

# Strengths and Weaknesses of the European Union Police Mission in Bosnia-Herzegovina

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## *Abstract*

This article analyses the strengths and weaknesses of the European Union Police Mission in Bosnia-Herzegovina. First, it provides an overview of the mission through the changes in its mandates. Then, it outlines the mission's performance with a view to present its achievements and failures. Third, it focuses on the problems the mission faced with regard to coherence and local ownership. The article argues that the mission shows the importance of coordination between different instruments of the EU and the degree to which the host society embraces reform initiatives. During the mission's lifetime the problem regarding the coordination between the EU missions in the field was resolved; however, police reform could not be followed through due to the intransigence of local actors.

**Keywords:** *European Union Police Mission, Bosnia-Herzegovina, EUFOR Althea, Police Reform.*

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## **Bosna-Hersek'teki Avrupa Birliđi Polis Operasyonu'nun Güçlü ve Zayıf Yönleri**

### **Öz**

Bu makale Bosna-Hersek'teki Avrupa Birliđi Polis Operasyonu'nun güçlü ve zayıf yönlerini incelemektedir. Öncelikle, deđişen görev tanımları üzerinden operasyonun çerçevesi sunulacaktır. Daha sonra, başardıkları ve başaramadıklarını sunmak üzere operasyonun ulaştığı ve ulaşamadığı hedeflerin özeti sunulacaktır. Üçüncü olarak, operasyonun tutarlılık ve yerel sahiplenme bakımından karşılaştığı sorunlara yoğunlaşılacaktır. Makale, bu operasyonun AB'nin farklı enstrümanları arasındaki eşgüdümün ve reform girişimlerinin yerel halk tarafından ne kadar benimsendiğinin önemini gösterdiğini iddia etmektedir. Operasyon süresince, alandaki AB operasyonları arasındaki eşgüdüm sorunu çözülsede, polis reformu yerel aktörlerin izin vermemesi sebebiyle devam ettirilememiştir.

**Anahtar kelimeler:** *Avrupa Birliđi Polis Operasyonu, Bosna-Hersek, EUFOR Althea, Polis Reformu*

## 1. Introduction

The European Union's Security and Defence Policy was developed in response to the Union's failures in dealing with the disintegration of Yugoslavia. The fact that the EU did not have capabilities to prevent and stop the wars in its neighbourhood provided the impetus for establishing the institutional structure for this new policy in 1999. As a result of the neutral (explain) and Nordic member states' insistence, ESDP comprised of both military and civilian capabilities. The civilian crisis management tools were developed in order to deploy rule of law, police, civil administration and civil protection missions.

The EU decided a police headline goal to have 5000 police officers by 2003 and welcomed the creation of a Committee for Civilian Crisis Management (CIVCOM) at the Feira European Council in June 2000. Following this a Police Action Plan was adopted at the Gothenburg European Council in June 2001. In December 2001 at the European Council in Laeken the EU declared the operational capability of ESDP.<sup>2</sup>

In mid-2001 the UN Special Representative of the Secretary General (SRSG) in Bosnia- Herzegovina (BiH), Ambassador Jacques-Paul Klein during his visit to the Council Secretariat of the European Union suggested that the EU take over the task of international policing in BiH. This led to preparations in the Council Secretariat, and in the autumn of 2001 an exploratory mission composed of officials from both the Council Secretariat and the European Commission was sent to Bosnia and Herzegovina. The Council Secretariat delegation in this mission recommended that the EU should take over the responsibility of international policing after the United Nations (UN). In March 2002 the Council formally decided to launch EUPM – the EU's first ESDP mission. Then, a planning team was established. On the basis an agreement between the EU and the UN, Sven Frederiksen became the last UN/IPTF Commissioner, while at the same time being the head of the EU's planning team for the mission.<sup>3</sup>

European Union Police Mission in Bosnia-Herzegovina (EUPM) served for a decade between 2002 and 2012 in the country. The mission was the first civilian mission deployed within the framework of Euro-

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<sup>2</sup> Michael Matthiessen, "The institutional genesis of the EUPM", Tobias Flessenkemper and Damien Helly (eds.), *Ten years after: lessons from the EUPM in Bosnia and Herzegovina 2002-2012*, Joint Report, European Union Institute for Security Studies, Paris, January 2013, pp. 13-14.

