UA: UKRAINE ANALYTICA

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EU PEACEBUILDING

EUROPE SANCTIONS CRISIS PALESTINE PEACEBUILDING AZERBAIJAN REFORMS PEACEKEEPING PARTNERS BOSNIA

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UA: UKRAINE ANALYTICA

EU as a Peacebuilder

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BUILDING PEACE THROUGH POLICING? THE EU AND POLICE REFORM IN BOSNIA AND HERZEGOVINA AND UKRAINE

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In this paper, efforts deployed by the EU to reform the police in Bosnia and Herzegovina and Ukraine, as part of a broader peacekeeping and peacebuilding strategy, are analysed from a critical and comparative perspective. It is argued that the EU was able to influence the policymaking process because of a positive conditionality policy and a favourable pro-reformist political context. This enabled the adoption of innovative police legislation consistent with the principles of democratic policing and EU standards. However, during its implementation, the police reform foundered in the conflictive internal political dynamics observable in both countries and due to the little leverage of the EU in such processes.

The EU as Peacekeeper and Peacebuilder

Since the early nineties of the twentieth century, the European Union (EU) has been gradually more involved in peacekeeping and peacebuilding processes worldwide. On the one hand, as a peacekeeper the EU has actively supported the implementation and observance of peace agreements in war-torn zones and the organisation of free and fair elections, and assisted in the disarmament, demobilisation, and reintegration of former combatants; all these are interconnected components of a broader strategy aimed at creating the conditions for a stable peace – by avoiding the relapse of armed violence – in which democratisation may take place. On the other hand, as a peacebuilder the EU has followed the traditional approach of the peacebuilding theory, in which four areas of actions have been addressed simultaneously in post-conflict scenarios: security aspects concerning the restructuring of the security sector, political aspects related to the establishment of a functional state administration and the protection of civil and political rights, socio-economic aspects linked to the reconstruction of the economic apparatus and tackling social inequality, and psycho-social aspects, which include the reconstruction of the social fabric and transitional justice processes.[1]

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1   U. Schneckener, *Frieden Machen: Peacebuilding und peacebuilder (Making Peace: Peacebuilding and Peacebuilder),* "Die Friedens-Warte" 80 (1/2), 2005, pp. 21–22; S. Duke, A. Courtier, *EU Peacebuilding: Concepts, Players and Instruments,* [in:] S. Blockmans et al (eds.), The European Union and Peacebuilding: Policy and Legal Aspects, T.M.C. Asser Press: The Hague 2010, pp. 15–53.

The EU has supported peacekeeping and peacebuilding processes worldwide by means of different strategies, complementary to each other, including technical assistance and advising by staff attached to European institutions, the provision of economic development funds, and active financial and human support to the efforts deployed by the Department of Peace Operations of the United Nations (UN) or by the Organisation for Security and Co-operation in Europe (OSCE). The participation of the EU in multilateral international military and police missions goes back to the times of the Cold War, in which Western European countries were involved (to a different extent) in various monitoring, advisory, executive, or special political missions launched by the UN Security Council. After the end of the Cold War, the EU started to assume progressively a stronger role in international crisis management efforts, and especially after the outbreak of the Yugoslav Wars (1991–2001), framed within the UN endeavours.[2] Nevertheless, it remained a second player because of political instability and since internal cohesion within the Union was still fragile.

The EU has advanced in the last two decades from a laggard to a leading position as a conflict manager in its immediate fringe. Its first test took place in the western Balkans, when in January 2003 the EU launched its first own stabilisation mission in the scope of the European Security and Defence Policy[3] in Bosnia and Herzegovina. Seventeen years later, there have been 35 operations and missions run by the EU in Eastern and Southeast Europe, Northern

and Central Africa, and the Middle East, of which 23 were of a civilian and 12 of a military character. As of December 2019, there are six ongoing EU military operations abroad (in Bosnia and Herzegovina, Somalia, Mali, Central African Republic, on the South Mediterranean Sea, and in the Gulf of Aden) and 10 civilian/police missions (a police and a border mission in the Palestinian territories, Kosovo, Georgia, Ukraine, Iraq, Niger, Libya, Mali, and Somalia, plus the special border assistance mission to Moldova and Ukraine), with around 5,000 people currently deployed.[4]

This paper traces the trajectory of the EU as a peacekeeping and peacebuilding actor by critically reviewing, in a comparative perspective, the outcome of the first and the latest police missions launched in two EU neighbouring countries: Bosnia and Herzegovina and Ukraine, respectively. From the overall strategies set into motion by the EU in both countries as part of a crisis management and peacebuilding agenda, emphasis is placed on the endeavours and support given by the EU – by means of technical assistance, advising, and monitoring – to legally reform the Bosnian and Ukrainian police.

