, held in February 2007, was co-sponsored by the International Training Centre, Ministry of Justice and Law Enforcement, Hungary, the Ministry of Defence, Civil Protection and Sports of Switzerland, and the Geneva Centre for the Democratic Control of Armed Forces (DCAF). The conference sought to bring together representatives of interested and concerned countries and organisations with the objective to establish the status of internal security sector governance and reform in these countries, and to explore the possibilities of and opportunities for forming a working group on internal security governance and reform in the FSU.

It was also decided to carry this process further by jointly producing a book documenting selected aspects of Internal Security Reform in the Former Soviet Union as compared with similar initiatives in other regions, notably the South East European Association of Police Chiefs (SEPCA).

This book is divided into two parts: the first part contains participants' contributions regarding Security Sector Reform in the FSU, whilst the second part consists of comparative self assessments of Lessons Learned from the Western Balkans concerning Security Sector Reform.

ACKNOWLEDGEMENTS

PART I
SECURITY SECTOR REFORM IN THE FORMER SOVIET
UNION (FSU) — THE INTERNAL SECURITY DIMENSION

BACKGROUND

The International Training Centre (ITC) of the Ministry of Justice and Law Enforcement of Hungary, the Geneva Centre for the Democratic Control of Armed Forces (DCAF) and the Swiss Federal Department of Defence, Civil Protection and Sports hosted an international conference for member states of the former Soviet Union. The Conference was held in Budapest, Hungary from 12 to14 February 2007. The central themes of the Conference were the problems of ensuring internal national security, the implementation of reforms in the field of law enforcement, and cooperation in the former Soviet Union.

The seminar was a high–level meeting with participants from the European Union (EU), the North Atlantic Treaty Organisation (NATO), European Association of Police Colleges (EAPC), the Organisation for Security and Cooperation in Europe (OSCE), high-level government officials from the former Soviet Union's states of Azerbaijan, Belarus, Georgia, Moldova, Kyrgyzstan, Ukraine and Uzbekistan, as well as embassy representatives, international experts and leading specialists in the area of international law enforcement activity and cooperation. In total, 24 representatives from nine countries and five international organisations participated in the seminar.

The goal of the seminar was to bring together highly qualified colleagues from the ministries of internal affairs of the former Soviet states' in an effort to address the police reform process. The seminar also aimed to provide a common forum for discussing the problems faced by the countries represented and to find ways to resolve them. During the first day of the seminar, representatives from each of the participating states - Azerbaijan, Belarus, Georgia, Moldova, Kyrgyzstan, Ukraine and Uzbekistan - made a presentation, in order to introduce their fellow participants to the current ongoing reform efforts throughout the region. Participants were given the opportunity to respond to each presentation in a questions and answers session.

The second day of the seminar featured presentations by representatives from the various international organisations. The Organisation for Security and Cooperation in Europe (OSCE), the European Union (EU) and the Association of European Police Colleges (AEPC) were all represented. Presentations were also made by a representative from the FBI, the Director of the International Law Enforcement Academy (ILEA), the President of the National Association of Civil Guards (OPSZ) and the Head of the Department of the Crime Prevention Academy, which operates within the Institution of Crime Prevention of the Ministry of Justice and Law Enforcement.

The seminar undoubtedly furthered participants' interest in the main topic of discussion. Looking at future possibilities, this type of seminar presents an opportunity to involve other interested partners, to incorporate the results of the exchange of experience into current practices, as well as to embrace international cooperation on a more flexible and professional level.

The next sections detail the current ongoing reform efforts taking place throughout the region.

ENSURING INTERNAL SECURITY IN THE REPUBLIC OF BELARUS, AS WELL AS THE STRUCTURE AND AUTHORITY OF THE COUNTRY'S LAW ENFORCEMENT BODIES

Aliaksandr Khainovsky, Councillor of the Belarusian Embassy in Hungary

Law enforcement bodies are a significant component of the system which ensures national security in the Republic of Belarus. Within the limits of the powers allocated to these bodies, the law enforcement system aims to protect individuals, society and the state from internal and external threats.

Law enforcement bodies are presided over by the President of Belarus and the Council of Ministers (the government), within the limits of the authorities delegated to it by the President. The law enforcement system within Belarus is comprised of the Border Services, the Committee for State Security (KGB) and other internal affairs bodies.

The Border Services are a military formation entrusted with the responsibility of ensuring the sovereignty and territorial integrity of the state and guarding and protecting the state border of the Republic.

The Committee for State Security is a national body for state management, which conducts state policy in the field of ensuring national security. The committee undertakes management in the area of ensuring individual, society and state security (as well as in the political, economic, military-strategic, science-technological, information, humanities and ecological fields). In addition, the committee coordinates the activities of other state management bodies involved in this sphere.

The Militia (an internal affairs body) is a state armed law enforcement body, responsible for defending the lives, health, rights, freedoms and lawful interests of citizens and society from criminal and other illegal attacks. Their main tasks are to preserve public order, to ensure the personal and material security of citizens, as well as public security, and to fight against organised crime, human trafficking, drug smuggling and other types of crime.

Oversight over the precise and uniform execution of legislation for the border services and the other state security bodies is undertaken by the ***General Prosecutor of Belarus*** and his/her prosecutors. Security policies, strategies and military development principles are defined by the ***Security Council***. In its coordinating function, the Council works to protect the sovereignty of the state and to defend its ecological condition, as well as the rights and freedom of its citizens. The Security Council is comprised of the chiefs of the state's law enforcement bodies as well as the heads of other national state bodies.

The ***National Assembly (Parliament)*** of Belarus plays an important role in defining state policy in the field of security. It reviews draft laws in the field of defence, including those involving declarations of war and peace, as well as emergency situations. A number of programmes have been introduced in order to ensure state security and these include programmes on crime control, on counteracting human trafficking and the proliferation of prostitution, as well as strengthening the struggle against corruption.

With the aim of enhancing inter-state cooperation, the following programmes have been affirmed within the Commonwealth of Independent States (CIS) framework:

- Inter-states programmes of joint measures to fight crime (2005-2007);
- Cooperation programmes in the struggle against drugs smuggling, psychotropic substances and their precursors (2005-2007);
- Programme to counteract illegal migration (2006-2008);

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- Cooperation programmes in the fight against terrorism and other violent displays of extremism (2005-2007);
- Cooperation programmes in the fight against human trafficking (2007-2020)

The issues of cooperation development and strengthening the interaction of law enforcement bodies is highlighted by the Organisation for Collective Security Treaty (OCST), whose members are seven of the CIS states. The organisation, created in 2003, is currently being transformed into a multifunctional regional structure, responsible for ensuring security for its member states not only from military threats, but also from terrorism, drug trafficking, illegal migration and natural catastrophes.

The anti-drug operation 'Canal' which was initiated in 2003 within the framework of the ODKB (OCST) is indicative of this development. The main goal of this operation is: to identify and block contraband drug routes from Afghanistan; to block international and inter-regional channels of synthetic drug deliveries from Europe; and to suppress the activities of clandestine (underground) laboratories. The proper execution of the operation also ensures the strengthening of law enforcement bodies with the ultimate aim of reinforcing the national security of member states and enhancing co-ordination and cooperation amongst them. Seven stages of the operation have been completed since 2003, and in addition to the ODKB member states other countries have joined the process either as participants or observers. These include Azerbaijan, China, Mongolia, the United States, Iran, Pakistan, Ukraine, Poland, Latvia, Lithuania, Estonia and Finland. As a result of the operation in 2003, more than two tons of narcotics, psychotropic and strong substances were uncovered while in 2004 and 2005 over 10 and 11 tons respectively were found. The total amount uncovered during the 'Channel 2006' operation stands at around 24 tons.

In 2006, the 'Channel 2006' operation, which is unique in its idea, scope and geography, engaged over 74'000 employees belonging to specially authorised agencies, security organs, internal affairs departments, customs and border guard services. 6'000 joint operative groups in the border regions, at railways, airports and auto routes also participated in the operation.

The International Co-ordination Headquarters was established in Moscow, the seat of the ODKB Secretariat, to run the 'Channel 2006' operation. During the operation each ODKB state sent its operative group to co-ordinate work between the national offices and support operative contacts, which facilitated real-time interaction.

Specific forces, including mixed operative groups, were established to coordinate the actions of law enforcement agencies in Belarus on a region-by-region basis. Each day, during the second stage of the operation (October 2006), over 2'000 employees from various law enforcement agencies were employed. Joint operative groups were also formed to test railway and air objects (100 groups), motorways (150 groups) and border sites (80 groups). 90 groups were assembled to work at railway stations and 170 on motorways. Five airports were blocked each day. Over 113kg of drugs were confiscated, 130 crimes were uncovered and 118 citizens faced criminal proceedings.

During the October period of the 'Channel' operation in the ODKB states, over 5'000 crimes related to the illegal turnover of drugs were uncovered. Approximately 4'000 drug-related criminal cases were lodged, 3'000 drug-related administrative violations were exposed and over 2 000 people were charged with administrative liabilities. By strengthening law enforcement activity, over 20'000 criminal offences have been investigated. Approximately 500 weapons and 30'000 units of ammunition have been confiscated.

Strengthening inter-agency law enforcement activity within the ODKB framework facilitates and promotes co-ordination and mutual understanding.

Official website of the MoI Belarus:
www.mvd.gov.by

MANAGING INTERNAL SECURITY AND PROCESSES OF REFORM IN THE REPUBLIC OF MOLDOVA

Yuri Pintea, Chairman of the Institute for Public Policy, Chisinau/Moldova

In the Republic of Moldova there are a number of bodies responsible for internal security, these bodies are divided as follows:

    The Judicial Service (Prosecutor's oversight) PM
    The Security Service PM-ISS
    The Centre for the Fight Against Economic Crimes and Corruption PM
    The Border Guard Service PM (non-law enforcement body)
    The Ministry of Internal Affairs PM

Judicial Service

According to the Constitution of Moldova, the basic purpose of the judicial service is to protect the interests of the state and society, as well as the legal norms, rights and freedoms of citizens and to establish criminal affairs procedures. Each year, the General Prosecutor presents a report to the Parliament of Moldova on the work that has been undertaken, the observance of legal activity and the measures which have been adopted with regard to offenders of the law. The General Prosecutor is nominated by the Parliament of Moldova to serve a five-year term.

The Security Service of Moldova — ISS

The main purpose of this specialised body is to guarantee the security of the state. The activities of the security service are managed by the President, and the numerical composition of staff and its structure are established by the Parliament. The chief of the department is nominated by the Parliament to serve a 5-year term with an obligatory affirmation of his candidature made by the President. In accordance with Article 20 of the Moldovan Law on the Security Service, the security service is accountable to the Parliament, the General Prosecutor and the Court according to their competencies. The ISS presents its activity reports to the Parliament, the President and the Government. Parliamentary oversight is carried out by the Parliamentary Committee of Moldova on National Security, and in accordance with Article 21 of the above mentioned law, the work carried out by the ISS is controlled by the state Procurator.

The Centre for the Fight against Economic Crimes and Corruption

This Centre provides a specialised body responsible for the observance of legitimate economic and financial activity within Moldova. The head of the organisation is nominated by the Government of Moldova and serves a term of four years. The professional legal activity of the Centre is managed by the General Prosecutor which is reinforced by its strict compliance with the relevant legislation. The Centre's activities are not, however, subject to parliamentary consent or discussion.

The Customs Service of Moldova

The Customs Service is a specialised state organ which carries out customs control, observes the

payment of tax tolls and criminal prosecution efforts. The main task of the Customs Service is to 'guarantee, within the limits of its competencies, the economic security of the state and the observance of the customs legislation.' The Service also fulfils the duties of the activity coordinator in the guarded border zone. The professional activity of the Service is limited by the Customs Code of Moldova and the structure of the Service and staff numbers are approved by the government. The Head of the Customs Service and his deputies are appointed by the government.

Ministry of Internal Affairs of Moldova (MoI)

The Ministry of Internal Affairs (hereafter called MoI), is the central specialised state body of the executive, responsible for the protection of the lives, health, rights and freedoms of citizens, property, interests of the society and the state against criminal trespasses and other illegal acts, providing observance of the legislation, protection and ensuring social security, carrying out state supervision in the field of civil protection and executing these tasks throughout the entire territory of the country (accepted by the Ministry of Internal Affairs of Moldova on 30 July 1998). The Minister of Internal Affairs is appointed by the President of Moldova.

In addition to ensuring the personal security of persons, their rights and freedoms, lawful interests and the fight against criminality, the MoI is also responsible for initiating and promoting state policy on migration and refugee issues. The MoI not only guarantees the lawful activity of internal agencies, departments of carabineri troops, the professional training of law enforcement personnel, but also guarantees the legal and social protection of personnel, as well as providing the necessary information to and cooperation with national state defence institutions (Accepted by the MoI on 20 July 1998).

National Police

The National Police is a constituent of the Ministry of Internal Affairs whose main goal is to guarantee and ensure the personal security of citizens of Moldova. According to Article 1 of the Law on Police which was established on 18 December 1990, the police is an armed body of the executive, a guarantor for observing the laws in the country, which protect the lives, health and rights and freedoms of citizens, as well as the interests of society and the state against illegal offences.

The National Police is subdivided into state and municipal police branches. State police activities are carried out on the entire territory of Moldova. The organisational structure and the numeric composition of the state police are determined by the government following an initial submission by the Minister of Internal Affairs. The professional activity of this body is accountable to the MoI and control over the activity of the state police is administered by the MoI. The activities of the municipal police remain within the limits of the corresponding administrative units. The municipal police is subordinate both to the MoI and local state authorities and control over their activities is administered by the local authority.

Moldova's law enforcement system became increasingly independent after 1991. Many of its departments and services have subsequently undergone transformations and formed autonomous institutes. Many departments have also changed their jurisdiction. Aimed at the democratisation of the societal system, many of the legislative and normative acts were revised and the functions and tasks of the ministries and agencies were reconsidered.

Parliamentary Control

Parliamentary control is carried out by the permanent commission on national security, defence and public order. It is comprised of 11 members and the activities of the given body are directed

towards the following: carrying out national security; fighting against offences, acts of corruption, terrorism, ensuring public order and traffic security, protecting the state border and supporting the government; Reform of the armed forces (national army, border guards, the carabineri troops), military and alternative departments, ensuring legislation on the social and legal protection of military staff, organisation of services available within the Customs Department, Penitentiary Department and the Emergency Situations Department; observing classified information, identifying national documents.

Supreme Security Council (SSC)

The SSC is a consultative agency, which analyses the activity of all ministers, national security departments and formulates recommendations to the President of Moldova on internal and external state issues. (Decree of the President 10 October 1997)

Department of Internal Security

The need to protect the rights and lawful interests of MoI personnel, as well as to identify and suppress offences committed by MoI employees led to the creation of the Department of Internal Security (MoI Decree No.3 as of 21.02.1997). This Department is a sub-unit of the Central MoI apparatus and it is directly accountable to the MoI. One of the basic functions of this Department lies in carrying out preventive and operative actions with the purpose of revealing and suppressing crimes, administrative violations, and also breaches of discipline committed by law enforcement personnel. The Department's most important activity involves the prevention of infringements of the current legislation as well as the service discipline, as well as the termination of offences immediately after they have been committed, the establishment of recognised infringements and the application of summary punishments. The Department of Internal Security is actively collaborating with the organs of the Prosecutor's Office to keep records of all cases that have been filed against police employees.

Central Administrative Board of Personnel Service

The central administrative board of personnel service is a principal body of the Ministry of Internal Affairs, which plays a supervisory role and gives theoretical, practical, educational and methodological assistance to staff in internal affairs and its various subdivisions. The central administrative board coordinates the activity of the various bodies and subdivisions of internal affairs in the field of recruitment, professional development, class grade increases, social protection and education. It works in close interaction with other structural subdivisions of the Ministry of Internal Affairs.

Official website of the Ministry of Internal Affairs of Moldova: www.mai.md

THE ORGANISATIONAL STRUCTURE OF THE MINISTRY OF INTERNAL AFFAIRS OF UKRAINE

Stepan Svistovich, First Deputy Chief of the Army Staff - the Chief of Operative Management AT MoI of Ukraine Headquarters, and
Larysa Kryvoruchkî, Kharkov National University of Internal Affairs of the Ministry of Internal Affairs of Ukraine

The Law on Militia, which was passed on 20 December 1990, defines the functions of Ukraine's law enforcement bodies, and this date marks the foundation of the country's law enforcement system. The Heads of State and the Ministry have subsequently worked on perfecting the system in an effort to bring the Ministry of Internal Affairs in line with European and world standards. Separate sub-sections have been reorganised and new services and a versatile professional training system for law enforcement personnel have been established. The demilitarisation of the MoI has led to the creation of a significant number of positions in the Ministry, and its subdivisions, as well as the employment of civilian experts. Ukraine's law enforcement system actively ensures the development and efficient operation of mechanisms aimed at the protection of the rights of citizens.

Main Aspects of the MoI Ukraine: Questions of Internal Security

The present state of the security sector and reform of the internal forces are of particular concern in Ukraine at present. Internal forces are a constituent part of the Ministry of Interior. They are intended to protect constitutional order, territorial integrity, the interests of the state and its citizens from criminal trespasses and other wrongful acts. The internal forces of the Ministry of Internal Affairs of Ukraine are a military formation which is a part of the system of the military organisation of the state, and their tasks are defined by the Law on internal forces of the Ministry of Internal Affairs of Ukraine.

The legislative and normative-legal base ensures the functioning of Ukraine's internal forces. Nevertheless, because of Ukraine's decision to move towards Euro-Atlantic integration, continual improvement is essential. The internal forces activities are regulated by more than 240 legislative acts: The significance of reforming Ukraine's internal forces has been reinforced by legislative changes. Measures to improve national security have been aimed at establishing more precise and realistic definition of tasks for the country's military formations and ensuring that the structure and number of its armed forces conform with the requirements of the security sector.

Reform Efforts

From 2003 to 2006, a substantial number of organisational actions, directed at the reduction of the aggregate number of armed forces, were initiated. As a result, 20 military units were disbanded, including four brigades, six regiments and 10 separate battalions. The number of troops was reduced to 10'000 with 836 established posts (which constitutes 24% of the aggregate number of troops).

Ensuring democratic civilian control over Ukraine's armed forces is essential. Civilians are assuming command positions in central bodies and working in technical, medical and financial capacities in higher military educational institutions. At present, 1'000 civilians work in the armed forces which constitutes **5.6%** of the aggregate number of troops. In future it is planned that: **20%** of MoI positions in the Central Administrative Board will be filled by civilians, to replace

approximately **30%** of rear subdivision positions in Ukraine's military units with civilians; and to raise the numbers of civilians up to 9% of the aggregate number of troops.

Public awareness on the activity of Ukraine's armed forces is facilitated by the press centre's extensive media coverage, which includes the use of periodicals, as well as national and regional television programmes. Information on the armed forces is made available to the public by the Ministry of Internal Affairs, and the Internet provides a further source of information.

The People's Deputies and citizen references are facilitating Ukraine's efforts to strengthen civilian control over the security sector, heighten public trust and ensure the transparency of its law enforcement agencies. In 2006, the Internal Forces Headquarters (ITH) received 404 references from the state authorities, citizens of Ukraine, servicemen and members of their families. Every inquiry and reference received a qualified reply.

Training and Education

With regard to the professionalisation of staff, the State's Target Programme is currently being drafted. Its aim is to reform the internal forces of the Ministry of Internal Affairs. As of 1 January 2007, the number of contract-based servicemen constituted 29 % of the aggregate number of troops. In order to enhance staff training, the Military Institute of Internal Forces is being re-organised into the MoI Academy of Internal Forces. .A gradual transition towards European education standards is currently taking place in Ukraine. As outlined in the Bologna declaration, the MoI Academy began to integrate higher education standards into the learning process of the credit-module system of education and knowledge evaluation.

In the field of public order and maintenance training, a joint French-Ukrainian project has been initiated, which aims to create an International Centre for the Training of Public Order Maintenance Forces. Up to 600 people will be trained at the centre each year, and Italy, Spain, Portugal, Holland and the United States being invited to contribute to the funding of the project.

The Centre is being created in order to ensure the realisation of international standards regarding the preparation of special purpose subdivisions and public order maintenance forces within the framework of European security. This Centre will allow Ukraine's MoI personnel to learn from international experience in the field of public order and security and deepen the level of cooperation between Ukraine's armed forces and foreign military law enforcement formations. This will be particularly so in the area of coordinated international operations aimed at countering terrorist activity and organised crime under the aegis of the United Nations (UN), the European Union (EU) and the North Atlantic Treaty Organisation (NATO).

International Cooperation

Military cooperation between Ukraine's internal forces and the related military structures of foreign states is a dynamic process which is being constantly developed. Cooperation is being actively strengthened between Ukraine's internal forces and the National Gendarmerie of France, the US National Guard, the Gendarmerie of Turkey, Poland, Bulgaria and Romania, the internal forces of Russia and Belarus, Moldova's carabinier troops and other country's military law enforcement structures, which include in particular other members of the CIS. A total of 161 activities involving exercises in military cooperation between various countries were held last year in which 388 representatives from different internal forces participated. This included meetings, seminars and conferences at home and abroad, joint training exercises, language and vocational training as well as sports and cultural activities.

Whilst participating in international training courses, the organisers and international observers alike noted the high level of professionalism that was demonstrated by Ukraine's service personnel

during the training period. These results demonstrate that the level of military education for MoI subdivisions is comparable to that of other European countries.

Security Sector Reform

In spite of the positive comments made above, it is clear that Ukraine's national security system demands constant attention. Its internal forces require strengthening and problematic questions concerning the country's development, its armed forces and other military formations should also be addressed. The reform of Ukraine's internal forces needs to be realised within the framework of the reform of its security sector. The functions, problems and structure should be identified and defined, in relation to the new political and economic conditions of the state. Draft laws 'On the introduction of changes into the Law of Ukraine' and 'On the internal forces of the Ministry of Internal Affairs of Ukraine' are being initiated, in which the results of a comprehensive review of the country's security sector are being taken into account.

In the course of conducting a complex review of Ukraine's security sector, testimonies of real and perceived threats as well as national security concerns until 2015 have been made. The state of Ukraine's military formations and its law enforcement agencies has also been assessed. The results of this complex security sector review should become the basis of the concept for reforming the security sector from now until 2015.

During 2007, and after adoption of the above mentioned law it is planned to develop and affirm in due order the charters, manuals, orders and command papers, as well as other normative-legal acts which regulate the activities of military units of the Ministry of Internal Affairs. Plans are also underway to predict and specify equipment and material needs, particularly in light of the state's financial and economic resources.

Official website of the Ministry of Internal Affairs of Ukraine — www.mvs.gov.ua

THE STRUCTURE OF THE MINISTRY OF INTERNAL AFFAIRS OF AZERBAIJAN

Arif Ryazev, Head of the Department for Internal Security

The process of reforming the law enforcement agencies of the Azerbaijan Republic (AR) is the carefully coordinated responsibility of many departments within the Ministry of Internal Affairs. It involves democratising and establishing norm-creating activities, activating international cooperation and organising law enforcement operations. To this end, a number of organisational and technical reforms have been initiated by the Ministry of Internal Affairs. The structure of the Ministry has been endorsed by the President of Azerbaijan and includes a variety of services. The major Departments and Subdivisions within the Ministry are defined below.

The Secretariat (which possesses the rights of the central administrative board)

It is an independent structural subdivision, responsible for the registration of applications made by citizens and organisations concerned with the activity of law enforcement bodies. The Secretariat assists with the preparation of normative-legal acts in the system of the Ministry of Internal Affairs, AR legislation's provisions, responds to questions concerning the competency of the Ministry of Internal Affairs, observes the secrecy mode, prepares encoded telegrams, and publishes and duplicates normative acts.

Head Organisational — Inspectorate Department

This Department of the Ministry of Internal Affairs is an independent structural subdivision within the central apparatus of the Ministry. The central administrative board coordinates the activities of the Ministry of Internal Affairs and other law enforcement bodies. It also conducts checks and is authorised to observe the execution of legal acts by government bodies and the Ministry of Internal Affairs. **The MoI's Head Department** fulfils the a variety of organisational and analytical functions. Based on a complex analysis of crime levels, the Department plans law enforcement activities, identifies priority areas, conducts an evaluation of results and co-ordinates the activity of MoI services and internal affairs organs, executes complex inspections, ensures staff discipline and oversees the execution of normative-legal acts by MoI departments.

Service of Operative Management of On-duty Units

This service manages the operational situation in the country, as well as the forces and resources of the Ministry of Internal Affairs. It also provides practical guidance for on-duty law enforcement units.

Supreme Criminal Investigation Department

This department was established at the beginning of the 20th century and is responsible for investigating crimes, conducting searches and detaining criminals. Over the years, the department has evolved into a multipurpose service dealing with complex problems concerning crime control

and the prevention of offences. It was initially comprised of local policemen, dealing with the affairs of minors. Subdivisions struggled against organised crime and worked to counteract the illegal circulation of drugs. These subdivisions subsequently became independent and they are now functioning as prominent departments.

At present, ***the Supreme Headquarters of the Criminal Investigation Department*** is an independent structural subdivision within the Ministry of Internal Affairs, responsible for crime control, carrying out preventive measures, investigating crimes, searching for missing persons, dealing with stolen assets, identifying unidentified corpses and carrying out operative activities as stipulated in the national legislation.

Supreme Department for Inquest and Investigation

An independent structural subdivision responsible for conducting criminal investigations and preliminary examinations, preparing organisational and methodological manuals, exposing fraudulent behaviour, promptly disclosing crimes, etc.

Supreme Department — the Fight Against Organised Crime

The basic functions of ***the Supreme Department***, according to the national legislation and corresponding normative-legal acts of the MoI, are to fight against organised crime in its various forms, such as terrorism, banditry, hostage-taking, racketeering, fraud, human trafficking as well as trans-national forms of crime. Senior management is responsible for the prevention, disclosure and investigation of similar sorts of crimes. The Department is also responsible for submitting proposals to the Ministry of Internal Affairs which are aimed at strengthening the fight against organised crime and increasing the efficiency of departmental activity.

Supreme Department in the Fight Against Drugs

The Department conducts management and operational search activities aimed at combating the illegal circulation of drugs and psychotropic substances. In addition, and in accordance with the analysis of crime in this area, the Department organises and co-ordinates regional services, territorial and linear police bodies in this area, and organises interaction between the services of law enforcement organs in conducting operational search activities in the subordinate regional and district departments as well as linear structures.

Department of Internal Security

The Department of Internal Security was created by presidential decree on 30 June 2004 with the purpose of carrying out interdepartmental control over the activity of law enforcement bodies, including more detailed knowledge of internal security issues in the various departments and units of the Ministry. It is also responsible for the prevention of activity incompatible with a service in the IAD, revealing conditions which generate corrupt practice, and adopting measures to combat corrupt personnel serving in the MoI.

Managing Department of Criminal Investigation

The Department's main responsibilities are as to ensure the participation of experts in surveying

crime scenes and in fulfilling their investigatory and operational search activities. The department maintains close connections with the corresponding services of other countries.

Supreme Managing Department of Internal Forces

This important Department directly manages the country's internal forces, protects society and state interests, constitutional laws and citizen freedoms against criminal acts, major state objects, communication settings and public order. It provides security during mass actions, and aims to prevent mass rioting, and other actions as stipulated by the legislation of the Azerbaijan Republic. The country's internal forces were created by presidential decree in 1991. The internal forces' functions, responsibilities and activities are statutory to the law 'On the status of internal forces,' which was passed in 1994. According to the law, Azerbaijan's internal forces are responsible, together with other law enforcement organs, for: ensuring public order in cities and other settlements by means of patrol sentry duty and ensuring public order during mass actions; providing immediate assistance to law enforcement organs during rescue operations, protecting property and ensuring public order during power failures, accidents, fires, natural disasters and other emergency situations, and also during a state of emergency. They are also, if necessary, required to participate in the protection of the territory of Azerbaijan.

Other responsibilities can be enacted strictly in accordance with legislation and normative legal acts stipulated by the legislation of the armed forces. The Commander-in-Charge of the Internal Forces is subordinate to the Minister of Internal Affairs and is his deputy. Officer training is conducted at the Ministry of Defence's Military School. The equipment of the Internal Forces is produced by servicemen who have decided to extend their military service after the completion of regular military service. The Internal Forces of the Azerbaijan Republic cooperate with similar structures of the Turkish Republic, the Chinese National Republic, the United States and other developed states.

National Central Office (НЦБ) of Interpol in Azerbaijan

This subdivision supports the exchange of information in the field of crime control among the various law enforcement services of Azerbaijan and corresponding structures of Interpol member states.

Managing Department of Internal Investigations

The Department is responsible for ensuring the observance of human rights by law enforcement organs. It also oversees investigations which have arisen in relation to cases of law-breaking and/or actions of the MoI.

Managing Department for International Cooperation

Responsible for supporting inter-agency cooperation and coordination with foreign law enforcement agencies, it coordinates the activity of the Ministry in the sphere of fulfilling its obligations, particularly with respect to international conventions.

Press service

The Press Service aims to ensure transparency and publicity of MoI services, and is responsible

for informing the public and providing regular press coverage of the activity of law enforcement organs in the field of crime control, public order, protection of social security and human rights.

The above-mentioned information testifies to the process of reform that has taken place in the country, which is being positively reflected in the professional work of the law enforcement bodies of the Azerbaijan Republic. This reform process is igniting the trust of the population and lifting the prestige of the country's law enforcement agencies as a whole.

The official website of the Ministry of Internal Affairs of Azerbaijan is www.din.gov.az

ENSURING THE INTERNAL SECURITY OF GEORGIA AND SUPPORTING ITS REFORM EFFORTS

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The internal security of Georgia is the responsibility of the ***Ministry of Internal Affairs, with the support of the Security Service and the Ministry of Defence.*** The main task of the Ministry of Internal Affairs of Georgia is to provide effective state security and to ensure public order. In addition, the Ministry is responsible for neutralising dangers posed by criminal groups and representatives of the criminal world in support of the national interests of Georgia. Border protection is also one of the Ministry of Interior's tasks.

Reform Efforts

A number of reform efforts have been started by the Ministry of Internal Affairs which have led to the merging of departments within the Ministry of Internal Affairs and MS. The information databank has been reformed, police patrol units have been established and a new anti-corruption unit has been set up. An independent body has also been established in order to monitor the observance of human rights. Most importantly, efforts have been initiated in order to reform the country's police and security agencies.

Georgia's reform efforts have been successful as a result of the efficient functioning of each of the constituent parts of the Ministry. The organisational structure, the activities of each ministry and the country's law enforcement structures as a whole are subject to effective oversight. A number of organisational irregularities, duplications and departmental problems have been addressed as a result.

Reform has not only taken place within the Ministry of Internal Affairs, but also within the Security Service, the Border Service and in other Departments. Duplication in law enforcement activity has been eliminated and coordination mechanisms have been simplified. and the salaries and the level of social protection for MoI employees have also increased.

The aggregate number of MoI staff in Georgia has been reduced to 22'000 persons and the reform process as a whole has yielded impressive results. Branches of police have been repaired, services have begun to meet modern demands and offices are being equipped with the latest computer engineering apparatus. These measures have served to solidify the public's trust in the Ministry and to increase the prestige of the country's law enforcement agencies. In addition, patrol units are being equipped with new vehicles and police uniforms have been updated. Information exchange is concentrated in the 10 main centres of Georgia, which are equipped with signal centres to accommodate over 160 branches of police.

As mentioned above, the level of public trust in the MoI has grown considerably. According to a study which was conducted in 2006 upon the initiative of the United Nations (UN), 76.9 % of Georgia's population affirm that the present day police activity is far more efficient in comparison with three years earlier. In addition to an increase in trust, there has also been a substantial increase in the national budget which has grown from 435.7 million USD in 2003 to 2'163.7 million USD in 2007.

Cooperation

Regional Cooperation within GUAM (Georgia / Ukraine / Azerbaijan / Moldova) and the CIS (Commonwealth of Independent States) plays an important role in the suppression of: terrorist activities, the illegal circulation of drugs, human trafficking and clandestine migration and corruption. Within the GUAM region, data can be transmitted via secure VoIP channels, including e-mail, texts, graphics, documents, video and audio information, as well as via secure telephone communication lines.

   Cooperation in CIS countries is carried out in accordance with to legal agreements on civil, family and criminal directions between member states of the CIS. These legal agreements include Bilateral agreements, Multilateral agreements, and Memorandums of Understanding. Such agreements have also been made with the European Union and the following countries: Armenia, Austria, Azerbaijan Bulgaria, China, Egypt, Finland, Great Britain, Greece, Kazakhstan, Latvia, Moldova, Romania, the Russian Federation, Tajikistan, Turkey, Turkmenistan, Ukraine, the US and Uzbekistan.

Police Training

The training of police officers takes place at the Police Academy, which is a Special Educational Centre of Georgia. The academy prepares patrol and local policemen, provides training courses for new officers in police crime units and for personnel working in the operational field. It also provides special programmes for qualification improvement as well as retraining courses for officers from the Department of the Constitutional Security, the Department of Counter-intelligence and the Department of Investigation. Law enforcement officers also participate in a number of training courses with the following international organisations: the International Law Enforcement Academy — ILEA (Hungary); the George C. Marshall European Centre for Security Studies (Germany); the Police Academy Mubarak (Egypt). Professional preparatory courses are provided by Germany, Norway, Ukraine and the Council of Europe, and cooperation takes place with the Regional Centre SECI for preparation on fighting trans-border crimes.

Official website of Georgia's MoI — www.police.ge

THE BODIES PROVIDING INTERNAL SECURITY OF KYRGYZSTAN AND THEIR REFORM EFFORTS

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Michael Sherenkov, Chief of Department of the Ministry of Internal Affairs of Kyrgyzstan

The dissolution of the USSR created serious difficulties in terms of staff training and providing law enforcement organs with the required equipment and resources. In terms of the work of the militia at that time, serious oversights and large omissions could be seen. Many crimes remained unresolved. Security bodies suffered from equipment, hardware and transport shortages. Personnel were inexperienced and frequently failed to receive wages.

Reform Efforts

The security system has over the last few years begun to concentrate its efforts on enhancing public order, eradicating crime and addressing infringements of the law. Redundant administrative units have been abolished while criminal investigation units, the department for the fight against socialist property theft (BHSS) and the local police have been strengthened.

On 11 January 1994, the Law on the law enforcement agencies of the Kirghiz Republic was passed. The law precisely defined the place and the role of law enforcement agencies in the system of the executive authority, established their primary goals, rights and responsibilities, warranties for legal and social protection and the order of their financial and material support. The President, the Parliament and the Government obliged the country's militia to gradually augment and improve its methods of work.

Practical assistance has also significantly enhanced oversight mechanisms. A reporting system on young employees been established. The local police, the criminal investigation department and other units are now obliged to file comprehensive reports. The Ministry of Internal Affairs has introduced organisational changes to some services and by reducing the central MoI apparatus, the Department of Internal Affairs has increased the number of local police by 20%. Inspection apparatus have been transformed into duty units as part of the protection services responsible for public order.

In recent years, efforts have been focused on combating organised crime and mafia structures. The MoI has strengthened its coordination efforts with the Ministry of National Security (MNB) with respect to tax services and state customs in the fight against infringements of privatisation and currency transaction legislation. A new Criminal Operative Documentation (POM) Unit has been established in an effort to improve administrative capacities. These measures have yielded positive results and the capacity of law enforcement agencies to address infringements of the law is improving every year. Bilateral agreements have been concluded on cooperation in the area of crime control and the training of personnel between the law enforcement agencies of Kyrgyzstan and the Ministry of Internal Affairs of Kazakhstan, Russia, Turkey, Uzbekistan, and the People's Republic of China.

Despite the material inadequacies and the general socio-economic conditions, the mobilisation of staff and rising levels of public involvement in the fight against crime are contributing to the steady decline in overall crime levels. However, the MoI has repeatedly noted that negative influences continue to cause grave crimes. The Internal Affairs Department is struggling against financially

motivated crimes and mercenary actions. Corruption in the various echelons of the law enforcement agencies continues to undermine crime fighting efforts. It is not uncommon for corrupt officials to shelter criminal groups.

The Internal Security Bodies of Kyrgyzstan

The internal security of Kyrgyzstan is the responsibility of the Ministry of Internal Affairs, the State Committee for National Security, the Border Service and the Drugs Control Agency.

The Ministry of Internal Affairs of Kyrgyzstan has established an efficient law enforcement system, which is managed by the Minister of Internal Affairs who is assisted by the first Deputy Minister and two additional deputies. Coordination and management refers to the functions of the Minister of Internal Affairs, the law enforcement system as a whole and how such constituents are managed. The Minister is responsible in particular for management of the country's internal, as well as legal aspects and international cooperation.

Formally called the Service of National Security (SNB), *the State Committee for National Security* was renamed on 6 February 2007 in accordance with the new government structure. The State Committee is subordinate to the Government of Kyrgyzstan, and includes intelligence bodies and functions in conformity with the Law of the Kirghiz Republic dated 26 February 2003.

The Border Service, which ceased being part of the SNB following the issuing of a presidential decree dated 18 June 2005, is responsible for border control at the national level.

The Council on National Security is the constitutional consultative body responsible for preparing the decisions of the President in the field of security. The Council considers questions concerning internal and foreign policy in the field of security. The Council is composed of a Chairman, who is the President of Kyrgyzstan, Members of the Council, the Prime Minister, the Parliament (Toraga Zhogorku Kenesha(ZhK)) and representatives of state bodies as defined by the President.

Oversight

The Parliament (ZhK) plays an important role in overseeing the work of those bodies which are responsible for providing security in Kyrgyzstan. The ZkH is not only responsible for adopting laws, but also for modifying and making amendments to the Constitution, affirming the National Budget and reporting on its execution and issuing amnesty. Within this structure, the ZhK Committee (Parliament) is a supervisory body responsible for providing internal security. The Defence and Law Enforcement Affairs Committee is responsible for regulating and overseeing the work of law enforcement agencies.

Ombudsman (Akyjkatchy). The Akyjkatchy Institute was established following the Law of Kyrgyzstan dated 31 July 2002. It is responsible for the protection of the rights and freedoms of citizens of Kyrgyzstan, ensuring observance and respect for the rights and freedoms of citizens, and the execution of laws according to international treaties and agreements signed and ratified by the Kyrgyz Republic.

Within the Ministry of Internal Affairs, there is *the Internal Affairs Department (IAD)*. This Department is working to improve the organisational capacity and effectiveness of the operational activities of the IAD and to strengthen coordination between the various services and subdivisions of the Ministry of Internal Affairs which work to ensure public order and investigate crimes. It is tasked to enhance mechanisms to eradicate organised crime and corruption in the law enforcement system as well as strengthening legislation by involving various public formations in the protection of public order and augmenting the coordinating role of the local IMA (Inspectorate on Minors

Affairs). In addition to the above tasks, the IAD adopts practical measures to improve the MoI's structure, the selection and placement of personnel, and to provide service and combat training for IAD employees and internal forces while improving discipline. Finally, the IAD woks to enhance business ties and deepen communication with law enforcement agencies from the CIS and beyond.

Official website of the Republic of Kyrgyzstan — <u>http://www.mvd.kg</u>

QUESTIONS ON STRENGTHENING REGIONAL SECURITY IN EUROPE AND ASIA

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In the Republic of Uzbekistan, the process of independence started in 1991. The process of democratisation led to a reform of the country's social system whereby numerous legislative and normative acts were amended and the ministries were transformed. The duplication of functions and tasks was abolished and the jurisdiction of the ministries was improved.

The process of reform was reflected in all existing bodies and departments, essentially changing their organisational structures. What follows is an examination of the jurisdiction and activities of the Ministry of Internal Affairs of Uzbekistan.

On 10 March 2005, the President of Uzbekistan, I.A. Karimov, issued decree no. 24 - 'Programme for the realisation of the tasks and goals of democratisation and updating of society, reforming and modernising the country.' The decree introduced a more thorough formation of democracy. The basic direction for the reform process to take was to look into questions of foreign policy, to undertake a revision of the current legislative and normative acts and the preparation of new draft laws and normative acts. This would enable a prospect for further development of the reform process through the formation of a democratic civil society, the protection of national interests in the international community and the conclusion of bilateral legal aid agreements with representatives of foreign states.

Cooperation

The statistical data over a 13-year period (1991 — 2003) testifies to the fact that Uzbekistan has accepted only 232 multilateral and bilateral international documents. In the areas of justice and security, 36 multilateral treaties have been signed. This constitutes 15.5% of the total number of accepted international documents. Uzbekistan became a signatory to 74 bilateral contracts which constitutes 31.9% of the total number of the concluded international agreements.

Security Problems

According to the UN, the production of opium in Afghanistan increased by 64% in 2004. Approximately 24% of Afghanistan's heroin supply (about 40 tons) passes through the 'northern route' each year, 8-10 tons of heroin stays in the transit countries and the remaining 29-30 tons are exported to the Russian Federation and Europe. The illegal trafficking of drugs presents a major problem for the law enforcement agencies in Uzbekistan.

The Activities of Uzbekistan's Law Enforcement Agencies in the Fight Against the Illegal Circulation of Drugs

In 2004, the country's law enforcement agencies exposed 8'538 crimes involving the trafficking of drugs. 1'633kg of drug substances were seized, which exceeded the parameters of 2003 by 51% (1'080.5 kg). Substantial quantities of heroin were seized by the authorities in the following regions:
- Surkhan-Darya region — 283.4 kg;

- Kashkadaryinskaya region — 41.5 kg;
- Tashkent — 182.6 kg.

According to the Ministry of Internal Affairs of Uzbekistan, new routes for contraband drug smuggling have recently emerged and this is affecting not only Uzbekistan and its immediate neighbours, but the whole of the region.

In 2004, 160 foreigners from 11 different states were apprehended in Uzbekistan for drug trafficking. In addition, some 4'971 criminal cases have gone to trial involving 6'309 persons, and 6'289 people have been convicted. In 2004, the number of citizens believed to be suffering from drug dependence increased by 463 persons, constituting a total of 19'551 people. The curve of dependence has increased by more than by 2.4%. According to the National AIDS centre, the total number of HIV infected persons is 5'612, and it is believed that some 45% of those infected is because of drug addiction. In order to help educate citizens of the risks involved, over 170'000 syringes, 10'000 means of protection and 3'000 information leaflets were distributed during 2004.

Recommendations

In order to monitor narcotics and drug trafficking it is suggested that a space system be created, comprising geostationary satellites which would fly over the territory of Afghanistan, Uzbekistan, Kyrgyzstan, Tajikistan, Turkmenistan, Turkey, Laos, Myanmar, Thailand and Kampuchea. Information taken from these geostationary satellites would be transmitted to law enforcement agencies of the above mentioned countries and the OSCE for the adoption of measures regarding the struggle against liquidation of crops. Police and the armed forces would be employed to assist.

There is clearly a need to strengthen the control over drug trafficking routes and especially those from Central Asia to the Republic of Afghanistan. It is therefore necessary to further enhance cooperation between the Republic of Uzbekistan and the member states of both the OSCE and EvrAzES.

Finally, there is a requirement for the establishment of measures to simplify the question of extradition of persons partaking in the illegal circulation of drugs and funding terrorist activity, both in the CIS and the OSCE.

Official website of the Republic of Uzbekistan — www.mvd.uz

RECOMMENDATIONS AND CONCLUSIONS

Strengthening statehood and intertwining national priorities with societal interests, ensuring internal national security, the protection of rights, freedoms and the legitimate interests of citizens, as well as ensuring the supremacy of law in all spheres of public life remains one of the most significant elements of development for newly independent states of the Former Soviet Union. The process of democratic development and ensuring protection of the rights, freedoms and the legitimate interests of physical and legal entities is inextricably related to increases in the efficiency of law enforcement agency activity. Without appropriate protection and observance of human rights and freedoms, it is impossible to create a fully-fledged state and strengthen civil society.

The issue of ensuring reform, sustaining peace and enhancing law enforcement activity and internal national security in the post-Soviet region is a complicated one. In its turn, this global problem touches on enhancing the whole law enforcement system which, in light of the latest international and national trends, is a timely issue.

During the conference, the historic events of the Soviet years, the creation of independent states and the internal security issues facing states of the former Soviet Union were discussed within the context of the law enforcement reform process. The need for reform was discussed in relation to an evaluation of the former Soviet system. Substantial conclusions were made regarding the quality of the law enforcement reform process and participants identified the following reform objectives:

- reform of law enforcement agencies;
- enhanced regional and international cooperation;
- creation of institutes of cooperation;
- development of vocational training and education;

In the former Soviet Union the development of all spheres of the Soviet economy was undertaken with a sense of purpose whereby economic development met the requirements of social stability. However, after the breakdown of the Soviet Union, deterioration occurred in all spheres of state development.

Establishing and preserving security in the former Soviet states, which is intrinsically linked to the European integration agenda, is of the utmost importance. Taking into consideration the peculiar difficulties these states encountered after the breakdown of the Soviet Union, the implementation of the European Union's (EU) legal norms into the national legislation should be noted. One of the major elements in this activity is the process of reforming law enforcement systems. This international conference on 'Cooperation between the states of the former Soviet Union in the field of ensuring internal national security' allowed for the uniting of a wide spectrum of information which was provided by the seminar participants. Participants were thus able to analyse the progressive tendencies that are emerging in the former Soviet Union, identify prospective trends in their activities and further strengthen international cooperation.

Following a roundtable discussion, the conference participants identified substantial problems pertaining to the law enforcement reform process which is currently taking place in several of the post-Soviet states. The next section details the major problems faced by post-soviet states as perceived by participants and the recommendations and conclusions reached at the end of the international conference.

Major Problems Faced by Post-Soviet States

1. ***The politisation of all law enforcement agency activities***, which negatively affects the recruitment policies of these bodies which, in turn, substantially impedes the reform process. Legally speaking, law enforcement personnel in these countries do not have the right to represent anyone's political interests, gain political party membership, express political views, intervene in the political life of the state or encourage the influence of political forces, particularly in relation to the main goals and actions of law enforcement agencies. In practice, however, political leaders frequently infringe legal norms. This behaviour is in fact representative of a certain unwillingness to carry out the qualitative aspects of the reform process. This tendency has been observed in a number of former Soviet states, including Belarus, Ukraine, and Uzbekistan.

2. ***Inadequate financing for law enforcement agencies and for the reform process.*** Considering the aspirations of the post-Soviet countries to gain entry into the European community, implementing legal standards into national legislation is a necessity. In view of thee current state of the post-Soviet law enforcement system, it is important to talk about allocating the financial means necessary to launch the reform process with the aim of making these agencies work in a democratic and transparent way.

3. ***Corruption among law enforcement agencies officials***, starting from the most junior to the more senior-ranked personnel. The current state of the law enforcement system and an unwillingness to reform outdated systems impedes the realisation of reform for all states. It renders negative the impact of Euro-integration strategies.

4. ***Lack of democratic control over law enforcement agency activities.*** It is important to note that the professional activity of the controlling organs, situated and acting within a given law enforcement agency remains somewhat ineffective. The same agencies that perform law enforcement duties cannot simultaneously perform supervisory activities.

5. ***Provision of false information to the supreme echelons of power*** regarding the actual situation on 'the ground'. In many cases, false statistics and misleading information are provided by law enforcement personnel for personnel gain. For instance, by deliberately overestimating the number of resolved criminal cases, managers create the appearance of active involvement in an effort to hide the ineptitude of the Ministry of Internal Affairs. This tendency can be observed in a number of post-Soviet states.

6. ***Lack of international law enforcement programmes and mutual aid agreements among various states.*** With the exception of the work of Interpol, it is not possible to trace cooperation among law enforcement agencies on all issues. In addition, low salaries and financial considerations do not allow law enforcement agency personnel in economically underprivileged countries to cooperate with their foreign colleagues.

7. ***Lack of professionalism amongst personnel in law enforcement organs.*** At this point in society's development one can observe a reduction of professional staff in all law enforcement structures, which testifies to the rapid 'exhaustion' of the executive branch (law enforcement bodies) and the increasing turnover of staff. There is also a deterioration of technical equipment available in the agencies, departments and military units, which are in desperate need of modernisation and

restoration. Many of the technical means which are at the disposal of the Ministry of Defence, the Ministry of Internal Affairs and the Border Guards date from between 1965-1980s; these means are therefore outdated and technically obsolete.

8. ***Requirement to attract younger personnel working in the Internal Affairs Department to participate in the law enforcement system reform process.*** This is a timely but, unfortunately, underdeveloped trend. Attempts to reform the system 'from above' through the decisions taken by management have failed to resolve existing problems. Solutions are typically of a superficial character. The young generation is less influenced by dogmatic or conservative thinking and is not restricted by the corporate system. As such, they are more capable of making cardinal changes to the law enforcement system.

9. ***The need for a complete reorganisation of law enforcement personnel.*** Taking into consideration the issue of centralised financing for internal and external needs and reductions in the national budget, most post-Soviet states have had to dramatically reduce staff numbers, which has ultimately led to a reduction in the number of permanent appointments and mass lay-offs of agency employees. Low salaries have also contributed to a significant loss in the number of police employees. This development confirms the need for a substantial reorganisation, in quantitative terms, of law enforcement staff. The national, religious, traditional and economic peculiarities of each individual country affect levels of employment and, particularly, fluctuations in the numbers of those employed in the law enforcement system.

10. ***Maintenance of control of the border and the border regions and the prevention trespassing*** is a serious issue which needs to be addressed urgently. To this regard, the development and progressive activity of criminal organisations in the countries of Eastern Europe is another alarming trend, particularly with regard to the use of transit corridors for human trafficking and drugs, weapons and other types of smuggling.

Recommendations

1. The task of augmenting the efficiency of law enforcement agency activity imperatively requires acceptance of a complex set of actions, firstly of an organisational and legal nature. The ***process of reform*** should be supported by the ***active participation of other ministries***, such as the Ministry of Labour and Social Policy and the Ministry of Transport, particularly in light of the efforts that are being made to demilitarise law enforcement bodies. This will facilitate non-militarised approaches to reform efforts. In other words, the process of reform requires a 'whole-of-government' approach.

2. ***Changes in the structure of the Ministry of Interior*** to enhance the transparency of its operations should be conducted in a way that encourages the employment of a wide cross-section of the population. It is impossible to talk about the upcoming changes without ***creating a positive image of the law enforcement system***. Enhancing law enforcement systems is dependent on revising personnel policies, as well as related vocational training procedures for police officers. The high level of professionalism among militia in the former Soviet Union is significant because it reflects positive aspects of the former MoI system. While embracing contemporary practices and knowledge, it is also important to ascertain which elements of the older MoI structure should be retained, reformed or rejected. Such an approach may considerably minimise the costs of the reform process in former Soviet states.

3. To enhance law enforcement systems in these countries, it is not only important to strengthen *cooperation* among the former Soviet states, but also to enhance relations with *Western countries.* A high level of collaboration can be established between agencies, departments, units and think tanks. In addition, cooperation with members of the Euro/Atlantic internal security and law enforcement and justice agencies should be enhanced and supported by the necessary legal and political frameworks.

4. In order to assist in building confidence and to improve security throughout the region, it is vital to *change and increase the patterns of information exchange* and cooperation amongst the former Soviet states and to create a common data base.

5. There should be an increase in the number of conferences and seminars which focus on assessing and supporting the law enforcement reform process in former Soviet states. The law enforcement agencies of all countries should conduct joint exhibitions, technology exchange, department exchange, joint training, etc.

6. *Law enforcement activity* is a multidimensional term whereby a number of ministries and agencies are required to conduct numerous tasks. Priority is still placed on perfecting legislation by making amendments, passing new laws as justified by changes in the Constitution, adjusting legislation in accordance with European norms and international law. Key terms are: legality, accountability and professionalism.

7. Raising law enforcement system indicators is dependent on the *technical modernisation of subdivisions* and the refusal to promote obsolete warning systems and erroneous fighting methods. The additional financing of organisations that possess innovative technologies (think tanks, higher education institutes), will undoubtedly facilitate the reform process in this way.

Reform Objectives

More generally, the reform process involves conformity between tasks and functions, structure, personnel and resources. The process of reforming the law enforcement system involves:
- Enhancing oversight mechanisms;
- Defining the competencies of state organs and units;
- Elimination of duplication in terms of tasks and functions of law enforcement units;
- Redressing the existing instability between authority and responsibility in this sphere and between the branches of the power;
- Introduction of European standards;
- Development of new efficiency estimation systems;
- Maintenance of public order and security;
- Rationalisation of both individual services and subdivisions.

Modern market conditions and existing social patterns provide ample opportunities for highly latent corruption and criminality. While state organs should ultimately promote public interest, they are oftentimes used to benefit individuals at the expense of society and the state. The following reforms are suggested ways to counter state corruption:
- Rightful observance of the lawful rights and freedoms of citizens and the protection of society and state interests from illegal activities;

- the supremacy of the law, observance of the law and the legal interests of local government organs, enterprises, agencies and organisations and citizens' unions;
- enhancing levels of professionalism and the competencies of law enforcement personnel;
- prevention of offences;
- precise definition of competencies and tasks of law enforcement organs, division of functions and duties;
- interlocking and decentralisation of police department authority;
- publicity and confidentiality in any activity;
- democratic civilian control over the functioning of the law enforcement system;
- non-affiliation to a party;
- interaction with other organs, local self-government groups, enterprises, departments, organisations for the purpose of managing personnel and population, as well as maintaining national security, law and order;
- engaging public formations in the law enforcement system;
- international cooperation in accordance with international law and national legislation, as well as inter-state, inter-parliamentary agreements, bilateral department agreements on the issues of international collective security and the fight against criminality and corruption.

Conclusions

The history of building internal and external systems of security in the various ex-Soviet states is the history of an impartial search for new means and forms of activity in an effort to resolve conflict, counter threats to national and international peace and security and create a democratic basis for European integration.

In the final analysis, the conference on 'Cooperation between the former USSR states in the area of maintaining internal national security' was extremely productive. The wide spectrum of topics provided for far-reaching discussion. The principal issues of concern centred on law enforcement system reform and national security, although matters as diverse as legal and social security or structural and organisational change were also discussed. Other areas of interest included internal and external control mechanisms, educational reform efforts, vocational training for law enforcement agencies, technical transformations and increased working standards for law enforcement personnel

With respect to the issue of reforming the internal and external components of the security systems of former Soviet states, the conference undoubtedly extended the outlook of its participants, enhanced their capacity to analyse the progressive evolution of the countries of interest and to define prospective directions for their future development. The avenues that need to be taken in an effort to enhance the present day law enforcement systems of former Soviet states were observed and a large number of national concerns were address.

PART II
LESSONS LEARNED FROM THE WESTERN BALKANS
IN THE FIELD OF SECURITY SECTOR REFORM

INTRODUCTION

Dr. Philipp Fluri, Deputy Director DCAF, Geneva, Switzerland

In setting the European Union's policy framework for engagement in security sector reform (SSR), the European Council called upon the future Presidencies and the European Commission to 'progressively translate [this framework] into operational actions'[1] Activities commenced in this direction under the aegis of the Austrian Presidency of the EU, following the UK Presidency's efforts towards developing the EU's SSR strategy. The conference on Security Sector Reform in the Western Balkans, co-organised by the Austrian Presidency, DCAF and the EU Institute for Security Studies in Vienna from 13-14 February 2006, emphasised the need for the EU to mainstream SSR into its activities. It also presented an excellent platform for Western Balkan policy experts to express their views and describe their SSR needs.

In this context, several participants from the Western Balkan countries expressed anxieties that SSR was to be imposed as a new precondition, and therefore a new barrier, for their EU integration. However, much of what the EU already demands of candidates and potential candidates is SSR by another name. 'Repackaging' a wide variety of activities under their correct SSR label, is not merely a cosmetic exercise, nor is it designed to impose a new burden, but is rather a genuine attempt to facilitate prioritisation and impart focus to the EU's somewhat dispersed efforts. This will bring benefit to the partners as it will improve the consistency and coherence of the messages that the EU seeks to convey.

