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OVERVIEW OF POLICING IN BOSNIA AND HERZEGOVINA

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ACRONYMS

AEPTM	Agency for Education and professional Training
APIK	Agency for Prevention of Corruption and Coordination of Fight against Corruption
BD	Brcko District
BiH	Bosnia and Herzegovina
BPK	Bosnia- Podrinje Canton
PSC	Public Safety Center
CSS	Centre for Security Studies
DCAF	Geneva Centre for the Democratic Control of Armed Forces
DGS	BiH Border Police
DNZ	Democratic National Union
EU	European Union
EUPM	European Union Police Mission
FBiH	Federation of Bosnia and Herzegovina
FMUP	Federation Ministry of Interior
FUP	Federation Police Directorate
GP BiH	BiH Border Police
HDZ	Croatian Democratic Union
HNK	Herzegovina-Neretva Canton
IPTF	International Police Task Force
KM	Convertible mark
KMUP	Cantonal Ministry of Interior
KS	Sarajevo Canton
KZ	Criminal Code
MUP	Ministry of Interior
NATO	North Atlantic Treaty Organization
NGO	Non-governmental organization
OHR	Office of the High Representative
OSA/OBA	Intelligence Security Agency
PDP	Party of Democratic Progress
PK	Posavina Canton
RS	Republika Srpska
SAD	United States of America
SBiH	Party for Bosnia and Herzegovina
SDA	Party of Democratic Action
SDS	Serbian Democratic Party
SIPA	State Investigation and Protection Agency
SNSD	Union of Independent Social democrats
SSP	Stabilization and Accession Agreement
TK	Tuzla Canton
UIO	Indirect Taxation Administration
UN	United Nations
VM	Council of Ministers
ZDK	Zenica-Doboj Canton
ZKP	Criminal Procedure Code
LPO	Law on Police Officers
LIA	Law on Internal Affairs

INTRODUCTION

The police are one of the basic components of the government structure responsible for public security. The main role of the police in a democratic society includes maintenance of public peace and order, protection and respecting of fundamental citizens' rights and freedoms, prevention and fight against crime, serving citizens and providing them with necessary assistance. The police are a critical structure in each security sector reform process, particularly in post-conflict societies and transition countries that are on the path towards modern democracy.

External and internal security is extremely significant for a country that endeavors to provide its citizens with a safe environment and progress. Although countries tend to prevent more external threats, internal security challenges of this day and age may be equally destructive and destabilizing. In order for a country to adequately respond to serious internal crisis, it must implement substantial reforms that will enable its security forces to fight against terrorism, organized crime, and corruption that represent the plague of modern times.

On its path towards the Euro-Atlantic integrative path, Bosnia and Herzegovina has made significant steps forward towards democracy and establishment of the rule of law; but still the criminal justice system has not been recognized by its citizens as the service that must serve citizens. Oversight, transparency and responsibility are still terms that are not in the focus of the government institutions in carrying out their duties and assignments for creating the proper security environment. The image of rule of law and public peace and order is based on their personal perception, not the factual state; therefore, involvement of civil society in this area is more than needed.

As human security is one of the priorities of our overall work, we were driven by the presupposition that conducting such research is in the interest of all citizens who have every right to expect the country to provide them with a level of security that is essential for the development of democracy, rule of law and full protection of human rights pursuant to local legislation and international humanitarian law.

This research does not tend to reach a final judgment on the complex matter of police acting in Bosnia and Herzegovina, but to draw attention to relevant local subjects to the matter that neither has been sufficiently discussed nor written about in the past several

years. There is an impression that the area of police was only in the interest of the international community endeavoring to support local authorities in building the police in BiH on democratic principles. Obscurely, a small literary work of art on police reform and capacity building is contradictory to the interest and resources directed by the donors into this area.

In a society which, as that of Bosnia and Herzegovina, largely considers itself democratic, it is necessary to achieve a greater degree of being informed and provide for the further education of police officers, citizens and representative of citizens. This would subsequently result in a rising awareness of how important is to require accountability as well as to improve the work of police agencies in terms of achieving efficiency and professionalism. Ultimately, all this should reflect on increasing the security level of citizens and human rights protection, which is one of the pre-requirements BiH must fulfill on its path to European structures accession

By viewing the accessible literature, we have seen that this area is lacking a clear analysis of the police system condition in BiH resulting from a thorough overview of reform efforts from the war completion period up to date, as well as an analysis of the police structure system after 2008; more precisely after the new police organizations were established at the state level. Police officials often say that even after all the reforms were carried out, their work is burdened by the lack of resources, inadequate training, and insufficient and worn out equipment. Over the last period, we have borne witness to frequent discussions on how necessary it is to redefine the relationship between politics and operational police activities.

It is indisputable that the overall process of police system reform in BiH was burdened by different and obviously incompatible political interests. The culmination of the political dispute over this, possibly the most significant lever and attribute of power, was reached over the period from 2004 to 2008. During the overall police reform process which is basically the continuous process, this specific period was designated by certain analysts as an attempt of restructuring or institutional reorganization of the police system in BiH.

An unsuccessful outcome and partial support to the agreed reform led to the end of the participation of all society instances and their interest in how functional the police system is. Not any assessment on the reform success has ever been carried out so far nor has the monitoring of thrift, efficiency and effectiveness of newly established police structure.

