

# ON MOUNT OLYMPUS

**How the UN violated human rights  
in Bosnia and Herzegovina,  
and why nothing has been done to correct it**

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*The greatest of faults, I should say, is to be conscious of none.*  
(Thomas Carlyle)

## Executive summary

Between 1996 and 2002, UNMIBH ran a large police mission in Bosnia, the International Police Task Force (IPTF). One of the tasks it set itself was to rid the Bosnian police forces of inappropriate personnel through an exhaustive vetting procedure. Altogether, the UN assessed some 18,000 police officers and declared 793 unfit to exercise police powers.

These individuals were banned from serving as police *for life* – a very severe sanction. Yet the UN failed to offer the most basic procedural safeguards, which the UN Secretary-General himself has noted is the difference between legitimate vetting and “wholesale purges”. The banned police officers were given no opportunity to respond to the evidence against them. Some were not even told the reason for their disqualification. Among the 793, there are at least 150 cases that IPTF could not finalise during its mandate, and whose fate was simply left hanging. Some of these cases clearly involve serious injustice.

That mistakes were made in completing such a complex task is hardly a scandal. What is alarming, however, is that once the flaws in the process had become apparent, labelled human rights violations by authorities as respected as the Council of Europe’s Venice Commission, the UN and other international institutions in Bosnia refused either to remedy them, or to allow Bosnians institutions to do so. Instead, the international mission closed ranks, accusing the Bosnians of trying to undermine the rule of law.

At the centre of this report is an exchange of letters between the High Representative in Bosnia and the UN Under-Secretary General for Peacekeeping Operations in New York. It shows that international officials have been aware for many years that mistakes were made. According to notes prepared by the High Representative’s Office (OHR), the two organisations concluded in December 2003 that there were “cases where errors of law or errors of fact might have occurred.” An OHR summary of a further meeting in July 2004 noted again that “the UN representatives acknowledged that some cases were problematic.” But nothing was done to resolve the problems. The only action on which the two institutions could agree was intimidating the Bosnian courts and authorities into doing nothing.

In December 2006, after an extensive campaign by the banned police officers, the Bosnian government decided to establish a Commission to review the cases of decertified police officers who had challenged their dismissal in the Bosnian courts. Despite accusations from the international community that it is breaching international law, the Bosnian government has determined that its first obligation is to protect the constitutional rights of its citizens. This is an entirely appropriate course of action for a sovereign state.

The lessons from this story are directly applicable to any post-conflict mission that the UN or the EU may conduct in the future. Where public officials are vetted, they must be offered basic procedural fairness. They must be notified of the case and the evidence against them, and be given an opportunity to defend themselves. They must be able to appeal any decision to a court or independent body. Similar provisions should apply wherever international representatives are authorised to dismiss public officials. If such basic principles are disregarded, it undermines both the legitimacy and the ultimate goals of the mission.

Under current proposals, the International Civilian Representative in Kosovo is to be entrusted with similar powers to those exercised by UNMIBH and OHR in Bosnia. From the outset, credible safeguards must be put in place to protect the rights of Kosovo residents. A powerful and independent ombudsman must be able to investigate all complaints made by Kosovo citizens against the international mission. Kosovo citizens who claim that their human rights are violated should be able to appeal to an independent review mechanism.

International organisations are made up of fallible men and women. However committed they are, when they take on the responsibility of *governing* a post-conflict territory, they must not be permitted to assume the posture and immunity of Olympian gods.

~ Contents ~

<b>I.</b>	<b>INTRODUCTION .....</b>	<b>1</b>
<b>II.</b>	<b>A PROUD MISSION .....</b>	<b>3</b>
<b>III.</b>	<b>ORDINARY POLICEMEN.....</b>	<b>7</b>
A.	HUSEIN, THE RETURNEE.....	7
B.	ZORAN, LEFT PENDING.....	9
C.	AZMIR AND CAMIL, POLICE DOG HANDLERS.....	11
D.	SALKO AND RIFAT, BRANDED AS WAR CRIMINALS .....	13
E.	OFFICIAL CONFUSION .....	14
<b>IV.</b>	<b>THE VIEW FROM MOUNT OLYMPUS.....</b>	<b>16</b>
A.	ASHDOWN AND GUEHENNO.....	16
B.	THE UN AND ITS PRINCIPLES .....	25
<b>V.</b>	<b>THE FIGHT FOR JUSTICE.....</b>	<b>27</b>
<b>VI.</b>	<b>FROM BOSNIA TO KOSOVO.....</b>	<b>30</b>

“The IPTF shall at all times act in accordance with internationally recognized standards and with respect for internationally recognized human rights and fundamental freedoms, and shall respect, consistent with the IPTF's responsibilities, the laws and customs of the host country.”  
*Dayton Peace Agreement, 1995*

“Compliance with human rights standards is so important that no international mechanism or procedure may be allowed to circumvent it.”  
*Opinion of the Venice Commission, 24 October 2005*

## I. INTRODUCTION

In classical Greek tragedy, there are two levels of action. One is the world of ordinary mortals. The other is the world of the immortal gods on Mount Olympus, omnipotent but fickle. The Greek gods compete, quarrel and follow their whims, interfering with impunity in the lives of ordinary mortals.

This report is an investigation both of human rights failings committed by the United Nations Mission to Bosnia and Herzegovina (UNMIBH), and of the efforts of the UN Department of Peacekeeping Operations (DPKO) to evade responsibility for helping to address the consequences. In the absence of any system of accountability over the international mission in Bosnia, perverse institutional dynamics have led the international community to close ranks behind the UN, despite widespread misgivings at the most senior levels. For four years, international institutions in Bosnia have refused either to resolve the problem, or to allow Bosnia's authorities to do so. Their stance has been - “we cannot err” – thus assuming the posture of the gods in Greek tragedy.

Between 1996 and 2002, UNMIBH ran a large police mission in Bosnia, the International Police Task Force (IPTF). One of the main tasks it set itself was to rid the Bosnian police forces of inappropriate personnel through an exhaustive vetting procedure. Altogether, the UN screened some 18,000 Bosnian police officers and declared 793 unfit to exercise police powers.<sup>1</sup> These individuals were banned from service as police *for life*. The reasons ranged from allegations of participation in war crimes, through concerns about fraudulent high-school certificates, to failure to attend UN human rights training. Some of these officers were never given a reason for their disqualification, or an opportunity to respond. Among the 793, there are at least 150 “pending” cases that IPTF could not finalise during its mandate, and whose fate was simply left hanging.<sup>2</sup> Several hundred police officers were overlooked altogether.

UNMIBH's vetting process was intended as a confidence-building measure in a divided, post-conflict society. Its aim was to remove police officers who had violated human rights, breached the law or failed to meet other standards of democratic policing. However, there were numerous flaws in the process. The UN failed to meet basic principles of due process, as laid down two years later by the UN Secretary-General himself as guidelines for the vetting of police and other public officials in post-conflict societies.<sup>3</sup> On top of that, UNMIBH was under time pressure. Its officials did not always follow the rules and procedures they had set for themselves.

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<sup>1</sup> For an explanation of the sources for this and other figures, and the confusion surrounding them, see Chapter III, section E (*Official Confusion*).

<sup>2</sup> *Ibid.*

<sup>3</sup> Report of the Secretary-General, *The rule of law and transitional justice in conflict and post-conflict societies*, S/2004/616, 23 August 2004, Vetting the public service, pp. 17-18.

In the four years since the UN left, the disqualified officers have become a *cause célèbre* in Bosnian politics. Bosnian governments, courts and human rights bodies have been flooded with applications from police officers denied certification, alleging miscarriages of justice. Having lost both their livelihoods and their reputations, the officers have attracted widespread sympathy from the Bosnian public and some of the country's most senior politicians.

Initially, some Bosnian courts declared their dismissal from work unlawful, since there was no foundation for it in Bosnian law. Yet senior representatives of the international community warned the courts and Bosnian authorities that they had no authority to question the UN's decisions or reinstate the police officers. Despite serious reservations by senior international officials about the integrity of the vetting process, the international community has refused to acknowledge any error, instead accusing the Bosnian judiciary and authorities of attempting to undermine the rule of law.

It was only in late 2005, a few weeks before his departure, that the international community's High Representative in Bosnia, Paddy Ashdown, went public with his doubts. His successor, Christian Schwarz-Schilling, made this issue one of his early priorities, warning the UN Security Council in early 2006:

“We should not preach the principles of the rule of law... and at the same time contradict this principle in our own activities.”<sup>4</sup>

Yet the matter has remained deadlocked.

That mistakes were made in completing such a complex task is hardly a scandal. What is alarming, however, is that once the flaws in the process had become apparent, pointed out by organisations as respected as the Council of Europe's Venice Commission, the UN still refused either to remedy its mistakes or to allow any other institution to do so. The UN has consistently acted to protect itself from embarrassment and inconvenience, at the expense of the individuals harmed by its actions and its own goals of restoring human rights and the rule of law. This is a legal and political failing that urgently requires a remedy, together with measures to ensure that the same failings are not repeated in future missions.

It is therefore a healthy development that on 14 December 2006 the Bosnian government decided to take matters into its own hands, passing a decision to establish a commission to review the cases of 262 police officers who have sought help from Bosnian courts.<sup>5</sup> The sovereign Bosnian state has rightly asserted that its first obligation is to protect the constitutionally guaranteed human rights of its citizens. However, it is not clear whether this commission will ever see the light of day. OHR and some embassies have branded its establishment an unlawful challenge to the authority of the UN.

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<sup>4</sup> Speech by the High Representative, Christian Schwarz-Schilling, to the UN Security Council, 18 April 2006, available at: [http://www.ohr.int/ohr-dept/presso/presssp/default.asp?content\\_id=37019](http://www.ohr.int/ohr-dept/presso/presssp/default.asp?content_id=37019).

<sup>5</sup> The figure comes from a survey conducted by the OHR and Bosnia's Ministry of Human Rights and Refugees in June/July 2006. However, OHR now uses the figure 262 and the ministry 265. ESI telephone interview with an OHR official, 22 August 2006.

## II. A PROUD MISSION

Under the Dayton Agreement, the mandate of the United Nations International Police Task Force (IPTF) was to assist the Bosnian authorities in:

“maintaining civilian law enforcement agencies operating in accordance with internationally recognised standards and with respect for internationally recognised human rights and fundamental freedoms.”<sup>6</sup>

It was a formidable undertaking. When the first IPTF officers arrived in early 1996, Bosnia’s fractured police forces were “entirely unsuited to civilian law enforcement..., corrupt and politically dominated.”<sup>7</sup> Among the 45,000 officers in uniform, many were demobilised soldiers without appropriate policing qualifications, and some were implicated in war crimes and ethnic cleansing. Restoring the integrity of the police forces was without question essential to the peace process.

Over the next six years, UNMIBH carried out “the most extensive police reform and restructuring project ever undertaken by the United Nations” (UN Secretary-General Kofi Annan).<sup>8</sup> By the end of 2002, when the UN flag was lowered from UNMIBH’s headquarters on the outskirts of Sarajevo, Bosnia’s police had been transformed into 15 law enforcement agencies capable of providing police services at European standards.

A functional review of policing carried out for the European Commission in 2004 found that the percentage of solved crimes is around 60% in Bosnia. “A rate of 50 percent is considered to be a success in Western European police,” the study noted, attributing the results in part to “good local professionals”.<sup>9</sup> The rate of many crimes (theft, burglary, robbery) is lower in Bosnia than in the European Union. In 2004, there were fewer murders in Bosnia than in many EU member states: 77, or 2.02 per 100,000 inhabitants,<sup>10</sup> compared to 2.22 in the Czech Republic, 2.75 in Sweden and 9.38 in Lithuania.<sup>11</sup> In Bosnia, the perpetrators were identified in 91 percent of the cases in the Federation, and 96 percent in Republika Srpska. During the same year, 62 rapes were brought to the attention of the police. All but two led to criminal prosecution.<sup>12</sup>

Bosnians enjoy a high degree of confidence in their security. Seventy-five percent of the population say they feel safe walking alone in their neighbourhood after dark (2001 figures) – a level of confidence comparable with Belgium or Switzerland.<sup>13</sup>

Progress against organised crime and corruption is more difficult to measure. One of the legacies of the Bosnian war was well-entrenched smuggling networks, linked to corrupt public officials. A decade on, there is little hard information on the extent to which this

<sup>6</sup> *General Framework Agreement for Peace in Bosnia and Herzegovina*, Annex 11: Agreement on International Police Force, Art. I, § 1.

<sup>7</sup> Final Report of the Secretary-General on UNMIBH, S/2002/1314, 2 December 2002, § 7.

<sup>8</sup> *Ibid.*, § 27.

<sup>9</sup> ICMPD and TC Team Consult, *Financial, Organisational and Administrative Assessment of the BiH Police Forces and the State Border Service*, 30 June 2004, p. 6.

<sup>10</sup> Assuming a population of 3.8 mio in Bosnia and Herzegovina.

<sup>11</sup> UN Office on Drugs and Crime, *Ninth United Nations Survey of Crime Trends and Operations of Criminal Justice Systems*, 2006.

