

Bosnia-Herzegovina

Amnesty International's recommendations on the European Union Police Mission - Memorandum to Javier Solana, Secretary General of the Council of the European Union

1. The establishment of a human rights department in the EUPM organizational structure

Amnesty International strongly recommends that a separate unit in the organizational framework of the EUPM is dedicated to issues relating to the promotion and protection of human rights. This unit should take the lead in coordinating the EUPM's activities in assisting, monitoring and supervising the work of the entity and Brèko District police and security forces – as well as present and future law enforcement agencies on the state level – with regards to investigations into human rights violations (see also below under section 2). As was the case with the Human Rights Office (HRO) of UNMIBH/IPTF, ideally this unit should have a subdivision which would equally be empowered and sufficiently resourced to launch direct and independent investigations into human rights violations – including those allegedly committed by police officers or public officials.¹ In addition, Amnesty International suggests that the unit carries out other important functions relating to human rights, in particular the coordination of human rights training, the regular reporting on human rights issues and the coordination of efforts in combating human rights abuses which occur in the context of trafficking of women and girls for the purposes of prostitution.

The unit should be staffed by properly qualified and selected police and legal investigators with extensive hands-on experience in investigating human rights violations by state agents, including direct violations and failures to protect people against abuses by non-state agents. Amnesty International believes that the experience of the HRO has shown that it is possible and advantageous to integrate the skills of police and non-police monitors. Lessons learnt with regards to the establishment and operation of the HRO should therefore be a crucial element of the institutional handover between the two missions.

Amnesty International fully recognizes the many positive developments which have taken place since the deployment of UNMIBH/IPTF immediately after the war, and the situation now faced by the EUPM is in many respects one that differs significantly from the state of affairs in early 1996. For this reason, Amnesty International believes that one of the priority tasks of the human rights department of EUPM should be to build on efforts already undertaken or completed by the UNMIBH/IPTF HRO. Current organizational planning for the EUPM in this area appears to be built upon the premise that human rights issues should be mainstreamed

¹ At present, the Mission Statement for the EUPM, as outlined in Annex 1 to the EU Council of Ministers' Meeting on General Affairs, 6247/02 (presse 30-G), envisages that EU police monitors undertake criminal investigations into corruption cases and may be involved to an unspecified degree in efforts to investigate and counter "the full range of criminal activities, including organized crime and terrorism". (Report of 2409th meeting of the General Affairs Council, Brussels 18/19 February 2002, 6247/02 (presse 30-G, page 19).

into all operational work of the EUPM. However, a specialized department focusing on issues central to the investigation of ethnic and war-time related violations of international human rights standards, proved to be a critical condition in enabling UNMIBH to respond to such issues and achieve some initial results.

This is particularly important in the light of Bosnia's accession to the Council of Europe on 24 April 2002, and its ratification of the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) and its Protocols, and the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment.

Amnesty International has also been informed that in UNMIBH's experience the excessive reliance on co-location has not been conducive to proper investigations of incidents, including human rights violations. The close daily interaction between co-locators and local police is said to have caused a tendency to overly identify with the local police interlocutor who rendered it difficult to objectively monitor and investigate patterns of misconduct and institutional deficiencies.

1.1 Amnesty International recommends that the EUPM builds on the findings of the Systems Analysis of Law Enforcement Agencies Project, carried out by the UNMIBH/IPTF HRO, which has provided a comprehensive overview and detailed assessment of issues related to the **institutional integrity of Bosnian police administrations**. The assessment covered multiple areas including organizational management, personnel and performance assessment, finance and administration issues, as well as operative policing standards and practices. Amnesty International urges that this effort - which was apparently carried out with the overall support and involvement of the police force - be sustained over the long-term in order to foster a climate of cooperation.

As part of the Systems Analysis project, a series of regulations and Books of Rules were developed for adoption by all law enforcement officials, in order to harmonize key aspects of police work throughout the country, to raise police work to a common minimum standard, and to assist nationwide integration. A harmonized rank structure was established throughout the country, and standardized regulations for recruitment, training, performance assessments and career advancement were introduced

. Furthermore independent oversight and review procedures were set up in the disciplinary mechanisms through the establishment of Public Complaints Bureaus.