From 7-8 December 2006, DCAF assisted the Finnish EU Presidency in taking forward the work done under the Austrian Presidency by organising a one day conference to discuss, together with the Western Balkan policy community, the implementation of the finalised EU policy framework on SSR and the development of the pre-accession (democratic and acquis) conditionality in the area of security sector governance. The conference - entitled *Enhancing Security Sector Governance through Security Sector Reform in the Western Balkans - the Role of the European Union* - examined local needs and achievements in this field. In order to stress the need for increased regional ownership of SSR, the conference took place in the region, in the Croatian capital of Zagreb.

At the Zagreb conference, research articles written by regional experts (in the framework of a Swiss Partnership for Peace project) were presented and discussed regarding four aspects of SSR: democratic oversight and reform of defence, intelligence, the police and border management. The reader will find those studies reproduced in this volume, preceded by contributions from EU representatives, with the core aim of assessing progress in SSR in the region.

Security Sector Governance in the EU Enlargement Strategy

Security Sector Governance (SSG) refers to the structures, processes, values and attitudes that shape decisions about security and their implementation. SSR has as its purpose the enhancement of SSG, through the effective and efficient delivery of security in an environment subject to democratic oversight and control. SSR is a tool for optimising good governance of the security sector.

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[1] Council Conclusions on a Policy Framework for Security Sector Reform, 2736th General Affairs Council meeting — Luxembourg, 12 June 2006

Democratic and capable governance of the security sector is of essential importance for the future of the Western Balkans. Without it, they will not succeed in establishing and maintaining the rule of law, ensuring that social development and economic growth proceed, and securing their fledgling democracies. The countries of the Western Balkans need, moreover, to have functional security sectors if they are to enjoy regional stability, contribute usefully to peace support operations and succeed in integrating into Euro-Atlantic and European institutions. They are the first countries seeking EU membership whose post-communist past has been characterised by grave conflict. This legacy sets special challenges and responsibilities for both the countries of the region and the European Union.

How can the EU best go about encouraging a culture of good governance of the security sector in the region? The answer is largely provided in the European Commission's *Enlargement Strategy and Main Challenges 2006-2007*, which called for the application of 'fair and rigorous conditionality' and the introduction of 'benchmarks' to support this process.

The use of benchmarks in EU enlargement policy can bring several benefits. First, it should facilitate efforts by candidate countries to meet EU requirements. Detailed indications on objectives for reform and standards for measuring performance in implementation will provide a better guide for policymakers and security sector practitioners in candidate countries than the largely un-restructured approach pursued hitherto.

Second, once candidate countries are subject to common benchmarks - assuming, of course, that performance results are made public knowledge - progress in meeting conditionality will become comparable. This should reduce the risk of enlargement decisions being subordinated to political considerations that are un-related to reform performance. If candidate countries successfully meet the benchmarks, it then becomes very difficult - if not politically impossible - for EU members to deny membership.

Third, benchmarks can be particularly useful in the area of SSG, and this should be therefore one of the areas for which a comprehensive range of performance indicators is elaborated.

EU Support to SSR: Concept and Practice

In 2005 and 2006, the Council and Commission drafted SSR concepts, and the EU developed an overarching policy framework in 2006. These documents outline the rationale for the involvement of the Council and the Commission in SSR, the areas of their engagement, the principles guiding this engagement as well as the modalities for SSR implementation, including the division of labour and bases for cooperation between the Council and the Commission.

The areas where the Council and the Commission envisage their involvement range widely. For the Council, SSR essentially concerns the enhancement of the effectiveness of activities undertaken under the Common Foreign and Security Policy (CFSP) and, specifically, civilian and military crisis management missions in the framework of the European Security and Defence Policy (ESDP).

For the Commission, there are several SSR-relevant policy areas: Enlargement and the Stabilisation and Association Process, of course, but also the European Neighbourhood Policy, Development Cooperation, Conflict Prevention and Crisis Management, Democracy and Human Rights as well as the External Dimension of Justice, Freedom and Security.

The Commission text makes several proposals designed to strengthen EU support to SSR. It calls for SSR to be mainstreamed into the dialogue with stakeholders on policy and programming. It advocates that SSR be integrated into EU Country and Strategy Papers and other documents deployed in the policy process. It is in favour of SSR being prioritised in the EU's new financial instruments, including those for Pre-Accession Assistance. At the same time, the Council and

Commission documents make several recommendations with a view to strengthening the EU's personnel and planning capacity for SSR and enhancing its cooperation with the EU's international partners.

SSR Priorities in the Western Balkans and Needs for Assistance

At the conference that took place in Vienna in February 2006, several policy objectives were put forward as requiring priority action. These included the need to:

- put a premium on the democratic oversight of all the armed forces that are part of the security sector in the countries of the region;
- foster regional security cooperation, involving both countries of the Western Balkans and those of the Balkans as a whole;
- continue efforts focusing on border security in the region;
- reinforce the effort to combat organised crime and trafficking;
- take a holistic approach to the residual DDR challenges; and
- press for policies that encourage integrative processes in the countries of the region.

The Enlargement Strategy addresses a number of other issues relating to the performance of Western Balkans countries in security-related areas of priority importance to the EU. These include the capacity of the range of security forces in individual countries as well as the civil authorities responsible for managing them, the ability of these actors to work together effectively, the viability of judicial and legal institutions and the role played by civil society actors in the security sector. There are, in addition, frequent references to the need for candidate countries to contribute to the EU's anti-terrorism policies, to align with CFSP and to participate in ESDP missions. The importance of compliance with ICTY decisions also figures prominently in the report. This issue, as much as any other, points to the need for reform efforts to address the structural shortcomings - in this case, deficiencies in oversight, control, capacity and loyalty - that must be overcome if democratisation is to proceed.

Security Sector Reform Status and Further Needs for Cooperation

In order to better understand the current state of SSG in the region and to identify further SSR cooperation needs, DCAF, on a mandate from the Swiss Ministries of Foreign Affairs and Defence, initiated a stock-taking exercise on progress made in the fields of defence, intelligence, police and border management reforms. Working alongside DCAF's partners in the Partnership for Peace Consortium of Defence Academies and Security Political Research Institutes Working Group on Security Sector Reform, this exercise was based on a questionnaire developed by DCAF and the NATO Studies Centre in Bucharest. Similar studies are currently being implemented in the South Caucasus, Central Asia and Moldova (to be published in 2007).

In order to situate EU Security Sector Reform efforts within the larger context of European and Transatlantic Security Sector Reform, DCAF invited Mr. Kostas Panagiotopoulos (WEU) and Mrs Lucia Montanaro-Jankovski to provide comprehensive and inspiring articles on European and International approaches to Security Sector Reform and EU and NATO leverage in Security Sector Reform.

DCAF would like to thank the Finnish Presidency of the European Union for making the Zagreb conference possible, as well as the Austrian Defence Academy, both for co-convening a seminar in Cavtat, Croatia in October 2006 and for co-publishing this volume. Melissa George has

painstakingly and diligently edited all the texts submitted by local experts. The fact that some of them may be found to lack comprehensiveness is a reflection not of her efforts but of authors' choices, and what remains to be done in the region.

It is understood that authors were invited to speak in a personal capacity. All choices were theirs, including the choice of how to call their home country (e.g. 'Macedonia' instead of FYROM). In order to structure and further assess the information presented, DCAF invited SSR specialists from its pool of experts to write introductory chapters to both parts of Part II of the book. Conclusions for each part can be found in these introductory chapters.

Brussels / Vienna, Pentecost 2007

The Editors

PART A — BORDER MANAGEMENT REFORM IN THE WESTERN BALKANS

SECURITY SECTOR REFORM IN THE WESTERN BALKANS: ASSESSING PROGRESS

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The papers on Security Sector Reform (SSR) in the states of the Western Balkans assess the progress made in terms of legal changes, organisational developments and strategic planning, as well as the implementation of reforms in the security sector. The papers also focus specifically on the creation and impact of internal and external accountability mechanisms, changes in threat assessment and strategy following the September 11 terrorist attacks on the United States and later elsewhere, and the movement, if any, towards a more integrated management of the security sector as a whole and of border control systems more specifically. The normative criteria for assessing success and progress are improvements in various aspects of internal security, conditions and changes in the organisational structures and performance of security agencies (police and border mainly), and adherence to or movement toward the United Nations (UN) and the European Union (EU) professional standards and codes of conduct related to the security sector and the integrated management of border control agencies. These standards are incorporated in the *Guidelines for Integrated Border Management in the Western Balkans* which spells out the threshold criteria which must be met for accession to the EU and in the *Way Forward Document* developed at the Ohrid Meeting of 2003. Furthermore, EU expectations and standards have become firmly embedded in the domestic political discourses and laws passed within each country.

I will assess the reported progress made in SSR in these countries, as detailed in the papers, using the same international and regional standards found in the two documents mentioned and used by the authors. In addition, I will briefly sketch some of the basic lessons and best practices discerned and learned from efforts to restructure and reform security sectors in other countries.

What is clear from the papers, as well as the changes that are described and assessed in the six countries, is the dominance of EU standards as the criteria for planning and guiding policy development and implementation in the security sector. The wish and perceived need to join the EU has become a powerful force for policy reform. In order to be deemed acceptable by current EU members and the EU bureaucracy that governs the AFJS area, reforms in security systems, with a focus on border control, are essential in bringing these countries up to European standards.

The wish to become acceptable has to be balanced against local (in) security realities within and at the borders of the six countries, their political histories and dynamics, and the institutional traditions and cultures of security providing agencies. The path from current structural, social and political realities towards the establishment of security sectors which meet European, as well as international standards is not direct, straightforward or easy to traverse. SSR in the Western Balkans is both a movement away from the discredited policies and practices of past regimes and toward new and acceptable standards and forms of conduct. The obstacles and objections which will arise from local contexts must be faced realistically.

Standards and Lessons

The three sources of standards discussed below, together, can be used to assess progress, and lack thereof, in the six Western Balkan countries.

Security Sector Reform

The dynamics of SSR have been extensively analysed and a number of basic lessons on how to plan and implement reforms have been learned (e.g., Ball et al, 2003; Bryden and Hanggi, 2004; Hanggi and Winkler, 2003; Huang, 2005; OECD, 2004, 2005; or Peake et al, 2006). These lessons apply to the Western Balkan states, even though they require adjustment to local conditions.

The most important lesson is that changes in the security sector shift the balance of political power within a state and alter the relations between governments and civil society. SSR is not only a technical process which, once properly planned and stated, will be implemented without dispute or difficulties. SSR is a political process and, as such, it requires more than just stating desired goals and necessary changes. SSR is political in two basic ways. Firstly, the implementation of reforms requires existing agencies and agents to change the way they conduct their work and, in the cases of Integrated Border Management (IBM), how they work together. Those decisions, on what to change and what to keep, are political, in the sense that there has to be some discussion of who will do what and why. Unless implementation is part of the planning process, which including clearly delineating why it would be in the interests of actors to implement reform, plans will remain paper documents and mere aspirations.

SSR is also politically significant in a second sense. The control of agencies which can coerce is a major resource in political contexts, and can be and often has been misused. Reforms which shift the allocation of powers and authority are not neutral as they affect the political fortunes of leaders and their followers. Stated differently, the question in SSR is who has the political will, skills, power and authority to accomplish change, even against inevitable resistance. Unless one can point to a political process which exists to carry out reforms they will not happen. This is true even if most leaders agree that reforms would be a good thing for the country.

A second basic lesson is that the goal of reforms should be functioning organisations. Before one can coordinate policies, information exchanges, establish joint working groups, or cooperate for common cross-agency goals, organisations which work have to exist. Organisations which 'work,' at the minimum, have a functional identity which has salience across internal roles and rank hierarchies (e.g., 'we are all border guards' or 'police'), a common occupational culture, and an administrative/management system which can guide the allocation of resources and assess the efficiency and effectiveness of the organisation. The first goal of reform, then, is to create an organisation and subsequently coordination among organisations in the security sector.

Organisations, agencies, civil society groups and political leaders which are expected to work together in a holistic framework will be hampered by the inescapable reality that their specific interests will not always coincide with the goals of SSR. One of the resources any organisation has to protect and expand on in its domain is information which will not be shared simply because that is what is expected and is in the public interest. Two important corollaries follow for organisational development.

From the past reform efforts of security agencies, it is clear that despite a rhetoric which stresses a common occupational label, the underlying organisational realities can be quite different. What reformers and managers describe as the organisation's working practices and goals is not always what rank and file, who implement plans, does or wishes to do. Organisations are staffed by people with their own ideas of how to do things. Organisations are not machines which can be arranged and turned on at will to act on commands.

For example, corruption is a temptation and a reality among security agencies, especially in border areas where opportunities abound and much of the work by customs agents and border guards is discretionary and unobserved. Having training sessions on how not to be corrupt, or abuse one's powers, is not likely to make much of an impact on the work of agents in the field, where the likelihood of corruption is real, powerful and can be pursued with almost complete impunity. When the higher echelons of an organisation are also corrupt, the work of field agents is even more susceptible to corrupt practice. Unless organisational mechanisms are developed and used consistently and fairly by managers, corruption will occur and it will be pervasive.[1]

Emerson (2005: 2), in his discussion of the impact of Schengen visa standards in the Western Balkans, notes that people who were formerly free to move now need visas to enter Slovenia, and that the Western Balkans face the prospect of being 'driven back into an inner ghetto space. This applies of course only to law-abiding citizens, since criminals can walk or bribe their way across these frontiers with little difficulty. The introduction of visa requirements is a stimulus for corruption and criminality, since the borders are unenforceable, and the attempts to install them create incentives for illegal activity, including the trafficking of goods and people.' Emerson's suggestion is that, for a time at least the Balkans should become a visa free zone.

Third, SSR is a holistic approach to providing security for the state and civil society. Reform cannot involve only one agency or element in the security field but must take into account other supporting agencies (such as criminal justice or intelligence agencies) and civil society actors (NGOs and community based groups.) Security is a continuum, both by the threats faced which can range from severe threats to minor annoyances and in the responses by all security actors, which will reflect their respective competences and commitments. Piecemeal SSR is incomplete but, more importantly, inefficient.

The *Guidelines* (below) focus mainly on border guards, customs, veterinarian and phyto-sanitary services, but 'could include Ministries of Interior, Finance, Foreign Affairs, Economy, Defence, Tourism, Environment, Agriculture, Transport, Health, Telecommunications and European Integration' (p. 24). The Ministry of Labour (p. 26) and international and EU processes (Pompidou Group, Budapest Process and the International Police Conference (p. 39) are also mentioned. Considering that 'integrating' the security sector and border management will require interagency working groups based on MoUs, a vast array of interconnections will have to be created to meet EU expectations and achieve IBM.

Even so, the list of possible agencies and groups to be included in an integrated approach leaves out some potential actors. As Hobbing (2005:3) notes, 'the EU CARDS formula, although a strikingly concise and reliable guideline in many respects, is missing one important feature for success, which is the cooperation with the private sector, especially in the transport sector.' The chapter on 'border management' in the proposed OECD handbook on SSR, lists state intelligence agencies and anti-corruption committees, in addition to the other state agencies mentioned in the *Guidelines*; inter-state regional steering groups and policing organisations; community based fora, cross-border peace building committees and non-state vigilante and security forces; as well as private companies providing specialised customs or border security services (Andrew McLean,

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[1] The *Guidelines* discussed below suggest that 'border guards should have the power to refuse entry to persons, even if they are holders of a visa, with duly motivated reasons. Special training is needed for the officials in order to ensure the quality of their decisions in this regard' (p. 33). This provision would grant substantial discretionary powers to border guards which are not likely to be exercised appropriately, even with training. Moreover, border guards, by their discretionary capacity to exclude people who fit suspicious profiles, will undermine the visa process itself, for visas are not good until the guards say they are and that is not what the visa process is supposed to be about.

personal communication). The array of interconnections which have to be organised becomes even wider and more extensive.

Fourth, much of the impetus for SSR come from international sources - countries, regional organisations and NGOs - as well as from domestic aspirations toward more democratic forms of providing security, safety, stability and justice. Countries are faced with having to deal with the multiple expectations and demands placed on them from the outside. They often have little preparation or capacity to absorb international advice and assistance, especially if advice is conflicting or different goals, models and practices for reform are proposed. The absorption capacity for change is limited for most countries. SSR pushed from the outside works well only when donors coordinate their advice and assistance and when assistance is tailored to the needs and absorption capacities of countries. In addition, international advice and pressures will only be sustained and legitimised if they become part of the political process within each country, if local politically connected stakeholders successfully champion needed reforms.

Integrated Border Management

The *Guidelines* (2004?)[2] spell out what IBM means to EU planners as applied, and adjusted to the realities of the Western Balkans. IBM 'seeks to ensure proper in-country and international co-ordination among the various services involved in border management issues, in order to guarantee that borders are managed with maximum effectiveness and efficiency' (p. 11).[3] Three pillars define relevant areas and aspects of coordination and cooperation which have to be addressed: 'intra-service, inter-agency and international cooperation' (p. 16). The pillars are analytical categories but given the 'sometimes atypical State structures or evolving institutional (if not constitutional) arrangements' (p. 16) in the Western Balkans states might not be precisely applicable.

Border management cannot be solved at the borders alone but needs to include the relevant agencies within the countries, at the borders and in other countries to meet the basic 'Schengen' and EU standards for full border services - controls systems must be effective, adjusted to the specifics of risks and threats faced, and based on best practices and experiences taken from reforms in prior accession and candidate countries.

The *Guidelines* are not detailed technical specifications on how to establish IBM systems in the Western Balkans but rather are of a 'strategic nature,' indicating standards and issues which should be taken into account when developing national plans. The *Guidelines* reflect a systems approach to planning and implementation. They stress rationalisation, systematisation, regularisation of relations among agencies in the three pillars, the need to precisely define competencies, efficiency and impact measures, appropriate administrative procedures, communications and IT systems, legal and regulatory frameworks, the development of human resources and skills, and detailed work plans specifying objectives, milestones and benchmarks, sequencing of activities, time lines, expected outputs and the division of responsibilities for work (p.40). Coordination and cooperation will need to be achieved by MoUs, interagency joint task forces, systematic communications among agencies, routing slips and regular briefings to relevant mid-level managers, all of these mechanisms

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[2] The concise history and background to the IBM concept as it was developed in the EU can be found in Hobbing (2005), and the general growth of the EU JHA *acquis* in Apap (2004), Κονδcs (2002) and in chapters on the EU in Caparini and Marenin (2005).

[3] A somewhat different definition is stated later: the IBM concept 'covers the coordination and cooperation among all relevant authorities and agencies involved in border control, trade facilitation and border region cooperation to establish effective, efficient and integrated border management systems, in order to ensure the common goal of open, but controlled and secure borders' (p. 14).

taking into account the policy approach and structures of National Action Plans, which will also have to be developed.

Among the more specific recommendations of the *Guidelines* are the passing of enabling laws which define agency competencies and authority; the creation of information sharing systems available in real time to all relevant agencies; the promulgation of a set of procedures providing clear and precise guidance to agents on how to work within the integrated system and with other agencies; if possible, joint training and common manuals familiarising agents with the work and responsibilities of other agencies; and the development of a common MoU form which can be used to establish the lines of authority and communication among border control agencies.

In addition, planning must acknowledge the four-tiered system of the Schengen regime: activities in third countries which will impact border control systems; international border cooperation at three levels (local cooperation between officials at both sides of the border; bi-lateral cooperation between neighbouring states; and multinational cooperation, focusing on border management issues); measures at external borders; and further activities inside the territory of the Schengen states and between Schengen states (p. 18, p. 63).

The *Guidelines* focus on the planning aspects of border management and say little about implementation which, so it seems to be assumed, will proceed without much difficulty or hindrances if planning was detailed and complete enough. There is, as well, no substantive mention of the politics of planning and implementation on the assumption, so it seems again, that rational and well-meaning people will understand why the plans for IBM systems are as they are and will abide by them without considering their own or their reference groups political fortunes. The *Guidelines* are aseptic, almost self-executing, devoid of any notion of human discretion, initiatives and interests. Integration of border control management will be achieved when all the activities which need to be accomplished in order to avoid duplication, waste of resources and efforts, overlapping authority and work, inefficient communication, and ineffective resolution of inevitable disputes about competences and responsibilities for failures. The *Guidelines* are replete with extended and detailed sets of activities which should be undertaken.

Having been critical of the general nature of the *Guidelines*, the need for cooperation among border relevant state agencies and civil society institutions within an IBM framework is obvious given the challenges faced by the Western Balkan states and, ultimately, the EU which will have to depend on the outer border of the community for protection of its interior AFJS space. As noted, the 'still developing system for managing the EU external borders, consisting of rules, best practices and recommendations are relevant for SAP countries, as they provide for ways to address their operational needs, and will ensure further integration into the EU' (p.15). The basic goals of IBM are legitimate and needed, but have to be considered in the wider contexts of politics, ideologies of control, and security assumptions (Hills, 2006).

The ultimate *organisational goal* of reforms should be, in accord with the Schengen Catalogue, 'specialised, unified, well-trained and fully professional and independent police-like border guard forces. Border Guards should form an independent, centralised unit if possible within the general police structures and have their own budget' (p. 20). These self-standing border guards will become integrated and part of a system of border management, but with distinct competencies and responsibilities.

The ultimate *operational goal* is the proper balance between facilitating the legitimate and legal movement of people and goods and preventing threats and risks to domestic and regional security. Yet how that balance is to be achieved cannot be found in the recommendations of the *Guidelines* for that is a political decision on how to protect security without sacrificing rights, on how to provide easy access for legal activities and prevent illegal ones, and what and who present unacceptable risks and threats and what and who should be given legal access to the *cordon*

sanitaire or buffer zone represented by potential accession states to the EU and from there to EU member states (Andreas and Nadelmann, 2006: 182-185). Risks, threats, as well as legal and legitimate access should be defined and these are decisions which only a political system can and should make.[4]

Ohrid Goals

The Way Forward Document (2003) 'identifies concrete and specific measures necessary to achieve agreed objectives, taking into account some specific requirements in the parts of the region where, for exceptional reasons and on a temporary basis, military units are involved in border control and smuggling interdiction operations during a transitional period (i.e. before full military withdrawal in the framework of security sector reform, and until border control is entirely under the responsibility of specialised professional police services, in accordance with European standards' (p. 1).

The participating Western Balkan countries and the four regional partner organisations (NATO, the EU, the OSCE and the Stability Pact) committed themselves to developing national regional instruments (laws, regulations and MoUs) for moving toward IBM systems. Countries, or rather and oddly enough their capitals, committed themselves to work on specific measures set out in phased time lines for the 2004-2006 period. Regional organisations agreed to assist in drafting regional cooperation instruments and provide training and financing for police and border guards. One NGO, the Geneva Centre for the Democratic Control of Armed Forces (DCAF) agreed to subsidise regional workshops, training courses delivered on-site and through a virtual border police academy, and help in the creation of a group of experts in each country and regionally who can assist in developing appropriate IBM systems and assess progress toward their achievement.

The Security Conditions of Western Balkan States

The need for IBM is based on assessments of risks and threats to the security of the region and countries. Risks come in different guises. In the Western Balkans, as the country papers note, threats to security have arisen from different sources:

- criminalised regimes, working with organised crime groups to evade border controls on the importation and through trafficking of goods, traffic from which they skim massive profits;
- the normal smuggling activities by groups and people for profit or livelihood;
- the existence of the 'Balkan route,' a collective label for trafficking routes used to illegally transport people and goods across the Balkans into Western Europe and 'Schengenland.' Extensive human trafficking occurs along the Balkan route and, of course, if people can be trafficked or smuggled for work or sex so can terrorists;
- the trafficking of goods (cars, arms) from the EU into the Balkans; and
- identity group based violence along borders which are artificial and still unsettled. Violence

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[4] For example, in some Western Balkan states, as elsewhere, smuggling is honoured though illegal tradition and economic activity among many people living in border zones. Establishing an effective IBM system will disrupt those activities, deprive people of incomes, and will be resisted by evasion, the corruption of border guards, paper fraud, and political protests. Should smuggling be allowed to continue if it is considered 'harmless' and traditional?

is perceived as one means which can affect the final delimitation and demarcation of borders in the region.

The borders of the EU now lie along Slovenia's southern and Hungary's western and southern borders, with potential accession states ready to join the EU on a staggered schedule. Two types of borders exist and so do threats to the integrity of border controls - EU borders which must be safe and secure. The buffer zone borders which should be safe and secure but need not be as tightly controlled as the EU borders are the second line of defence.

Complicating security issues have been political instability, wars and violence which ensued following the collapse of Yugoslavia. Regional instability, since it threatens the security of the EU and its allies - by its frequent inter-ethnic violence and by the concomitant inability or unwillingness by governments to deal with civil strife, violence and the criminal trafficking of people, drugs, arms or nuclear goods - in turn has led to outside interventions to stop violence and bloodshed and help create conditions conducive to political stability and democratic change. Many of the security forces of the states in the region now are either under the direct control of outsiders or heavily influenced in their restructuring and recreation by external advice and assistance. The Ohrid Document is replete with examples of external involvement, as are the country papers.

In practice, security threats in the Balkans are accordingly defined both by the needs of external actors and the wishes of domestic political and security leaders. What matters and what should have priority in security policies may be perceived quite differently by all actors. For domestic actors and civil society, personal insecurities and protection against normal and organised crime and the corrupt depredations of security forces would rank high. For external actors, stopping the trafficking of threats into their countries is what matters most - creating politically stable countries and effective IBM systems are a means to that goal.

Country Papers

Common themes run though the country papers. The papers on Serbia and Montenegro list four general goals which capture the basic thrust of reforms - the four Ds: decentralisation, depolitisation, decriminalisation and demilitarisation. Though not specifically stated in the other papers or in the justifications for laws passed by legislatures, the four Ds are common goals in all countries. These goals reflect both the wish to move away from former models of organising security sector agencies, dating back to communist rule and successor authoritarian and personality based politics and governments, and the need to meet EU accession standards which define professional conduct and express a preference for more democratic organisational arrangements, such as community and local, but limited, involvement in deciding on policies and priorities in the security field.

Centralisation undermines the capacity of the public and communities to participate in decision-making. Criminalisation, or the participation of government personnel and security agencies in trans-national crime and the oppression of political opposition groups, is by definition undemocratic. Militarisation of the police and border control agencies infuses an occupational culture and set of working norms in control agencies which are antithetical to democratic performance. Politicisation converts agencies of the state, which are expected to work for the general public good, into instruments of partisan and personal rule and subverts the rule of law and the protection of basic human rights and human security. It is little wonder that, from the perspective of international observers and advisors who also and often have substantial authority and power in these post-conflict states, the four Ds are seen as minimal prerequisites for further reforms. The four Ds are rejected by local leaders as they have often experienced the arbitrary and coercive actions of

security agencies of former undemocratic regimes themselves and wish to avoid creating similar policies which will only alienate the public and de-legitimise the government and further reforms, as well as undermine the international financial and technological support which is essential for sustainable reform programmes. All papers mention the firm expectations which are held by local leaders that the international community will step in when resources, skills and technology are not available at the local and state levels.

Second, the dynamics of local politics consistently constrain and divert policy reforms away from goals stated in laws and policy directives, lead to tensions among different governmental agencies within and outside the security sector over basic decisions on the mission, structures, sizes, strategies and operational policies of security sector agencies, and frequently stymie attempts to enhance transparency and accountability within agencies and to outside bodies. It is not surprising that in conditions of massive political upheaval following the violent dissolution of the Yugoslavia conflict the question of how to structure security and control of the instruments of coercion and security should become a political concern, irrespective of the specific security needs of new countries.

Third, in all countries significant progress has been made on paper, in passing necessary laws which establish and define the authority for actions and the legal constraints under which security agencies need to operate. Each paper details the long list of laws on police and border guards, the protection of privacy, public and media access to information, interagency coordination and cooperation, or accountability and oversight which have been passed by the legislatures. In addition, all countries have developed numerous policy documents on strategies and goals for the security sector. One can perceive the influence of international regime norms, regional advisors and NGO lobbying in all these documents and laws.

Fourth, major security sector reorganisation has occurred in all countries. However, some of the four Ds seem to be more important, or easier to achieve, than others. Demilitarisation of the police and border guards is a common goal. The state police force, concerned with intelligence and state security, has been separated from the military and so have the conventional police and boarder guards, or at least, the laws have been written to achieve that goal. Depolitisation, on the other hand, is much more difficult in conditions of political instability. The temptation to use the police and other coercive and intelligence agencies to promote and protect partisan goals, to be winners rather than losers, is an urge that is hard to resist.

As a whole, the country studies provide a wealth of information on the current state of legislation, organisational arrangements, future plans and accountability mechanisms.

Albania

This study spells out in great detail legislative changes concerning border control and policing, on oversight and accountability, as well as some of the limitations on transparency which are linked to national security notions, which have been introduced and planned. Yet the study concludes that 'one cannot speak of substantial changes in the 'normal practices' of the Border Police so far as transparency and accountability of police forces are concerned' (p. 9). The tradition of centralised executive government control continues and Parliament lacks the will and capacity to act independently on security issues, despite assistance from external NGOs (such as DCAF) (p. 10). Nor is there an 'inherited and institutionalised Albanian thought or tradition in developing national police policies.' In consequence, much of the planning has been based on models and examples from other nations which often promote the 'model they know best' (p. 12). Existing local research institutions are little consulted, as Albania lacks the 'civic culture to make use of research products in improving performance and reform' (p. 13).

The authoritarian history and the tradition of centralised executive control and secrecy hamper the indigenous developments of national plans, policies and organisational reforms. Even assessments of security threats or requirements for police reforms are made by international observers and accepted within, without public debate or the inclusion of security agencies in determining needed changes. In sum, the lack of change in the political system systematically hampers reform efforts in the security sector. Well intended and constructed laws have been passed, but implementation and progress are lacking.

Macedonia

Macedonia, since its creation, has had to cope with the 'sometimes hostile attitudes of neighbouring countries' (especially in relation to the status of Kosovo and the borders with Albania), has been 'infected with ethnic rather than ideological policy orientation[s],' and security agencies, the police and army, 'given their initial autonomous roles in the newly sovereign state [have failed] to support and facilitate the process of institution and state building (p. 2). The prospects for SSR, hence, are a 'long way ahead' (p. 4).

SSR has been stymied by the lack of effective government institutions which are still in the process of being created, by the need to 'overcome the misbalanced relations between malformed security threats and risks and post-Cold War security/defence capabilities' (p. 4), the continued politicisation of policing (p. 10), as well as the vague and imprecise legal and constitutional delimitations of the powers and authorities of branches of government. SSR and state-building are occurring simultaneously and with initial harmful effects for both processes. Only recently, since 2003, has a more systematic approach to SSR and IBM been possible and legislation been passed to implement changes. Police and border guards have been moved from the military and state control of all Macedonian borders with its neighbours was achieved in 2005.

The study lists the ambitious and extremely detailed plans for IBM and coordination which have been written as well as some of the organisational changes and structural adjustments which have been made. Nonetheless, gaps remain. What is set out in plans by the authorities and their international advisors appears to represent an extremely complicated system of boards, plans, commitments and regulations. It is unclear how such a system would be created.

This is a nicely written analytical study of reforms efforts. It concludes that 'political interests and influence on the reform process,' reflecting a centralised, top-down orientation towards reform, have focused planning and implementation on state security and have neglected the voice of communities and their security concerns. 'The main goal of these reforms is [and should be] to provide more secure borders but also more secure communities' (p. 3).

Serbia

Serbia suffers from its history, as do the other Western Balkan states, but possibly more so. The legacy of conflicts about ethnic identities and territory, the unresolved status of Kosovo, internal instability and political violence (for example, the involvement of the JSO, in the assassination of Prime Minister Zoran Djindjic)), criminalised and politicised policing, military and border control systems bedevil reforms and hampers even the passing of needed legislation. A working group which brought together experts from the police, NGOs, judiciary and legislature agreed on a Vision Document in 2003 and a Projects Catalogue consisting of 174 needed reforms to rectify a long list of defects and issues, including: 'links between the state and MoI officials with organised crime, outdated legislation, centralisation, militarised systems, politicisation, the non-existence of parliamentary and internal oversight, a lack of professional attitudes, a lack of talented managers,

an obsolete selection of recruits, unrepresentative police services, etc.,' (p. 8, note 10). Even though years have passed since the vision document was written, Serbia does not yet 'have an overall police strategy or National Security Strategy' (p. 8).

The study details the structure of the Serbian security sector since 1990 and proposed changes, those following largely OSCE documents. There has been much international input into SSR, especially into external and internal oversight mechanisms, relations to the media and civil society, the introduction of community policing as the dominant strategy (to break 'the public image of a police officer as an untouchable figure in a semi-military combat uniform,' p. 21), as well as stress on fighting organised crime which had grown powerful under and with the cooperation of the Miloљevic regime.

The introduction of IBM notions has been complicated by the federation of Serbia with Montenegro, now dissolved by a vote in Montenegro. Serbia was a late starter in developing its own border control system, as border control was typically exercised by the federal border system. However, laws, plans and policies are being made.

Montenegro

Montenegro came into existence in early 2006 by a narrow independence vote, which dissolved its confederate association with Serbia. It is a small ethnically and religiously diverse country, with little history of separate and autonomous state institutions. Its pre-independence economy consisted of a weak formal sector, a 'vast grey economy, omnipresent black market, state-driven hyperinflation, state-sponsored smuggling, state-backed pyramidal schemes, an inefficient fiscal system, almost complete absence of legitimate foreign investment and tycoonisation' (p. 2) - all characteristics which now limit the state's capacity for reforms. Politics has been dominated by factions organised around political leaders who have used, when in power, the police and security agencies as 'tools for oppression and potential combat' (p. 3). The OSCE's Monk Report 'characterized the police as oversized, predominantly male, overwhelmingly monoethnic, corrupt, politicised, inadequately trained, reactive and young' (p. 5).

The new government has begun to pass laws for the security sector which reflect European and international standards but has little capacity to implement them. Implementation has been slowed, as well, by factional conflicts among leaders, each assessing proposed reforms in terms of personal political consequences. The study details the content of new laws and changes in the organisational structure of the security sector which, on paper, look quite impressive. In practice, crime rates are fairly low but organised trans-border crime flourishes, both in terms of human trafficking into the EU and the importation of stolen cars into Montenegro. The author of the study suggests that there is little capacity for effective policing in the areas of forensics, intelligence, investigations, technology and witness protection. Evidence for high profile crimes is still processed elsewhere, in Serbia, Slovenia or Germany. The police need to 'ensure organisational consolidation' and develop a 'new police identity, mission, goals and guiding principles' (p. 26). External oversight, a major European standard, is 'still declaratory but not fully practiced' (p. 24). Reforms in policing still have a long way to go.

IBM also presents a formidable challenge, despite a fairly small international border. The first priority is the demilitarisation of border control. An IBM strategy was adopted in early 2006 by the government, making it much too early to assess how well IBM could and would be managed.

Bosnia-Herzegovina

As with other countries in the region, the establishment of a State Border Service (SBS) in 2000,

under pressure from the UN mission and the High Representative, was resisted by many state and police officials who have made a lucrative living moonlighting as smugglers at the porous borders of the state. The establishment of SBS as an effective border control force in the 'face of well organised and politically well connected smuggling operations' (p. 3) is a continuous struggle. In 2006, the SBS was renamed the Border Police BIH.

Numerous laws, as approved by the EUPM to BIH, spell out the accountability and transparency processes which are required from the Border Police with certain limitations related to strategic information. A number of research papers on the SBS have been published by academic institutions and private organisations, as have opinion polls. Such reports have been used by the government to set out plans, priorities and processes needed to enhance the effectiveness of the Border Police. Yet much of the responsibility to improve the border service rests with the EUPM, which 'definitely should stay longer and work with representatives of SBS in the future. [A] lot still needs to be done' (p.13).

Croatia

The country study lays out the extensive set of documents, plans, regulations and directives on border management and the police which have been passed since Croatia declared its independence and its hope to join the EU in the next rounds of accessions. On paper, progress towards an IBM system seems well on its way. Requirements for accountability and transparency are clearly stated as are obligations for security agencies. Reform efforts have been extensively supported by international aid and advice. Existing strategic plans are in the process of implementation over the 2005-2009 period.

A number of academic and private research efforts on events in Croatia, its international relations and internal security reforms have been undertaken, with the assistance of prominent European institutions, such as DCAF and the Marshall Centre in Germany. The influence of domestic research institutions on planning and policy making, so far, occurs 'more in the informal preparatory phase in the decision making process, than in some formal way. At the moment, public policy institutes, academics and independent experts are informally accepted as provisional advice-givers in security and military issues, but there is no feasible system of permanent consultation… Decision-makers at the political level decide defence requirements without public debate.' Yet there is an internal debate within security services on plans and priorities, and experts from within the services participate 'in risk assessment and planning.'

Croatian officials interact extensively with international officials and organisations in the security field. The dual goals are to gain familiarity with European standards related to SSR and IBM, as well as to present Croatia as a willing partner in European security matters as a supporter of EU standards. In Croatia, in contrast to other Western Balkans states, the legislature on its own authority, rather than delegation or demand from the executive, 'can amend the strategic objectives of Border Management (reformulate, introduce new objectives, delete objectives), to vary defence expenditures, to revise defence Border Management missions, etc.'

Concluding Thoughts

Overall and taken together, the country studies rectify some of the weaknesses of the *Guidelines*, by noting, unavoidably so, the political realities of reform. As such, the country studies are a healthy corrective to bureaucratic planning processes which are promoted by international and domestic policy makers. The studies move beyond, even as they extensively catalogue legal changes, the

notion that changing law and rhetoric will suffice as motivators for change, and they also stress the argument that building organisations should be the fundamental goal of SSR and IBM.

The biggest weakness related to IBM pointed out in the country studies is the lack of implementation capacity, either because little capacity (skills, knowledge, technology, finances) exists at all and has to be substituted by international advice and assistance, or because politics makes implementation difficult. So far, by the standards and goals stated in the *Guidelines* and the *Ohrid Document*, the move toward IBM systems is, at best, in its early stages. In a sense, the easier part - writing the laws - has been achieved. The harder work - carrying plans into action – is pending.

At the same time, the localisation of EU standards and international norms seems to be largely pragmatic, ad hoc, instrumentalist, a necessary means to achieving EU acceptance and membership, rather than the principled adoption of new democratic norms, goals and practices. If this is correct, and not a misreading of the country studies, then the politics and mentalities of the political and security agency leaders and, possibly, the civil society actors of the regional countries will have to change alongside, with or preceding SSR. That will not be easy.

Recommendations

International cooperation and assistance would be useful for all countries in three areas, which seem least susceptible to being perceived as a challenge or interference in the sovereign affairs of independent states:[5]

- Continuing support for the creation of research centres which can evaluate and assess progress and obstacles to implementation. These can form the core of civil society efforts to counterbalance state claims about security needs and policies and help in enhancing transparency and accountability;
- A compilation of best practices learned not just from the EU experience but from efforts to reform security sectors in Balkan states. Lessons are more applicable if drawn from similar contexts;
- Support for training and education, especially of mid-level managers in new border control agencies and systems. Leaders of security agencies will always be politically astute if they are to survive, and the 'street' will need the technical skills to do their job correctly. Mid-level managers provide the heart and soul of any organisation, shape its organisational dynamics and culture, are indispensable information transmission belts between the 'street' and the chief's office and, accordingly, are the main implementers of change given their close contact with the street. In a pinch, they can be whistle blowers.

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BORDER POLICE REFORM IN THE REPUBLIC OF ALBANIA

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This paper aims to describe how the executive direction and legislative oversight of border management function in Albania. It is based on a study of constitutional dispositions and the main laws that regulate the border services, as well as on interviews conducted with experts at the Ministry of Interior. Other issues discussed are accountability and transparency of border control, management and international cooperation.

A. Basic Defence Management Laws and Regulations

1. Government Structure, Reporting and Management Relationships

The Constitution of the Republic of Albania was approved by Law No. 8417 on 21 October 1998. It defines the Albanian state as a parliamentary republic. Albania's Parliament is elected every four years. The Parliament approves laws on the organisation and functioning of the institutions as foreseen by the Constitution. No explicit reference to the Border Police is made in the Constitution.

Legal Framework for the Control and Management of the Border

There are specific laws that regulate the control and management of the border of Republic of Albania. These laws define the border and determine the duties of each of the state entities that have responsibility in this respect. Laws regulate the terms of reference, mission statements, structures and obligations for all governmental entities involved in formulating, implementing, reporting and overseeing defence policies.

- Law No. 8771, dated 19.04.2001 'On the State Border of Albania.'

The law defines the integrity and sovereignty of the territory of Republic of Albania,[1] the fact that the state boundary of Albania is determined through international acts and bilateral international acts signed by Albanian State.[2] It describes the specific signs that are used to demarcate the boundary on the ground and in water (sea, lakes and rivers). It also describes the border line of water, underground and air space in Albania.[3]

- Law No. 8772, dated 19.04.2001 'On guarding and controlling of the state border of Republic of Albania.'

The law defines the rules of guarding and controlling the state border of the Republic of Albania; rules for the movement of Albanian citizens, foreigners and different transport through the border; the state structure that guarantees the implementation of these rules.[4] The Border Police is responsible

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[1] Law No. 8771, dated 19.04.2001 'On the State Border of Albania,' Article 1, paragraph 2; Article 4

[2] Ibid. Article 1.

[3] Ibid. Articles 3-4.

[4] Law No. 8772, dated 19.04.2001 'On guarding and controlling of the State border of Republic of Albania,' Article 1

for the guarding and control of the border, and the legal passing of the border. The Border Police is part of the State Police, but has its own structure and personnel.[5]

- Law No. 8553 dated 25.11.1999 'On State Police.'

This law regulates the status of the State Police, its institutional duties, organisation, attributes, symbols, etc. Among its institutional duties, the law states that the police 'control the state borders of Republic of Albania.'[6] The Border Police is a separate department in the General Directory of Police.[7] (A new law on the State Police, that includes the Border Police, has been drafted and is expected to be approved within this year).

- Law No. 8875, dated 04.04.2002, 'On Albanian Coast Guard.'

This law regulates the functioning of the Coast Guard of Republic of Albania, as part of the Armed Forces and under the authority of the Minister of Defence.

- Law No. 8492, dated 27.05.1999, 'On Foreigners.'

This law regulates the entry of foreign citizens in Albania, their status, rights and obligations during their stay in the country.

- Law No. 9509, dated 03.04.2006 'On Declaring the Moratorium on Motor Vehicles of the Republic of Albania.'

This law declares a three-year moratorium on certain categories of motor boats in the sea of Albania.

Laws of a General Nature with Direct Application to Border Management Governance

The main institutions that formulate, implement, report and oversee police policies are the Parliamentary Commission on National Security, the Ministry of Interior and the Ministry of Defence for the Coast Guard. As the Border Police is part of the State Police, the general legal framework that applies to the State Police is also applicable to the Border Police. As the Coast Guard is part of the Armed Forces, the general legal framework that applies to the Armed Forces, is also applicable to the Coast Guard.

General laws that regulate the working of the administration are applicable to the functioning of the Ministry of Interior. So, the personnel of that ministry are subject to the laws on information that guarantee the right of citizens to be informed about official documents,[8] with the exception of classified documents,[9] and which guarantee the protection of personal information.[10] The classification of documents not for immediate public release is the competence of the President, the Prime Minister and other directors authorised by the Prime Minister in the State Register of Classified Information.[11]

The budget for the Border Police is part of the budget for the State Police and the Ministry of Interior. The budget for the Coast Guard is a separate item in the budget for the Ministry of Defence.[12] These budgets are drafted by applying the same rules established for

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[5] Ibid. Article 3

[6] Law No. 8553 dated 25.11.1999 'On State Police,' Article 3, paragraph (3)

[7] Ibid. Article 12, paragraph 2.

[8] Law No. 8503, dated 30.06.1999 'On the Right to Information about Official Documents'

[9] Law No. 8457, dated 11.02.1999 'On Information Classified 'State Secrets''

[10] Law No. 8517, dated 22.07.1999 'On the Protection of Personal Data'

[11] Law No. 8457, dated 11.02.1999, Article 4

[12] Law No. 8875, dated 04.04. 2002, 'On Albanian Coast Guard', Article 8, paragraph 1

the state budget.[13] The Parliament approves the state budget for the next year,[14] in which the expenditure for the Ministry of Interior, State Police and Border Police as part of the latter are included. The laws of procurement for other state institutions also apply to the Ministry of Interior.[15] In cases when the Council of Ministers deems that procurement involves issues of national security, a separate procedure is determined.

The status of Border Police officers is the same as that of police officers and is regulated by Law No. 8553. The laws for the Border Police's supporting and administrative staff are applicable to the civil servants,[16] as specified by the Work Code of the Republic of Albania.[17] The status of the Coast Guard is the same as the status of the military.

The description of the abovementioned legislation does not necessarily refer to its applicability. The Border Police is far from a consolidated structure of the Albanian State Police. Although increased attention is being paid by the international community to the enforcement of effective Border Police law through training and workshops, the institution is undergoing constant personnel changes from the top down. The directors of the Border Police change every one to two years and are often assigned to jobs unrelated to border management. As explained above, the Border Police Department until now has been just one department of the State Police. It is my opinion that it has been only in recent years that the authorities have put greater emphasis on Border Police issues after gaining a better understanding of the role of effective border management in overcoming the country's integration challenges. The draft Law of the State Police is the first-ever effort undertaken at the national and local level to legally enhance the capacities of the Border Police through relative independence in its structure and its functions.

Border Management Services

The Border Police (in Albanian: *Policia Kufitare*) is the main border guarding force. The key law that refers solely to the Border Police is Law No. 8772, dated 19.04.2001 'On guarding and controlling of the state border of Republic of Albania.'

The status of the Border Police does not change even in times of war, during a state of emergency or natural disaster. In these cases, the Border Police cooperate with the structures of the Armed Forces.[18]

Besides the Border Police, border guarding functions are implemented by the Coast Guard (in Albanian: *Roja Bregdetare*), which is part of the Armed Forces operating under the civil authority of the Ministry of Defence. The contradictions in the authority of the naval border forces are being addressed (see below).

Political documents which define the role of Border Management within defence and security policy are as follows: the National Security Strategy of the Republic of Albania 2003-2006, which was approved by Parliament in Law No. 9322, dated 25.11.2004 'On Approving the National Security Strategy of Republic of Albania.' The Law mentions that 'the control and integrated management of borders remains a priority in the function of the prevention of organised crime, terrorism and trafficking.'[19]

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[13] Law No. 8379, dated 29.07.1998 'On Drafting and Implementing of the State Budget of the Republic of Albania'
[14] For example, Law No. 9464, dated 28.12.2005 'On the State Budget for Year 2006'
[15] Law No. 7971, dated 26.07.1995, 'On Public Procurement'
[16] Law No. 8549, dated 11.11.1999, 'On the Status of Civil Servants'
[17] Law No. 8553 dated 25.11.1999 'On State Police,' Article 15, paragraph 1.
[18] Law No. 8772, dated 19.04.2001 'On guarding and controlling of the state border of Republic of Albania,' Article 14
[19] National Security Strategy of Republic of Albania 2003-2006, Part III, Section VII, Point 49.

Publication of the border management planning document was the decision of the Council of Ministers. Law No. 118, dated 27.02.2003, 'On Border Control and Its Integrated Management 2003-2006,' includes the following information: the background and history (historic data, demarcation of the border, creation of the Border Police, etc.); an analysis of inter-border crime and trafficking; institutional composition, legal framework and personnel; external environment; institutional cooperation; international cooperation, including the Integrated Border Management of the CARDS programme; vision, goals and objectives of the strategy, and action plans.

Coverage and Coordination

Border Police – 'The Border Police is responsible for the control of legal border crossing and for guarding the border. It is a constitutive part of the State Police. The Activity of the Border Police is based on the Constitution, in the law for the State Police, in international acts and agreements that regulate border issues and emigration, in which our state is part, in this law and other legal provisions. The Border Police has its own structure and personnel, which are approved by the Minister of Public Order (Interior).'[20] Among the responsibilities of the Border Police, the most important ones are:

1. Overviews the border situation;
2. Periodically controls the border signs;
3. Implements measures for preventing illegal border crossing;
4. Accomplishes legal procedures for the verification, discovery, documentation and arrest of the persons who commit illegal acts or blocks the transport means that enter the border with illegal papers.
5. Implements the international conventions and bilateral and multilateral agreements for the cross-border movement of people and goods;
6. Issues entry visas and controls the validity of documents;
7. Realises meetings with counterparts in neighbouring and other countries for the implementation of agreements on the exchange of information;
8. Implements the dispositions concerning the asylum-seekers.[21]

Coast Guard – 'The aim of the creation of the Coast Guard is the implementation of legality at sea.[22] The Coast Guard is subordinate to the Ministry of Defence and is part of naval districts, which are subordinate to the Command of Naval Forces. The Coast Guard co-acts with state or private institutions and subjects that have interests in the sea.'[23] The main functions of the Coast Guard in relation to border control are:

1. Prevention and exertion of control on the illegal border passing of navigating vehicles, of goods and people;
2. In internal waters, the Coast Guard offers help and cooperates with the Border Police, with captains, ports and other state institutions.[24]

The main changes involving the Border Police relate to the fact that its role has been defined not as a military one but as a civilian one. In 1991, due to rapid internal change, instability and destabilisation in ex-Yugoslavia, border forces were the responsibility of the Ministry of Defence. In 1993, together

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[20] Law No. 8772, dated 19.04.2001 'On guarding and controlling of the state border of Republic of Albania,' Article 3
[21] Ibid. Article 4.
[22] Law No. 8875, dated 04.04. 2002, 'On Albanian Coast Guard', Article 1
[23] Ibid. Article 3, paragraphs 1-2
[24] Ibid. Article 5, paragraphs 1 (c), 2

with the consolidation of the new democratic system in the country, border forces came under the authority of the Ministry of Public Order (presently, the Ministry of Interior) and have remained so until now. Under the draft Law of the State Police which is scheduled for approval in 2006, the Border Police will remain part of the State Police but will gain more autonomy within the Police Force in terms of its organisational structure (see below).

The Coast Guard was created in 2002. It is part of the Armed Forces and its duties include the sea border control.

Accountability

To the executive

The Border Police is part of the State Police of Albania, although it has its own personnel and internal organisation structure. The General Directory of Border Police is accountable to the General Director of the State Police and, through the latter, to the Minister of Interior. The budget for the Border Police is included in the budget of the State Police. The Minister is the highest authority who, within the general programme of the Council of Ministers, exerts political control on the State Police. The Minister represents the State Police in relation to other constitutional institutions within the country and in bilateral and multilateral foreign relations.

At present, a draft law on the State Police is being developed and it is expected to be approved in 2006 by the Council of Ministers and Parliament. It is intended to be a comprehensive law that covers the structure, functions of separate departments, ranks, relations with the public and other institutions, management of personnel, disciplinary procedures, evaluation, employment of police personnel, competences, etc. The new legislation clearly foresees a well-defined split of competences between the State Police and the Ministry of Interior. It also separates the budget of the State Police from that of the Minister of Interior. The General Police Director will be appointed by the President of the Republic based on proposal of the Prime Minister. He/She clearly becomes the only responsible official of police operations.

The new draft law states that the Border and Migration Police will remain a constitutive part of the State Police, but will gain greater autonomy and more decentralised power to take decisions. Its structure will have its own District Directories of the Border Police that will be determined by the Council of Ministers, as well as separate commissariats of the Border and Migration Police. The Border Police cannot evade its obligations to the executive control.

The Coast Guard is part of the naval districts and it is under the command of the Commander of Naval Forces. The commander of the Naval Forces is responsible for the military readiness and operational direction of the force.[25] The commander reports to the Chief of General Staff or directly to the Minister of Defence.[26] As part of the Armed Forces, the Coast Guard is under the military discipline of the executive control and authority and, as such, cannot evade its obligations.

In recent times, within the specific reform process of the State Police and of the security forces in general, the most important change has been the transfer of border control from the Ministry of Defence to the Ministry of Interior. This is an ongoing process and the last phase is taking place with the civilian control and command of the Border Guard, within the Integrated Border Management regulations supported by EU. In terms of the present arrangement, police officers are stationed on board ships of the Coast Guard and they have the authority to exert civilian control over operations.

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[25] Law No. 8671, dated 26.10.2000, 'On Powers and Authorities of the Commanding and Strategic Direction of the Armed Forces of the Republic of Albania', Article 35
[26] Ibid. Article 36.

In general, border control arrangements have worked in practice. However, in order to improve the functioning of the Border Police and to bring it in line with EU requirements, organisational changes are anticipated. Civilian control of the Coast Guard is an issue of major concern. According to EU standards, the present arrangement of an on board police officer is unacceptable. In a speech made earlier this year, the representative of the EU's delegation to Albania recommended a possible solution in the transfer of the operational command of the Coast Guard from the Ministry of Defence to the Ministry of Interior.[27]

To elected representatives

The State Police Force is answerable to legislature, through the various parliamentary committees that oversee the executive power. The State Police is made accountable, through the Minister of Interior, to the Parliamentary Commission for National Security. The Coast Guard is accountable to the same parliamentary commission, through the Minister of Defence. A few years ago, the Parliamentary Commission on Public Order and the State Intelligence Service oversaw the activities of the State Police and the Parliamentary Commission on Defence oversaw the activities of the Armed Forces. The inclusion of both commissions in one, the Parliamentary Commission for National Security, means that both the Border Police and the Coast Guard are answerable at the same instance to Parliament. The parliamentary commission has the right to investigate the institutions subject to the Ministers, which include the various police forces.

To other institutions

- Cases of legal violations by the Border Police may appear before the courts. The officers of the Coast Guard are subject to military courts. The Ombudsman also open cases against the Border Police and the Coast Guard. The Ombudsman may investigate the cases even based on media reports.
- Internal boards of accountability in State Police structures control the operational and financial management of police structures. Internal boards are rather centralised institutions. The Internal Control Services operates under the direct authority of the Minister of Interior and reports all cases of abuse of power by police forces directly to the Minister. In each local police department, there is an Internal Control Services' inspector working under the direct responsibility of the central authority.
- The local governments do not have specific powers over the Border Police or Coast Guard. Whenever the need arises, they can cooperate with the border guard structures.

The right to information is guaranteed by Article 23 of the Constitution. In compliance with this article, Parliament approved Law No. 8503, dated 30.06.1999, 'On the Right of Information about Official Documents.' Although the law makes no explicit mentioning of the police, it does apply to the police force. The Directory of Public Relations and Information, working within the Ministry of Interior, regulates communications with the media and the public. The State Police has another such directory and the 12 District Police Directories located throughout the country include the office for public relations and information, which is accountable to the Police Director. This does not mean that, in practice, laws are obeyed and relations with the public or the media run smoothly in this respect. Police officers frequently refrain from revealing to the public information

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[27] Joachim Tasso Vilallonga, Justice and Home Affairs Coordinator in the Delegation of European Commission to Albania. Speech at the conference: 'An Albanian Agenda for Regional Security,' Tirana, 7-8 March 2006

that they are permitted by law to disclose, without prior consent from their superiors. No separate structure for relations with the public and the media exists within the structure of the Border Police. Communication with the public is carried out though the public relations departments of the State Police and the Ministry of Interior as well as the public relations offices in the various police districts. If questions concerning the work of the Border Police are raised in the press, the authorities acknowledge the right of journalists to protect their sources.