Police reform is selected as a case study because the EU placed a bet on the card of reforming the police institution as a peacebuilding strategy in both countries, departing from the understanding that policing is a state function through which a new social order may be reshaped and interests of the citizenry may harmoniously converge. Both countries inherited from

2   T. Tardy, *The European Union and UN Peace Operations: What Global–Regional Peace and Security Partnership?,* [in:] C. de Coning, M. Peter (eds.), *United Nations Peace Operations in a Changing Global Order,* Palgrave Macmillan: Cham 2019, pp. 237–240.

3   Renamed as the Common Security and Defense Policy (CSDP) after the entry into force of the Lisbon Treaty in 2009.

4   European External Action Service (EEAS), *Military and Civilian Missions and Operations,* 5 March 2019, [https://eeas.europa.eu/topics/military-and-civilian-missions-and-operations/430/military-and-civilian-missions-and-operations_en access: 2 January 2020].

their Communist past a militarised and repressive style of policing and have attempted to move forward a civilian and preventive- and service-oriented model of public security delivery by which protection is delivered and law is enforced equally for all people.

In this sense, in this paper the policymaking and outcome of the police reform in Bosnia and Herzegovina and Ukraine are reviewed in the light of the role played during the process by the EU police missions. Right after, the shortages in the implementation of the police reform are critically addressed, as well as these are linked to an analysis on the effectiveness of police reform as a peacekeeping and peacebuilding strategy of the EU.

The Setting up of EU Police Missions

Bosnia and Herzegovina and Ukraine have a common hallmark: The two cases constitute the first and the latest serious challenges to intra-European security and the political status quo after the end of the Cold War. The brutal Yugoslav Wars and their aftermath brought about not only the first violent change (by means of an armed conflict) of the territorial order in Europe after 1945, but also made it clear to European politicians and high-ranking policymakers that the crisis management capacities of the Union should be improved and pushed actively; only so the EU would be able to manage effectively crisis situations in its immediate neighbourhood.

In January 2003, the EU started its own peacebuilding way by setting up its first crisis management operation, the EU Police Mission in Bosnia and Herzegovina (EUPM), as the successor to the multinational UN Mission and its civilian police, the International Police Task Force (IPTF), both in operation from 1995 until 2002.[5] The EUPM was in late 2004 supplemented separately by a military component, the still-active EU Force in Bosnia and Herzegovina (EUFOR), as a replacement for the NATO-led Stabilisation Force (SFOR) established in the country since 1995 for peacekeeping and deterrence purposes and overseeing the implementation of the Dayton Peace Agreements (DPA).

> **EU placed a bet on the card of reforming the police institution as a peacebuilding strategy in both countries, departing from the understanding that policing is a state function through which a new social order may be reshaped**

The EUPM ran the operation for nine years and aimed mainly at triggering the reform of the Bosnian police into a professional, sustainable, and multi-ethnic police force. This very broad aim had three pillars: "to improve governance on the middle and higher levels, to reform the judiciary system further and to depoliticize the police".[6] In particular, emphasis was placed on reinforcing the capacity of the Bosnian police to tackle and prosecute organised crime and corruption, strengthening oversight and accountability mechanisms over police work, as well as enhancing the cooperation among the different

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5 It is worth clarifying that, contrary to the IPTF, the EUPM was an advisory and not an executive mission, "which means that EUPM monitors were not present in the field to implement or oversee police operations and they did not have enforcement tools", in A. Juncos, *Police Mission in Bosnia and Herzegovina,* [in:] M. Emerson, E. Gross (eds.), *Evaluating the EU's Crisis Missions in the Balkans,* Centre for European Policy Studies: Brussels 2007, p. 69.