At the completion of the European Union Police Mission, the support to the police organizations in BiH continued through multilateral and bilateral support programs, which within their scope do not reach the essential and institutional reforms, but deal with the improvement of work and functionality of certain organizations.

The goal of this research is therefore to provide the fundamental insight into the existing condition of the police system in BiH after the latest reform/restructuring was completed in 2008. Basically, this research is an attempt which should inspire or perhaps direct the necessary debate on efficiency of the system built up within the police sector; such debate is undoubtedly to become extremely prone to upcoming challenges in order to reach the European standards in the fight against organized crime, terrorism prevention and strengthening of safety and security through integrated border management.

The results of this research are based upon the analysis of adequate laws and regulations prescribing the work of the Ministries of Interior and police organizations, the information on the budget resources obtained from official sources of the government institutions, and the interviews with the officials from the Ministries of Interior, Brcko District Police of BiH and other police organization in BiH. The research work lasted for five months whereas the approaches used were descriptive investigative (the interview and focus group) and quantitative (the desk and contents analysis).

Over the working period we faced certain limitations, mostly related to the inaccessibility of the public to the legislative regulations, particularly those of Cantonal police organizations; this is why this research was partially limited to the work of those organizations which either make their legal regulations and bylaws accessible to the public, or which provided them to us at our request.

This research project on police reform in BiH represents our modest contributions to the aspirations for embracing the highest democratic principles in this area of the state government. This research is comprised of five chapters: historical overview of police system reform in BiH; organizations, numbers and competencies; financing of the police system in BiH; structural analysis of jurisdictions in legislation and in practice; internal and international cooperation and final conclusions.

I HISTORICAL OVERVIEW OF THE POLICE SYSTEM REFORM IN BOSNIA AND HERZEGOVINA

The concept of security sector reform in BiH along with police system reform as its integral part began immediately after peace in Bosnia and Herzegovina was established in 1995. Police reform was more or less treated by the new (former) government elite as a part of the package pursuant to which BiH was to reach European integration standards. It is not therefore surprising that this concept was primarily publicly interpreted as a concession made to the developed countries and the inevitable part of the path of BiH towards EU and NATO accession. By imposing this approach, which was also used with other Western Balkans countries, there was an attempt to hide two facts. According to Professor Hadzic, these facts are manifested through an attempt by the local political elites who created an illusion for both themselves and their voters, that the lack of will and knowledge required for radical society and security sector reform may be compensated with the reform logorrhea. Another fact is manifested through their attempt to impose on the overall public, the elemental reorganization of police and security sector in the form of the reform itself; in other words the theory was that it was possible to reform the inherited police, army and intelligence service, even without interfering with their wartime legacy.¹

For the purpose of presenting chronologically the overall reform process of the police apparatus in BiH, we hereby describe all the stages of the process that began immediately after the Dayton Peace Agreement was signed. Upon the completion of the war in BiH, both entities included approximately 44,000 police officers, but very soon around 26,000 of them were demobilized. The police forces in BiH consisted of 13 different services at the existing levels of the administration government, whereas each of them reported to separate governments and acted upon a complex set of laws and regulations. Apart from two entity Ministries of Interior (of Federation of BiH and Republika Srpska), Brcko District Police and ten (10) Cantonal Ministries of Interior existed as well. The state (central) level did not have police-related competencies. This fragmentation of BiH police structure was not the focus of the international community's interest as it was more focused on the very essence of the police work itself.

¹ Hadzic, M (2001) *The Destiny of the Party Army*, Belgrade, Samizdat B92

1.1. Postwar Certification of Police Officers and Democratization of Police Organizations in Bosnia and Herzegovina

During the initial reform phase, the certification of police officers and oversight of the work of police organizations was carried out by IPTF²; more precisely by the United Nations International Police Task Force (UNIPTF). The events taking place in the upcoming years resulted in the first serious steps towards the reform of BiH police organizations. Some of the IPTF initiatives were directed towards the improvement of cohesion between the police forces' members from different organizations. However, the main task of the UNIPTF in BiH was monitoring, oversight and control of activities carried out by law enforcement agencies and relevant judiciary institutions. These activities were conducted for the purpose of ensuring the implementation of international standards in police work which would altogether improve the respect and trust in local police forces by the public. In this regard, the UN Police Reform Program pertaining to the police officers' certification was launched and carried out by IPTF. Within this program, 558 police officers failed to meet the requirements set forth by IPTF; thus they did not undergo the process of certification.³ Almost 17,000 police officers were granted certificates by IPTF; more specifically these were temporary authorizations, whereas full certification was conducted for 15,786 police officers. This incomplete approach to the certification process caused a certain degree of dissatisfaction. Legal issues stemming from this process have never been resolved, impeding the work of police in BiH in some segments even today.