In particular Amnesty International recommends that the EUPM follows the inclusive approach employed by this project, and develop follow-on plans for specialized annual audits and institutional inspection reviews, in particular monitoring the **performance of the disciplinary mechanisms for internal investigations into misconduct of the police forces**, mentioned above. These measures should take into account strategies that are being developed and implemented by other actors in the international community, with a view to sustaining the local capacity built so far.

1.2 Amnesty International urges that the EUPM human rights department take the lead in facilitating the establishment of **independent police complaints bodies at entity (and future state) level**, and that the EUPM exercises its authority to ensure that individuals serving in these bodies are of proven professional and personal integrity. The organization has recommended the establishment of such bodies in many countries in the world as an

important tool in redressing human rights violations by law enforcement officials and increase confidence in the community through the explicit recognition that no one, including no law enforcement official, is above the law.

Amnesty International understands that legislation enabling the creation of police complaints bodies has been prepared in the Republika Srpska (RS) and in Canton 1 (Una Sana Canton). The proposed legislation in the RS reportedly envisages this body to consist of five members, including one serving police officer, one member of a minority community and one woman. In the initial stages of implementation of these laws, close monitoring of the police complaints bodies will be necessary in order to ascertain that they are adequately and professionally resourced. They should also be empowered to undertake prompt, impartial, independent and thorough investigations into alleged human rights violations by law enforcement officials, as required by international human rights law.

1.3 The UNMIBH Arrest and Custody project resulted in the introduction of new and uniform procedures for **record keeping of persons in police custody**, based on European standards. The UNMIBH/IPTF HRO has consistently monitored the implementation of these procedures to ensure that they were internalized by police officers and other in the criminal justice system. This monitoring needs to be pursued as a matter of priority by the EUPM in order to maintain the substantive achievements on this important progress, which is vital to ensuring that persons in custody are afforded their rights as guaranteed by the ECHR and domestic law.

1.4 The human rights department should play a leading role in devising and developing consistent and continuing curricula of **training in human rights and national law**, for both newly certified as well as serving police officers. Again, expanding on from the numerous training programs that were carried out or supported by UNMIBH, the emphasis should be on ensuring that human rights and other forms of professional training are fully integrated in the operational functioning of the police force, rather than limited to a series of one-off sessions. It is imperative that any police monitors serving in the EUPM should also have undergone comprehensive and consistent training in international human rights standards, as well as local law.

In this regard Amnesty International recommends that particular emphasis be given to devising a long-term training program on international standards and local law relating to the arrest, detention and questioning of persons and to the use of force and fire-arms. It should also include training on law and standards on investigations into any alleged violations of such standards or national provisions and on bringing to justice people suspected of such violations.²

² These standards include : the European Code of Police Ethics (Recommendation 10/2001 of the EU Council of Ministers, 19 September 2001), the UN Code of Conduct for Law Enforcement Officials (Resolution 34/169 of the UN General Assembly, 17 December 1979), the UN Guidelines for the Effective Implementation of the Code of Conduct for Law Enforcement Officials (Resolution 1989/61 of the Economic and Social Council, 24 May 1989), the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (adopted by the Eight UN Congress on the Prevention of Crime and Treatment of Offenders, 7 September 1990), and the UN Principles on the Effective Prevention and Investigation of extra-Legal, Arbitrary and Summary Executions (Annex to Resolution 1989/65 of the Economic and Social Council, 24 May 1989).

Such a program should also incorporate training and support for police officers responding to reports of identity-based violations and abuse, in particular violence against women and children, and harassment of and attacks against minority returnees or other marginalized groups such as Roma and members of the gay and lesbian community. Police forces engaged in detaining, questioning or the deportation of refugees or migrants should receive training with the express focus on safeguarding the rights and dignity of these people.³ To ensure consistency in monitoring and advice rendered to the local authorities, IPTF reportedly ran a monthly human rights training program for its human rights monitors, in collaboration with the Office of the High Commissioner for Human Rights. It is recommended that the EUPM continue similar programmes for its personnel.

1.5 Amnesty International has long held the view that international monitors should neither be silent witnesses to continuing human rights abuses, nor become complicit in the failure to investigate past abuses, including those which were committed during armed conflict.⁴ Therefore, an important role of the human rights department should be to ensure **regular public reporting on human rights issues and on the progress of institutional development of the police**. Such reports should contain information on the status and findings of investigations into individual cases, including those conducted by the local police forces and by EUPM's own investigational unit. These reports should be made available to the public at large and to UN expert bodies dealing with human rights including treaty monitoring bodies, and should provide assessments of the degree to which the recommendations made to the police administration for the protection of human rights have been implemented.