<sup>3</sup> Ibid, pp. 15-16.

pean Security and Defence Policy (now Common Security and Defence Policy - CSDP). Hence its strengths and weaknesses provided the CSDP with important lessons. The mission provided an opportunity of learning by doing for the European Union. Throughout its lifetime, its mandates changed reflecting the needs on the ground.

This article analyses the strengths and weaknesses of the European Union Police Mission in Bosnia-Herzegovina. First, it provides an overview of the mission through the changes in its mandates. Second, it outlines the mission's performance with a view to present its achievements and failures. Third, it focuses on the problems the mission faced with regard to coherence and local ownership. The article argues that the mission shows the importance of coordination between different instruments of the EU and the degree to which the host society embraces reform initiatives. During the mission's lifetime the problem regarding the coordination between the EU missions in the field was resolved; however, police reform could not be followed through due to the intransigence of local actors.

## 2. Overview of EUPM Mandates

European Union Police Mission (EUPM) had an evolving mandate throughout its lifetime. Therefore, EUPM is considered to have gone through five phases: EUPM I (2003–2005), EUPM II (2006–2007), EUPM III (2008–2009), EUPM IV (2010–2011) and EUPM V (2012 – 30 June 2012). EUPM I was given the task to 'establish sustainable policing arrangements under BiH ownership in accordance with best European and international practice, and thereby raising current BiH police standards'. In order to realize this, the mission was to 'monitor, mentor and inspect'.<sup>4</sup>

In the meantime, the EU-Western Balkans Summit, held in Thessaloniki on 21 June 2003 concluded that the future of the Balkans is within the European Union. "The European Security Strategy: Comprehensive Policy towards Bosnia and Herzegovina" was adopted at the Brussels European Council of 17 and 18 June 2004. The strategy stated that "the long-term objective of the EU is a stable, viable, peaceful and multiethnic BiH, cooperating peacefully with its neighbours and irreversibly on track towards EU membership", while the signing of a Stabilisation and Association Agreement with BiH was identified as the Union's medium-term objective. As part of broader rule of law approach, the second mandate of EUPM once again

<sup>4</sup> Amelia Padurariu, "The Implementation of Police Reform in Bosnia and Herzegovina: Analysing UN and EU Efforts", *Stability: International Journal of Security & Development*, Vol, 3(1), No 4, 2014, p. 7.

aimed at establishing in BiH “a sustainable, professional and multiethnic police service operating in accordance with best European and international standards” through monitoring, mentoring and inspecting. This police mission was to act in accordance with commitments that were part of the Stabilisation and Association Process. The fight against organised crime and police reform were emphasized as the objectives of second EUPM. It was given the leading role in the coordination of policing aspects of the ESDP efforts in the fight against organised crime. The mission was given the explicit task to “assist local authorities in planning and conducting major and organised crime investigations”.<sup>5</sup>

The third EUPM mandate repeated above-mentioned goals of the second EUPM. It also repeated EUPM’s leading role in the coordination of the policing aspects of the ESDP efforts in the fight against organised crime. In addition, it stated that “the EUPM shall assist local authorities in planning and conducting major and organised crime investigations, in contributing to an improved functioning of the whole criminal justice system in general and enhancing police-prosecutor relations in particular.” Therefore, the third EUPM’s range of activities expanded to include police relations with actors in the justice system. The third EUPM was also tasked with, together with the European Commission, assisting “BiH authorities to identify remaining police development needs which could be addressed through Community assistance.”<sup>6</sup>

The fourth EUPM mandate, which covered the period between 1 January 2010 and 31 December 2011 stressed that EUPM was to operate as part of the broader rule of law approach in BiH and in the region, while retaining residual capacities in the fields of police reform and accountability. It stated that EUPM shall primarily support state level Law Enforcement Agencies in the fight against organised crime and corruption, on enhancement of the interaction between police and prosecutor and on regional and international cooperation. EUPM was also given the task to provide operational advice to the European Union Special Representative (EUSR). In order to achieve these goals, the key tasks of EUPM were identified as: 1. strengthening the operational capacity and joint capability of Law Enforcement Agencies in the fight against organised crime and corruption; 2. assisting and supporting in the planning and conduct of investigations in the fight against organised

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<sup>5</sup> Council Joint Action 2005/824/CFSP of 24 November 2005 on the European Union Police Mission (EUPM) in Bosnia and Herzegovina (BiH).