Some of the IPTF initiatives were directed towards the improvement of cohesion between the police forces' members from different organizations. In this regard, CIV of BiH was established under the auspices of the UN Mission, including the members of the existing police structure which would implement international peacekeeping operations. Having attended the proper training organized by the IPTF, these formations were for the first time deployed in UN peacekeeping missions in the East Timor UNTEAT mission.⁴ Since then,

² Pursuant to the ANNEX-a XI of the Dayton Peace Agreement, the IPTF (International Police Task Force) started to perform duties in December 1995. Their contingent numbered from 1600 to 2000 police officers

³ Ten years of EU Police Mission, Story on EU Police Mission in BiH, EU Police Mission in BiH, Sarajevo 2012

⁴ Associated Press Newswires (2000), 'Bosnian Police head off for First Mission Abroad, Dow – Jones Database

135 police officers from BiH, out of whom 17 were females, have taken part in peacekeeping missions in Liberia, Cyprus, Haiti, East Timor, etc.⁵

1.1. Establishment of Police Organizations at State Level

In addition to regular assignments of the 13 police organizations existing at that time in BiH, they also dealt with oversight and control over the border crossings, until the BiH Border Police was established. The establishment process faced many difficulties. At the beginning of 1999, OHR submitted an initiative to the Presidency of BiH proposing to establish the BiH Border Police. This initiative was approved and implemented through a Directorate formed by the Presidency of BiH, whose task was to draft the proper legislation pursuant to which this service would be established. The law was drafted, but due to political discrepancies, was many times rejected in the Parliamentary Assembly of BiH, which was the reason why the High Representative imposed and adopted this Law into force. The Border Police of BiH was therefore established pursuant to the Law on BiH Border Police enacted by the High Representative on January 13, 2001 in conformity with his competencies. Six months after the law was enacted, the BiH Border Police started to operate. In August 2001, the Parliamentary Assembly ratified the Law on BiH Border Police. The process of taking over border crossing oversight and control related activities from the entity and Cantonal Ministries of Interior went on in stages and finally was completed on September 30, 2002 with the inauguration of the Strmica Border Police Unit.⁶ By this act, the BiH Border Police officially commenced to cover the 1,551km of the border length and reached the number of 2,000 border police officers.

During this period, reform went on in the direction of establishing police organizations at the state level, which would be responsible for gathering and processing data significant for the implementation of international and criminal laws in BiH. In this regard, OHR and the UN Mission in BiH drafted a legal framework in 2002 for SIPA BiH; formed in the same year as an independent BiH institution.

In addition, the protection of important persons, diplomatic and consular missions and facilities of BiH institutions as well as of diplomatic missions being carried out in BiH were also falling under the competencies of the Agency. The lack of political support affected the process of the agency's establishment. By the end of 2002, the Agency had

⁵ Report on implementation of Action plan for implementation of the UN Resolution 1325 "Women, peace and security" I Bosnia and Herzegovina for 2012

⁶ BiH Border Police Brochure: Establishment and Development

only three employees and they were all directors, and the operational work could not be carried out due to the lack of personnel, office space and an insufficient legal foundation required for its work. As for political discrepancies, the transfer of certain competencies from the entity Ministries of Interior to the newly established State Information and Protection Agency (SIPA) was the cause of disagreements regarding particular political options.

Another security sector-related institution at the state level was established in 2002 and that is the Ministry of Security of BiH⁷; acquiring a wide range of security-related competencies. The Ministry was established in December 2002 and became operational in 2003, upon the adoption of required legislation, staffing personnel and budget allocation. It is important to note that no police-related activities fell under the competencies of the Ministry of Security of BiH.

In addition to the abovementioned activities, IPTF also directed its parallel activities towards depoliticization and the improved professionalism of police organizations. As a result, in 2002, the institutions of police directors were established in BiH entities. The duty of the police directors was to organize police work in professional terms, unlike the ministers of the police, whose roles were primarily political. Accordingly, certain changes to the role of police service occurred in terms of obtaining the role to serve citizens and protect constitutional order, instead of having a political function.

On the other hand, shortcomings of police management at all levels additionally hindered police work. As political supervision by the Ministry of Interior was not clearly separated from operations, the organization of the police management led to unclearly defined responsibilities and an increase of personnel in administrative positions. Typical for this period was the nonexistence of clearly defined police strategies and goals, thus affecting the annual programs which represented only a general list of all police duties. There was simply a lack of proactivity in work and a failure in improving the relationship between the police and citizens. The reports, book of rules, and directives were the source of false information and did not define the factual state. Furthermore, they were in certain cases

⁷ Law on Council of Ministers of BiH, December 3 2002, taken over from:
<http://www.ohr.int/decisions/statemattersdec/default.asp?content-id=28610>

contradictory to the state laws, thus causing an overlapping of competencies in nonoperational police activities. In general, these documents served to the police organizations as an alibi for the inefficient use of both human and financial resources.

The number of certified police officers in BiH at the end of 2002 reached 17,000, apart from administrative personnel in the different Ministries of Interior. Representation of minor nationalities and gender equality was improved largely since the completion of war, but this area could still be improved.⁸

1.2. An Attempt to Restructure Police in BiH

In their efforts to overcome problems impeding the work of police organizations in BiH,⁹ and by accepting the recommendations of the European Commission, BiH authorities decided to initiate a police reform program. The reform preparations were extremely long. At the very beginning of the reform process, the impression was that solely political interests would prevail, disregarding the opinions and recommendations of the professionals from this area of work.