1.6 In light of the serious and ongoing concerns about **human rights abuses committed against women and girls in the context of trafficking and forced prostitution**, Amnesty International strongly recommends that a sub-unit is established within the human rights department which would coordinate the efforts of the EUPM, the Bosnian authorities and other international organizations. These efforts should focus in particular on the need to bring to justice the perpetrators of human rights abuses in the context of trafficking and to provide comprehensive and effective protection for the victims. Recognizing the scope and complexity of the problems associated with trafficking and the number of victims involved, Amnesty International would suggest that as far as possible the work of the sub-unit be guided by work already undertaken by and coordinated with organizations with previous knowledge and expertise in this field, such the Office of the High Commissioner on Human

³ Training should build upon provisions contained in relevant international standards, including: the UN Standard Minimum Rules for the Treatment of Prisoners and Procedures for the Effective Implementation of the Rules (Adopted by the First UN Congress on the Prevention of Crime and the Treatment of Offenders, 1955), UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (UN General Assembly Resolution 43/173, 9 December 1988), UN Rules for the Protection of Juveniles Deprived of their Liberty (UN General Assembly Resolution 45/113, 14 December 1990), the UN Convention on the Rights of the Child (UN General Assembly Resolution 44/25, 20 November 1989), and the UN Convention relating to the Status of Refugees (UN General Assembly Resolution 429(V), 14 December 1950).

⁴ See Amnesty International: *Peace-keeping and Human Rights*, (AI Index: IOR 40/01/94) of January 1994, which presents a 15-point Program for international peace-keeping missions, of which points 2 and 4-7 are particularly relevant to this issue.

Rights (OHCHR), and the Special Trafficking Operations Programme (STOP) which was set up by UNMIBH/IPTF HRO in 2001.

The organization understands that it has been proposed to undertake an independent evaluation of the STOP team's working methods and achieved results. Amnesty International would support such an initiative, considering it an important step in ensuring that the results gained so far are consolidated. Such an audit would also be of great assistance to the EUPM's future role in supervising and assisting the Bosnian police forces in order to counter human rights abuses and other crimes committed in the context of trafficking and forced prostitution, as well as to meet the protection needs of women and girls entrapped in these circumstances.

In connection to its recommendations on the issue of protection of vulnerable victims and witnesses (see below under section 3), the organization urges the EUPM to use its good offices in facilitating the resettlement in third countries of women and girls who were trafficked, subjected to forced prostitution, or who fear reprisals as a result of testifying in criminal proceedings. Such resettlement measures should be applied to both Bosnian and foreign women, bearing in mind that they face a serious risk of persecution and harassment in their home countries.

2. EUPM's role in investigations into human rights violations, including supervision and monitoring of investigations by Bosnian police

The UNMIBH/IPTF HRO has engaged extensively in the supervision and monitoring of investigations of alleged human rights violations undertaken by domestic police, as well as carrying out its own investigations. UN Security Council Resolution 1088/1996 explicitly re-affirmed the approach favoring greater involvement, requesting the Secretary General to report in particular on the IPTF's engagement in "... investigating or assisting with investigations into human rights abuses by law enforcement personnel". In his most recent report to the Security Council, the UN Secretary-General, Kofi Annan, acknowledged that "[w]hile UNMIBH will complete its core mandate by the end of 2002 ... the systematic weakness of the rule of law in Bosnia and Herzegovina, and continued obstruction, interference and political activities of entrenched political extremists and criminal organizations will require continued international attention. There will be a need for monitoring of and assistance to local police to preserve what UNMIBH has achieved and to ensure further progress towards the rule of law."⁵ In the same report the Secretary-General notes that "... police investigations into high-profile inter-ethnic crimes, and subsequent judicial follow-up, remained inadequate" citing as an example the lack of prompt investigations and prosecutions into serious physical attacks in Banja Luka in May 2001

⁵ Report of the Secretary General on the United Nations Mission in Bosnia and Herzegovina, S/2002/618, 5 June 2002, at Paragraph 36. In the *Ferhadija* case, Amnesty International remains seriously concerned that RS police failed to investigate promptly and thoroughly the rioting on 7 May and 18 June 2002. Only as a result of consistent pressure by IPTF/HRO was the case investigated by the RS police, leading to the conviction of 14 individuals for sentences ranging from 2 to 13 months on 22 October 2002. No one has as yet been brought to justice for the death of an elderly Bosniak man, or for organizing the violence.