<sup>12</sup> BiH Ministry of Security, *Report on Security in Bosnia and Herzegovina in 2004*, Sarajevo, April 2005, p. 11.

<sup>13</sup> ICMPD and TC Team Consult, *Ibid.*, p. 33 (all data come from primary analysis of International Crime Victimization Surveys, sources: UNICRI, Milan; TC Team Consult).

problem continues. An internal report by the official responsible for OHR's organised crime strategy noted in 2005:

“Although many within the Bosnian and international community consider the fight against organised crime and corruption a top priority, it is difficult to assess the extent of BiH's problems with organised crime and corruption and especially difficult to compare it to organised crime and corruption in other similarly situated countries in the region.”<sup>14</sup>

We do know, however, that there has been considerable progress in strengthening border controls, which has reduced trafficking in goods and humans as well as unlawful migration. In 1999, Bosnia's 1,666 km border was considered one of the least secure in Europe. Since then, an effective State Border Service has been established. The number of people caught by the Croat authorities crossing illegally from Bosnia has fallen substantially.<sup>15</sup> In the US State Department's 2006 annual report on human trafficking, Bosnia ranked in the same category as Greece, Japan and Slovenia, and was, under the section “International Best Practices”, commended for the efficiency of its Anti-Trafficking Police Force.<sup>16</sup>

Most observers would agree that the UN played an important role in this transformation.<sup>17</sup> UNMIBH/IPTF was the largest civilian organisation in the Bosnian peace mission, costing some US\$150 million per year at its height.<sup>18</sup> At full strength, 2,027 unarmed officers from around 40 countries were charged with monitoring and inspecting, advising and training Bosnia's police and its facilities.<sup>19</sup>

During the early post-war phase, the IPTF monitors tackled the most urgent problems of law and order: dismantling illegal checkpoints; investigating human rights abuses, especially against minorities; and reminding police officers of their obligations under the Dayton Peace Agreement. The presence of so many international monitors at the local level gradually eroded the climate of impunity and restored discipline to the police. UNMIBH also began to train the police and oversee an extended process of demobilisation and restructuring. During 1996, police reservists called up during the war were laid off, reducing the number of police in Bosnia by around half.<sup>20</sup> Agreements on police restructuring concluded with the Federation (April 1996) and Republika Srpska (December 1998) set limits of 11,500<sup>21</sup> and 8,500 police respectively. There were also commitments to reintegrate officers from all ethnic groups into each force, which was considered a key condition for minority return.

<sup>14</sup> Susan Wright, *Organised Crime and Corruption in Bosnia and Herzegovina*, 2005.

<sup>15</sup> BiH Ministry of Security, *Report on Security in Bosnia and Herzegovina in 2004*, Sarajevo, April 2005, p. 5.

<sup>16</sup> US Department of State, *Trafficking in Persons Report*, June 2006, pp. 34 and 46.

<sup>17</sup> Scholars and practitioners have begun to examine the impact of UNMIBH. See publications by Marina Caparini, Gemma Collantes Celador, Til Blume, Michael J. Dziedzic and Andrew Bair, Annika S. Hansen, Jeremy King, Gregory L. Naarden, Kaoru Okuizumi, L. Kendall Palmer and Dominique Wisler.

<sup>18</sup> UNMIBH budget figures were formerly available from the UNMIBH website.

<sup>19</sup> See Reports of the Secretary-General on UNMIBH, S/1996/210 of 29 March 1996 and S/1997/468 of 19 June 2006 as well as *General Framework Agreement for Peace in Bosnia and Herzegovina*, Annex 11, Art. III.

<sup>20</sup> ESI interviews with Alija Kazic, adviser to the Federation Police Director, Sarajevo, 27 June 2006; Jasmin Stambolija, former assistant to the Ministry of the Interior of Una-Sana Canton, Sarajevo, 17 June 2006; Zoran Bijelic, then president of the RS Association of Decertified Policemen, Dobo, 22 June 2006.

<sup>21</sup> This figure is not explicitly mentioned in the agreement, but had been previously agreed at a meeting in Zagreb (ESI interview with Alija Kazic, Sarajevo, 27 June 2006).

The two agreements vested the IPTF Commissioner with considerable authority. They gave him the power to issue “directives”, “instructions” and “policies” that the Entity governments were obliged to execute. They provided for UN screening of police officers, making UN certification a condition of continuing service.<sup>22</sup> The UN Security Council further strengthened his hand, authorising him to request the dismissal of “any officer” identified by him as “failing to cooperate with the IPTF or adhere to democratic policing principles”, and mandated him to investigate, or assist with investigations into, human rights abuses by law enforcement personnel.<sup>23</sup>

By 1999, the security situation in Bosnia had stabilised sufficiently for UNMIBH to begin to focus on “the substantive aspects of its mandate”: police reform and restructuring.<sup>24</sup> It drew up an implementation plan that, among other things, envisaged a vetting process to certify police officers who met international standards of professional and personal integrity.<sup>25</sup> The process was composed of four steps:<sup>26</sup>

1. **Registration** of all law enforcement personnel based on the completion of a registration questionnaire (November 1999 to May 2001<sup>27</sup>);
2. **Provisional authorisation** of personnel exercising police powers, following a preliminary screening of their registration form (2000 to mid-2002<sup>28</sup>);
3. **Background checks** that could lead to the removal of provisional authorisation (2000-2002);
4. **Final certification** of police officers following a further assessment (August-December 2002).

As it unfolded, UNMIBH developed various criteria to guide the vetting process. It set out “positive criteria” concerning age, citizenship, educational level and completion of IPTF training courses. UNMIBH investigators corresponded with personnel from hundreds of secondary schools and training institutes across the former Yugoslavia to verify the qualifications claimed by the police officers. This was a major task. One former UNMIBH employee admitted to ESI that credentials were verified for only 20-30 percent of the officers.<sup>29</sup>

There were also “negative criteria”. Removing those involved in war crimes was an early priority. In late 1998, UNMIBH seconded two Dutch investigators to The Hague to act as liaisons with the International Criminal Tribunal for the Former Yugoslavia (ICTY). Individuals were disqualified if they were indicted or even mentioned credibly in witness

<sup>22</sup> See *Agreement on Restructuring the Police in the Federation*, §§ 4 and 8, and *Framework Agreement on Police Restructuring, Reform and Democratisation in the RS*, §§ 15, 16, 19 and 22.

<sup>23</sup> UN Security Council Resolution 1088, S/RES/1088, 12 December 1996, § 28.

<sup>24</sup> Final Report of the Secretary-General on UNMIBH, S/2002/1314, 2 December 2002, § 9.

<sup>25</sup> *Ibid.*, §§ 9-21. Other important goals of UNMIBH’s implementation plan included the accreditation of police administrations that were properly organised and managed, multi-ethnic and free from political interference; establishment of State-level police structures (such as the State Border Service) and mechanisms for police cooperation across borders.

<sup>26</sup> The vetting process is outlined in *IPTF Policy P-02/2000 on Registration, Provisional Authorisation and Certification*, effective 15 May 2000. Also see *IPTF Policy P-10/2002 on Removal of Provisional Authorization and Disqualification of Law Enforcement Agency Personnel in BiH*, effective 24 May 2002, and *IPTF Policy P-11/2002 on Certification of Law Enforcement Agencies Personnel*, effective 15 August 2002.

<sup>27</sup> Report of the Secretary-General to the Security Council on UNMIBH, S/2001/571, 7 June 2001, § 5.

<sup>28</sup> Report of the Secretary-General to the Security Council on UNMIBH, S/2002/618, 5 June 2002, § 4.

<sup>29</sup> ESI Interview with a former UNMIBH official who spoke on condition of anonymity, Sarajevo, 27 June 2006.

statements as having been implicated in war crimes. They were also disqualified if they had a criminal or disciplinary record or had lied on their registration form. UNMIBH also developed rules to prevent police officers from occupying housing belonging to refugees. A *Housing Action Team* was formed to examine the residential status of police officers. Those occupying someone else's property were required to vacate within a month or face disqualification.

Those disqualified by IPTF – i.e. those denied certification, or whose provisional authorisation was withdrawn – were forbidden for life to exercise police duties, or even hold administrative positions within the police or Ministries of Interior. In post-war Bosnia, with jobs very hard to come by, this meant loss of livelihood and, in many cases, serious hardship.

Despite the severity of the sanction, UNMIBH provided very little in the way of procedural guarantees. Decisions were taken behind closed doors within the UN mission. Disqualified police officers were only informed by way of a letter, which might contain a brief statement of reasons, but usually without referring to the evidence that the IPTF had relied on. Originally, the officers had no opportunity to respond to the allegations against them or present evidence on their own behalf. In early 2002, a debate arose within UNMIBH as to whether this was sufficient, and in May 2002 a review process was introduced. A disqualified officer “who may have substantive information that could justify a review of his/her case” was given 14 days to request a review by sending in the “relevant, supporting documentation”.<sup>30</sup> (For the final certification procedure, the deadline was reduced to 8 days.) However, the review was simply another administrative procedure internal to UNMIBH, and the individual in question had no right to appear or be represented. There was no “equality of arms” that is normally considered to characterise a fair hearing under international human rights law.

UNMIBH launched its final certification process in August 2002. Under this procedure, each police officer had to be individually certified in order to retain his or her position. The criteria were similar to those used previously, but in addition the officer had to meet subjective criteria, such as “demonstrated ability to uphold human rights and/or abide by the law.”<sup>31</sup> The latter criterion became the most important one: it was applied in 126 of the 233 non-certification cases examined by the Office of the UN High Commissioner for Human Rights in Bosnia.<sup>32</sup>

With the date of closure of the mission already set as 31 December 2002, the UN had barely five months to complete this enormous task. It was not enough time. Administering a process that was procedurally flawed anyway, UNMIBH officials began to shortcut the rules and procedures they had set down, failing to give due care to individual cases.

By 31 December, UNMIBH proudly announced the completion of its work. An UNMIBH spokesperson told a press conference:

“Today is our last day, [and it] marks the culmination of the mandate of UNMIBH – seven years work to complete the most extensive police reform and restructuring mission

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<sup>30</sup> IPTF Policy P-10/2002 on Removal of Provisional Authorization and Disqualification of Law Enforcement Agency Personnel in BiH, effective 24 May 2002, § 10.

<sup>31</sup> IPTF Policy P-11/2002 on Certification of Law Enforcement Agencies Personnel, effective 15 August 2002, §§ 8, 9 and 10.

<sup>32</sup> OHCHR table listing the names of non-certified officers, reasons and the action they took to achieve a reversal of the decisions against them, 2004.

in the history of United Nations peacekeeping operations. [...] The task given to the United Nations under Annex Eleven of the Dayton Agreement has been fulfilled. The UN Mission in Bosnia-Herzegovina is finishing its work and leaves behind a legacy of democratic law enforcement – a police force fit for Europe.”<sup>33</sup>

Nobody suspected that the story of the decertified police officers was only just beginning.

### III. ORDINARY POLICEMEN

#### A. Husein, the returnee

In April 2003, four months after the departure of UNMIBH, Husein Ramic, a 37-year old police officer working for Bosnia’s State Border Service (SBS), was fired. The letter of dismissal from the SBS stated that he had been denied certification by IPTF.<sup>34</sup>

Ramic was shocked. IPTF itself had organised the recruitment of SBS officers in 2001, and Ramic had passed the selection procedure. He was not aware that he had made any mistakes in his work, and assumed an administrative error had occurred. The SBS job was vital to Ramic, his wife and his two sons. It had allowed this Bosniak family to return to their pre-war home in the village of Seher in Republika Srpska. Seher is only 15 km from the SBS station in Zvornik where Ramic began to work in January 2002, and based on the respectable SBS salary of KM 1,000 (€ 510) per month, a bank had granted him a loan of KM 7,000 to repair his war-damaged house.

Ramic protested against his dismissal with the SBS. The SBS rejected his appeal, simply repeating that he had not been certified by IPTF. Ramic wanted to know more. Many phone calls and letters later, he received a response from the head of SBS, Mile Juric.<sup>35</sup>

According to Juric, IPTF had announced that it would deny certification to Ramic in a letter dated 8 November 2002. The reason given was “invalid education credentials”. In that letter, IPTF stated that Ramic would be notified in person, and be given eight days to request a review. This notification was never received. SBS officials wrote back to IPTF with the information that Ramic did in fact possess valid education credentials. They forwarded two confirmations, one from the police in Tuzla where Ramic had been trained, and another one confirming the validity of his diploma. It did not help. As Juric explained to Ramic:

“The employment contract you concluded with the SBS BiH was terminated due to non-issuance of certification by UNMIBH/IPTF, which is a precondition for performing any function in a law enforcement agency. On the final list of non-certified officers from 31 December 2002, signed by the IPTF Commissioner, you are to be found under registration number 18728, which means that you have been denied certification.”

Juric did not leave Ramic any hope that he could regain his job.

“The UN has stated that ‘a decision of the Commissioner of the International Police Task Force (IPTF) with regard to police certification is final and binding’. Accordingly, a

<sup>33</sup> NATO/SFOR transcript of the international press conference in Sarajevo, 31 December 2002, available at: <http://www.nato.int/sfor/trans/2002/t021231a.htm>.