With regard to the decision that was associated with the inauguration of the European Union Police Mission in Bosnia and Herzegovina (EUPM), at the beginning of 2003,¹⁰ the police reform program in BiH commenced.¹¹ A feasibility study of BiH for potential EU membership carried out by the European Commission in November 2003, stated that of the 16 areas determined as those of priority for the establishment of a functional state structure, the rule of law and police reform were at the top of the list.¹²

Over this period, there were 15 police organization in BiH facing fundamental political and structural difficulties. Political difficulties included close connections among political bodies, party structure, police leadership and the judiciary system. The structure-related challenges remained almost the same as in the previous period, reflected through a

⁸ Ten Years of European Police Mission, Story on EUPM in BiH, EUPM in BiH, Sarajevo, 2012, page 27

⁹ Issues such as ethnical balance in police, poor technical equipment, insufficiently professional personnel, inadequate political influence, low salaries, organizes crime and deprivation of certificates –related issues.

¹⁰ January 15, 2003. Work of EUPM included intermediate and advanced management, but not the patrol police, which is why EUPM was less visible then IPTF. The Mission police officers were assigned to be in offices and administrative departments with supervisors of police officers. Ten Years of European Police Mission, Story on EUPM in BiH, EUPM in BiH, Sarajevo, 2012

¹¹ At the beginning of 2003, EUPM internal working group commenced with studying the initiatives for police reconstruction, requiring the models for police bodies reconstruction in the country. The working group completed its work in November 2003 with a concrete police reconstruction plan.

¹² European Commission, Declaration from the meeting of EU-The Western Balkans in Thessaloniki, June 21, 2003, Available online: <http://europa.eu/rapid/pressReleasesAction.do?reference=PRES/03/163&format=HTML&aged=0&language=EN&guiLanguage=en>

complex set of laws and regulations and unclear responsibilities of police organizations at different level of BiH government.

The implementation of the police reform program in Bosnia and Herzegovina started on May 20, 2004 when Mr. Adnan Terzic, the then chair of the Council of Ministers, announced that in the upcoming month he was “to form an expert committee to draft police reform laws in BiH by the end of that year.” The period from January 2003 to May 2004 was used for reform preparations. It was planned for the reform to be completed by February 25, 2005; however, it lasted much longer - three years, nine months and five days.

As we have seen, the reform was optimistically announced and carried out in several phases that are to be presented in the further text. Furthermore, 2004 was marked with the enactment of the Law on SIPA.¹³ This Law prescribed the competencies of SIPA and its organization as a police body. SIPA legally inherited the State Information and Protection Agency formed in 2002, as an independent institution of BiH; thus becoming the first police agency with competencies covering the whole territory of BiH.¹⁴

The Martens plan – phase one (May 2004). The first attempt to implement police reform in BiH was initiated by the European Commission that nominated the former prime minister of Belgium, Mr. Wilfred Martens, for the chair of the Reform Committee.

In this regard, BIH formed the Police Reconstruction Committee (PRC),¹⁵ encompassing local and international experts.

The goal of the reform was to harmonize the police capabilities with European standards and practices in terms of making them capable of fighting organized crime and terrorism and prepared to bring war criminal suspects to justice. According to the then Minister of Security of BiH, Mr. Barisa Colak, at that period BiH numbered 18,000 police officers and 5,000 administrative employees, amounting to a total of 23,000, which significantly exceeded the economic capacities of the country. The salaries of the RS police officers were the lowest, whereas the salaries in certain cantons in the Federation BiH were three times higher than the average salary in the Federation BiH. This difficult and unequal situation was supported by the fact that the then net salary varied between 340 KM per

¹³ Law on State Investigation and Protection Agency („Official Gazette of BiH“, No 27/04, 63/04, 35/05 and 49/09).

¹⁴ Strategic plan of activities of State Investigation and Protection Agency 2012-2014, SIPA, Sarajevo, page 20

¹⁵ Police Reform Committee comprise of members, associated members and observers. EUPM Chief was also a Committee member.

month in RS and 1259 KM in Brcko District.¹⁶ Due to such disparity of salaries, police employees felt justifiably dissatisfied, which altogether contributed to the generation of corruption (or at least the assumption that corruption would result). The Police Reform Committee headed by Mr. Martens completed the police reform proposal in December 15, 2004, which indicated that in BiH, a unified police structure covering several police areas and headed by a commissioner or a director was to be formed. This unified police of BiH would be financed at the state level and organized according to the regional principles by which the existing administrative borders between entities would not have a direct impact on the formation of the local police areas.

On January 14, 2005, Mr. Martens as the President of the Committee, formally delivered the final report on the work of the Committee on the concept for establishing the unique police structure in BiH,¹⁷ to the Chair of the Council of Ministers of BiH, Mr. Terzic and the High Representative Mr. Paddy Ashdown. In it, BiH would accordingly have exclusive competencies over all police questions, including legislative and budget. It was also anticipated that the Minister would have responsibility for general political oversight of the unified police structure in the country.

In April 2005, the National Assembly of RS rejected the Police reform proposal drafted by the Reform Committee, thus bringing this phase to its completion.

Vlasic negotiations¹⁸ – phase two (April 2005-July 2005). This reform phase is characterized by the negotiations of political parties on the so called “Martens' Plan.” The proposal previously rejected in the National Assembly of RS was reentered into consideration as representing the foundation for the new political negotiations of the involved political parties. It is important to note that the overall police reform program was initiated and carried out according to three principles set by the European Commission as the foundation and as the minimum requirements for the reform. These principles were

¹⁶ Financial, administrative and organizational assessment of Police Forces of BiH and the State Border Service, Management Summary, ICMPD, TC, etc, Sarajevo, may 2004

¹⁷ Proposed unified structure was in compliance with 12 guiding principles for police reform indicated in Article 2 of the Decision by the High Representative. The Report provides 3 main elements required for the reform process in BiH: exclusively state competencies over the police; local police areas determined according to the technical and professional criteria and the system protecting the police from an inappropriate political influence. - Ten years of EU Police Mission, Story on EU Police Mission in BiH, EU Police Mission in BiH, Sarajevo, page 58.