The media regularly reports on the activities of the State Police, including the Border Police and it seems that the police authorities as well as those at the Ministry of Interior privilege media coverage of police actions. However, the media is for the most part satisfied in transmitting police press reports and only occasionally applies investigative journalism to issues concerning the police, mostly on matters of corruption.

There are no polls dedicated to the public's opinion of to the Border Police, but inferences can be made from various civil society projects. In summer 2003, the Institute for Democracy and Mediation in Tirana together with the Euro-Balkan Institute in Skopje conducted a survey in the border districts between Albania and Macedonia in the framework of a joint project titled 'Cross-Border Confidence Building between Albania and Macedonia.' The questionnaire included questions about the performance of Border Police in preventing border incidents. The level of public satisfaction with the Border Police varied from district to district.

Codes and Conventions

- Council of Europe (e.g. 1979 Council of Europe Declaration on the Police)
- OSCE (e.g. 1994 Code of Conduct on Politico-Military Aspects of Security)
- Europol (e.g. 1995 Europol Convention)
- Interpol (e.g. 1999 Interpol Seoul Declaration)
- European Convention on Human Rights.

Although the State Police has subscribed to the above conventions and regulations, the extent to which they are obeyed and have influenced the work of police inside the country is unclear. It seems that the political elite and the police authorities are willing to sign international agreements and, especially, requirements by the EU in the framework of the accession process, but most of these codes and conventions are hardly known by officers at any level. There are no reports or sufficient data to judge on the extent international cooperation between security services and border management agencies affect the domestic accountability of the Border Police. The fact is that the law permits the Border Police to organise meetings with neighbouring Border Police for the exchange of information and for duties related to the joint border. Such initiatives have been encouraged also by civil society for the benefit of border community security and cross-border trust building. Albania is a member of international agencies and conventions associated with border control, such as the SECI Centre, FRONTEX, Interpol and Europol.

Transparency

Domestic transparency: dimensions

All police forces are obliged by law to make information available to elected representatives. This obligation is determined as a general principle in the Constitution and in legislation about the

organisation and functioning of police services. There are no legal acts stating that these services have no such obligation.

Information is available and made public for all citizens. Most of the institutions have websites but they are all published in the official gazette. Information on *budgets* is made available, the material (a) contain detail covering what money is spent *on* (inputs) and what funds are used *for* (outputs) or (b) provide only an abbreviated statement of money requested? The public can receive information on allocated budgets for almost all items except for specific operations, which might need special authorisation. The budget is most often made public in general terms according to the nature of operations.

Law No. 8457, dated 11.02.1999 'On Information Classified 'State Secret' is the basic official document for assessing public availability for operations and the budget. The classification of documents which are not for immediate public release is the competence of the President, the Prime Minister and other directors authorised by the Prime Minister in the State Register of Classified Information. The law regulates the extent and the procedures that make possible the partial or total disclosure of a document to certain categories of state employees or the general public. Information about the *strategic outlook* and planning of services is made public in general terms, most often when it is under scrutiny. Reports of activities are mostly published for the State Police which enjoy also the highest public visibility. Policy statements are normally made public when the agency is under scrutiny, otherwise it may take place on special occasions.

International transparency

Albania's subscription to different international conventions and codes of conduct such as the UN Resolution: Code of Conduct for law-enforcing officers, Council of Europe Police Code of Conduct, the OSCE 1994 Code of Conduct on Politico-Military Aspects of Security, Europol Convention, Interpol Seoul Declaration, and the European Convention on Human Rights imposes transparency obligations, but they normally are respected in bilateral exchanges of communication. This is especially the case when requests are set forth by the abovementioned organisation in relation to relevant institutions of the country. It should be stressed that it is a widely-accepted fact that subscription to such legislation or its approval by the Albanian Parliament does not imply any additional local capacity to its implementation. Inadequate capacities, institutional instability and a lack of public responsibility in transparency in general contribute to a lack of compliance with these international conventions or codes of conduct.

In the case of international cooperation between police forces and other internal security forces, domestic transparency is limited to pre-approved declarations or statements regarding cooperation of a bi-lateral or multilateral character. Information on domestic police activities involving international operations becomes public after the operations have ended. The level of information regarding these kinds of operations is made somewhat public and the mentioning of international actors involved is considered by the relevant authorities as a means of enhancing the credibility of domestic operations or evidence that Albanian police agencies are a credible partner of international cooperation.

Recent Changes 2004/5 and General Appeal

As with other departments of the State Police, one cannot speak of substantial changes to the "normal practices" of Border Police to date as far as the transparency and accountability of police forces are concerned. Changes are mostly associated with the scrutiny displayed by the Border

Police towards certain categories of people entering Albania and to better technical devises employed at some border entry points for controlling the passing of people and goods. The international programmes of ICITAP and PAMECA are assisting technically the capacities of the Border Police. ICITAP leads the TIMS programme which intends to significantly improve information technology and networking capacities while PAMECA is mostly committed to raising the capacities of integrated border management. DCAF is also partnering with the Albanian Department of Border Police mostly in a regional cooperation framework.

B. Questions on the Specificities of Oversight and Guidance

The President of the Republic does not have any competencies on issues related to decision making on police matters, including the Border Police. However, the Head of State may use his moral authority to heighten sensitivity on particular issues relating to police structures and performance. The new draft Law on State Police (to be approved by the Parliament in 2006) enhances the competences on the President of the Republic by recognising his role in the appointment of the General Police Director on the proposal of the Prime Minister (actually it is the Prime Minister that appoints the General Police Director). However, this change is not expected to have any impact on the work of Border Police. The Prime Minister as head of the Government is the highest political authority who signs Government decisions and other normative acts relating to the police forces. The proposal for each normative act comes from the Ministry of Interior.

The role of the Parliament in endorsing police policy decisions is not explicitly defined in the Constitution. It appears in the functional responsibilities of the Parliamentary Commission on National Security. The Parliament is able constitutionally to act independently to amend strategic objectives on the police, to reformulate, introduce new objectives, delete objectives, vary police expenditures and revise police missions. Until now, however, the Parliament or the Parliamentary Commission has never put in motion a single case without the prior consent of the Government. The reason for that is that each parliamentary commission is controlled by the political majority. In practice the Parliament has only the power of endorsing or rejecting the police policy documents submitted for its approval. The same procedures take place also regarding the role of Parliament in endorsing police policy decisions. In practice the Parliament has only the power of endorsing or rejecting the police policy documents submitted for its approval, although it legally there exists the possibility that police policy initiatives can be taken, but until now if an initiative of that kind is undertaken, a prior even silent consent of the Head of Government is ensured.

The Parliament has a staff of experts working on security issues solely for the parliamentary commissions. It should be mentioned that these officials do not directly cover police issues but rather assist the Parliamentary Commission members on all issues. For a second year DCAF has supported an additional expert within the Parliamentary Commission on National Security, who has proved to be the most active member of the staff of experts. The Commission does not have a sub-commission for border matters but rather three experts work for 17 members of the Commission. External assistance would not only increase the parliament's efficiency on border matters but in other areas as well. Experts, if not the members of the commission themselves, can carry out visits to border posts and independently from the Border Police or Coast Guard report on their findings to the Commission.

It should be underlined that the Parliament follows the party or coalition lines in deciding on police matters, police reform or performance on specific issues.

The National Security Council is a constitutional institution that serves as an advisory council to the Head of State. There is no special legislation or statute on the functioning of the National Security Council and, as such, there are no specific duties assigned to the President or to the

National Security Council regarding the formulation of policy decisions on border management, except for different recommendations on specific matters when/if they arise.

With respect to the issues of border control and management, the Prime Minister exerts his/ her influence through the Ministers of Interior and Defence. The Council of Ministers formulates/ endorses policy decisions and normative acts on police activities. An example is the approval of the Strategy on Border Control and its Integrated Management 2003-2006. The Prime Minister supports or initiates different actions on border control in response to situations concerning public security. This is achieved through communication with authorities of the Ministry of Interior, the State Police and the Ministry of Defence. No specific unit of experts or staff assists in the formulation of opinions of the Prime Minister on border control and management issues.

The Minister of Interior formulates and endorses police policy, including the Border Police, through orders and normative acts. The Minister also presents different normative acts to the Council of Ministers or legal acts for approval by the Government to be sent to Parliament. It should be mentioned that the new draft Law on State Police clearly excludes the Minister of Interior from leading police operations.

For activities and regulations concerning the Coast Guard, civilian responsibility lies with the Minister of Defence.

In cases where a strategic document on border control and management is issued for endorsement, there are no special legal or customary provisions for formal guidance from a higher authority, except for the normal approval procedures. The issuing authority for police issues is the Minister of Interior. The Minister sends a policy document to all other ministries or Government institutions that are stakeholders in the draft legal act or draft law. Following official commentaries and suggestions, supportive or non-supportive documentation is produced. The document is subsequently reviewed prior to its delivery to the Council of Ministers for approval. The Ministry of Finance is required to approve the document if it is in need of additional budgetary requirements. Of special importance is the position of the Department of Codification in the Ministry of Justice. Deviation from these procedures is rare. In general, the procedures are not made public.

The funding of the Border Police is similar to the system established for the general police. Both the police system and the general Government procurement system are disclosed for industry, business and the public. However, the media has never scrutinised or commented on Albania State Police budget or on the Ministry of Interior's budget expenditures. It may be difficult for journalists to obtain information from the police on specific budgetary items. The budget and its expenditure are under the scrutiny of the Parliament. If a case of abuse of funds is uncovered by the media, the Parliament has the authority to scrutinise the police and Ministry of Interior budgets.

The Minister of Interior oversees the development of international contacts and cooperation and is the only authority permitted to end such contracts. The General Police Director represents the Albanian State Police, including the Border Police, in international contacts and cooperation. Nonetheless, the director is obliged to receive endorsement by the Minister of Interior on every action he undertakes. Every international visit even for lower rank officers requires the authorisation of the Minister of Interior. The Prime Minister eventually acts through the Minister of Interior to authorise, oversee and end international contracts. The new draft Law on State Police maintains the same procedures on international contacts and cooperation.

Albania's subscription to international conventions or codes has provided the country with experiences and practices which have found their way into the relevant legislation on the police force. Where inherited and institutionalised thoughts and traditions have been lacking, well-established practical mechanisms have been valuable in the development of national police policies. The literature published in the past decade on police management by Albanian experts is not the main source of written material on the subject. Concerning the issue of border management, special reference is

made to the Ohrid Declaration on Border Management and Security, an EU directive titled 'Integrated Border Management in Western Balkans.'

Literature, models and examples from other nations with recognised success in good governance, are the main sources for general national police planning. There is not any one particular model, example or nation. However, if it exists it should bear the experience of a particular nation that an international expert offers. For instance, in the past decade, Albania has been assisted by PAMECA (the EU's police assistance mission), ICITAP (US Justice Department), the EU delegation, experts from Italy's Interforca and experts from the OSCE. The abovementioned organisations and embassy representatives who are resident in Albania formed a formal forum recognised as International Consortium on Security Sector Reform. This forum has enhanced the coordination of international assistance efforts. Two of the different working groups which operate within the consortium are a legal reform working group and an integrated border management working group.

Certain recommendations and programmes have been developed by different police assisting missions such as the EU Police Assistance Mission in Albania (PAMECA) and the US Justice Department Assistance Programme ICITAP. These missions have a number of experts that assist in many police operations and planning. Each of these missions has a number of officers in the Ministry of Interior who advise the Minister or General Police Director on police issues. This assistance is proving helpful in supporting reform of the Albanian police in many respects.

The country and its institutions in general are far from adopting practices that would lead to reforms through the input of research local institutes. Public institutes are formal structures with limited capacities to develop research on police and border control matters. The public funding for these institutions is limited to just keep them in existence. Public institutes are ministerial organisations, but they do have a very low profile in producing police policy recommendations. Private institutes and think tanks are somewhat more active due to their capacities and flexibility in programming their activities in assisting police reforms. Think tanks and private institutes are not economically dependent on public funds, but receive most of their funding, if not all, from international donors. These are organisations of a more general scope which deal with different issues of security and international relations, but also cover police issues. Other organisations typically publish occasional papers on state border issues and national security.[28] Commissioned reports are limited to international demand. Oversight commissions have not been established nor have governmental authorities contracted independent researchers on police or border issues. The existing public institutes may be involved in producing occasional papers requested by the political authorities, but this has not constituted any sort of research helpful for the decision-making process. Even in the formulation of national police strategy, local expertise is rarely consulted.

Government (the Prime Minister, ministers) authorities are not accustomed to applying the results of public institute research to specific policy issues or in their decision-making. However, the Government, the Prime Minister, ministers and other senior political figures continue to justify the need for reform by supporting the demands made by international organisations and police missions to increase reform efforts and establish appropriate legislation. The reaction of authorities to non-governmental organisations (NGOs) typically involves critical declarations of human rights organisations. Public debate on police issues has been raised during specific episodes of police reform, but also during the media's reporting of different surveys, especially once problematic truths have been exposed. Albania, in general, (authorities, media, and other institutions) does not possess the civic culture to make use of research products to improve performance and reform. Even in cases whereby surveys might have led to different police policy decisions, authorities rarely acknowledge the results. This indicates that official bodies are not making policy decisions based

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[28] For example, the Institute for International Studies. *Debating National Security. The case of Albania: Border, Religion, Corruption.* Tirana, 2004

on the outcomes of such surveys. Private surveys commissioned by international actors are not meant for public release. In all cases, surveys are not a regular occurrence.

Border Management Institutions within the Security Sector

Structure of Decision Making on Border Management Policy

Topic of Document	Title of Document	Issuing Authority	Endorsing Authority	Frequency / Time span	Status
Border Management Planning	Action Plan Operation Plan	General Directory of Border Police	General Police Director		
Personnel policy	Personnel Act	Ministry of Interior	Council of Ministers		Approved
Border Management Education	Educational Programme	Academy of Police General Directory of Border Police	General Police Director		Approved
Public information policy	Functional Duties and status of Public Relations Offices	Depart. of Public Relation	Minister of Interior		Approved
Other Border Management documents					
Border Management Strategy	'On Border Control and Its Integrated Management'	Minister of Interior	Council of Ministers		Approved
International Cooperation	Agreements	Ministry of Interior	Council of Ministers		
Interagency Cooperation	Protocols or Agreements (Various)	General Police Director	Ministry of Interior		

All policy documents are published for internal distribution, but in practice this is not a norm. Members of the public may obtain a copy of policy documents upon written request, with the exception of cases where a document circulates for internal use. For special documents, the release of documents is pending the decision of an authority. The practice of publishing a list of policy documents that may be released to the public or a list of restricted policy documents that are to be made public has not been established in Albania. An approval authority decides what documents may be made public on a case-by-case basis.

In drafting police policies it is most common that the Minister or General Police Director will authorise specialised divisions within the Ministry of Interior. For issues concerning border control, a specialist from the General Directory of Border Police forms the nucleus of the group of experts. In some cases, the ministerial authority might select a group of experts according to their level of expertise on specific issues, including experts from education institutions. Foreign advisors might also be included for particular issues.

Strategy and policy objectives are not established in accordance with a determined set of regulations or best practices. Advice and recommendations from international and bilateral experts are the most commonly used measures. The *approximation* of national *legislation with that of the EU*, within *the framework of integration efforts*, has become a *decisive* aspect of the *reform* process, particularly in *the police sector*. The increasing numbers of international contacts and conferences have also heightened the country's *sensitivity* to *special objectives and police policy strategies*. Documents published by police organisations in other countries are referred to in some cases as well. Guidance from the Minister is also mostly related to such experiences, while the internal assessments of national values, interests and requirements are rarely a source for setting objectives in police strategy. Internal interests or needs are taken into consideration if they are mentioned or referred to by international reports or statements.

Even the process of assessing security risks and threats mentioned in strategies, policies and directives within the police sector, including the Border Police, are made based on declarations, statements and priorities set forth by international organisations such as the OSCE, the UN, the EU or NATO. The EU and NATO integration process are a priority and enjoy the most authoritative position in the development of local policies.

To date, there has not been a debate on police requirements for the basic reason that police have not been allowed to establish a unified professional voice in a professional organisation. The Police Trade Union which was set up in 2006 with the assistance of the Institute for Democracy and Mediation is expected to be legalized soon. Until now, decision-makers at the political level have decided on requirements without any debate. Internal and public debates on the requirements of the police services have been non-existent. Although the current police law, which was approved in 1998 for the first time, legally accepted the police forces as part of the public administration, internal police practice until now has been similar to that of a military organisation. Police requirements have remained under the total authority of the Minister. The media has rarely reported on these issues. The police organisational chart is prepared by the State Police and approved by the Minister of Interior. There are terms of reference for each structure but recent discussions (over the last three years) to update the terms have not produced any results. Even standing operating procedures for each structure require a full update because the draft Law on State Police, which is yet to be approved, includes many changes. In this draft law, the organisational structure and chart is more detailed and comprehensive than in the current law.

The police planning system is being set up with the close assistance of ICITAP and PAMECA. The State Police in Albania is rather a centralised organisation, and the resource allocation system is a top-down system, although lower structures can present their requests.

The system is organised according to a departmental service programme. However, proper

coordination between the departments is lacking. Police planning starts once the Minister issues guidance. The description of the end state of each programme is available and the costs of the programme are established upfront.

There is no regulated requirement for police planners to develop planning assumptions, recommendations and alternatives for the commanding officer or civilian dignitary before a certain course of action is adopted. Police planners are typically experts from within the service. International experts, on the authorisation of the Minister, may also be involved.

BOSNIA'S SECURITY SECTOR REFORM —
THE STATE BORDER SERVICE OF BIH
AS AN EFFICIENT BORDER MANAGEMENT AGENCY

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Introduction

Basic Border Management Laws and Regulations - The State Border Service (SBS)

The establishment in 2000 of a state-level and genuinely multinational State Border Service (SBS) was both a practically important contribution towards police reform in BIH,[1] and a politically significant step towards building a viable state. The State Constitution provides for the State to have responsibility over customs policy; immigration, refugee, and asylum policy and regulations; and international and inter-entity law enforcement.[2] In addition, under Article III, 'Bosnia and Herzegovina shall assume responsibility for such matters as are agreed by the Entities; are provided for in Annexes 5 through 8 of the General Framework Agreement; or are necessary to preserve the sovereignty, territorial integrity, political independence, and international personality of Bosnia and Herzegovina.'[3] Control over the frontiers is a *sine qua non* of territorial integrity and international legal personality, and the SBS has already gone a long way to shore up these attributes of Bosnia's fledgling sovereignty. For this very reason, the SBS encountered formidable opposition from an RS political establishment committed to maximising the Entity's 'statehood' and minimising that of BIH, above all by denying it effective or potentially powerful central institutions.

Even though the three-member Bosnian presidency agreed to establish the SBS when signing the 'New York Declaration' in 1999,[4] the High Representative had to impose the law creating it on 13 January 2000. The BiH Parliament only ratified the law in August 2001, long after the service had in fact taken control of major border crossings. Under the stewardship of UNMIBH's Border Service Department (BSD), the SBS has become an established institution, controlling 88 per cent of Bosnia's frontiers and deploying 1,750 officers, a complement which is targeted to rise to 2,700 by the end of 2002. In addition to BSD supervision, the SBS has benefited from immigration control training provided by the EU IMMPACT team.[5] Although it has made considerable progress in sealing Bosnia's notoriously porous borders, expectations of the SBS have also risen since 11 September 2001. Another intended benefit of SBS deployment is a reduction in customs evasion.

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[1] The SBS Directorate consists of three directors (one from each constituent people), and the force itself currently employs 37 per cent Bosniaks, 35 per cent Serbs, 24 percent Croats and 4 per cent 'others'. Yet, UNMIBH has claimed that 'It had been stressed throughout that ethnicity plays no part in this [recruiting] process at all.' Juan A. Pina, 'BiH State Border Service inaugurated,' *SFOR Informer*, N°90, 21 June 2000.

[2] Article III, Paragraph 1, subparagraphs (c), (f) and (g).

[3] Article III, Paragraph 5, subparagraph (a).

[4] On the fourth anniversary of the Dayton Accords, the UN Security Council met with Bosnia's three-man presidency and convinced them to sign on to the 'New York Declaration' 19 November 1999 reaffirming the DPA.

[5] The EU IMMPACT team has trained approximately 350 SBS officers in detecting forgery and in interviewing and profiling. UNHCR has trained the SBS in the handling of asylum seekers and the appropriate application of the relevant laws.

In last few years such evasion cost the budgets of the Federation and the RS an estimated KM 300 million and KM 500 million, respectively. The fact that government officials and political parties have often been complicit in backing or profiting from evasion partly explains their opposition to creating such a force. There have been cases of large numbers of police officers in Cantons 7 and 8 moonlighting as smugglers. The establishment of the SBS seems to have improved revenue collection at the crossings where it operates. Besides combating customs evasion on the import of legal goods, the SBS has proved central to curbing cross-border trafficking of weapons and other contraband.

The SBS is also controlling the flow of illegal immigrants through Bosnia into Western Europe, to keep out potential terrorists and to prevent the trafficking of women into and through Bosnia. Since its formation, the number of people estimated to have used Bosnia as a transit route to EU countries has declined by approximately 60 per cent.[6]

Although the SBS now controls major border crossings, those that it does not are staffed by regular entity police officers, and several minor crossings are totally unmanned.[7] SBS deployment has also been hampered by the continuing absence of border infrastructure. There is, moreover, considerable evidence testifying to the impotence of the SBS in the face of well organised and politically well connected smuggling operations.

Customs are also a problem, proposals to enhance and institutionalise cooperation have thus far come to naught, and cooperation will probably continue to stall until the collection of customs is transferred from the Entity level to the State level and the two organisations are eventually merged. Despite its high profile, political significance and international support, the SBS has also lacked sufficient funds. The UN Secretary-General reported to the Security Council in November 2001 that the projected shortfall in SBS salaries for 2001-02 was USD 16 million, while the equipment budget had a hole of some USD 2.5 million. The IMF reportedly told the High Representative last autumn that Bosnia simply could not afford the SBS. Lack of funds obviously inhibits the ability of the SBS to do its job. For example, the SBS until 2005 didn't have the motorboats required to patrol Bosnia's Sava and Drina river borders with Croatia and FRY. Meanwhile, the SBS station in Trebinje is obliged to cover 190 kilometres of land frontiers with 110 officers, three vehicles, six radios, and a sparse assortment of shared weapons.

On the other hand, the 11 September 2001 attacks on the U.S. boosted Washington's support for an effective border service and accelerated the deployment of the SBS to areas it had not previously covered. Advance teams have taken over Mostar and Banja Luka airports, while Tuzla airport has been closed to international traffic following revelations that it was being used by Air Bosna as a soft entry point for its lucrative trade in illegal migrants from Istanbul.[8] The IMMPACT team has concluded, however, that Sarajevo Airport is no longer being used as a way station for illegal immigrants or dubious asylum seekers. SBS efforts to track potentially illegal movements have been aided by an ICITAP-funded project aimed at providing real-time information on all persons entering and leaving the country. It has enhanced the authority of the State, boosted its revenues and made a real contribution to fighting cross-border crime. Nevertheless, the follow-on mission will need to strengthen the arm of the SBS and work to ensure that it is not hijacked by political interests. The EU has included support for the SBS in its plans for a first and second EUPM mission. This is a positive sign, because so much more remains to be done in establishing an effective border regime. The Reconstruction, Development and Stabilisation (CARDS) programme also supports the SBS.

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[6] Beth Mapschor, 'Paying for Porous Borders', *TransitionsOnline*, 23 November 2001.

[7] BiH Presidency Discusses Work of State Border Service,' *OHR Media Round-up*, 22 February 2002.

[8] 'S Aerodroma Tuzla jucer vracena 34 Turcina i dva Tunizanina' Dnevni avaz, 9 August 2001; 'Imigranti iz Turske letjeli u pola cijene', Oslobodjenje, 11 August 2001

Coverage and Coordination

For the performance of the border protection and airport security, Border Service authorities have been established within the responsibility of Bosnia and Herzegovina. The Presidency of Bosnia and Herzegovina established the fundamental principles of organisation, functioning and responsibilities of the Border Service of Bosnia and Herzegovina.[9] Field offices are established as required, and they are reporting to the Border Service main headquarters in Sarajevo. The composition of personnel in the Border Service[10] is based on the 1991 census according to the following criteria:

- the main headquarters reflects the BIH-wide distribution;
- the field offices reflect the distribution of the regions or cantons in which they are situated;
- the representation of any one of the constituent peoples of BIH at each office level in any event are no more than 2/3 or less than 10 percent of the total Border Service personnel; this provision does not apply to the representation of others who shall, in all cases, be entitled to representation in accordance with the 1991 census and the above criteria;
- all Border Service units are fully integrated and members may serve at any point on the border.

Accountability

To the executive

Insofar (up to 2001) as the Republika Srpska, the Federation of Bosnia and Herzegovina (hereinafter, Federation) or its cantons have performed border protection, Bosnia and Herzegovina may recruit part of the staff presently assigned to such tasks. So the State border service is directly responsible to the Ministry of Security BIH (Ministry to Presidency of BIH). In last two years, the State border service BIH has actively fulfilled its capacities employing around 300 officers covering 93% of the BIH border. Institutional structures in the past three to four years haven't changed, but some new responsibilities have been assumed (like patrolling and jurisdiction amplification to 30km border area). Only major change took place on 10 September 2006 when the 'State Border Service BIH' changed its name to the 'Border Police BIH.'[11]

The organisation that is formally accountable for policy and operational accountability is the State Presidency of BIH (through the Ministry of Security) and for financial accountability a special Commission has been formed between the EU Commission and BIH authorities. The partners have agreed on a set of technical assistance projects, with the overall objective to reform the BIH public administration and security agencies. A consortium, formed by ICMPD[12] and its partner TC Team Consult, has been tasked to carry out the functional review of the BIH State Border Service (SBS). The project results in an annual report on financial sustainability and efficiency of the forces, including recommendations. It is submitted to the EU Commission and BIH authorities. Parliament Assembly also receives an Internal Commission report from the Audit Office of the Institutions of Bosnia and Herzegovina.

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[9] Law on State Border Service. Official Gazette of Bosnia and Herzegovina as well as in the Official Gazettes of both Entities, 13 January 2000

[10] Law on State Border Service. Official Gazette of Bosnia and Herzegovina as well as in the Official Gazettes of both Entities, 13 January 2000

[11] *'Change of the Law on State Border Service,'* Dnevni avaz, 11 September 2006.

[12] ICMPD Consultancy, www.icmpd.org

To other institutions

Only the Ministry of Security has specific powers in relation to border management forces. The newly-formed State office for the fight against trafficking and organised crime BIH is the first law enforcement agency to deal with cross border crime and especially with the trafficking of women. No significant changes have been made to these arrangements in the past decade, except for an increase in the fulfilment of the service. SBS can evade its obligations with respect to these arrangements.

To the media and society at large

The media (print and broadcast media) and individual citizens, have right of access to state information about the State Border Service's work and this has been secured in the Constitution and especially in the law on access to public information.[13] It can be judicially enforced.

Questions raised in the media are acknowledged by the authorities as the right of journalists to protect their sources. This has been secured and regulated by the State Agency for the protection of information. If an individual citizen believes that he/she has been improperly treated, there is an office and official Ombudsman empowered to receive and investigate complaints and correct abuses. The quality of media coverage of the activities of border management forces, internal security forces and the security services is at its highest level, due to the importance of police reform in Bosnia and Herzegovina. More then a dozen polls on public attitudes to the security services and border management forces, with references to accountability, have been conducted (ICG, CSS Sarajevo).[14]

To codes and conventions

International codes and conventions that Bosnia and Herzegovina subscribes to:
- United Nations (e.g. 1979 UN Resolution: Code of Conduct for law enforcing officers)
- Council of Europe (e.g. 1979 Council of Europe Declaration on the Police)
- OSCE (e.g. 1994 Code of Conduct on Politico-Military Aspects of Security)
- Europol (e.g. 1995 Europol Convention)
- Interpol (e.g. 1999 Interpol Seoul Declaration)
- European Convention on Human Rights
- Through the EU feasibility study, Bosnia and Herzegovina tries to fulfil the requirements of the EU, and most of these international obligations are respected due to the long-term process of international oversight (IPTF and EUPM mission and its sanction measures - de-authorisation and screening).

International cooperation between security services and especially the State Border Service does affect the domestic accountability of BIH forces and with cooperation at its highest level, it is not likely that extra-territorial operations can escape scrutiny.

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[13] Official Gazette of Federation of BiH 32/01
[14] www.icg.org, www.css.ba

Transparency

Domestic transparency: dimensions

When transparency is at stake, all of the Bosnia's enumerated forces, services and agencies are obliged to make information available to elected representatives through parliamentary sub commissions and commissions.

Constitutional provisions and the EUPM mandate impose this obligation, and there are legislative provisions (for the agencies at the State level, as well for agencies at the Entity and cantonal level), stating that for the Intelligence Service of BIH there is no such obligation.

Information about the *organisation* of the different forces, services and agencies is available to the public and all relevant information is not subject to *privileged* access by selected persons (e.g. members of a specialist committee of the legislature or even a sub-committee or group of carefully chosen individuals).

Information about the *personnel strength* of the different forces, services and agencies is also available and, if there is some breakdown of personnel, restriction or downsizing, transparency is guaranteed.

Information on the *budget* is available and, for the most part, the material contains details covering what money is spent *on* (inputs) and what funds are used *for* (outputs). Transparency is guaranteed by the law on access to public information.

General information's about the *nature of operations* that are, or will be, conducted is available. The material is not specific. It is expressed in the most general terms and it is in public domain.

Information on the *strategic outlook* of the services under scrutiny, and planning in the services are subject to privileged access but they are under the constant monitoring of EUPM mission programme officers.

Confidentiality criteria and clauses apply only for information and documents protected by the law on the protection of secret information.[15]

Regular *reports of activities* are published in official gazettes of the respected agencies. EUPM publishes its own magazine and monthly reports.

All statistics about police force efficiency and capacities are available in the public domain by services reports in the Entity or Cantonal Agencies for Statistics. Bosnia is yet to establish a State level statistics agency.

International transparency

The international codes and conventions that impose "transparency" obligations to which Bosnia subscribes to are as follows:
- United Nations (e.g. 1979 UN Resolution: Code of Conduct for law-enforcing officers)
- Council of Europe Police Code of Conduct
- OSCE (e.g. 1994 Code of Conduct on Politico-Military Aspects of Security)
- Europol (e.g. 1995 Europol Convention)
- Interpol (e.g. 1999 Interpol Seoul Declaration)
- European Convention on Human Rights
- EUPM mission mandate rules,

The authorities comply with such obligations. International cooperation between border management forces, internal security forces, security services and police agencies affect domestic transparency

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[15] Official Gazette of Bosnia and Herzegovina 54/05

positively. However, until reform and precise legislation in this sector progress one cannot expect efficient transparency or true internal and external cooperation. Bosnia is a member and has its own coordinator police and border management officer in SECI Centre in Bucharest.

Recent Changes 2004/5 and General Appeal

The events of 11 September 2001 led to changes in "normal practice" so far as the transparency and accountability of the State border service, security and intelligence services are concerned. Although it has made considerable progress in sealing Bosnia's notoriously porous borders, expectations of the SBS have also risen since 11 September 2001. Efficiency in work has been analysed[16] and all procedures have been raised to a higher level due to fact that SFOR and now EUFOR force have a contingent of US Army troops.

The Specificities of Oversight and Guidance

The role of Parliament in endorsing border management policy decisions is restricted. The Parliament is allowed to make amendments only in consent with the executive powers, and all the amendments need to be approved by the EUPM mission and, in some cases, by the Office of the High Representative (OHR).

When Parliament prepares its opinions on border management matters there is an independent body/staff of experts working solely for the parliamentary commissions monitored by OHR. Nonetheless, some parliamentary members try to follow party or coalition lines in deciding on police matters.

Bosnia and Herzegovina has not established a National Security and Defence Council due to the reform process problem.

The role of Prime Minister in formulating and endorsing policy decisions is mostly assertive, and co-ordinated with the EUPM mission. Due the EUPM mission, most policies pass through the parliamentary assembly and presidency in a declarative form during the adjustment process of legislation and the reform process.

As previously stated, when a strategic document on border management policy is issued for endorsement, there is a complex process of legal and customary provisions for formal guidance from a higher authority. This is also one crucial reason for functional security reform under the EUPM. The main topics addressed in terms of guidance for border management strategy are threat assessments, different national ethnic objectives, and the intended level of ambition for the size and the structure of the armed forces needed to accomplish the strategic mission. Funding of border management - both the police system and the general government procurement system – is transparent for industry, business and the public. International contacts and cooperation have reached the highest possible level due to the previous IPTF missions and the current EUPM mission.

The main sources of knowledge applied by the government authorities in the formulation of national police policies are respected professional experiences and domestic and regional literature produced by the Law Faculty and the Faculty of Criminal Justice Sciences at the University of Sarajevo.

When national literature on the theory of governance and related well-established practical mechanisms are in question, a great deal of literature is produced. Some of the more relevant references are listed below:

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[16] 'Presidency Discusses Work of State Border Service,' *OHR Media Round-up*, 22 February 2002

- Masleša Ramo**, *'Organisation and Functioning of The Police,'*** Faculty of Criminal Justice Sciences University of Sarajevo, Sarajevo 1999,ISBN: 9958-613-08-5;
- Abazović Mirsad, *'National Security,'* Faculty of Criminal Justice Sciences University of Sarajevo, Sarajevo 2002, ISBN: 9958-613-13-1

Research institutes on border management matters in Bosnia and Herzegovina exist. There are several public and private institutes. They are, at the core, focused on the question of law enforcement. However, they also deal with parliamentary oversight and international questions concerning reform of the security sector in Bosnia and Herzegovina and in the Western Balkans region (such as the CSS BIH-Centre for Security Studies BiH and the Institute for Security Studies and Criminology.)[17]

Public institutes belong to academic organisations and private institutes are independent, Public institutes are economically dependent on public funds in part. Private institutes are of a more general scope (security, international relations, transparency etc.) but occasionally study defence issues. The main products of these institutes are research and occasional papers as well as national and international conferences on police matters.

The relevancy of the institute's products:
   a. Oversight commissions contract independent research on police issues to both public and private institutes.
   b. Public debates on border management policy make reference to the work of research institutes.

The results of officially and privately commissioned surveys on police issues are published by the media.

Border Management Institutions within the Security Sector

Some data on the existing policies within the border management sector:

Table 2 – Structure of Decision Making on Border Management Policy

Topic of Document	Title of Document	Issuing Authority	Endorsing Authority	Frequency / Time span	Status
Border Management Planning	Law on State Border Service. Official Gazette of Bosnia and Herzegovina as well as in the Official Gazettes of both Entities, 18/00	Parliament of Bosnia and Herzegovina	Council of Ministers of Bosnia and Herzegovina		
Personnel policy	Law about police officers of Bosnia and Herzegovina, 20/06	Parliament of Bosnia and Herzegovina	Council of Ministers of Bosnia and Herzegovina		

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[17] Institute of Faculty of Criminal Justice Sciences, University of Sarajevo

Topic of Document	Title of Document	Issuing Authority	Endorsing Authority	Frequency / Time span	Status
Border Management Education	Border management academy (established by IPTF/EUPM) in Sarajevo in 2000.	Parliament of Bosnia and Herzegovina	Council of Ministers of Bosnia and Herzegovina		
Public information policy	Law about access to public information, 32/01	Ministry of Civil Affairs of BiH	Council of Ministers of BiH		

1.   All policy documents are published for internal distribution, and members of the public may obtain a copy of all policy documents upon written request.
   i. Approval is granted by default.
   ii. The applicant must pay a fee for copy above 40 pages.

2.   Members of the public may obtain a copy of all policy documents.
   iii. There is a list of policy documents that may be released to the public. The list is made public.

3.   Participation and consultancy in the drafting of defence policies:
   b. The authorised divisions within the relevant Ministry.
   c. Experts from the research institutes.
   d. Faculty members of education institutions.
   e. Independent research institutions.
   f. Foreign advisors.

4.   The process of establishing objectives for strategies, policies and directives within the police sector is based on the following sources:
   g. Policy documents at the national level, such as the National Security Strategy.[18]
   h. Internal assessment of national values, interests and requirements.
   i. Conclusions and recommendations from research reports.
   j. Theoretical national and international literature.
   k. Similar documents published in other nations' defence establishment.
   l. Advice and recommendation from international or bilateral experts.

5.   The process of assessing security risks and threats mentioned in strategies, policies and directives within the defence sector is based on the following sources:
   m. Assessments made on policy documents at the national level, such as the National Security Strategy.

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[18]National Security Strategies for the Entities exist in Bosnia, but a State Level National Security Strategy is still lacking.

n. Assessments published by international organisations such as the OSCE, the UN, the EU or NATO.

o. Internal assessments.

p. Independent research reports.

q. Assessments made on similar documents published by the defence/security/ police establishments of other countries.

r. Assessments made by international or bilateral experts.

6.   A debate on border management requirements (such as forces, equipments or resources):

s. There is an internal debate at the service level, the results of which are forwarded to the decision-makers.

t. There is an internal debate at the service level with civil servants input.

u. There is an internal debate at the political level with military input.

v. There is a debate on defence requirements with other security sector agencies.

w. There is a public debate on requirements.

7.   The main organisational documents governing border management structures are:

x. Organisational charts approved by the higher instances (Parliamentary and OHR).

y. Mission statements for the State Border Service.

z. Job descriptions for commanding officers and their staff.

aa. Standing operating procedures for the State Border Service.

bb. Unified regulations for the State Border Service.

8.   Bosnia has a border management planning system in place and it can be best described as follows:

cc. A planning, programming, budgeting and evaluation system at the State level.

9.   The police planning system is organised according to departmental and service programmes, and the planners are provided with the necessary information about each programme in order to perform their tasks.

dd. Each programme is decided on in light of existing border management policy.

ee. All programmes are listed with their order of priority.

ff. Each decision-maker issues guidance comprising his/her intentions.

gg. The description of the end state of each programme is available.

hh. The costs of each programme are set up front.

ii. The medium-term framework is established.

jj. The spending allocations are within the multi-annual budget.

10.   Bosnia has regulated requirements for defence planners to develop planning assumptions, recommendations and alternatives for the commanding officer or civilian dignitary before a certain course of action is adopted.

11.   When a description of the composition of the corps of State Border Service planners is at stake, one can say that they are mostly civil servant experts.

Conclusion

Today, the State Border Service is a complete law enforcement agency designed for tasks associated with preserving the sovereignty, territorial integrity of BiH and of course combating all forms of border-related crime including illegal migration, smuggling and the whole spectrum.

We can, in a certain way, acknowledge the successes of SBS BIH - but we also have to say that a lot still needs to be done.

The EUPM has done a great job, but it definitely should stay longer and work with SBS representatives in the future. SBS needs to increase the number of police officers, obtain specialised equipment and support educational training.

With the SBS still short of at least 200 officers, one of the future tasks of the government and EUPM will be to increase management capacities within the service. This will mean getting the most from the existing, though limited resources of personnel, equipment and funds. It is only by doing so that the SBS will be able to 'efficiently' fight cross-border crime in Bosnia and Herzegovina and stop the next shipment of drugs from passing through the mountains of Bosnia on its way to the EU or another destination

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10. EUPM/s Reports 2000-2005.

Appendix

Glossary of Abbreviations and Acronyms

BIH/BiH	Bosnia and Herzegovina
DPA	Dayton Peace Accords
EU	European Union
EUFOR	European Union Force in Bosnia and Herzegovina
EUPM	EU Police Mission
EU IMMPACT	Educational team of EU
FBiH	Federation of Bosnia and Herzegovina
ICTY	International Criminal Tribunal for the Former Yugoslavia
IEBL	Inter Entity Boundary Line
IPTF	International Police Task Force
NATO	North Atlantic Treaty Organisation
OHR	Office of the High Representative
OSCE	Organisation for Security and Cooperation in Europe
PfP	NATO's Partnership for Peace
PIC	Peace Implementation Council
PRC	Police Restructuring Commission
PSU	Police Station Units
RS	Republika Srpska
SAA	Stabilisation and Association Agreement
SBS	State Border Service
SDS	Serbian Democratic Party, the leading party in the RS, originally led by Radovan Karadzic
SIPA	State Investigation and Protection Agency
UK	United Kingdom
US	United States
UN	United Nations

BORDER MANAGEMENT REFORM IN MACEDONIA

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Introducing Integrated Border Management

As an integral component of the process of police reforms supported by extensive European Community (EC) assistance under the 2001-2005 programmes, Macedonia introduced the border security component within the process of security sector reform (SSR).[1] This process received precise form and complete strategic dynamics after the Government adopted the National Strategy for Integrated Border Management (NSIBM).[2] Following the reforms of the MoI and the Action Plan for Police Reforms, two significant processes have opened the operational ground for development of the organisational structure and strategic framework of border management: first the Border Police Service (BPS) was established under the Bureau of Public Security within the MoI and second, the methodology, timeframe and procedures for transferring the competences of border control from the Army Border Brigade to the BPS was developed.

The basic functions of the Border Police in supervising the state border are determined in the Strategy for Police Reform as follows:

- monitoring and controlling the state border, especially at border crossings;
- preventive function, with presence and monitoring by special patrols in the border area and the territorial waters;
- investigation of crimes and misdemeanours;
- detention of suspects, collection of material evidence, i.e., collecting, processing and analysing information and data related to the fight against illegal immigration and border crime;
- administrative function with respect to the general monitoring of laws and sub-laws.[3]

Basic competences of the Border Police according to the SPR are: control of crossing the state border at border crossings; control of movement and stay in the border region; securing of the state border, border crossings and other facilities in the border region; discovery and detention of persons violating the principle of inviolability of the state border, persons subject to searches, transport and other vehicles and their surrendering to the competent bodies as well as prevention of the entry and exit of persons who are prohibited from entering or exiting the territory of the Republic of Macedonia; organisation of the border belt regime and control of persons and vehicles crossing the state border, independently and in cooperation with other ministries; prevention, detection and participation in resolving criminal offences and other misdemeanours in cases specified in the law, independently or in cooperation with other organisational units of the Ministry of Interior and other ministries and institutions; control of persons and vehicles under suspicion of transporting

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[1] Within these programs, SAA Article 74 on reinforcement of institutions and the rule of law, Article 75 on visa, border control, asylum and migration and Article 100 that provides for modernizing and restructuring the agro-industrial sector and for gradual harmonisation of veterinary and phyto sanitary legislation with EC standards were supported. The 2004 and 2005 programmes emphasised the European Partnership priority to complete the implementation of the Integrated Border Management Strategy (IBMS) and the Integrated Border Management Action Plan (IBMAP).

[2] National Integrated Border Management Strategy, Government of the Republic of Macedonia, 22.03.2003

[3] Strategy for the Police Reform, Ministry of Interior, February, 2004, pp 20

weapons, explosives and other dangerous materials when crossing the state border; collecting, processing, utilising, retaining and communicating information in violation of the principle of inviolability of the state border and the border belt regime, related to security of the country and in cooperation with other competent state bodies; studying and analysing the reasons and factors influencing violations of the regime of the state border and proposing appropriate measures for their reduction; placing border belt markings and maintaining them, prevention of demolition, movement or destruction of the markings and demarcation of the border line; acting according to international agreements, treaties and conventions which the Republic of Macedonia has signed and ratified (readmission agreements, etc.) as well as participation in the resolution of border incidents at the state border, independently or in cooperation with other competent state bodies; control of observation of the determined sailing order and stay in the territorial waters of the three lakes by local and foreign sailing objects; taking measures and activities in cooperation with the police and other ministries in order to secure stable public order and peace; protection of the rights and freedoms of citizens and their property in the border belt region and the airports; informing the local authorities about the measures implemented in emergencies in the border belt region and harmonisation of joint activities to the best interest of the security of the state border; acting independently or jointly with the Army of the Republic of Macedonia when providing the security and control of the border belt region in a situation of armed threat from outside, as well as the establishment of cooperation with border police forces from other countries.

The transfer of competences and establishment of the BPS were, in a way, parallel processes in compliance with the project prepared by an inter-ministerial working group of MoI and MoD representatives that was responsible for providing an overview of the current situation regarding the equipment and personnel that had to be transferred to the MoI and to perform assessment analysis of the needs of the Border Police. The transfer of personnel from the MoD to the MoI addressed two problems at the same time: the basic problem of over employment in the MoD was partially and temporarily solved by this transfer while the faster process of creating the Border Police was possible after the successful training of personnel (821 candidates were trained at the Police Academy with OSCE expert support). The time frame for transferring the competencies was determined and the Border Police undertook responsibility for securing the state border with the Republic of Greece on 1 May 2004.[4] The process of establishing control over the state borders was completed in 2005 when the Border Police was made responsible for controlling the borders with Serbia and Montenegro and Albania. In this way, one of the core principles of the Common Platform and the Way Forward Document adopted at the Ohrid Conference on Border Security and Management has been fulfilled.[5] The obligations of the Republic of Macedonia, in accordance with these documents, actually emphasised a number of tasks that determined the specific national platform for introducing EU standards clarified by the EU Schengen Catalogue of Recommendations for correct application of the Schengen and best practices.

According to the obligations, the Government established an inter-ministerial MoI - coordinated working group that was responsible for managing the Integrated Border Management (IBM) project

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[4] The total length of the borders of the Republic is 895.1km (772.7km on land and 122.4km on water). Almost all of the country's borders are rural and mountainous, the border often following the ridge of mountain ranges. The border line reaches its highest parts on the border with the Republic of Albania, (2,764m above sea level) and its lowest point (45m at the border pyramid no.58) The most inaccessible stretch of the border is in the north in those parts shared with Albania, Serbia and Montenegro. See: *National Integrated Border Management Strategy,* adopted by the Government of RM, at the session held on 22 December 2003.

[5] Way Forward Document; Ohrid Regional Conference on Border Security Management; 22/23 May 2003

and monitoring the complete process of implementation of the concept. NSIBM determined the policy and the model for administration of the border by adopting EU standards, regional specifics and national needs and objectives. The document represents a comprehensive and systematised approach by the representatives of different ministries responsible for the issue of border management, their responsibilities and competences.

The specific issues that the NSIBM addresses are: Description of the Border; Strategic Challenges; Legal Issues – Integrated Border Management; State Commissioner for Border Management; National Border Police Service; Handover Methodology – Army Border Brigade/ Border Police Service; National Border Management Coordination Centre; Border Zone and Area of Responsibility of the National Border Police Service; Delineation of Competencies – National Border Police Service and Customs; Coordination of Strategic Operational Policy; National Border Monitoring System; Categorisation of Border Crossing Points; Border Crossing Point Competencies and Procedures; Closed Circuit Television; Commercial and Other Vehicle Searches; Illegal Immigration, Human Trafficking and Smuggling; Illegal Drugs Trade; Radioactive Materials; Regulation and Control of Hazardous and Dangerous Material; Contagious Disease Control Phyto-sanitary, Veterinary and Forestry; Food Quality Inspections; 'Green Border' Procedures – Customs Administration and Border Police Service; Border Area Development; Airports; Lake Patrol; Regional Cooperation and Coordination; Joint Border Commissions; Border Data Management System (BDMS); Passport and Visa Regime; Profiling; Intelligence; Risk Analysis; Data Protection; and Military Support to the Civil Authority as well as Transparency and Accountability.[6]

By addressing a comprehensive set of issues this document determines the political, operational and functional aspects of the IBM system that includes different actors. In this way, the coordination of activities and cooperation among the actors of the IBM system as well as in the organisational network of any specific actor is of crucial importance for an integrated approach to border administration. The aims of the NIBMS are:

- To create a fully integrated National Border Management Strategy for Macedonia, in compliance with the Schengen Catalogue of best practices, international norms, human and equal rights, in order to maintain territorial integrity, expedite legitimate movement and trade, whilst deterring, detecting, identifying, preventing and where necessary interdicting illegal or hostile cross border movement;
- Withdrawal of the Army from border management by 31 December 2005;
- Creation of a new National Border Police Service (NBPS) within the MoI, as the country's principle border management agency, to take over responsibility for policing the national borders by 31 December 2005;
- Creation of a National Border Management Coordination Mechanism, managed by the BPS in cooperation with all other national border management agencies with the goal of achieving cooperation, coordination, mutual support and information sharing between these agencies.

Actors and Structure of IBM

Through the appointment of a State Commission for Border Management (SCBM) democratic oversight is incorporated in this Strategy. According to the NCIBM, the State Commissioner must be independent of any other body or agency involved in border management. The State

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[6] National Integrated Border Management Strategy, adopted by the Government of RM, in the session held on 22.12.2003.

Commissioner, who will be appointed in accordance with Article 76 of the Constitution, will be responsible for the following:

- Give advice to the Parliament and the Government related to Integrated Border Management;
- Manage the law pertinent to the legislative procedure related to Integrated Border Management;
- Mediate and arbitrate, if necessary, between ministries and agencies in case of conflict or disagreement related to Integrated Border Management;
- Make recommendations for improvements in Integrated Border Management;
- Submit reports on implementation of the country's Integrated Border Management Strategy to Parliament and the Prime Minister twice a year.

Main powers of the State Commissioner are:

- Keep him/herself informed as to the manner in which the ministries and agencies execute border management with particular emphasis on:
- Compliance with the constitution, the law, international agreements and treaties and international standards of best practice.
- Cooperation, exchange of information and coordination between law enforcement and other ministries and agencies working in the area of border management.
- Dealing with complaints from the public related to the border management agencies and their procedures.
- Efforts and arrangements made by the border management ministries and agencies for consultation aimed at obtaining the views of business and local communities related to border management.
- Human Resources strategy and conditions of service of border management ministries and agencies related to their border management responsibilities.

National Border Police Service

The new BPS (under the Bureau for Public Security of the MoI) absorbed the responsibilities of the Sector for Border Crossings of the MoI in addition to those of the Army Border Brigade. The BPS is responsible for control and inspection of persons at all points on the country's borders, including airports and lakes; for conducting inspections for detecting and preventing threats to national security and readiness to provide 'Administrative Support' to other border management agencies.

To counter specific challenges a new concept of operations is proposed within the NSIBM. The first element that this concept should introduce is integration in a sense that the BPS will not only be integrated into border management, but it will also be the centre point of integration. Through its National Border Monitoring System and wide base of skills and resources, it will provide much of the infrastructure and facilitation allowing integration of all border management agencies.

The principle of Situational Awareness will be introduced and depict the way in which the border management authorities define the lapse of time and area for three functions:

- Detecting movements that are possible attempts for crossing the border illegally;
- Identifying the detected targets;
- Analysing the previous identification in due time.
- This also applies to unusual incidents including those at airports.

Also, overt liaison patrols will be provided in order to ensure regular and friendly relationships with

the local communities. The main task of these patrols, conducted by specialist community liaison officers, will be to ensure that the needs, concerns and interests of the local border area communities are fed into the analysis and planning systems. They are also responsible for providing advice and support to the local border area communities.

The issue of monitoring and information sharing will be resolved through the National Border Monitoring System (NBMS), which will be accessible to both the Customs Administration and the Ministry of Defence. This system should provide a timely and accurate information flow and support operational planners and managers with all the information they require in order to make timely, informed decisions and achieve effective coordination. The system should ensure that command and control systems are integrated or, at the very least, interfaced.

The Law on State Border Surveillance introduced a new provision that sanctioned the role and the competences of the PBS.[7] In accordance with the provisions of the Law, the surveillance of the state border, cooperation among state institutions with competences in border management, internal competences of the police and its international cooperation are sanctioned. The MoI is primarily competent for surveillance of the state border through the BPS in cooperation with other state institutions competent in border management. The Law stipulates that surveillance of the state border includes activities related to securing the state border and control of the border crossings in order to protect inviolability of the state border, detection and prevention of illegal border crossings and illegal migration; protection of the lives and health of citizens, personal security, property and environment, and detection and prevention of other dangers affecting public order, the rule of law and national security.

In accordance with the Law, the MoI will conduct the border surveillance function together with other state institutions responsible for border management: the Ministry of Defence, Ministry of Foreign Affairs, Ministry of Finance – the Customs Office, Ministry of Agriculture, Forestry and Water Economy (MAFWE), Ministry of Health, Ministry of Transport and Communication and the Ministry of Environment and Physical Planning. These institutions are responsible for efficient cooperation on three main issues:

- Surveillance of the border crossing of people, goods and vehicles;
- Detection and prevention of organised crime;
- Collection and exchange of data and information related to border management.[8]

The procedures for cooperation should be determined by signing the Memorandum of Understanding between responsible institutions. The basic coordinative function is to be provided by the National Border Management Coordination Centre.

In accordance with the Law, the PBS is also responsible for specific measures and activities that the police officials administer on the state's territory regarding illegal migration, illegal border crossings and stay on the territory as well as detection and suppression of trans-border crime through the inspection and control of people, goods and vehicles.

International police cooperation in managing state border surveillance is determined as a set of activities undertaken by representatives from foreign police services on the territory of the Republic

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[7] Law on State Border Surveillance, Official Gazette of the Republic of Macedonia, No.71; June 2006
[8] Law on State Border Surveillance defines: the surveillance of the state border; the competences on surveillance of the state border; the institutions responsible for the surveillance of the state border; cooperation and coordination; NBMCC; border line; crossing of the state border and border crossing points; border control; police issues on the state territory; collection and evidence of personal data; authorization for drafting by-laws. See: Law on State Border Surveillance, Official Gazette of the Republic of Macedonia, No.71; June 2006

of Macedonia, activities of the BPS on the territory of other states, cooperation with security institutions and the exchange of libation officers.

The National Border Management Coordination Centre (NBMCC)

According to the Strategy for IBM the BPS is responsible for establishing and operating the National Border Management Coordination Centre. Through the NBMCC, the service will have the capability of coordinating its own activities with those of other border management agencies. The BPS is the principle border management agency, but it will not have authority over other border management agencies. It will facilitate cooperation and coordination through provision of services and support to those agencies that are partly based on the principle of 'Administrative Assistance.' The Law on State Border Surveillance defines the position of the NBMCC, its functions and tasks.

The NBMCC is composed of a coordinator, deputy coordinator and representatives of the MoI, MoF-Customs Office and the Ministry of Agriculture, Forestry and Water Resources Management. The coordinator and deputy coordinator are appointed by the Government for a period of five years. The main responsibilities of the NBMCC are:
- Coordinating the activities of state institutions with competence in border management;
- Facilitating the exchange of information among state institutions with competence in border management;
- Maintaining greater integration in border management;
- Maintaining coordination in completing joint plans and procedures for emergencies;
- Coordinating the activities in cross-border cooperation related to border management of institutions with competence in border management in accordance with the ratified international agreements;

The NBMCC is accountable to the Government of the Republic of Macedonia. It is responsible for the submission of reports on its activities once a year. NBMCC was established on 10 April, 2006.

Border Police Regions and Border Control (Basic Command Unit)

In order to provide a comprehensive and tailored approach to border control, as each has different characteristics with regards to crime, transit and as a source of illegal immigration, four regions and four centres should maintain control over the state border. Each regional centre is responsible for a sector of the national borders corresponding to the neighbouring states: Greece, Bulgaria, Albania and Serbia. Border policing within the BPR will be delivered through the local border police areas. These areas, known as BPR Regions, will be centred on Regional Coordination Centres.[9] Four Regional Border Police Centres (Greece-South, Bulgaria-East, Serbia; North and Albania-West) are operational.