during the opening ceremony of the rebuilding of the *Ferhadija* mosque.⁶

Amnesty International has observed in numerous cases that investigations by local police were only undertaken in a more serious fashion after consistent pressure from and with the continuing assistance of UNMIBH/IPTF monitors. Amnesty International, as well as other human rights organizations, deployed in the field, share the concerns expressed by the UN Secretary-General in his latest report on the mission. In view of these concerns, the organization urges you to ensure that these important functions will be explicitly included in the EUPM's mandate or final mission statement.

Amnesty International has had long-standing concerns about a number of cases of serious human rights violations, committed both during and since the war. Police investigations in such cases, in as far as they have been launched, were apparently carried out in a summary manner. In some other cases, investigations are ongoing and appear to be meeting the required standards of impartiality and thoroughness – albeit largely as a result of prolonged pressure by and assistance of UNMIBH/IPTF staff. There have also been persistent problems in obtaining the unconditional and effective cooperation of the police forces of both entities, which in many cases undermined such investigations and resulted in the continued impunity for those responsible.

Below we will list a range of cases we consider to be of particular importance with the explicit request that the EUPM take over the monitoring and mentoring role played by UNMIBH/IPTF so far:

2.1 Cases of “disappearances” which occurred during the armed conflict

According to recent figures published by the International Committee of the Red Cross, over 17,000 persons remain unaccounted for almost seven years after the formal end of hostilities in Bosnia-Herzegovina. Amnesty International believes that many of these people were “disappeared” in the sense that they were last seen in the custody of the military, the police or paramilitary groups, who have so far declined to provide the victims' relatives with any information on their fate and whereabouts. It is feared that the majority, if not all, of those unaccounted for are no longer alive, having fallen victim to extra-judicial executions and unlawful killings. A growing number of such cases has been partly clarified through the exhumations of mass graves and the identification of mortal remains – however in many other cases there are few prospects that the bodies of the “disappeared” will ever be found.

“Disappearances” are crimes under international human rights law, as well as under humanitarian law.⁷ In addition, the Human Rights Chamber of Bosnia-Herzegovina has held

⁶ Ibid. at Paragraph 7.

⁷ The UN Declaration on the Protection of All Persons from Enforced Disappearance states that “[a]ny act of enforced disappearance is an offence to human dignity. It is condemned as a denial of the purposes of the Charter of the UN and as a grave and flagrant violation of the human rights and fundamental freedoms proclaimed in the Universal Declaration of Human Rights” (Article 1). “Disappearances” amount to a crime against humanity when perpetrated as part of a deliberate and systematic attack against the civilian population and have been included in the 1998 Rome Statute of the International Criminal Court.

in a small number of cases which it found admissible under its time-restricted mandate – that “disappearances” violated a number of rights enshrined in the ECHR. The Chamber instructed in such cases that the relevant entity authorities (in all cases the Republika Srpska - RS) institute an immediate investigation and pay the family of the victim compensation.

One of these cases concerns the “disappearance” of **Father Tomislav Matanoviæ and his parents Josip and Bo_ena** in September 1995, after having been detained by Bosnian Serb police. These three persons, who were of Bosnian Croat origin, were apparently handcuffed and shot at close range before being dropped in a well in a hamlet near Prijedor. Although the Human Rights Chamber had ordered the RS authorities to start an immediate investigation into the case in 1997 and report back on any findings within three months, no serious attempts to resolve the case were made for three years. In late 2000, after consistent pressure from UNMIBH, a new team of police investigators reopened the case. After the discovery of the bodies and additional evidence linking a number of former officers in the Prijedor police force to the illegal detention of the Matanoviæ family, the investigating team turned the case into a murder investigation. In May 2002, RS police arrested five former police officers in Prijedor, on suspicion of their involvement in the illegal detention of the victims, which amounts to a war crime against the civilian population under criminal legislation in force at the time.⁸ The initial indictment, it should be noted, was submitted only after sustained intervention by the UNMIBH/ IPTF HRO.