<sup>34</sup> ESI telephone interviews with Husein Ramic on 18 June and 24 August 2006 and 2 February 2007.

<sup>35</sup> The following information and quotes are from the letter by SBS head Mile Juric to Husein Ramic, 18 August 2004.

decision resulting from the certification process is outside the jurisdiction of any BiH institution and cannot be challenged.”

Ramic was desperate. “How can my diploma be invalid if I passed an IPTF competition with it?” he asked. But his efforts to regain his job have proved fruitless. He tried the legal route. By the time he found out that only the State Court of Bosnia had competence in matters relating to the SBS, the deadline for initiating a labour dispute had expired. In December 2005, he filed an application with the European Court of Human Rights in Strasbourg, alongside 156 other disqualified police officers. It could be some years before these complaints are heard.<sup>36</sup> He also wrote “hundreds of letters” to the SBS, Bosnian institutions and international agencies such as OHR and the European Union Police Mission (EUPM), which succeeded IPTF in 2003. They all denied responsibility, asserting that they had no authority to challenge IPTF decisions.

Ramic has been unable to find any other employment – nobody wanted to hire a non-certified ex-policeman. He did not even qualify for unemployment benefits, because he was considered responsible for the loss of his job. To provide for his family and keep up his monthly mortgage payments, which were due until recently, Ramic has resorted to casual labour on construction sites and in warehouses in Bosnia and Slovenia. “My life has become a catastrophe,” he says.

Ramic is no isolated case: the “final list of non-certified SBS officers” signed by the IPTF Commissioner<sup>37</sup> mentions 43 names. No reasons for non-certification are given. According to the Association of Decertified Policemen of the Federation, an NGO representing 200 former officers, the SBS dismissed 35 officers including Ramic based on this list. The remaining (apparently well-connected) eight officers were left in place, in defiance of IPTF.<sup>38</sup> It was able to get away with this because the mission was no longer in the country to verify that the non-certified officers returned their ID cards, uniforms and side-arms to the SBS “in the presence of the IPTF Liaison Officer”, as the relevant IPTF policy required.<sup>39</sup>

Like Ramic, none of the dismissed SBS officers were personally notified by IPTF of their non-certification. As a result, none had an opportunity to appeal the decision. This was no mere technicality: on its last day, UNMIBH revealed that the IPTF Commissioner had reconsidered his original, negative decision in 123 of 471 cases reviewed.<sup>40</sup> Some of the dismissed SBS officers still do not know why they were not certified. The few rights that the IPTF certification procedure accorded them were simply ignored.

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<sup>36</sup> ESI telephone interview with lawyer Amila Kunosic-Ferizovic in Tuzla who prepared the Strasbourg applications for 105 policemen, 25 June 2006 and 2 February 2007.

<sup>37</sup> The full name of the list is: “State Border Service BiH, List of non-certified officers, FINAL LIST that supersedes lists of non-certified officers issued before this one”, 31 December 2002.

<sup>38</sup> ESI telephone interview with Ramo Sulic, president of the Association of Decertified Policemen of the Federation of Bosnia and Herzegovina, 25 August 2006.

<sup>39</sup> *IPTF Policy P-11/2002 on Certification of Law Enforcement Agencies Personnel*, effective 15 August 2002, § 12.

<sup>40</sup> NATO/SFOR transcript of the international press conference in Sarajevo, 31 December 2002, available at: <http://www.nato.int/sfor/trans/2002/t021231a.htm>.

## B. Zoran, left pending

In November 2002, Zoran Bijelic, 50, at the time a policeman in Doboj,<sup>41</sup> received notification from the IPTF Commissioner that he was “not eligible for certification” because he was “under internal or criminal investigation for a serious breach of duty.”<sup>42</sup> IPTF had discovered that a criminal case was pending against him at the first-instance court in Doboj.

Bijelic says this case concerned alleged misconduct of police officers he had assigned to duty. The accusation against him was based on the concept of command responsibility. Bijelic denies command responsibility, on the basis that he was merely the duty officer handing out the day’s assignments.

Bijelic was confident that the charges against him would be dropped and that he would be duly certified. The IPTF Commissioner had written that his certification was “pending resolution of the case. [...] Following the final verdict, you are entitled to request UNMIBH/IPTF or EUPM to reconsider your case.” He was also not to be laid off. “The obligation of the law enforcement agency to terminate your employment is depending on the outcome of the final verdict,” the letter stated. Nonetheless, his authority to exercise police powers was revoked and he was suspended from work, while continuing to receive 55 percent of his salary. As required by IPTF, he handed in his ID card, uniform and side-arms, appealed unsuccessfully against the IPTF decision, and decided to wait for the outcome of the court case.

In March 2003, the Doboj first-instance court acquitted him of all charges, and in September 2003, the ruling was upheld in second (and final) instance. According to IPTF’s original intention, he should then have been reinstated to his former position. By then, however, things had taken a wrong turn for Bijelic. In April 2003, his employment was terminated by the RS police, with the explanation that EUPM was insisting on the dismissal of all non-certified officers.<sup>43</sup> Bijelic immediately appealed, attaching the IPTF letter as evidence that IPTF had not requested his dismissal while court proceedings were ongoing. To no avail. Bijelic has remained out of a job.

According to EUPM, his is one of “more than 150” cases<sup>44</sup> that IPTF did not complete due to ongoing criminal or disciplinary proceedings against the officers. In effect, their certification was denied only temporarily, rather than refused. OHR believes that 198 cases may fall into this category.<sup>45</sup> During the handover talks at the end of its mission in 2002, UNMIBH asked EUPM to finalise these “pending” cases in line once the relevant proceedings were completed. Initially, it appeared that EUPM would agree, and UNMIBH began recommending to concerned police officers like Bijelic to contact “UNMIBH/IPTF or EUPM” following the final outcome.

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<sup>41</sup> ESI interview with Zoran Bijelic, Doboj, 22 June 2006 and by phone, 2 February 2007.

<sup>42</sup> This and the following quotes are from the letter by IPTF Commissioner Sven Frederiksen to Zoran Bijelic, 5 November 2002.

<sup>43</sup> The RS head of police wrote that on 17 March 2003 EUPM had notified the RS Ministry of Interior Affairs that all non-certified officers had to be laid off. Letter/decision to Bijelic by the RS Police Director, RS Ministry of Interior Affairs, Banja Luka, Decision on termination of employment contract, no. 05/2-126-192/03, 15 April 2003.

<sup>44</sup> ESI interview with Jari Paajala, EUPM Chief Legal Adviser, previously UNMIBH, in Sarajevo, 26 January 2006.

<sup>45</sup> For an explanation of the different figures, and the confusion surrounding them, see page Chapter III, section E (*Official Confusion*).

However, in the end EUPM refused to touch these cases. “EUPM wanted a clean break,” explained an official who participated in the Brussels negotiations. “Vetting had been done. EUPM now wanted to focus on structural reform, and not to continue UNMIBH’s projects.”<sup>46</sup>

On 31 December 2002, UNMIBH left, leaving unresolved the fate of these 150-198 officers, who make up a sizable proportion of the 556 denied certification.<sup>47</sup> “What UNMIBH did was deeply immoral,” an EU official in Brussels told ESI. “They could have left a small mission in Bosnia to finalise the certification process, but they didn’t want to – they wanted to close Annex 11 and declare success.”

However, EUPM’s record on this matter is not pristine either. It rejected UNMIBH’s request very late in the day. More than 100 IPTF staff later moved to EUPM, and IPTF Commissioner Sven Frederiksen became the first EUPM Head of Mission.<sup>48</sup> Thus, the new mission was well aware of the pending cases and the potential for a significant number of injustices. Instead of trying to find a solution, however, EUPM sent desperate police officers non-committal responses.

“The EUPM, albeit being a practical successor to the IPTF, is not an heir to the IPTF, nor does it have any legal rights or obligations emanating from the mandate of the IPTF... The EUPM is not authorized to review any of those final and binding decisions taken by the IPTF... The local law enforcement agencies asking for our advice... have been advised to follow and implement the policy set forth by IPTF, whereby police officers who have been acquitted of charges by a final and binding decision are eligible for reinstatement in the local law enforcement agencies.”<sup>49</sup>

However, dozens of police officers in this category have not been reinstated. Neither OHR nor the UN have made it clear that there was a distinction between final and provisional denial of certification, insisting that every police officer denied certification has to be dismissed and kept out of employment. The Association of Decertified Policemen of Republika Srpska says that among its 81 non-certified members are 13 formerly pending cases that should have been reinstated in the meantime. The Federation Association of Decertified Policemen knows of 21 cases in the Federation.<sup>50</sup>

Just before dismissing Zoran Bijelic and others, the RS Ministry of Interior made an attempt to resolve the pending cases. It issued a so-called book of rules (implementing provisions with legal force) envisaging the establishment of an internal commission to finalise the pending cases in line with IPTF policy.<sup>51</sup> While the commission was never set up - Bijelic believes because of pressure from the UN and OHR – the ministry’s decision may still help him win a court case he has launched against his dismissal. His complaint was rejected in first and second instance courts, but in June 2006 the RS Supreme Court sent the case back to

<sup>46</sup> ESI interview with an EU official in Brussels who spoke on condition of anonymity, 14 September 2006.

<sup>47</sup> For an explanation of the different figures, and the confusion surrounding them, see Chapter III, Section E (*Official Confusion*).

<sup>48</sup> See UNMIBH website, *Background, EUPM takes over*, available at [www.un.org/Depts/dpko/missions/unmibh/index.html](http://www.un.org/Depts/dpko/missions/unmibh/index.html)

<sup>49</sup> Letter from Jari Paajala, EUPM Chief Legal Adviser, to the Association of Decertified Police Officers of Republika Srpska, 18 May 2005.

<sup>50</sup> ESI telephone interview with the president of the Federation Association of Decertified Policemen, Ramo Sulic, 15 September 2006.

<sup>51</sup> Ministry of Interior Affairs of Republika Srpska, *Book of rules on certifications and decertifications of authorised officials of the Ministry of Interior Affairs of Republika Srpska*, no. K/B-1517/03, 9 April 2003.

second instance. It referred to the ministry's book of rules and noted the failure to establish the commission it envisaged, which should have made a decision in Bijelic's case.<sup>52</sup>

Bijelic is also among the 157 police officers who appealed to the European Court of Human Rights in Strasbourg in December 2005. In the meantime, he helps out with the paperwork at a security company in Dobož to pay for his two daughters at university. As new legislation on security companies bans non-certified police officers from working in such companies, however, he cannot receive a proper employment contract. He also has a little income from a café he owns in his home village Boljanic near Dobož. A traffic engineer by education, he has applied for many jobs, but without success. "People simply think that we did something wrong, and they don't want to get into trouble," he says.

### C. Azmir and Camil, police dog handlers

The ill-fated certification of SBS officers and at least 150 unresolved pending cases are examples of IPTF failing to comply with its own rules and procedures. But even when the procedures were followed, there have been allegations of serious errors of law and fact.

Police dog handlers Azmir Omerovic, 40, and Camil Selimanovic, 37, are convinced that they were wronged by IPTF.<sup>53</sup> In August 1999, they participated in a major police operation against a crowded restaurant in Sarajevo. During the operation, which involved 50 police officials, several people were discovered with weapons, and some tried to resist the police. A few were taken to a nearby police station for the night. Eleven individuals, including one of Sarajevo's most notorious criminals, later complained to IPTF that they had been beaten by members of the special police, formally known as Sarajevo's "Support Unit", in which Omerovic and Selimanovic served at the time.

Following a criminal investigation, 19 members of that unit were charged with serious breaches of law during and after the search. Omerovic and Selimanovic were not charged. With their dogs, they had searched the restaurant and cars for drugs and stood guard, but not dealt with any member of the public. Afterwards, they went off duty without going to the nearby police station.

The two-year trial before a Sarajevo court ended on 16 December 2002 with an acquittal of all defendants. The police had been masked during the operation, making it impossible to determine who had done what, and the evidence from witnesses was contradictory.<sup>54</sup>

Six weeks *before* the trial ended, the IPTF Commissioner decided to deny certification not only to the 19 officers on trial, but also to Omerovic, Selimanovic and a commanding officer not present during the search. "We were absolutely stunned when we received the letters," said Omerovic. "IPTF had never even spoken to us, and nobody had ever claimed that we had done anything wrong." They had prepared reports on their activities during the operation for internal purposes, were interrogated by the investigative judge ahead of the trial, and then testified at the trial. No-one had suggested that their conduct had been improper.

<sup>52</sup> Supreme Court of Republika Srpska, Decision rev-387/04, Banja Luka, 6 June 2006.

<sup>53</sup> ESI interview with Azmir Omerovic and Camil Selimanovic in Sarajevo, 27 June 2006, and by phone, 6 February 2007.

<sup>54</sup> See Dnevni Avaz, *Devetnaest sarajevskih specijalaca oslobodjeno svih optužbi*, 17 December 2002; and Oslobodjenje, *Devetnaest specijalaca oslobodjeno optužbe*, 17 December 2002. The verdict was upheld in second instance by the Sarajevo Cantonal Court on 27 January 2004.