<sup>6</sup> Council Joint Action 2007/749/CFSP of 19 November 2007 on the European Union Police Mission (EUPM) in Bosnia and Herzegovina (BiH).

crime and corruption; 3. assisting and promoting development of criminal investigative capacities; 4. enhancing police-prosecution cooperation; 5. strengthening police-penitentiary system cooperation; 6. contributing to ensure a suitable level of accountability.<sup>7</sup>

Final mandate of EUPM stated that it should be continued until 30 June 2012, which is the date of closing the mission. EUPM's mandate to support relevant Law Enforcement Agencies (LEAs) and the criminal justice system in the fight against organised crime and corruption, in enhancing the interaction between police and prosecutors and in fostering regional and international cooperation continued. EUPM was once again tasked to provide operational advice to the European Union Special Representative (EUSR). Since the mission was to close in June 2012, it was required to prepare a hand-over of the remaining key tasks to the EUSR Office. The mandate enumerated key tasks of EUPM to be 1. providing strategic advice on combating organised crime and corruption; 2. promoting and facilitating coordination and cooperation mechanisms between relevant LEAs, with a particular focus on State level agencies; 3. ensuring a successful hand-over between EUPM and the EUSR Office; 4. contributing to the coordination of Union and Member States' efforts in the field of the rule of law.<sup>8</sup>

As the overview of mission mandates show, EUPM's tasks evolved in order to reflect the needs on the ground and take into consideration the lessons learnt in the field. The mission's tasks first expanded to include an EUPM role in the fight against organized crime and police reform. Then it incorporated activities in the justice sector in order to improve police-prosecutor relations.

### **3. Performance of EUPM**

First of all, EUPM in Bosnia demonstrated that the EU's crisis management structures became operational. Second, the mission advanced the process of transforming the Bosnian police from an instrument of ethnic warfare into a professional service by continuing the work of the UN International Police Task Force (IPTF). Third, it brought Bosnian policing mentalities, institutions and practices closer to European norms and standards.<sup>9</sup>

<sup>7</sup> Council Decision 2009/906/CFSP of 8 December 2009 on the European Union Police Mission (EUPM) in Bosnia and Herzegovina (BiH).

<sup>8</sup> Council Decision 2011/781/CFSP of 1 December 2011 on the European Union Police Mission (EUPM) in Bosnia and Herzegovina (BiH).

<sup>9</sup> Michael Merlingen, "The EU Police Mission in Bosnia and Herzegovina (EUPM)", G. Grevi, D. Helly

The IPTF had been in Bosnia between 1996 and 2002. It was an executive police mission which had police officers in the field in order to support rule of law in Bosnia. It carried out a certification process in the police force, improved the standards of the police forces, introduced public oversight mechanisms and contributed to the establishment of the State Border Service (SBS) and the State Investigation and Protection Agency (SIPA). The idea was that the IPTF completed the certification process, which required an executive mandate. Therefore, EUPM was not given an executive mandate by the EU. It was given the role of monitoring, mentoring and inspecting. Although EUPM sought to dissociate from the IPTF's legacy, it took over most of the IPTF programmes.<sup>10</sup> EUPM's non-executive mandate meant that it could not do much if its advice was not taken into consideration and it could not interfere in the decision-making process. Its role was to share and incorporate EU standards and develop sustainable, efficient, transparent and democratic security institutions in Bosnia.<sup>11</sup>

EUPM aimed to support the Stabilisation and Association process of Bosnia and Herzegovina with a view to prepare the country for eventual accession to the EU. To that end, the mission worked closely with the European Commission in order to complement Community assistance projects, including in the area of the fight against organised crime and corruption. However, main goal of the mission was to contribute to the peace building and stabilisation efforts in the country and to minimise risks for the European Union and its member states. Advancing the European identity in the area of foreign and security policy was the third objective of the mission. In the words of Tobias Flessenkemper "by 2010, in all three aspects progress could be registered and was duly noticed".<sup>12</sup>

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and D. Keohane (eds.), *European security and defence policy: the first 10 years (1999-2009)*, European Union Institute for Security Studies, Paris, p. 162.

<sup>10</sup> Ana E. Juncos, "Police Mission in Bosnia and Herzegovina", Michael Emerson and Eva Gross (eds.), *Evaluating The EU's Crisis Missions in the Balkans*, Centre for European Policy Studies, Brussels, 2007, pp. 51-52.