6 K. Osland, *The EU Police Mission in Bosnia and Herzegovina,* "International Peacekeeping" 11 (3), 2004, p. 552.

agencies with law enforcement powers within the country. In this sense, on the one side, the EUPM sought to achieve a better management of the public security apparatus of the country and to bring "Bosnian policing mentalities, institutions and practices closer to European norms and standards".[7] On the other side, the EUPM aimed at reinforcing the quality of democratic governance in post-war Bosnia by improving the relationship between citizens and police and by encouraging a closer understanding among the different groups comprising the Bosnian multi-ethnic society.

> **" the EUAM is a good example of the EU peacebuilding agenda, which includes the promotion of the values linked to Western liberal democratic tradition but also of a particular model of how public security should be delivered**

Meanwhile, in Ukraine the latest threat to the European security and the latest test to the crisis management capacity of the EU are currently taking place. The Revolution of Dignity (2013–2014) and the ongoing armed conflict (after the Russian occupation of Crimea and the armed aggression in Donbas) called the EU to an active involvement in the country. In spite of the different possible interpretations of the causes leading to Euromaidan,[8] the Revolution of Dignity may be well understood as the outcome of the demands of a large sector of the Ukrainian population for closer relations with the EU and the expectation that it gets actively involved in supporting a Western liberal-oriented democratisation of the country. Particularly, it was expected that the EU supported actively the requested changes in the law enforcement agencies, the judicial sector, and fighting corruption, which ultimately were the top initial demands during the Revolution of Dignity.

The EU Advisory Mission in Ukraine (EUAM) was established by the European Council in December 2014 with the aim to support the restructuring of the security sector, and, in more concrete terms, to "provide strategic advice, and hands-on support, to Ukrainian law enforcement and rule of law agencies – with a focus on police reform, fighting corruption, and reform of the prosecution system".[9]

The definition of the mission's mandate has been perceived by academics and politicians in two contrasting ways, but to some extent they also reflect two sides of the same coin. For one thing, the EUAM pursues a clear political objective (comparable to the Bosnian example), since it aims at "promoting European values, rule of law and democratic principles in order for Ukraine to develop a modern political framework that is conducive to the political and economic modernization of the country, which includes security sector reform".[10] By extension, the EUAM is a good example of the EU peacebuilding agenda, which includes the promotion of the values linked

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7   Z. Torun, *Strengths and Weaknesses of EU Police Mission in Bosnia-Herzegovina,* "Avrasya Etütleri" 50 (2), 2016, p. 16.

8   In this regard, see V. Yakushik, *Competing Interpretations of the Socio-political Crisis in Ukraine in 2013–2016,* "Argum (Vitória)" 8 (3), 2016, pp. 105–121.

9   EUAM, *Progress in Reform* [http://www.euam-ukraine.eu/our-mission/progress-in-reform/ access: 15 January 2020].

10 N. Nováky, *Why So Soft? The European Union in Ukraine,* "Contemporary Security Policy" 36 (2), 2005, p. 257.

to Western liberal democratic tradition but also of a particular model of how public security should be delivered.

For another thing, sceptical voices within the EU and the Ukrainian state have criticised the fact that the EUAM is a mission with a low-profile mandate in relation to scope, size, and powers, which reflects the divergent positions within the Union towards the current developments in Ukraine.[11] The establishment of the EUAM was the outcome of a fragile consensus among EU members with opposing interests, which agreed in the setting up of a more technocratic-bureaucratic mission with a narrowed scope, which "distanced itself from any activity which could be interpreted as a direct or indirect contribution to conflict resolution [in Eastern Ukraine], with the military/defence reform treated as the realm of NATO".[12]

The involvement of the EU in Bosnia and Herzegovina and Ukraine through police missions has been matched by a policy of economic and diplomatic incentives, whose target is the prospect of a future EU membership. This approach might be named the "European peacebuilding formula," a sort of carrot-and-stick policy that rewards collaboration in the advance of reforms by stepping up negotiations for a prospective EU candidacy, while punishing non-compliance. Since factual and effective reform of the law enforcement system has

been announced to be one of the key pillars to move both countries closer to the EU membership, such a linkage has been called figuratively as the process of "becoming European through police reform".[13]