In IPTF's view, Omerovic and Selimanovic had failed "to demonstrate ability to uphold human rights and/or abide by the law" and were therefore "not eligible for certification".<sup>55</sup> The IPTF Commissioner stated that the warrant for the search only authorised the participation of regular police, not the Support Unit. He criticised them for wearing masks, and therefore failing "to be individually identifiable to the public". Most importantly, he accused them of covering up for their colleagues.

"Considering that in your report and statement to the investigative judge, you indicated that you did not see any support unit officer using force or assaulting persons, it can be reasonably concluded that you either committed or otherwise aided and abetted the execution of acts of illegal detention, beatings, excessive use of force and/or treatment amounting to inhuman or degrading treatment."<sup>56</sup>

To describe this as a 'reasonable conclusion' is a very long stretch indeed. Obviously, IPTF had formed the view that the dog handlers had witnessed their colleagues use violence and were lying to protect them, but the letter gives no indication of how IPTF had reached that conclusion.

"Just because we said we didn't see something we didn't see, we can't be policemen anymore?" asked Omerovic. Selimanovic explained, "It was so crowded and messy, you could not see what was going on at the tables, and we were busy with our own jobs." There were anywhere from 150 to 400 people present at the restaurant that night. Both dog handlers also defended themselves against the other allegations. They said it was the responsibility of their superior – the head of the dog handlers unit – to verify the search warrant, not theirs, and that all the participants in the operation had been ordered to wear masks by their superior officers.<sup>57</sup>

Together with their 20 non-certified colleagues, the dog handlers engaged one of Sarajevo's best law firms, which wrote a detailed appeal to IPTF for each of them, but to no avail.<sup>58</sup> On 14 December 2002, IPTF rejected the appeals with a three-sentence letter simply stating: "There is no basis for a reversal of this decision."<sup>59</sup> When, two days later, the court trial ended with an acquittal of all defendants and Bosnian journalists wondered why IPTF insisted on the non-certifications, Jacques Klein, the head of UNMIBH, said: "Courts are one thing, and police standards another."<sup>60</sup>

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<sup>55</sup> Letters from IPTF Commissioner Sven Frederiksen to Azmir Omerovic and Camil Selimanovic, 29 October 2002.

<sup>56</sup> *Ibid.*

<sup>57</sup> According to press reports there were disagreements within UNMIBH about this investigation. An internal UNMIBH memo leaked to the press criticised various aspects of the investigation, including the fact that IPTF did not speak to the officers it investigated. The memo also raised the question whether it was justified to blame the police for having been disguised since "policemen and their families were threatened in the past". It also claimed that it was "virtually impossible" for all policemen participating in the search to have seen what was going on "due to the layout of the restaurant." See DANI, *Ko vlada Sarajevom: specijalci ili kriminalci*, no. 192, 9 Feb 2001, available at: [www.bhdani.com/arhiva/192/t19213.shtml](http://www.bhdani.com/arhiva/192/t19213.shtml).

<sup>58</sup> The appeals were written by lawyers Senka Nozica and Asim Kadribasic and are dated 16 November 2002.

<sup>59</sup> Letters from IPTF Commissioner Sven Frederiksen to Azmir Omerovic and Camil Selimanovic, 14 December 2002.

<sup>60</sup> Translated from Bosnian; quoted in Oslobodjenje, *Policijski standardi drukčiji od sudskih*, 18 December 2002.

On 18 December 2002, the Sarajevo Cantonal Ministry of Interior dismissed all 22 non-certified members of the Support Unit. After their administrative appeals were rejected, they sought legal remedy. In May 2004, a first-instance court in Sarajevo decided in their favour. While it ruled that it was not within the jurisdiction of Bosnian courts “to discuss the validity of a decision by the IPTF Commissioner,” it annulled the dismissals with the explanation that domestic law did not list an IPTF decision among the reasons allowing for termination of a police officer’s employment contract.<sup>61</sup> However, the cases moved on to the second instance and the ruling did not become effective.

They have still not been decided, like many other cases of non-certified officers. “Our courts are under tremendous pressure from the international community. They don’t know what to do,” said Ramo Sulic, president of the Federation Association of Decertified Policemen. “We believed in the judiciary, but everything took a wrong turn following the pressure from OHR and the UN.”<sup>62</sup>

In December 2005, the non-certified members of the Sarajevo Support Unit joined the group of officers applying to the European Court of Human Rights in Strasbourg. However, one of them was missing: Elvir Radmilovic, who had committed suicide in January 2005. “He has certainly entered a better world,” wrote the magazine DANI, reflecting the popular mood in Sarajevo, “a world where decent people are not being punished [...], a world where the same rules apply to all, a world without the OHR and its decrees.”<sup>63</sup>

It took Selimanovic two years to find new work. He now guards an office building in Sarajevo at night, while Omerovic has found a job as a driver and courier for a bank. “If you commit a murder, you serve 20 years in prison and are free afterwards,” said Omerovic. “Our sentence is for life, and we really haven’t done anything wrong.”

#### **D. Salko and Rifat, branded as war criminals**

IPTF bans have had dramatic consequences for each officer concerned. But among the hardest hit are the 60 officers whom IPTF branded as war criminals<sup>64</sup> without giving them the opportunity to defend themselves and to have their cases heard in a court of law.

Salko Gosto and Rifat Culjevic lost their provisional authorisation in May and September 2002, respectively. IPTF alleged that in 1992 both men were interrogators at a Bosniak-run detention camp in Tarcin, 25 km southwest of Sarajevo, where civilian prisoners were held, questioned and “subjected to numerous atrocities, including beatings.”<sup>65</sup>

IPTF claimed that Gosto and Culjevic were involved in some of the violence. “Accordingly,” IPTF wrote, “it can be reasonably concluded that you bear responsibility for crimes against humanity, grave breaches of the Geneva Conventions, and violations of the laws and customs

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<sup>61</sup> Ruling in the case of Azmir Omerovic against the Ministry of Interior Affairs of the Sarajevo Canton, Municipal Court Sarajevo, no. PR-29/03, 6 May 2004. Omerovic said the court used the same reasoning in all the cases.

<sup>62</sup> ESI interview with Ramo Sulic in Sarajevo, 17 June 2006.

<sup>63</sup> DANI, *Najtužniji Bajram u familiji Radmilović*, no. 398, 28 January 2005.

<sup>64</sup> The number was provided by a former UNMIBH official who worked on wartime background checks and spoke on condition of anonymity, ESI telephone interview, 19 July 2006.

<sup>65</sup> Letters from IPTF Commissioner Sven Frederiksen to Salko Gosto, 17 May 2002, and to Rifat Culjevic, 5 September 2002. In many parts these two letters are identical.

of war, all of which are punishable under the Federation Criminal Code.”<sup>66</sup> No evidence for the allegations is provided – the IPTF’s letters used the phrase: “You have been identified as...”, without citing any sources.

Gosto and Culjevic were never indicted for war crimes, nor were they apparently ever the subject of an official investigation. IPTF policy required the responsible law enforcement agency to investigate the alleged acts.<sup>67</sup> However, there was little follow-up: the agency was only expected “to send a written notice to the IPTF Commissioner of *planned* investigative actions”.<sup>68</sup> IPTF officers were not required to confirm that investigations were launched or to follow them.

Gosto and Culjevic, who deny the accusations against them, turned to the Office of the United Nations High Commissioner for Human Rights (OHCHR) in Bosnia. This office checked whether they were on the A or B lists<sup>69</sup> of the International Criminal Tribunal for the Former Yugoslavia (ICTY). It also asked all relevant public prosecutors in Bosnia and Herzegovina whether they possessed any evidence against the two men. Salko Gosto and Rifat Culjevic were not known anywhere. “If there were indications of war crimes, then these police officers should have been suspended from work and trials should have been initiated,” said Jasminka Dzumhur, officer in charge at the OHCHR in Sarajevo. “You can’t label someone a war criminal and not give him the opportunity to defend himself.”<sup>70</sup>

## E. Official confusion

It is surprisingly difficult to establish the most basic facts about UNMIBH’s vetting process. The UN has closed down UNMIBH’s former web site, replacing it with a new site with little information. IPTF policies, press releases, speeches and many other documents from the relevant period are no longer available.<sup>71</sup> The numbers of police officers passing through the different stages of the vetting process, including certification, are taken from the final UNMIBH report by the Secretary-General.<sup>72</sup> However, this report is from 2 December 2002 when the certification process was still in full swing. Previous numbers mentioned in the regular UNMIBH reports by the Secretary-General do not add up.

ESI requested a set of *final* figures from the Department of Peacekeeping Operations of the UN Secretariat in New York DPKO, but received only two – the numbers of certified and non-certified police officers.<sup>73</sup> ESI was thus forced to use figures supplied by other sources, such as EUPM and OHR. However, important uncertainties remain.

- According to DPKO, 16,764 police officers received final certification from UNMIBH/IPTF in 2002.

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<sup>66</sup> *Ibid.*

<sup>67</sup> See *IPTF Policy P-10/2002 on Removal of Provisional Authorization and Disqualification of Law Enforcement Agency Personnel in BiH*, effective 24 May 2002, §§ 1 and 7.

<sup>68</sup> *Ibid.*, § 7.

<sup>69</sup> ICTY’s category A are cases with sufficient evidence to raise charges; category B are potential war criminals where evidence, however, is not strong enough to raise charges.

<sup>70</sup> ESI interview with Jasminka Dzumhur, officer-in charge at the OHCHR, Sarajevo, 23 June 2006.

<sup>71</sup> The new UNMIBH web site is at [www.un.org/Depts/dpko/missions/unmibh/index.html](http://www.un.org/Depts/dpko/missions/unmibh/index.html).

<sup>72</sup> Final Report of the Secretary-General on UNMIBH, S/2002/1314, 2 December 2002.

<sup>73</sup> See ESI letter to DPKO and reply in the annex.

- According to EUPM, UNMIBH/IPTF removed the provisional authorisations of 237 police officers so they did not enter the certification process.<sup>74</sup>
- According to DPKO, 556 officers were denied final certification in 2002.

These numbers suggest a total of 17,557 police officers who had been granted provisional authorisation at some point before the certification process. However, UNMIBH's figures – and there are several – are different. In June 2002, when the provisional authorisation process was largely complete, UNMIBH gave a figure of 17,047 provisionally authorised officers.<sup>75</sup> In August 2002, an UNMIBH spokesperson spoke of 18,000 provisional authorisations.<sup>76</sup> In the final report on UNMIBH of 2 December 2002, the number had dropped to 16,803.<sup>77</sup>

UNMIBH also “forgot” a significant number of police officers in the certification process. According to EUPM, most were registered by IPTF in 1999/2000; some also received provisional authorisation, but by the end of the mission they had neither been certified nor denied certification. They were simply overlooked. EUPM estimates their number at “50 or more”.<sup>78</sup> However, Bosnia's State Border Service reported it alone had 66 such cases,<sup>79</sup> and the Federation police claims to have more than 100.<sup>80</sup> With 12 other police forces in Bosnia in 2002 (RS, the District of Brcko and the ten Cantons), it is safe to assume that the number of overlooked police officers may be far higher. While most police administrations appear to have kept these officers in place, they live in constant fear of losing their jobs since they were not certified by IPTF.<sup>81</sup>

Every new number adds to the confusion. EUPM told ESI that there are “more than 150” pending cases.<sup>82</sup> Now it appears that the figure could be as high as 198: an analysis of an electronic database of non-certification letters showed that 198 officers were denied certification due to ongoing criminal or disciplinary proceedings. However, these are electronic copies without date and signature – there is no certainty that they were ever sent.<sup>83</sup>

In fact, each organisation dealing with UNMIBH's vetting process uses different numbers. For example, EUPM's figure of officers denied certification is 558<sup>84</sup> (quite close to DPKO's number of 556), that of the Bosnia Office of the UN High Commissioner for Human Rights<sup>85</sup>

<sup>74</sup> ESI interview with Jari Paajala, EUPM Chief Legal Adviser, previously UNMIBH, Sarajevo, 26 January 2006.

<sup>75</sup> Report of the Secretary-General on UNMIBH, 2002, S/2002/618, 5 June 2002, § 4.

<sup>76</sup> UNMIBH spokesperson Kirsten Haupt during the international press conference on 29 August 2002, transcript available at: <http://www.nato.int/sfor/trans/2002/t020829a.htm>.

<sup>77</sup> Final Report of the Secretary-General on UNMIBH, S/2002/1314, 2 December 2002, § 11.

<sup>78</sup> ESI interview with Jari Paajala, EUPM Chief Legal Adviser, previously UNMIBH, Sarajevo, 26 January 2006.

<sup>79</sup> Letter from SBS head Mile Juric to the Federation Association of Decertified Policemen, 3 June 2004.

<sup>80</sup> ESI interview with Alija Kazic, adviser to the Director of the Federation Police, Sarajevo, 27 June 2006.

*Ibid.* and ESI interview with Zoran Bijelic, then president of the RS Federation of Decertified Policemen, Doboje, 22 June 2006.