¹⁸ These negotiations were called The Vlasic negotiations, as the meetings were held at the mountain of Vlasic, nearby Travnik

said by EU officials to be obligatory to follow in the reform process; however, as will be seen later, it was not even them who remained consistent in complying with them:

1. State competencies over all budget and legislative-police related issues
2. Functional areas of police competencies
3. Non-interference of politics with operational activities of police

Eventually, the Vlasic negotiations resulted in participants agreeing with police reform implementation, but without the police interfering with constitutional changes; accordingly, the Reform Committee Report based on the three EC principles was approved and the deadline for the agreement implementation was set.

However, in May 2005, High Representative Ashdown decided to cease further police reform negotiations after the RS leaders disagreed with the proposal on the presented mapped police regions, which crossed the entity borders. The National Assembly of the RS reached a conclusion that police reform could be implemented only within the Constitution of the RS and the Constitution of BiH in compliance with the Dayton Peace Agreement.

Mr. Kevin Karti, the Head of the EU Police Mission, addressed the RS National Assembly members stating it was impossible to achieve full police reform if the police regions do not cross entity borders and emphasizing it was necessary for only professional (functional) reasons.

Due to the absence of several party leaders, the attempt of reaching an agreement on the continuance of already initiated political police reform-related negotiations failed in Sarajevo in July 2005. The second reform-related attempt also failed at the political level. However, as the idea on reform had not been given up on yet, Paddy Ashdown proclaimed that police reform was a priority in his work and therefore established the Police Restructuring Committee. The Decision on the establishment of the Directorate for Police Reform Implementation was passed.

Institutional negotiations – phase three (August 2005 - September 2005). This phase is characterized by involvement of numerous government representatives, not necessarily political (party) elites. The period of institutional negotiations on police reform commenced in August 2005 with a meeting of the representatives of the Federation BiH Government, RS Government and BiH Council of Ministers. The proposal of the Police Reform Committee and political agreement from Vlasic was used as the platform for

institutional negotiations. The goal of the negotiations was to crystallize a unified reform police proposal that was to be submitted to the competent parliaments for consideration of adoption by September 15, 2005.

At the meeting held on September 7, 2005, the establishment of the Directorate for Police Reform Implementation was agreed to, which would be a working body tasked with drafting police reform implementation along with legislation and bylaws prescribing this area. The Directorate was established by the BiH Council of Ministers with approval from the entity authorities and the BiH Brcko District. Nevertheless, the reform was not implemented, although the critical reform issues were agreed upon. Not even the next meeting held on September 11, in Banja Luka made any progress.

Due to non-acceptance of the negotiations starting base by RS representatives, this phase was also predisposed to failure. Numerous Ministries of foreign affairs of EU countries expressed their deep disappointment over the decision by the RS National Assembly to reject police reform that was in conformity with the European standards. That was the main reason why they decided not to approve the commencement of negotiations on the EU stabilization and association process to BiH, in spite of the desire to having it take place prior to the ten-year anniversary of the Dayton Peace Agreement.

The most significant step forward, if can be considered such, is that now the representatives of the government replaced the political leaders in the reform negotiations; unlike the previous phases.

Agreement on Police Reform - phase four (October-November 2005). This Agreement was offered by the RS Government representatives at a meeting held with Mr. Ashdown. Pursuant to the Agreement,¹⁹ the executive government was to form a directorate to implement and draft the police reform plan by September 30th at the latest, including the implementation stages and the proposals provided by the police regions. The Agreement had to be applied in compliance with the three European principles, the Constitution of BiH, and the constitutions of the entities. Nevertheless, it did not even cover the issues of the existing judiciary or prosecution system in BIH. By mid-October, parliamentary assemblies of the entities approved the Agreement on Police Reform in BiH. As a reward

¹⁹ The afore said political agreement reached on October 5, 2005 defined as follows: 1) three principles of EC were approved: All legislative and budget –related competencies must be at the state level for all police issues, no political interference with operational police work, local police areas are established according to the professional technical criteria. 2. The reform shall be implemented within the five-year period, as of October 2005; 3. The unified working body shall draft the police reform plan for implementation

for the approved Agreement, on October 21, 2005 the EC provided the Council of Ministers with approval for the EU to initiate negotiations with BiH on the stabilization and association process. Negotiations with the EU commenced on November 24, 2005. The result of the fourth police reform phase was a multilaterally approved Agreement on Police reform, with its greatest value being the commencement of negotiations on the EU stabilization and association agreement with BiH.