Policymaking and Outcome of Police Reform

Despite similarities in their outcomes, police reforms in Bosnia and Herzegovina and Ukraine differ in essence from one to another in the way the adoption of the new law on police took place. The dissimilarity lies in the level of consensus achieved between decision-making actors (also called veto players) and the weight of the influence exerted by external actors over the policymaking process. To a big extent, this is reflected in the kind of policymakers who participated in the reform. In Bosnia and Herzegovina, the EUPM assumed the steering role together with political leaders of the Bosniak, Serb, and Croat constituencies. In Ukraine, state institutional actors took over policy formulation and adoption, in close collaboration with international advisors and civil society actors. It should be noted that in both cases, state actors with veto power (regional authorities, the parliament, the president, and the council of ministers) and the EU were the main actors involved in police reform; what differed was the influence that one or the other actor had on the decision-making stage.

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11 As stated in the letter from the Ukrainian Foreign Minister to the EU High Representative for Foreign Affairs and Security Policy on 8 May 2014, the setting up of a strong-scope CSDP mission with broader defence reform powers and a monitoring task on-site in Crimea and the Donbas was expected. This position was supported by some EU member states such as Estonia, Poland, Lithuania, Sweden, and the United Kingdom. However, other countries, such as France, Germany, Finland, Italy, Hungary, and the Netherlands, opted for a softer mandate, thus avoiding direct confrontations with Russia, in: S. Jayasundara-Smith, *From Revolution to Reform and Back: EU-Security Sector Reform in Ukraine,* "European Security" 27 (4), 2008, p. 459; N. Nováky, *Why So Soft? The European Union in Ukraine,* "Contemporary Security Policy" 36 (2), 2005, p. 249–250.

12 L. Litra et at, *Assessing the EU's Conflict Prevention and Peacebuilding Interventions in Ukraine,* Institute of World Police, Kyiv 2017, p. 34.

13 G. Collantes, *Becoming 'European' through Police Reform: A Successful Strategy in Bosnia and Herzegovina?,* "Crime, Law and Social Change" 51 (2), 2009, pp. 231–242.

International actors involved in the police reforms in Bosnia and Herzegovina and Ukraine come from a wide spectrum: While in the Bosnian case, the EU (by means of the EUPM but also through the "double-hatted" post at the Office of the UN High Representative and the EU Special Representative) played a pivotal role during policymaking, in Ukraine, a confluence of various actors with overlapping agendas is observable. Within the EUAM, actors include the OSCE and experts from Georgia, the United States, the United Kingdom, Canada, and Japan, among others.[14]

> **participation of the EU in the Bosnian and Ukrainian police reform was not limited only to providing advice and funding, but it "manufactured" the agenda of the police reform and imposed it through various mechanisms**

In Bosnia and Herzegovina, after a phase of recertification in the immediate aftermath of war and reorganisation of the federal police forces undertaken by the IPTF during the 1990s, the 2004–2008 police reform under the EUPM auspices focused mainly on building a single structure under the oversight of state-level institutions and adopting a common regulatory framework (in the sense of standardisation and harmonisation of norms) for the police function on a national level. Policymaking of the Bosnian police reform reveals two dynamics of the country's

politics: firstly, the threat or actual use of veto powers by ethno-nationalist groups when their political interests and privileges were at stake; and secondly, the use of a conditionality policy by the EU in negotiations for the signing of a Stabilisation and Association Agreement (SAA) to foster concord among the parties. In this sense, the conditionality policy gave the EU the power to alter, through positive incentives, the behaviour of Bosnian political actors.

After a three-year period of deadlocks and minimal progress due to contradictions among the regional governments, state-level legislators and ministers decided to unlock negotiations and comply with the EU minimal requirements but without greatly altering the power relations framed in the DPA, so "separating police matters from 'statehood' matters and separating the entire process from other components of state and entity government system were mandatory components of negotiation success".[15] The enactment of a batch of three laws on police in April 2008[16] closed a long and dizzying four-year path for restructuring the Bosnian police. Such a step was considered by the EU as satisfactory enough for starting negotiations regarding the SAA two months later.