<sup>11</sup> Edina Bećirević and Maida Čehajić, "Politics, Policing and Security Sector Reform in post-war Bosnia and Herzegovina", Tobias Flessenkemper and Damien Helly (eds.), *Ten years after: lessons from the EUPM in Bosnia and Herzegovina 2002-2012*, Joint Report, European Union Institute for Security Studies, Paris, January 2013, p. 45.

<sup>12</sup> Tobias Flessenkemper, "Support to the fight against organised crime and corruption: between standards, structural reform and pragmatism", Tobias Flessenkemper and Damien Helly (eds.), *Ten years after: lessons from the EUPM in Bosnia and Herzegovina 2002-2012*, Joint Report, European Union Institute for Security Studies, Paris, January 2013, p. 33.

The mission encountered severe problems in the start-up phase with regard to procurement of mission equipment. Due to cumbersome Commission procedures, the final delivery of office computers took place about a year into the mission. Second, after a good first batch, the quality of seconded police officers decreased and they lacked qualifications for mentoring and monitoring mid- and senior-level police managers.<sup>13</sup>

During its first and a half year, there was a tendency in EUPM to conceive police operations in an executive way. This has been corrected after a conference in the summer of 2004, which led to adjustments in the organisational structure of EUPM towards a more programmatic management approach based on monitoring, mentoring and inspecting.<sup>14</sup>

The mandate of EUPM 1 (January 2003-December 2005) was a broad one. It was tasked to establish sustainable policing arrangements in line with best European and international practice. However, what these terms meant in practice was not clarified. Moreover, there was no catalogue of best European practices. The mission was to engage in mentoring, monitoring and inspecting activities in order to reach its objectives. Although ‘mentoring’ and ‘monitoring’ were clear assignments, what was to be understood by ‘inspections’ was not clear, as the mission had not been granted executive powers, such as arresting and prosecuting.<sup>15</sup> A solution to the problem about imprecise ‘best European practices’ was found by putting nationals or national teams from EU countries in charge of different reform projects.<sup>16</sup>

EUPM focused on strengthening police accountability and sustainability through various capacity-building projects; institution-building at the state level by supporting the establishment of and strengthening the State Border Service (SBS), the State Investigation and Protection Agency (SIPA) and the Ministry of Security and the restructuring of police districts.<sup>17</sup> It helped the establishment of functional roles for each state-level security agency and supported legislative initiatives for standardising intelligence-led policing at the state level. The mission assisted Bosnian police forces through the methodology of co-location and partnership and by engaging in on-site mentor-

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<sup>13</sup> Michael Merlingen, *The EU Police Mission*, p. 167.

<sup>14</sup> Ana E. Juncos, *Police Mission in Bosnia*, p. 53.

<sup>15</sup> Michael Merlingen, *The EU Police Mission*, p. 164.

<sup>16</sup> *Ibid.*, p. 168.

<sup>17</sup> Dominik Tolksdorf, “Incoherent Peacebuilding: The European Union’s Support for the Police Sector in Bosnia and Herzegovina, 2002–8”, *International Peacekeeping*, Vol. 21, No 1, 2014, pp. 64-65.

ing, monitoring of performance, inspections, specialised training, equipment provision and operational and legal advice and support.<sup>18</sup>

By setting up, training and mentoring internal control units, which investigate police misconduct, the mission succeeded in making the local police more accountable. Through curriculum development it assisted in professionalising police training and by elaborating a gender- and ethnicity-blind recruitment and promotion system, it incorporated a modern human resource management in the Bosnian police apparatus. The mission also helped in changing how the police deals with crime scene management through capacity-building measures aimed at enabling detectives to rely on forensic evidence rather than confessions.<sup>19</sup>

EUPM provided assistance in legislative initiatives, “lobbied for the adoption of legislation (i.e. the Agreement on Restructuring of Police), participated in drafting laws, such as the Immigration Service Law, and worked closely with law enforcement agencies to meet the requirements of the EU roadmap for visa liberalisation and the Stabilisation and Association (SAA) process.”<sup>20</sup> The mission worked towards countrywide legal and regulatory harmonisation. It also engaged in revision of legislation covering areas such as the fight against corruption, data exchange, forensic expertise or interception of telecommunications. Assessment, review and amendments of secondary and primary pieces of legislation were made in close coordination with local counterparts at all levels of government.<sup>21</sup> EUPM launched, together with the Office of the High Representative, the drafting process for the Law on Police Officials, to regulate employment matters for police officials in order to have a sufficient legal framework on employment matters for police officials. EUPM aimed to create multi-ethnic institutions by harmonising the legislation between state-level, entity and cantonal levels. However, since many police officers were not open to working further away from home, in areas with a different ethnic balance than their own, the ethnic quotas provided for within institutions could not be filled in.<sup>22</sup>

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<sup>18</sup> Susan E. Penksa, “Measuring impact: specific achievements and outcomes”, Tobias Flessenkemper and Damien Helly (eds.), *Ten years after: lessons from the EUPM in Bosnia and Herzegovina 2002-2012*, Joint Report, European Union Institute for Security Studies, Paris, January 2013, p. 69.