Border control is determined by the Law on State Border Surveillance as the control of persons, goods and vehicles. The responsibility for control and inspection of persons crossing the state borders rests with the BPS but it does not have primacy over the Customs Administration in cases of processing goods. The BPS should be prepared, upon request from any level, to provide

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[9] The investigative and some criminal analytical capability of the Border Police Service, while operating in support of that service, will be attached from the Criminal Police Sector of the Directorate for Public Security in the Ministry of Interior.

support to the Customs Administration in this area in order to meet the national objective of facilitating the movement of commerce and trade. The Law on State Border Surveillance is not specific with regards to the delineation of competencies among the NBPS and the Customs Administration. The political framework for the competences of the BPS (responsible for operational coordination; emergency and disaster response coordination) and the Customs Administration has been provided within the NSIBM while legal framework is provided by the Law on State Border Surveillance and the Law on Customs Administration.[10] According to the Law on Customs Administration, the Customs Administration is directly responsible for undertaking and performing customs surveillance and control, customs clearance of goods as well as investigative and intelligence measures for the prevention, detection and investigation of customs and criminal offences.

While cooperation procedures between the two institutions are determined by the Memorandum of Understanding, it has already been noted that cooperation and coordination have not been the best practice. Because of the underdeveloped procedures and practice and competitive as opposed to cooperative relations, additional provisions for the purpose of clarification could be necessary. From an operational and functional viewpoint, it may provide better solutions for cooperation but another important issue that has been emphasised is the discrepancy in salaries of the Border Police and Customs Administration personnel.

Border Crossing Points

According to the Law of State Border Surveillance, any movement across the state border is a border crossing. The Law specifies that the state border, after the Convention for Implementation of the Schengen Agreement in the Republic of Macedonia has come into force, and the state border that is not internal border, could be crossed only at official border crossing points. Assessment of the recent situation on the Border Crossing Points is in favour of urgent measures that are to eliminate organisational shortcomings as cooperation and coordination of the Border Police and the Customs Administration, prioritised technical and other equipment and categorisation of the NCPs (regional, social, domestic or local).[11] In light of reform priorities, the CARDS programme 2006 and a number of twin projects (Slovenia is the 2006 Macedonian twin partner) are oriented at overcoming the assessed shortcomings within the National Police Reform Strategy. They provide directed assistance at different levels: strategic, operational and educational.[12] The BCPs are considered a vulnerable point of the IBM strategy because of an unclear division of tasks and duplication of efforts and among other actors competent for border control.

Illegal Migration, Smuggling and Human Trafficking

Illegal immigration was considered not only a specific problem for Macedonia but also for the countries of the region. However, in Macedonia's case, the number and the category of illegal immigrants shows characteristics of a transiting country and less as a source or destination country. Most of the illegal migrants belong to the categories of unorganised illegal migrants, partially organised

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[10] See: Customs Administration Law; Official Gazette of the Republic of Macedonia, No.46/04

[11] Currently there are 20 international BCPs, 12 of which perform veterinary and phyto-sanitary controls.

[12] The internal border, after the Convention for Implementation of the Schengen Agreement in the Republic of Macedonia has come into force, is the common border with the state that did not sign the Convention. External border, after the Convention for Implementation of the Schengen Agreement in the Republic of Macedonia has come into force, is the state border of the Republic of Macedonia with a state that did not sign the Convention. Law on State Border Surveillance: Official Gazette of the Republic of Macedonia, No.71; June 2006

migrants and organised migrants. A significant percentage of illegal migrants come from the Republic of Albania while illegal migrants from Romania, Moldova, Bulgaria, Serbia and Montenegro are represented by a smaller percentage. The role of the MoI in general and the BPS in particular in preventing and detecting various forms of offences such as human trafficking and people smuggling is crucial and needs improvement. Coordination and better cooperation among different MoI departments and units is crucial as the NSIBM has recognised. Reinforcement of the Criminal Police Sector with the Human Trafficking and People Smuggling Unit was suggested in order to provide more systematic support to the activities of the Criminal Police in detecting and preventing human trafficking. The next step in providing support for more effective information exchange and the processing of illegal immigrants was absorption of the Illegal Immigration and Asylum Department into the BPS and attachment of a human trafficking and people smuggling investigator to the BPS[13]

Cooperation and Coordination within the Integrated Border Management

The issue of coordination and cooperation within the realm of IBM seemed to be the most challenging issues together with that of clear competences among the actors within the system. The coordination of activities and facilitating cooperation between the BPS and other institutions competent in border management is the primary responsibility of NCCIBM. Given the fact that coordination and cooperation depends on clear normative procedures, as well as the compliance and respect of specific norms, it seems that introducing more detailed procedures for cooperation and coordination of the activities will be necessary in order to prevent or to remove the overlapping competences. The principle guiding normative acts that provide IBM actors with procedures for mutual relations are the Law on Internal Affairs, the Law on State Border Surveillance, the Law on Crossing of the State Border and Movement in the Border Zone and the Law on Organisation and Operation of State Administration Bodies.[14] According to the provisions, the Minister of Interior is authorised to establish mixed comities and working bodies in order to foster and facilitate the harmonized performance of the activities in controlling the state border crossing and the movement and stay inside the border zone. The MoI through the BPA-BPS maintains the function of primary actor for border management while facilitating the cooperation and effective control of the border and inside the border zone in the detection and resolution of border incidents and other violations of the state border, as well as other activities defined by the law. The Memorandum for cooperation is the basic act that establishes the roles and procedures for cooperation among the different border management bodies. The MoI should establish cooperation with other bodies on different levels in order to develop a procedure for the regular exchange of information and functional support. The Law on State Border Surveillance determines that on request of one of the state bodies (the MoD; Ministry of Foreign Affairs; Ministry of Finance-Custom Administration; Ministry of Agriculture, Forestry and Water Management; Ministry of Health; Ministry of Environment and Spatial Planning; Ministry of Transportation), the others are responsible for providing expert assistance to facilitate cooperation in border management according to their competencies.

It appears that coordination and cooperation in fulfilling the main competencies on the strategic level, such as inter-ministerial cooperation, is more consistent and successful than cooperation on

[13] Netkova, B., Prevention of women trafficking and post-conflict peace building in Macedonia; in Georgieva, L., (ed.); Conflict Prevention: From the Idea towards Culture of Conflict prevention in Macedonia; Friedrich Ebert Stiftung, Skopje 2004; pp.239-250

[14] Law on Crossing of the State Border and Movement in the Border Zone, Official Gazette of the Republic of Macedonia, No. 36/92, 12/93, 11/94 and 19/2004; Law on Organisation and Operation of State Administration Bodies; Official Gazette of the Republic of Macedonia, No. 58/2000 and 44/2002

the tactical level among local units. There are suggestions that the general principles of the IBM strategy as well as activities for implementation of the National Action Plan for IBM are more difficult to transfer from the general to the tactical level thus making the process of reform less compact and inefficient. Also, there are suggestions that differences or even discrepancies recognised among actors in developing their capacities for implementation of the reform processes or in providing their basic competencies also influences and undermines the process of cooperation and coordination. Unequal technical capacities and support in terms of equipment and facilities, as well as problems in human resources, have contributed to this situation.

As much as horizontal cooperation among different ministries is vital for the coordination of functional aspects of border management, vertical cooperation through the different bodies is also important. It seems that because the issues of accountability and regular control of the efficiency of the bodies competent for border management is still underdeveloped and inefficient, cooperation and coordination remain without basic support.

Conclusion

The aim of this paper, although guided by certain points of interest in defining the concept of IBM, is to offer a broader framework for understanding the specifics of its implementation in Macedonia. This framework derives from the reform process that started as a peace building policy of stabilisation for the Republic of Macedonia following instability in 2001. It proceeded with assistance from the EU and other international programmes supportive of SSR, specifically in the sphere of Justice and Home Affairs. The contribution of the CARDS programme 2001-2005 assisted in the development and implementation of reforms in the police force in general and introduction and strengthening of border management in particular. The regional dimensions of IBM and bilateral cooperation on specific border issues were introduced through the Ohrid Process.

In the case of Macedonia, it appears that the issue of effective state border control and administration is a core preventive instrument, necessary for the successful detection and suppression of the main sources of instability as well as for overriding the challenges associated with public security. Organised crime, trans-border crime, illegal migration, human trafficking, illegal arms transfer, drugs trafficking, although experienced with different intensity and frequency, have emerged as a primary threat for public security. Increasing the efficiency of border management, complementary to EU standards and best practices will enhance its capacity as the core preventive mechanism against the increasing number of non-military threats. Initial efforts to move closer to EU standards and practices involved the transfer of responsibility for border control from the Army (ARM-border brigade) to the BPS. This process would only be successful in the case of simultaneous and efficient police reforms which, in the first place, meant acceptance of the principle of the reform process, its content and goals, and the significance of full political and professional support.

The BPS was established as a component of the MoI - Public Security Bureau with the immediate task to take over the responsibility of border control from the Army. The Strategy for Police Reforms determined the initial responsibilities of the BPS, its organisational structure and basic functions. As a derivative of this document, the NSIBM introduced a model for border management that rests on the broader framework of actors that should be coordinated by BPS - NCCIBM.

It appears that several issues are significant for effective implementation of the IBM and Action Plan for IBM:
- conceptualisation and normative support for the model that defines national priorities and specifics;

- legislative support, definition of the organisational issues that determines the reorganisation and new structure of the MoI;
- efficient accountability and control mechanisms (horizontal and vertical);
- establishing a professional and effective BPS under the MoI;
- providing effective mechanisms for cooperation and coordination of activities among different border management actors, thus avoiding duplication and any overlapping of activities;
- efficient regional and internal cooperation;
- training and continuous education;
- equipment and technical support and
- political and professional support for the reform process;

The final conclusion about the achievements and the prospects of the process of IBM implementation based on the implementation of the NSIBM and the Action Plan could be that as long as conceptual and normative issues are in question the new Law on Police will remain the most challenging issue. This is not because there are misleading professional standards, because when border security is in question the Schengen catalogue and EU best practices are the basis for the provisions. It is more the question of competing political interests and influence on the reform process. This is the most immediate obstacle for police reforms and effective implementation of IBM. The implementation of effective control and accountability over policing and border management while strengthening the role of the Parliament and its Commissions in civilian and democratic control could be an effective motivating mechanism for reform processes and the implementation of the Action Plan. After all, the principle of democratic policing and full respect of human rights should be the primary guiding principle in these reforms. This certainly means that reforms are not a one way top-down process; instead, reflections made during the implementation process should be evaluated at the local level as well. The best practice, namely a decline in state border violations from various criminal activities and efficient border control, also means an increased feeling of security at the individual and public security levels. Finally, the main goal of these reforms is to provide not only more secure borders but also more secure communities.

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PART B — POLICE REFORM IN THE WESTERN BALKANS

AN OVERVIEW OF THE POLICE REFORM PROCESS IN THE WESTERN BALKANS

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In order to assess the main achievements in the area of Security Sector Reform (SSR), and, in particular, police reform in the Western Balkans, it is important to recognize several common features that underline this complex process. Firstly, it is essential to understand the context in which police reform processes in those countries have been developing since the late 1990s. Unlike the countries of Central and Eastern Europe, the countries of the Western Balkans - namely Croatia, Bosnia and Herzegovina, Serbia, Montenegro, Albania and the former Yugoslav Republic of Macedonia (hereinafter referred to as Macedonia) emerged from a period of war, inter-ethnic conflict and internal political instability at the end of the 20th century.

Following the Dayton/Paris and Erdut Peace Agreements, the European Union (EU) formulated a new political approach towards this region. The nature of this new EU framework is best reflected in its name - Stabilisation and Association Process (SAP), which offered the European perspective to the Western Balkans (WB) in the form of European Partnership. The EU estimated that stabilisation of the political and security situation in the Western Balkans was a necessary remedy towards a more global solution and opening up of the possibilities for association to the European structures. Reforming the security sector, the police in particular, was deemed crucial for the stabilisation process, i.e. to create an environment in which sustainable economic and regional development would be possible.

The strategic goals of all Western Balkans countries are European and Euro-Atlantic integration. With regards to Euro-Atlantic integration, it is worthwhile mentioning that all Western Balkan countries became a part of the NATO Partnership for Peace (PfP) programme at the end of 2006 and all of them are, more or less, advanced in their negotiations with the EU (e.g. Serbia's negotiations are suspended for the time being due to a lack of cooperation with the United Nations' International Criminal Tribunal for the former Yugoslavia).

Regardless of the current differences in the level of their relations with the EU, the framework of the European Partnership being offered to the countries of the Western Balkans has proven to be the main reform driving force in their respective societies, police reform being one of the most important. For example, in Bosnia and Herzegovina 'police reform is possibly the last substantial policy issue that must be resolved before the international community can draw down its decade-long engagement. The EU has clearly stated that it is a key precondition for Bosnia's negotiations on a Stabilisation and Association Agreement (SAA).'[2] Police reform is important not just in relation to structural and legislative changes, but it is important especially in terms of the introduction of European values such as respect of human rights, the rule of law and development of democratic and accountable institutions.

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[2] Jasmin Ahić, MSc. '*Bosnia's Security Sector Reform' Reconstruction of BH Police*, The Geneva Centre for the Democratic Control of Armed Forces (DCAF), Geneva, 2007, p. 8

In the chapters that follow this introduction, which provide overviews of police reform processes in each of the Western Balkan countries, detailed accounts on the main police and border management reform achievements are presented, however one should ask what the common denominators in this field are apart from the above mentioned EU framework, i.e. the Stabilisation and Association Process.

The following common feature underlined in each overview is that all of the reforming police services are striving to become a public service. The example of Albania might serve as the most descriptive case for understanding this common feature if we take into account that the police in Albania became a part of the public administration in 1998 - less than a decade ago. Police forces in some of the countries, most visibly in Montenegro and Serbia, were almost private armies of the ruling regimes. The realisation, which set into motion all essential elements of police reform, was the recognition that the primary role of the police is to be a public service accountable to society working closely and in partnership with their respective communities.

In that respect, development of the community policing concept seems to be a favoured methodology when addressing the issue of working closer with communities. Community Policing Strategies were developed in Albania, Macedonia and Croatia, whereas Montenegro and Serbia have formally declared community policing to be one of their police reform priorities. Croatia reported having one of the best developed models of community policing in the Western Balkans, which was formally acknowledged by the Croatian chairmanship of the Community Policing Board[3] within the Southeast European Police Chiefs Association (SEPCA).

Another common feature touches the issue of the organisation of police services. In this regard, it was indicative that the overviews underlined as one of the main issues, associated with either adoption or amendments of their respective laws on police, the introduction of nominal separation of the police service and the Ministry of Interior (e.g. new draft law on police pending adoption in Albania, and gaining of operational independence by the General Police Directorate was highlighted). In practice, it means a step towards decreasing the political influence over the professional and operational issues that should be under the competence of an independent police service. This was consistently emphasised as a crucial issue.

In addition, the new law on police is pending in Macedonia, and it is expected that the new law would bring clear provisions with regards to the process of de-centralisation of police responsibilities. The issue of de-centralisation and/or de-concentration of the decision making authority seems to be significant for all police services in the Western Balkan countries. The only exception is Bosnia and Herzegovina due to the *sui generis* nature of the country. 'The two entities (the Federation of Bosnia and Herzegovina and Republika Srpska) maintain their own police forces under the control of their respective Ministries of Interior. Authority over the police is further decentralised in the Federation, with each of the ten cantons also possessing a Ministry of Interior.'[4] Furthermore, there is an additional police service in the Brcko district. Centralisation of the Bosnia and Herzegovina's police seems to be the main police reform challenge, one which is a key precondition for Bosnia and Herzegovina's negotiations within SAP, as mentioned above.

In line with the issue of organisation of respective police services is the noticeable difference in the number of police agencies in the Western Balkan countries. The most striking was the number of 15 police services in Bosnia and Herzegovina (reflecting the complex and unique structure of the

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[3] Southeast Europe Police Chiefs Association (SEPCA) has four Boards – Board for Organised Crime, Board for Community Policing, Board for Police Education and Board for Harmonizing Legislation. Internet: http://www.sepca-bg.org/ 09/01/07

[4] Jasmin Ahić, MSc. '*Bosnia's Security Sector Reform' Reconstruction of BH Police*, The Geneva Centre for the Democratic Control of Armed Forces (DCAF), Geneva, 2007, p. 3

country), and then Albania – where in addition to the state police there are additional law enforcement agencies such as the forestry police, the construction police, the municipality and the commune police, etc. In other countries, a centralised national police service - organised in the form of a Police Directorate - is the prevailing model.

In line with the prevailing model of the centralised police services, such as in Montenegro, Croatia and Serbia, the main coordination role lies with respective governments. In the case of Albania, which has many services with police authorities that are subordinated to various ministries, it has been reported that ministries are accountable to the Council of Ministers. There was no mentioning of a body that would coordinate the work of the services in Albania. In Bosnia and Herzegovina, the 'Federal Ministry of Interior coordinates the limited policing tasks that fall under its purview such as inter-entity and inter-cantonal cooperation (especially in regards to terrorism and other serious and organised crimes, protecting of VIPs and guarding diplomatic premises).'[5]

National Security Councils were established in some of the countries. However, they have different roles. In Croatia, the National Security Council, which is run by the President, coordinates the roles of the President and the Government in the matter of security intelligence services.[6] The National Security Council in Albania serves as an advisory council to the Head of State. Although this body is a constitutional institution there is no special legislation on the functioning of the Council.[7] In Serbia, the National Security Council was set up, however, due to different views over who should preside over the body. The Council has not yet met.

With respect to strategic documents on police reform and development, the majority of the Western Balkan countries have drafted such documents – in Montenegro and Serbia there are the so-called Vision Documents. However, the Serbian Vision Document needs to be revised and updated. Macedonia and Albania have developed Strategies on Police Reform whereas Croatia has drafted the Ministry of Interior's Guidelines 2004 - 2007. Albania is in the process of drafting a 10-year strategy on the development of its police service.

The countries in the region that lack a National Security Strategy are Bosnia and Herzegovina (its entities have their national strategies, however it still does not exist at the state level), Montenegro and Serbia. Other strategic documents primarily relate to Integrated Border Management (IBM) and their development has clearly been influenced by the Stabilisation and Association Process and the European Partnership. Several Western Balkan states have drafted, or are in the process of developing strategic documents on community policing and the fight against organised crime and drugs.

As mentioned above, the development of a citizen's service that is accountable to the public is seen as an ultimate goal. With regards to accountability to the executive, all of the police services are accountable to the executive branch, i.e. to the government through their respective Ministries of Interior, or through other ministries in cases where countries have additional law enforcement services. Regarding accountability to the elected representatives, the establishment of a parliamentary committee responsible for external oversight of police services is a common feature in each of the assessed countries. Annual reporting of the executive branch to the parliamentary committee responsible for external police oversight is the prevailing practice.

The visible difference remains in the area of the committee's body of experts which provide support to the committees that are working exclusively on police related issues. Such a body was

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[5] Ibid, p. 3

[6] Mladen Staničić, Ph.D. (Edit.), *'Security Sector Reform in Croatia,'* The Geneva Centre for the Democratic Control of Armed Forces (DCAF), Geneva, 2007, p. 16

[7] Sotiraq Hroni, *'Albanian State Police,'* The Geneva Centre for the Democratic Control of Armed Forces (DCAF), Geneva, 2007, p. 10

reported only in Croatia and Bosnia and Herzegovina. In most of the assessed countries, staff members are associated with this parliamentary committee. However, the level to which their capacities are employed by Members of Parliament remains disputable.

As an exception, in 2005, Montenegro established an independent external police oversight body named the Council for Citizens' Control of Police. However, 'the Council is actually a quasi-independent body. The Council has five members representing three quasi-civil society organisations […], the University of Montenegro, and NGOs dealing with human rights. The Government never gave up their Tito-era control of the first four entities, while the human rights NGO representative was nominated by phantom NGOs organised by the regime only for this purpose.'[8] Further development of effective and efficient external oversight remains a challenge in all of the Western Balkan countries.

In addition to the mechanisms of external oversight, internal oversight is an important facet of accountability which should guarantee that the police act in accordance with the law when applying powers and adhere to professional standards such as the Discipline Code and the Code of Ethics. The different models of internal oversight range from the centralised internal affairs units in Serbia, Albania and Montenegro to the Professional Standards Unit, which operates at the local level in Bosnia and Herzegovina. In addition, assuring the legality of police performance lies with line managers and the judicial branch. This area has room for improvement. Dealing with citizen complaints, for instance, is an important way of developing public trust in the police.

In line with the above, it was very encouraging to note that, with the exception of Serbia, all of the Western Balkan countries have established Ombudsman institutions. The Serbian Parliament adopted a Law on Ombudsman in 2005. However, the Parliament has not yet elected and appointed an Ombudsman even though the deadline for the appointment passed. In Croatia, Albania, Bosnia and Herzegovina the Ombudsman office is empowered to receive and investigate complaints. The report on Albania states that 'while the court starts proceedings if there is an accusation, the Ombudsman may investigate even based on reports from the media,'[9] which is commendable.

An important positive step in ensuring the accountability of the state authorities to the media and society at large was taken with the adoption of the Law on Free Access to Information in all Western Balkan countries. The right to access to information could be enforced by the judiciary in most of these countries, whereas in Serbia it is within the government's competence to enforce such obligations. An effective mechanism to resolve this issue in Serbia is yet to be found. In Montenegro, this law is 'quite restrictive and effectively hinders access to information. Citizens have to justify their requests by explaining why they need certain information, rather than institutions having to justify why some information is classified.'[10]

With regard to the media's coverage of police service activities and police related issues, Bosnia and Herzegovina reports a satisfactory level of coverage. However, the situation in other countries appears to be different. Mostly, it was noted that the media reports in a sensationalist manner in the style of tabloid journalism, with little analytical or research based reporting. Important policing issues are not being investigated whereby journalists lack the expertise and professional curiosity to pursue relevant issues from this domain.

A lack of research on the issue of public trust in the police services seems to be the prevailing

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[8] Novak Gajić, '*Police Reform in the Republic of Montenegro*,' The Geneva Centre for the Democratic Control of Armed Forces (DCAF), Geneva, 2007, p. 24

[9] Sotiraq Hroni, '*Albanian State Police*,' The Geneva Centre for the Democratic Control of Armed Forces (DCAF), Geneva, 2007, p. 6

[10] Novak Gajić, '*Police Reform in the Republic of Montenegro*,' The Geneva Centre for the Democratic Control of Armed Forces (DCAF), Geneva, 2007, p. 24

practice in the Western Balkan countries. Only Albania and Bosnia and Herzegovina reported that such research has been conducted. Furthermore, in reference to accountability in Bosnia and Herzegovina, there have been more than a dozen polls conducted on public attitudes to security services and police agencies. However, in general, commissioned research and public opinion polls on accountability of the police services appear to be the exception rather than a rule of thumb in the countries concerned.

With regards to the issue of transparency, the prevailing practice in the Western Balkan countries is that all police services are obliged to make information available to the elected representatives. The availability of police related information is generally regulated by relevant laws on the secrecy of information and/or by constitutional provisions.

In the case of transparency and the availability of information on the organisation and personnel strength of different forces, services and agencies it is interesting to note that Croatia is an exception. In Croatia, 'information about the organisation and personnel strength of the police service is a state secret according to the Act on Protection of the Secrecy of Data. This information is not made public and selected persons have privileged access to it.'[11]

In terms of budgets and access to information, general information on all agencies is publicly available. However, the differences between the various Western Balkan countries lie in the intricacies of inputs and outputs. One feature that is common to all countries in the region is that budget narratives are given in the most general terms.

What would be particularly interesting to assess in future assessments is the process of budget programming. Although this issue was not covered by the questionnaire upon which the reports were based, if the situation in other Western Balkan countries is similar to those in Montenegro and Serbia, then it could be concluded that budgeting is highly centralised and is not reflective of realistic needs. Also, a centralised system of budgeting is a pre-condition for the de-concentration of authority. Furthermore, if the processes are similar in all Western Balkan countries, one could presume that the establishment and first actions of the Supreme Auditing Institution might represent a turning point for the transparency of police services which are striving to become a viable part of the public administration system.

Integrated Border Management in the Western Balkans

The issue of the demilitarisation of the Western Balkan borders also needs to be seen from a wider prospective of overall SSR and the impending accession of the Western Balkans to the EU, where border protection is not seen as an issue of defence, but rather of home affairs. The issue has not only been viewed in terms of the transfer of responsibility in securing the state borders from the military to the police and building up the national border police services, but also with respect to the delineation of borders particularly between the former Yugoslav republics.

The whole demilitarisation process demanded both commitment and support not just from the Western Balkan countries, but also from the international community bearing in mind that, in early 2003, 'following a NATO initiative, the EU, NATO, the OSCE and the Stability Pact worked jointly to develop a coherent and concerted approach to the border security and management issue in the region.'12 The international community's interest in border protection reform also lies in the fact that the Western Balkans is a part of the infamous Balkan Route – one of the main roads used for the illegal trafficking of human beings, weapons, drugs and other hazardous substances to

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[11] Mladen Staničić, PhD. (Ed.), *'Security Sector Reform in Croatia,'* The Geneva Centre for the Democratic Control of Armed Forces (DCAF), Geneva, 2007, p. 15

the EU. The Balkan Route is also an important road for terrorists, connecting the Middle East and Central Asia with Europe. To give just one example, the only surviving suspect of the Madrid 11 March 2004 bombings was arrested on a train in Serbia. The suspect was en route to the Middle East.

The international community's initiative resulted in the Ohrid Process on Border Security within which the countries and international organisations involved agreed on a way forward regarding all crucial aspects of the process at a conference which was held in May 2003. The long-term overarching goal of the Ohrid Process was to develop Integrated Border Management (IBM) system in the Western Balkans. IBM should provide the right balance between open but secure and controlled borders – open borders for trade, tourism and other forms of legitimate movement of people and goods, but secure and controlled to prevent illegal migration, human trafficking, criminal activities and terrorism.[13]

In such a complex region as the Western Balkans, the demilitarisation of state borders and introduction of an IBM system in line with EU and Schengen standards[14] is an enormous challenge, especially since relevant legislation in some of the region's countries is still pending, (e.g. the current law on borders in Serbia dates back to 1979). The driving force for working on the demilitarisation and development of an effective IBM system remains the top priority issue within the European Partnership.

Development and adoption of IBM strategies as well as action plans for their implementation have been reported as major achievements in Albania, Macedonia, Croatia, Montenegro and Serbia. While Bosnia and Herzegovina is working on the IBM concept, it is the only country that is not bordering with the EU at present. Most Western Balkan countries have demilitarised their borders and Serbia is expected to finalize this process in early 2007.

The centralisation of state border services is the main model of organisation in all of the Western Balkan countries. Even in the case of Bosnia and Herzegovina there is a centralised body - the State Border Service. Although the various police services in Bosnia and Herzegovina are not subject to the authority of the same central ministry, the cooperation between them is developed as inter-agency cooperation. In most other countries, state border services are a part of the General Police Directorate.

The IBM concept entails cooperation between four main border authorities - Border Police, Customs Administration, Veterinary Inspection and Phyto-Sanitary Inspection. In addition, cooperation with the military and other state authorities plays a vital role. Cooperation and coordination of activities among these authorities is deemed crucial bearing in mind that all of the numerous authorities fall under the jurisdiction of different ministries. Croatia and Serbia have established inter-ministerial working groups that deal with the issues of cooperation and coordination.

Macedonia has taken the issue of coordination to a higher level through the appointment of a State Commission for Border Management (SCBM) for democratic oversight which is incorporated in the IBM strategy. Macedonia's State Commissioner must be independent of any other body or agency involved in border management.[15] In addition, according to the country's IBM strategy, the

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[12] Internet: http://www.nato.int/docu/conf/2003/030522_ohrid/c030522a.htm

[13] Internet: http://www.feio.sv.gov.yu/code/navigate.php?Id=173

[14] In June 1990, the 'Convention Implementing the Schengen Agreement' was signed. Its key points relate to measures designed to create, following the abolition of common border checks, a common area of security and justice enhancing the free flow of people and goods across borders in Europe.

[15] Lidija Georgieva PhD, 'SSR in Macedonia: Border Security between Challenges and Expectations,' The Geneva Centre for the Democratic Control of Armed Forces (DCAF), Geneva, 2007, p. 21

Border Police Service is responsible for establishing and operating the National Border Management Coordination Centre (NBMCC). Through the NBMCC, the border police service will have the capacity to coordinate its own activities with those of other border management agencies.[16]

Taking into consideration the important geo-political position of the Western Balkans and the fact that the region's countries are situated at the crossroads of major trans-national organised crime routes, the strengthening of the overall capacities of border services contributes significantly to the fight against organised crime in Europe and to improving its efficiency and effectiveness. The challenge in the area of IBM remains in terms of implementation of the adopted laws and regulations, joint training programmes for the border services and reconstruction and building up of the border crossing points, which will become a focus in the years to come.

Nevertheless, although the development and strengthening of respective border police services has been the exceptional political and SSR priority for the Western Balkan countries in the short and medium term, the long-term prospective should not be overlooked. As mentioned in the report on Montenegro, 'the border services of all of the Balkan countries must maximise their limited capacity and co-operate. Overdeveloping the border police service with the main purpose of implementing EU and Schengen regulations should be avoided. This would then require huge personnel and infrastructure cuts once the Balkan Peninsula is integrated into the Schengen area.'[17]

In conclusion, police reform in the Western Balkans represent a major challenge since it requires deep changes not just in relation to the security sector but also in terms of the overall system of values of the region's respective societies which are all striving for European and Euro-Atlantic integration. In that regard, the level of influence of the different international bodies and organisations in the respective countries of the region needs to be highlighted. In pursuing the goals and priorities set by different international organisations, the reality on the ground has been somewhat overlooked. As the report on Albania notes, 'internal assessments of national values, interests and requirements are rarely used as a source for setting objectives in police strategies. Internal interests or needs are taken into consideration if mentioned or referred to by international reports or statements.'[18] Integrating a democratic set of values in the police services of the Western Balkans still remains an issue beyond all laws, strategies and accountability mechanisms which are reported to have raised policing standards to a new level.

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[16] Ibid., p. 24

[17] Novak Gajic, '*Police Reform in the Republic of Montenegro*,' The Geneva Centre for the Democratic Control of Armed Forces (DCAF), Geneva, 2007, p. 33

[18] Sotiraq Hroni, '*Albanian State Police*,' The Geneva Centre for the Democratic Control of Armed Forces (DCAF), Geneva, 2007, p. 15

REFORM OF THE ALBANIAN STATE POLICE

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The following research has been undertaken on law enforcement issues, more specifically on policing in the Republic of Albania. It should be noted that this subject was considered to be highly important by the relevant authorities of the police institutions who were consulted and interviewed on the subject of police management and decision-making. Another important aspect of this report relates to the fact that law enforcement institutions, state police and other police agencies are in constant structural and other changes as the country strives to adopt practices and legislation based on initiatives leading towards the process of European Union (EU) integration.

The Objectives of this Survey are the Following

1. to describe the nature and effectiveness of the provisions for the executive direction and legislative oversight of police agencies in selected countries (the accountability aspect of this research);
2. to describe the institutional arrangements and current practices that cover provisions on information about the organisation, planning, budgeting, administration and operations of these forces, services and agencies in the selected countries (transparency aspect);

Government Structure, Reporting and Management Relationships

There are is explicit mentioning of the police in the Constitution of the Republic of Albania. Issues related to police governance and management can be found in articles regulating the activity of the Government, the Minister's responsibilities as well as respective Parliamentary Commissions.

The main institutions that formulate, implement, report and oversee the police policies are the Parliamentary Commission of National Security and the Ministry of Interior. The main law that regulates the functioning of the State Police is Law No. 8553 dated 25.11.1999 'On State Police' and Law No. 8933, dated 25.07.2002 'On an Amendment to the Law No. 8553.' The Law No. 8553 states that the State Police is under the supervision of the Ministry of Interior (ex Ministry of Public Order) (Article 1, paragraph 1) and the State Police budget is an item in the budget of the Ministry of Interior (Article 3). It also states that the Minister holds the highest leadership capacity who, within the general programme of the Council of Ministers, exert civil supervision on the State Police (Article 7, paragraph 1) and also represents the State Police in relation to other constitutional institutions within the country and in bilateral and multilateral foreign relations (Article 7, paragraph 4). The Prime Minister influences policies through the Minister of Interior.

The Parliamentary Commission on National Security is responsible for overseeing and holding the Ministry of Interior and State Police accountable for operational police management and supervision of its activities. This commission has replaced the Commission on the Public Order and the State Intelligence Service which, in the past, oversaw the police. Now the Commission for National Security has the responsibility of supervising the police forces, the Armed Forces and the intelligence agencies.

A draft law on the State Police is currently under preparation and it is expected to be approved in 2006 by the Council of Ministers and Parliament. It is meant to be a comprehensive law that covers the structure, functions of separate departments, ranks, relations with the public and other institutions, management of personnel, disciplinary procedures, evaluation, employment of police personnel and competences, etc. The new legislation foresees a more clearly defined split of competences between the State Police and the Ministry of Interior. It also separates the budget of the State Police from that of the Minister of Interior. The General Police Director is to be appointed by the President of the Republic based on proposal of the Prime Minister and clearly becomes the only responsible administrator of police force operations. However, the author of this report has consulted the draft law, which is subject to changes by the Council of Ministers and the Parliament.

Public information is regulated by the following laws: Law No. 8503, dated 30.06.1999 'On the Right to Information about Official Documents' and Law No. 8457, dated 11.02.1999 'On Information Classified 'State Secret'' and Law No. 8517, dated 22.07.1999 'On the Protection of Personal Data.' The last guarantees the protection of personal information from unauthorised use. The classification of documents not for immediate public release is the competence of the President, the Prime Minister and other directors authorised by the Prime Minister in the State Register of Classified Information (Law No. 8457, Article 4). Law No. 8553 regulates the status of police officers. For the supporting and administrative staff of State Police Law No. 8549, dated 11.11.1999 'On the Status of Civil Servants,' is applied or the Work Code of Republic of Albania as stated in Law No. 8553, Article 15, paragraph 1.

Procurement and Budget

There is no separate law for the procurement of the State Police. The procurements by state institutions are regulated with separate laws: Law No 7971, dated 26.07.1995 'On Public Procurement.' This law operates in all the cases of procurement of public institutions, with the exception of the cases when the Council of Ministers, for reasons of national security, determines a separate procedure of procurement.

Law No. 8379, dated 29.07.1998 'On Drafting and Implementing of the State Budget of Republic of Albania,' defines the principles and methods of drafting, administering and use of the budget.

Law No. 9464, dated 28.12.2005 'On the State Budget for Year 2006,' determines the concrete allowance for each of the budgetary institutions, including the State Police.

The Police Services

Law No. 8553 dated 25.11.1999 'On the State Police' is the main legal act that regulates the mission, functioning and competences of the State Police. As mentioned above, this Law will be substituted in 2006 by the new draft prepared by senior experts of the Ministry of Interior and State Police with the important assistance of the EU police mission in Albania (PAMECA) and the US Justice Department Assistance Programme (ICITAP).

'The National Security Strategy of Republic of Albania 2003-2006,' approved by Parliament with Law No. 9322, dated 25.11.2004 'On Approving the National Security Strategy of Republic of Albania' is a crucial document of the security sector. Other important documents are:
- The Strategy for Reform in State Police;
- The Strategy for the War Against Illegal Trafficking and the Trafficking of Children;

- The National Anti-Drugs Strategy 2004 – 2010;
- The Strategy for Integrated Border Management;
- The Strategy for Community Policing (to be approved).

These strategies are accompanied by action plans for their implementation. At present, a 10-year Strategy for the Development of the Albanian Police is awaiting approval.

The State Police is the main non-military law enforcement institution – 'The State Police is an institution of the public administration of the Republic of Albania, subjugated to the Ministry of Interior, whose mission is to defend the public order and security and to guarantee the enforcement of the law' (Law No. 8553, Article 1, paragraph 1).

In the course of the last decade, efforts to improve law enforcement in the various areas of public administration have led to the establishment of the following police agencies:

- Within the System of the Ministry of Finance, the Taxing Police and the Revenue Police are responsible for controlling the payment of taxes and revenues at the border entries.

- Construction Police – 'Construction Police is an executive, armed entity, specialised in the control of the law implementation in the field of construction and city planning' (Law No. 8408, dated 25.09.1998 'On Construction Police,' Article 1).

- Municipality and Commune Police - 'Municipality and Commune Police is an executive organ that guarantees the order and welfare of public works within the territory of municipality or commune, in congruence to the provisions of this law and which are not competences of the other state authorities' (Law No. 8224, dated 15.5.1997 'On Organisation and Functioning of the Municipality and Commune Police,' Article 1).

- Forestry Police is under the authority of the Minister for Agriculture and Food.

- Electricity Police – 'Electricity Police is established as an executive entity specialised for the control of the implementation of legislation for the administration and use of electric energy in the state and private sectors by physical and juridical persons, Albanian citizens or foreign citizens, that exert their activity in the territory of Albania' (Law No. 8637, dated 06.07.2000, 'On Electricity Police', Article 1).

- Military Police - 'Military Police is an executive organ that is located in the united operative unit of the army and deals with security and guard of the members of the Armed Forces and of military property, with keeping order and discipline in military garrisons, in other areas and in the network of urban and interurban transport and with detection of those who commit military penal acts.' (Law No. 7508, dated 07.08.1991 'On Military Police in the Armed Forces of Republic of Albania', Article 1).

- Prison Police, whose responsibility is the policing of prisons and in subject of the Ministry of Justice.

The correct official designation of each of the forces, services and agencies is listed below:
A.   Policia e Shtetit – State Police
B.   Policia Doganore – Revenue Police
C.   Policia Tatimore – Taxing Police
D.   Policia e Ndлrtimit – Construction Police
E.   Policia e Bashkisл dhe Komunлs – Municipality and Commune Police
F.   Policia e Pyjeve – Forestry Police
G.   Policia Ushtarake – Military Police
H.   Policia e Burgjeve – Prison Police

From 1997 – 2006, several new police force agencies were established, such as the construction police, the municipality and commune police and the electricity police. The revenue police force was reorganised from the financial police. There has been a tendency to improve law enforcement through the creation of police agencies. However, these institutions are far from effective and they rely on the presence and support of the State Police to enforce the law. In terms of the reorganisation of these services, reform might be an issue. During these years, the legislation concerning the organisation and functioning of the State Police was revised. Under the current law, the State Police has become a part of the public administration rather than a branch of the Armed Forces. A significant reduction in the number of the police forces is based on European standards of equating the number of police forces with population numbers. Within a year, the country is required to reduce its police force by nearly 1700 personnel.

The State Police is currently subordinate to the Ministry of Interior. The new draft Law 'On State Police' supports the independent operational capacity of the State Police.

The Military Police is subordinate to the Ministry of Defence.

The Taxing Police and Revenue Police are subordinate to the Ministry of Finance.

The Electricity Police is subordinate to the Ministry of Economics and Energy.

The Construction Police is subordinated to the Ministry of Transport and Telecommunications.

The Forestry Police is subordinate to the Ministry of Environment, Waters and Fishery.

The Municipality and Commune Police is subordinate to Municipalities and Communes.

The Prison Police is subordinate to the Ministry of Justice.

All police forces are accountable to the Council of Ministers.

Each governmental institution mentioned above has, on its own initiative, proposed laws in support of the establishment of law enforcement agencies. After approval by the Council of Ministers, the legislation was approved by Parliament.

Accountability

With the exception of the Municipality and Commune Police all other police institutions belong to central government institutions, and they are under the responsibility of the respective Ministry. The organisational structures of these police forces are approved by the respective Minister and are accountable to that Minister. Ministers are accountable to the Council of the Ministers and the Parliament. The Municipality and Commune Police were only recently established and it is far from being a consolidated structure.

The various law enforcement agencies lack the proper capacities, skills and motivation to provide effective and unbiased law enforcement. Frequently, they lack clearly defined responsibilities as in the case of the Municipality and Commune Police. While, the Construction Police can hardly enforce law without the support of the State Police.

These agencies normally use reports, information, periodical analyses and analyses of specific issues to provide accountability to the executive, but it should be mentioned that the agencies primarily feel accountable to the Minister then to the provisions of law. This makes the institutions less transparent and accountable to the public and to the rule of law. In these circumstances, legal obligations and respect for law can be evaded. The most consolidated police force is the State Police, which enjoys greater public trust according to polls produced by the Institute for Democracy and Mediation. Media reports reveal that the other police forces have little respect for the law and are biased in their law enforcement operations.

To elected representatives

The police forces are directly accountable to the legislature, through the parliamentary committees which oversee the executive power. The State Police is accountable through the Minister of Interior to the Parliamentary Commission for National Security. The Parliamentary Commission has the right to investigate the institutions subject to the Ministers, which include the various law enforcement agencies. Institutional leaders of the various law enforcement institutions may appear before the responding Parliamentary Commission upon the request of the Minister.

Regarding the issue of accountability to elected representatives at the local level, according to the legislation and norms, the local directors and chiefs of the State Police are made accountable to the locally elected once per year. This is a rather formal process and it is rarely applied. Even in cases that the law requires a process of accountability to the locally elected authorities, leaders of such agencies at the local level frequently evade this responsibility. The Albanian State Police will continue to be a rather centralised institution and the new draft law strengthens this component by excluding wholly the currently existing chapter on police and local government cooperation.

There is not any institutional or procedural control towards transparency and accountability to the law for any police institution. The Minister, in other words, the political leadership of the institution, remains the main and only authority with respect to the accountability of law enforcement institutions to elected representatives at the national level. The General Police Director appears for questions and hearings at the Parliamentary Commission on National Security, if requested by the Minister to do so.

Public information reported by the media remains the main source of assessing the process of accountability of police agencies.

With respect to the evasion of obligations, from the legal point of view, the various police agencies have to respect, in practice, the leaders of such agencies who would normally hold the position of Minister, who is not always held accountable to the law.

To other institutions

The courts are institutions where administrative and penal cases may appear once there is a violation of the law by any of the agencies concerned or the police force. Juridical proceedings have seen many cases whereby police officers and leaders are frequently dismissed without proper justification. Most proceedings are finalised by a decision that counteracts the ministerial authority. Sentences, however, are rarely carried out. The most publicised case of this nature was the Decision of the Albanian Supreme Court which ordered the Ministry of Interior to re-employ a former General Police Director. While the decision was not carried out by the authorities, the former Director continued to receive his salary and this has been the case since his dismissal in 2002.

The ombudsman may also be put in motion in cases of accusations of abuse of power and other violations by the police force. While courts commence proceedings if there is an accusation, the ombudsman may commence his/her investigation based on media reports alone, or upon the request of individuals or human rights groups.

The mayors or chairmen of communes have authority over the Municipality or Commune Police under their jurisdiction.

Internal structures for validating accountability and observance to the rule of law by the various police structures have been established especially in the State's police force, which controls the operational and financial management of all police structures. Internal control and inspection departments are rather centralised institutions. Moreover, under the direct authority of the Minister of Interior, the Internal Control Service reports all cases of abuse of power by the police. In each local police department, there is an Internal Control Services inspector working under the direct responsibility of the central authority.

The Law of Internal Control has been amended on two occasions in the past decade.

These institutions perform efficiently because they are privy to the rule of law and other regulations. However, in terms of accountability, the Internal Control Service undoubtedly presents the greatest challenge. The Service does not enlist in any other form of transparency in relation to its investigations on the misuse of power by police officers other then reporting directly to the Minister. Police officers are frequently dismissed after being charged by the Service, yet they are rarely notified of the reasons for their dismissal or made aware of the evidence that has been gathered to justify the dismissal.

Police forces and other agencies normally cannot evade their legal obligations in this respect.

To the media and society at large

Article 23 of the Constitution guarantees the right to information. In compliance of this article, the Parliament has approved Law No. 8503, dated 30.06.1999 'On the Right of Information about Official Documents.' This law makes no explicit mentioning of the police force, but it does apply to the force. Although legally access to state information is recognised, in practice, there may be cases to the contrary. To regulate communications with the media and the public, every agency has a Public Relations (PR) department or a related component assigned with these responsibilities. The Ministry of Interior and the State police have established separate PR departments at the national and local police directorate level.

Nevertheless, the tendency not to produce documents and rather to ask political authorities to make information, such as laws and regulations, accessible to the media and interested individuals, is a common occurrence. In recent years, no cases have reported incidences whereby pressure has been exerted by the authorities to reveal sources of information. The law supports the right of journalists to protect sources of information.

Since 1998, the Ombudsman (in Albanian *Avokati i Popullit*, meaning the Advocate of the People) has investigated the abuse of power by the police force. In most cases, the Ombudsman office is put in motion even on the advice of media reports.

The media is highly sensitive towards the police services and devotes considerable space to the activities of the State Police. Perhaps the quality of the media's coverage could be greater. A

lack of professionalism is a problem and the media basically produces press releases with the aid of the police's PR departments. My opinion is that, in general, the media is not hostile to the police, although the force does consider the media to be rather problematic. Public attitudes to the police force are, however, having a positive effect on overall levels of acceptance and cooperation.

The Institute for Democracy and Mediation conducted a poll in May-June 2005 on public trust in the police service in several districts. Target groups were police officers, officials of local governments, high school students, businessmen and citizens at large. The questionnaire included questions about public accountability of the police. It was revealed that 60% of the respondents trusted the State Police more in relation to other police forces and that over 50% of citizens agreed to be involved in cooperation and consultation processes with the State Police. Analysis of the results was included in the publication of IDM at the annual conference 'Public Trust – A Challenge to Police.'

In another public opinion poll carried out by IDM in August-September 2006, the question of 'what police should do better' was asked. 45% of the respondents said that the police should arrest criminals, while 32% said that the police's role was 'to eliminate corruption'. Other questions in the survey clearly revealed the need for police institutions to take on board the public's perceptions of threats.

To codes and conventions

Albania has subscribed to various international codes and conventions such as:
- United Nations (e.g. 1979 UN Resolution: Code of Conduct for law-enforcing officers)
- Council of Europe (e.g. 1979 Council of Europe Declaration on the Police)
- The OSCE (e.g. 1994 Code of Conduct on Politico-Military Aspects of Security)
- Europol (e.g. 1995 Europol Convention)
- Interpol (e.g. 1999 Interpol Seoul Declaration)
- European Convention on Human Rights.

The country is ready politically to subscribe to any other requirements stemming from EU accession actions but most of these codes and conventions are not known to officers at any level. They are mostly applied on the request of internationals rather then as an obligation of the institutions themselves. In my opinion, the accountability process of the country and its institutions remains a very weak component and this may become even more obvious in cases of international cooperation.

Transparency

All police forces are obliged by law to make information available to *elected representatives*.

This obligation is determined as a general principle in the Constitution and in legislation about the organisation and functioning of the police services. There are no legal acts stating that these services have no such obligation.

Information is available and made public for all citizens. Most of the institutions have websites. The public can receive information on allocated budgets for almost every item except specific operations which require special authorisation. The budget is made public in general terms most often in accordance with the nature of operations.

Law No. 8457, dated 11.02.1999 'On Information Classified 'State Secret'' is the basic

official document for assessing public availability for police operations and the budget. The classification of documents not for immediate public release is the competence of the President, the Prime Minister and other directors authorised by the Prime Minister in the State Register of Classified Information (Law No. 8457, Article 4). Nonetheless, one can hardly say that the relevant officials freely reveal police operations and budget issues without prior confirmation from the highest authority. This is dependent also on the level of professionalism and efficiency of the administration whereby some would prefer to follow an order as opposed to abiding by a law in order to act.

Information about the *strategic outlook* and planning of the services is made public in general terms, most often when it is under scrutiny.

The reporting of activities is principally published for the State Police, which enjoy the highest public visibility. Policy statements are normally made public when the agency is under scrutiny. Otherwise statements may be made on special occasions.

Official publications about the State Police can be found on the website of the Ministry of Interior: www.moi.gov.al.

International Transparency

Albania's subscribes to different international conventions and codes of conduct such as the UN Resolution: Code of Conduct for law-enforcing officers, Council of Europe Police Code of Conduct, the OSCE 1994 Code of Conduct on Politico-Military Aspects of Security, Europol Convention, Interpol Seoul Declaration, and the European Convention on Human Rights. These conventions impose transparency obligations, but they normally are respected in bilateral exchanges of communication. This is particularly true in relation to requests set forth by the abovementioned organisations with relevant institutions of the country. It should be stressed that it has been a widely accepted fact that the subscription to such legislation or its approval by the Albanian Parliament does not mean supplementing any additional local capacity to its implementation. Inadequate capacities, institutional instability, and low levels of public responsibility in general are among the reasons for a lack of compliance with these international conventions or codes of conduct.

In the case of international cooperation between police forces and other internal security forces, domestic transparency is limited to pre-approved declarations or statements regarding cooperation of a bi-lateral or multilateral character. Judging from recent history, domestic police activities in which international cooperation is involved are made public after the operations have ended. The level of information regarding these kinds of operations is made somewhat public and the relevant authorities mention international actors merely as a means of enhancing the credibility of domestic operations or to demonstrate that Albanian police agencies are a credible partner.

Recent Changes in 2004/5 and General Appeal

The events of 11 September 2001 led to some minor changes with regards to institutional structures. The State Police Directorate and local branches have set up special 'departments to fight against organised crime and terrorism.' One cannot speak of substantial changes to "normal practice" to date as far as the transparency and accountability of police forces are concerned. In my opinion, the most important change involves the focused activities against special 'social groups' which are considered potential sources of terrorism. International organisations assisting the Albanian police have facilitated the reform process in terms of the structure and performance of the police force and in its capacity to address global and local challenges related to the events of 11 September.

Oversight and Guidance of the Police

The President of the Republic does not have any competencies on issues related to decision-making on police matters. However, the Head of State may use his moral authority to heighten sensitivity on particular issues relating to police structures and performance. Most often, the Head of State addresses police on election-related operations to abide by the law and ensure the transparency of the process. The new draft Law on State Police (to be approved by Parliament in 2006) enhances the competences of the President of the Republic by recognising his role in the appointment of the General Police Director on the proposal of the Prime Minister. The Prime Minister actually appoints the General Police Director. The Prime Minister, as Head of the Government is the highest political authority who signs decisions and other normative act concerning police forces. The proposal for each normative act comes from the Ministry of Interior. The Ministry is required to send to the Government for its approval the National Strategy for Community Policing. This document is prepared by the Ministry before being sent to the Council of Ministers for final approval, the document is endorsed by the relevant institutions. In this case, the Finance, Education and Justice Ministries as well as the Department of Codification endorse the document. The frequency of general Government decision-making process depends on the initiatives that are undertaken.

The role of the Parliament in endorsing police policy decisions is not explicitly defined in the Constitution, but it appears in the functional responsibilities of the Parliamentary Commission on National Security. The Parliament is able constitutionally to act independently to amend strategic objectives on the police, to reformulate and introduce new objectives, to vary police expenditures and revise police missions. However, until now, the Parliament or Parliamentary Commission has never put in motion a single case without the prior consent of the Government. The reason being, that the political majority controls the Parliamentary Commission. Thus, Parliament is permitted to make amendments only in consent with the executive powers. In practice, Parliament only has the power to endorse or reject police policy documents submitted for its approval. The same procedures also concerns Parliament's role in endorsing police policy decisions. The possibility that police policy initiatives can be taken by Parliament does exist. However, if such an initiative is undertaken the prior silent consent of the Head of the Government is required.

Parliament has a staff of experts working on security issues solely for the parliamentary commissions. It should be mentioned that the limited officials do not cover police issues directly but they assist the Parliamentary Commission members on all issues. For a second year, DCAF has supported an additional expert at the Parliamentary Commission on National Security, who has proved to be most active member of the staff of experts. This Commission does not have a sub-commission for police matters and there are three staff experts, while the whole Commission is comprised of 17 members of Parliament. The Parliamentary Commission invokes questions, hearings and interpellations once an issue is debated in the media or there is a legal initiative or any other issue of public importance arises. Parliament has not commissioned research to public or private research institutes in the country. It would be more favourable for Parliament to apply for external assistance; basically carry out exchange visits of members of the Commission to different public research institutions from abroad, or to request best practices on different issues.

It should be underlined that the Parliament follows the party or coalition lines in deciding on police matters, police reform or performance on specific issues.

The National Security Council is a constitutional institution that serves as an advisory council

to the Head of State. There is no special legislation or statute on the functioning of the National Security Council. As such, there are no specific duties established on the role of the President or National Security Council regarding the formulation of police policy except for different recommendations on specific matters. To the best of my knowledge, the National Security Council until now has been summoned only occasionally with respect to different emergencies on very specific occasions.

The Prime Minister exerts his/her influence over the police through the Minister of Interior or the General Police Director who is appointed by the Prime Minister. The Council of Ministers formulates/endorses policy decisions and normative acts on police activity. There is no staff of experts or special units responsible for police reform or issues. The Prime Minister supports or initiates different actions on police matters in response to situations concerning public security. This is basically achieved through communication with authorities of the Ministry of Interior or the State Police. There is no specific unit of experts or staff close to the Prime Minister that assists in the formulation of opinion

The Minister of Interior formulates and endorses police policy decisions through orders and normative acts. He also presents different normative acts to the Council of Ministers for approval or legal acts for approval by the Government to be sent to Parliament. It should be mentioned that the new draft Law on State Police clearly excludes the Minister of Interior from leading police operations.

In case a strategic document on police policy is issued for endorsement, there are no special legal or customary provisions for formal guidance from a higher authority, except for the normal procedures of its approval which involves the following: the issuing authority, on police issues, the Minister of Interior sends the document to all other Ministries or other institutions that are effected or are stakeholders in the draft legal act or draft law. Following official comments and suggestions, supportive or non-supportive documentation is received by that institution. The document is reviewed and sent to the Council of Minister for approval. If the document requires a special additional budget, the Minister of Finance has to approve it. Of special importance is the position of the Department of Codification in the Ministry of Justice. Deviation from these procedures is rare. In special cases, for instance, during the process of consultations which took place during procedures for the approval of the National Security Strategy, the Ministry of Foreign Affairs set up a meeting with civil society activists. The meeting, however, was simply a formal process. The ideas that were proposed were not incorporated or approved by the experts in charge. Generally, such procedures are not made public. Basically, political interest prevails over expertise and advice is not seriously considered or taken into consideration in the final draft of any document.

The system of police funding is similar to the system in place for the Government. Both the police system and the general procurement system are transparent for industry, business and the public. However, the media has never commented on the expenditure of the budget by Albania State Police or the Ministry of Interior. It may be difficult for journalists to obtain information from the Albanian police on specific budgetary items. The budget and its expenditure are under the scrutiny of the Parliament. There is no set of procedures in place for Parliament to investigate the police or Ministry of Interior budgets, unless a case of abuse is raised in the media. Scrutiny of the Parliamentary Commission on National Security took place two years ago, when the procurement units of the Ministry of Interior were accused of corrupt procedures and abuse of public funds in contracting civilian passports.

Contacts and International Cooperation

The Minister of Interior authorises issues related to international contacts and cooperation, and oversees the development of such contacts. The Minister also has the authority to end international contracts. The General Police Director represents the Albanian State Police in international contacts and cooperation, but the Minister of Interior's endorsement of every action is a prerequisite. Every international visit even for lower rank officers requires authorisation by the Minister of Interior. The Prime Minister acts through the Minister of Interior in the authorisation, oversight or cessation of international contracts. The new draft law maintains the same procedures of international contacts or cooperation.

Theory on Police Matters

National police policies are formulated in accordance with Albanian tradition in general terms. Democratic reforms have facilitated different contacts of a bilateral or multilateral character. Albania's subscription to international conventions and codes related to the police has assisted in the development of new legislation. With the absence of institutionalised thought, well-established practical mechanisms have been mostly consulted in the context of national police policy development. The literature published by Albanian experts in the past ten years on different police management issues represents the main source of written material. However, these texts are rarely consulted.