The Matanoviæ case marked the first decisive action of both the RS police and judiciary in a “disappearance” case. However, according to the information available to Amnesty International, while the police investigation into the murder of the Matanoviæ family is ongoing, progress has been painstakingly slow. Despite new evidence which apparently was discovered in late May this year, which is said to implicate 21 additional Prijedor police officers (some of whom were still in active service at the time), investigations into the alleged criminal liability of these new suspects were apparently not conducted promptly and thoroughly, and only in late August were new files on these additional suspects reportedly forwarded to the Office of the Prosecutor at the Tribunal, again only after arduous and sustained intervention by IPTF/HRO and the Criminal Justice Advisory Unit (CJAU).⁹ The Matanoviæ investigation has been extensively supervised and monitored by UNMIBH and IPTF monitors and presents one of the most successful and ground-breaking achievements of the Human Rights Office. The circumstances of the case, in particular the challenges faced by local police in investigating their own former or current colleagues, and the local political and social climate of increasing returns of the pre-war non-Serb population which exacerbated underlying ethnic tensions, makes the progress achieved, albeit slowly, all the more commendable. At the same time, the case provides a compelling argument for the

⁸ Prior to the arrests, the RS Public Prosecutor had referred the investigation files to the Prosecutor at the International Criminal Tribunal for the former Yugoslavia (Tribunal), according to the Rules of the Road procedures which apply to domestic war crimes prosecutions in Bosnia-Herzegovina. The Tribunal Prosecutor determined that there was sufficient evidence to proceed with a criminal prosecution as far as the allegations of illegal detention were concerned but found that additional evidence needed to be obtained to substantiate the suspects' involvement in the murder of the Matanoviæ family.

⁹ Local media reports quoted Alun Roberts, UNMIBH spokesman, who stated that the police report had been forwarded to the Tribunal after a delay of eight weeks.

continuation of close supervision of and support for the ongoing police investigation, which runs a substantial risk of being undermined or compromised if left to the local authorities.

The case has also highlighted the need to combine the sustained monitoring of criminal investigations with the careful analysis of judicial proceedings. The Matanovic case has featured an apparent strategy for effective investigative actions by the police followed by almost abysmal performance at the judicial phase. The effective monitoring and intervention of IPTF/HRO and CJAU reportedly prevented the case from collapsing in the initial judicial investigation after the five suspects were arrested. With Rules of the Road clearance still pending for the case against the remaining 21 individuals, there is a very high probability that subsequent judicial proceedings will again be substantially weakened in the absence of monitoring and supervision by the international community, which was so far exercised by IPTF/HRO and CJAU. (see also section 3).

As has been noted above, the Matanovic case is one of the few examples where the Human Rights Chamber found violations of the ECHR and consequently ordered an investigation. In the majority of cases the Chamber has ruled that it had no jurisdiction *ratione temporis*, and those left in the wake of the "disappearance" therefore have few prospects of ever obtaining information on the fate and whereabouts of the victims, let alone bringing those responsible to justice. Amnesty International has taken up a number of such cases and apparently in one instance the organization's repeated appeals for over five years have led to some results. This concerns the "disappearance" of the Višegrad school headmaster **Himzo Demir**, a Bosnian Muslim who was abducted in May 1992 by Bosnian Serb paramilitaries. In April 2002, Mr Demir's wife was interviewed by a crime inspector from the Višegrad police, reportedly on instructions from the RS Ministry of the Interior. In a subsequent interview with the District Public Prosecutor for Srpsko Sarajevo in May, an Amnesty International delegate was told that his office had been made aware of the case as well. Despite requests by the Amnesty International membership to be kept informed about the status and progress of the police investigation, no such details have been forthcoming from the RS Interior Ministry as yet.

The organization has some serious concerns about the police investigation in this case, and fears that it may have been set up to fail from its outset. Amnesty International is informed that currently there is just one junior inspector working on the investigation, without any apparent operational or authoritative backup within the Višegrad police administration. Amnesty International believes that a preliminary investigation into all aspects of the case should include the questioning of a number of local Serbs who reportedly witnessed the abduction and some subsequent events. Most of these persons are currently living in the relatively small Višegrad municipality in which opposition to the prosecution of war-time violations committed by the Serb side has been particularly vigorous. A number of alleged perpetrators, including suspects, indicted by the Tribunal, reportedly remain in the wider area in positions of considerable political and economic power. Attempts by the NATO-led Stability Forces (SFOR) to arrest some high-level suspects have been unsuccessful as these individuals were allegedly able to move back and forth without difficulty across the nearby border with the Federal Republic of Yugoslavia (FRY).¹⁰

¹⁰ *Decision to unseal the indictment against Milan and Sredoje Lukic*, in the case No. IT-98-32-PT, 30

Amnesty International is concerned that the Demir investigation may become a short-lived, haphazard effort, which will fail to produce any meaningful findings. Should the investigation be stymied in its early stages, then this will have negative consequences for any future investigations in the many outstanding cases of “disappearances” and other human rights violations committed during the war in this area. Amnesty International therefore recommends that the EUPM give due and long-term attention to monitoring and supervising this and other investigations.