<sup>19</sup> Michael Merlingen, *The EU Police Mission*, pp. 169-170.

<sup>20</sup> Susan E. Penksa, *Measuring impact: specific achievements and outcomes*, p. 69

<sup>21</sup> Eric Fréjabue, “Lessons from EUPM: a Legal Approach”, Tobias Flessenkemper and Damien Helly (eds.), *Ten years after: lessons from the EUPM in Bosnia and Herzegovina 2002-2012*, Joint Report, European Union Institute for Security Studies, Paris, January 2013, p. 34.

<sup>22</sup> Amelia Padurariu, *The Implementation of Police Reform*, pp. 11-12.

EUPM contributed to the drafting of the law transforming State Investigation and Protection Agency (SIPA) into an investigative agency. The first SIPA (2002–2004) was an information agency, with responsibilities limited to collecting information, which meant that the entities were also conducting investigations on those issues on which the state had competency. The second SIPA (2004 – present) was transformed into an investigative agency capable of conducting investigations over the whole territory of Bosnia.<sup>23</sup> SIPA became the only police agency with competence across the country in June 2004. An increased number of searches, statements, and interviews and large number of successful organised crime and corruption cases carried out by SIPA officers and reports submitted to prosecutors demonstrates the growth in capacity among SIPA personnel. However, the degree to which reports submitted by SIPA to the State Prosecutor’s Office result in arrests and convictions has not been satisfactory. EUPM established the Criminal Justice Interface Unit to advance cooperation between police and prosecutors. Eventually, EUPM worked with personnel throughout the criminal justice system, such as police and customs officials, chief prosecutors, judges, and prison directors.<sup>24</sup>

Thus, EUPM turned the Bosnian police into a professional service and it brought Bosnian policing mentalities, institutions and practices closer to European norms and standards. It engaged in capacity and institution building and assisted with legislation regarding the police.

#### **4. Weaknesses of European Union Police Mission**

##### **4.1. The Problem of Coherence between the EU’s civilian and military crisis management missions**

EUPM faced a challenge when EUFOR *Althea* was also deployed to Bosnia in order to replace NATO’s SFOR in December 2004. EUFOR *Althea* was to provide a safe and secure environment and to implement other aspects of Annexes 1.A and 2 of the Dayton Agreement. It had an executive mandate, while EUPM did not. The EUPM’s mandate aimed at the long-term capacity-building of the police forces, while EUFOR was deployed with a view to provide deterrence against resumption of violence. During the first year of EUFOR’s mandate, tensions arose between EUFOR and EUPM, when EUFOR actively engaged in fight against organized crime. While the fight against organised crime was only one of EUFOR’s support-

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<sup>23</sup> Ibid, p. 11.

<sup>24</sup> Susan E. Penksa, *Measuring impact: specific achievements and outcomes*, p. 70

ing tasks, under the command of the former EUFOR Commander, General David Leakey EUFOR launched several operations in an attempt to combat illegal activities such as weapons and drug smuggling, human trafficking and illegal logging.<sup>25</sup>

These operations were conducted with a view to reassure Bosnian citizens who were concerned about the robustness of the EU's military mission because of the inability of the EU to prevent atrocities during the dissolution of Yugoslavia. EUFOR officials were trying to send a signal that their mission is robust.<sup>26</sup> Through EUFOR, the EU aimed at demonstrating that it had learned its lesson from its failures and that it now had the capabilities to manage peacekeeping operations. EUFOR was also asked by Javier Solana, the EU's then High Representative for CFSP to do something "new and distinct" for state building process in Bosnia. In a way, EUFOR's engagement in the fight against organized crime was a response to these different pressures to prove the EU's added value in post-conflict transformation in Bosnia.<sup>27</sup>