Literature, models and examples from other nations with recognised success in good governance of the security sector, I believe, are the main sources for national police planning. There is no particular model, example or nation to be followed. But, if it exists it should bear the experience of a particular nation that an international expert offers. For specific areas of activity, it may be a particular model of a certain country and for another area of activity it may serve a certain other model. In the past decade, Albania has been assisted by PAMECA (the EU's police assistance mission), ICITAP (the US Justice Department, experts from Italy's Interforca and OSCE experts. In order to better coordinate this international support and evade overlapping organisational structures, the International Consortium on Security Sector Reform was established. It is obvious that each organisation offers the model its experts know best. In the case of PAMECA, for instance, every expert has its own model practiced in the country of origin. For instance, the Spanish are keen on the model produced by Spain. This becomes much more problematic when local capacities to choose a certain model remain weak and where the model chosen is unsuitable for Albanian realities.

Another problem with internationally accepted codes of conduct and codes of good practices in police planning is the fact that, in most cases, codes are identical without any reflection on the Albanian reality or on local capacities. They are practically inapplicable. The Code of Ethics, for example, was a translated copy paste from the similar CoE Code.

There are certain recommendations and programmes developed by different police assisting missions such as the EU Police Assistance Mission in Albania (PAMECA) and the US Justice Department Assistance Programme ICITAP. These missions have a number of experts that assist in many police operations and planning. Each of these missions has a number of officers in the Ministry of Interior who advise the Minister or General Police Director on police issues. This assistance is proving helpful in supporting the reform of the Albanian Police Force in many respects.

Albania and its institutions are far from adopting practices on the basis of input from local research institutes which would lead to effective reform. Public institutes are formal structures with limited capacities to develop research on police matters. They are ministerial organisations and they have a very low profile in producing policy recommendations. Private institutes and think

tanks are somewhat more active due to their capacity to be flexible in the programming of their activities in assisting police reforms. Thinks tanks and private institutes are not economically dependent on public funding. They receive most of their funding from international donors. These organisations deal with different security issues and international relations, while also covering police issues. A limited number of NGOs work on the development of alternative strategies, organising national conferences on police matters and carrying out surveys and research on public trust issues and perceptions of police performance.

In addition to such activities, organisations such as the Institute for Democracy and Mediation assist police initiative such as the establishment of police trade unions through a bottom-up process. Other organisations primarily publish occasional papers. Commissioned reports are limited to international demand. Oversight commissions and the contracting of independent research on policy issues by Government authorities are lacking. Public institutes may be involved in producing occasional papers requested by the political authorities, but not on research that would assist in decision-making. Even in terms of the formulation of national strategies local existing expertise is rarely consulted. The Government (the Prime Minister and various Ministers) do not use research facilities on specific issues of police policy in their decision-making process. While the Government, the Prime Minister and other senior institutional leaders continue to justify the need for reform they are largely motivated by inaction. The reaction of the authorities to NGOs is often critical. Public debate on police issues occurs at specific moments of police reform, but also when surveys published in the press have exposed some problematic truths. Albania in general (authorities, media, and other institutions) does not possess the civic culture to make effective use of research to facilitate the reform process. Even when survey results might have influenced different police policy decisions, the authorities rarely acknowledge public criticism. This indicates that official bodies are not making policy decisions based on the outcome of such surveys. Private surveys commissioned by international actors are not meant for public release. In all cases, surveys are not a regular occurrence.

Police Institutions within the Security Sector

Structure of Decision Making on Police Policy

Topic of Document	Title of Document	Issuing Authority	Endorsing Authority	Frequency / Time span	Status
Police Planning	Action Plan Operation Plan	Departments	General Police Director	No time span	
Personnel policy	Personnel Act	Ministry of Interior	Council of Ministers		Approved
Police Education	Educational Programme	Director of Police Academy	General Police Director		Approved

Topic of Document	Title of Document	Issuing Authority	Endorsing Authority	Frequency / Time span	Status
Public information policy	Functional Duties and status of Public Relations Offices	Depart. of Public Relation	Minister of Interior		Approved
Police Strategy	Strategy of Police Development for 10 years	Ministry of Interior	Council of Ministers	10 years	Not approved
International Cooperation	Agreements,	Ministry of Interior	Council of Ministers		
Interagency Cooperation	Protocols or Agreements (Various)	General Police Director	Ministry of Interior		

All policy documents are published for internal distribution to the institutions involved but, in practice, this is not a norm. Members of the public may obtain a copy of all policy documents upon written request with the exception of cases where a document circulates for internal use. For special documents, the release of copies is pending the decision of an authority. Institutions do not make public lists of policy documents that may be released to the public or lists of policy documents that are restricted to be made public. An authority decides what documents may be made public on a case-by-case basis.

In drafting police policies, it is most common that the authority, the General Police Director will authorise specialised divisions within the Ministry of Interior. In some cases, the ministerial authority selects a group of experts according to their expertise on specific issues, including experts from educational institutions. Foreign advisors are also involved in particular issues. For instance, the National Strategy to Community Policing group was made of experts from different police departments. The new draft Law on the Albanian State Police was prepared by a working group set up by the Minister of Interior. It was comprised of high-ranking experts from the Ministry of Interior, the Albanian State Police and a significant number of international experts from PAMECA, ICITAP, the OSCE and other independent international experts. Local independent expertise was not consulted. Generally speaking, the Ministry of Interior does not utilize relevant expertise to draft police policy documents.

A set of regulations or best practices is yet to be established to assist in the development of strategies and policies. The most commonly applicable form that has led to steps in setting these objectives derive from the advice and recommendations from international or bilateral experts. The approximation of national legislation with that of the EU, in the framework of integration efforts, is a decisive factor in the reform of this sector. However, the increasing number of international

contacts and conferences are enhancing sensitivity on special objectives and police policy strategies. Documents published by police establishments in other countries are consulted or referred to in some cases as well. Guidance from the Minister is also mostly related to such experiences, while internal assessments of national values, interests and requirements are rarely used as source for setting objectives on police strategies. Internal interests or needs are taken into consideration if they are mentioned or referred to by international reports or statements. International reports remain crucial in the development and consolidation of police institutions. Albanian political leaders have proved to be responsible and will continue to be so for the foreseeable future according to the evaluations made by European or Euro-Atlantic organisations. This means that international assistance could be better balanced between technical assistance and evaluation reports in an effort to make politicians more accountable.

Even the process of assessing security risks and threats mentioned in strategies, policies and directives within the police sector are made based on international declarations, evaluations, statements and priorities set forth by international organisations such as the OSCE, the UN, the EU and NATO. The EU and NATO integration process are a priority in the international relations of the country and enjoy the most authoritative position in developing local policies. Because of the country's aspiration to join the EU, and the signing of the Stabilisation and Association Agreement in June 2006, EU monitoring remains an important element in the country's reform efforts. Such monitoring evaluates the progress made in the consolidation of institutions of the State Police. This becomes more obvious if one compares institution-building and reform of the Armed Forces with that of State Police. The work undertaken to meet NATO standards and the close monitoring of reform and its implementation are making the army a much more effective and modern institution. While it is very hard to say, the standards that are to be achieved also stand for the police.

Until now, however, there has not been a debate on police requirements for the basic reason that the police force was not permitted to organise a unified professional voice. The Police Trade Union was established this year with the assistance of the Institute for Democracy and Mediation and it is awaiting legalisation. Until now, decision-makers at the political level have adopted requirements without debate. The most significant example of this involved a police officer who expressed dissatisfaction with the rank he had been given two years ago, upon which he was dismissed. There was no internal debate within the service.

Although the current police law, which was approved in 1998 for the first time, legalized the police forces as a part of the public administration, internal police practice mirrors that of a military organisation. Police requirements remain under the total authority of the Minister. It should be mentioned that although legislation and strategic development documents have been approved or are being approved, there is an obvious lack of professional culture to insist on obedience to the law. Political voluntarism prevails and this enforces a lack of trust in the institutions and the law. There has never been a public debate on police requirements. The media has rarely reported on these issues. The Law on the State Police includes an organisational chart for the main police structures, which was approved by the Minister of Interior. There are terms of reference for each structure but discussion over the past three years to update them has not produced any result. Even standing operating procedures for each structure require full updates because the draft law on the State Police while is to be approved includes many changes. The organisational structure and chart in the draft law is far more detailed and comprehensive than in the current law.

The police planning system is being established with the close assistance of ICITAP and PAMECA. The State Police in Albania is a rather centralised organisation, and the resource allocation system is a top-down system.

The police planning system is organised according to departmental and service programmes but effective coordination between these departments is lacking. Police planning commences once

the Minister issues guidance in this direction. The description of the end state of each programme is made available and the costs of the programme are established upfront.

There is no regulated requirement for police planners to develop planning assumptions, recommendations and alternatives for the commanding officer or civilian dignitary before a certain course of action has been adopted. Police planners are mostly experts from within the service. International experts, on the authorisation of the Minister, may also be included.

In conclusion, it should be mentioned that certain strategic documents, such as the draft Law on the State Police and the Police Strategic Development Plan are in place for the coming decade. Other policy documents that intend to advance police reform in the State of Albania are awaiting approval.

THE RECONSTRUCTION OF THE BIH POLICE FORCE

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Introduction

Since the Dayton Peace Accords (DPA) were signed in December 1995, Bosnia and Herzegovina's (BiH) multiple police forces have been a major obstacle to their implementation and consequently the country's progress toward normal democratic statehood and its integration into the European Union (EU).

Like Bosnia itself, the country's police forces are divided. The two entities (the Federation of Bosnia and Herzegovina (Federation) and Republika Srpska (RS)) maintain their own police forces under the control of their respective interior ministers. Authority over the police is further decentralised in the Federation, with each of the ten cantons also possessing a Ministry of Interior or MUP (*Ministarstvo unutrasnjih poslova*).[1] While the RS police are merely subdivided geographically into regional Public Security Centres (PSCs) and local police stations, the chiefs of which remain directly accountable to the RS interior minister, the cantonal Ministers of Interior have significant autonomy vis-a-vis the Federation ministry. The limited power of the Federation's Ministry of Interior is indicated by the short list of policing tasks that fall within its purview: coordinating inter-entity and inter-cantonal cooperation, especially in regard to terrorism and other serious and organised crimes, protecting VIPs and guarding diplomatic premises. The ten cantonal interior ministries are responsible for all other aspects of law enforcement, with each municipality having a police administration. The RS Ministry of Interior, by contrast, is responsible for all crime prevention and enforcement in the entity.[2] Under the Ministry of Interior, there are five Public Security Centres (PSC) that parallel the areas that are covered by the district courts. A second complication arising from the Federation's devolution of power to the cantons is the lack of consistent policing practices between and among cantons with Bosniak, Croat or no national majority populations. Croat majority cantons often coordinate their activities as if they were a third entity, while official Bosniak-Croat power sharing in mixed cantons (Cantons 6 and 7) has given rise to parallel structures within their MUPs. In Canton 7, approximately 300 police officers are paid to 'stay at home' (but in reality they have been functioning as a parallel police - up to 2005). As if the discontinuities between and within the entities were not sufficiently labyrinthine, Brcko District has its own autonomous police force and structure. The director of police in Brcko reports to the mayor and provides monthly reports to the District Assembly. The Assembly, in turn, convenes a police supervisory committee.[3]

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[1] In addition to its regular police forces, the Federation also has separate Court Police (under the authority of the Federation Supreme Court) and Finance Police (under the Ministry of Finance and, effectively, the OHR Anti-Fraud Department). The Federation Court Police are responsible for protecting trials, court buildings and witnesses, transporting prisoners, enforcing court-ordered evictions and carrying out court-ordered arrests, and (somewhat oddly) dealing with cases of child abduction. The Court Police are also mandated to assist the Federation Ombudsman, but have thus far lacked the resources to do so. The RS has neither court police nor finance police.

[2] The unified RS command structure means that EUPM and OHR can reasonably hold the RS Interior Minister responsible for policing failures throughout the entity.

[3] The committee is required to meet at least twice a year, but convenes more frequently should the need arise. The committee has proved a useful means of scrutinising the police and their attainment of established targets.

Basic Police Management Laws and Regulations

The weakest link in Bosnia's policing framework is the State. The BiH Constitution (Annex 4 of the Dayton Peace Accord -DPA) entrusts the State with responsibility for 'international and inter-Entity criminal law enforcement, including relations with Interpol.'[4] OHR has sought to provide the State with the institutions necessary to fulfil these tasks, usually in the face of determined opposition by one or both of the Entities and occasionally by international organisations worried about footing the bill. The recently created State Investigation and Protection Agency (SIPA) is taking responsibility for exchanging law enforcement information and providing protection for national institutions and representatives. SIPA is also meant to facilitate inter-Entity and regional cooperation in the fight against organised crime, human trafficking and international terrorism. Successful establishment of a Citizens Identity Protection System (CIPS), a State level civil registry, is facilitating SIPA's work.

CIPS has the obligation to create a State-level Network Operations Centre, containing a registry of 'black-listed' lawbreakers compiled by Interpol. While the legislation establishing SIPA at the end of 2005 passed parliamentary procedure, the agency has employed some 300 police officers (plan is to employ 500 of who 400 will be charged with protecting buildings and VIPs - Presidency and Council of Ministers members, Supreme Court justices and embassies). The other 100 will be investigators dealing with crimes committed against the State. SIPA is expected to facilitate inter-Entity cooperation. Finally, while the EU-EUFOR troops stationed in Bosnia do not uphold the laws of the country, they do perform significant security tasks which local police are not always willing or able to carry out. Thus, EFOR apprehends indicted war criminals on behalf of the Hague Tribunal and provides a measure of security – mostly of a preventive nature – for returnees to various parts of the country. As such, EUFOR troops must now also be seen as a part of the law enforcement establishment in Bosnia.

Reflecting as they do the national and political fault lines created by the war and confirmed by the peace settlement, the divisions among Bosnia's several police forces obviously facilitate the exercise of political influence and national bias. Of equal or greater concern is the fact that these forces cooperate either inadequately or not at all with one another, giving criminals all sorts of opportunities to operate with near-impunity across internal and international boundaries. Non-cooperation between the entities, between the Entities and Brcko District, and between the Federation and its cantons is the norm. In the first two cases, little information is shared, joint operations are rare and arrest warrants issued in one jurisdiction are not executed in another. One high-ranking police officer characterised the degree of cooperation between the entities as 'more like that between countries than within a country.' Until recently, Bosnian police forces have relied more on Interpol for the exchange of information than on direct contacts. Even now, when a crime occurs, it can take eight hours before the police in one Entity inform their opposite numbers in the other Entity, if they inform them at all. Cooperation between the Federation and cantonal MUPs can be almost as poor – and is sometimes even worse – than that between the entities.[5] Although the Federation MUP has official responsibility for tackling organised crime, drug dealing, inter-cantonal crimes and terrorism, it must in practice rely upon the good will of the cantonal ministries. Attempts by the Federation Ministry to place liaison officers in the cantons in order to improve communications have frequently been met with hostility or intransigence. In Mostar, for example, Federation MUP officers have been quartered in a fire station some three kilometres from the Canton 7 Ministry of

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[4] Dayton Peace Agreement, Annex 4, Article III/1(g). At present, the State Ministry of Civil Works and Communications provides a home for an Interpol office.

[5] This is compounded by the fact that the police in the cantons are paid from cantonal budgets.

Interior. To quote an UNMIBH memorandum, 'this will create difficulties in duty performance.'[6] In other cantons, Federation police officers may work alongside their cantonal counterparts, but still encounter animosity, especially in Croat-majority cantons. Conversely, cantonal MUPs frequently complain about the negligence and/or undue political interference of the Federation MUP. A cantonal MUP official remonstrated to IPTF that no one from the Federation Ministry of Interior comes to arrest suspected criminals whose whereabouts have been established on its behalf.[7]

The jumbled structure of the police is compounded by discrepancies in legislation. For example, there are inconsistencies between cantonal laws on internal affairs and Federation criminal procedures, as well as between laws relating to identical crimes. The Federation has failed to make any serious legislative efforts to rationalise and restructure the relationships either between the Federation and the cantons or among the cantons. A draft law on internal affairs that aims to establish a clearer hierarchy of competencies has languished in parliament since 1998, blocked by deputies representing parties opposed to centralisation. Cantonal assemblies have likewise done their utmost to sabotage such measures. Nor have all OHR regional offices accorded a high enough priority to this legislation. As long as policing structures remain flawed, providing for too much latitude at the local level and too little accountability to the centre, international efforts to clamp down on party political influences on the police will remain unavailing. EUPM should make a start, however, by seeking to ensure obligatory, operational-level sharing of information between and among the entity and Brcko District forces. The implementation of simplified reporting procedures would help.

Coverage and Coordination

The Dayton Peace Accords (DPA) from 21 November of 1995 (Map 1.) stopped the war in Bosnia and Herzegovina, and all BiH political/security spheres entered, from the point of rebuilding, into the long term and complex process of stabilisation and functionality. With the Dayton Peace Agreement (DPA), Bosnia and Herzegovina is structured as no state in this world; it is the state with two/three political administrative parts, two entities – the Federation of BiH and Republica Srpska, and Brcko as a district.

So, in this complex political situation, Bosnia and Herzegovina managed to reform the security sector almost 100%. However, it is far from achieving functional implementation in the field. Under great pressure from the international community (represented by the Office of High Representative/ OHR), Bosnia and Herzegovina has established at the state level:

- Ministry of Defence   (A)
- Ministry of Security   (B)
- State Border Service   (C)
- Intelligence Agency (D)
- Agency for Investigation and Protection (E)
- The Ministry of Interior of BiH[8] is in the process of being established.

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[6] Internal UNMIBH memorandum, 10 January 2002

[7] Internal UNMIBH memorandum, 10 January 2002

[8] This part will be analysed in details in Part 2. Accountability

Bosnia and Herzegovina under the Dayton Peace Agreement
and the front lines at the end of 1995

Bosniac-Croat Federation (F)
Republika Srpska (RS)

——— Inter Entity Boundary Line (IEBL)

Serb
Bosniac } controlled territory
Croat
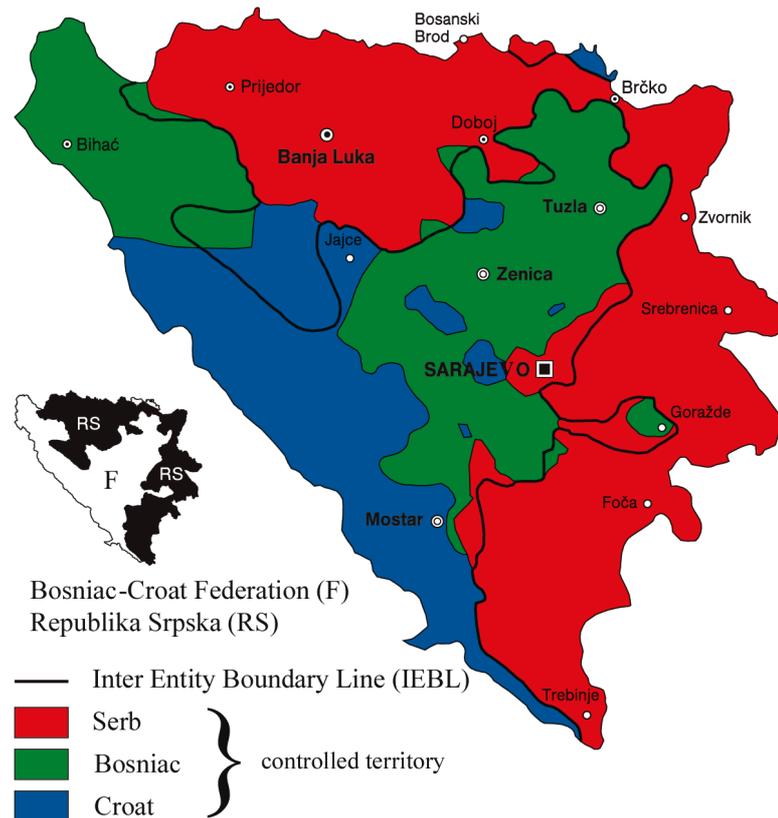
Map 1
(Political/Security/Administrative Shape of BiH)

Bosnia and Herzegovina currently has 15 criminal law enforcement agencies. For a state the size of BiH this represents an unsustainable and illogical approach to crime fighting.

1. State Border Service
2. Agency for Investigation and Protection
3. Federal Ministry of Internal Affairs BiH
4. 10 Cantonal Ministries of Internal Affairs (Federation of BiH)
5. Ministry of Internal Affairs of Republika Srpska

In this very complex and disordered political and security situation, which has undoubtedly served for the rise of criminality, the international community continuously pressured Bosnian politicians to reform and downsize military and police forces capacities. The last downsizing of the military forces established the newly-reformed *Bosnia and Herzegovina Army*[9] in accordance with NATO's Partnership for Peace (PfP) and EU standards. The question of police reform is much more complex and trickier to solve.

Police reform is possibly the last substantial policy issue that must be resolved before the international community can draw down its decade-long engagement. The EU has clearly stated

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[9] Official Gazette of Bosnia and Herzegovina 56/04

that it is a key precondition for Bosnia's negotiations on a Stabilisation and Association Agreement (SAA). It also appears to be an informal precondition for membership in NATO's PfP. If Bosnia is to be perceived as a functional state rather than a potential security risk requiring continued supervision, efficient police are a necessity. Until the current structures have been fundamentally reformed, the international community cannot seriously contemplate reducing either its mission in Bosnia or the powers of the Office of the High Representative (OHR).

All efforts at reform have failed, due almost entirely to obstruction by politicians in the Serb entity, the Republika Srpska (RS), which has an 'inefficient' police force in Bosnia - one that continues to protect and employ war criminals, resist refugee return and refuse cooperation with the International Criminal Tribunal for the Former Yugoslavia in The Hague (ICTY). RS politicians, with strong support from Belgrade, block reform as an infringement to 'sovereignty.'

Bosnia needed to approve a reform programme by 15 September 2005 in order to move forward on EU integration. Bosnia clearly missed that first opportunity, and the European Commission concluded that Bosnia failed to meet the requirements for commencing SAA negotiations.[10] However, the international community gave Bosnia another chance with very flexible deadlines. The country lost at least two years, because people and public opinion in Bosnia was preoccupied with the failed "Constitutional Changes" and the elections of October 2006. The international community and OHR need to take a strong and united stance in the face of RS and Belgrade obstruction and also revise the plan that is presently on the table to bring it into compliance with EU criteria. Attention likewise needs to be given to how any legislated police reform will be implemented. The mandate of the lacklustre European Union Police Mission (EUPM) expired at the end of 2005 and the EU clearly missed a chance to create a replacement mission with a more robust mandate that would help in finally developing police reform.

The BiH Constitution and relevant entity laws prevent police from crossing into the territory of a different entity. This hampers any serious efforts, whether from the Federation or RS, to launch an investigation or operation in another jurisdiction. While it would be inaccurate to say there is no cooperation between the fragmented entity police agencies, there is neither operational coordination nor an institutional framework for such cooperation. Organised crime, petty criminals and corrupt politicians regularly exploit Bosnia's fragmented police: numerous offences cannot be resolved, simply because criminals can skip across the entity boundary to the safety of another jurisdiction. Some criminals cooperate with or act under the protection of the police in their entity, particularly in RS, where persons indicted for war crimes by the Federation or the ICTY[11] have found refuge.

Attention to police reform has concentrated on technical issues. Bosnia's police have been given training to improve their skills, its police academies have received donations, and various organisations and individuals were certified by the UN agency responsible for the initial reforms - the International Police Task Force (IPTF) - in an often hasty procedure. However, the essence of the problem - political control - has largely been ignored. Especially in the RS, police still act according to the will of their political masters, particularly when it comes to war crimes.

Police in the Federation have demonstrated the ability to arrest and deliver those who have been indicted as war criminals, but they also face numerous problems. The Federation has a highly complex police organisation. Each of its ten cantons has an autonomous police ministry and laws regulating operations. The Interior Ministry at the Federation level is not superior to canton police. It has jurisdiction only in cases of terrorism, inter-cantonal and organised crime and cannot interfere in other matters.[12] In addition, there is an autonomous Brcko District police - a total of 13 distinct

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[10] The European Commission is scheduled to issue a report on Bosnia's readiness to begin Stabilisation and Association negotiations in October 2005.

[11] International Criminal Tribunal for Yugoslavia (ICTY)

[12] Law on Internal Affairs of Federation BiH 01/96, Article 2

forces employing some 19,000 people in a country of less than 4 million.[13] This fragmented structure consumes close to 10 per cent of the government's budget at Federation, RS, cantonal and state level, double the percentage of public expenditure dedicated to policing in the EU. yet crime continues to increase.

**Police Restructuring Commission
Map 9+1**
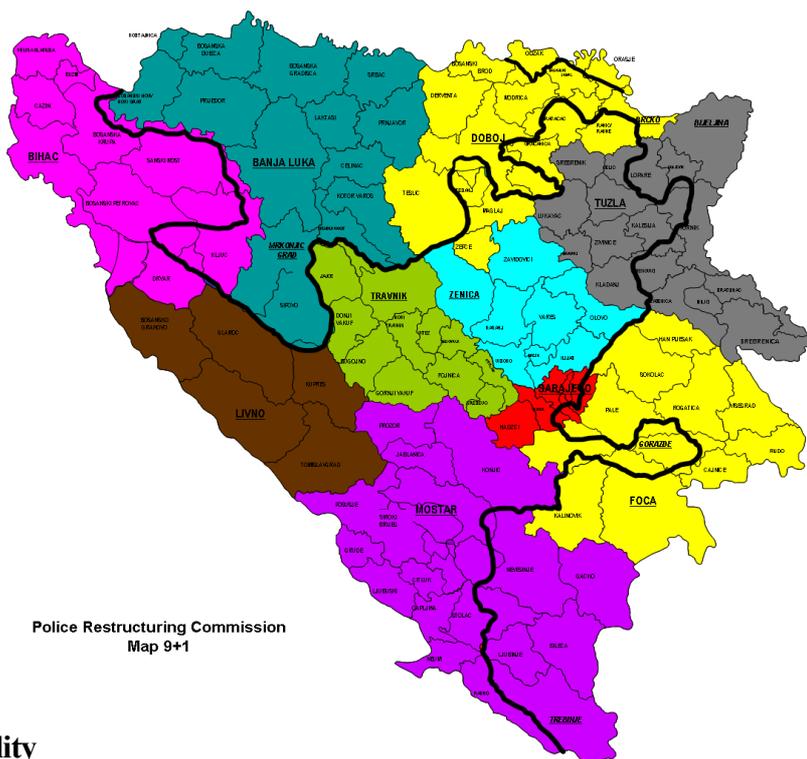
Accountability

Regarding accountability vis-a-vis the *legislature*, all police force services and agencies (15 of them – at Entity and State level) in Bosnia and Herzegovina are directly accountable to elected representatives through a designated committee set by EUPM mission director[14] in Bosnia and Herzegovina so the legislature's *formal or informal* powers in this connection are very small.

Should the OHR succeed in getting the RS to agree to police reform measures that meet the European Commission criteria, they would still have to be implemented. Annex 11 of the Dayton Peace Accords established the UN-led International Police Task Force (IPTF) to supervise Bosnia's police. While the IPTF had many image problems, it was a major force for change in the war-torn country, managing to halve police numbers, install training courses and begin to remove officers implicated in war and ethnically-related crimes. The IPTF's mandate expired at the end of 2002, and the EU established the European Police Mission (EUPM) as a follow-on agency with a three-year mandate (extended for two more years 'till 2007) to oversee police reform. In spite of the IPTF's successes, much has been done on the during the first EUPM mandate, primarily with regard to the structure of the police forces, their financing, and their relationship to the courts.[15] While the EUPM and OHR left the process to domestic police professionals (and politicians), the local police could not be counted on to enforce the law.

In this sense, regarding accountability in last six years, the system of IPTF and now EUPM

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[13] In addition, the RS and each of the ten cantons run separate court police services.

[14] Actually, it is Colonel Vicenzo Coppola, Italian representative in the EUPM

[15] For a full analysis of the IPTF, see Crisis Group Europe Report N°130, *Policing the Police in Bosnia: A Further Reform Agenda*, 10 May 2002.

certification did not enact many changes, but it has produced some tricky procedural cases for police officers and commissioner appointments.

To the media and society at large

All the media (print and broadcast media), and individual citizens, have right of access to state information about police work of all law enforcement agencies in BiH. This been secured in the Constitution and especially in the law on access to public information.[16] It can be judicially enforced.

Questions raised in the media are acknowledged by the authorities as the right of journalists to protect their sources and that has been secured and regulated throughout the State's Agency for the Protection of Information.

If an individual citizen believes that he/she has been improperly treated, there is an office and official Ombudsman empowered to receive and investigate complaints and correct abuses.

The quality of media coverage of the activities of the police force, internal security forces, security services and police agencies is at its highest level, due to the importance placed on the police reform process in Bosnia and Herzegovina. More then a dozen polls on public attitudes to security services and police agencies with reference to accountability have been conducted (ICG, CSS Sarajevo, etc.).

To codes and conventions

International codes and conventions that Bosnia and Herzegovina subscribe to:
- United Nations (e.g. 1979 UN Resolution: Code of Conduct for law-enforcing officers)
- Council of Europe (e.g. 1979 Council of Europe Declaration on the Police)
- OSCE (e.g. 1994 Code of Conduct on Politico-Military Aspects of Security)
- Europol (e.g. 1995 Europol Convention)
- Interpol (e.g. 1999 Interpol Seoul Declaration)
- European Convention on Human Rights

Throughout the EU's feasibility study, Bosnia and Herzegovina tries to fulfil the requirements of the EU, and most of the international obligations are respected due to the long term process of international oversight (IPTF and EUPM mission and its sanction measures - de-authorisation and screening).

International cooperation between security services and police agencies does affect the domestic accountability of Bosnia and Herzegovina forces and cooperation is at the highest level, so it is unlikely that extra-territorial operations can escape scrutiny.

Transparency

Domestic transparency: dimensions

When transparency is at stake, all of Bosnia's enumerated forces, services and agencies are obliged to make information available to elected representatives throughout parliamentary sub commissions

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[16] Official Gazette of Federation of BiH br.32/01

and commissions. Constitutional provisions and the EUPM mandate impose this obligation, and there are legislative provisions (for the agencies at State level, as well for the agencies at the Entity and cantonal level), and they state that for Intelligence Service of BIH there is *no* such obligation.

Information about the *organisation* of the different forces, services and agencies is available to the public and all relevant information is *public*. Such information is not subject to *privileged* access to selected persons (e.g. members of a specialist committee of the legislature or even a sub-committee or group of carefully chosen individuals). All information about the *personnel strength* of the different forces, services and agencies is also available and, if there is some breakdown of personnel or restriction or downsizing transparency is guaranteed.

Budget information is available and the material primarily contains details covering what money is spent *on* (inputs) and what the funds are used *for* (outputs). Transparency is guaranteed by the law on access to public information.

General information about the *nature of operations* that are, or will be, conducted is available. The material is not specific but it is more expressed in the most general terms and it is in public domain.

Information about the *strategic outlook* of the services under scrutiny and planning of the services is subject to privileged access but remains under the constant monitoring of EUPM mission programme officers. Confidentiality criteria and clauses apply only for information and documents protected by the law on protection of secret information.[17]

Regular *reports of activities* are published in the official gazettes of the respected agencies. EUPM publishes its own magazine[18] and monthly reports. All statistics about police force efficiency and capacities are made publicly available by service reports in the Entity or Cantonal Agencies on Statistics. Bosnia still does not have a State level statistic agency.

International Transparency

Bosnia subscribes to the following international codes and conventions which impose "transparency" obligations:

- United Nations (e.g. 1979 UN Resolution: Code of Conduct for law-enforcing officers)
- Council of Europe Police Code of Conduct
- OSCE (e.g. 1994 Code of Conduct on Politico-Military Aspects of Security)
- Europol (e.g. 1995 Europol Convention)
- Interpol (e.g. 1999 Interpol Seoul Declaration)
- European Convention on Human Rights
- EUPM mission mandate rules,

One can say that the authorities comply with such obligations. International cooperation between police forces, internal security forces, security services and police agencies affect domestic transparency positively, but until reform and precise legislation in this sector are established one cannot expect efficient transparency and genuine internal and external cooperation. Bosnia is a member and has its own coordinating police officer at the SECI Centre in Bucharest.

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[17] Official Gazette of Bosnia and Herzegovina 54 /05.
[18] ' Mag Mission,' www.eupm.org

Recent Changes 2004/5 and General Appeal

To the events of 11 September 2001

The events of 11 September 2001 have led to (declared) changes to "normal practice" so far as the transparency and accountability of police forces, security and intelligence services are concerned. Moreover, as part of the post-September 11 'war on terrorism', U.S. troops, operating independently of EUFOR, in 2004 captured and ordered the apprehension or custody of suspected terrorists. There is the well-known case of the 'Algerian group'[19] and in 2003 there was the apprehension of Sabahudin Fiulajanin[20] linked with 'war on terrorism.'

To police officers

At present, however, the police rarely scrutinise themselves; the judiciary prefers not to get involved, even if disciplinary proceedings call for it; and the public is drip-fed some information on scandals, but is generally kept in the dark. EUPM and ICITAP have helped to form local Professional Standards Units (PSUs), co-located in regional police stations, and have sought to develop uniform disciplinary practices in the Federation and Republika Srpska. With the guidance of ICITAP, the PSU chiefs have begun meeting regularly, exchanging information and experiences. New procedures for dealing with complaints against the police have also been designed to track all aspects of complaints and the subsequent actions.

Unfortunately, the PSUs and the disciplinary procedures they are intended to oversee continue to be ignored. For example, the author of this report was told of an occasion in Drvar when a judge was arrested by police officers after having called them in to assist her in executing a court-ordered eviction. When quizzed, the local police chief simply explained that the officers involved were 'young and inexperienced.' The PSU was not involved and no further action was taken in this blatant obstruction of property law implementation. PSUs and the disciplinary procedures continue to be vehicles for manipulating the police. PSU reports are often thrown away or not forwarded to prosecutors. Alternatively, the PSUs are not informed of cases that might fall within their jurisdiction. An American report notes, 'Although Ministers and Deputy Ministers are appointed by their governments and cannot officially be investigated by their PSU, they sometimes request the PSU to conduct an investigation of the allegations. When the determined facts do not exonerate the official, retaliatory actions might occur.'[21] According to an internal UNMIBH report, 'Based on the IPTF audit of the Canton 10 police internal control, the local police have submitted crime reports against seven former and three current Drvar police officers.'

Without IPTf and EUPM intervention, the cases would have been dropped. EUPM and the Human Right's Office are currently examining court and police records to identify police officers accused of crimes, but who have remained on the force. Again, this should have been done by the PSUs. In a review of the Doboj Basic Court's records alone, EUPM found that seven police officers had been indicted for crimes, but that no investigations or proceedings had taken place thereafter.[22]

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[19] Six BIH citizens (Algerian native) were apprehended and handed over to US military forces on 18 January of 2002., Voice of America , http://www.voanews.com/bosnian/archive/2002-01/a-2002-01-18-5-1.cfm

[20] Arrested in the village Gornja Maoča near the city of Tuzla on 20 November by US military forces allocated in Bosnia in SFOR mission, http://www.nato.int/sfor/trans/2003/t030102a.htm

[21] Internal US report, June 2001.

[22] Internal UNMIBH report 2001.

On the other hand, PSUs are also frequently overburdened with cases that do not fall within their remit in order to distract them or, indeed, to use them for political or other nefarious purposes. For example, the PSU in the Federation MUP is sometimes asked to investigate infractions committed in the cantons that do not lie within its jurisdiction.

While Dayton implementation continues and international organisations retain their right to intervene and impose, neither the Bosnian state nor its citizens enjoy the complete range of legal protections that would or should be available in a fully-fledged democracy. It is DPA implementation itself that will ultimately make this possible – and one vital aspect of that implementation is purging the police of bullies, crooks, incompetents, and war criminals.

The Specificities of Oversight and Guidance

The role of the Parliament in endorsing police policy decisions is restricted. The Parliament is allowed to make amendments only in consent with the executive powers, and all amendments with consent need to be approved by the EUPM mission and, in some cases, by the Office of the High Representative (OHR).

The Parliament has an independent body/staff of experts working on police matters solely for the parliamentary commissions that are monitored by OHR. Some members of the Parliament try to follow party or coalition lines in deciding on police matters.

Bosnia and Herzegovina does not have a National Security and Defence Council due to the reform process problem.

The role of Prime Minister in formulating and endorsing policy decisions is merely assertive, and in coordination with the EUPM mission. Due to the EUPM mission, most of the policies pass through the parliamentary assembly and presidency in a declarative form during the adjustment process of the legislation and reform process.

As stated previously, when a strategic document on police policy is issued for endorsement, there is a complex process of legal and customary provisions for formal guidance from a higher authority. That is also one crucial reason for functional police reform under the EUPM. Main topics addressed in that guidance for police reform are threat assessment, different national ethnic objectives, and intended level of ambition for the size and the structure of the police and armed forces needed to accomplish strategic missions. The funding of the both the police system and the general government procurement system are transparent for industry, business and the public. International contacts and cooperation are conducted at the highest possible level due to the previous missions of IPTF and the current EUPM missions.

One can say that the main sources of knowledge used by the government authorities for fulfilling their obligations in the formulation of national police policies are respected professional experiences and domestic and regional literature researched at the Faculties of Law and Criminal Justice Sciences at the University of Sarajevo.

When national literature on the theory of governance and related well-established practical mechanisms are at stake a great deal of literature is produced. The following represents just a few important references:

> - Masleša Ramo, *'Organisation and Functioning of The Police,'* Faculty of Criminal Justice Sciences University of Sarajevo, Sarajevo 1999,ISBN: 9958-613-08-5;
> - Abazović Mirsad, *'National Security*, ' Faculty of Criminal Justice

Research institutes on police matters in Bosnia and Herzegovina exist, and the State has several public and private institutes. They are, at the core, focused on law enforcement issues but they also deal with parliamentary oversight and international questions on security sector reform in Bosnia and Herzegovina and the Western Balkans region (such as CSS BIH - Centre for Security Studies BIH).

Public institutes belong to academic organisations whereas private institutes are independent. Private institutes are economically dependent on public funding in part, and private institutes are of a more general scope (security, international relations, transparency, etc.) but occasionally they cover defence issues. The main products of these institutes are research and occasional papers, as well as national and international conferences on police matters.

The relevancy of the institute's products:

    a.   The oversight commissions contract independent research on police to both public and private institutes.

    b.   The public debates on police policy make reference to the work of research institutes.

There are officially and privately commissioned surveys on police issues, the results of which are published on the media.

Police Institutions within the Security Sector

1.   The existing policies within the police sector enjoy a specific status because of the reform process. This is reflected by the whole security situation, and process is ongoing. Several of the ongoing policies are emphasised below.

Table 2 – Structure of Decision Making on Police Policy

Topic of Document	Title of Document	Issuing Authority	Endorsing Authority	Frequency	Status
				Time span	
Police Planning	Law on Internal Affairs of Federation BiH, 01/96	Parliament of Federation of BiH	Government FBiH-Ministry of Internal Affairs of Federation of BiH		
Personnel policy	Law about police Officers of the Federation of BiH, 28/05	Parliament of Federation of BiH			
Police Education	Police Academy and Faculty of Criminal Justice Sciences University of Sarajevo	Ministry of Internal Affairs of Federation of BiH and University of Sarajevo	Government FBiH		

Topic of Document	Title of Document	Issuing Authority	Endorsing Authority	Frequency	Status
				Time span	
Public information policy	Law about access to public information 32/01	Ministry of Civil Affairs of FBiH	Government FBiH		
International Cooperation	EUPM mission mandate	European Commission	Office of High Representative in BiH	2007	Active

2.   All policy documents are published for internal distribution. Members of the public may obtain a copy of all policy documents upon written request.
i.   Approval is granted by default.
ii.   The applicant must pay a fee for copy above 40 pages.
Members of the public may obtain a copy of all policy documents.
iii.   There is a list of policy documents that may be released to the public. The list is made public.
Participation and consultancy in the drafting of defence policies:
a.   The authorised divisions within the relevant Ministry.
b.   Experts from the research institutes.
c.   Faculty members of education institutions.
d.   Independent research institutions.
e.   Foreign advisors.
3.   The process of establishing objectives for strategies, policies and directives within the police sector is based on the following sources:
a.   Policy documents at national level, such as the National Security Strategy[23]
b.   Internal assessment of national values, interests and requirements.
c.   Conclusions and recommendations from research reports.
d.   Theoretical national and international literature.
e.   Similar documents published in other nations' defence establishment.
f.   Advice and recommendation from international or bilateral experts.
4.   The process of assessing security risks and threats mentioned in strategies, policies and directives within the defence sector is based on the following sources:
a.   Assessment made on policy documents at national level, such as the National Security Strategy.
b.   Assessments published by international organisations such as OSCE, UN, EU or NATO.
c.   Internal assessment.
d.   Independent research reports.
e.   Assessment made on similar documents published in other nations' defence/ security/police establishments.
f.   Assessment made by international or bilateral experts.

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[23] Bosnia has national strategies for the Entities, but still lack a State Level National Strategy

5. A debate on police requirements (such as forces, equipments or resources):
   a. There is an internal debate on the direction of police reform BIH[24] and the results are forwarded to the political decision-makers and OHR.
   b. There is an internal debate at the service level and the results are forwarded to the political decision-makers.
   c. There is an internal debate at the service level with civil servants inputs.
   d. There is an internal debate at the political level with military inputs.
   e. There is a debate on defence requirements with other security sector agencies.
   f. There is a public debate on requirements.
6. The main organisational documents governing police structures are:
   a. Organisational charts approved by the higher instances (Parliamentary and OHR).
   b. Mission statements for each structure.
   c. Job descriptions for commanding officers and their staffs.
   d. Standing operating procedures for each structure.
   e. Unified regulations for each service.
7. Bosnia has a police planning system in place. It can be described in the following way as:
   a. A planning, programming, budgeting and evaluation system at different administrative levels (Canton, Entities, State).
   b. A resource allocation system is not in place, due to events in the past.
8. The police planning system is organised according to departmental and service programmes. Planners have most of the necessary information about each programme in order to perform their tasks.
   g. Each programme is decided in light of existing police policy.
   h. All programmes are listed with their order of priority.
   i. Each decision maker issues guidance comprising his/her intentions.
   j. The description of the end state of each programme is available.
   k. The costs of each programme are set up front.
   l. The medium-term framework is set.
   m. The spending allocations are within the multi-annual budget.
9. Bosnia has a regulated requirement for defence planners to develop planning assumptions, recommendations and alternatives for the commanding officer or civilian dignitary before they decide on a certain course of action.
10. When a description of the composition of the corps of police planners is at stake, one can say that they are mostly civil servant experts.

Conclusion

The specificities of Bosnia's national police system are a representation of all the problems that a war-torn country in its long term process of rebuilding and reconstructing can expect to have. Bosnia and Herzegovina currently has 15 criminal law enforcement agencies. For a state the size of BiH, this represents an unsustainable and illogical approach to crime fighting. A functional review of policing conducted by the European Commission in June 2004 found BiH's police forces to be divided, over-staffed, and unable to operate across the country. This was subsequently confirmed by the Police Restructuring Commission itself, which described the current policing system in BiH as too complicated, too expensive, and ineffective in combating crime. Police restructuring represents a means of overcoming systemic deficiencies in the organisation of policing in BiH. It provides a means of achieving European best practice in an effective and efficient police service for BiH citizens.

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[24] Established by OHR

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9. "Law on State Border Service," Official Gazette of Bosnia and Herzegovina (18/00) as well as in the Official Gazettes of both Entities on 13 January 2000.
10. EUPM/s Reports 2000-2005.

Appendix

Glossary of Abbreviations and Acronyms

BIH/BiH	Bosnia and Herzegovina
DPA	Dayton Peace Accords
EU	European Union
EUFOR	European Union Force in Bosnia and Herzegovina
EUPM	EU Police Mission
EU IMMPACT	Educational team of EU
FBiH	Federation of Bosnia and Herzegovina
ICTY	International Criminal Tribunal for the Former Yugoslavia
IEBL	Inter Entity Boundary Line
IPTF	International Police Task Force
NATO	North Atlantic Treaty Organisation
OHR	Office of the High Representative
OSCE	Organisation for Security and Cooperation in Europe
PfP	NATO's Partnership for Peace
PIC	Peace Implementation Council
PRC	Police Restructuring Commission
PSU	Police Station Units
RS	Republika Srpska
SAA	Stabilisation and Association Agreement
SBS	State Border Service
SDS	Serbian Democratic Party, the leading party in the RS, originally led by Radovan Karadzic
SIPA	State Investigation and Protection Agency
UK	United Kingdom
US	United States
UN	United Nations

POLICE REFORM IN MACEDONIA

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Introduction

When the Republic of Macedonia proclaimed independence after a successful referendum on 8 September 1990, and security forces and territorial defence units assumed responsibility for protecting the state border, the process of institution building and security sector formation was initiated. The new Constitution of 1991 and the Defence Law, adopted as the first legal act by the Parliament, provided a normative basis for establishing a national defence system and core defence sector actors. Following some external and internal signs of instability, the defence system was considered a priority for the Macedonian Government in the process of state building. Contesting visions and the sometimes hostile attitudes of neighbouring countries were the first signals that the international positioning of the new state would not be an easy process. The dispute over the country's name with its southern neighbour additionally complicated and prolonged official recognition and membership into international institutions. On another level, the internal political processes that were to focus on democratic institution building were based on ethnic rather than ideological policy orientations. As a consequence, major divisions appeared between the ethnic Macedonian majority and ethnic Albanian minority, apart from the fact that all Macedonian governments were coalition governments. In such conditions, the Macedonian police and the Army, given their initial autonomous roles in the newly sovereign state, faced a difficult task: to support and facilitate the process of institution and state building.

Peaceful dissolution and transition towards parliamentarian democracy were of utmost interest for Macedonia and also for the international community. The complex situation and violent ethnic conflicts in the former Yugoslavia threatened to endanger the fragile stability and security of the country; this marked the beginning of international involvement in Macedonia. After the OSCE monitoring mission, the UN approved a preventive deployment mission called UNPROFOR-UNPREDEP in order to monitor and inform on events that might endanger the stability and security of the country. In this way, Macedonia has become a recipient of preventive mechanisms in the monitoring of the northern and western border areas. The international presence was successful during the Kosovo intervention in 1999 while Macedonia became a ground for refugees and international forces supporting the intervention. The contagious effects of the Kosovo crisis undermined the previous preventive efforts in Macedonia and the political situation deteriorated under the pressure of ethnic divisions and increased criminal activities, illegal arms transfer and cross border extremist group activities.

In unfavourable regional circumstances, after involving itself in the PfP, EAPC and other NATO mechanisms for cooperation and transformation according to NATO standards, Macedonia presented its first MAP in 1999. While substantial defence reforms were scheduled to begin there were no intentions or signals of similar processes of reform for the police. The Stability Pact for SEE created a general framework for more comprehensive regional preventive efforts within its framework of developing projects for addressing specific security issues.

On 23 February 2001, Macedonia and the FRY signed an agreement on the placement and description of the border, which was later ratified by both Parliaments. The Agreement was lodged

with the UN Headquarters thus finalising the border issue by establishing an internationally recognised border. Soon after signing the agreement, Macedonia was involved in a six-month armed conflict that was initiated by armed attacks on the Macedonian security forces. The former UCK and later NLA fighters challenged the preparedness of the police forces and the entire defence system to manage the crisis and prevent an overall armed conflict. The hostilities were terminated under the international mediation and signing of the Framework Agreement (13 August 2001) that set provisions for removing the immediate conflict potential. The Agreement provisions were transformed into amendments to the Constitution thus reshaping inter-ethnic relations and introducing power-sharing arrangements. The implementation was supported by the NATO missions Amber Fox (disarmament of former combatants) and Essential Harvest (protection of EU and OSCE monitors), the EU Crisis Management Operation Concordia and the Police Mission Proxima.

Full implementation of the provisions of the OFA was the precondition for Macedonia to receive a positive answer to its application as a candidate country for EU membership. In line with the post-conflict peace building strategy, the Macedonian Police were to be transformed so as to provide fulfilment of the democratic policing criteria. The five year period after signing the Stabilisation and Association Agreement was to be a period of the most intensive reforms in Macedonia in general and of the security sector in particular. Obligated by the SAA and committed to fulfil the Copenhagen Criteria for EU membership, the Macedonian Government adopted the National Strategy for Integration into the EU in order to strengthen the reform processes and set priorities. Reforms in Justice and Home Affairs and the priorities for implementation of specific tasks were an integral part of the National Strategy.[1]

The concept of integrated border management (IBM) is in the initial phase of realisation. The National Strategy for Integrated Border Management (NSIBM) was adopted by the Government in October 2003.

SSR in Macedonia: A Long Way Ahead

The process of security sector reform (SSR) was more or less an obvious characteristic for a significant number of western democracies as well as a growing number of SEE democracies and would-be NATO and EU members. The motives for profound and significant transformation and reform have arisen from the intention to strengthen and protect the zone of freedom, democracy and security while for some of the other participants, SSR processes are more significant as part of a policy and an instrument for recovering and restructuring security institutions from deep security/ military crises or armed conflict. Generally speaking, new and/or modified security risks and challenges which have created the common perception of increased vulnerability have also contributed to the shared perception that security challenges are demonstrating contagious cross-border effects thus eroding the overall sense of security. The year of 2001 and the succeeding terrorist attacks were among the critical events that increased and multiplied national and international efforts to transform security policies and reform defence missions and capabilities. As a concept, SSR represented one of the core instruments targeted to overcome misbalanced relations between malformed security threats and risks and post-cold war security/defence capabilities. Across different spectrum of motives, nations and their security actors are searching for the space, tools and instruments that will support their newly-recognised security role and particular national interests, and provide them with more security. Most of them were trying to find the most advanced position within the changing security relations. While in the early 1990s the core goal of SSR for the Central European countries

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[1] National Strategy for Membership into EU, July 2004; available at www.http//:vlada.gov.mk

and now NATO members was to overcome the insecurity that was produced by unbalanced civil-military relations, democratic control over the military or over numbered and heavily equipped armies, within the complex ethnic-conflict environment of South East Europe, post-conflict reconstruction and reform became the priority for most of the SEE countries.

It was rightly pointed out by Mr. Haltiner that the political culture of a nation determines its civil military-relations.[2] This conclusion becomes evident especially during the transitional and reform processes of the WB countries. Even more, most of them demonstrated that SSR should be accepted as a serious, complex and demanding process; they all demonstrated different levels of acceptance of the reforms, some specific understanding of the content and goals of the reforms and finally the importance of reform for the democratic process. Defence reforms undertaken in any WB country have gained distinctive support and characteristics framed primarily by political will, a capacity for civil-military cooperation, social development and the economy, and finally by public support for reform.[3] Politically guided by the imperative of NATO membership and widely shared expectations for increased security, SSR, subjected to continuous evaluation, comprises of information on more or less successful policy and analytical reports.

Compared to the experiences of other countries, SSR in Macedonia is more or less specific: it follows the core guiding principles and directions of the concept, while accommodating the process in terms of security and defence system specifics. SSR provisionally followed the country's gaining of independence in 1991 and its reinforcement in 2001. While some concerns were expressed over the issue of whether the process from 1991-2001 was more one of security sector build-up than SSR, it was obvious that the reform process in Macedonia became a serious and comprehensive priority especially after 2001.[4] In this regard, the misleading viewpoint actually prevailed due to vague and divergent definitions of the security sector. For a decade after independence, limited attention was paid to the much broader security spectre of challenges, needs and actors in Macedonia. The crowded security sector, as it was described by Vankovska, consisted of at least two main security guarantees (the Macedonian Army and Police) encircled by a number of different international missions, depending on the circumstances. Up until 2001, these formal force bearing security sector actors were the most obvious and exposed parts of the sector while the issues concerning the intelligence community sporadically appeared on the agenda. However, the need for reform and re-shaping of the security sector, following the principles of civilian and democratic control over the military, transparency and accountability, was wholly apparent.

The reform process was initially reassessed when Macedonia started accomplishing one of its core security policy priorities - inclusion into collective defence and security systems. The Macedonian Parliament voted for NATO membership in December 1993. This should be highlighted as the first expression of political consensus and official institutional support for the process of security sector integration. While this decision marked the country's symbolic commitment to the process of defence reform as a precondition for NATO membership (or at least the need for reform was recognised), Macedonia remained trapped in the complexities of regional conflict. The process of reforms, frequently exposed to various crisis situations (regional and internal), was recognised predominantly

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[2] See Haltiner K: Swiss Security Sector: Structure, Control, Reforms; in Georgieva L (ed): The Challenges for the SSRs in Macedonia; DCAF& Institute for Defence and Peace Studies; Makedonska riznica, Skopje 2003

[3] See Caparini, M.: Transforming Police in Central and Eastern Europe: *Process and Progress* (Lit Verlag, 2004) available at http://www.dcaf.ch/_docs/tranf_police/Introduction.pdf.

[4] See Georgieva, L. (ed): The Challenges for the SSRs in Macedonia; DCAF& Institute for Defence and Peace Studies; Makedonska riznica, Skopje 2003

as a military and defence sector matter.[5] The reforms of the military preceded the reforms of the police and other constituents of the security sector. Additionally, newly established institutions were filling the deficiencies at the same time as internal political/security or ethnic crises; it was typical to perceive that there was more confusion than success in the reform process. Still, public expectations regarding SSR as a precondition for NATO and EU membership remained high.

The 2001 armed conflict between the NLA and Macedonian security forces destroyed all preventive measures undertaken within and around Macedonia and additionally undermined previous reform efforts.[6] The signing of the Stabilisation and Association Agreement (SAA) in 2001 created new impetus for more comprehensive reforms within Macedonia's multiethnic society and more intensive reforms in the security sector field were initiated. Since the signing of the SAA, the EU's focus of assistance has shifted from physical reconstruction to support for wider reforms. Under the EU Stabilisation and Association Process (SAP), other international programmes (the Stability Pact and the OSCE) have focused on strengthening peace building efforts. These initiatives have put the reform process on the right track again. Otherwise, Macedonia faced the threat of entering deep crisis with enormous consequences.

In fact, the complexity of the process of reforms was additionally shaped and specified by the signing of the Ohrid Framework Agreement (OFA), an act that formally put an end to the six-month armed conflict in 2001. It introduced specific post-conflict peace building policies aimed at the rebuilding of security and interethnic confidence, as well as the stability that was destroyed by the armed conflict. Both SAA and OFA provided the guiding framework for the reform process primarily in the sphere of the rule of law, independence of the judiciary, anti-corruption measures, police reform and border security management.[7] This was considered as an essential framework to support and strengthen the necessary process of institution and capacity building, democratic reforms, strengthening the rule of law and economic recovery. Under the CARDS programme, a significant number of projects in the field of Home and Justice Affairs were developed in the fields of economic and social development, democratic stabilisation, the environment and natural resources and administrative capacity building. The sector of JHA is aiming at supporting reforms in the legal system, the judiciary, the police and IBM. It is building the country's capacity to deal with organised crime and human trafficking and developing asylum and migration policies, legislation and proper law enforcement.

The Republic of Macedonia's application for EU membership overcomes, in a way, the psychological obstacles perceived by the broader public which determine that reforms are an everlasting process, the progress of which is hardly measurable. The Analytical Report for Opinion on the application for EU membership, positive Avis and the candidate status of November 2005, improved Macedonia's capacity to take on the obligations that came out of membership, which were identified as priorities in the 2005 European partnership. The new instrument for financial assistance, the Instrument for Pre-Accession (IPA) should further strengthen the reform process in general, particularly in the sphere of the HJA.

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[5] The way out of the position of complete recipient of international institution security mechanisms during the violent dissolution of the former Yugoslavia Macedonia tracked through PfP and participation in NATO programs that were developed for the countries of Central and South East Europe.5 Starting as a beneficiary of the PfP function of the inclusive system of confidence-building, mutual understanding, consultation, communication and information exchange; in order to provide transparency in security and defence affairs, Macedonia continuously maintained its active security and defence policy through the instruments of PARP, IPP and MAP.