The policymaking of the 2015 Ukrainian police reform reflects the changes taking place in the arenas of power relations and elite consensus after the Revolution of Dignity. As a result of the return to the parliamentary-presidential system, policy formulation took place within the confines of the legislative branch and the cabinet

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14 This has resulted in coordination problems among actors but also in opposed philosophies of what the new police should look like and which powers should fall on the institution; see: C. Friesendorf, *Polizeireform in der Ukraine. Probleme und Perspektiven (Police Reform in Ukraine: Problems and Perspectives),* "Osteuropa" 66 (3), 2016, p. 108.

15 D. Hadžović et al, *Overview of Policing in Bosnia and Herzegovina,* Center for Security Studies: Sarajevo 2013, p. 24.

16 Namely: 1) Law on Police Officials, 2) Law on Directorate for Coordination of Police Bodies and on Agencies for Support to Police Structure, and 3) Law on Independent and Supervisory Bodies of Police Structure; all laws include at the end the name "of Bosnia and Herzegovina".

of ministers but under direct steering by President Petro Poroshenko, including active consultations and review of draft proposals with external (mainly the EUAM and the OSCE) and civil society experts.[17]

The year of 2014 was decisive for boosting police reform for two reasons. Firstly, a partial reshuffling of the political regime was possible thanks to an elite change after Euromaidan; newly elected MPs with a liberal-democratic, pro-EU, and nationalist orientations were present in the parliament and were willing to cooperate in order to push a swift adoption of reforms.[18] In this sense, higher elite consensus drove to less need for external pressure. Secondly, the police reform was framed within a broader reform package fostered by the central government and the EU after the signing of a bilateral Association Agreement in September 2014 and was at the top of the reform agenda.

In this sense, the EU made use in the Ukrainian case, in the same way as in Bosnia and Herzegovina, of a carrot policy to foster substantive progress of police restructuring, but in contrast to the Bosnian experience, it was about a softer role, since agreement and commitment by decision-makers were on the table. This is why policymaking of the Ukrainian police reform was a fast-track process lasting just eight months from the phase of agenda setting to policy enactment. The core outcome of this process is the Law on the National Police, which came into effect in November 2015, whereby the old militsiya was formally dismantled and the legal ground for organisation of the newly established National Police of Ukraine was defined.

Beyond the fact that the Bosnian and Ukrainian police systems are administratively and functionally organised under a decentralised and centralised structure and command respectively, both laws on police show remarkable similarities concerning regulations on police powers, the use of force and firearms, police career, and accountability and oversight mechanisms over police work. In a broader sense, the agenda of the reform is largely the product of a (subtle and not always explicit) process of "globalization of policing",[19] which manifests itself in two ways. First, the participation of the EU in the Bosnian and Ukrainian police reform was not limited only to providing advice and funding, but it "manufactured" the agenda of the police reform and imposed it through various mechanisms including the continued presence of experts, EU-sponsored NGOs, and think tanks throughout policymaking, the offer of training for police officers and technical assistance programmes, and a conditionality policy as well. These strategies did not only enable reforms to be adopted in complex internal political contexts, but also allowed the standardisation and uniformity of their contents, and therefore they acted as mechanisms for transferring policing ideologies, norms, and practices from one centre to the periphery.[20]

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17 O. Sushko, *Reforming Ukraine: Policymaking after the Euromaidan,* "PONARS Eurasia Policy Memo" 409, 2015, p. 2.

18 F. Felten, *Polizeireform, Revolutionen und Eliten in der Ukraine. Warum hatte der Euromaidan eine Polizeireform zur Folge und die Orangen Revolution nicht? (Police Reform, Revolutions and Elites in Ukraine: Why Did the Euromaidan Lead to a Police Reform and the Orange Revolution Did Not?),* University of Hamburg: Hamburg 2017, pp. 35–36.

19 G. Ellison, N. Pino, *Globalization, Police Reform and Development. Doing It the Western Way?,* Palgrave Macmillan: London 2012.