2.2 Cases of return-related and ethnically-motivated violence

Despite an overall marked decrease in the numbers of violent incidents in the context of the return and reintegration of minority returnees, Amnesty International remains concerned about the security of minorities, in particular in hard-line areas in the Republika Srpska and parts of the Federation. Such concerns have been consistently echoed by the periodic reports issued by the Human Rights Task Force, which repeatedly have pointed to the fact that the lack of thorough police and judicial investigations into physical attacks against minorities – many of them clearly carried out in an organized fashion – resulted in the perpetrators enjoying impunity and implicitly encouraged further incidents.

Several older cases concerning serious attacks against the life and property of minorities remain unresolved, although police investigations were launched, in all cases supervised and assisted by UNMIBH/IPTF. One such case, which is still pending before the local court, is the so-called **Liska Street incident of February 1997**, in which one elderly Bosniak man was shot dead and some 20 others were ill-treated, allegedly by Bosnian Croat special police officers.

Amnesty International recalls that, in the immediate aftermath of the Liska Street incident, the international community announced the prosecution of those responsible for the violence an absolute priority. On 11 March 1997, the UN Security Council issued a statement, supporting the findings of an investigation by UNMIBH/IPTF into the case, as requested by the Bosnian Federation and state authorities as well as the Principle Deputy High Representative, Michael Steiner, two days after the incident.¹¹ The Security Council expressed deep concern about “... the failure to date of the responsible authorities to take all the necessary steps to implement the conclusions drawn from that report” and demanded that the authorities “... suspend all relevant police officers and arrest and prosecute them without delay”. Furthermore the Security Council noted that the above named authorities had agreed to “... accept and endorse the report in full, and to draw the necessary conclusions for the arrest, bringing to trial and dismissal for those found responsible for instigating or participating in violent acts.”¹² Despite this high-level international involvement, a subsequent trial conducted before the Mostar Cantonal Court (which was at the time divided

October 2000.

¹¹ Statement by the President of the Security Council, S/PRST/1997/12, 11 March 1997.

¹² This agreement had been obtained during a meeting in Sarajevo on 12 February 1997, attended by the State and Federation Presidents, the State and Federation Prime Ministers, the Mostar Mayor and Deputy Mayor and other officials, chaired by Mr Steiner. The text of the agreement is reproduced in Appendix 1 to the *Letter dated 7 March from the Secretary General addressed to the President of the Security Council* (S/1997/201).

along ethnic lines) resulted in the convictions of three Bosnian Croat police officers, who were given suspended sentences for the offence of ill-treatment in the course of duty; two others were acquitted. The proceedings were described by international monitors as seriously flawed, as the prosecution had, among others, not included the findings of the IPTF report in this case.¹³

In April 1999, the Herzegovina-Neretva Canton authorities ordered a renewed investigation into the case, after consistent pressure by the international community. A new investigation team, composed of four Bosnian Croat and four Bosniak police officers was instructed to carry out a rigorous and impartial investigation based on the 1997 IPTF report, and to report and submit any new evidence to the Mostar Cantonal Public Prosecutor. This was reportedly done in the course of 2000. Subsequently judicial proceedings were opened but these came to a virtual halt when the Mostar Cantonal Court ruled in early 2002 that the 1997 IPTF report was not admissible as evidence. The court also refused to accept photographic evidence because it had been marked by the IPTF. When prosecution witnesses were unable to identify the suspected perpetrators (all of whom were former police officers) the case all but collapsed. As far as Amnesty International is aware, an appeal by the Public Prosecutor to the Federation Supreme Court in this matter remains pending.¹⁴

The Liska Street incident highlights the ongoing obstruction of the rule of law, including through the lack of accountability of government and law enforcement officials who are suspected of criminal offences. The case demonstrates the need for independent and impartial police investigations which can form the basis for the prosecution of those responsible for human rights violations. Furthermore, it highlights the need for continued monitoring of criminal proceedings after charges have been brought in order for a prosecution to be impartial and effective. Below (see section 3) Amnesty International therefore recommends that a separate unit be set up which is tasked with monitoring judicial proceedings in cases of human rights violations.