[6] See: A. Ackerman: The Idea and Practice in Conflict Prevention; JPR; May 2003; 40: 339-347

[7] See regional Strategy Paper 2002-2006, European Commission, External Relations Directorate General, Directorate Western Balkans

Normative Issues in the Defence and Security System and Policy

Under pressure to avoid eventual violent dissolution, the Constitution of the Republic of Macedonia that was adopted on 17 November 1991, immediately following the referendum for independence, normatively determined the political system of the country as a parliamentary democracy. The new Constitutional act followed after vague weighing between the previously demonstrated democratic inexperience of the society and its intentions to legitimise commitment to western democratic standards and fundamental human rights and freedoms. The Constitution, following the separation of power principle, determines the position of the Parliament as a core institution in the legislative branch. This position is strengthened because only the Parliament holds the power for self-dissolution. With respect to the executive branch, the Constitution divides the executive power between the Government and the President of the Republic. Following the constitutional norms, experts view the relations between the legislative and executive branch, or even within them, as a frame for exercising power, more dependent on the current political situation than on the provisions of the constitutional model.

In practice, it appears that relations between the executive and legislative branch are sometimes vague and competitive while the process of policy and decision–making is being practiced. Such situations are possible due to the vague constitutional relations between the Government and the President, but also when the relation between the President and the Parliament are in question. In accordance with the Constitution, the Parliament has significant political and legislative power and decides on war and peace. The Defence Law more specifically determines its role in defence and security matters.

According to the Macedonian Constitution, the President holds significant competences and this position is not only titular unless otherwise determined by the Constitution.[8] His/her political legitimacy derives from the general electorate and his/her competences are independent from other institutions of the political system. Only the Constitutional Court is authorised to decide on the President's accountability and only if two-thirds of the Parliamentarian majority support the procedure. The President and the legislature (the Parliament) therefore hold a specific position since the former is in a position to veto the adoption of laws. The President's position regarding foreign policy, as well as regarding electoral function, is also significant. His/her position in the defence sphere is also significant as he/she holds the position of supreme commander of the armed forces both in peace and war time. The competences of the supreme commander during war time or emergency are even more important because he/she is in a position to appoint or discharge the Government and its officials. With respect to the question of how this is to be transferred into a practical procedure, the Constitution is delegating to the Defence Law an obligation to determine the position of the President, the Ministry of Defence and the General Staff. The President also appoints and dismisses generals and the Chiefs of Staff of the ARM.

The Constitution determines the role of the Government in the Macedonian parliamentary system but there are no specific provisions on democratic control of the armed forces. Regular functions of the Government apply to the defence sector as well and the Defence Law should specify the relations among the executive, the President and the Government. This was the contesting question because according to the Defence Law, the President holds a more powerful position but, in practice, cooperation and coordination between the two is necessary, especially in relation to defence plans and strategies. Another sensitive issue was the position of the General Staff. The Chief of Staff appointed by the President is accountable both to him/her and to the Government.

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[8] The Constitution of the Republic of Macedonia, art.79-87

According to the Constitution, ministers at the Ministry of Defence and the Ministry of Interior should be civilians for three years before assuming positions in the respective ministries. The Constitution secures civilian and democratic control over both ministries and makes them accountable to the Government while the Government is collectively and individually accountable to the Parliament. Ministries are responsible for the implementation of national security policies.

The whole issue of normative ambiguity emerging from the constitutional provisions reflects on the security and defence sphere as well. Accordingly, relations among the legislative and executive branch as well as between executive subjects (Parliament, President, Government, ministries) determines the situation that is influencing the state of affairs in security sector formation.

In terms of security and defence issues, the responsibilities of both subjects (legislative and executive) according to constitutional decision-making have been perceived as vague by a part of the expert community. This situation could be overcome by the development of specific and clearly defined relations among security sector actors. Once the Constitution has defined the core parliamentary actors it delegates security and defence issues to the Defence Law and the Law on Police. While the Constitution determines relations between the legislative and executive branch in the security and defence sphere, the Defence Law of February 1992 and the new Defence Law of May 2001 is expected to provide greater clarity of the institutional relations among security sector actors and to strengthen the principle of civil supremacy over the military.[9] Some of the key issues previously recognised as critical in relation to the legislative and the executive, specifically relate to the issue of exercising parliamentary control over the security sector and between the executive parties (Government and President) in their primary role during crisis situations as well as in the coordination of the police and the Army. The 2001 crisis and the complex post-conflict environment continued to bring attention to these contentious issues. There is also the issue of policing and the role of the police in a democratic society. While the Constitution guarantees fundamental human rights and freedoms, in the sphere of law enforcement the police is the main actor and vital force bearing instrument in ensuring public safety. The Law on Police adopted in 1993 (and the amendments adopted in 2002, 2003 and 2004) determines the policing function, the position of the Ministry of Interior and the police.

The development and functioning of the public security sector after independence was also questioned but, it should be mentioned, with less political enthusiasm and attention than the defence sector. Police reforms were deemed necessary for a number of reasons. The most obvious expression of the organisation's shortcomings related to the politicisation of police functions. Public confidence and trust in the police was significantly eroded during the 2001 crisis not only because of its functioning and the behaviour of its personnel but also because of the lack of representation of certain ethnic communities in the force. The depth of these problems was evident before and during the crisis. While many believed that external threats represented the main challenge to the stability and security of the country, the significance of internal insecurity and regional problems, such as the trafficking of small arms and light weapons, human trafficking, organised crime and refugees eroded any likelihood

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[9] The Defence Law of May 2001 intentionally more specifically defined the role of the Defence Ministry, the mission of the Armed Forces and the role of the General Staff. While it appeared that civil military relations and civilian control over the military has been accepted as a primary principle other issues questioning the role of the executive branch, especially the Parliament in practicing democratic control over the security sector, its active role in creating national security policy, or the questions of accountability and transparency were not addressed.

of internal stability. It became evident that these internal and external factors were simultaneously contributing to potential conflict and immediate improvements in policing were therefore necessary.

SSR: Introducing Police Reforms

The historical background of Macedonia's security affairs and implicit political consensus regarding EU membership greatly influence the country's current status and play a role in determining its future activities. Moreover, these developments mark the ending of the post-conflict peace building and stabilisation phase and the beginning of functional democracy with the effective completion of security and defence sector reform. Reforms in the defence sector started at the same time as Macedonia's participation in NATO programmes. Prior to 2001, the reform process yielded some positive effects. However, it was obvious (or it became obvious after the NATO summit in Prague) that certain commitments were yet to be realised if the option of membership was to remain open.

Police reform appeared on the security agenda only after the armed conflict in 2001 when an urgent need for involving the police in a post-conflict peace building settlement was both recognised and prioritised. After the process of demobilisation and disarmament was finalised in the aftermath of the amnesty of former NLA fighters (although international representatives were more satisfied with the results of disarmament than the Macedonian public and certain experts) a Rapid Reaction Mechanism and ECJNAT team under the European Commission was established and a Strategy for Police Reforms was drafted. At the same time, the police had to cope with the more immediate issue of rebuilding trust among the local population in the former crisis regions, dismissing the paramilitary-police units which had been created during the conflict and reversing a militarised police culture.[10] The concept of community policing was implemented with the main goal of trust building among the multiethnic police units and the local population with the support of international monitors. This was a highly sensitive and extremely difficult process that also implicitly confirmed the urgent need for change if the police force was going to accomplish its basic function.

Compared to the defence reforms that were closer to restructuring and capacity building, the police reforms were a more difficult and challenging task. The traditional, structured, functional but highly centralised police structure was in question. Nonetheless, reform of the police was as a necessary process and it was inaugurated with the:

- Implementation of the provisions of the Framework Agreement and introduction of the principle of decentralisation and equal representation of minority communities in the police structures;
- Development of a clear division of functions between the police and the defence sector and
- Improvement of the policing function, its preventive role and efficient management of internal security threats.

According to the provisions of the Framework Agreement, the process of decentralisation and the transfer of competences from the central to the local community level will contribute to a more responsible local government and to the security of the local community. According to the Law on Self-Government, the Municipal Council adopts the municipal annual public security report and submits it to the Minister of Interior and the Ombudsman. If necessary, the Council provides

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[10] T. Stojanovski: Reformite na policijata vo Makedonija: Pretpostavki za efikasnost i prevencija; Stojanovski T.: Police Reforms in Macedonia: Preconditions for efficiency and prevention; in Georgieva, L.(ed):Conflict Prevention: From Idea towards Culture of Conflict Prevention; FES, 2004 PP.197-208

recommendations for the Territorial Police Services.[11] The Council also decides on the election of the local police department commander taking into account the MoI's proposal. This allows for closer cooperation in the local community and reinforces the community's control over local police activities. At the same time, it increases awareness of public security issues and, at some point, makes the police accountable for the local security situation.

The necessity to clearly divide the functions of the police from those of the military has been another priority task in the area of police reform. In 2001, the police and the Army faced a difficult task and were involved in armed confrontation with the NLA insurgents. A confusing situation developed over issues of control and command. Excessive coordination and cooperation between the police and the military appeared to be more than incidental. Thus, defining a more specific and coordinated role has been necessary.

Improvement of the policing function as a task does not imply reforms for improved policing alone. It also means that the principle of prevention will significantly contribute to more efficient policing. The prevention of crime and illegal trade and human trafficking, arms smuggling and transfer means that the police have had to assume a more proactive role in protecting public law and order and providing for the safety of people and property.

Given the fact that the aforementioned challenges are common threats and are prioritised on the security agendas of the countries in the region, the issue of border control and the prevention of any overlap, in terms of the effects of these challenges, is of real concern. In the case of Macedonia, the issue of effective border control is not new but it has been subordinated. As stated above, the Macedonian Army was responsible for border management and the country's borders were among the last in the region to remain under the control of the Army. In this case, the issue of border management is not only about the effective administration of borders but also about significant SSR, the transfer of competencies from the MoD to the MoI and the establishment of completely new structures within the MoI, namely the Border Security Service. The issue of border management was included in the Strategy for Police Reform (PRS) that was adopted by the Government on 11 August 2003. At a later point, the Strategic Steering Group of the Police Reforms Process verified the Action Plan for implementation of the Police Reform Process and set the platform of objectives, implementation concept, financial implications, laws and bylaws necessary for implementation of the reforms.

The Inter-Ministerial Working Group, which was established by the Government, developed the National Strategy for Integrated Border Management (NSIBM). It was adopted by the Government on 22 December 2003.[12] The Action Plan defines specific activities and the timeframe in relation to task implementation, the responsible ministries or agencies, required resources and potential risks and conditions.[13]

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[11] Law on Self-Government, Official Gazette, No.5 2002; art.36

[12] Ohrid Regional Conference on Border Security and Management (May 2003) through Way Forward Document identified IBM as a long-term overarching objective of the Western Balkans countries. Common short-term objectives and country specific measures were also defined. Three aspects (trade facilitation, border control and border region cooperation) of the process are internationally supported by the EU (CARDS regional programme; NATO (MAP and PfP; PARP); OSCE (training, advice and Regional Border Police Joint Training Programme); EAR; DCAF; Stability Pact (MARRI).

[13] The basis for drafting the NSIBM and the Action Plan for IBM is EU Schengen Catalogue, External Border Control; Removals and Readmissions: Recommendations and Best Practices.

Conceptual and Normative Overview of the Police Reforms

For obvious reasons, the introduction and implementation of the concept of Integrated Border Management (IBM) as a component of SSR was extended and shaped within the broader process of police reform. It seems necessary to discuss the functional and organisational changes as well as the recent challenges to the police reform process before outlining the components and functions of the IBM strategy and the Action Plan. The broader framework for both (the police reforms and the IBM strategy) is the National Security and Defence Concept (NSDC). As a first concept related to the country's security and defence policy, the NSDC was adopted by the Government and the Parliament in February 2003. The Parliament also adopted the new Law on Crisis Management. Certain aspects of cooperation and coordination among the police and the military in the case of emergency and crisis situations were also clarified.

During the procedure of drafting the document and later in public debates there were some divergent opinions expressed about the National Security and Defence Concept, especially in relation to the theoretical understanding of the key categories, basic interests and security risks and threats. It was evident that the political and expert communities shared different opinions on certain topics of the document. The final document, which was adopted by the Parliament, received stronger political legitimacy and it was subsequently used as a basis for the adoption of the Law on Crisis Management. In the area of security and defence, national security policy in general and security policy in particular, the NSDC is the basic document of the Republic of Macedonia. The development of a border service capable of efficiently controlling the border and the border zone is one of the measures defined within the objectives and guidelines for pursuing national security policy. The NSDC is more specific regarding internal security policy, which is directed towards the protection and improvement of national interests, resolution of risks and threats to the democratic order as defined by the Constitution, and human rights and freedoms. Identifying terrorism, organised crime, illegal migration and the illegal trade of drugs, weapons, people and strategic material is an essentially complex task. The objective of security policy is to organise efficient border police and to develop joint operational procedures with the armed forces, especially in the fight against terrorism and establishment of effective border security.[14] In terms of the country's internal security priority, a key priority is that the MoI decentralises the police to the maximum level and reinforces the police's role as a community service. The former Minister of Interior, Mr. Mihajlovski, described the basic goals of the reform process as follows:

- The police should become a safety service for citizens; through active partnership with the public;
- Continue the trend of reducing crime;
- Detect and deal with all types of crime in a fast and timely manner;
- Deal with anti-social behaviour;
- Reduce the fear of crime;
- Provide support and assistance to the victims of crime and
- Establish trust between the citizens and the police.

The SPR and the Action Plan for implementation of the police reform process are strategic documents for reforms of the Macedonian Police both organisationally and functionally. The main objectives of the reforms are as follows: efficiency of the police operation; organisation, expertise and cost-effectiveness of the operation; technological equipment; responsibility and motivation of employees; planning, development and education of personnel; appropriate and equitable representation of

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[14] See National Security and Defence Concept of the Republic of Macedonia; adopted available at: www.http//:vlada.gov.mk

citizens from all communities; police function as a service to the citizens; fight against organised crime; improvement of regional and international cooperation and defining non-police functions.

The organisational capacity of the MoI has also been reconsidered and a new model of organisation has been adopted. The MoI will be organised on three levels: central (MoI); regional (12 internal affairs sectors) and local (23 internal affairs units). As an executive body of the Government, the MoI is responsible for the implementation of internal security policy as defined in the NSDC and the National Strategy for Integration of the Republic of Macedonia into the EU. The MoI's security policy is coordinated through three pillars:

- Services responsible for coordination, international cooperation and public relations;
- Directorate for Public Security (provides advisory services, responsible for strategic concept planning and the determination of general directions and standards of operation) and
- Operational services (responsible for the operational activities and basic functions of the MoI).

The three pillars of the MoI are responsible for a number of operational functions: the Regional Police, the Border Police and the Central Police Services.

The Border Police Department (BPD) is a component of the Bureau for Public Security. Within the BPD, various sectors are responsible for the following operational issues: Sector for European Integration, Cross-Border Cooperation and Coordination of Foreign Aid; Sector for Analysis; Sector for Border Crossing Points and State Border Surveillance; Sector for Operations; Sector for Support of Border Police Operations and Sector for Administrative and Logistical Support. Four regional centres are responsible for border issues. The director of the Bureau of Public Security appoints the undersecretary of the BPD and the chiefs of the regional centres for border issues all of whom are accountable to the director.

The MoI is responsible for strategic and conceptual planning and for adopting the standards and procedures of operational activities, the expert and general overview, control of the operations and the efficiency, effectiveness and cost-effectiveness of the services. The MoI is also responsible for civilian control and is, therefore, accountable to the Government vis-a-vis the Interior Minister. The main responsibilities of the MoI are in compliance with the provisions of the Law on Police and the Law on Organisation and Operation of the Bodies of State Administration.[15]

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[15] Law on Internal Affairs ('Official Gazette of RM', NO. 19/95, 15/97, 55/97, 38/2002, 13/2003) and the Law on Organisation and Operation of the Bodies of State Administration ('Official Gazette of RM', No. 58/2000 and 44/2002; According to the provisions, the main responsibilities of the Ministry are: protection of life, personal safety, property and security of the citizens; crime prevention, detection and apprehension of crime perpetrators and their transfer to the competent bodies; protection of freedoms and rights of persons and citizens guaranteed by the Constitution of the Republic of Macedonia; prevention of violent destruction of democratic institutions established by the Constitution, maintenance of public order and peace; prevention of inflammation of national, racial or religious hatred or intolerance; security of certain persons and facilities; regulation and control of traffic on roads and other affairs related to traffic security on the roads; control of passing of state border and residence in the border area; movement and residence of aliens; determining and resolving border incidents; as well as other border injuries; positioning, control and maintenance of the signs that are used for demarcation of the border area on land and water; fire and explosion protection; control on conditions related to production, trade, supply, possession and carrying of weapons, parts of weapons and ammunition; production, trade, storage, transportation and protection of explosions and other dangerous materials and storage and protection of flammable liquids and gas; control on citizens registering and reporting departures from dwellings and residences; citizenship and passports for crossing state borders; relief in removing the consequences caused by natural disasters and outbreaks which could endanger the life and health of citizens and their properties; research and development in the areas of its competence and other matters determined by law.

While drafting and adopting a new Law on Police was set as a priority by the previous Government and a precondition for fostering police reform, the new draft law is still being written. The issues that are yet to be determined within the draft law are less of a professional and more of a political nature. These issues relate to the 2001 crisis and the conflicting opinions that emerged after independence whereby politicisation of the police and ethno-political mobilisation were divisive factors.[16] As a result, the concept of an independent and professional executive institution was significantly eroded. Politicisation of the police (and other executive institutions) is a continuous process that threatens to undermine professionalism of the police structure and the reform process as well. While it is evident that police reform is an ongoing process at the central and local levels, clear provisions in the new draft law are also important for the process of decentralisation of police responsibilities. Decentralisation will certainly contribute to the development of a more effective police service bringing it closer to citizens and their needs. The responsibility of decentralisation lies with the regional police sector of the MoI. It is also responsible for the security of the area that this sector covers, for technical and human resources management, management of the fixed sub-budget in the sector and for implementing police standards and procedures.

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[16] See Stojanovski T.: Police Reforms in Macedonia: Preconditions for efficiency and prevention; in Georgieva L., (ed): Conflict Prevention: From Idea towards Culture of Conflict Prevention; FES, 2004 pp.197-208 and Vankovska, B.: Security Sector Reform in Macedonia; in Trapans, J. and Fluri, P., (eds): Defence and Security Sector Governance and Reforming SEE: Insights and Perspectives, Vol.II, pp.21-35

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Law on Precursors ('Official Gazette of the Republic of Macedonia', No. 37/04),

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POLICE REFORM IN THE REPUBLIC OF MONTENEGRO

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Background

The tiny mountainous Adriatic Republic of Montenegro[1] has 650,000 inhabitants and covers approximately 14,000 square meters. Its capital Podgorica is inhabited by approximately a third of the country's population. Geographically, three main regions can be distinguished in Montenegro: the coast, the centre and the north. Montenegro borders Albania, Bosnia-Herzegovina, Croatia and Serbia (including its UN-administered Province Kosovo-Metochia).

The Socialist Federal Republic of Yugoslavia—the federation of South Slavonic peoples—fell apart when the Republics of Slovenia, Croatia (1991), Bosnia-Herzegovina and Macedonia (1992) declared independence. Montenegro sided with its closest kin Serbia in the Federal Republic of Yugoslavia (FRY), which was created in April 1992, but gained wider international recognition only after the Dayton/Paris Peace Agreement (1995) which ended the bloodiest armed conflict in post-WWII Europe. After the significant, four-month-long demonstration against electoral fraud in Serbia, a faction of the Montenegrin post-communist regime—led by PM Milo Đukanović—felt the weakness of their patron Slobodan Milošević and decided to distance themselves. After the democratic overthrow of Milošević on 5 October 2000, the Montenegrin regime became openly pro-independence. In 2003, the federation was reconstituted towards a confederate arrangement and renamed Serbia-Montenegro. The new constitutional arrangement allowed republics to secede after a three-year 'trial period.' Montenegrin authorities used this right and organised the independence referendum on 22 May 2006. The newest UN member separated from the joint state with Serbia by 55.5% majority at the referendum.

Montenegro is ethnically and religiously diverse. According to the 2003 population census, 43.16% of population identify themselves as Montenegrins, 31.99% as Serbs, 7.77% as Bosniaks, 5.03 % as Albanians, 3.97% as Muslims and a smaller percentage as others (Croats, Roma, etc.) The majority of Montenegrins and Serbs inconsistently identify themselves—depending mainly on political circumstances. They are basically identical and this constituent ethnicity (which could be described as *Serbophone Orthodox Christians*[2]) of Montenegro makes up 75.15% of the population. The same goes for Bosniaks and Muslims, who jointly form 11.74% of Montenegro's population (they could be described as *Serbophone Muslims*). Albanians—Montenegro's biggest non-Slavonic ethnicity—are predominantly Muslim, while a smaller number is Roman Catholic. The tiny Croatian community is Roman Catholic. While over a half of the *Serbophone Orthodox Christians* supported the survival of a joint state with Serbia at the May 2006 referendum, the pro-independence block gained almost total support of all other ethnic and religious groups, which jointly form almost a quarter of the total population.

The economic crisis of the 1980s worsened during the Yugoslav War.[3] The Yugoslav economic system—predominantly state socialism with some elements of a market economy—was much more open than in the Soviet-dominated portion of the European continent. The economic system

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[1] Montenegro is the 10th member of the Association of Small European Countries.

[2] It has to be noted that the majority are, however, far from being regular churchgoers.

[3] The Yugoslav War is a generic name for all secession wars, civil wars, armed rebellions, external military interventions and other forms of armed conflict in the former Yugoslavia since 1991.

of the 1990s was largely a war economy, with a vast grey economy, an omnipresent black market, state-driven hyperinflation, state-sponsored smuggling, state-backed pyramidal schemes, an inefficient fiscal system, an almost complete absence of legitimate foreign investment, and tycoonisation. The UN embargo imposed by Security Council Resolution No. 757 (1992) also significantly contributed to the isolation and economic hardship. Post-Milošević economic recovery is rather slow. Montenegro suffers from high unemployment, low wages, disproportionately high living costs and a low growth rate. The grey economy is estimated to constitute approximately 40% of Montenegro's economy.[4] The state's capacity for dealing with economic crime is very weak.

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Policing in Montenegro suffered heavily from the Yugoslav crisis of the 1990s. Police reforms were delayed by at least a decade in comparison to other Central and Eastern European countries. In addition, the level of police professionalism and expertise developed during 45 years of post WWII peace drastically deteriorated. The isolation of the FRY made it almost impossible for Montenegrin police to keep up with the international policing trends and novelties. The uniformed and paramilitary police components—being primarily the tools for oppression and potential combat—were treated with much more importance than the classical policing areas like criminal investigation, community policing or crime prevention. That period was marked by an enormous increase in organised crime and corruption. However, crime fighting became less important and certain criminal activities (e.g. the smuggling of embargoed goods) were not only tolerated, but even promoted by the elements of the Government. Elements of the police force were forced to ignore illegal activities, which subsequently led to corruption at many levels.

When the pro-Milošević faction of the League of Communists of Montenegro (LCMN) seized power in the late-1980s, more than 200 police officers and secret service agents—loyal to the previous Titoist nomenclature—soon left the force by regular or early retirement.[5] Similar to Tito's period, the police force continued to be the oppressive arm of the regime in the 1990s as well. 'In the armed conflict that took place on the territories of the former Yugoslavia, police forces of all former Yugoslav republics participated but the degree of their involvement differed.'[6] It must be noted, however, that the participation of the Montenegrin police in the Yugoslav War was probably the least among the six Yugoslav republics, but is still difficult to be independently and impartially assessed. Šević and Bakrač claim that '[i]n Montenegro the police archives are still closed and probably 'moderated' (documents implicating the current leadership would be destroyed), as it was often the practice in the socialist Yugoslavia for both police and army security structures.'[7] The black spot on the face of Montenegrin police is the 1992 deportation of 83 male Herzegovina Muslims who went to Montenegro, seeking refuge from the Bosnian-Herzegovinian bloodbath. They were handed right into the hands of Serbian paramilitaries in Herzegovina who executed them

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[4] Institute for Strategic Studies and Prognoses and UNDP. *Human Development Report for Montenegro*, (Podgorica: ISSP/UNDP, 2005) p. 13.

[5] Šević, Željko and Duško Bakrač. 'Police Reform in the Republic of Montenegro', in: Caparini, Marina and Otwin Merenin (eds.) *Transforming Police in Central and Eastern Europe: Process and Progress* (Münster: Lit Verlag, 2004), p. 250.

[6] Ibid, p. 240

[7] Ibid.

[8] Amnesty International: *Amnesty International calls on the Montenegrin authorities to ensure justice and reparations for victims of human rights violations*.
web.amnesty.org/library/Index/ENGEUR700042006?open&of=ENG-YUG

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later.[8] Since the prosecution did not act, in 2005, the victims' families started private court charges against several allegedly responsible Montenegrin police officers. One of the families won the case, but will appeal due to what they deem as too low financial compensation.

In 1997, part of the ruling Democratic Party of Socialists (DPS – successors to the LCMN), led by Prime Minister Milo Đukanović,[9] broke their bonds with Milošević's regime in Serbia and clashed with his loyalists in Montenegro. The internal DPS power struggle was won by the Đukanović faction, and Montenegrin police again suffered from political turmoil. The regime had managed to maintain total control over the Republic's security services: the Public Security Service (police) and the State Security Service (secret service, usually called 'secret police').[10] At that time, both services were part of the Ministry of Interior (MoI). After Đukanović won the presidency in 1997—defeating his former political partner, Milošević loyalist Momir Bulatović—another large group of police officers and secret service agents were marginalised and, again, many left the service[11]

The security situation in Montenegro seriously intensified after the 1997 changes. Milošević could not have came to terms with losing grip over Montenegro and therefore used the loyalist faction of the Montenegrin ex-communists and the loyal parts of the federal military apparatus attempting to regain control. As the Republics did not have their own armies,[12] the police force was heavily militarised. Several thousands were recruited to perform paramilitary duties – many of them directly from the military. In his 2001 OSCE report, Richard Monk estimated that the paramilitary Special Police Unit numbered as many as 10 000 members.[13] Independent and credible sources estimate that Montenegrin authorities could have potentially mobilised 30 000 armed loyalists.[14] At that time, the military equipment was also procured for the police force – including armoured vehicles and 120mm mortars.[15] Tensions between the Đukanović-led Montenegrin police and the Milošević-led federal military were at the peak during the NATO bombing campaign in 1999. Incidents between the opposing forces were frequent and some of them almost ended in a bloodbath.

When the security tensions relaxed after the democratic overthrow of Milošević, Montenegro was left with an inadequate police force. The influential OSCE's Monk Report characterised the police as oversized, predominantly male, overwhelmingly monoethnic (i.e. Serbian-Montenegrin), corrupt, politicised, inadequately trained, reactive and young. The report outlined six key areas for reform: *community policing, police accountability, organised crime, forensics, border policing, and police education and development.* These were redefined in 2005, when the Memorandum

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[9] Đukanović had two Prime Ministerial terms: 1991-1997 and 2003-present. Between 1997 and 2003, he was the President of the Republic.

[10] Šević, Željko and Duško Bakrač. 'Police Reform in the Republic of Montenegro', in: Caparini, Marina and Otwin Merenin (eds.) *Transforming Police in Central and Eastern Europe: Process and Progress* (Mьnster: Lit Verlag, 2004), p. 250.

[11] Ibid. pp. 250-251

[12] The republican Territorial Defence Forces that existed in SFRY were disbanded in 1992 as they proved to be one of the main tools of the separatist republics at the beginning of the Yugoslav War.

[13] Monk, Richard. *A Study on Policing in the Federal Republic of Yugoslavia* (OSCE: Vienna, 2001), p. 34.

[14] Vasić, Miloš. 'Život i podvizi Vasa Mijovića' ('The Life and Heroic Deeds of Vaso Mijović'), *Vreme,* No. 795, 30 March 2006. www.vreme.com/cms/view.php?id=448150

[15] Šević, Željko and Duško Bakrač. 'Police Reform in the Republic of Montenegro,' in: Caparini, Marina and Otwin Merenin (Eds.). *Transforming Police in Central and Eastern Europe: Process and Progress,* (Mьnster: Lit Verlag, 2004), p. 251.

of Understanding between the MoI and the OSCE Mission to Serbia and Montenegro outlined six new priority areas: *community policing, police accountability, criminal investigation,*[16] *border policing, strategic planning and development and police education and development.*

Normative Framework for Police Reform in Montenegro

The lack of legal instruments compatible with European standards and best practices slows down the reform process as well. Montenegro has changed many of its laws to meet EU conditions. However, new legislation - frequently just a copy of various foreign legislation - often failed to properly consider Montenegro's circumstances or to accommodate its real needs. One of the largest obstacles to transition has been the capacity to implement new legislation. The lack of state capacities seriously impacted the pace of implementation. This has sometimes been the result of insufficient public and expert discussions during the drafting phases or the lack of developing the appropriate secondary legislation. The EU Feasibility Study assessed the overall legislative performance as noteworthy, yet added that implementation suffered from the lack of human, budgetary and other necessary resources.[17] Moreover, 'in Montenegro, progress has taken place since 2002 in establishing the legislative framework of public administration reform. In practice, weak implementation capacities, both in terms of funds and infrastructure, personnel and training, are coupled with the problems of poor accountability, political interference and patronage.'[18] The slow pace of implementing newly-adopted system reforming laws is a huge problem in many areas, and police reform is no exception.

Institutional and Organisational Changes Brought by the 2005 Law on Police

After more than two years of political deadlock,[19] the Law on Police and the Law on the Agency for National Security were finally adopted in April 2005. New laws radically restructured the security sector. The State Security Service was taken out of the Ministry of Interior and placed directly under the Government, while being renamed the Agency for National Security (ANS). The separation of the secret service from the MoI had been planned during the period of political deadlock, but they are still not physically separated. The ANS headquarters is still in the main MoI building in Podgorica,[20] while some of its branch offices are still in the buildings of the security centres and departments. In addition to structural separation, ANS staff no longer possess policing powers and are not allowed to carry firearms. The exception is a special ANS unit for VIP protection which is still in charge of close protection of the three highest government officials: President Filip Vujanović, PM Milo Đukanović and Parliamentary Speaker Ranko Krivokapić.

The Public Security Service (renamed Police Administration, *Uprava policije*, by the Law on Police) was also separated from the MoI, but unlike the ANS did not sever all the structural ties. The MoI kept the 'executive oversight' over the Police Administration, which is formally an

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[16] Which includes: police capacities for the fight against corruption, organised, serious and economic crime – by increasing capacities through special investigative means and methods, criminal intelligence, forensics and ICT forensics

[17] European Commission, *Report on the preparedness of Serbia-Montenegro to negotiate a Stabilisation and Association Agreement with the European Union* (also known as the *Feasibility Study*), pp. 8-9. www.delscg.cec.eu.int/en/eu_and_fry/key_documents/documents/050412_Feasibility_Report.pdf

[18] Ibid p. 10

[19] DPS wanted the Government to appoint the Directors of these two authorities, while SDP wanted the Parliament to elect them.

[20] The new building for ANS is under construction.

independent authority. Under the previous system, the Minister of Interior was effectively the 'first policeman' of Montenegro, but his powers are now much weaker and executive power over the police service belongs to the Police Director.[21] The MoI and the Police Administration are still in a transitional process and restructuring is ongoing. It has yet to be finally decided which MoI units will become part of the Police Administration.

The new Law on Police was intended to be a step towards increasing police accountability and further police depoliticisation. Unlike the previous chief of police, Assistant Minister of Interior for Public Security Mićo Orlandić, a politician from SDP, the new Police Director Veselin Veljović is a professional police officer who was previously the Special Antiterrorist Unit Commander for ten years. Before joining the police in 1992, he was an army officer. However, he is well known as a Đukanović loyalist and a DPS cadre. According to the new Law on Police, the Police Director is the Government's appointee. He subsequently appoints directly subordinate managers without anyone's formal right to interfere. The procedure requires that before the official appointment candidates for the two service's Directors must attend a hearing in front of the Parliamentary Committee on Security and Defence. The candidate is obliged to present his programme and answer questions.[22] However, the Government can appoint Directors regardless of the Parliament's opinion. In a democracy, this process should be transparent and depoliticised, but it completely failed to evolve in this way. The application procedure was not transparent and it is unclear what selection criteria were used. While the Law on Police forbids the Police Director to be a member of a political party, it did not provide any safeguards to prevent politicisation. Director Veljović was heavily criticised, for example, for paying a visit to a DPS campaign headquarters just before the 2005 extraordinary municipal elections in his birthplace Mojkovac[23] and was, therefore, subjected to a special parliamentary hearing. As citizens, police officials cannot be barred from having political opinions, yet must refrain from undertaking politically-biased actions, as well as from those that could even be perceived as biased. It is also interesting to note that the shift of power between the Minister and Police Director was simultaneous with the exchange of positions between DPS and SDP.

Novelties in Other Police-Related Legislation

The Criminal Procedure Code (2004) introduced legal novelties in accordance with human rights. Yet, the police complained about the Code, stating that it undermined their efficiency, especially the use of covert audiovisual surveillance and the right to conduct searches of individuals and vehicles. To be simultaneously accountable and efficient is a concern for police in many countries undergoing a transition to democracy.

The Criminal Code (also adopted in 2004) criminalised some new forms of crime, which in turn raised concerns over whether the police service was at all capable of suppressing crime. The nature of Montenegro's economic transition requires that the Code be amended in the field of economic crime – especially by introducing the seizure, freezing and confiscation of illegally gained assets. This, however, would be in vain if not paired by increasing police capacities to follow the trace of money.

The Montenegrin Assembly adopted or plans to adopt a number of other laws that affect policing. The first Law on Money Laundering was adopted in 2003. It was amended in 2005 and

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[21] Previously, police and secret service chiefs both had the Assistant Minister of Interior title.

[22] As a rule, all committee sessions are closed, with a possibility to be open to the public in whole or partly. Members are obliged not to expose what was discussed.

[23] The fact that the Directors of both the police and secret services come from the same town has not gone unnoticed in a country with strong clan and local loyalties.

renamed the Law on Money Laundering and Terrorist Financing. Although it is in accordance with the FATF[24] 40 Recommendations on Money Laundering and Nine Special Recommendations on Terrorist Financing, it is to be amended again, in accordance with the Third EU Directive on Money Laundering. The Law on Weapons (2004) regulates the private possession of weapons by citizens. This law is of immense importance as the private possession of weapons is extremely widespread in Montenegro. Amendments are expected in three areas: defining the list of weapon-related criminal acts, prolonging the amnesty for legalisation of illegally-possessed weapons, and granting an administrative tax waiver to citizens who wish to register weapons. The Law on Detectives (2005) for the first time regulated any aspect of private policing. This area may open possibilities for employment to police officers who will become redundant in the foreseeable future.[25] During the parliamentary debate about the draft of this law, opposition MPs raised concerns over whether private policing companies would be easily controlled. Although not necessarily contradictory to similar legislation in a number of democratic countries, the Law on Public Gatherings (2005) is controversial. It is questionable as to whether it would help the regulation of public expression of political views, or simply serve for the oppression of political freedoms. The law requires organisers of public gatherings to ask the police service for permission three days in advance. It has been used only once to ban a political rally, when police forbid a demonstration during the visit of Slovenian President Jane Drnovšek.[26] The Law on Free Access to Information (2005) is quite restrictive and effectively hinders access to information. Citizens must justify their requests, instead of institutions having to justify why some information is classified. The Law on Protection of Persons and Property was adopted in 2005. The Law on Border Security (2005) regulates the role of police in border security. The implementation of the Law on Traffic Security started on 1 March 2006. This law introduced much needed rigorous measures similar to those in some EU countries. The implementation of this law is extremely important for Montenegro, as drivers are undisciplined, which poses one of the biggest safety threats. The draft Law on Preventing Violence in Sport Events is currently awaiting approval by Parliament. It will oblige sports event organisers to estimate potential security risks and inform the police at least three days in advance. The draft Law on Foreigners is in the process of being ratified by the Government's Legislative Commission. It aims to regulate the status of foreigners in Montenegro and the respective role of the Border Police.

In 2001, Richard Monk assessed that although 'the duties of police in both Serbia and Montenegro are clearly defined in the current Law on Policing, there is no statement of purpose or values that provide guidance on the mode of policing. Such a statement might be expected to include references to such things as impartiality, respect for an individual's rights, responsiveness, fairness and honesty.'[27] Such a statement for Montenegro's police service is expected to be embodied in the upcoming amended Code of Police Ethics, which is scheduled for adoption in 2006.

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[24] FATF – Financial Action Task Force

[25] In early October 2006, after the referendum and subsequent parliamentary elections, the Minister of Interior Jusuf Kalamperovic announced that after formation of the new Government, MoI shall be reorganised and that the number of employees shall be reduced. He justified this as one of conditions set by the international community.

[26] Only days before he was to scheduled to visit Serbia-Montenegro, Drnovšek publicly called for the independence of Kosovo. Serbian authorities therefore cancelled his visit to Belgrade, but Montenegrin authorities welcomed him. The opposition called for a protest against the visit, but police banned it. The opposition leaders cancelled the rally, but defied the ban by gathering in front of the Parliament building while Drnovљek was inside.

[27] Monk, Richard. *A Study on Policing in the Federal Republic of Yugoslavia* (OSCE: Vienna 2001) p. 16. www.osce.org/documents/spmu/2001/07/17633_en.pdf

Police Organisation in Montenegro

Before exploring further police organisations in Montenegro, it has to be noted that apart from the Police Administration (*Uprava policije)* there are three other agencies with limited law enforcement capacities: the National Security Agency, the Customs Administration and the Military Police. The National Security Agency (*Agencija za nacionalnu bezbednost*) is the civilian intelligence and counterintelligence service with limited investigative and VIP protection authorities. The Customs Administration (*Uprava carina*) is primarily a fiscal agency—accountable to the Ministry of Finance—but has limited policing authority in the area of customs offences. It is within the Customs Administration competence to ask for IDs and to search for illegal goods. In case the customs notice that a criminal act has been committed, they can restrict the movement of an individual until the police arrive. The Military Police (*vojna policija*) is responsible for policing the small armed forces, and is a part of the Ministry of Defence (MoD). The Ministry of Defence was the federal institution, but after the referendum on independence Montenegro created its own ministry. The portfolio is held by PM Đukanović.

The MoI is now composed of the Minister's Cabinet, Strategic Planning Unit, Central Information System and five directorates: Legal and Personnel Affairs, Common Affairs, General Affairs, Administrative Affairs, and Board and Lodging. The MoI also directly oversees the newly-established Police Academy. Besides supporting the Minister of Interior in managing the MoI, overseeing the Police Administration and co-ordinating it, the Cabinet is also in charge of the MoI's interagency and international cooperation and public relations.

The Strategic Planning Unit was established in May 2003. It is composed of experienced senior police officers and tasked with charting the police reform course. This MoI's 'think-tank' is envisaged to become the permanent planning capacity for the MoI and Police Administration.

The Central Information System (CIS) is in charge of the MoI and police IT department. It conducts tasks such as databases and website administration, equipment maintenance, software development, or data exchange. CIS is also tasked with ensuring the authenticity, integrity and confidentiality of data, as well as with the internal oversight of data or possible misuse.

The Directorate for Legal and Personnel Affairs has a Normative-Legislative Section and Personnel Section. The former provides legal support to all MoI organisational units and deals with other MoI legal issues. In the police reform context, this unit draft laws, by-laws and internal regulations. It also identifies and analyses legal problems and initiates legislative amendments. The Personnel Section is in charge of human resources for the MoI and the Police Administration.

The Directorate for Common Affairs is in charge of finance (i.e. budget, accounting and financial reporting), public procurement, investments and construction. The Directorate for General Affairs is responsible for the maintenance of the MoI and Police Administration facilities and equipment, vehicles and storages. The MoI Health Centre is a part of it. The Directorate for Board and Lodging runs the police restaurants and dormitories. The Directorate for Administrative Affairs is in charge of providing administrative services to the public – primarily by issuing various documents (ID cards, driving licences, passports and licence plates).

The Police Academy evolved from the communist-style Secondary Interior School. It is the only police education institution and delivers basic, specialised, advanced and in-service police training.

The new structure of the Police Administration still reflects the structure of its predecessor, the MoI's Public Security Service. Territorially, it is divided into seven police regions, security centres: Bar, Berane, Bijelo Polje, Herceg Novi, Nikšić, Pljevlja and Podgorica. There are also 14 sub-regions, security departments, subordinate to the security centres, and covering the remaining 14

municipalities in Montenegro. Functionally, the Police Administration is divided in three directorates (Uniformed Police, Criminal Investigation, and the State Border Directorate), five departments (Internal Control Department, Special Verifications Department, Department for Analytical-Information Affairs and Records, International Cooperation Department, and Inspectorate for Prevention against Fire, Explosions and Breakdowns and for Technical Protection of Facilities), and three specialised units (Special Antiterrorist Unit, Special Police Unit and Helicopter Unit). The heads of the security centres, directorates, departments and specialised units report directly to the Police Director. However, within the security centres, the heads of two main police branches (uniformed and CID) report both to the head of their respective security centre and to the head of the respective directorate. Unofficially, priority is given to orders coming from the directorates.

The Uniformed Police Directorate has five organisational units: Department for Public Law and Order, Traffic Police Department, Department for Education and Equipment, Duty Operation Centre and Inspectorate for Control of Use of Authority and Legality. The Criminal Investigations Directorate (CID) is made up of five parts: Department for Suppression of General Crime, Organised Crime Department, Economic Crime Department, Centre for the Fight against Drugs, and Criminal Technical Centre. The State Border Directorate has two sectors: Sector for Border Issues and Aliens and State Border Sector. The former is in charge of border crossings and foreign citizens present in the republic, which was the traditional role of the border police in Montenegro. The latter controls the green and blue borders, and also includes the Maritime Police Unit.

The Internal Control Department is in charge of internal affairs. The Special Verifications Department provides analytical support to criminal investigations and a nucleus of the future central criminal intelligence system. The Department for Analytical-Information Affairs and Records maintains the Police Administration's documentation and statistical and analytical reporting. The International Cooperation Department is in charge of international operational cooperation. The Inspectorate for Prevention against Fire, Explosions and Breakdowns and for Technical Protection of Facilities co-ordinates police responses to emergencies, natural and technical disasters.

Montenegro's police service has three specialised units: Helicopter Unit, Special Police Unit (PJP)[28] and Special Antiterrorist Unit (SAJ)[29]. The Helicopter Unit provides airborne support to the police service and other governmental institutions, including the transport of the highest officials. It has three helicopters. The 80-man SAJ is a classic police antiterrorist unit, while the 144-man PJP is a paramilitary police unit inherited from the 1990s. These units should carry out the most complex policing tasks and assist other police units in carrying out other complex tasks (e.g. both have SWAT capacity), and both are self-perceived in the context of the fight against terrorism and organised crime. As their mandates are quite similar, and as Montenegro's resources are scarce for special equipment and training, merging these two units should be a consideration. In some other European police services, special unit officers participate in regular police duties when not carrying out their specialised tasks. 'For instance, the practice in some other countries is for such units to be operational in normal police duties half of the time while continuing their specialist training the remainder of their time.'[30] This would both help save resources and promote career development, as officers would have an easier transition to other police duties once they reach a certain age limit. This would also be important for further police demilitarisation and depoliticisation. SAJ and PJP are—along with the Border Police—the most militarised police units in Montenegro and their members must not be (nor be perceived as) the praetorians.

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[28] PJP – *Posebna jedinica policije*

[29] SAJ – *Specijalna antiteroristička jedinica*

[30] Downes, Mark. *Police Reform in Serbia: Towards the Creation of a Modern and Accountable Police Service* (Belgrade: OSCE Mission to Serbia and Montenegro, 2004), p. 44
http://www.osce.org/publications/fry/2004/01/18262_550_en.pdf

The key police organisational issue is the issue of centralisation (concentration) and decentralisation (de-concentration). When Milošević took power, the whole system became centralised. His Montenegrin clients followed this course in most aspects, so police centralisation affected the local police, as local authorities lost a great deal of influence. The Police Administration still remains a highly centralised authority, reflective of the structure of the highly centralised state. Furthermore, centralised budget and short-term planning management impede the delegation of decisions. Police at the local level have little room for manoeuvre in addressing specific local issues and working more closely with communities. The size of Montenegro and limited resources, however, require an uncomplicated police organisation, so police decentralisation needs to focus primarily on procedures and functions. Local police need to be empowered to deal directly with other local authorities on community safety and security issues. Such decentralisation would increase police efficiency and enhance the citizens' sense of ownership and acknowledgment of the police service as something that belongs to the public. Like the Police Administration, the police service remains a highly centralised authority. Furthermore, the centralised budget and short-term planning management impede the delegation of decisions. Police at the local level have little room for manoeuvre in addressing specific local issues and working more closely with communities.

The issues of centralisation or decentralisation of a police service depend on many factors – e.g. demography (size and density of population), geography (size and configuration), legal and administrative tradition, risk assessments, resources, and economic conditions. A modern, democratic police service needs to establish partnership relations with the community. It must treat every human being—citizen or foreigner, victim or perpetrator—equally, regardless of ethnicity, religious beliefs, race or origin. On the other hand, certain police tasks would need to move towards greater centralisation, which is more suitable for smaller systems. The proper balance is crucial. While some parts are too centralised (e.g. uniformed policing), others are not always centralised enough (e.g. investigation). Keeping in mind the size of Montenegro, the limited centralisation of investigation capacities and decentralisation of uniformed policing (while having the UPD for maintaining the standards of uniformed policing in whole Montenegro) should be considered.

The fight against serious and organised crime is a primary area of concern requiring the consolidation of police capacities. The development of specialised, intelligence-driven, strategic capacities is crucial. They are necessary for rapid deployment to support local investigators across Montenegro. All municipal-level police organisations need to have their own investigators to deal with common crime. However, the low crime rates in some parts of Montenegro require the transformation of the role of investigators, so that they are able to perform other police tasks. At present, many investigators are underutilised. Investigation capacities should be functionally concentrated, while simultaneously more decision-making needs to be delegated to operational units and individual officers.

Organisational changes also need to be paired with introducing performance evaluations of organisational units, not only of individual officers. A review of current police practices, procedures and resources should take place as a matter of priority. The focus needs to be placed on issues that directly relate to police ability to perform regular tasks, such as: crime prevention, traffic safety, public order, border protection, issuing personal documents, training, managing crime scenes, finding evidence, and building cases for the prosecution. With adequate resources, the MoI's Strategic Planning Unit could carry out such a review. This, however, must not be a one-off initiative, but a regular task to be done every several years. The Strategic Planning Unit needs to be able to perform regular and *ad hoc* assessments of the units' functioning, based on the targets set by the units themselves. Organisational units should be responsible for providing the results of their work at the end of the annual budget cycle. Given this new responsibility, the police management would hopefully, in time, become more innovative and capable of undertaking realistic planning.

Financing Policing in Montenegro

Low police salaries are a major problem and a catalyst of police corruption. Within the service, it is often perceived as the main impediment for police reform. This must, however, be seen in the context of the overall economic situation of a society in transition.

MoI's 2006 annual budget is more than EUR 57 million, which is over 11 percent of the total budget of almost EUR 519 million. Among the 94 institutions financed from the budget, the MoI is the second largest budget spender, after the Ministry of Education and Science. It is by far the biggest recipient inside the criminal justice and security sectors.

2006 Budget of Criminal Justice and Security Sectors Institutions[31]

Institution	EUR (million)	%
Ministry of Interior	57.35	46.08
Ministry of Defence	42.29	33.98
Judiciary	8.43	6.78
Agency for National Security	7.86	6.32
Prison System	5.51	4.43
Prosecution Offices	1.76	1.42
Administration for the Prevention of Money Laundering[32]	0.33	0.27
Ministry of Justice	0.88	0.71
Total	124.46	100

In 2005, the MoI budget was EUR 48.68 million, 9.67% of the total state budget. The major part of the 17.8% increase in 2006 was allocated to special pay for Border Police officers (working under difficult conditions) and for MoI debt repayment. The vast majority of this debt the MoI accumulated by not providing overtime for employees as well as other additional pay in the last several years. In 2006, ANS has had a separate budget of EUR 7.86 million. Previously, it was part of the MoI budget. Taking these figures into account as well, the combined increase for both institutions in 2006 is EUR 16.53 million (33.96%). Combined, they amount to 52.4% of the budget of all criminal justice and security sectors institutions. When these figures are seen, the criticism that Montenegro is a police state becomes more understandable.

Recent budgetary reforms in the Ministry of Finance divided the MoI 2006 budget into three programmes: *Police Service* (EUR 49.86 million – 86.92%), *Police Academy* (EUR 0.63 million – 1.1%) and *Administration* EUR 6.87 million – 11.98%). Approximately three-quarters are allocated to salaries and a quarter to maintenance and debt repayment. Little is allocated to infrastructure or investments. Due to IMF requirements, salaries of public servants in Montenegro have been frozen since 2003, although the costs of living increased during that time. The major investment funds came from international donations, which are difficult to predict and inconsistent. At present, the MoI does not have a complete, centralised overview of donations received, which heavily affects its financial accountability.

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[31] Montenegro has other authorities related to criminal justice and security, which are, however, not primarily criminal justice and security institutions (National Co-ordinator for the Fight against Trafficking in Human Beings, Regional Centre for Underwater De-mining, Misdemeanour Authorities, Directorate for Anticorruption Initiatives, Republican Trade Inspectorate, Tax Administration, Customs Administration, State Audit Institution, and Commission for Determining the Conflict of Interest). The total budget for these authorities in 2006 is over EUR 16 million.

[32] Montenegrin Financial Intelligence Unit (FIU)

The current budgeting process is highly centralised. Budget proposals are being drafted in the MoI Directorate of Common Affairs—without any prior input from organisational units (budget users). Their input is requested only once the budget proposal is already drafted, which leaves very little space for modifications. Only small changes can be made and only after heavy lobbying. Such a lack of budgetary transparency should be brought to an end. Input needs to be required from organisational units at the beginning of the budgeting cycle. During the first few cycles, units would probably provide 'wish-lists' rather than realistic requests, but this would eventually improve. This would also demystify the budget cycle within the police and be an opportunity for police managers to realistically assess the needs of their units. This would lead to increased police planning capacities.

Financial transparency and accountability would also be reinforced by introducing an independent external audit that would not only check the accounts, but would assess the performance of the MoI, Police Administration and their organisational units. The audit should determine whether 'value for money' is provided to a society that allocates more then a tenth of its budget to policing, but it would also determine where money might be saved through more efficient procedures. Performance assessments and financial audits are rather new. They could be conducted by the newly-established State Auditing Institution or by contracted commercial auditors. They need to provide politicians and the public with understandable information. This is especially important for the budget oversight of large reform projects where corruption is more likely to occur. Another benefit is in identifying ways to rationalise the police organisation, as well as making its work more effective. If undertaken in a proper and transparent way, such audits might also increase public and international trust in the police's ability to carry out reforms.

The Fight against Crime

Montenegro appears to be a safe society, safer than many EU countries. It is true that common crime is not such a threat, yet the omnipresent organised crime seriously affects social, economic and political life in Montenegro. Its destabilising role for the political and economic transition must not and cannot be underestimated. It has contributed a great deal to the undermining of public and international confidence in the Government. Due to the continuing Yugoslav crisis, Montenegro entered the transition period worse off than some other post-communist European societies, although—being a part of Yugoslavia—it was economically stronger than many of them. One of the biggest obstacles in its political and economic transition has been, and continues to be, endemic organised crime.

Organised crime in Yugoslavia existed much before the 1990s, but its flourishing and development was a direct consequence of the Yugoslav War. The economic stagnation of the 1960s forced Tito's regime to vent the rising unemployment by opening its borders and encouraging people to look for jobs abroad. Criminals also migrated to Western Europe, finding it easier to operate in democratic societies than in a country with an inadequate rule of law. Many of them were recruited by the federal and republican secret services to infiltrate the political *émigrés* abroad. In return, the state allowed them to use Yugoslavia as the base for their activities in Western Europe. This came as a boomerang in the 1990s, when some criminals immediately offered their 'services' to their respective republics, for which they were allowed to operate freely on Yugoslav soil. Some were even promoted by the media to the 'national hero' status. All of these factors contributed to the general criminalisation of post-Yugoslav societies.

The economic crisis of the 1990s—generated by war, dissolution of Yugoslavia and the UN economic embargo—immensely contributed to the evolution of organised crime. Milošević's regime—as well as his Montenegrin clients—took chances in the emergence of a large grey economic

sector by sponsoring the smuggling of various goods, involving security structures in this, while law enforcement and fiscal control were deliberately undermined. Strong social networks in Montenegro enabled organised crime to penetrate institutions. The police and customs services were not encouraged to suppress this development – on the contrary. The EU Commission observed: 'In Montenegro, the rule of law needs to be further strengthened. Links continue to exist between organised crime and segments of the political and institutional system.'[33] The regime was sustained by a pyramid of client-patron relationships that encompassed and enslaved the whole society. This crime pyramid of Serbia was severely damaged and fragmented by the democratic changes in 2000 and especially by the police operation *Sabre* during the state of emergency, which was imposed after the assassination of Serbia's first post-WWII democratic Prime Minister Zoran Pinpić. However, many of its elements remained untouched. In Montenegro, moreover, organised crime never suffered a similarly strong blow.

Serious and Organised Crime in Montenegro

Several unsolved high-profile organised crime cases have shaken Montenegro in past few years. These cases, and their lack of progress in their investigation, continue to shape perceptions of the state as weak and unstable. In all cases, except for the arrest of a few token individuals, there was no systematic inquiry into the criminal justice system's failure. Another worrying trend involves the blame that has been shifted to those who brought the issues to light, such as NGOs, certain officials and international organisations. Such organised crime flourished in several areas.

Organised crime is a political problem for Montenegro. A prime example is the notorious 2002 case of trafficking for sexual exploitation (the 'S.C.' case, for the initials of the victim, a Moldavian woman) involving senior officials, including the then-Deputy State Prosecutor. Those responsible have never been prosecuted. Even though the 'victims named the police and government officials who were among their clients, […] the government did not take legal action. Prosecutors who were involved in the decision not to prosecute the 'S.C.' case were all dismissed, but with severance pay. The Ministry of Interior's anti-trafficking unit was disbanded.'[34] Based upon recommendations from the joint OSCE-CoE special report on the case, harsher penalties were introduced, and the Government adopted the *Strategy for the Fight against Trafficking in Human Beings*. The police's Anti-Trafficking Team was re-established in 2004. However, the special Government commission which investigated the case released a report which blamed the former Minister of Interior Andrija Jovićević, the then-police chief Mićo Orlandić and the then-Head of the MoI Anti-Trafficking Team, Milan Paunović. This cover-up of high-level corruption was heavily criticised by the OSCE, Amnesty International and the US. After the influential US State Department *Trafficking in Persons Report* was published in June 2004, Vladimir Čejović, the National Anti-Trafficking Co-ordinator resigned, accusing the international community. In its next annual *Trafficking in Persons Report*, the US State Department generally commended the developments, but criticised the weakness of the judiciary.

Smuggling in Montenegro became a state-sponsored activity during the UN economic embargo.

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[33] *Report on the preparedness of Serbia and Montenegro to negotiate a Stabilisation and Association Agreement with the European Union* (commonly known as 'The Feasibility Study'), p. 6
www.delscg.cec.eu.int/en/eu_and_fry/key_documents/documents/050412_Feasibility_Report.pdf
[34] US Department of State, *Trafficking in Persons Report,* (Washington DC: US Department of State, 2004) p. 171.