20 O. Marenin, *The Goal of Democracy in International Police Assistance Programs,* "Policing: An International Journal", (21) 1, 1998, pp. 159–177; A. Antillano, La Reforma Policial. Luces y Sombras (Police Reform. Lights and Shades), Universidad Central de Venezuela: Caracas 2013, p. 39.

Secondly, a standardisation of practices for police service delivery on a worldwide scale is observable after the end of the Cold War, by means of a reproduction in democratising countries of the strategies previously set in motion in consolidated industrial Western democracies under the model of "democratic policing".[21] The democratisation of the police does not aim only at building an inclusive social consensus, but also at combining reasonable and effectively forcible methods to keep public order and to preserve and spread liberal values.[22] In this regard, this model is conceived as a prerequisite for the establishment of a functional liberal democracy and liberal peace and, by extension, a strategy for peacekeeping and peacebuilding in conflict zones.

The EU promoted through the advisory police missions the agenda of democratic policing in Bosnia and Herzegovina and Ukraine (as in other countries where police missions have been deployed as well) and this is reflected to some degree in the scope and nature of the laws on police. Three core features mark this approach: a demilitarisation and depoliticisation of the police and accountability and civilian oversight of police function.

Demilitarisation means the removal of the participation of armed forces in citizen security tasks and in the management of the police and the non-participation of law enforcement agencies in military operations, as well as the non-use of a military structure, training, tactics, and equipment in policing; in other words, all this alludes to a "civilianization" of police service. According to the Bosnian and Ukrainian laws on police, the Ministry of Security and of Interior (respectively) are responsible for managing and overseeing the police function, and any public security function was delegated to the Ministry of Defence. Both legislations frame police powers exclusively in the scope of a preventative maintenance of public order through a service-oriented approach and conducting pre-trial investigation of criminal offences, in opposition to a military-like repressive reaction. In this sense, the use of firearms and coercive or lethal violence by officers is restricted to the protection of human lives and prevention of the occurrence of crime.

Depoliticisation implies making "police forces politically independent, meritocratic, transparent and accountable to the public".[23] To put it in another way, it means setting strict limits on the control of governmental decision-makers over operational policing matters, the definition of strategies for an unbiased police service delivery, and establishing clear regulations on police selection and promotion. In this connection, at the level of management, a clear separation between the relevant ministry and the direction of the police is observed in both laws on police, since the former is responsible for strategic planning and the latter for the operational management of the police.

Moreover, the impartial character of police function without political interference and the orientation of the service to an equal protection of citizens without discrimination are highlighted by law. For this reason, it is significant that the Bosnian and Ukrainian legislations include an explicit statement of the incompatibility of police work with political proselytism and its independence from decisions, statements, and positions of political parties or civil associations. By

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21 N. Pino, M. Wiatrowski, *Democratic Policing in Transitional and Developing Countries,* Ashgate: Aldershot 2006.

22 B. Ryan, *Statebuilding and Police Reform: The Freedom of Security,* Routledge: London 2011.

23 M. Merlingen, R. Ostrauskaite, *The EU and the Democratisation of Policing in Countries in Transition: The Case of BiH,* "População e Sociedade" 11, 2004, p. 137.

extension, police function is defined as a professional public service to be delivered in an impartial and efficient way, aimed at protecting civilians and ensuring law enforcement. In order to make police career meritocratic and transparent, in both laws clear, standardised, and transparent procedures for recruitment, selection, promotion, and suspension of officers are extensively defined.

Lastly, the model of democratic policing emphasises the need to oversee police work by state institutions and citizenry, in order to ensure efficiency and performance by officers in accordance with law and to restrict political interference. Accountability means that "police activity – ranging from the behaviour of single police officers to the strategies for police operations, appointment procedures or budget management – is open to observation by a variety of oversight institutions".[24]

Both Bosnia and Herzegovina and Ukraine advanced to varying degrees in the setting up of accountability and oversight mechanisms over police function. These devices were strongly developed in the Bosnian case, which includes the establishment of Internal Control Departments for continuous monitoring of the performance of police officers and starting disciplinary procedures in case of misconduct. External oversight mechanisms by citizens are set up in the Public Complaint Board, as an independent body comprising representatives from civil society human rights organisations. Such procedures are not laid down in the Ukrainian legislation, where "apart from the annual reports required to police chiefs,

and police commissioners' participation in the hiring process, there is practically no possibility for the public to examine decision-making within the police force".[25] However, the principles of transparency and openness of police activity and normative legal acts to state authorities and the general public are explicitly prescribed under the law.