<sup>82</sup> ESI interview with Jari Paajala, EUPM Chief Legal Adviser, previously UNMIBH, Sarajevo, 26 January 2006.

<sup>83</sup> This database was made available to OHR by DPKO. ESI interview with an OHR official, 22 August 2002.

<sup>84</sup> ESI interview with Jari Paajala, EUPM Chief Legal Adviser, previously UNMIBH, Sarajevo, 26 January 2006.

<sup>85</sup> ESI Interview with Jasminka Dzumhur, officer-in-charge at the OHCHR, Sarajevo, 23 June 2006.

and the Venice Commission<sup>86</sup> is 598, and the Council of Europe's High Commissioner for Human Rights uses the figure of 687 officers denied certification.<sup>87</sup>

It is easy to forget that behind every number there is a real person whose fate depended on the vetting process. In the Wheel of Fortune of UN vetting, some benefited and some lost out.

#### IV. THE VIEW FROM MOUNT OLYMPUS

##### A. Ashdown and Guehenno

In 2003, a growing number of non-certified police officers turned to Bosnia's courts in the hope of clearing their names and recovering their jobs. When in 2006 the Bosnian authorities and OHR tried to establish how many disqualified officers had sought judicial help, they arrived at the number of 262.<sup>88</sup> Initially, a number of first-instance courts declared their dismissals from work unlawful, as Bosnian law did not list IPTF decisions among the reasons that justified the termination of employment contracts. Bosnian law also confirmed their right of access to a legal remedy.

These rulings alarmed High Representative Paddy Ashdown, the top civilian administrator in Bosnia with the power to dismiss domestic officials – another process for which no procedural safeguards exist – and to impose laws. He perceived the rulings as a threat to international authority, and turned to the UN for assistance. In May 2003, he wrote a dramatic letter to Jean-Marie Guehenno, UN Under-Secretary-General for Peacekeeping Operations.

“The Courts are ignoring or misinterpreting the legal force of the UN decisions and *challenging the entire re-structuring* process conducted by the United Nations from 1996 to 2002. [...] We have made and continue to make clear that decisions issued by your Mission on certification/de-certification cannot now be re-opened either by my office, by EUPM or any other organization. We have now reached the stage, however, where we need your rapid intervention in this matter.” (Letter from Ashdown to Guehenno, 13 May 2003; emphasis added)

Ashdown asked Guehenno for two things:

“I believe it is important that the grounds under which the UN decisions were taken be restated clearly and authoritatively, and in a form that can be used in public, by UN Headquarters *if this debate is to be put firmly to rest*. [...] I would also very much welcome it if actions could be taken [...] to intervene officially as an interested/indispensable party and, if possible, *to set aside the verdicts or to stay their enforcement* and the progress of the pending and impending cases.” (Letter from Ashdown to Guehenno, 13 May 2003; emphasis added)

<sup>86</sup> Venice Commission, *Opinion no. 326/2004 on a Possible Solution to the Issue of Decertification of Police Officers in Bosnia and Herzegovina*, Strasbourg, 24 October 2005, § 18.

<sup>87</sup> Thomas Hammarberg, Commissioner for Human Rights of the Council of Europe: *Special Mission to Bosnia and Herzegovina 20-22 December 2006: Issue of Decertified Police Officers of Bosnia and Herzegovina*, Strasbourg, 17 January 2007, § 24.

<sup>88</sup> The survey was done based on questionnaires sent to all courts, during June/July 2006, by the OHR and Bosnia's Ministry of Human Rights and Refugees. However, OHR now uses the figure 262 and the ministry 265. ESI telephone interview with an OHR official, 22 August 2006.

He did not explain *how* the UN was meant to overrule the Bosnian judiciary whose independence the OHR was at the same time trying to ensure.

From the UN headquarters on the East River in New York, Guehenno wrote back 15 days later. He provided Ashdown with the requested statement to be used in public:

“I can confirm that we *fully endorse* the *comprehensive* process of police certification. [...] I am convinced that the process of certification was both *exhaustive* and *sound*. [...] The results achieved by UNMIBH – which in my opinion should not be undermined – enabled the creation of a police force fit to serve the people of Bosnia and Herzegovina. [...] I should also stress that decisions by the Commissioner of the IPTF, in relation to police certification, remain final and binding.” (Letter from Guehenno to Ashdown, 28 May 2003; emphasis added)

Ashdown was satisfied. The OHR sent Guehenno’s letter, alongside a letter by the Senior Deputy High Representative, to a long list of Bosnian officials.<sup>89</sup> The Senior Deputy asked for the two letters to be:

“widely disseminated to officials and members of the law enforcement bodies *and judiciary* dealing with these matters so that no one is in any doubt about their responsibilities to implement the results of the certification process. [...] Any other course of action would inflict *grave damage* on the integrity of the foundations that have been laid for democratic law enforcement in this country. That is not something which Bosnia and Herzegovina or the international community could afford to accept.”<sup>90</sup> (6 June 2003; emphasis added)

In Bosnia, the OHR’s instruction to the courts was widely interpreted as interference with the independence of the judiciary. The Bosnian Helsinki Committee for Human Rights declared:

“The international community [...] demonstrated its intention to ‘control’ the work of the court in the most inappropriate way. It would be difficult to imagine any judge in Bosnia and Herzegovina, whose appointment depends on a body such as High Judicial and Prosecutorial Council established by the international community, to pass a decision that would differ from the one recommended in the letter of the High Representative.”<sup>91</sup>

Indeed, pressure from OHR and the UN eventually produced the desired effect. With very few exceptions, court rulings in favour of the police were ultimately overturned at second or third instance, or the cases were simply not decided, such as that of the police dog handlers.

Back in 2003, however, some courts were not yet intimidated and continued to declare the dismissals unlawful. A few even ordered the reinstatement of the police officers. This provoked Guehenno to make another attempt to stop them. In October 2003, he wrote to Bosnia’s tripartite State Presidency:

<sup>89</sup> They included the three members of the country’s Presidency, the prime ministers at State and Entity levels, the ministers of foreign affairs, security, internal affairs and justice, as well as embassies and heads of international agencies.

<sup>90</sup> Letter from Ambassador Bernard Fassier, Senior Deputy High Representative, to Bosnian officials, 6 June 2003, accompanying Guehenno’s letter of 28 May 2003.

<sup>91</sup> Helsinki Committee for Human Rights in Bosnia and Herzegovina, *Report on the State of Human Rights in Bosnia and Herzegovina (Analysis for period from January to December 2003)*, available at: [www.bh-hchr.org/reports.htm](http://www.bh-hchr.org/reports.htm).

“Attempts to reinstate those individuals deemed ineligible for certification *threaten the basis for the rule of law* in Bosnia and Herzegovina. [...] I would therefore be grateful if you could take the necessary steps *to set aside the judgements* challenging the validity of the certification process and to ensure that no similar decisions are taken in the future.”  
(Letter from Guehenno to the Bosnian Presidency, 10 October 2003; emphasis added)

Guehenno too left unclear on what legal basis the Presidency was to interfere with the work of the courts, and how this was compatible with the principle of separation of powers or, indeed, the rule of law.

At around the same time, the OHR was making two discoveries. It was beginning to realise that Bosnia’s courts were in fact acting in good faith. Under the law regulating police employment contracts, officers could be dismissed only in a number of specified circumstances. The IPTF certification procedure was simply not mentioned in the law. If this were not uncomfortable enough, it was also beginning to dawn on the OHR, as letters from aggrieved officers continued to arrive, that IPTF had made mistakes during the certification process. Ashdown was upset. As his subsequent actions will show, he grew increasingly impatient with the UN, though he never shared his concerns with Bosnian officials.

On 12 December 2003, experts from OHR, the United Nations and EUPM held a video conference to discuss the findings. As regards the “cases where errors of law or errors of fact might have occurred”, as Ashdown termed them, the UN agreed “that such cases should be reviewed and corrected if necessary”, according to the notes taken by OHR.<sup>92</sup> The only problem appeared to be the location of the individual case files that would be needed for a review. While UNMIBH was still in Bosnia, the information on Bosnia’s 18,000 police officers was kept in part electronically in the “Law Enforcement Personnel Registry” (a Lotus Notes database) and partly in paper copy, in well-guarded rooms at the UNMIBH headquarters in Sarajevo. UNMIBH staff had packed up the documentation and sent it to New York, where it had probably ended up in containers somewhere on the UN’s storage grounds.<sup>93</sup> The UN officials promised to check their location “and subsequently to assess [the UN’s] capacity to deal with the problematic cases.”<sup>94</sup>

Then there was the problem of the clash between the UN process and domestic law. Ashdown wrote to Guehenno:

“I was most concerned to hear that the representative of the UN Office of the Legal Counsel had indicated during the meeting that the laws of Bosnia & Herzegovina were inapplicable to the certification process. [...] Considering that [...] the adoption of such legislation should have been discussed with [the] authorities prior to the issuance of certification decisions, it is clear to me that the United Nations should, in addition to its commitment to review problematic cases, provide guidance to the relevant authorities about how to tackle this problem.” (Letter from Ashdown to Guehenno, 22 December 2003)

Before Guehenno responded, Ashdown followed up with another letter to let him know that even a second-instance court had now ordered the reinstatement of a police officer:

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<sup>92</sup> Letter from Ashdown to Guehenno, summarising the discussions during the video conference, 22 December 2003.

<sup>93</sup> ESI interview with a former UNMIBH official speaking on condition of anonymity, Sarajevo, 27 June 2006.

<sup>94</sup> *Ibid.*

“This is a most serious development. It means that the fears which I and my colleagues have expressed to you time and again about the potential for this issue to unravel the UN IPTF’s certification process are starting to be realized. I want to underline once again the gravity of this matter, which is directly related to the absence of provisions in domestic law allowing Ministries of Interior in BiH to terminate the employment of police officials pursuant to an IPTF decision.” (Letter from Ashdown to Guehenno, 20 January 2004)

This time Guehenno reacted immediately. He called Ashdown the next morning and sent him a letter that afternoon, reassuring him that the UN shared his views “on the political significance of local challenges to the outcomes of police certification.” He promised to identify with OHR “a legally sound course of action” to put “these challenges” to rest. He asked for expert analyses of court decisions and for the names of some 150 officers known to have gone to court; so far EUPM had sent him only 31 names. He also informed Ashdown that he had received an assessment from Madeleine Rees from the Office of the UN High Commissioner of Human Rights in Bosnia.<sup>95</sup>

It seemed that the UN was at last willing to seriously examine and resolve the problems around the certification process. Yet on 2 March 2004, when Ashdown met Guehenno in New York, he found out that this was not the case. The UN’s strategy was to increase the pressure on Bosnia’s authorities. Guehenno suggested a statement by the President of the Security Council, which would “remind the BiH authorities of their international obligations” and “direct them to bring their laws in line with these obligations”.<sup>96</sup> While not binding, such a Presidential Statement would carry the weight and authority of the Security Council. Most importantly, it would not require the UN to admit any mistakes.

Ashdown agreed, although he knew that the “inadequate” legal situation was not due to any fault of the Bosnians, and that errors had been made during the certification process. He only suggested that DPKO send somebody to Sarajevo to explain the statement to the authorities. Guehenno declined. A few days after the meeting, Ashdown revisited the issue in a letter to Guehenno:

“I am concerned at the extreme political difficulty for the BiH authorities in carrying out these actions to put right a lacuna for which they may be primarily, but are not solely, responsible. I very much hope that, at the very least, the UN will take steps to consult with the BiH authorities before taking this action.” (Letter from Ashdown to Guehenno, 8 March 2004)

Ashdown believed that the planned Presidential Statement would not preclude the possibility of a review. He reminded Guehenno of the “pressing and urgent need for a review mechanism for cases where factual or legal errors might have occurred,” and explained in great detail what he thought had gone wrong, both in substance and in form.<sup>97</sup>

“We understand that various grounds were used by IPTF to deny certification to police officers. [...] It seems that those officers who were de-certified for having violated fundamental human rights or for having been involved in war crimes activities should be prevented from ever reintegrating into the police. We are less convinced that the same sanction should apply to people who failed to appear at a training session.

<sup>95</sup> All quotes in this paragraph are from Guehenno’s letter to Ashdown, 21 January 2004.

<sup>96</sup> Letter from Ashdown to Guehenno recapping their discussions in New York, 8 March 2004.

<sup>97</sup> Letter from Ashdown to Guehenno, 8 March 2004.

“It is also the case that the UNHCHR [viz. OHCHR – the Office of the UN High Commissioner for Human Rights], EUPM and the OHR are frequently approached by non-certified police officers who, having been de-certified at the very end of IPTF’s time in BiH, claim that they never received notification of the decision from the UN denying them certification. They therefore claim that they were denied any appeal against those decisions. Others allege that their appeal filed against a UN decision remained unanswered. Others have gathered substantial evidence that claims to call into question the foundations upon which IPTF decisions were rendered (this is particularly the case on de-certification for lack of valid education credentials).” (Letter from Ashdown to Guehenno, 8 March 2004)

Ashdown did not leave any doubt that he believed that nobody except the UN should conduct the review.