Establishment of the Police Reform Directorate – phase five. The fifth police reform phase lasted for 14 months. It was initiated by the establishment of the Police Reform Directorate, formed by the BiH Council of Ministers pursuant to the Agreement on Police Reform. The Directorate was tasked with drafting the police reform project in conformity with the three European principles by September 30, 2006. The Directorate was comprised of a twelve-member Managing Board with constituent peoples being equally represented. It was formed by the director and deputy director of SIPA, director of RS Police, director of BiH Federation Police Directorate, Head of BiH Brcko District Police, director and deputy director of the Directorate Executive Body and an EU Police Mission representative. Decisions were passed according to the principle of consensus decision-making by at least nine key members of the Managing Board; otherwise, the simple majority rules were applicable if there was support provided by the EU Police Mission representative.

On December 29, 2005, the Council of Ministers passed the Decision on appointment of the Directorate's Managing Board and the Executive Body. By adopting these decisions, the obligation pursuant to the agreement on police forces reconstruction was fulfilled as well as the agreement with the EU representatives. The negotiations on the stabilization and association process along with the dialogue on introductory principles between BiH and EU commenced on January 25, 2006.

The Managing Board of the Police Reform Directorate adopted an opinion on police organization in BiH by majority votes cast at the session held May 3, 2006, pursuant to which the state assumed competency over financial issues and legislation, whereas the local police regions would engage in operational affairs. The RS representative of the Directorate cast his vote against this opinion, thus inducing the RS Government to freeze the status of their member in the Managing Board on May 24, 2006.

According to the European Parliament report 2006/2290 (INI) dated February 6, 2007, “the recently proposed police reform implementation draft clearly separates the competencies of the state units from those of the local ones, provided that the legal framework for police administration is adopted. This framework will ensure the required budget, strategic oversight and harmonization of the relations among different organizations and levels, without violating the autonomy of the local units required in their work.” The Report also emphasized the necessity of police structures to be formed in compliance with the ethnic composition in BiH.

At the session held on September 13, 2006, the BiH Council of Ministers did not approve the Report on the work of the Police Reform Directorate submitted by the Managing Board. The Serb representatives did not support the Report.

The EU Council of Ministers expressed their concern over the lack of progress in the implementation process of the Agreement on Police Reform from October 2005, impatiently expecting the obstacles on that path to be eliminated.²⁰

After three days of work, the Managing Board of the Police Reform Directorate agreed upon a scheme for future a police system in BiH on October 27, 2006. A representative of the RS Government also took part in the work of the Board as an observer.

In addition to police reform, the legal regulations and framework of the Foreigners’ Affairs Service were also worked on in 2006, with the aim to transfer the migration control competencies from different “departments for foreigners” within the Cantonal Ministries of Interior, BiH Brcko District Police and RS Ministry of Interior, to the state level.

Limited resources and authorizations of such a system were extremely inefficient, which resulted in the passing of a Decision establishing the Foreigners’ Affairs Service. Legally founded by adoption of the Law on Foreigners’ Affairs Service (the Official Gazette of BiH “No. 54/05), this Service was established on October 1, 2006 and commenced to operate independently as an administrative organization within the Ministry of Security of BiH.

Significant progress in improving the legal framework on movement and stay of foreigners in BiH was reached by adoption of the Law on Movement and Stay of Foreigners and Asylum (the Official Gazette of BiH” No. 36/08), and it was sufficiently harmonized with

²⁰ Conclusion of the Council of Ministers, September 14, 2006

EU *acquis communautaire*. As for immigration issues, it was fully in compliance with visa requirements under the Schengen Agreement.

Having presented the report on the progress of Bosnia and Herzegovina in fulfilling the EU Accession Agreement requirements, the Head of European Commission Delegation in BiH, Mr. Dimitris Kurkulas, accused the RS of obstructing BiH police reform, thus inducing a lack of progress in this area.²¹ The RS authorities were also reprimanded for failure to fully cooperate with the Hague Tribunal. According to the report, not a single high ranking war crime suspect had ever been apprehended, unlike the Federation BiH Government which was reported to have fully cooperated with the Tribunal.

On December 14, 2006, the Police Reform Directorate drafted a Proposal to Police Reform without the consent of the Repulika Srpska. A day later, the negotiations between BiH and the EU on the stabilization and association agreement were completed in the fifth technical round.

Negotiations of parliamentary parties – phase six. This phase of police reform began with a meeting attended by representatives of 12 parliamentary parties²² in Sarajevo on February 16, 2007. The meeting was convened by Nikola Spiric, the Chairman of the BiH Council of Ministers at that time.²³ Results of the meeting were modest because it was agreed that the same representatives would meet again on February 20, 2007, having the same goal. Then Deputy High Representative, Mr. Raffi Gregorian offered a reform proposal at this meeting, which anticipated ten police regions in BiH. The Republika Srpska would still have five Public Safety Centers, while the ten Cantonal police units would be turned into five police areas that would remain within the entity boundary lines and the Police would be directed by a Ministerial Board, not the Minister of Security.

Negotiations continued on February 24, 2007 and March 14, 2007, but no agreement was reached. Due to unsuccessful police reform negotiations, Bosnia and Herzegovina had

²¹ Milan Ljepojevic (2009), *Police reform in BiH*. Banja Luka: Trioprint, pg. 162

²² The meeting was attended by representatives of the Police Reform Directorate, the Head of the European Commission Delegation in BiH, Mr. Dimitris Kourkoulas, the Head of EUPM in BiH, Mr. Vincenzo Coppola, first Deputy of High Representative, Mr. Raffi Gregorian and U.S. Ambassador in BiH, Mr. Douglas McElhaney.