However, EUPM officials, who thought that the fight against organized crime should be conducted through civilian means, criticized EUFOR's activities. The EU missions were not setting a good example for Bosnian police forces by failing to clearly delineate between civilian and military involvement in police work. For EUPM officials, EUFOR's operations were also problematic for not involving Bosnian law enforcement agencies and this undermined local ownership.<sup>28</sup> Actually EUPM and other police experts had tried to prevent this from happening during the strategic planning phase of EUFOR, but their advice did not receive attention as the Council Secretariat and political masters in Brussels and Sarajevo wanted to take advantage of integrated police units of EUFOR.<sup>29</sup>

The EUFOR leadership was willing to cooperate with EUPM on how to fulfil the task on organized crime at the beginning of their mission, but at that time the EUPM leadership did not show interest in coordination as they thought that the military should not get involved in fight against organized

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<sup>25</sup> Ana E. Juncos, *Police Mission in Bosnia*, pp. 58-59.

<sup>26</sup> Cornelius Friesendorf and Susan E. Penksa, "Militarized Law Enforcement in Peace Operations: EUFOR in Bosnia and Herzegovina", *International Peacekeeping*, Vol. 15, No 5, 2008, p. 687.

<sup>27</sup> Dominik Tolksdorf, *Incoherent Peacebuilding*, p. 62.

<sup>28</sup> *Ibid*, p. 62

<sup>29</sup> Thomas Muehlmann, "EU Civil-Military Cooperation and the Fight against Organised Crime: Lessons to be Learned from the Bosnian Example", *European Security*, Vol. 17, No 2-3, 2008, p. 400.

crime.<sup>30</sup> EUFOR and EU Special Representative were of the opinion that EUFOR's activities were useful in countering the impression that organised crime was beyond reach. However, the lessons learnt exercise after the first wave of operations showed that findings that would lead to operations could not be made. Moreover, local police were frustrated because EUFOR operations did not involve them and the reappearance of military checkpoints was seen as a step back by the population. Therefore, EUFOR started to bring together the senior staff of all Bosnia and Herzegovina crime and security related organizations with EU agencies in meetings and provided information on its operations while inviting local authorities to the planning and conduct of operations.<sup>31</sup>

Although it is unlikely that EUFOR significantly reduced illegal logging, smuggling and other illicit activities, the mission "encouraged BiH law enforcement agencies to do more against crime; provided police and prosecutors with valuable capabilities, information and intelligence; and facilitated cooperation among the various crime-fighting actors, from the police to tax authorities". However, EUFOR's operations were not based on a systematic law enforcement approach which established a chain of evidence useable in court; therefore its success was at the tactical, not strategic level.<sup>32</sup>

It was only at the end of 2005 that the representatives of the EUPM, EUFOR and the EUSR agreed on seven principles for coordination and on general guidelines for increasing cooperation.<sup>33</sup> In May 2006 this agreement led to operational guidelines for coordination. Accordingly, EUFOR would support Bosnian police forces if there was a lack of capacity at the local level or if the Bosnian police lacked confidence despite the existence of capacity. Moreover, EUFOR's support would have to be endorsed by the EUPM.<sup>34</sup>

While these were happening on the ground, the Council secretariat reviewed the EU's activities in Bosnia and made adjustments in the EU strategy. By strengthening EUPM's mandate, the Council turned the mission into the lead international actor in the fight against organized crime. It also decided that EUFOR would gradually reduce its involvement in this area and thus

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<sup>30</sup> Ibid, p. 400.

<sup>31</sup> Ibid, p. 401.

<sup>32</sup> Cornelius Friesendorf & Susan E. Penksa (2008) *Militarized Law Enforcement in Peace Operations*, 690.

<sup>33</sup> Ana E. Juncos, *Police Mission in Bosnia*, pp. 59-60.

<sup>34</sup> Ibid, p. 61.

boosted the local ownership approach that the EUPM leadership defended.<sup>35</sup> These show that the EU's civilian and military crisis management missions suffered from coordination problems. The EU activities in the field of organized crime lacked coherence in Bosnia and the EU engaged in learning by doing and rectified this problem after a while.