“Our legal experts advise me that there is no one at present in BiH with the authority to review these UN decisions. Neither the OHR nor EUPM has either the mandate or the resources to review UN decisions today.” (Letter from Ashdown to Guehenno, 8 March 2004)

He specifically dismissed any possibility of the Bosnian authorities carrying out such a review.

“These decisions will be highly political in nature. Leaving them to the BiH authorities would almost certainly lead to decisions whose effects would be to roll back the UN’s achievements in police reform.” (Letter from Ashdown to Guehenno, 8 March 2004)

Guehenno’s response arrived within a week. First of all, he refused to acknowledge the existence of problematic cases, terming the information from the High Representative and other sources such as EUPM and OHCHR in Bosnia mere “allegations”, and claiming that DPKO had never received sufficient information about the alleged shortcomings.

“We cannot comment on allegations that certain decisions of the IPTF Commissioner not to certify police officers were made in error, since no concrete and specific examples have been brought to our attention, despite our repeated requests. Nor can we comment on allegations that, in certain cases, the decision of the IPTF Commissioner not to certify an officer was not communicated to that officer or, the decision having been communicated and the officer concerned having requested that it be reviewed, either no such review was conducted or else its outcome was not communicated to the officer concerned. Again, we have not been provided with any concrete details.” (Letter from Guehenno to Ashdown, 16 March 2004)

As regards a review, Guehenno stressed that it would have to be authorised by the UN Security Council and that the UN was *not* the appropriate body to carry it out – although he fully agreed with Ashdown that it should not be Bosnian authorities either.

“We share your reluctance to entrust such a process to the local authorities, particularly given their repeated failure to act thus far.” (Letter from Guehenno to Ashdown, 16 March 2004)

This was the one issue that OHR and DPKO would never disagree on: that whatever shortcomings there might have been, to do nothing was still better than to allow Bosnian institutions to take the initiative.

In Guehenno's view, EUPM or, even better, the High Representative should conduct the review provided the Security Council authorised it.

“Indeed, should one be considered necessary, we feel that any review should be carried out by EUPM [...], your own office or some combination of the two. [...] As the final authority in BiH in the area of civilian implementation of the Peace Agreement, we believe that your mandate would authorize you to discharge such a role.” (Letter from Guehenno to Ashdown, 16 March 2004)

Guehenno also made clear that *the High Representative* should explain the Presidential Statement to the Bosnian authorities and help them amend their legislation so as to put the certification process beyond challenge.

“It appears to us that any legislative action, whether willingly adopted or externally imposed, will need to be formulated and enacted in accordance with the other elements of your strategy to promote the rule of law. [...] We believe there could be considerable value in your oversight of the matter from its outset.” (Letter from Guehenno to Ashdown, 16 March 2004)

Following this rather confrontational exchange, Ashdown and Guehenno agreed to “to de-link” the issue of the review from that of the Presidential Statement,<sup>98</sup> whose quick completion Ashdown urged.

“Given the more than year long delay in this matter and the fact that the situation steadily unravels further in the absence of action, I hope, naturally, that it will be possible for a Statement to be issued very soon.” (Letter from Ashdown to Guehenno, 12 May 2004)

Guehenno approached members of the UN Security Council's Coordination and Drafting Group (CDG) that was in charge of drafting the statement, while Ashdown asked the British government, as a member of the Council, for assistance in getting the statement done quickly.<sup>99</sup> But Ashdown also continued to push for a review, and proposed an OHR/UN expert level meeting “to discuss modalities and resources required”.<sup>100</sup>

On 25 June 2004, the President of the Security Council issued the long-awaited statement. It was an extraordinary proclamation, considering the correspondence between OHR and DPKO that preceded. First, it upheld the integrity of the certification process, without conceding any possibility of error.

“The Security Council [...] *fully endorses* this process. The *comprehensive* and *rigorous* vetting procedure was designed to create a police force comprised entirely of personnel meeting internationally recognized standards of personal integrity and professional performance.”<sup>101</sup> (Emphasis added)

Second, any problem was attributed entirely to failings by Bosnian authorities.

“The Security Council expresses concern at the failure of the competent authorities in Bosnia and Herzegovina to take due steps to implement decisions to deny certification.

<sup>98</sup> Letter from Ashdown to Guehenno, 12 May 2004.

<sup>99</sup> Letters from Ashdown to Guehenno, 12 May 2004, and from Guehenno to Ashdown, 17 May 2004.

<sup>100</sup> Letter from Ashdown to Guehenno, 31 May 2004.

<sup>101</sup> This and the following two quotes are from the Statement by the President of the Security Council, S/PRST/2004/22, 25 June 2004.

The Council notes that this failure has already led to several challenges before the courts in Bosnia and Herzegovina.”

Third, the Council told Bosnia’s authorities very clearly what it expected them to do:

“The Security Council calls upon the Bosnia and Herzegovina authorities to ensure, including through the adoption or amendment of domestic legislation, that all IPTF certification decisions are fully and effectively implemented and that the employment of persons who were denied certification by the IPTF be terminated, and that such persons will be precluded from employment, either now or in the future, in any position within any law enforcement agency in Bosnia and Herzegovina.”

A member of the Security Council’s Coordination and Drafting Group and two other officials familiar with the discussions in the CDG told ESI that DPKO “withheld information” in order to achieve such a strongly worded statement.

Ashdown and Guehenno were both satisfied. However, on 30 July, Ashdown wrote again to Guehenno to complain that the Presidential Statement “has elicited neither response nor publicity from the Presidency in BiH, and that my attempts to get the UN to follow this up to ensure implementation seem to have completely failed.”<sup>102</sup> Ashdown suggested that the UN Resident Coordinator in Bosnia<sup>103</sup> distribute the statement. Madeleine Rees, head of the OHCHR in Bosnia, sought to prevent this.

“It is the opinion of OHCHR that the position of the UN DPKO is untenable as a matter of law. [...] It now appears that the DPKO is now seeking [to] invoke the statement of the Security Council in order to continue to refuse to accept that some of the decisions made were erroneous, did not allow for appeal, or simply were not communicated to the individuals involved. This would place the DPKO in breach of international and national law. [...] There must be some speculation that the Presidential Statement was made without the members being sufficiently apprised of all the facts pertaining to the situation. [...] If DPKO wishes to send this out, then they should do so from New York.”<sup>104</sup>

Her intervention was ignored. On 6 September 2004, the UN’s Resident Coordinator sent the statement to numerous Bosnian institutions at State, Entity and Cantonal levels, without clarifying that a Security Council Presidential Statement was not legally binding, nor specifying what exactly they were expected to do. The Presidency of BiH nonetheless got the message. On 15 September, it directed Bosnia’s governments at all levels “to harmonise laws and all other regulations with regard to the issues arising from the certification of police officials in Bosnia and Herzegovina.”<sup>105</sup>

This is indeed what the authorities proceeded to do, under the watchful eye of OHR. Under the laws as they now stand, police officers who were denied certification or whose provisional authorisation was removed by IPTF are forbidden from working as police officials; from establishing, or being employed by, private security companies; and from standing in elections if the UN confirms their dismissal (which the UN did not do for the October 2006 elections). This went even further than the sanctions UNMIBH had originally envisaged.

<sup>102</sup> Letter from Ashdown to Guehenno, 30 July 2004.

<sup>103</sup> The UN’s Resident Coordinator in Bosnia was the head of the UN Development Programme (UNDP).

<sup>104</sup> Letter from Madeleine Rees, head of the Office of the UN High Commissioner for Human Rights in Bosnia, to Paddy Ashdown, 20 August 2004.

<sup>105</sup> Conclusions from the 56<sup>th</sup> meeting of the Presidency of Bosnia and Herzegovina on 15 September 2004, no. 01-1486-6/04, 15 September 2004.

However, Ashdown also continued to insist on a review. The expert-level meeting he had requested had taken place in New York at the end of July 2004. According to a summary of the meeting produced by the OHR:

“The UN representatives acknowledged that some cases were problematic;

The UN representatives accepted that a review process was possible, but that such a review would need to be authorised by the UN Security Council;

The UN representatives acknowledged that some minor technical procedural deficiencies may be corrected by the UN outside the ambit of a review mechanism.”<sup>106</sup>

But the participants stayed away from the vexed question of who could carry out such a review.

“It was agreed that questions related to which organisation could potentially conduct a review and/or which organisation could financially support such a review would not be discussed. It was stressed that OHR could participate in such a review provided that it was duly authorised to do so by the Security Council and provided that it was given appropriate resources.”

The participants also noted again the problem with access to UNMIBH’s documentation.

“The capacity of the UN to retrieve information within its archive appears to be rather limited. Difficulties to access information may be an obstacle to a potential review.”

Two weeks after the meeting in New York, Ashdown inquired with Guehenno about the next steps.

“The discussions between your representatives and my office constitute a step in the right direction, especially since the existence of flawed decisions has now been acknowledged. This is a major step forward and opens the way to the review process.” (Letter from Ashdown to Guehenno, 11 August 2004)

This was certainly not Guehenno’s view. He disputed OHR’s summary of the July meeting with his staff.

“Unfortunately, both your letter and the summary report do not accurately reflect the results of the discussions that took place between the representatives of the United Nations and your Office. Referring to those discussions, your letter states that ‘the existence of flawed decisions has now been acknowledged.’ The clear implication is that representatives of the United Nations Secretariat acknowledged that certain decisions of the IPTF Commissioner were ‘flawed’. This is incorrect. We are aware of allegations to this effect, which have been communicated to us by your Office.” (Letter from Guehenno to Ashdown, 17 August 2004)

Guehenno skipped again the fact that the “allegations” were not only coming from the OHR, but from a range of sources including the UN’s own human rights watchdog. He retreated to the old claim that DPKO had never been provided with evidence of shortcomings.

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<sup>106</sup> This and the following two quotes are from the *Summary of meetings between the UN and OHR held in New York on 26-27-28 July 2004 regarding the certification process.*

“Despite repeated requests for specific and documented evidence, we have been provided with only ten detailed allegations (as you may be aware, these allegations challenge the administrative procedure of certification, not the substance of individual decisions). I would add that this information was provided during the talks of 26-27-28 July 2004 and that as such it has not yet been possible to assess its veracity.” (Letter from Guehenno to Ashdown, 17 August 2004)

However, DPKO never clarified the accuracy of any of the information provided to it, using the excuse that the UNMIBH documentation was difficult to access. In October 2004, Guehenno admitted:

“While the United Nations files related to police certification are extensive, the range of information that they include may not always be of a nature to make it possible to refute or confirm definitely each and every allegation.” (Letter from Guehenno to Ashdown, 14 October 2004)

As regards the OHR/UN meeting in July, Guehenno also denied that his representatives had offered that “some minor technical procedural deficiencies may be corrected outside the ambit of a review mechanism.”

“This is also incorrect. Indeed, it was pointed out to your representatives that, since 1 January 2003, the Secretary-General of the United Nations has not had, and does not now have, any mandate to take any action with respect to matters of police certification in Bosnia and Herzegovina.” (Letter from Guehenno to Ashdown, 17 August 2004)

This was obfuscation – the UN Secretary-General always has a mandate to bring problems with past missions to the attention of UN member countries.

Despite the apparent closed door, Ashdown did not give up. In September, after the Bosnian Presidency had reacted to the UN’s Presidential Statement, Ashdown urged Guehenno again for a review.<sup>107</sup> For Guehenno, the time had come to put an end to this lengthy correspondence.

“The United Nations Secretariat does not believe that such a review is warranted, nor does the Security Council envisage such a procedure, as is clear from the Presidential Statement of 25 June 2004.” (Letter from Guehenno to Ashdown, 14 October 2004)

That was the final answer. Officials familiar with the discussions in the UN told ESI that both the UN Secretariat and the Security Council feared a review would damage the UN’s reputation, set an unwelcome precedent for future police missions and lead to calls to reopen similar questions from other past missions. The Bosnian public never learned about the intense debate between OHR and the UN. Ashdown continued to work with the authorities on amending Bosnia’s laws and informed the UN Secretary-General in his regular written report from 17 November 2005:

“Owing to efforts by the Office of the High Representative and EUPM, Bosnia and Herzegovina legislation now stipulates that *all police officers denied certification (or whose provisional authorization was withdrawn) must be dismissed*, thus providing a

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<sup>107</sup> Letter from Ashdown to Guehenno, 16 September 2004.

solid legal basis for decisions by both the local authorities and the international community.”<sup>108</sup>

Two days earlier, he had gone public for the first time with his request for a review process. In a speech to the UN Security Council on 15 November 2005, also distributed in Bosnia, he said:

“I understand that the Council may give consideration to setting up a review of the police certification process conducted by the UN’s International Police Task Force. I encourage you, as I have done these last two years, to do this and to do it without delay... When the process was concluded, at the end of 2002, no provision was made for reviewing problematic decisions where credible evidence exists that the right procedures were not followed. A review mechanism would consolidate the certification process by overturning or confirming decisions that currently raise questions about the process as a whole.”<sup>109</sup>

This was too little, too late. Not surprisingly, the UN Security Council did not respond. DPKO’s stance has also remained unchanged. A letter to ESI in August 2006 sums it up:

“The Council made a final pronouncement on the issue in its Presidential Statement of June 2004. [...] We are, of course, ready to assist any review or other mechanism which the Council would authorize, including by making files available on a case-by-case basis and within the usual restrictions.”<sup>110</sup>

## **B. The UN and its principles**

The Dayton Peace Agreement stipulated with regard to the role of the UN and IPTF:

“The IPTF shall at all times act in accordance with internationally recognized standards and with respect for internationally recognized human rights and fundamental freedoms, and shall respect, consistent with the IPTF's responsibilities, the laws and customs of the host country.”<sup>111</sup>

In carrying out its decertification policy, IPTF did not respect “the laws and customs of the host country.” Its procedures clashed with domestic laws, and it took no action to resolve the conflict.