2.3 Torture and ill-treatment by police

The presence of IPTF officers co-locating in police stations throughout Bosnia-Herzegovina, in particular IPTF attendance during police questioning and interviews has apparently acted as an effective deterrent against torture and ill-treatment in cases where there were concerns that the witness or suspect might be subjected to coercion. In addition, persons who had been ill-treated by police both inside and outside police stations were able to channel complaints through the IPTF. Direct UNMIBH/IPTF HRO involvement in investigating high-profile cases of police torture of suspects who were held in arbitrary detention led – though after considerable delays – to some of those responsible being brought to justice.¹⁵

¹³ The IPTF *Report in Pursuance of the Decisions on Mostar of 12 February 1997*, prepared by a Special Investigation Group of the UNMIBH Headquarters, led by Robert Wasserman, called for the dismissal, arrest and prosecution of the five West Mostar police officers, including the Deputy Chief. Four of them had been photographed with their weapons drawn during the shooting, and witnesses alleged that one was seen firing into the crowd.

¹⁴ Interview with Mostar Cantonal Deputy Public Prosecutor, May 2002.

¹⁵ For example, the investigation into the murder of the Pale Deputy Chief of police, Srdjan Kne_eviæ,

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Nevertheless, Amnesty International is concerned that police ill-treatment is significantly under-reported, as often victims – particularly suspects in ongoing criminal prosecutions – fear repercussions after bringing complaints. It appears that only in extremely severe cases criminal investigations are launched, as demonstrated by the case of 18-year-old Stevan Golijanin, who was reportedly tortured by police in Trnovo in September 2000, and who subsequently committed suicide. Amnesty International understands that the case was investigated by UNMIBH/IPTF after the mother of the victim approached them, and that recently two police officers have been decertified because of their alleged involvement in the torture. A criminal investigation into the case was reportedly stymied as a result of the fact that police eye witnesses were unwilling to testify and the local investigative judge failed to order an autopsy of the victim's body.¹⁶

Amnesty International recommends that the EUPM give due consideration to the investigation of complaints of torture and ill-treatment by law enforcement officials and that preventive measures are taken on a country-wide scale. These should include, as part of the overall external reporting function, public reporting on such cases that have come to the attention of EUPM officers. In view of Bosnia's recent accession to the ECHR and to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment, or Punishment, all cases of torture and ill-treatment should also be forwarded to the European Committee for the Prevention of Torture (ECPT) which monitors states' adherence to the latter treaty.

2.4 Criminal investigations into alleged criminal responsibility of decertified police officers

Over 200 police officers have been dismissed by successive IPTF Commissioners over the past years, reportedly about a quarter of them in connection with allegations of involvement in violations of international humanitarian law during the war.¹⁷ Amnesty International is not aware that any investigations were opened by the responsible authorities following these dismissals, despite several public statements by UNMIBH officials that it was the duty of the local criminal justice system to do so.

The organization recommends that EUPM establish effective mechanisms through which the human rights unit recommended by Amnesty International can monitor and supervise criminal investigations relating to law enforcement officials who have been dismissed on allegations of war crimes and other violations of international humanitarian law

during which six former RS police officers who tortured a number of witnesses and suspects in August 1989; they were finally tried and convicted by the Sokolac Basic Court in May 2001. They were given sentences of up to 11 months' imprisonment. See also *Interrogation Techniques Employed by Republika Srpska Law Enforcement Officials in the Srdan Knezevic murder investigation*, 21 January 1999, HRO1/99.

¹⁶ Following pressure from UNMIBH, an autopsy has now apparently been ordered.

¹⁷ According to the information available, so far in 2002, a total of 60 officers were dismissed from the police forces on such grounds, some of them had been in positions of superior authority during the war; information on these individuals' war-time activities was reportedly submitted by investigators of the Office of the Prosecutor at the Tribunal.

and human rights standards. These mechanisms should naturally take due account of the activities of the police complaint bodies, referred to in section 1.1. In this respect, the EUPM could play an important coordinating role between local police and (international) investigators working under the State Prosecutor in the proposed separate Division at the State Court which will be prosecuting violations of international humanitarian law. Amnesty International understands that the proposal to establish this new division, which would take on cases referred to it by the Tribunal, and which was developed by a team of consultants commissioned by the Office of the High Representative, was recently adopted by the Peace Implementation Council.