#### **4.2. The problem of local ownership in police restructuring process**

On the basis of the constitution of the GFAP (General Framework Agreement for Peace in Bosnia and Herzegovina) the police forces in Bosnia were highly decentralised. Ten cantons in the Federation of Bosnia and Herzegovina and Republika Srpska each have their own police structures. Few competences are shared at the state level in policing.<sup>36</sup>

This fragmentation is harmful to the operational capacities of the police. The structure limits cooperation and coordination across police agencies. However, after successful military and intelligence reforms in Bosnia, local political elites considered their policing competences to be the last real source of sovereign power that was still in the hands of the entities. Therefore, especially for the RS political parties, police reform was a highly political issue and they resisted centralization efforts of the international community and the EU.<sup>37</sup>

The European Commission pointed out police reform as a priority in the pre-accession process in 2003. And a 2004 report by a consultancy firm stated that a high number of autonomous police services was not a problem in itself, but improved coordination between different levels was a necessity. The issue gained salience when NATO rejected Bosnia and Herzegovina's membership to the Partnership for Peace programme arguing that its cooperation with the International Criminal Tribunal for the former Yugoslavia (ICTY) was insufficient. The High Representative/ EU Special Representative (HR/EUSR) Paddy Ashdown attributed this to the inability of the BiH police structures to effectively search for indicted war criminals and to confront organised crime groups. Upon his instruction, a Police Restructuring Commission (PRC) was established in order to draft legislation for a 'single

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<sup>35</sup> Dominik Tolksdorf, *Incoherent Peacebuilding*, p. 63

<sup>36</sup> Dominik Tolksdorf, "Police reform and conditionality", Tobias Flessenkemper and Damien Helly (eds.), *Ten years after: lessons from the EUPM in Bosnia and Herzegovina 2002-2012*, Joint Report, European Union Institute for Security Studies, Paris, January 2013, p. 20.

<sup>37</sup> Antoine Vandemoortele, "Adaptation, resistance and a (Re)turn to functionalism: the case of the Bosnian police restructuring process (2003–2008)", *European Security*, Vol. 21, No 2, 2012, p. 204.

structure of policing for Bosnia and Herzegovina under the overall political oversight of a ministry or ministries in the Council of Ministers'.<sup>38</sup>

Centralisation was also seen as a solution to the problem of political interference in the police work. Depoliticisation of the police became one of the principles of EU reform agenda in Bosnia. Depoliticisation required that the police become an independent institution, able to do their work without undue influence from local politicians.<sup>39</sup> In a similar fate with centralisation efforts, depoliticisation of the police also failed due to local intransigence in Bosnia and Hercegovina.

Ashdown set up three principles for implementation "1) all legislative and budgetary competencies for all police matters must be administered at the state level; 2) the functional local police areas must be determined by technical policing criteria, where operational command is exercised at the local level (and not at the entity level); and finally 3) no political interference with police operations."<sup>40</sup> Ashdown's model was criticized by some Peace Implementation Council ambassadors since similar federal police structures in EU member states, such as Germany and Austria functioned effectively.<sup>41</sup> Bosnian Serb politicians also criticized the first two principles and Ashdown for trying "to implement state centralization and the break-up of the autonomy or even the existence of the Republika Srpska (RS) within Bosnia." In this atmosphere, in order to increase his leverage, Ashdown asked EU Enlargement Commissioner Chris Patten to adopt the three principles as requirements of the pre-accession process. Upon Patten's initiative the principles became part of the conditions for signing a Stabilization and Association Agreement (SAA) with the EU.<sup>42</sup>

The Office of the High Representative (OHR) and EU officials failed to push the Bosnian officials to reach an agreement on police restructuring in 2004 and 2005. After the RS parliament rejected an OHR proposal, the European Commission suspended the negotiations on the SAA with Bosnia in 2005. The negotiations resumed after the leaders of the major Bosnian parties had signed a statement of intention on the adoption of a police reform.<sup>43</sup> The

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<sup>38</sup> Dominik Tolksdorf, *Police reform and conditionality*, pp. 20-21.

<sup>39</sup> Edina Bećirević and Maida Čehajić, *Politics, Policing and Security Sector Reform in post-war Bosnia and Herzegovina*, p. 45

<sup>40</sup> Dominik Tolksdorf, *Incoherent Peacebuilding*, p. 65.

<sup>41</sup> Dominik Tolksdorf, *Police reform and conditionality*, p. 21

<sup>42</sup> Dominik Tolksdorf, *Incoherent Peacebuilding*, p. 65.