It also did not act “with respect for internationally recognised human rights”. UNMIBH should have provided the concerned officers with a fair and public hearing, including the right to examine the evidence against them, the right to defend themselves, and the right to appeal to an independent review body. In 2004, UN Secretary-General Kofi Annan published a report on the UN’s role in advancing the rule of law and transitional justice in conflict and post-conflict societies. Where vetting of public officials is required, he stipulated how it should be done.

<sup>108</sup> *28th Report of the High Representative for Implementation of the Peace Agreement on Bosnia and Herzegovina to the Secretary-General of the United Nations from 17 November 2005*, available at: <http://www.ohr.int/other-doc/hr-reports/archive.asp?sa=on>.

<sup>109</sup> Remarks by the High Representative for BiH Paddy Ashdown to the UN Security Council, 15 Nov. 2005, available at: [www.ohr.int/ohr-dept/presso/presssp/default.asp?content\\_id=35972](http://www.ohr.int/ohr-dept/presso/presssp/default.asp?content_id=35972).

<sup>110</sup> See response by DPKO to ESI letter, in the annex.

<sup>111</sup> *General Framework Agreement for Peace in Bosnia and Herzegovina*, Annex 11: Agreement on International Police Force, Art. II, § 5.

“Vetting usually entails a formal process for the identification and removal of individuals responsible for abuses, especially from police, prison services, the army and the judiciary. Parties under investigation *are notified of the allegations against them and given an opportunity to respond before a body administering the vetting process.* Those charged are usually *entitled to reasonable notice of the case against them, the right to contest the case and the right to appeal an adverse decision to a court or other independent body.* The inclusion of such due process elements distinguishes formal vetting processes from the wholesale purges practised in some countries.”<sup>112</sup> (Emphasis added)

There were few such due process elements in Bosnia.

Elaborating further on the principles set out by the Secretary-General, the Office of the UN High Commissioner for Human Rights last year published operational guidelines on vetting procedures in post-conflict societies, stressing in particular: “As an overall rule, a hearing should be guided by the principle of ‘equality of arms’.”<sup>113</sup> In Bosnia, there was no equality of arms. The police officers did not even have advance knowledge of the charges against them, and had no opportunity to participate in the proceedings.

In October 2005, the Venice Commission, a legal advisory body to the Council of Europe,<sup>114</sup> assessed the UNMIBH’s vetting process from a human rights perspective.

“Compliance with human rights standards is so important that no international mechanism or procedure may be allowed to circumvent it. [...] In the vetting process, IPTF has failed to provide the relevant police officers with a public, adversarial, impartial and independent examination of their rights, while the review mechanism [...] appeared to be abortive for the larger part. The Venice Commission considers that no convincing justification has been adduced for this failure. [...] The crucial nature of this process in ensuring peace in Bosnia does not explain why, for example, the police officers were not heard in person or allowed to make submissions or challenge allegations against them, or why they were not provided with access to their files and the evidence adduced against them.”<sup>115</sup>

The Council of Europe’s Commissioner for Human Rights, Thomas Hammarberg, undertook a fact-finding mission to Bosnia in December 2006. His conclusion was similar:

“The Commissioner concluded that there is a human rights problem. The possibility for the police officers to challenge the merits of the IPTF decisions had been very limited as there had not been an appropriate legal remedy. The consequences of this shortcoming was [*sic*] regarded as serious, in particular as the decision of not granting a certification was for life and had detrimental social consequences for the individual.”<sup>116</sup>

<sup>112</sup> Report of the Secretary-General, *The rule of law and transitional justice in conflict and post-conflict societies*, S/2004/616, 23 August 2004, chapter XV, p. 18.

<sup>113</sup> OHCHR, *Rule-of-law Tools for Post-Conflict States, Vetting: an operational framework*, New York and Geneva 2006, p. 26.

<sup>114</sup> The official name of the Venice Commission is the European Commission for Democracy through Law, but it is commonly referred to as the Venice Commission since it is based in Venice. Its opinions are not binding, but often followed.

<sup>115</sup> Venice Commission, *Opinion no. 326/2004 on a Possible Solution to the Issue of Decertification of Police Officers in Bosnia and Herzegovina*, Strasbourg, 24 October 2005, §§ 43, 47, 48 and 50.

<sup>116</sup> Thomas Hammarberg, Commissioner for Human Rights of the Council of Europe: *Special Mission to Bosnia and Herzegovina 20-22 December 2006: Issue of Decertified Police Officers of Bosnia and Herzegovina*, Strasbourg, 17 January 2007, executive summary.

IPTF was not even able to follow the limited policies and procedures it had laid down for the process since it started it too late. The actual policy on certification became effective only on 15 August 2002.<sup>117</sup> There were more than 17,000 files to be processed. Even if UNMIBH officials worked each day, including weekends, they had to process more than 120 files per day. The first certification decisions were issued on 18 October 2002.<sup>118</sup>

Haste generates mistakes. The certification of SBS officers was done haphazardly, and the job left incomplete. UNMIBH made no provision for the “pending” cases. According to OHR and OHCHR, there were numerous other technical mistakes. UNMIBH did not even have the time to deal with all the requests for review. On 31 December 2002, the last day of UNMIBH’s mandate, an UNMIBH spokesperson mentioned that “81 cases have not *yet* been reviewed as they had been filed late or with insufficient documentation.”<sup>119</sup>

## V. THE FIGHT FOR JUSTICE

Bosnia’s disqualified police officers, having failed to win support from the international mission, set about helping themselves through what became a highly effective political campaign. They founded the Association of Decertified Policemen in the Federation on 2 February 2004, and its counterpart in Republika Srpska on 31 January 2005.<sup>120</sup> The objective of the two associations is to achieve a review of the IPTF decisions and a re-instatement of those officers who were unfairly disqualified.

Representing a total of 281 former officers, they have staged protests and demonstrations, written letters and petitions, held dozens of meetings with international and Bosnian officials, and organised 157 applications to the European Court of Human Rights. “We won’t give up until we obtain justice,” said Ramo Sulic, president of the Federation association.<sup>121</sup>

Bosnia’s Minister for Human Rights and Refugees, Kresimir Zubak, had become concerned about the certification process as early as November 2002. Short before the IPTF’s departure, he asked the IPTF Commissioner for clarification, out of concern that it violated human rights standards.<sup>122</sup> The Commissioner did not reply to the specific points Zubak raised.<sup>123</sup> Under international pressure, the Bosnian government let the matter rest until the end of 2004, when lobbying from the two associations began to attract increasing attention in the media and in parliament, prompting the government to refer the issue to the Council of Europe’s Venice Commission.

The Venice Commission’s opinion issued in October 2005 not only condemned the vetting process from a human rights perspective. It also recommended a solution. It declared that “the authority of the United Nations Mission in Bosnia should not be undermined or

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<sup>117</sup> *IPTF Policy P-11/2002 on Certification of Law Enforcement Agencies Personnel*, effective 15 August 2002.

<sup>118</sup> NATO/SFOR transcript of the international press conference in Sarajevo, 17 October 2002, available at: [www.nato.int/sfor/trans/2002/t021017a.htm](http://www.nato.int/sfor/trans/2002/t021017a.htm).

<sup>119</sup> NATO/SFOR transcript of the international press conference in Sarajevo, 31 December 2002, at: [www.nato.int/sfor/trans/2002/t021231a.htm](http://www.nato.int/sfor/trans/2002/t021231a.htm).

<sup>120</sup> ESI interviews with Ramo Sulic, head of the Federation association, Sarajevo, 17 June 2006, and with Zoran Bijelic, then head of the RS association, Doboj, 22 June 2006.

<sup>121</sup> ESI interview with Sulic in Sarajevo, 17 June 2006.

<sup>122</sup> Letter from Zubak to IPTF Commissioner Sven Frederiksen, 11 November 2002.

<sup>123</sup> Letter from Frederiksen to Zubak, 24 December 2002.

diminished by allowing IPTF's decisions to be reopened by the national authorities of BiH."<sup>124</sup> It concluded:

"It is therefore of the utmost importance that compliance with international human rights standards be ensured *by the United Nations itself*."<sup>125</sup>

The Venice Commission suggested that the UN Security Council set up a body to review those IPTF decisions that had been challenged before Bosnia's courts, proposing a panel of three independent experts to be appointed by the UN Secretary-General.<sup>126</sup>

"This body would be competent to review the recommendations on decertification previously made by IPTF, on the basis of the information previously gathered by IPTF (with the assistance of the UN Secretariat) and in the course of an adversarial procedure in which the former policeman concerned would be allowed to have access to such a file (with the exception of duly classified information) and provide additional information."<sup>127</sup>

Ever since this opinion was published, the Bosnian government, soon joined by the OHR, has pushed for a review along the lines suggested by the Venice Commission. There was even a blueprint prepared by OHR as to how such a review might function.<sup>128</sup> However, the Venice Commission's suggestion and all subsequent proposals made by OHR share one fatal flaw: they fail to consider the possibility that the UN has no interest in conducting a review, whatever the arguments. Not surprisingly, OHR's blueprint went nowhere.

Instead DPKO, with the agreement of the UN Security Council's Coordination and Drafting Group, last year suggested permitting the disqualified police officers to take on administrative posts in law enforcement agencies. This solution would allow the UN to avoid admitting that any errors had been made. Both the government and two associations rejected this proposal, insisting that the disqualified officers be given the opportunity to clear their names. "This is an absolutely unacceptable and immoral proposal with which the UN wants to protect the notion of its infallibility," said Federation association president Sulic.<sup>129</sup>

On 11 December 2006, the associations began a new round of protests, including a blockade of Bosnia's government buildings, demonstrations in front of OHR and a hunger strike.<sup>130</sup> Three days later, the caretaker government<sup>131</sup> passed a "Decision on the establishment of a Commission to review individual cases of decertified police officers who have initiated court

<sup>124</sup> *Ibid.*, § 40.

<sup>125</sup> *Ibid.*, § 46.

<sup>126</sup> *Ibid.*, §§ 63 and 64.

<sup>127</sup> *Ibid.*, §§ 65 and 66.

<sup>128</sup> This blueprint envisaged a review body of three experts proposed by the Council of Europe and appointed by the UN Secretary-General, and a secretariat administering the process that would be supported by OHR, EUPM and the domestic authorities. Before the review body, a "United Nations Agent" would perform "prosecutorial functions" while the decertified police officers would have the right to participate in the review proceedings "in accordance with the requirements of internationally recognised human rights and relevant and agreed rules of procedures". See OHR paper titled "Process and Organisation".

<sup>129</sup> Email to ESI from Ramo Sulic, 20 November 2006.

<sup>130</sup> Deutsche Welle, *Bivši policajci blokirali zgradu Vlade i Parlament BiH*, 11 December 2006; *Oslobodjenje*, *Decertificirani policajci protestovali ispred zgrade OHR*, 11 December 2006.

<sup>131</sup> Elections were held in October 2006, and the new government is due to take office in February 2006.

proceedings before the courts of Bosnia and Herzegovina”<sup>132</sup> – a Commission that the parliament had demanded in June 2005, but whose establishment OHR had prevented.<sup>133</sup> The government offered a simple justification for its actions: under Bosnia’s constitution, the European Convention on Human Rights is directly applicable and has priority over all other law.<sup>134</sup> The Convention obliges the government to extend the rights it guarantees – including the right to a fair hearing and all procedural safeguards that come with it – to all its citizens.

As envisaged, the Commission will not review the IPTF decisions, but examine whether the police officers’ dismissals from employment were lawful, having regard to the legal situation that existed at the time. It will also propose amendments to Bosnian laws so that its decisions can be implemented. It will comprise five members, three appointed by the government and two by OHR and EUPM. If the two international organisations decline to appoint members, the government will fill all of the positions.

However, no sooner had the government issued its decision, than it came under renewed pressure from the international community. High Representative Schwarz-Schilling declared:

“I have worked intensively to persuade the United Nations to agree to a review process and have some sympathy for the non-certified police. However, Bosnia and Herzegovina must also be aware of its obligations under international law and behave accordingly.”<sup>135</sup>

His spokesman explained that Bosnia’s government had an obligation to implement the IPTF decisions, and to ensure that it does not put itself outside the international legal framework created by the UN.<sup>136</sup> Needless to say, OHR refused to appoint a representative to the Bosnian commission. Some ambassadors in Sarajevo were even harsher, expressing “grave concerns” over the government’s decision. Several felt that such a mechanism “would violate UN Security Council Resolutions and Annex 11 of the Dayton Peace Agreement.”<sup>137</sup> The UN in New York has not reacted.