²³ "This is the first time we had a serious conversation on police reform issue, which is needed in order for BiH to sign the Stabilization and Association Agreement. I'm pleased to hear that leaders of invited political parties have freedom to define their opinions on the police reform. I believe they are just about to reach an agreement. I'm encouraged with today's talks and I'll convene next meeting to discuss the addressed differences. I'm sure the differences are not big enough to prevent leaders from reaching a joint, compromise solution"- Spiric said for SRNA (February 17, 2007).

missed the chance to ratify the Stabilization and Association Agreement in March 2007. The negotiations failed because the delegates of parliamentary parties from the Republika Srpska had took the unique stance that police reform in BiH would not be possible without the existence of the RS Police,²⁴ while the Federation-based took the stance that the RS Ministry of Interior had to be abolished and police competencies should cross inter-entity boundary lines.²⁵

Lajčák's Proposal of Police Reform in BiH – phase seven. Upon having separate meetings with representatives of political parties in BiH (Party for BiH, SNSD, HDZ and PDP), the High Representative for BiH, Mr. Miroslav Lajčák suggested a new proposal to reach an agreement on police reform on August 29, 2007. Leaders of the SDA and SBiH political parties rejected his proposal because they believed it derogated all three principles of the European Union and legalized ethnic-based police.

At another meeting held in Sarajevo on September 12, 2007, experts of the eight biggest political parties in BiH failed to make progress in police reform negotiations. The discussion was not about the essence of the reform, but whether the RS Ministry of Interior should exist or should be abolished, as well as on various interpretations of the three European principles.

Official representatives of Bosnia and Herzegovina signed a Visa Facilitation and Readmission Agreement in the European Commission Headquarters in Bruxelles on September 18, 2007 for BiH citizens travelling to the European Union. On the very same day, the negotiations of experts of the eight biggest political parties in BiH continued without significant results, after which a meeting with same attendees was held in Banja Luka on September 26, 2007, with an identical outcome and an announcement that the negotiations were to be continued in Sarajevo.

The House of Representatives of the Parliament of the Federation of Bosnia and Herzegovina concluded at the session held on September 26, 2007, that OHR's police reform plan was contradictory, and they requested that the three principles of the European Union be respected.

²⁴ Representatives of parties from Republika Srpska have concluded at the meeting held with the President of RS, Mr. Milan Jelic that the Police must exist and the Prime Minister, Mr. Milorad Dodik pointed out that the RS Police has to exist with its competencies within organizational structure of BiH police forces.

²⁵ Party of Democratic Action (SDA) repeated its stance that the Report of the Directorate for Police Reform represents the foundation for the continuation of police reform process.

Leaders of SBiH and SNSD, Mr. Haris Silajdzic and Mr. Milorad Dodik, signed the Protocol on police reform in BiH on September 28, 2007, which was essential for the signing of the Stabilization and Association Agreement. The Protocol did converge the views regarding police reform and it stated that the structure of police forces in BiH were to reflect the constitutional structure of the state. The SDA and SDS political parties were opposed to the Protocol. The SDA Leadership pointed out that they had not been involved in its drafting and they saw it as “an act of final legalization of the genocide and ethnic cleansing outcome,” emphasizing that they would not support it. Hence, the Protocol on police reform, signed by Mr. Haris Silajdzic and Mr. Milorad Dodik, was rejected. On October 4, 2007, High Representative Miroslav Lajčák stated that “the only relevant document for police reform now is OHR’s “proposal,” which is “politically realistic, although technically not ideal.” He said that the document followed the three principles; was equitable and had support from many social and political figures. A day after his announcement regarding the proposal, SBiH and SDA leaders rejected it. Following the unsuccessful efforts made by OHR and Mr. Lajčák to reach an agreement on police reform, and based on the Report of the Directorate, OHR made an announcement on October 12, 2007, stating that the international community would no longer actively participate in police reform in BiH until it saw local politicians ready to show the same level of seriousness.

Leaders of the six main BiH political parties, pledging to “undertake all necessary activities for the implementation of police reform in accordance with the principles of the European Union, and which are indispensable for continuing the process of association of Bosnia and Herzegovina with the European Union,” signed the Declaration of Commitment to Conduct Police Reform in Mostar on October 28, 2007; aimed at signing the Stabilization and Association Agreement as soon as possible. The Mostar Declaration was the foundation for implementation of BiH police reform in two phases. In the first phase, they would enact the laws prescribing police reform and its implementation within a six-month period and establish seven new institutions. The second phase would be completed after constitutional reform acknowledging the three EU principles. In addition, it was stated in the Declaration that one of the goals of police reform in BiH would be the functioning of multiethnic and professional police. In this manner, the structure of common police forces in Bosnia and Herzegovina would reflect the constitutional structure of the state.

However, it was not defined in the Declaration whether the RS Ministry of Interior would exist or whether the police regions would cross inter-entity boundary lines, which was previously the issue when representatives of Republika Srpska and Federation of BiH failed to reach an agreement. The emphasis of the Declaration was primarily on political and national interests, preceding the objective to make the police reform at functional basis in order to efficiently combat crime and corruption. Determining clear reform priorities, separating police matters from “statehood” matters and separating the entire process from other components of state and entity government system were mandatory components of negotiations success.