Building Peace through Policing? Assessment of Police Reforms

Police reforms in Bosnia and Herzegovina and Ukraine were welcome due to their scope and innovative character by some national politicians, the EU, and certain sectors of society at large. However, after years of their enactment, it is hard to identify an optimistic balance of a factual restructuring of the police in both countries. While it is true that these reforms set the foundations for a substantive change in police service delivery, the gap between norms and implementation has so far been huge. Police reform has been conceived essentially as a legal-normative process, but changing social practices within the political system, the police institution, and society is something more complex, and that is where the weakest point lies in both cases.

Reform standards were defined to a large extent by police missions, "sometimes without sufficient consideration of real changes in society and did not provide rapid changes of moral values, habits and daily practices of the police"[26]; this is however a well-documented shortage identifiable in other international police aid schemas. Likewise, the EU opted for

24 OSCE, *Guidebook on Democratic Policing,* DCAF and OSCE Secretary: Geneva 2011, p. 20.

25 B. Harasymiw, *Police Reform: Challenges and Prospects,* [in:] O. Berensen (ed.), Revolution and War in Contemporary Ukraine, Ibidem: Stuttgart 2016, p. 367.

26 V. Zhminko, *Possibilities and Limitations of International Experience in Law Enforcement Reform Implementation in Ukraine,* "National Security and Defence" 2–3 (151–152), 2015, p. 104.

a strong emphasis on the legal nature of reforms in two societies that have not been traditionally distinguished by a strong observance and commitment to the law.

In addition, the EUPM and the EUAM are characterised by a limited scope of the mission, limited to providing advice and technical assistance to the legal reform and to the adoption of complementary legislation, but they lacked extensive implementation powers and had in consequence low leverage in the actual enforcing of reforms. Implementation is in essence a state affair and it depends on internal support, on the stability of the political regime, and on the broader social and political context that provides the conditions to put reform into force.

The shortages in a factual police reform in Bosnia and Herzegovina and Ukraine show common and distinctive features. In the Bosnian case, there are two main explaining factors: the low prospect for the EU accession that could have worked as an incentive for implementing reforms and the instability of the Bosnian state project based on Dayton's schema. On the one side, with the withdrawal of the EUPM in December 2012, the prospect for the EU candidacy became also diffused since negotiations for the SAA had been advancing at an exceedingly slow pace for seven years until it finally came into force in June 2015. Since then, Bosnian candidacy for joining the EU has been rejected by the Union's members since the political stalemate, in which the country has been stuck during the last decade, has limited the advance of many other substantive reforms required for the EU accession.

On the other side, the return of ethno-nationalist hardliners into power in Bosnian politics has meant that political actors have been less interested in advancing reforms than rolling them back. Particularly, obstructionism to move forward with – and even to counter – police restructuring has been exercised by the Bosnian-Serb constituency. In the Republika Srpska, and later in the Federation, there were repeated attempts during 2011–2012 to set aside the regulations of the law on police through federal legislation, but these were restrained under EUPM pressure.[27]

In addition, a de facto militarisation and politicisation of the Republika Srpska police is observable since 2014, which has meant a direct intervention by right-wing politicians in the operation and a military rearmament of the police, and even the unconstitutional establishment of a gendarmerie attached to the Ministry of Interior in September 2019.[28] To sum up, the Bosnian experience provides us with the lesson that police reform may be propelled in a top-down fashion by means of an attractive carrot policy, but such reforms are doomed to fail if incentives are any longer on the table and if reforms are not structurally supported by the political national elites.

In the Ukrainian case, it is too soon to talk about a counter-reform of policing as in the Bosnian experience, since it is still in an early stage, but three explaining factors causing a stalemate in its implementation during the Poroshenko administration (2014–2019) may be identified. Firstly, police reform was welcomed by one important sector of the population (mainly among the pro-reform political elite and the pro-European upper

27 B. Weber, *The Police Forces in BiH – Persistent Fragmentation and Increasing Politicization,* "AI-DPC BiH Security Risk Analysis Policy" 6, Democratization Policy Council and Atlantic Initiative: Berlin 2015, pp. 8–9.