It remains to be seen whether the incoming Bosnian government will follow through with the establishment of the Commission. It may become blocked, like other initiatives before it, by opposition from the international mission, which has consistently been more concerned to protect its own authority than to remedy past injustices.

Nonetheless, in all the circumstances it seems entirely appropriate for the Bosnian government to proceed with such a Commission and finally bring this matter to a successful conclusion. Bosnia and Herzegovina is a sovereign state, and has responsibility for ensuring the rule of law on its own territory. It is bound by the European Convention on Human Rights, which under the Dayton Agreement is the highest law in the land. The departure of the UN and the many frailties of its final certification process have left behind a legal vacuum, which needs to be filled. Notwithstanding the *non-binding* UN Presidential Statement, the idea that the Bosnian authorities are defying international law by remedying the UN’s own human rights violations has no credibility. International authority is at stake

<sup>132</sup> Council of Ministers, *Draft Decision on the establishment of a commission to review individual cases of decertified police officers who have initiated court proceedings before the courts of Bosnia and Herzegovina*, no. 01-37-3498-2/06, adopted 14 December 2006.

<sup>133</sup> See conclusion of the BiH House of Representatives Nr. 01-50-1-54-59/05, Sarajevo, 29 June 2005.

<sup>134</sup> See *Constitution of Bosnia and Herzegovina*, Art. II, § 2.

<sup>135</sup> As quoted at the International Agencies’ Joint Press Conference, 19 December 2006, available at: [http://www.ohr.int/ohr-dept/presso/pressb/default.asp?content\\_id=38730](http://www.ohr.int/ohr-dept/presso/pressb/default.asp?content_id=38730)

<sup>136</sup> *Ibid.*

<sup>137</sup> E-mail by OHR spokesman Oleg Milisic to ESI, 30 January 2007

here only because the UN and OHR have insisted on making it so. As Human Rights Minister Mirsad Kebo told ESI in February 2007:

“I am constantly repeating that we are not undermining the authority of the UN. We don’t want to reopen IPTF decisions, we only want to, and must, extend the guarantees of the European Convention on Human Rights to our citizens because our legislation requires us to do so. [...] It is unacceptable that the policemen have been kept in limbo for more than four years, and that nothing has been done to help them. In the legal vacuum that has been created, we have to act.”<sup>138</sup>

## VI. FROM BOSNIA TO KOSOVO

There are numerous lessons in this sorry tale for future international missions that take on executive authority in post-conflict countries. The first and almost banal lesson is that nobody is infallible. In our own democracies, we believe firmly in the importance of institutional checks and balances to control those who exercise power. We know that errors and disputes are inevitable, and we create mechanisms for resolving them. International administrations charged with promoting democracy, human rights and the rule of law in post-conflict societies cannot operate by lesser standards. If they disregard basic legal principles, they undermine their own legitimacy, undercutting the very goals they set out to achieve. DPKO, which currently is responsible for almost 100,000 personnel across 18 peacekeeping missions,<sup>139</sup> must hold itself to the same standards it demands of others.

If it is necessary to vet public officials, it should be done in accordance with the operational guidelines published by the UN High Commissioner for Human Rights.

“Employees subject to a review should be granted a fair hearing. This right includes certain basic elements: initiation of proceedings within a reasonable time and generally in public; notification of the parties under investigation of the proceedings and the case against them; an opportunity for those parties to prepare a defence, including access to relevant data; an opportunity for them to present arguments and evidence, and to respond to opposing arguments and evidence, before a body administering the vetting process; the opportunity of being represented by counsel; and notification of the parties of the decision and the reasons for the decision. As an overall rule, a hearing should be guided by the principle of ‘equality of arms.’ Also, employees subject to a review should be afforded the right to appeal an adverse decision to a court or other independent body.”<sup>140</sup>

Similar safeguards should be put in place where international representatives have the right to dismiss domestic officials individually. The High Representative in Bosnia has enjoyed this power and used it widely, dismissing hundreds of officials from office. OHR did not have to present the evidence against them, and could not be held accountable for mistakes. Dismissed officials had no opportunity to defend themselves.

The second lesson is that international authorities with executive powers cannot be relied upon to police themselves. When international organisations make mistakes, their instinct is to defend their own credibility, rather than protect individual rights. In the Bosnian case, even

<sup>138</sup> ESI telephone interview with Mirsad Kebo, Bosnian Minister for Human Rights, 2 February 2007.

<sup>139</sup> United Nations Peacekeeping Operations, Background Note, 30 November 2006, available at: <http://www.un.org/Depts/dpko/dpko/bnote.htm>

<sup>140</sup> OHCHR, *Rule-of-law Tools for Post-Conflict States, Vetting: an operational framework*, New York and Geneva, 2006, p. 26.

OHR, which was not implicated in the original mistakes and had extensive misgivings about the UN's conduct, chose to close ranks with the UN and intimidate the Bosnian authorities into silence. It did so although it was aware that the UN had made mistakes, thereby betraying its commitment to strengthen the rule of law in Bosnia.

Under current proposals, the International Civil Representative/EU Special Representative in Kosovo is to be entrusted with similar powers to those IPTF and OHR had. The experience of Bosnia suggests that, from the outset, credible safeguards must be put in place to protect the rights of Kosovo residents. A powerful and independent ombudsman must be able to investigate all complaints made by Kosovo citizens against the international mission. Kosovo citizens who claim that their human rights are violated by this mission should be able to appeal to an independent review mechanism.

International organisations are like all other institutions, made up of fallible men and women. However committed these are, when they take up the responsibility to *govern* they must not be permitted to assume the posture and immunity of the Olympian gods.

## ANNEX

**Request for information sent by ESI to Wolfgang Weisbrod-Weber, Director of the Europe and Latin America Division, Office of Operations, UN Department for Peacekeeping Operations, 28 August 2006, and his reply of 31 August 2006**

**From:** Alexandra Stiglmeier  
**Sent:** 28 August 2006 22:18  
**To:** 'weisbrod-weber@un.org'  
**Subject:** Questions re the police vetting process in Bosnia and Herzegovina (UN)

Dear Mr Weisbrod-Weber:

I am working for the European Stability Initiative (ESI), a Berlin-based non-profit research and policy institute committed to promoting stability and prosperity in Europe and to providing policymakers with relevant strategic analysis and policy recommendations. You will find more information about us at [www.esiweb.org](http://www.esiweb.org).

We are currently working on the issue of former policemen in Bosnia and Herzegovina who did not pass the police vetting process conducted by UNMIBH/IPTF between 1999 and 2002. As you will be aware, there is criticism how the process was carried out and has been dealt with since 2002. We are planning to issue a short report on the matter in the coming weeks.

We would be most grateful if you could help us clarify a few open questions and provide us with DPKO's views on some of the aspects of this matter.

Please find below a number of questions.

1. The Council of Europe's "Venice Commission" has issued an opinion on the certification process (opinion no. 326/2004 from 24 October 2005, available at: [http://venice.coe.int/docs/2005/CDL-AD\(2005\)024-e.asp](http://venice.coe.int/docs/2005/CDL-AD(2005)024-e.asp)). What is DPKO's position on this legal opinion? What is DPKO's comment on the Venice Commission's call for a review by the UN of the IPTF decertification cases that have been challenged before Bosnian courts?
2. Irrespective of the opinion of the Venice Commission, the former High Representative Paddy Ashdown, the current High Representative Christian Schwarz-Schilling and the Government of Bosnia and Herzegovina have consistently called for an UN-led review of contentious IPTF decisions denying certification or removing provisional authorisation. What is DPKO's view with regard to conducting such a review process? Are there any plans to initiate such a review? Which categories of police officers would a review cover (those that have sought legal remedy before courts, the "pending cases", all cases that asked for a reconsideration of the IPTF decisions, etc.)? If DPKO is reluctant to conduct such a review, what are the reasons for the reluctance?
3. Are there any plans by DPKO to help resolve the cases that were left open at the end of the UNMIBH/IPTF mandate (the "pending cases")?
4. In fact, the former High Representative and the Bosnian Government have been calling for a review process since 2004. Why has it not been possible to take a decision for more than two years?
5. Is DPKO considering any solution other than a review of IPTF decisions in order to help former policemen who may have been decertified or deauthorised by mistake gain access to

some form of remedy? As things stand now, these men are banned from their former profession for life, they cannot stand in elections and they cannot work in security companies.

6. We understand that the UNMIBH/IPTF documentation has been stored away and is not accessible, which appeared to be one of the reasons why it has been difficult for DPKO to decide which steps to take with regard to the issue of decertified policemen in Bosnia. Is this still the case, or does DPKO plan to reconstitute the documentation to access the files and electronic databases in order to provide more comprehensive information on the certification process?
7. If the UN were to agree to conduct a review process, which legal steps would it require? In particular, would it require a Security Council resolution? Could you resolve the pending cases without a new resolution?
8. We have not been able to establish the final figures of policemen from Bosnia and Herzegovina who passed the various steps of the UNMIBH/IPTF vetting procedure. The UNMIBH website quotes figures from the final report of the Secretary-General (S/2002/1314), which is, however, from 2 December 2002, before the end of the UNMIBH/IPTF mandate on 31 December. The figures provided for in previous reports are sketchy. We would appreciate if you could provide us with the following information:
  - How many police administration personnel were registered by IPTF (entered in the UNMIBH Law Enforcement Personnel Registry) and how many of those were police officers?
  - How many police officers were provisionally authorised by IPTF (including authorisations that were later removed)?
  - How many provisional authorisations were removed by IPTF?
  - How many requests of reconsideration of IPTF decisions removing provisional authorisations did Bosnian police officers file, and how did IPTF decide on these appeals (reconsideration granted / reconsideration rejected)?
  - How many police officers were granted final certification (end result, including cases where IPTF originally issued a negative decision and later overturned it)?
  - How many police officers were denied final certification (end result)?
  - How many requests for reconsideration of IPTF decisions denying certification did Bosnian police officers file and how did IPTF decide on these appeals (reconsideration granted / rejected)?
  - How many certification cases were left open (were “pending”) and for which reasons (due to then ongoing court cases, due to then ongoing disciplinary proceedings, due to other reasons)? Are the “pending cases” included in the figure of policemen who were denied certification, or to be counted separately?
  - It is our understanding that UNMIBH/IPTF asked the follow-up European Union Police Mission (EUPM) to finalise the “pending” cases. Can you confirm this? What was EUPM’s answer?
  - Former UNMIBH spokesperson Kirsten Haupt announced at a press conference in Sarajevo on 31 December 2002 (the last day of the UNMIBH/IPTF mission) that UNMIBH had received 552 requests for reconsideration of non-certification decisions and had reviewed 471. *“The remaining 81 cases have not been reviewed as they had been filed late or with insufficient documentation,”* she said. Are these 81 cases included in the category “pending cases” or is this a different category? What happened to them after the 31 December 2002?
9. Lastly, we would be most grateful if you could provide us with the “IPTF policies” that governed the UNMIBH/IPTF registration-authorisation-certification process. From the numbering system, we understand that there have been 11 such policies, ending with “IPTF-

Policy 11/2002". As they are not available on the UNMIBH website, we would appreciate if you could email them to us at [a.stigl Mayer@esiweb.org](mailto:a.stigl Mayer@esiweb.org).

As mentioned, we hope that you will be able to provide us with the requested answers by 8 September 2006, and we would be most grateful if you could confirm receipt of this message.

Thank you very much in advance.

Sincerely yours,  
Alexandra Stigl Mayer

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**From:** Wolfgang Weisbrod-Weber  
**Sent:** 31 August 2006 19:14  
**To:** alexandrastigl Mayer@brutele.be  
**Subject:** Re: Questions re the police vetting process in Bosnia and Herzegovina

Dear Ms. Stigl Mayer,

I appreciate the ESI's interest in this issue and would be very interested in reading your report when it is finished.

In your work, I think it would be important to take into account the following considerations:

The certification process was conducted by UNMIBH/IPTF under a mandate of the Security Council; the Secretary-General reported regularly to the Council on the implementation of the mandate; and, on that basis and its own deliberations, the Security Council extended the UNMIBH mandate through to its successful conclusion in December 2002.

The UN has had no mandate and no peacekeeping presence in Bosnia and Herzegovina since that date.

The Council made a final pronouncement on the issue in its Presidential Statement of June 2004 (attached for reference).

We are aware that legal challenges against Ministry of Interior dismissals of police officers were submitted by non-certified officers after the closure of UNMIBH, and are also aware of a communication from the BiH Permanent Representative to the Security Council suggesting that the Council authorize a review. We are, of course, ready to assist any review or other mechanism which the Council would authorize, including by making files available on a case-by-case basis and within the usual restrictions.

In the meantime, we are working with OHR to find practical ways for the competent authorities in BiH to address the issue.

The pertinent figures requested are as follows: 17,320 police officers were involved in the certification process, 16,764 were certified; 556 were not certified.

Thank you again for your interest, and we look forward to receiving the final ESI report.

Sincerely,

Wolfgang Weisbrod-Weber