<sup>43</sup> *Ibid*, p. 66.

top-down approach to reform was continued until the end of Ashdown's mandate in January 2006. However, increased pressure on local authorities just increased the tensions. Bosnia's Serbian politicians accused Ashdown and the international community (including the EU) of promoting the interests of the Bosniak politicians, who were mostly in favour of state centralisation.<sup>44</sup>

EUPM 2 had the task of police reform in its mandate due to the expectation that the necessary laws would be passed by the parliament in its lifetime. But this did not materialize.<sup>45</sup> In fact, in 2006 the process stopped due to the general election which was to take place in October. In 2007, the process restarted and led to the Mostar Agreement of October 2007, in which all Bosnian political parties agreed on the substance and form of the reform. However, this was achieved since the EU waived the conditionality of Ashdown's three principles. The Action Plan for the Implementation of the Mostar Agreement in November 2007 led to the adoption of two new laws on police restructuring in April 2008. The EU accepted these as sufficient for the signing of the Stability and Association Agreement (SAA) in June 2008.<sup>46</sup> With these new police laws which strengthened state-level policing authority, EUPM 3 has been able to monitor and guide the centralisation of Bosnia's police.<sup>47</sup>

During the process, the intransigence and harsh reactions of Bosnian Serb authorities played a role in the EU's postponement of application of three principles set up by Ashdown. Other factors that led to the final agreement between the EU and Bosnian authorities were political. In 2008, the EU wanted Bosnia to move on in its stabilisation process through the signing of the SAA due to the upcoming decision on Kosovo's independence in February 2008 and the parliamentary elections in Serbia in May 2008. These led to the joint decision of Javier Solana and Olli Rehn to postpone the implementation of the three police principles and accept a compromise which had been formulated by the leaders of the major Bosnian parties in October 2007. The compromise solution did not incorporate anything that would change the decentralised police structure in Bosnia. The result has been the establishment of seven new police coordination bodies at the state level that did not affect the entity competences over police.<sup>48</sup>

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<sup>44</sup> Dominik Tolksdorf, *Police reform and conditionality*, p. 22.

<sup>45</sup> Michael Merlingen, *The EU Police Mission*, p. 165.

<sup>46</sup> Antoine Vandemoortele, *Adaptation, resistance and a (Re)turn to functionalism*, p. 205.

<sup>47</sup> Michael Merlingen, *The EU Police Mission*, p. 165.

<sup>48</sup> Dominik Tolksdorf, *Police reform and conditionality*, p. 24.

As can be seen, the top-down, interventionist approach did not lead to the preferred outcome.<sup>49</sup> The EU leaders underestimated the potential of resistance against centralisation of the police structure. In the end, they had to give up on their conditionality based on a centralisation agenda due to lack of local ownership of this agenda.

The financial sustainability of the police framework, the continued fragmentation of the police system and the lack of independence of the police from politics remained as problems of the police forces as the EU closed EUPM. To overcome these challenges and to ensure police reform, the EU needs to pay particular attention to the political level, as political authorities who are afraid of losing influence prevent the implementation of police reform. After EUPM, the EU Delegation/ Office of the EU Special Representative was given the task of supporting police reform in Bosnia. With the closure of EUPM, the EU follows an approach based on reinforcing Bosnia's prospects of EU membership.<sup>50</sup>

## **5. Conclusion**

Throughout its lifetime European Union Police Mission's tasks evolved in order to reflect the needs on the ground and take into consideration the lessons learnt in the field. The mission's tasks first expanded to include an EUPM role in the fight against organized crime and police reform. Then it incorporated activities in the justice sector in order to improve police-prosecutor relations. EUPM turned the Bosnian police into a professional service and it brought Bosnian policing mentalities, institutions and practices closer to European norms and standards. It engaged in capacity and institution building and assisted with legislation regarding the police. The mission faced two serious challenges. First challenge concerned the coordination problems between the EU's civilian and military crisis management missions. The EU activities in the field of organized crime lacked coherence in Bosnia. However, the EU engaged in learning by doing and rectified this problem by giving EUPM a leading coordination role. The second challenge arose as the EU encountered resistance against its police restructuring plan which was based on centralisation of the police structure. In the end, the EU had to give up on conditionality based on a centralisation agenda due to the lack of local ownership of this agenda. The fragmented nature of the police, financial sustainability of the force and political interference in the police work remained as challenges after the closure of the mission in 2012.

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<sup>49</sup> Dominik Tolksdorf, *Incoherent Peacebuilding*, p. 69.

<sup>50</sup> Amelia Padurariu, *The Implementation of Police Reform*, p. 15-16.

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