Smuggling penetrated politics, administration, business, as well as the criminal justice system. Organised smuggling was approved by some parts of the state apparatus, and the involvement of some of the highest Montenegrin officials—including the Prime Minister—in this type of activity is still being investigated in several EU countries.

The large number of modern vehicles on the Montenegrin streets is, unfortunately, not a sign of economic development, but rather of widespread car theft. It is not such a big problem inside Montenegro, yet it became notorious. In 2003, the German *Bundeskriminalamt* estimated that more than 16,000 cars registered in Montenegro were stolen.[35] Most of them were stolen in Western Europe and smuggled into Bosnia and Herzegovina in the late 1990s, then illegally imported into Montenegro. Some were even found in the possession of the MoI. In 2003, the State Border Service of Bosnia and Herzegovina confiscated a MoI bus that was transporting an official delegation.

Economic crime is a huge problem for any society in transition. The grey economy is estimated to comprise some 40% of Montenegro's economy.[36] Individuals who profited the most, during a time when most of the population had become impoverished, have since used the privatisation process to cleanse their assets by processing them through the legitimate economy. A large portion of foreign investment in industry and real estate come from off-shore tax havens and other funds with dubious origin, which raises the fear of money laundering. At the moment, the CID's Economic Crime Department (ECD) and the Administration for the Prevention of Money Laundering (Financial Intelligence Unit) do not have the capacity to adequately deal with this problem. They require more political support and better resources. Although they co-operate, that is still on an *ad hoc* basis. These two institutions are not yet connected by secure electronic communication. Police ICT capacities are, in general, underdeveloped and vulnerable. Securing evidence in economic crime requires an ICT forensics capacity to be established. No one has yet been convicted of money laundering and a shaky economy is extremely vulnerable to crime. The fight against serious and organised economic crime also cannot be effective without legislative changes – primarily seizing assets gained through criminal activities and shifting the burden of proof in economic crime cases to suspects. People who do not have regular jobs yet drive expensive vehicles and spend large amounts of money need to be targeted, in accordance with the balance of probabilities principle.

Montenegrin Authorities in the Fight against Organised and Serious Crime

The authorities have for years avoided acknowledging that organised crime exists in Montenegro. Two high-profile murders changed this: the 2004 assassination of Duško Jovanović, Editor-in-Chief of the only non-regime daily *Dan* and the 2005 assassination of Slavoljub Šćekić, Head of the Department for the Suppression of General Crime (*de facto* position number two within the CID). Solving these[37] crimes will be the test of the Police Administration's and criminal justice

[35] 'Montenegrin Prime Minister Milo Đukanović is facing pressure to either return or pay for the thousands of cars stolen from countries within the EU, the Podgorica daily *Dan* reports today. According to *Dan*, police in Germany have information on some 16,245 stolen cars on Montenegro's roads. The case reportedly surfaced after the Bosnia-Herzegovina branch of Interpol asked for the return of 40 cars, some of which *Dan* claims were registered as vehicles of the Montenegrin Science and Education Ministry.' news.inet.co.yu/index.php?date=20030715

[36] Institute for Strategic Studies and Prognoses/UNDP. *Human Development Report for Montenegro*, (Podgorica: ISSP/UNDP, 2005) p. 13.

[37] Some 30 high-profile murders committed in Montenegro after 1990 are still unsolved. Šćekić was the third senior security official among them.

system's capacity to deal with serious and organised crime. It will be crucial for gaining public confidence and support.

The government adopted its *Programme of the Fight against Corruption and Organised Crime* in 2005, but the results are yet to be seen. The Action Plan for the implementation of this programme is currently being developed. Currently, the small size and narrow scope of work of the four-man CID Organised Crime Department (OCD) is not reflective of the Government's publicly-expressed commitment to fight organised crime. At the moment, the OCD cannot be considered a proper unit in charge of suppressing organised crime in Montenegro, but rather as an investigative team working on a small number of organised crime cases.

Montenegro's CID is composed of six organisational units: Department for the Suppression of General Crime, OCD, ECD, DCIE, Centre for the Fight against Drugs, and Criminal Technical Centre (in charge of forensics). Outside of the CID, MoI's Special Verifications Department and Anti-Trafficking Team, as well as the Customs Administration, FIU and the ANS Department for Organised Crime and Terrorism also perform some criminal investigation roles. Approximately 570 investigators work in CID's headquarters and field branches in seven security centres and 14 security departments.

Introducing New Methods to Fight Crime

Enhancing the fight against organised crime depends on developing new methods and modes of work. New crime fighting methods are especially important for countering new modes of crime. In Montenegro, there are four key areas to be developed: criminal intelligence, forensics, special investigative means, witness protection and border policing. Criminal intelligence supports investigation through analyses that identify linkages between different criminal activities and organised crime groups. Forensics, special investigative means and witness protection assist in finalising criminal procedures by obtaining credible court evidence that cannot be obtained through traditional criminal investigation methods. In addition to fighting cross-border crime, border policing is instrumental in fighting trans-national organised crime. In developing these areas, great care needs to be taken to ensure that assistance is compatible with the rest of the criminal justice system. In that regard, the recent initiative to form a joint police-customs forensic laboratory is commendable.

Criminal intelligence never existed in Yugoslavia, so the Montenegrin police service heavily depends on international experience and support in establishing it. After a long search for an appropriate model, Montenegro decided to build its national criminal intelligence system on Scandinavian lines. Towards this goal, in 2005 the MoI concluded a three-year cooperation agreement with the Swedish National Police Board. The project includes advising, training and equipment. This endeavour should result in developing a strategy, rules and procedures, organisation, structure, methodology, a database and adequate control system. CID at the moment has very scarce technical resources. The lack of analytical IT support seriously hinders criminal investigations. For example, if paper documentation is seized it currently cannot be digitalised and automatically searched. Analytical IT tools are also important for establishing links between different crime cases and criminals that may not seem connected. They are also used to translate vast amounts of numbers in crime statistics into useful data. Of course, equipment is not enough on its own and must be paired with police officers who accept criminal intelligence as a method of policing. Technology can also be abused if its use is not safeguarded, which should lead to regulations on who and in which way individuals can provide input and to which levels of access they can retrieve information. Some specialised training has been provided through different international initiatives, but not a coherent training programme. Apart from training in the use of modern technical tools, police officers

need training in both information gathering and information management and analysis. The use of criminal intelligence may raise ethical, legal and human rights questions. In a post-communist society, merely the word 'intelligence' is associated with the state spying on its own citizens. The central criminal intelligence system needs to be secure and to operate within professional standards, police ethics and law. The MoI and Police Administration leadership also must assure the public that the criminal intelligence system will not be subject to misuse or abuse. Such a system needs to be the basis of criminal investigation in Montenegro, but it also needs to be the basis for intelligence-led work in all areas of policing, not only in the fight against crime. Strategic and operational analysis of gathered information is equally important in areas such as traffic safety or community policing. It is essential that all police units are beneficiaries of the criminal intelligence system, but that they also to contribute to it.

For more than a decade, the development of forensics and crime scene management capacities had been marginalised. The Montenegrin police were using obsolete and inadequate equipment and techniques and were thus unable to produce good quality evidence to be used in court. Enhancing these capacities was seen from the very beginning of the reform process as a direct investment in the overall strengthening of the rule of law in Montenegro. Lately, evidence for particularly important cases (such as high-profile murders) is being processed in Belgrade, Ljubljana and Wiesbaden. Montenegro's Police Administration is in the process of integrating the forensic laboratory in Danilovgrad, a small town 20km from Podgorica, where the Police Academy is also located. It will be also used for educational purposes and also by the Customs Administration. The building up of the forensic laboratory is supported by the OSCE, Norway, the EU and the US. It will also contain a US-funded DNA laboratory, whose sustainability is however in question, as the annual supply for the DNA laboratory costs half a million Euros. The US is also funding the Automated Fingerprint Identification System (AFIS). What is, however, probably the most needed, is the development of a quality management system for an unbroken chain of evidence. With the upgrading of the police capacities for securing and producing good quality evidence, a challenge remains in the area of cooperation between the pillars of the criminal justice system. Clarification of procedures needs to be ensured among those in charge of evidence gathering, investigation and prosecution.

The aim of police investigative work is to obtain information and credible evidence about criminal activities, and to prepare them for prosecution to use them in courts. Since organised crime activities are planned and conducted in closed and secretive groups, classical policing means often fail. Organised crime and corruption cases are seldom easy to prove. Fighting them is often effective only with special investigative techniques and equipment for the interception of communications and money flow, surveillance of suspects (audio-visually and following movements) and engagement of covert investigators and witnesses. The 2004 Criminal Procedure Code formally gave police the authority to use special investigative means—upon obtaining a court order—but the lack of capacities effectively prevents this from taking place. Special investigative means can be applied only to cases where the potential punishment for the crime under investigation is more than 10 years of imprisonment. This makes it difficult for the currently underdeveloped CID to determine when and to whom to apply it. Montenegro's police service, at present, also does not have the technical capacity to use special investigative means. Procurement of specialised equipment is needed, while a group of ANS specialists will be transferred to CID to perform these duties. Until now, only the ANS has full capacities for covert audiovisual surveillance. However, just as with criminal intelligence, the use of special investigative means is not only a technical, but also an ethical, legal and human rights issue. It is often controversial even in developed democracies. In order to avoid undermining public and international support, the Police Administration must prove to be depoliticised and capable of protecting the privacy of Montenegrin citizens. Montenegro

does not have an independent supervisory authority dealing with the protection of personal data, nor with unannounced ad hoc reviews of orders for interception.

Another important new method for fighting organised crime is the protection of key witnesses in high-profile cases. However, Montenegro cannot employ this method on its own, due to the size, strong social networks and the scarcity of resources. A witness protection programme needs to be developed in cooperation with other police services, especially with the neighbouring ex-Yugoslav police services (Federation of Bosnia and Herzegovina, Croatia, Republika Srpska and Serbia). This is would ensure that protected witnesses would be sheltered in areas into which they could more easily integrate due to shared language.

The fight against crime could be significantly enhanced if the unnatural separation of uniformed and investigative elements is overcome. This could be addressed at least in part by investigators in communities with small crime rates perform uniformed policing duties while not investigating. The effective fight against crime depends heavily on intelligence-led community policing. Closer work with the local community could be the basis for gathering more information on criminals and criminal activities. Common crime often serves as the training and recruitment ground for future serious and organised criminals as well. This is the case in Montenegro, where many of the most notorious criminals originated from urban gangs. In turn, enhancing crime prevention and investigation capacities would have a positive effect on community safety in Montenegro.

The fight against crime will fail if seen only as a police task. It must be seen as a responsibility of the entire criminal justice system, including the prosecution (especially the Special Prosecutor for the Fight against Organised Crime), judiciary, penal institutions and FIU. The very nature of the fight against crime in a transition society requires a multidisciplinary approach. At the moment, police investigators, intelligence analysts, prosecutors and investigative judges[38] do not work together closely enough either operationally, or in developing criminal justice policies and practices. The Bar Association's Court of Honour also needs to be active in conducting regular oversight of possible connections between attorneys and criminals. It needs to respect client-attorney confidentiality, yet also to aim to suppress corruption and ties to organised crime.

In addition to operational cooperation and mutual support, relevant authorities need to work on a comprehensive joint approach. They need to be jointly developing strategies and action plans for the suppression of organised crime. During this process, there is a need for participation of the Police Administration (CID, border and uniformed police, and Strategic Planning Unit), prosecution, judiciary, Customs Administration and FIU. Besides developing the mechanisms of multilateral cooperation, strategies and action plans need to outline: the *aims* of this cooperation, the *methods*, and the *resources* to fulfil these aims. Legislative initiatives also need to be included, especially in terms of defining and sanctioning new forms of crime. There would be little benefit if this were an occasional initiative—it needs to be a permanent cooperation forum, institutionalised in a sustainable way. In order to succeed, strategies and action plans need strong and uncompromised support from the political sphere.

Police Accountability in Montenegro

The lack of police oversight mechanisms was one of the most prominent reform challenges and Montenegrin police still have a long way to go in the fight against corruption. The Internal Control

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[38] Upcoming reform plans envisage giving the lead of investigations to the prosecution, while the institution of investigative judge would be abolished in proposed changes of the Criminal Procedure Code.

Department was established only a few years ago, and it lacks human and technical capacities and support.

In addition to effective internal oversight, accountability will have to be supplemented with effective and efficient external oversight, which is still declaratory but not fully practiced. External parliamentary oversight is still at a rudimentary stage. The Parliamentary Committee for Defence and Security—in charge of police oversight *inter alia*—is only formally performing its role. Its members do not possess sufficient knowledge of the area, and the Committee does not have sufficient professional expertise at its disposal.

Montenegro officially established an independent external police oversight body in October 2005, yet the Council for Citizens' Control of Police is actually a quasi-independent body. The Council has five members representing three quasi-civil society organisations (Bar Association, Doctors' Chamber and Association of Lawyers), the University of Montenegro, and NGOs dealing with human rights. The Government never gave up their Tito-era control of the first four entities, while the human rights NGO representative was nominated by phantom NGOs organised by the regime only for this purpose. The similar method was employed for the election of Ombudsman and members of the public broadcasting council. The Ombudsman's office does not have specific responsibilities for the police service, and police-related breaches of human rights are being treated as other cases.

With regard to accountability, the Law on Free Access to Information (2005) is quite restrictive and effectively hinders access to information. Citizens have to justify their requests by explaining why they need certain information, rather than institutions having to justify why information is classified. This law has not yet been fully implemented in relation to the MoI or the Police Administration.

The Montenegrin media scene is highly polarised, and pro- or anti-regime options dictate reporting on police. In addition, the media is unfortunately quite incompetent when it comes to policing issues. There are no journalists specialised to cover security issues, and there seems to be no interest in developing such specialised skills.

Police Education Reform

The only police training institution in Montenegro is the newly-established Police Academy. It evolved from the previous Secondary Interior School. The Secondary Interior School was an institution of secondary education inside the MoI, established in 1995. Previously, all Montenegrin police officers were trained in other Yugoslav republics. It was a boarding school that exclusively enrolled 14-year-old male students who graduate and start working as police officers at the age of 18. Apart from the police-related curricula, the students also used to learn general and military courses. Studying and boarding was free of charge. Police recruits requiring higher education would study at the Police Academy and Police College in Belgrade. The major problem with this type of education was that 'the socialisation and isolation of police recruits from the general public at such a young age is counterproductive to the development of a police officer in tune with the values of society and an understanding of the needs of the public.'[39] Simply put, 18-year-old police officers who just left a semi-military boarding school found it difficult to adjust to the community.

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[39] Downes, Mark. *Police Reform in Serbia, Towards the Creation of a Modern and Accountable Police Service*, (Belgrade: OSCE Mission to Serbia and Montenegro, 2004) p. 33
http://www.osce.org/publications/fry/2004/01/18262_550_en.pdf

In 2005, the Government adopted *The Programme of Montenegrin Police Education*, laying the groundwork for transforming the Secondary Interior School in Danilovgrad into the Police Academy. The Academy will open basic training to people who have a secondary school degree and are at least 18 years of age. However, due to the already excessive number of police officers and the fact that many of them are not adequately trained to perform the job (for instance, 40 percent of all Border Police officers have no police training at all), the Academy will need to concentrate on upgrading the policing skills of serving officers.

Strategic Planning and Development

Police planning in Montenegro is currently twofold: police reform strategic planning and planning of policing activities. The MoI and Police Administration still need to develop both.

The first aspect aims to adapt the Montenegrin police to transition and ensure organisational consolidation. It needs to develop the new police identity, mission, goals and guiding principles and to plan concrete steps for achieving these elements in a reasonable time. Police reform planning needs to be formalised in a police reform strategy, which should define measurable actions for the organisational development by identifying goals and available resources for fulfilment.

Effective police reform depends on the institutionalisation of permanent planning capacities, such as the MoI Strategic Planning Unit. It has so far played a significant role as the intellectual engine and catalyst of police reform, but needs to be reinforced in its future role as the MoI's permanent planning capacity.

Police reform in Montenegro cannot succeed if it is isolated from overall criminal justice reform. In addition to operational cooperation, all relevant authorities need to advance a comprehensive integrated approach to criminal justice reform. They need to jointly develop strategies and action plans that outline: the *aims* of cooperation (e.g. increasing traffic safety in a given period of time), the methods (e.g. more frequent patrols in traffic 'black spots'), and the *resources* to fulfil these aims. Police also need to contribute to legislative initiatives that regulate their work. Authorities in Montenegro have already benefited from consulting local experts from civil society and academia in the reform process. Criminal justice reform ultimately requires strong and uncompromising support from the Assembly and its Committee on Security and Defence, the Prime Minister and the Ministers of Interior, Justice and Finance.

There were a couple of international and MoI efforts in the area of strategic planning, especially at the beginning of the police reform process. Most notable was the work with the Danish Institute for Human Rights that led to the Vision Document. Another was within the framework of the regional association Southeast European Police Chiefs Association (SEPCA),[40] which was assisted by the Royal Canadian Mounted Police (RCMP). The RCMP facilitated several workshops on strategic planning which were supposed to result in an environmental scan and overall MoI strategic plan. The aim was too ambitious for the RCMP mandate and the allotted budget. RCMP pulled out two years ago, and strategic plans were not finalised, although some individual capacities for strategic planning remained.

The overall social turbulence which culminated in the independence referendum has settled,

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[40] Nine police services are SEPCA members: Albania, Federation of Bosnia and Herzegovina, Bulgaria, Croatia, Macedonia, Montenegro, Republika Srpska, Rumania and Serbia.

so attention needs to be focused on the future. The Vision Document should be used as a starting point for evaluating what has been achieved so far, and possibly using some of its material for developing other operational strategies. Special attention needs to be paid to tangent issues between operational strategies towards defining common issues.

Montenegro's International Police Cooperation

In Montenegro, organised crime has international—especially regional—implications. Many criminals of Montenegrin origin operate abroad, but Montenegro is also the victim of international organised crime. During the 1990s, the Apulian *Sacra Corona Unita* used Montenegro's coast as a base for their smuggling activities and as a safe haven. The Italian Central National Bureau of Interpol opened an office in the port city of Bar in 1999, which was instrumental for extraditing dozens of mafiosi and for cutting trans-Adriatic tobacco and drugs smuggling lines. Montenegro is also a transit area for international organised crime.

International police cooperation and exchange of data was almost non-existent between 1992 and 2001. A major obstacle was the expulsion of FRY from Interpol in 1992. It was readmitted in 2001, after the democratic changes in Serbia, and the Interpol National Central Bureau (NCB) became part of the Federal MoI's CID. After the Federal MoI was dissolved in 2003 when Serbia-Montenegro was formed, all law enforcement competences were placed under the jurisdiction of the republics, so the Serbian MoI took over the NCB. Montenegro disagreed with this decision and declined an offer to open a sub-NCB in Podgorica, which would have enabled a direct link to Interpol's I-24/7 database in Lyon. Montenegro applied for separate membership, with the support of the then-Serbian Minister of Interior Dušan Mihajlović, but Interpol's 2003 annual assembly in Barcelona rejected it as only internationally-recognised states were allowed to be members, not the individual police services of sub-national entities.[41] Instead, a Department for Cooperation with Interpol and Europol (DCIE) was created within the Montenegrin CID in 2004. After the adoption of the new Law on Police in 2005 it was placed within the Police Administration's newly-created Department for International Cooperation. After Montenegro became independent in May 2006, it was admitted to Interpol at the annual assembly in Rio de Janeiro.

Police Administration also maintains bilateral operational cooperation with other, mainly regional, police services through a series of agreements or direct contact with foreign police liaison officers situated in Belgrade.

Montenegro has managed to attract many donations for police reform, with the US and EU countries as the biggest donors. The international community has, as a rule, focused its reform efforts on developing the Border Police, without necessarily placing it in the context of overall political and economic transition, including reform of the criminal justice and security sectors. Efforts could be multiplied if more attention was given to planning, regional harmonisation and donor co-ordination. Investment in infrastructure and segmented training efforts have not always been tailored to the recipient's real needs. Aid should be conditioned by demanding the development of: functional strategies and action plans, recruitment standards, training curricula, interagency cooperation and intelligence-led policing. There have been cases of outdated and used equipment being donated,

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[41] In Bosnia and Herzegovina, for instance, police competences (except border policing since 2000) belong to two entities – Federation of Bosnia and Herzegovina and Republika Srpska. However, their police services created a joint NCB in Sarajevo.

whose maintenance sometimes costs more than the procurement of new equipment. Newly donated equipment often requires certain infrastructure investment by the MoI, e.g. staff training or installation. Assistance should be given to areas that are part of an overall reform strategy.

In Lieu of a Conclusion

Proper police reform started only in 2001—being facilitated only by the fall of Slobodan Milošević—and has always been primarily a political issue. The political sphere, however, failed to support police reform through consistent reform policies. During this period, Montenegro had five Ministers of Interior: Vukašin Maraš (DPS, 1998-2001), Andrija Jovićević (DPS, 2001-2002), Milan Filipović (SDP,[42] 2003), Dragan Purović (DPS, 2003-2005) and Jusuf Kalamperović (SDP, 2005-present). Political instability led to inconsistency in police reform, since priorities were set by issues often not related to domestic affairs. The overarching political issue at the time was the issue of Montenegro's status – whether it would remain part of a joint state with Serbia or become independent. Months before the referendum, the majority of the state apparatus, including the police service, was preoccupied with this issue, slowing the progress of reforms. The political elite of today's independent Montenegro have no more excuses, but to undertake the four 'Ds' – de-politicisation, de-militarisation, de-criminalisation and de-centralisation of the police. It is yet to be seen whether they will be mature enough in this respect. Police culture and values need to evolve to accommodate the changing social values of a society in transition, striving towards the EU. Montenegro's post-communist police service—which has never been subjected to democratic lustration—still needs serious rehabilitation, primarily through the change of service culture and mentality, and through accountability to democratically elected institutions.

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[42] Social Democratic Party is a junior member of the Đukanović-led governing coalition. It originates in the League of the Socialist Youth of Montenegro – the LCMN youth branch.

Border Management Reform – the Republic of Montenegro

The dissolution of socialist Yugoslavia and the emergence of new countries created new borders. In 2000, the Army and Navy were securing the FRY green and blue borders, while the republican MoIs were tasked with controlling border crossing points (BCPs). In 2000/2001 the Federal MoI 'intended to create a Border Police Service (BPS) in order to transfer responsibility for the task of border security from the military to the police.'[43] However, Montenegro has not acknowledged the federal institutions since July 2000. In addition, the signing of the Belgrade Agreement in March 2002 announced restructuring of the FRY into Serbia-Montenegro. With such a political constellation, the federal BPS was never created.

In February 2003, the FRY was transformed into Serbia-Montenegro, and the Constitutional Charter of Serbia-Montenegro was enacted. Consequently, the Federal MoI ceased to exist. The Serbia-Montenegro Ministry of Defence and its military remained one of the few institutions governed from the union level. Hence, the security of the Montenegrin international borders remained under the two-level responsibility of the Serbia-Montenegro military and the Montenegrin police service.

The issue of the demilitarisation of Montenegrin borders also needs to be seen from a wider prospective of overall security sector reform and the impending accession of the Western Balkans[44] to the EU, where border protection is not seen as an issue of defence, but rather of home affairs. At the EU – Western Balkans Summit in Thessaloniki, 'the EU reiterated its unequivocal support to the European perspective of the Western Balkan countries.'[45]

The whole process demanded both commitment and support not just from the Western Balkan countries themselves, but also from the international community. Bearing in mind that, in early 2003, 'following a NATO initiative, the EU, NATO, the OSCE and the Stability Pact worked jointly to develop a coherent and concerted approach to the border security and management issue in the region.'[46] The international community's interest in border protection reform also lay in the fact that Montenegro is located on the infamous Balkan Route – one of the main roads of illegal trafficking in human beings, weapons, drugs and other hazardous substances to Western Europe. The Balkan Route is also an important road for terrorists, connecting the Middle East and Central Asia with Europe.

The initiative resulted in the Ohrid Process on Border Security within which the countries and international organisations agreed on a way forward regarding all crucial aspects of the process at a conference held in May 2003. Its long-term overarching goal was to develop Integrated Border Management (IBM) in the Western Balkans. IBM should provide the right balance between open but secure and controlled borders – i.e. borders open for trade, tourism and other forms of legitimate movement of people and goods, but secure and controlled to prevent crime, terrorism and illegal migration.

The demilitarisation of the state border and introduction of the IBM system in line with the EU and Schengen standards is an enormous challenge. The conditions at many BCPs are still rather poor, although some were built or refurbished with US and EU funds. Before the break-up of Yugoslavia, Montenegro had a 260 km-long international border with Albania (comprising two infrequently used BCPs), a 93km-long coast (with one international seaport), and two international airports. Today, Montenegro has 30 BCPs. Police had two border-related tasks: checking

[43] Monk, Richard. *A Study on Policing in the Federal Republic of Yugoslavia* (OSCE: Vienna 2001) p. 27.
[44] Western Balkans countries are Albania, Bosnia and Herzegovina, Croatia, Macedonia, Montenegro and Serbia.
[45] http://www.mfa.gr/english/foreign_policy/eu/EU-WBalkans_en.pdf
[46] http://www.nato.int/docu/conf/2003/030522_ohrid/c030522a.htm

passengers at the five BCPs and monitoring foreigners on Montenegro's territory. They were usually very busy during the summer tourist season, but much less throughout the rest of the year.

Type of BCP	Before 1991 *break-up of Yugoslavia*	After 2004 demilitarisation of international border
Land	2*	23**
Sea***	1	5
Air	2	2
Total	5	30
* One railway and one road BCP. ** Two railways and 21 road BCPs. *** The international seaport in Budva is active only during the summer tourist season.		

Most of the State Border Sector staff members were recruited from the paramilitary Special Police Unit (PJP). None were directly recruited from the ranks of the previous Army border guards, and very few naval officers joined the Maritime Police Unit. Previously, a number of PJP staff members were professional soldiers, NCOs and officers – many of them were war veterans. Such conversion and 'demobilisation' represented a sound and commendable shift towards demilitarisation, but it needs to continue, as the State border sector is still the largest militarised component of the Montenegrin MoI.[47] Almost 40% of the current 1,381 border police officers do not have any police training. A significant number of border police officers have military, rather than policing skills. Although the 2004 study on *the Relationship between the Police and Local Community: Survey Report, Based on Focus-Group Interviews*[48] primarily aimed to identify the public's views on uniformed police potential for community policing, it also identified interviewed citizens' concerns about the number of poorly-trained police officers, including border police officers. Training is needed in intelligence-led policing and modern border policing methods, such as profiling or identifying counterfeited and forged documents. The possibility of discovering and handling the victims of human trafficking requires special training in anti-trafficking and human rights. Since corruption is so often linked to borders, training aimed at increasing awareness of accountability is needed.[49] The IBM Strategy also identifies the need for training in the normative framework.[50] Learning at least the basics of foreign languages spoken by tourists is also vital. In sum, it is essential to ensure that the takeover of borders from the military entails *policing the border*, rather than *militarily guarding the borderline.*

Border security reform is one of the main areas of the criminal justice and security sectors

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[47] Two other militarised components of the police service in Montenegro are the Special Police Unit (downsized from 2700 to 144 members during 2002 and 2003) and the Special Antiterrorist Unit (80 members).

[48] Bešić, Miloš. *Relationship between the Police and Local Community: Survey Report, Based on Focus-Group Interviews* (CEDEM: Podgorica 2004)

[49] This should to be paired with appropriate internal oversight. Two specific areas in which internal oversight should focus on are corruption and harassment. While corruption is often associated with cross-border transport, harassment may be twofold: against the public and within the police service. Modern border policing incorporates an understanding that all people crossing the border—legally or illegally, regardless of citizenship, ethnicity, faith, mother tongue etc—possess equal human rights and should therefore be treated with dignity. Harassment within the service may be higher than in other police branches due to the geographical isolation of many border police posts.

[50] The Government of the Republic of Montenegro: *Strategija za integrisano upravljanje granicom* (*Integrated Border Management Strategy*), (Podgorica 2006) p. 13

www.mup.vlada.cg.yu/vijesti.php?akcija=vijesti&id=12153

reform in the EU-striving Balkans. Border policing is the area of police reform in Montenegro which has enjoyed the fastest and most comprehensive development. Border transformation was placed at the top of the reform priorities, which—apart from improving border protection—had primarily a political aim of demonstrating the capacity of the pro-independence Government to take over responsibility for border security.[51] In 1998, the Government decided to create its own customs service, separated from the then-Federal Customs Directorate, while in 2001, it decided that the Montenegrin MoI should take over responsibility for the Republic's international borders (with Albania, Bosnia and Herzegovina and Croatia) from the Federal Ministry of Defence. The handover process lasted several months and was completed on 1 January 2004.

Towards Integrated Border Management

The EU concept of Integrated Border Management (IBM)[52] entails inter-agency cooperation with clear, legally binding definitions and division of tasks and responsibilities, cooperation mechanisms (including information exchange at the international, national and local levels), and interoperable technical means and common infrastructure to meet their joint goals and responsibilities. It also means that the border services of all of the Balkan countries must maximise their limited capacity and co-operate. Overdeveloping the border police service with a main purpose of implementing EU and Schengen regulations should be avoided. This would then require huge personnel and infrastructure cuts once the Balkan Peninsula is integrated into the Schengen area.

Although belatedly, the Montenegrin Government adopted the IBM Strategy in February 2006, which represents a tangible break-through for further planning and interagency cooperation. The beginning of this document is dedicated to describing the geopolitical characteristics of Montenegro. For each of the four border-related authorities (Police Administration, Customs Administration, Veterinary Inspection and Phyto-Sanitary Inspection[53]), the IBM Strategy assesses the current situation and proposes future activities in the areas of legal framework, management and organisation, procedures, human resources and training, IT and communications, infrastructure and equipment, and budget and timelines. It proposes co-ordination mechanisms and defines interagency and international cooperation. The IBM Strategy also discusses available resources, the timeline for implementation and proposes activities for detailed Action Plans (to be developed and adopted by an inter-ministerial working group).

The State Border Directorate led the process and provided a draft to the three other authorities to contribute with their input. The Government adopted the Strategy only several days after the 62 page draft was submitted, without much time to thoroughly assess it and realistically plan implementation resources. In its assessment of resources to implement the IBM, the Strategy lacks an estimation of costs, but seems to rely on potential foreign donations, which are a rather unstable source.

Probably due to the short timelines imposed on the State Border Directorate, it started developing the Strategy without sufficient internal consultations inside the MoI. Border Police need to be perceived as an integral part of Montenegro's police service and not as a separate authority. Effective border protection on a small territory such as Montenegro can be important not only for the fight against cross-border crime, but also against organised crime. Border Police must have

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[51] The name of the organisational unit in charge of border policing: *State Border Directorate*, rather than *Border Police Directorate* – is also a sign of emphasising Montenegrin statehood. Their official MS PowerPoint presentation in 2003 highlighted that the 'state border becomes symbol of statehood and independence.'
[52] *Guidelines for Integrated Border Management in the Western Balkans*,
europa.eu.int/enlargement/cards/pdf/publications/ibm_guidelines.pdf
[53] The latter two are part of the Ministry of Agriculture and Fishery.

access to the CID and customs criminal intelligence systems – both as users and as input providers. A separate Border Police criminal intelligence capacity would be expensive and unnecessary. A central criminal intelligence system would require specialised training for Border Police and customs officers. In all other crime prevention and investigation issues, it is essential that the Border Police (and other three IBM services) closely co-operate with the CID and uniformed police. In turn, these other police branches also need to learn about border policing. In Slovenia, for example, all non-border police officers were trained in week-long awareness courses. Joint training of police and custom officers would also enhance their interoperability.

To ensure the free movement of people, goods and assets across open, yet controlled and secure borders—which is the stated IBM goal—four agencies need to develop comprehensive mechanisms of cooperation. They also need to co-operate with other authorities: e.g. Ministries of Health, Trade, Labour and Tourism.

Cross-border police cooperation which fosters communication, dialogue and involvement at the central, regional and local levels is also a necessity. The Montenegrin Border Service has already established ties with neighbouring border services, yet this could be further enhanced by more field-level cooperation for operationalising high-level declarations about cooperation. Field-level cooperation is always more effective if border services members personally know their counterparts. Regular cross-border meetings and exchange of information, learning each others' procedures and joint patrols would be beneficial. In the EU accession process, neighbouring services also need to work on developing a higher level of harmonisation of normative frameworks and procedures.

International Support to Border Security Reform in Montenegro

The EU has often reiterated its intention to integrate the whole of the Balkan Peninsula, and implementing IBM is one of the main preconditions. The demilitarisation of borders throughout the region and the subsequent establishment and consolidation of Border Police services have garnered massive international investment for infrastructure, equipment and training. There are three main reasons for this: first, the Peninsula is a major transit zone for illegal trafficking to Western Europe. Developed countries have an interest in preventing trans-national organised crime, terrorism, illegal migration and illegal proliferation. Second, as the borders between the post-Yugoslav countries are new, most of the borders in the region are lacking proper infrastructure. Countries devastated by war and economic crisis, now undergoing transition, do not always have resources to invest in this. Thirdly, not all borders in the Balkans have yet been completely agreed upon, which further complicates the border security reform process.

Montenegro has managed to attract many donations for border security reform, with the US and EU as the biggest donors. The international community has, as a rule, focused its reform efforts on developing border services, without necessarily placing it in the context of overall political and economic transition, including reform of the criminal justice and security sectors. Efforts would be multiplied if more attention were given to planning, regional harmonisation and donor co-ordination. Investment in infrastructure and segmented training efforts have not always been tailored to the recipient's real needs. Aid should be conditioned by demanding the development of: functional strategies and action plans, recruitment standards, training curricula, interagency cooperation, intelligence-led work and scenarios of Schengen area enlargement. There have been cases of outdated and used equipment being donated, whose maintenance sometimes costs more than procuring new equipment. New equipment that is donated often requires certain infrastructure investment by the MoI, e.g. staff training or installation. Assistance should be given to areas that are part of an overall reform strategy or plan.

Annex I: List of relevant international codes and conventions to which Montenegro subscribes

United Nations: As a part of Serbia-Montenegro, Montenegro was obliged by the following UN conventions. Since only Serbia has legal continuity of Serbia-Montenegro, Montenegro will need to sign them.

- The Civil and Political Rights Pact
- Convention against Torture and Other Cruel, Inhuman or Humiliating Punishments and Procedures
- Convention on the Fight against Trans-National Organised Crime
- Protocol on Prevention, Combating and Penalising Human Smuggling, Especially Women and Children
- Single Convention on Narcotics
- Convention on Psychotropic Substances
- Convention against Illegal Trade in Narcotics and Psychotropic Substances
- Convention on Criminal and Other Acts Done in Aircrafts (The Tokyo Convention)
- Convention on Combating Illegal Hijacking of Aircrafts
- Convention on Combating Illegal Acts Directed towards the Safety of Civil Aviation (The Montreal Convention)
- International Convention against Taking Hostages (The New York Convention)
- 1979 UN Resolution: Code of Conduct for law-enforcing officers

The Council of Europe (CoE): As a part of Serbia-Montenegro, Montenegro was obliged by the following CoE documents. Since only Serbia has legal continuity of Serbia-Montenegro, Montenegro will need to sign them.

- European Convention on Human Rights and Fundamental Freedoms
- Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment
- European Convention on Mutual Assistance in Criminal Matters
- European Convention on Combating Terrorism
- European Convention on Violence and Unruly Behaviour of Fans at Sports Events and Criminal and Criminal Law Convention on Corruption
- Serbia-Montenegro has signed the CoE Convention on Personal Data Protection, but its ratification is in dispute

OSCE: All decisions in the OSCE Permanent Council are made by consensus hence all decisions oblige member states of the OSCE, including the Republic of Montenegro.

Interpol: As the newest member of Interpol, Montenegro abides by all relevant rules and regulations.

Europol: Montenegro is not a member of Europol, and thus not obliged by any of its documents.

Annex II: Chronology of Main Police Reform Related Events in Montenegro

October 2000	Slobodan Milošević toppled in a democratic overthrow in Serbia, after refusing to recognise Vojislav Koštunica's electoral victory for the President of the FRY. This leads to the easing of security tensions in Montenegro, which enables police reform to tentatively begin.
July 2001	Minister of Interior Vukašin Maraš (DPS) replaced by Andrija Jovićević, from the same party.
July 2001	Publishing of the influential OSCE report, *A Study on Policing in the Federal Republic in Yugoslavia*, written by Richard Monk. The report outlined six areas for police reform: *community policing, police accountability, organised crime, forensics, border policing*, and *police education and development.*
November 2002	A high-profile sex trafficking case involving a Moldovan woman, 'S.C.', caused a major political crisis. Several involved senior officials (including the Deputy State Prosecutor) were arrested, yet no one was indicted. The OSCE and CoE submitted a joint report on the case in October 2003.
January 2003	Minister of Interior Andrija Jovićević replaced by Milan Filipović (SDP) when the new Government was formed after parliamentary elections. He claims that the Prime Minister removed him to hinder the investigation in an attempt to protect the officials involved. 'S.C.' evacuated from Montenegro, and all those arrested were released the next day.
February 2003	After strong public and international pressure, the National Anti-Trafficking Co-ordinator—a close friend of one of those arrested in the 'S.C.' case—resigned.
February 2003	FRY reconstituted into Serbia-Montenegro. All law enforcement competencies devolved to the republican level and the Federal Ministry of Interior ceased to exist.
February 2003	The State Prosecutor resigned due to strong public pressure over the 'S.C.' case.
May 2003	Organised Crime Department established within the CID.
May 2003	Strategic Planning Unit established within the MoI.
July 2003	MoI established the post of Spokesperson.
November 2003	Milan Filipović resigned citing dissatisfaction with political deadlock over new police and secret service legislation. He was replaced by Dragan Đurović (DPS) who kept the post of Vice Prime Minister in charge of the political system.
January 2004	The police takeover of Montenegro's international borders from the Federal Military was completed.
May 2004	Duško Jovanović, Editor-in-Chief of *Dan*, the only anti-regime daily newspaper was assassinated.
April 2005	The MoI *Vision Document* published.
April 2005	The Law on Police and Law on Agency for National Security were adopted after more than two years of disputes within the ruling coalition. The MoI's Public Security Service renamed the Police Administration and separated from the MoI, which kept executive oversight over it. The MoI's State Security Service was renamed the Agency for National Security and was completely taken out of the MoI, under direct government supervision. The police chief's

	title changed from *Assistant Minister of Interior [in charge of Public Security] to the Police Director*.
June 2005	Slavoljub Šćekić, the Head of CID's Department for the Suppression of General Crime (and *ex-officio* Deputy Head of CID) was assassinated.
July 2005	Establishment of the Assembly's Committee for Security and Defence, in charge of parliamentary oversight of the MoI and ANS under the new police and secret service legislation.
August 2005	The Government adopted *The Programme of Montenegrin Police Education,* laying the groundwork for transforming the Police Secondary School in Danilovgrad into the Police Academy. The Government also adopted *The Programme of the Fight against Corruption and Organised Crime*. The subsequent *Action Plan* is still being developed.
October 2005	Establishment of the Council for Citizens' Control of Police, a quasi-independent external police oversight body.
October 2005	Minister of Interior Dragan Đurović replaced by Jusuf Kalamperović who kept the post of Vice Prime Minister in charge of the financial system. The MoI portfolio again went to the SDP.
November 2005	Assistant Minister of Interior for Public Security Mićo Orlandić (SDP) replaced by the Police Director Veselin Veljović, Commander of the Special Antiterrorist Unit for the previous 10 years, famous as a firm Đukanović loyalist. Orlandić becomes a Minister without Portfolio.
November 2005	Memorandum of Understanding between the MoI and the OSCE Mission to Serbia-Montenegro signed. It redefined police reform priorities and outlined six new joint priority areas: *community policing, police accountability, criminal investigation, border policing, strategic planning and development, and police education and development.*
February 2006	Government adopted the Integrated Border Management Strategy.
May 2006	Montenegro became independent.
Summer 2006	After the referendum on independence, dozens of ethnic Serb police officers reportedly transferred to work away from their places of residence.
September 2006	Montenegro accepted as an Interpol member at the organisation's annual assembly in Rio de Janeiro.

POLICE REFORM IN THE REPUBLIC OF SERBIA

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Introduction

Police reform, as an integral part of Security Sector Reform (SSR), is one of the main prerequisites of the transition from an authoritarian regime to a democratic polity. One of the biggest challenges Serbia faced after the democratic shift on 5 October 2000 was the reform of the police force and its transformation into a service accountable to citizens.

The overarching challenges of police reform in Serbia were politically articulated following the changes in 2000, and were marked as the four 'Ds' – de-politicisation, de-centralisation, de-criminalisation and de-militarisation.

The 'Ds' were often publicly declared by both administrations after 2000, but they were not systematically developed as government policy. The lack of policy and a clear implementation strategy, led to lack of internal capacity and precise time-frames for steering towards the proclaimed goals.

Reform has been ongoing with varying intensity. However, due to the legacy of the conflicts in the former Yugoslavia, internal political instability and the present regional security challenges (i.e. the unresolved status of Kosovo), the Ministry of Interior (MoI) remains the executive branch of the highest political importance. Thus, political influence is still present. The recently adopted Law on Police has made a division between political and operational components and all necessary by-laws are to be adopted by November 2006.

The Serbian police still have a way to go in the fight against corruption. The internal affairs unit was established only a few years ago, and lacks capacity and support. In addition to effective internal oversight, accountability will have to be supplemented with effective and efficient external oversight, which is still declaratory but not fully practiced. External parliamentary oversight is still at a rudimentary stage. The Parliamentary Committee for Defence and Security – in charge of police oversight *inter alia* – is only formally performing its role. Its members do not possess sufficient knowledge of the area, and the Committee does not have sufficient professional expertise at its disposal. The idea of establishing an independent external oversight body has yet not been pursued; this is still a missing link in the police oversight structure. Public and media interest will have to evolve in order to support these accountability mechanisms.

The lack of legal instruments compatible with European standards and best practices slows down the reform process as well. The slow pace of implementing newly-adopted system-reforming laws is a huge problem in many areas, and police reform is no exception.

Pending the issue of the new constitution, the police service will remain a centralised authority, reflecting the structure of the highly centralised state. Furthermore, centralised management of the budget and short-term planning impede the delegation of decisions. Police at the local level have little room for manoeuvre in addressing specific local issues and working more closely with communities.

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The dissolution of socialist Yugoslavia and the emergence of new countries created new borders. Until recently, the Army and Navy of the Serbia and Montenegro state union were securing the state's green and blue borders, while the Serbian Ministry of Interior was tasked with controlling border crossing points. The process of the police take-over of the state border from the military started in 2005, and is planned to be finalised by the end of 2006. In parallel, the implementation of the Integrated Border Management system was initiated, and there are many challenges yet to be addressed in this respect.

Police culture and values need to evolve to accommodate to the changing social values of a society in transition, striving towards the European Union (EU). Although the vast majority of high-ranking Milošević-era police officers, who were involved in paramilitary operations, have retired, Serbia's police service still needs a long and serious rehabilitation, primarily through a thorough reform of education and training. Modernisation and the institutionalisation of training, being the foundation of ongoing professional development and advancement, are the current focus.

Constitutional Framework

The Constitution[2] of the Republic of Serbia was adopted on 28 September, 1990 by the National Assembly of the then Socialist Republic of Serbia. At that time, Serbia was the constituent republic of the Socialist Federal Republic of Yugoslavia (SFRY). The Serbian Constitution states that the work of state agencies shall be open to the public and that the publicity of such work may be restricted or precluded only in cases provided by law. In addition, the Constitution prescribes that the Cabinet supervises the work of the ministries and other state agencies.

The turbulences in the Balkans and the Yugoslav War[3] created new realities, and the final dissolution of the former Yugoslavia culminated with the dissolution of the State Union of Serbia and Montenegro following the referendum on independence in Montenegro in May 2006.

Currently, adoption of the new Serbian constitution is on the top of the political agenda. There are intensive inter-party consultations on the draft of the new constitution. The new constitution will heavily influence the organisation of all state authorities, police being one of the most important among them. The issue of the decentralisation, especially with regards to constitutional solutions for the Serbian Autonomous Province of Vojvodina will have a bearing on the organisation of policing especially in terms of the development of the community safety concept. According to the recent reports of the Serbian daily papers, the final draft of a new Serbian Constitution will be presented to the parliamentary Constitutional Subcommittee by the end of September 2006, hence it is expected that the new constitution will be adopted by the end of the year.

The National Police Agencies

The national police agency in charge of public security is placed under the General Police Directorate (*Direkcija policije*). As mentioned above, with the adoption of the new Law on Police in 2005, division was made between the political and operational components and the General Police Directorate replaced the Public Security Sector. The General Police Directorate is part of the Ministry of Interior (MoI). Apart from the General Police Directorate, there are three larger

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[2] English translation of the Constitution of the Republic of Serbia can be found at http://www.srbija.sr.gov.yu/cinjenice_o_srbiji/ustav.php

[3] The Yugoslav War is a generic term for all secession wars, civil wars, armed rebellions, external military interventions, and other forms of armed conflict in the former Yugoslavia from 1991 to 1999.

organisational units – Division for Finance, Human Resources and Common Affairs, Division for Internal Control of Police and the Division for Protection and Rescue.

Regarding the establishment of the new police units in the recent past, it should be highlighted that in mid-2001 a standing paramilitary police unit – the Gendarmerie was formed as a part of the Public Security Sector. The core of the new unit came from the Special Police Unit (PJP), which employed regular uniformed police officers who were brought in and out on a shift basis. A number of Gendarmerie newcomers were recruited from outside the police service. The Gendarmerie is tasked with performing anti-terrorist activities and the most complex security tasks, securing peace and order in high-risk situations and providing assistance to other state bodies as well as providing assistance in emergencies.[4]

The most important change that occurred during the re-structuring process after the adoption of the new Law on Police was the establishment of the Organised Crime Directorate (UBPOK) in 2001, which became the part of the General Police Directorate. Prior to this, the Organised Crime Directorate existed outside the police service structure (Public Security Sector) and reported directly at the political level to the Minister of Interior, the only operational unit of its kind. Placing UBPOK under the General Police Directorate's umbrella is seen as a positive step in the process of the de-politicisation of police service.

The Security-Information Agency (*Bezbednosno-informativna agencija* - BIA) is the national civilian intelligence and counter-intelligence agency. The creation of the Security-Information Agency in 2002 was the most important structural change in terms of policing in the past decade. The state security apparatus (State Security Sector) was extracted from the Ministry of Interior with the adoption of the Law on Security-Information Agency in 2002. Since it originated from the MoI structure (MoI consisted of the State Security Sector, i.e. secret police and Public Security Sector, i.e. police service), state security was placed under the direct control of the Serbian Government. As a result of this change, 500 officers were transferred from state to public security.

As previously mentioned, the Security-Information Agency is directly accountable to the Serbian Government. The Agency is obliged to submit a work report and the security status of the Republic of Serbia to the Government of Serbia twice yearly. In performing its official duties, the Agency is obliged to comply with the basic principles and directives of the Government, which refer to the security intelligence policy of the Republic of Serbia.

With regards to the important structural changes within the national police services, one additional change deserves attention. Following the rebellion of the secret service's paramilitary branch – Special Operations Unit (*Jedinica za specijalne operacije* - JSO), in November 2001, JSO was taken out of the State Security Sector and placed under the direct supervision of the Serbian Government. In March 2003, following the assassination of the Serbian Prime Minister Zoran Djindjic, JSO was fully disbanded because the prime suspects were the former commander and the then deputy commander of JSO. The majority of JSO members were transferred to the Gendarmerie, a smaller number to a Special Antiterrorist Unit (*Specijalna antiteroristicka jedinica* – SAJ) and VIP Protection Unit – all of which were within the Public Security Sector, while some left the service.

Other services with limited policing authority are the Tax Police Directorate (*Direkcija poreske policije*) responsible for the investigation of tax fraud and the Customs Administration (*Uprava carina*), which is responsible for the investigation of customs offences. Both these authorities work within the Ministry of Finance.

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[4] The Vision Document on the Reform of the Ministry of Interior of the Republic of Serbia, p. 254 (hereinafter the MoI Vision Document)

The Customs Administration had no policing powers until 2003. It was strictly a fiscal agency. After 2003, it was within the custom's competence to ask for IDs and to search for illegal goods. In cases where customs notices that a criminal act has been committed, officials are permitted to restrict the movement of an individual prior to the arrival of the police. The Tax Police Directorate was formed in 2003 when the former Financial Police Directorate was transformed into the Tax Police Directorate. The tax police cannot exercise any police powers unless they act in concert with the police service.

The Tax Police Directorate is accountable to the Serbian Government through the Ministry of Finance and its Tax Administration. Similarly, the Customs Administration is accountable to the Serbian Government through the Ministry of Finance.

The Military-Police Department is responsible for the policing of the armed forces. It is a part of the Serbian Armed Forces within the Ministry of Defence (MoD). The Ministry of Defence, which used to report to the federal, i.e. state union level prior to the referendum on Montenegro independence, is now reporting to the Serbian Government.

The first half of this paper will mainly give an account on the reform of the police service, which is responsible for public safety. The reform of the border management services, which possess some policing powers, will be covered in the second half of the paper.

Political Documents Stating the Role of the Police Within Defence and Security Policy

With regards to the political documents stating the role of the police within defence and security policy it is essential to keep in mind that the Republic of Serbia was, until recently, a part of the state union of Serbia and Montenegro. There are a few political documents that were adopted at the state union level, such as, the Defence Strategy and the White Paper on Defence of the state union of Serbia and Montenegro. Those documents need to be reviewed bearing in mind the new political circumstances. The Republic of Serbia has not yet adopted a National Security Strategy.

The Defence Strategy of the State Union of Serbia and Montenegro, adopted in November 2004, does not mention the role of the police; the document only refers to civil defence, and speaks about the role of other government authorities in broad terms. Also, the policing element is not tackled in the White Paper on Defence of the State Union of Serbia and Montenegro.[5]

Police Policy/Planning Documents and Coordination

One of the most serious efforts aimed at defining, prioritising and managing police reform was the development of the Vision Document, with the assistance of the Danish Centre for Human Rights (DCHR).[6]

The MoI in cooperation with the DCHR and the League for Experts (LEX)[7] established a think tank to lead the reform process in September 2001. The think tank gathered experts from the police, human rights NGOs, judiciary and legislature aiming at 'carrying out an extensive survey of

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[5] (http://www.mod.gov.yu/000english/01%20index-e.htm)

[6] Monk, Richard 'A Study on Policing in the FRY,' July 2001, p. 34
www.osce.org/item/17633.html

[7] League of Experts (LEX) is an independent think tank. Experts gathered under the LEX umbrella represent a group of civil society leaders (www.lex.org.yu)

reform issues and producing a document defining long term strategy and a reform framework.[8] Working groups were established for 14 reform areas,[9] reflecting the then organisational units of the Ministry of Interior.

The work of the groups on the development and compilation of the Vision Document took more than a year and a half (2001-2003). In April 2003, the Vision Document was officially presented to the Serbian government and the international community.

The development of the almost 600 page long Vision Document was an enormous and commendable endeavour. Each of the 14 working groups developed chapters offering analysis on the current situation, main obstacles and suggested measures to overcome them. The document also gave an overview of services provided by the Ministry of Interior organisational units and deficiencies in the prevailing legal framework. Mid and long-term objectives were outlined, as well as the key success criteria and indicators. Furthermore, the Document was proof that there was awareness of the gravity of challenges that confronted the reform process.[10]

As an accessory to the Document, the Ministry of Interior developed the Police Reform Projects Catalogue consisting of 174 projects. However, the projects were just outlined and no prioritisation was made. Only overall goals were detailed in a few sentences. Neither a budget nor realistic implementation plans were included.

The body which was designed to steer the reform process has never met.[11] The Vision Document was not developed further in terms of 'detailed plans, timelines, specific milestones, realistic goals and practical steps to realise the vision of a new police service'[12] nor used as a starting point for a new revised document. The whole process did not result in a deeper mental shift towards strategic planning.

Even though many years have passed since the adoption of the Vision Document, the Republic of Serbia does not have an overall police strategy or National Security Strategy, as mentioned previously. The only document which is regularly made public is the Ministry of Interior's annual report for the National Assembly in which general guidelines for the forthcoming period are made available to the members of the Assembly's Defence and Security Committee.

More recently, however, some strategic documents have been adopted, such as, the Strategy on Integrated Border Management and the Strategy on the Reform of Police Education. In the 2005 report to the National Assembly, the Ministry of Interior reported on the development of a draft strategy in the fight against organised crime, however, this strategy has yet to be adopted. The only mentioning of the budget is within the annual Law on the Budget of the Republic of Serbia

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[8] The MoI Vision Document, Introduction.

[9] Cabinet of the Minister; Operational Centre; Control and Oversight; the Police, including subgroups: (a) Fight against Crime, (b) Public Peace and Order, (c) Traffic Safety, (d) Protection of VIPs and Facilities and (e) Community Policing; Organised Crime; Special Units consists of: (a) Gendarmerie and (b) Special Antiterrorist Unit; Migration and State Border Control; Emergency Preparedness; Administrative Proceedings; Human Resources and Education; Information and Telecommunication Systems and Technologies; on Financial-Administrative Matters and Technical Support; Analytics; and Helicopter Unit.

[10] Many issues were highlighted, such as, links between the state and MoI officials with organised crime, outdated legislation, centralisation, militarised system, politicisation, non-existence of parliamentary and internal oversight, lack of professional attitude, lack of capable managers, obsolete selection of recruits, unrepresentative police service, etc.

[11] Milosavljević, Bogoljub, 'Reform of the police and security services in Serbia and Montenegro: attained results or betrayed expectations,' in Fluri, Philipp and Miroslav Hadžić (eds.), p.257

[12] Downes, Dr. Mark, *Police Reform in Serbia: Towards the creation of a modern and accountable police service*, Belgrade, 2004: Law Enforcement Department, OSCE Mission to Serbia and Montenegro, p. 45

where the overall expenditures for the main budget lines, such as, salaries for police personnel, and other operational costs are detailed in a dozen or so lines.

With regards to the coordination of different services, the Serbian government established the National Security Council in January 2006. According to the Government's decision, the members of the Council are: the President of the Republic, Prime Minister, Deputy Prime Minister, National Assembly Speaker, Minister of Interior, Minister of Justice, Minister of Foreign Affairs, Minister of Defence, and the directors of civilian and military security services. However, the Council has not met, since the President of the Republic has asked the Government to revise its decision to establish the body. In the President's view, the presidency should not rotate between the President and the Prime Minister. Rather, the President of the Republic should preside over the Council.[13]

Police Reform Priorities – An Overview

The priority areas of police reforms were established as a result of the concerted activities of the Ministry of Interior and the Organisation for Security and Cooperation in Europe (OSCE), which was one of the major international partners in this process. Based on the two reports, published in 2001, 'A Study on Policing in the FRY' by Richard Monk ('The Monk Report'), on behalf of the OSCE, and 'Council of Europe and OSCE Final Joint Report on Police Accountability in Serbia,' by John Slater on behalf of the Council of Europe (CoE) and Harm Trip on behalf of the OSCE ('The Slater Report'), the Ministry of Interior established six priority areas of police reform in 2002, which were:
- Accountability (internal and external oversight);
- Police Education and Development;
- Organised Crime;
- Forensics;
- Border Policing;
- Community Policing.

These were declared the nucleus of reform activities. In June 2004, the six priority areas were re-confirmed and two new areas were added:
- War Crimes, and
- Strategic Planning and Development.