28 R. Bajrović et al, *Bosnia on the Chopping Block: The Potential for Violence and Steps to Prevent it,* Foreign Policy Research Institute, March 2018 [https://www.fpri.org/article/2018/03/bosnia-russian-chopping-block-potential-violence-steps-prevent/ access: 19 December 2019].

and middle social class in big cities), since it met their expectations of a model of policing that resembles Western European patterns.

At the same time, it was met with scepticism by another segment of society, of the state administration and the police institution itself. Thus, on the one hand, competing and divergent agendas among conservative and reformist politicians and bureaucratic actors have resulted in a stalemate in the advance of the police reform. Some of the most conservative politicians, particularly the minister of the Interior, Arsen Avakow, continue to exercise a strong influence and patronage over the police (still inclusive in the apparently pro-reformist administration of President Volodymyr Zelenskyy), calling into question the factual depoliticisation of the institution.[29]

On the other side, setting into motion the new police model brought about a clash within the institution between the old militsiya and new officers, which provoked resistance to embracing change and even boycott.

Secondly, opponents of the reform consider it unsuitable to meet the real security needs of the country, signified by an open armed conflict. The war in Donbas and the conflict with Russia act as obstacles to the demilitarisation of the police, since a considerable part of the security sector forces is tied up indirectly or directly in the conflict. Moreover, the armed conflict confronts the security apparatus with challenges (such as growth of street gangs, paramilitary and parapolice groups, terrorist attacks, organised crime, and smuggling of goods and weapons) that the new police seem unable to meet, since they are tied to a more service-oriented and preventative model.[30]

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And thirdly, the narrow mandate, technical-bureaucratic character, and restricted financial support by the EUAM have produced frustration among local stakeholders, who have complained of the lack of hands-on advice, training, and projects by the EU that could enable the putting into practice of the new police model. After a strategic review in autumn 2015, the EUAM was endowed with powers to support implementation of law enforcement reform by adding to its mandate operational and training activities as well as community policing projects, and only as of early 2016, the Ukrainian national police was enlisted within the mission's beneficiaries.[31]

Balance

In Bosnia and Herzegovina and in Ukraine, the EU has made an effort to institutionalise the core principles of democratic policing by means of actively influencing the content of the laws on police and setting out the guidelines for a demilitarised, depoliticised, and service-oriented police service delivery. Endeavours by the EU have focused on

29 T. Goncharuk, *Erfolge und Probleme der Polizeireform in der Ukraine (Successes and Problems of the Ukrainian Police Reform),* "Ukraine Verstehen", 4 June 2018
[https://ukraineverstehen.de/gontcharuk-polizeireform-ukraine-erfolge-probleme/ access: 12 January 2020].

30 C. Friesendorf, *Polizeireform in der Ukraine. Probleme und Perspektiven (Police Reform in Ukraine: Problems and Perspectives),* "Osteuropa" 66 (3), 2016, p. 104.

31 EUAM, *Progress in Reform* [http://www.euam-ukraine.eu/our-mission/progress-in-reform/ access: 15 January 2020].

> ❝ *This is part of a broader EU strategy aimed at promoting liberal peace in its immediate neighbourhood, since by improving the quality of policing the EU aims at supporting democratisation and socio-political stability*

supporting the transformation of the Bosnian and Ukrainian police from agents of coercion linked to the interests of local elites to providers of an unbiased protection to citizens based on the rule of law and guarantors of civil rights.

This is part of a broader EU strategy aimed at promoting liberal peace in its immediate neighbourhood, since by improving the quality of policing the EU aims at supporting democratisation and socio-

political stability. However, a partial balance of the implementation shows stagnation (in the Ukrainian case) or even reversion (in the Bosnian case) of reforms. This is the result of the incapability of the EU to remain an influential actor throughout the implementation path and, above all, of the lack of internal support and political stability in the internal context in which the reforms are taking place.

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