In May 2002, Amnesty International sent a memorandum to the new High Representative, Lord Ashdown, outlining a number of recommendations relating to the proposed mechanism for future war crimes prosecutions and called, among other things, for further involvement of the international community in ensuring that the domestic criminal justice system would be empowered to undertake war crimes prosecutions concurrently with the State Court.¹⁸

3. Creation of a separate unit to facilitate effective cooperation with the judiciary

In view of the above recommendations, and in the context of the comprehensive legal reform process taking place currently in Bosnia-Herzegovina, Amnesty International recommends that a specialized unit be established in the EUPM to be tasked with the day-to-day monitoring and supervision of criminal proceedings – in particular those pertaining to violations of human rights and international humanitarian law. Particular emphasis should be placed on achieving effective and unconditional cooperation of local police investigators in domestic judicial proceedings in relation to human rights violations and violations of international humanitarian law.

In addition, this unit could play a key role in assisting the establishment of a system of witness protection, which is envisaged for the nascent IHL Division at the State Court. In its memorandum to the High Representative, Amnesty International stressed that measures of witness protection should not be limited to proceedings ongoing before the State Court, but should include the obligation of the entity Interior Ministries to provide effective protection for all those testifying in war crimes prosecutions before local courts. Amnesty International recommended that a nation-wide protection program be set up in close cooperation with the Office of the Prosecutor and the Victims and Witnesses' Unit at the Tribunal and with effective national witness protection programs, such as those in the USA, the UK and Italy. In addition, this unit would be ideally placed to initiate and coordinate measures, wherever appropriate, to resettle vulnerable witnesses, at risk of reprisals, in third countries.

¹⁸ See *Memorandum to the High Representative of Bosnia-Herzegovina: Amnesty International's concerns and recommendations regarding domestic prosecutions for human rights violations and other violations of international humanitarian law committed during the armed conflict in Bosnia-Herzegovina*, AI Index: EUR 63/009/2002.

4. Mechanisms for internal accountability

The EUPM should set the standard for a sustained improvement in the professionalism of Bosnian law enforcement agencies in their commitment to serve and protect all Bosnian citizens. These principles are reflected in the proposed mission statement of the EUPM which emphasizes several times that during its proposed three-year mandate it will focus its efforts on enhancing accountability and transparency.

Amnesty International strongly believes that the international community should take the lead in demonstrating that no one is above the law or exempt from accountability for their actions, including those working as part of international and inter-governmental organizations. To this end, Amnesty International recommends the establishment of a uniform, accessible and transparent mechanism as part of the organizational structure of the EUPM, which is authorized to investigate complaints relating to allegations of misconduct of EUPM personnel. If anyone is reasonably suspected of having committed or participated in human rights violations, then the organization would recommend that EUPM waive immunity for any of its officers, in order for them to be brought to justice.¹⁹ The organization furthermore recommends that this mechanism will ensure that victims of such human rights violations will receive reparation.

5. Dismissal procedures

Amnesty International notes that the EUPM will be empowered “to remove from office non compliant (local) officers, through a recommendation by the EU Police Commissioner to the High Representative.²⁰ In the interests of due process and the right to a fair hearing, Amnesty International recommends that any dismissal measures taken by the EUPM respect the right of the officer concerned to be heard in fair proceedings, including their right to appeal the decision of dismissal to an impartial body of appeal. Furthermore, such measures should only be taken when it becomes evident that internal disciplinary systems are still not functioning properly.

¹⁹ Amnesty International has recommended that the United Nations Mission in Kosovo ensure that any international police officers suspected of involvement in human rights violations are brought to account and that victims of such violations receive adequate compensation. See: *Federal Republic of Yugoslavia (Kosovo): No impunity for the international community*, EUR 70/005/2002, 18 June 2002. The organization has made similar recommendations to the Commanders of SFOR in Bosnia-Herzegovina, in case where it was reported that their forces had violated international human rights standards. .

²⁰ Chapter III of the proposed Mission Statement of the EUPM, Annex 1 to the EU Council of Ministers' Meeting on General Affairs, 6247/02 (presse 30-G).