The following chapters aim at providing an account of what has been achieved in the listed priority areas of police reform with a special emphasis on the developments in border management.

Accountability

The lack of police oversight mechanisms was one of the most prominent reform challenges. Following the political changes in 2000, insufficient political will to push for the development of such mechanisms stalled reform in all state authorities responsible for police oversight.

Oversight must not only be the responsibility of the police service. In a democratic society committed to anti-corruption and transparency in public administration, the issue of establishing a police service accountable to the public revolves around the social values of democratic policing.

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[13] http://www.bbc.co.uk/serbian/news/2006/01/060113_serbiasecurity.shtml

Values such as 'moral consensus, integrity, fairness, sensitivity and accountability are all underpinned by trust, which needs to be checked regularly.'[14]

In order to apply mechanisms which regularly examine the trust citizens have in the police, it is important to clearly discern the facets of accountability and properly link them to oversight mechanisms. If simplified, it can be said that there is *horizontal accountability* which means that the police act in accordance with the law when exercising authority and adhere to professional standards, (e.g. Discipline Code and the Code of Ethics). According to Article 31 of the new Law on Police: '… In exercising police powers, authorised law-enforcement officers shall proceed in accordance with law and other regulations, and shall respect the standards set out in the European Convention for the Protection of Human Rights and Fundamental Freedoms, the Basic UN Principles on the Use of Force and Firearms by Law-Enforcement Officials, the European Code of Police Ethics and other official international documents relating to policing.'[15]

An Internal Affairs Unit of the police service is a mechanism for overseeing this aspect of accountability. In addition, assuring the legality of police performance rests with line managers and the judicial branch. The accountability of police agencies to the courts of law is generally the same as accountability of all other state institutions. With regards to specific powers, the courts have to approve the use of special investigative means when they violate the secrecy of correspondence and other communications.

There is also *vertical accountability* to the democratically elected representatives of the citizens. In this respect, the police and its Internal Affairs Unit are to be overseen through external mechanisms, primarily through the relevant parliamentary committee (in Serbia that is the Defence and Security Committee) and an independent External Oversight Body. Vertical accountability needs to be permanently complemented by the wider social interest exercised through various community groups and the media.

In March 2001, the MoI established an Internal Affairs Unit - the Inspector General Office (IGO) of the Public Security Sector with an internal act of the MoI. In the organisational sense, the IGO is part of the MoI, but the Inspector General (IG) is appointed by the government of Serbia. IG is also an Assistant Minister of Interior and reports directly to the Minister of Interior and the government. IGO's scope of work was to oversee the police, to ensure they acted in accordance with the law and to investigate citizens' complaints against the police. However, the first IG was appointed only two years after the law was passed. In the meantime, the Office existed only on paper.

In the vacuum created by the belated appointment of an IG, the CoE and the OSCE produced a Joint Report on Police Accountability in Serbia.[16] Based on this, the OSCE proposed Strategy on Police Accountability in the Republic of Serbia in March 2003. Almost at the same time, the MoI presented its Vision Document, covering the internal affairs (IGO) aspect as well. Basically, the recommendations in these documents relate to the all-encompassing process of building up the capacities for an effective and efficient accountability programme. The programme entailed enhancing the capacities and procedures of the Security and Defence Committee of the Serbian Parliament in its external oversight function. An independent external oversight body that would be accountable to the Committee was also recommended.

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[14] *'Council of Europe and OSCE Final Joint Report on Police Accountability in Serbia,'* by John Slater on behalf of the Council of Europe (CoE) and Harm Trip on behalf of the OSCE, September 2002, p. 4

[15] Law on Police (http://www.parlament.sr.gov.yu/content/lat/akta/zakoni.asp)

[16] *'Council of Europe and OSCE Final Joint Report on Police Accountability in Serbia',* by John Slater on behalf of the Council of Europe (CoE) and Harm Trip on behalf of the OSCE, September 2002, p. 4

In addition 'there needs to be an internal police unit […] its role is to investigate allegations of crime, corruption and inappropriate behaviour by police.'[17] All these mechanisms need to be constantly supported by adequate basic and in-service training of police on human rights, code of conduct and ethics. The documents strongly advise enhancing relations between the police and media through relevant policies and practices as the crucial support mechanism. Sustainability of the recommendations was feasible only through enhancing and institutionalising dialogue with local communities. Another crucial precondition was the de-politicisation of the post of the national Chief of Police, i.e. Head of Public Security Sector[18]

The assassination of Prime Minister Djindjić in March 2003 and the subsequent declaration of a State of Emergency and launching of the police operation Sabre against organised crime linked to the assassination signalled a tragic wake-up call for Serbian society and underlined the urgent need for oversight of the police force. The only oversight which was exercised during this period was at the two Defence and Security Committee sessions where the Minister and the Chief of Police informed the members of parliament of *Sabre*.

A positive development in 2003 was the adoption of the Directive on Police Ethics[19] as the most important reform document elaborated thus far.[20] The Directive stipulated that its provisions would become a compulsory part of the curricula within police education institutions from 2003/ 2004, and a part of mandatory in-service training programmes.

Internal Oversight

In June 2003, the Serbian Government appointed the first Inspector General, even though the Act on IGO was adopted in 2001. The first IG assumed the office without personnel, without office space and without any other resources.

Staffing of the IGO was gradual, due to the nature of the internal affairs tasks and need for the careful selection of experienced personnel. The provision of office space and other resources also took time.

In April 2004, the new Serbian Government appointed the second IG. When the new IG assumed his post, the Office had staffed 31 out of an envisaged 59 posts. Even though the IGO had been established one year earlier, office space and equipment remained a pressing problem. The under funded office was to cover the whole of Serbia.

The protracted establishment of the IGO coincided with the slow onset of international assistance aimed at IGO capacity building. With funding provided by the Netherlands Government, the OSCE facilitated the provision of expert advice, specialised training, 'stand alone' IT and technical equipment for the Office in mid-2004.

In 2004/2005, the IGO received its own offices. It staffed its offices and conducted outreach to the public. Progress was gradual, but noticeable. The Office has filed 107 criminal charges against 152 police officers for 200 criminal offences. They have received more than 6,000 complaints and processed approximately 89%.[21]

The MoI in 2005 established the Commission for the Follow-up of the Implementation of the

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[17] Ibid, p. 5

[18] Head of Public Security Sector of the Serbian MoI is an Assistant Minister of Interior.

[19] *Instruction on Police Ethics*, adopted by Minister of Interior on 15 April 2003, published in the Official Gazette of the Republic of Serbia No. 44/91, 79/91, 54/96, 25/2000 & 8/2001.

[20] Milosavljević, Bogoljub, 'Reform of the police and security services in Serbia and Montenegro: attained results or betrayed expectations,' in Fluri, Philipp and Miroslav Hadžić (eds.), p.257

[21] Presentation of the 2005 Annual Report of the IGO, MoI February 2006

CoE Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. An IGO staff member is the Chair of the Commission. The Commission inspected detention facilities across Serbia and it is expected that it will issue a report on its findings in 2006. Based on the work of the Commission presented to the media, the state of detention in some facilities in Serbia is deplorable.[22]

With the enactment of the new Law on Police in November 2005, internal police oversight was regulated for the first time by law. The Law established the Division of Internal Control of Police which: 'monitors the legality of police work, especially with regards to respect and protection of human rights. The Division is managed by the Division Head who regularly reports to the Minister of Interior. At the request of the government and the parliament, the minister submits a report on the work of the Division. Also it is within the minister's remit to prescribe more closely forms and methods of internal oversight.'[23]

Internal oversight of the police service still has a way to go. The gradual building up of the Division's capacities will require more specialised training and equipment for the growing personnel. Furthermore, development of internal procedures, in accordance with EU professional standards, needs to be high on the agenda. Plans to boost the work of the regional internal control departments are the focus of the upcoming period.

Since the Division is a part of the Ministry of Interior, in general terms, the modalities of accountability to the higher levels of the executive branch come down to submitting reports to the Government. Specially commissioned written and oral reports are provided as required to the other ministers, the Prime Minister and/or the Government. In practice, all of the formal arrangements are respected; however the Government does not have at its disposal independent expertise to assess the quality of reports. Publicly accessible reports are not analytical enough, and mostly provide statistical data.

External Oversight

Although there were ideas to establish an External Oversight Commission[24] in 2001, the concept has not yet materialised. There were several proposals on how to tackle the issue of external oversight. One proposal stated that any future Ombudsman's office would need to have a deputy responsible for overseeing the police.[25]

The administration seems to have resorted to another solution. In November 2004, the Minister of Interior announced before the parliamentary Security and Defence Committee[26] that the MoI would put forward a draft Law on the Parliamentary Oversight of Police which would establish a parliamentary Commission for the Oversight of Police. While the draft law has not entered parliament, the recently adopted Law on Police has re-opened such prospects.[27]

The Ministry of Interior, which is in charge of the General Police Directorate, is accountable

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[22] Ibid.
[23] The Serbian 'Police Law,' Articles covering internal oversight pp. 171-181; http://www.parlament.sr.gov.yu/content/cir/akta/akta_detalji.asp?Id=296&t=Z
[24] The Monk Report, p. 9.
[25] Downes, Dr. Mark *Police Reform in Serbia: Towards the creation of a modern and accountable police service*, Belgrade, 2004: Law Enforcement Department, OSCE Mission to Serbia and Montenegro (www.osce.org/serbia)
[26] http://www.danas.co.yu/20041118/dijalog1.html *Slutnje obrauuna*, Daily Danas, 18 November 2004
[27] Article 170 of the Serbian Law on Police, www.parlament.sr.gov.yu http://www.parlament.sr.gov.yu/content/lat/akta/akta_detalji.asp?Id=296&t=Z#

to the legislature through the designated Defence and Security Committee. The primary role of the Committee comes down to examining regular reports of the Ministry of Interior and the Security-Information Agency.

The parliamentary Rules of Procedure (Article 46) prescribe the following Terms of Reference to the Defence and Security Committee: 'The Defence and Security Committee considers draft laws, other draft regulations and by-laws in the field of public and state security, reports on the work of the Ministry of Interior on the state of security in the Republic of Serbia, submitted to the National Assembly at its request, performs control over the work of the security services as well as other issues in the field of security in accordance with law.'[28]

The assessment given in the national strategy for EU integration perhaps provides the best view on the practice: 'The Parliamentary Defence and Security Committee has plenty of potential for improving its work and still does not perform preventive control over the work of the services – its work is limited to a post facto discussion. The primary role of the Committee comes down to examining the regular reports of the Ministry of the Interior,'[29] as well as, according to the law, those by the Security-Information Agency. External oversight remains a great reform challenge for both the Serbian Parliament and the Government.

Accountability to the Media and Society at Large

An important positive step in ensuring the accountability of state authorities to the media and society at large was made with the adoption of the Law on Free Access to Information of Public Importance in November 2004. According to the law, the print and broadcast media and individual citizens have the right to access state information about police services among other bodies.

State agencies are often unresponsive to requests for access to information, and persons who make such requests are permitted, in such cases, to address the Commissioner for Information of Public Importance. According to the law, the Government is responsible for carrying out the Commissioner's decisions. However, the Commissioner has limited capacity and legal means at its disposal. An effective mechanism for enforcing the Commissioner's decisions is yet to come into existence.[30]

According to the Law on Ombudsman, which was adopted in September 2005, there should be an office empowered to receive and investigate complaints and grievances in cases where a citizen believes his/her rights have been violated. However, although the Law on Ombudsman was adopted almost a year ago, the National Assembly has not yet elected or appointed an Ombudsman even though the deadline for the appointment had passed. The only Ombudsman in Serbia is the one in the Autonomous Province of Vojvodina, but he has no jurisdiction over the institutions at the national level.

With respect to the level and quality of the media coverage on police service activities, a report on the completed part of the joint OSCE and the MoI's project called Improvement of Communication between Media and Police can shed some light.

The report from November 2005 concludes that 'relations between police and media have improved, but they are still far from wanted standards applied in a democratic society. […] Unevenness in the process of reform of the MoI influences the lack of systemic solutions that would help improvement of communication between media and police and other linked projects

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[28] http://www.parlament.sr.gov.yu/content/lat/akta/poslovnik/poslovnik_5.asp

[29] National Strategy of Serbia for the Serbia and Montenegro's Accession to the European Union, (EU), p. 185 http://www.seio.sr.gov.yu/code/navigate.asp?Id=73

[30] http://www.poverenik.org.yu/vesti_eng.asp?ID=263

(community policing etc). This is best reflected in the centralised model of the police structure, the absence of local and regional influence on police and safety related issues, bureaucratic procedures and the low capacity of ordinary police officers and local police chiefs in the decision-making process, partially caused by an overly hierarchical system inherited from the previous times'. [31]

Main problems that the report stipulated in 2005 in this field are:
- Non-existing strategy of police relations with the media;
- Disorder and undefined procedures (within the police service);
- Authority and responsibility of police officers on local and regional levels (needs to be defined);
- Disorganisation of unit for communication with the media;
- Lack of technical equipment;
- Imprecise regulations on secrecy of data;
- Irresponsibility for public word;
- Lack of educated journalists/ editors covering police work;
- Lack of police officers informed about the essence, character and aims of media.[32]

Following the recommendations from this report, the Ministry of Interior, supported by the OSCE issued Guidelines on Basic Standards in Relation to the Media in December 2005. Training for journalists started in September 2006, and the training for police is scheduled in the foreseeable future.

Police Education and Training

From the very beginning, reform of police education and training was one of the least disputed long-term reform priority areas. However, the complexity of the structure of the education institutions inherited from socialist times, and the lack of a modern police training system contribute to the fact that the process is taking time. The main institutions of the old system are: (1) Police High School, (2) Police College and (3) Police Academy. In addition, there are several training facilities across Serbia, primarily used for basic police training courses.

The Police High School is an institution of secondary education which is administratively part of the MoI. It is a boarding school that exclusively enrols 14 year old male students who graduate and start working as police officers at the age of 18. Apart from the police related curricula, the students also used to learn general and military courses. Studying and boarding was free of charge.

The Police College was established by a special law in 1972 as an independent post-secondary educational institution. In 1992, it became an organisational unit of the MoI, but is also part of the wider educational system. The curriculum covered higher education, vocational and specialised training for the needs of the MoI. Courses last for three years – six semesters and both male and female students may apply.

As an integral part of the MoI, the Police High School and Police College until recently reported directly at the ministerial level. Since late 2004, they have been under the Division for Financial, Personnel, Common and Technical Affairs.

The university-level Police Academy was established by a special law in 1993, following the model of a Military Academy. Formally, the Academy was an independent institution but in practice through financing the MoI influenced all aspects of its work. An important handicap was that the Academy was outside the university system, although it abode by university laws.

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[31] KeŠetović, Ħelimir for the OSCE Mission to Serbia and Montenegro, Media Department/Law Enforcement Department , November 2005
[32] Ibid.

National and international assessments[33] conducted in 2001 and 2002 mainly underlined the weaknesses which related to lack of relevant legislation and related by-laws. There was no vision of education and training as well as no job task analysis leading to incompatibility between job descriptions and education profiles, which was an obvious result of the lack of any strategic approach. All educational institutions functioned independently of each other and there were no mechanisms for the common use of resources, which led to high costs. Although MoI had three education institutions at its disposal, there was a lack of institutionalised police training. Teaching methodology was obsolete and 'teacher-centred'. Moreover, curricula were outdated and militarised. The Police High School and Police Academy had semi-military regimes of boarding and study and there was an evident lack of female and minority candidates and students.

These weaknesses demanded a strategic approach and an action plan that would deal with the issues of organisation (structures and legislation), development of current and future personnel, curriculum and the ministry's assets.

The biggest positive innovation in terms of human resources development and creating a representative police service was the inclusion of female uniformed police officers. Starting with only 29 female uniformed police officers in 2001,[34] the MoI organised several basic police courses for female cadets which resulted in an increase of female uniformed police officers to 2, 726 by January 2006.

At the end of 2004, a new organisational unit – the Directorate for Police Education, Professional Development and Science (DPEPDS) – was established within the new Division for Financial, Personnel, Common and Technical Affairs. Education and training institutions no longer reported to the minister. The new administration kept the reform of police education and training as one of its priorities.[35] DPEPDS was given the role of steering the reform process and co-ordinating all education and training activities across the service.

At the joint MoI-OSCE Roundtable on Police Education Reform in Serbia held in December 2004, a draft strategy was discussed. The reform goals in the final *communiquŭ* mainly relate to establishing an independent Police Faculty (by merging the Police College and Police Academy) that would join Belgrade University while maintaining relations with the MoI. Standardising basic vocational training in a Basic Police Training Centre and developing a system of ongoing professional development were highlighted as absolute priorities.

In February 2005, the DPEPDS further developed the draft strategy which had been presented at the Roundtable. Subsequently, in December 2005, the MoI adopted the Strategy for Development of Police Training and Education.[36]

In parallel, the MoI, with the assistance of the OSCE, prepared for the transformation of the Police High School into a basic entry-level training facility for secondary-level graduates from civilian high schools. The adopted strategy provided the basis for the four aspects of transformation, namely organisation, human resources, curriculum and infrastructure. The MoI and OSCE initiated re-training of the teaching staff and development of a new curriculum. Initial assessment for the transformation of the school's infrastructure was completed and the donor meeting for the

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[33] Monk, Richard, 'A Study on Policing in the FRY', July 2001; http://www.osce.org/documents/spmu/2001/07/17633_en.pdf ; The MoI Vision Document.

[34] Monk, Richard, 'A Study on Policing in the FRY', July 2001, p. 43; http://www.osce.org/documents/spmu/2001/07/17633_en.pdf

[35] In the Memorandum of Understanding signed in November 2004 between the MoI and the OSCE, the reform of police education and training system was included as one of eight priority areas.

[36] See:

http://prezentacije.mup.sr.gov.yu/upravazaobrazovanje/strategija/Strategija%20razvoja%20sistema%20obuke%20i%20obrazovanja_221205-.htm

infrastructural part of the transformation was organised. The Norwegian Government pledged a third of the funds needed, and refurbishment has been scheduled. It is expected that the first pilot generation of the new recruits will be admitted to the new Basic Police Training Centre in Sremska Kamenica in spring 2007. One of the important novelties is that female students will be admitted as well.

In the years to come, further attention will have to be given to specialised, in-service and advanced training. Such efforts must entail the creation of new or transformation of existing Training Centres to cover the whole of Serbia. According to the strategy, the MoI needs to re-define the curricula for specialised training by October 2007. Capacity for delivering in-service training has been partially developed through the OSCE Trainer Development Programme.[37] There is a growing understanding of the importance of the MoI's internal training capacity.

The adoption of the new Law on Police in November 2005 opened the door for drafting secondary legislation that would more closely regulate police education and training, which is still pending. The Law on Police defines generic issues related to vocational training and professional development.

With regards to restructuring post-secondary institutions specialising in police education, i.e. merging the Police College and Police Academy into one institution, the National Assembly adopted the law on abolishing the special law on the Police Academy in July 2006. The law stipulates that the Police Academy on Crime, which was established by a governmental decision, will assume the responsibilities of the Police Academy.[38]

Community Policing

The social values of the 1990s were reflected in the public image of a police officer as an untouchable figure dressed in a semi-military combat uniform. The Serbian police service adopted a new vision which aimed to modify that image both within the police force and among the public by taking steps towards the creation of a police force accountable to the citizens it served.

Fairly early on in the reform process, the concept of community policing, which aimed at reaching out to the public, was seen as the new philosophy of policing. Community-based policing needs to be seen as part of the wider concept of community safety,[39] which focuses on fostering police-community partnership relations.

Although the idea has been promoted by the international community as the new philosophy of policing, the Serbian police force has consistently underlined that a similar model of working closely with the public existed in the form of sector policing in socialist Yugoslavia. Territorial policing was developed in line with the socialist Yugoslav concept of People's Defence and Social Self-Protection and this was part of the relatively decentralised society of that time. In an effort to restore the best practices from the past, in mid-2001 the MoI reinitiated sector policing and reinstated the 825 security sectors with 1,456 beats.

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[37] The OSCE Trainer Development Programme consists of four components: Trainer Development Course (6 week generic training-of-trainers course), Curriculum Development Course, Training Evaluation Course and Advanced Trainer Development Course. The whole package is a long-term programme for creating internal capacity for delivering modernised basic and specialised in-service training.

[38] http://www.parlament.sr.gov.yu/content/lat/akta/akta_detalji.asp?Id=379&t=Z#

[39] Community safety is the partnership process undertaken by the community including the police in order to achieve safer communities, reduce social disorder and prevent crime. (*Joint Evaluation Report on Community Safety and Community Policing in Serbia*, Serbian MoI and DFID Balkans Security, Safety and Access to Justice Programme).

In June 2002, the Ministry adopted a bottom-up approach by establishing a pilot community policing project in cooperation with the OSCE, the UK Department for International Development (DFID) Balkans Safety, Security and Access to Justice Programme (SSAJP), the Norwegian National Police Directorate and the Swiss Agency for Development and Cooperation (SDC). Several pilot sites were selected throughout Serbia. In February 2003, DFID launched the initiative in four pilot sites – Novi Beиej (Vojvodina), Vrnjaиka Banja and Kragujevac (central Serbia) and Zvezdara (an urban municipality in Belgrade); in 2003, the Norwegian National Police Directorate launched a police assistance project with some community policing elements (mainly problem oriented policing) in Baиka Palanka (Vojvodina), and a similar project was conducted in 2004 in Novi Sad (capital of Vojvodina); in late 2003, the OSCE launched a community policing project in Bujanovac, Preševo and Medvedja, in the south of Serbia and, in early 2004, SDC launched the police assistance project in Poћega (west Serbia).

The pilot project was expected to last from three to five years, with hopes that MoI would move towards the creation of a community policing model suitable for national roll-out. This plan was preceded by the creation of the national strategy.

Public and police opinion surveys in the pilot sites were conducted in late 2002 representing an important initial stage in the process. 'Maybe for the first time somebody asked the citizens about their trust in the police, the quality of police work and the level of crime,'[40] the then MoI co-ordinator of community policing project Colonel Miloš Vojinović discerned. The surveys were used as the important initial assessment that would be used for the subsequent evaluation.

The implementation of the pilot project lasted with varying intensity until the end of 2004 in all pilot sites apart from those in south Serbia (Bujanovac, Preševo and Medvedja). The project is still the focus of the OSCE as an ongoing confidence-building measure.

In late 2004, the results were published in the Joint Evaluation Report conducted by the Serbian MoI and the UK DFID. In conclusion, the report states that 'a great deal has been achieved, and the implementation (of community policing) thus far must be regarded as a success [...] the piloting process has provided a strong foundation for further development and expansion to other parts of Serbia.'[41] However, the recommendations show how much more needs to be done in order to move towards a sustainable concept.

Community safety is an overarching concept that firstly requires policy decisions at the government level. Since the police service is only one of the actors involved in the process of establishing partnerships among various institutions, there is a need for consensus in society as a whole on the formation of the National Safety Council.[42] Subsequently, a National Community Safety Strategy on how to engage relevant authorities at the national, regional and local levels needs to be developed.[43] Only then would the police have the capacity to tackle many aspects of community safety.

The Joint Report outlined the most important steps to be taken, such as the development of relevant legislation and procedures, the establishment of the Community Policing Department to steer and oversee the process, an internal and external communications strategy in order to inform all stakeholders, education and training across the police service, especially at the senior management level and the creation of an organisation which is able to suitably respond to the new demands.

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[40] Vojinović , Miloš 'Community Policing', in *Security*, Belgrade: MoI of the Republic of Serbia, 3/2004, p. 431
[41] '*Joint Evaluation Report on Community Safety and Community Policing in Serbia*', Serbian MoI and DFID SSAJP, December 2004: Hereinafter referred to as the MoI/DFID Report
[42] Ibid
[43] Ibid

What has been achieved since the Joint Report? In 2004, the MoI established the Crime Prevention and Community Policing Department within the Uniformed Police Directorate.[44] The Department is in charge of following up the pilot sites, compiling lessons learned and working on preventive and problem-oriented policing. The Department is seen as an important link in the impending top-down national roll-out of community policing.

Another positive development was that the MoI launched the project Safe Communities for the whole Autonomous Province of Vojvodina in December 2004. The project was supported by the Norwegian Government in terms of building up the capacities for problem-oriented policing and strategic crime analysis and planning.

The above-mentioned project Improvement of Communication between Media and Police was also part of the community policing portion of the reform efforts. In addition, the OSCE and the MoI are set to launch a Minority/Diversity Project which intends to heighten community awareness of the police service. The project relates to issues concerning citizens who are from the minority community or minority groups.

The conclusion of the pilot-sites phase made it apparent that the police should not be seen as the sole bearers of community safety. The primary driving force should be society's demand and interest in raising the level of safety. In 2005, the community policing concept was mentioned in Serbia's National Strategy for EU integration as a means of cooperation between the MoI and the local government. Furthermore, the strategy recommends that the 'work on decentralisation of the MoI and development of the 'community policing' concept should continue.'[45] Hence, the executive branch needs to work on developing coordination among all stakeholders (such as the Ministry of Education and Sports, the Ministry of Science and Environmental Protection, the Ministry for Public Administration and Local Government, the Ministry of Health, etc.) and on developing the National Community Safety Strategy.

The Fight against Organised Crime

The politicisation, militarisation and criminalisation of the police forces in the 1990s led to neglect of crime fighting. Uniformed and paramilitary police components were heavily favoured over the CID and many professionals left it. The level of police professionalism, developed during 45 years of peace in socialist Yugoslavia, rapidly decreased.

Organised crime in the former Yugoslavia existed much before the 1990s, but its current scale developed as a direct consequence of the Yugoslav War. The economic crisis of the 1990s - generated by war, the dissolution of Yugoslavia and the UN economic embargo - immensely contributed to the evolution of organised crime. Milošević's regime monopolised the period's large grey economic sector by sponsoring the smuggling of various goods, involving security structures, while law enforcement and fiscal control were deliberately undermined. The regime was kept on a pyramid of client-patron relationships that encompassed and enslaved the whole society. The system engaged thousands.

This crime pyramid was severely damaged and fragmented by the democratic changes in 2000. However, many of its elements remained untouched. The transitional government which was created to bridge the vacuum after the events from October 2000 formed the Special Unit for the Fight against Corruption and Organised Crime (termed by the media as 'POSKOK' – *Posebni*

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[44] http://prezentacije.mup.sr.gov.yu/upravapolicije/index.htm
[45] 'National strategy of Serbia for the Serbia and Montenegro's accession to the European Union,' p.186, www.seio.sr.gov.yu

odred za borbu protiv organizovanog kriminala i korupcije)[46] in November 2000. The unit included 15 experienced police officers and 'its aim was to analyse criminal structures in Serbia and to fight against organised crime.'[47]

POSKOK produced the White Book that mapped out 123 organised criminal groups with 844 members[48] as well as the persons responsible for some of the most serious criminal acts - mainly politically motivated assassinations prior to October 2000. Having scanned the underground to the best of its abilities at the time, POSKOK was disbanded in April 2001. The Organised Crime Directorate (UBPOK) was established in its place. UBPOK was a stable structure existing outside the police service (Public Security Sector) that reported directly to the Minister of Interior. It was the only operational police unit which reported directly at the political level. The intention was to recruit some of the best and most experienced Serbian investigators.

Another important step in 2001 was the readmission of FRY into Interpol, following its exclusion in 1992. This development laid the grounds for the renewal of Serbia's international cooperation in the fight against trans-national organised crime. The Central National Bureau was placed within the Federal MoI's CID, to be shifted into the Serbian MoI's CID after the constitutional transformation of the FRY into Serbia-Montenegro.

In 2003, UBPOK was also tasked with investigating war crimes, due to the connection of certain war criminals to organised crime and war profiteering.[49] The role of the War Crimes Department has been particularly important and sensitive keeping in mind the connections of certain police elements to war crimes.[50] Milošević's Police Chief during the armed conflicts in Kosovo, Vlastimir Djordjević, was indicted by the ICTY. Sreten Lukić, the chief of police forces in Kosovo at that time, and later the national Chief of Police, was also indicted. A number of low-ranking police officers have also been indicted by the Serbian courts. Some have been processed and convicted. In 2001, a mass grave of 980 ethnic Albanians from Kosovo was discovered on the premises of the police service's Special Antiterrorist Unit (SAJ) in a Belgrade suburb. Establishing war crimes investigation capacities also has a political significance in the light of Serbia's intention to try war crimes in domestic courts. The Special War Crimes Prosecutor's Office and the Special War Crimes Chamber of the Belgrade District Court have been established for this purpose. A small police unit will need additional support in an effort to build up domestic capacities for investigating war crimes.

The most serious blow that organised crime inflicted on Serbia was the 12 March 2003 assassination of Prime Minister Djindjić. The assassination shook Serbia and shocked the world. In contrast to other forms of political terrorism, this event was a direct consequence of the pyramid which connected parts of Serbia's security structures to organised crime. The person responsible for pulling the trigger, JSO Deputy Commander, held an official police badge. The prime suspects for organising the assassination were the former JSO Commander and two main figures of the notorious Zemun Gang. The latter were killed by the SAJ several days after the assassination,

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[46] In Serbian, POSKOK means *viper*.

[47] 'Report on management, organisation and functioning of the system of close protection of the Prime Minister of the Government of Republic of Serbia Zoran Djindjić, with recommendations,' p.19.

[48] Đorđević, Ivan 'Pregled procesa reforme Ministarstva unutrašnjih poslova Republike Srbije,' in: Janković, Pavle (ed.) *Druga škola reforma sektora bezbednosti: zbornik predavanja* (G17 Institute: Belgrade, 2003) p. 182

[49] Brunhart, Reto and Novak Gajić, 'Policing the Economic Transition in Serbia: Assessment of the Serbian Police Service's Capacities to Fight Economic Crime' (Belgrade 2005, OSCE Mission to Serbia and Montenegro), pp. 28

[50] Balkan Investigative Reporting Network: *Net Closes on Alleged Suva Reka Killers* http://www.birn.eu.com/investigation01.php

while the former surrendered to the gendarmerie a year later. Some of Djindjić's close associates claimed that he was murdered only days prior to the launching of a massive counter-organised crime operation.

The state immediately responded by proclaiming a State of Emergency that lasted 40 days. The MoI launched *Sabr*e, a massive police operation. JSO was disbanded and its commanding tier arrested, while the majority of its members were reassigned to the gendarmerie, SAJ or the Close Protection Directorate. Police detention during the state of emergency was unlimited and more than 11,000 people were arrested throughout Serbia. Operation *Sabre* was a severe blow to organised crime, a shock it has never fully recovered from. However, post-*Sabre* calm lasted some two years, the period in which Serbian organised crime was licking its wounds. Nowadays, Serbia faces a serious revitalization of organised crime and consolidation of gangs.

In 2005, UBPOK was integrated into the CID and renamed the Organised Crime Service (*Sluħba za organizovani kriminal* – SOK).[51] Its internal structure did not change very much from UBPOK's, with the exception of the War Crimes Department which has become the Service for War Crimes Investigation, hierarchically on the same footing as SOK. This reorganisation was aimed at a rationalisation and consolidation of Serbian crime-fighting capacities, and also de-politicisation by assembling all police units within the police service, out of direct political control.

Introducing new methods to fight organised crime is strongly supported. In this regard, witness protection was introduced into Serbian legislation and, in 2005, a special Unit for the Protection of the Participants in Criminal Proceedings was established within the police service. Witness protection is quite costly for a relatively small country and largely depends on international cooperation. Over 11 million euros were committed to the programme from the 2006 budget.[52] The US Government and OSCE supported this unit by sharing experience and providing donations. This has also been significant with respect to the government's intention to transfer certain war crimes cases from the ICTY to the national judiciary.

Enhancing the fight against organised crime immeasurably depends on developing a comprehensive national criminal intelligence system, forensics and border policing. Such a system did not exist in Yugoslavia even prior to the CID deterioration in the 1990s. Consequently, the Serbian police service heavily depends on international experience and support. After a long search for an appropriate model, Serbia decided to build its national criminal intelligence system along Scandinavian lines. In 2005, the MoI concluded a three-year cooperation agreement with the Swedish National Police Board.

SOK has achieved some impressive results, but it could not have always met the high expectations of the public. That was not because its members did not do their job properly, but for several other reasons – mainly due to lack of resources, SOK's special status, and the lack of proper cooperation within the criminal justice sector. These factors inevitably hampered the effectiveness of the fight against organised crime. SOK's good operational police work was often in vain because of inefficiency in the prosecution and judiciary. According to police estimates,[53] only 16% of criminal charges submitted by the police service end up with a court verdict and half of those are suspended sentences.

It yet remains to be seen and evaluated whether the restructuring process will increase the police service's effectiveness in combating organised crime.

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[51] Interview of Milorad Veljović , Head of CID, to Politika, 18 October 2005
http://www.transparentnost.org.yu/ts_mediji/stampa/2005/10OKTOBAR/18102005.html

[52] Marković -Subota, T., *Za zaštitu svedoka 11 miliona evra*, Blic, 2 April 2005
http://www.blic.co.yu/arhiva/2005-04-02/strane/hronika.htm

[53] Nikolić -Paković , Tanja, *Svaki tajkun ima svoje poslanike* Interview of Josip Bogić , Head of UBPOK's Organised Financial Crime Department, to Blic, 28 October 2005.

Forensics

For more than a decade, the development of forensics and crime scene management capacities had been marginalised. The Serbian police were using obsolete and inadequate equipment and techniques and were thus unable to produce good quality evidence for use in court. Enhancing these capacities was seen from the very beginning of the reform as a direct investment in the overall strengthening of the rule of law in Serbia.

Much has been achieved in upgrading the criminal-technical service within the CID since 2000. Aiming at providing preconditions for the unbroken chain of material evidence from a crime scene to the laboratory environment the main focus has been on:

- developing a quality management system for processing evidence and crime scene investigation policy;
- creating a national centralised criminal-technical service;
- developing a regional network of forensic laboratories;
- implementing the Automated Fingerprints Identification System (AFIS) and Face Identification System (FIS);
- building a national DNA laboratory;
- enhancing the skills and knowledge of the MoI staff.

The Serbian CID is in the process of integrating its criminal-technical service in Belgrade, which is supported by regional forensic laboratories in Niš and Novi Sad. The establishment of both forensic laboratories in Novi Sad and Niš was supported by the Norwegian Government. The project in Niš was managed and coordinated by the OSCE.

The establishment of a functional DNA laboratory, a Community Assistance for Reconstruction, Development and Stabilisation (CARDS) funded project, which is expected to be finalised in 2006, represents a major step forward. The MoI is using its own capacities in the implementation of the AFIS and FIS. In addition, there is on-going training for all crime scene investigators and a quality management system is being developed to support an unbroken chain of evidence.

With the upgrading of police capacities for securing and producing good quality evidence, a challenge remains in the area of cooperation between the pillars of the criminal justice system. Clarification of procedures needs to be ensured among those in charge of evidence gathering, investigation and prosecution.

Strategic Planning and Development

The issue of strategic planning and development is still to be tackled in a more structured way. The reform activities covered above sustain the argument that only recently have a few operational strategies been developed, mostly after realising that the fragmented approach led to fragmented and unsustainable developments.

There were international and MoI efforts in the area of strategic planning, especially in the beginning of the police reform process. Most notable was the work with DCHR that led to the Vision Document. Another was within the framework of regional involvement – the Southeast European Police Chiefs Association (SEPCA),[54] which was assisted by the Royal Canadian Mounted Police (RCMP). The RCMP facilitated several workshops on strategic planning which were supposed to result in an environmental scan and an overall MoI strategic plan.[55] The aim was

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[54] Eight police services are SEPCA members: Albania, Bulgaria, Croatia, Bosnia and Herzegovina, Republic of Srpska, Macedonia, Serbia, and Montenegro

[55] *Izveštaj o radu Ministrastva unutrašnjih poslova Republike Srbije u 2003*, www.mup.sr.gov.yu, Archive.

too ambitious for the RCMP mandate and the allotted budget. RCMP pulled out two years ago, and strategic plans were not finalised, although some individual capacities for strategic planning, especially in the MoI's Analytics Directorate, remained.

It should be reiterated that there was not enough vigilance in 2003 to make the leap towards a deeper mentality shift and acknowledgment of strategic planning initially as a tool for reform and subsequently for managing the police service. One has to be fair, and take into consideration the moment when the leap was expected to be made – exactly at the time when the Prime Minister was assassinated, and the flywheel strength was exhausted in operation *Sabre*. There was a change of administration in 2004, and many of those who participated in the workshops on strategic planning were no longer occupying high-level managerial posts. Personnel discontinuity also affected possibilities for sustainable building on achievements.

The overall social turbulence which culminated with the assassination has since settled, and attention needs to be focused on the times to come. The Vision Document can still be used as a starting point for evaluating what has been achieved so far, and possibly using some of its material for developing other operational strategies. Special attention needs to be paid to tangent issues between operational strategies towards defining common issues.

Need still remains for the strategic planning units at both the MoI and police service levels. The MoI organisational chart displays the Bureau for Strategic Planning and Analytical Reporting within the minister's cabinet and in mid-2006 the head of the bureau was appointed. However, there is no publicly accessible information on whether the Bureau for Strategic Planning is operational.

Border Management Reform – the Republic of Serbia

The dissolution of socialist Yugoslavia and the emergence of new countries created new borders. In 2000, FRY Army and Navy were securing the Federal Republic of Yugoslavia (FRY – Serbia and Montenegro) green and blue borders, while the republican MoIs were tasked with controlling border crossing points.

Also, in 2000/2001, the Federal MoI 'intended to create a Border Police Service (BPS) in order to transfer responsibility for the task of border security from the military to the police.'[56] However, since July 2000, Montenegro has not acknowledged the federal institutions. In addition, the signing of the Belgrade Agreement in March 2002 gave rise to the re-structuring of the FRY into a state union of Serbia and Montenegro. In such a political constellation, the federal BPS was never created.

However, in 2001 and 2002, the Serbian MoI within its Directorate for Border Police, Aliens and Administrative Affairs initiated some strategic documents with the assistance of the Geneva Centre for the Democratic Control of Armed Forces (DCAF), the OSCE, the European Agency for Reconstruction (EAR) and the Stability Pact which included analysis of human resources and technical/infrastructure equipment at border crossings, as well as the Action Plan for Taking Over and Securing Green and Blue Borders from the military.[57]

The FRY Supreme Defence Council at its session in November 2002 'considered transferring authority concerning state border security and concluded that this can be realized after the adoption of the 'Law on the State Border.'[58]

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[56] The Monk Report, p. 27.

[57] 'Way Forward Document' Ohrid Regional Conference on Border Security and Management 22/23 May 2003, http://www.un.org/spanish/docs/comites/1373/ohrid2.doc

[58] Ibid

In February 2003, the FRY was transformed into the state union Serbia and Montenegro (SaM), and the Constitutional Charter of Serbia and Montenegro was enacted. Consequently, the Federal MoI ceased to exist. The SaM Ministry of Defence and its military remained one of the few institutions governed from the state union level. Hence, the security of the Serbian international borders remained under the two-level responsibility of the SaM military and the Serbian police service.

The issue of the demilitarisation of Serbian borders also needs to be seen from the wider perspective of overall security sector reform and the impending accession of the Western Balkans[59] to the EU, where border protection is not seen as an issue of defence, but rather of home affairs. At the EU – Western Balkans Summit in Thessaloniki, 'the EU reiterated its unequivocal support to the European perspective of the Western Balkan countries.'[60]

The whole process demanded both commitment and support not just from the Western Balkan countries themselves, but also from the international community. Bearing in mind that, in early 2003, 'following a NATO initiative, the EU, NATO, the OSCE and the Stability Pact worked jointly to develop a coherent and concerted approach to the border security and management issue in the region.'[61] The international community's interest in border protection reform also lay in the fact that Serbia is located on the infamous Balkan Route – one of the main roads of illegal trafficking in human beings, weapons, drugs and other hazardous substances to Western Europe. The Balkan Route is also an important road for terrorists, connecting Middle East and Central Asia with Europe. The only survivor suspect of the Madrid 11 March 2004 bombing was arrested on a train in Serbia when he was travelling towards the Middle East.

The initiative resulted in the Ohrid Process on Border Security within which the countries and international organisations agreed on a way forward regarding all crucial aspects of the process at a conference held in May 2003. Its long-term overarching goal was to develop Integrated Border Management (IBM) in the Western Balkans. IBM should provide the right balance between open but secure and controlled borders – open borders for trade, tourism and other forms of legitimate movement of people and goods, but secure and controlled to prevent illegal migration, human trafficking, criminal activities and terrorism.[62]

The demilitarisation of the state border and introduction of the IBM system in line with the EU and Schengen standards[63] was an enormous challenge in a complex state structure such as SaM, especially since the adoption of the Law on the State Border, a precondition for the start of demilitarisation, is still pending. In addition, the IBM is particularly challenging in relation to the unresolved issue of border delineation with the former Yugoslav republics of Croatia, Bosnia and Herzegovina and FRY Macedonia.

The conditions at 71 border crossing points, of which 60 are international, were and still are very poor. 'Infrastructure at border crossings on borders with former Yugoslav republics is not satisfactory, and at a number of them there is no infrastructure at all, no electricity or a telephone line, water or sewage.'[64]

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[59] The Western Balkans includes: Albania, Bosnia and Herzegovina, Croatia, Macedonia, and Serbia and Montenegro.

[60] http://www.mfa.gr/english/foreign_policy/eu/EU-WBalkans_en.pdf

[61] http://www.nato.int/docu/conf/2003/030522_ohrid/c030522a.htm

[62] http://www.feio.sv.gov.yu/code/navigate.php?Id=173

[63] In June 1990 the 'Convention Implementing the Schengen Agreement' was signed. Its key points relate to measures designed to create, following the abolition of common border checks, a common area of security and justice enhancing the free flow of people and goods across borders in Europe.

[64] 'Strategy on Integrated Border management in the Republic of Serbia', p. 21
http://www.seio.sr.gov.yu/code/navigate.asp?Id=207

Regardless of all the obstacles and in addition to the initial strategic documents, the MoI has made efforts to create the necessary preconditions for the transfer. In 2003, the upgrading of the MoI's BPS started with strengthening the human resources capacity and the MoI organised several basic courses for border police officers. In 2004, new curricula for Border Police Training were adopted.[65] It is envisaged that the BPS will have 6,000 border police officers. BPS will be partially manned from the SaM military, and partially from new recruits. However, irrespective of the number of BPS staff, unless modern monitoring equipment is in place, the BPS cannot be fully successful.

In parallel, the MoI worked on the restructuring of the Directorate for Border Police, Aliens and Administrative Affairs into a Border Police Directorate (BPD) with regional centres and police stations. The BPD has undergone substantial reorganisation aiming at 'performing all duties related to control of crossings and securing the state border while suppressing illegal immigration, trafficking of human beings, smuggling of drugs and weapons as well as all other duties regarding suppression of cross-border crime.'[66] Recently, administrative affairs were extracted from the BPD, and moved into a newly-restructured Administrative Affairs Directorate.

The co-ordination of activities in combating the trafficking of human beings has been the focus since 2001. The international community acknowledged the efforts made by the government in establishing a legal framework and setting up a unique Inter-Agency Co-ordination Body tasked with the effective combating of trafficking. According to the OSCE, 'the police in Serbia have demonstrated the biggest development and leap forward. The MoI has also adopted necessary regulations […] putting the country in line with modern standards.'[67]

With the strengthening of the possibilities for EU processes, the Serbian government adopted a decision on establishing a Commission for the development of the national 'IBM Strategy' in October 2004.

In an effort to overcome the lack of a Law on State Border, in January 2005 the SaM Council of Ministers decided that, 'Until a 'Law on State Border' is brought, the SaM military is temporarily transferring the duties of securing the state border of the territory of the Republic of Serbia to the MoI of Republic of Serbia.'[68] Based on this, the SaM MoD and the Serbian government signed An Agreement of Transferring the Duties of Securing the State Border in February 2005.

In line with the commitments stemming from the Ohrid Process and pursuant to the above documents, the MoI developed a Dynamic Plan for the take-over which envisaged a clock-wise transfer starting with the take-over of the border with Hungary, as the only EU border, in early 2005. Through the EU-funded programme CARDS, refurbishment of three border crossing points is being finalised on the borders towards Hungary, FRY Macedonia and Croatia. However, further refurbishment of border crossings will require substantial infrastructural investment beyond the country's current capacities.[69]

CARDS funds are also being used for the project of strengthening the digital radio network to TETRA standards.[70] Since 2003, the MoI is using its own resources for

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[65] 'Monitoring Tool for the Serbian Government's Action Plan for Meeting the European Partnership Priorities' http://www.seio.sr.gov.yu/code/navigate.asp?Id=177(Hereafter: 'Monitoring Tool')
[66] 'Strategy on Integrated Border management in the Republic of Serbia', p. 11
http://www.seio.sr.gov.yu/code/navigate.asp?Id=207
[67] http://www.osce.org/item/14745.html
[68] 'Official Gazette of SaM,' n°4/05
[69] Monitoring Tool
[70] Terrestrial Trunked Radio (TETRA) is a digital trunked mobile radio standard developed by the European Telecommunications Standards Institute.

introducing the new ID card system.[71] In July 2006, the National Assembly adopted the new Law on IDs.

Setting up an integrated IT system is in the pipeline as well. However, integrating all those systems into a functional network still has a way to go, considering the poor conditions at a substantial number of border crossing points.

Although belatedly, the Serbian government adopted the 'IBM Strategy' in January 2006, which represents a tangible breakthrough with regard to possibilities for further planning the demilitarisation process and enhancing inter-agency cooperation.

The take-over of the Serbian border from the military by the police commenced with the Hungarian border. In early 2006, the MoI took over the Romanian border, which entails securing the 230 km-long blue border on the Danube. The MoI lacks patrol vessels and monitoring equipment for that task. Following this, the MoI assumed control along the border towards Bulgaria and it is finalising the take-over of the border towards Croatia.

After the referendum on Montenegro independence in May 2006, and the subsequent dissolution of the state union of Serbia and Montenegro, the length of the international border lines increased. Until that point, the total length of the state border of Serbia was 2,158 km, of which 174 km were with Hungary, 594 km with Romania, 394 km with Bulgaria, 112 km with Albania, 258 km with Hungary, 391 km with Bosnia and Herzegovina, and 280 km with FRY Macedonia.

The newly introduced model of integrated border management entails four border services:
- Border Police Directorate – 'Border police, as an organisational unit in the Ministry of Interior (General Police Directorate) performs duties related to control of crossing and securing the state borders; it undertakes measures to suppress cross-border crime […].
- Customs Administration - as an administrative body of the Finance Ministry carries out the measures of customs surveillance and control of customs goods and executes the customs procedures […].
- Veterinary Inspection and Phyto-Sanitary Inspection - within the Ministry of Agriculture, Forestry and Water Management through its inspection services at the border and in the country (Veterinary, Phyto-Sanitary and Agriculture Inspection) is responsible for the cross border traffic of the plants, animals, and agricultural plants and animal origin foodstuffs [..].'[72]

In addition to these four border services, the Border Service within the Operational Directorate of the Serbian Armed Forces (Ministry of Defence of Serbia) 'is also competent, among other things, in cases of non-military challenges, risks, and threats to security such as: terrorism, national and religious extremism, organised crime and corruption, natural disasters, industrial and other catastrophes, and epidemics.'[73]

Border police responsibilities were expanded from working on border crossing points only, to the protection of green and blue borders. While army border guards had competencies on border lines and in the rather narrow border belt (usually not deeper than 100 meters), border police officers have jurisdiction on the whole territory of Serbia. Military border units have been

[71] 'Report on the work of the MoI of the Republic of Serbia in the period November 2004 – April 2005' www.mup.sr.gov.yu

1. [72] 'Integrated Border Management Strategy in Republic of Serbia' (http://www.seio.sr.gov.yu/upload/documents/strategy_border%20eng.pdf)

2. [73] 'Integrated Border Management Strategy in Republic of Serbia' (http://www.seio.sr.gov.yu/upload/documents/strategy_border%20eng.pdf)

disbanded on Serbia's borders with Hungary, Romania, Bulgaria and (partially) Croatia, as indicated above. Custom officers' competences were expanded in 2003 whereby they were granted some policing powers – such as search, requesting identification documents, and withholding suspects in the absence of police officers.

The focus in 2006 has also been on deriving other sector strategies and action plans based on the IBM. The Commission for Preparation and Organisation of National Strategies for Management of Security and Control Services in Crossing the State Border of the Republic of Serbia was formed as an interim body 'for preparing the strategies at the governmental level; giving opinions on draft laws and by-laws which regulate matters concerning security and control of crossing the state border; initiating harmonisation of legal acts with EU standards and Schengen Accords; proposing measures for ascertaining further directions in developing the integrated cross-border management services, as well as measures for determining other procedures, processes and methodologies for bodies authorised for cross-border management; and co-operating with competent representatives of the European Union, and with other international and foreign bodies and organisations. In March 2006, the Government appointed the Co-ordinator for all IBM-related activities.'[74]

Serbia has become 'the outer border of the European Union.'[75] Taking into consideration its important geo-political position, and the fact that the country is at the crossroads of major trans-national organised crime routes, strengthening of the overall capacities of the border services contributes significantly to a more efficient and effective fight against organised crime in Europe. A great deal of time has been lost due to unclear competencies in the unique state of Serbia and Montenegro. The political elite has finally opened up the possibilities for laying initial foundations, such as the IBM Strategy, however major activities are needed in terms of the further development of necessary laws and regulations, joint training programmes for the four border services and the reconstruction and strengthening of the border crossing points, which will be of significant focus in the years to come.

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[74] Ibid.
[75] 'Europe's Leaky Outer Frontier,' IWPR,
http://www.iwpr.net/?p=bcr&s=f&o=156010&apc_state=henibcr2004

Annex 1

List of international codes and conventions to which Serbia subscribes:

United Nations (UN)
- The Civil and Political Rights Pact,
- Convention against Torture and Other Cruel, Inhuman or Humiliating Punishments and Procedures,
- Convention on the Fight against Trans-National Organised Crime,
- Protocol on Prevention, Combating and Penalising Human Smuggling, Especially Women and Children,
- Single Convention on Narcotics,
- Convention on Psychotropic Substances,
- Convention against Illegal Trade in Narcotics and Psychotropic Substances,
- Convention on Criminal and Other Acts Done in Aircrafts (The Tokyo Convention),
- Convention on Combating Illegal Hijacking of Aircrafts,
- Convention on Combating Illegal Acts Directed towards the Safety of Civil Aviation (The Montreal Convention),
- International Convention against Taking Hostages (The New York Convention).
- 1979 UN Resolution: Code of Conduct for law-enforcing officers

Council of Europe (CoE)
- European Convention on Human Rights and Fundamental Freedoms,
- Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment,
- European Convention on Mutual Assistance in Criminal Matters,
- European Convention on Combating Terrorism,
- European Convention on Violence and Unruly Behaviour of Fans at Sports Events and Criminal and Criminal Law Convention on Corruption.
- Serbia-Montenegro has signed the Council of Europe Convention on Personal Data Protection, but its ratification is in dispute.

OSCE

All decisions in the OSCE Permanent Council are made by consensus hence all decisions oblige member states of the OSCE, including the Republic of Serbia.

Europol

Serbia is still not a member of Europol. Please note that the Decision of the EU Council for Home Affairs and Justice of 13 June 2002 started the process of entering into the Agreement on Cooperation between the EUROPOL and five EU non-member states, among them Serbia-Montenegro. In order to join EUROPOL in the near future, Serbia-Montenegro needs to meet a number of conditions regarding the harmonisation of its national legislation with EU standards. In addition to this, it has been discerned that joining the Convention on Personal Data Protection and developing it in the national legislation are of great importance (information taken from the National Strategy of Serbia for Serbia and Montenegro's Accession to the European Union p. 185 http://www.seio.sr.gov.yu/code/navigate.asp?Id=73)

Interpol

As a member of Interpol, the Republic of Serbia abides by all relevant rules and regulations.

Annex 2

Key laws referring solely to border management services:

- Law on Ministries;
- Law on State Administration;
- Law on the Police;
- Law on Crossing the State Border and Movement in the Border Zone;
- Law on Movement and Stay of Foreigners;
- Law on Travel Documents of Yugoslav Citizens;
- Law on Asylum;
- Law on Maritime and Inland Navigation;
- Law on Air Traffic;
- Law on the Basics of Road Traffic Security;
- Law on Road Traffic Security;
- Law on Transport of Hazardous Materials;
- Criminal Procedure Code;
- Law on the Execution of Criminal Sanctions;
- Law on the Organisation and Jurisdiction of Government Authorities in Combating Organised Crime;
- Law on the Organisation and Jurisdiction of Government Authorities in the Proceedings Against Perpetrators of War Crimes;

The detailed list of all relevant laws, regulations, decrees, international codes and conventions which Serbia has subscribed is provided in Annex 3, Serbian IBM Strategy. This can be found at: www.seio.sr.gov.yu/upload/documents/strategy_border%20eng.pdf

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THE INTERNATIONAL LAW ENFORCEMENT ACADEMY OF HUNGARY

József Boda, Rector of the International Law Enforcement Academy, Colonel of Police, Doctor of Law

The joint work of the United States and the Republic of Hungary resulted in the creation of the International Law Enforcement Academy in Budapest in 1955. The Academy is situated on the right side of the Danube River, in the Buda region. It has the potential to host up to 130 students simultaneously.

Hungary's International Law Enforcement Academy conducts specialised seminars and courses, which resemble a programme that is initiated by the National US FBI Academy. However, in Hungary, the programme is conducted through interpretation and, as such, there is no need for students to understand English.

The Academy runs an eight-week, individual and professional internship programme for 50 students, five times per year. 250 students therefore pass through the programme each year. In each course, 16 students come from three different countries and the remaining two places are offered to students from Hungary, as the host country and in recognition of its support in establishing the Academy.

This programme does not emphasise technical knowledge, but rather leadership, personnel and finance management skills, human rights, ethics, law obedience, investigation process management and other contemporary law enforcement topics.

The Academy offers opportunities to enhance relations among the different law enforcement agencies. It does not employ its own staff, but instead, teachers stay at the Academy for the duration of their classes.

Official site of the organisation – www.ilea.hu

THE GENEVA CENTRE FOR THE DEMOCRATIC CONTROL OF ARMED FORCES

Dr Philipp Fluri, Deputy Director DCAF

The Geneva Centre for the Democratic Control of Armed Forces (DCAF) was established by the Swiss government in October 2000. The Centre's mission is to promote good governance and reform of the security sector in accordance with democratic standards.

The Centre conducts research on good practices, encourages the development of appropriate norms at the national and international levels, makes policy recommendations and provides in-country advice and assistance programmes. DCAF's partners include governments, parliaments, civil society, international organisations and the range of security sector actors such as police, judiciary, intelligence agencies, border security services and the military. The Centre works with governments and civil society to foster and strengthen the democratic and civilian control of security sector organisations.

DCAF is an international foundation with 50 Member States (including the canton of Geneva). Their representatives compose the Foundation Council. The Centre's primary consultative body, the International Advisory Board, is composed of experts from the various fields in which the Centre is active. The staff numbers over 70 employees from more than 30 countries. DCAF's main divisions are Research and Operations which work together to develop and implement DCAF's programmes as follows:

- By conducting research to identify the central challenges in democratic governance of the security sector, and to collect those practices best suited to meet these challenges
- By providing support through advisory programmes and practical work assistance to all interested parties, most commonly to governments, parliaments, military authorities, and international organisations

The Centre is directed by Ambassador Dr. Theodor H. Winkler. DCAF's head office is located in Geneva, Switzerland and the Centre also has a subsidiary office in Brussels.

Official Website: www.dcaf.ch

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