It was stated in the Declaration that details regarding the police structure in BiH would be defined through two fundamental laws; the Law on Police Service in BiH, and the Law on Police Officials in BiH. A month later, the Action Plan for implementation of the Mostar Declaration was agreed to at a meeting in Sarajevo, as well as the establishment of the working group that would be tasked with drafting the two laws on police reform. According to the attendees’ statements, these laws would be sufficient for signing the Stabilization and Association Agreement. Although it was said in the Declaration that “new and reformed police structure of Bosnia and Herzegovina shall be based on relevant provisions of BiH Constitution, which will come through the process of constitutional reform,” i.e. indicating that police reform should be conducted parallel with or as a result of the process of constitutional reforms in country; this hasn’t happened. The Agreement that was reached in October 2007 was very limiting, especially when compared to previously made proposals.

When it comes to development of police agencies at the state level, year 2007 shall go on record as a year of changes for the State Border Service. The name “BiH State Border Service” was changed to “BiH Border Police” by the Law on Amendments to the Law on State Border Service, which entered into force on April 18, 2007. The same year, the BiH Border Police moved into its own building after seven years in a temporary residence.

Bosnia and Herzegovina and the European Union signed the Stabilization and Association Agreement in Sarajevo, on December 4, 2007.

The next meeting of the six leaders of the main political parties was held in Laktasi, on December 11, 2007. They agreed that in the next seven days, the BiH Council of Ministers would appoint a working group for drafting laws pursuant to which the following bodies would be created: Directorate for Coordination of Police Bodies; Institute for Forensic Examinations and Expert Examinations; Agency for Education and Professional Development of Personnel; Agency for Police Support; Independent Board for Citizen Complaints and the Board for Police Officers' Complaints. Seven days after this meeting, Mr. Nikola Spiric, the Chairman of the BiH Council of Ministers, established the Working Group for police reform, appointing the Minister of Civil Affairs, Mr. Sredoje Novic, to be the president of the group. The Working Group was tasked with making draft laws by February 15, 2008 so they could be submitted further to parliamentary procedure.

The BiH Council of Ministers adopted the draft laws on Directorate for Coordination of Police Bodies and on Agencies for Support to Police Structure of Bosnia and Herzegovina, on February 14, 2008.

The Agreement was reached in March 2008 and it confirmed the establishment of seven new institutions through the two different laws. The second phase, which was planned to begin after constitutional reform, envisaged a single police structure in BiH and a change of relations between the new institutions and the local police. With regard to this, two working groups were established and made accountable for implementation of the Law on Independent and Supervisory Bodies of Police Structure of Bosnia and Herzegovina, the Law on Directorate for Coordination of Police Bodies, and the Agencies for Support to Police Structure of Bosnia and Herzegovina.

The House of Representatives of the BiH Parliamentary Assembly adopted the draft laws on police reform on April 11, 2008. Through this, the requirements for signing the Stabilization and Association Agreement with European Union were fulfilled. Representatives of SNSD, SBiH, PDP, HDZ BiH, HDZ 1990 and DNZ voted for the draft law, while SDA, SDP and SDS representatives voted against it. Five days after, the House of People of the BiH Parliamentary Assembly adopted the set of laws on police reform as follows: Law(s) on Police Reform, Law on Independent and Supervisory Bodies of Police Structure of Bosnia and Herzegovina and the Law on Directorate for Coordination of Police Bodies and on Agencies for Support to Police Structure of Bosnia and Herzegovina.

After so many years of numerous political meetings, protocols, declarations and agreements, the saga on police reform in BiH was finally concluded by this act. Although this fulfilled the requirements needed to move BiH closer to the European Union, this reform has not achieved the results that were initially defined.

Besides the abovementioned requirements, the primary goals of police reform were to increase the security of citizens; to improve efficiency and enhance the capacities for combating terrorism; to improve the work standards of police officials, to rationalize police services, and enhance working conditions. Yet the reform resulted in the founding of additional police bodies; the security of citizens wasn't improved; and the unsuccessful rationalization of police services resulted in more strikes being conducted by dissatisfied police officials.

1.4. Visa Liberalization and Establishment of New Organizations

In parallel with these processes, the activities that were in the greater interest of the citizens, referring to the issue of visa liberalization for BiH took place, as well. On June 5, 2008, Bosnia and Herzegovina committed to meeting the requirements set out in the roadmap for visa liberalization.²⁶ Terms defined in the roadmap included four areas: document security, illegal migration including readmission, public order and security, and foreign affairs and fundamental rights.

On the other hand, although the Stabilization and Association Agreement between the European Union and its Member States on the one hand, and Bosnia and Herzegovina on the other hand, was signed in Luxembourg on June 16, 2008, police reform had not moved much further out of the political context.

This kind of statement is best illustrated by the fact that even though the Law on the Directorate for Coordination of Police Bodies and Agencies for police support was adopted in April 2008, the Directorate and agencies themselves did not become operational in 2008.

Activities in 2009 were focused on the aspects that would make the new agencies for police support and the Directorate for Coordination of Police Bodies part of the security system in BiH, i.e., to enable them to reach initial functionality. This was implemented slowly, given that the directors of new agencies had to be appointed, staff had to be hired,

²⁶ Visa liberalization provides the citizens of BiH visa-free travel to the countries in the Schengen area.

office space and technical conditions for work had to be provided, and the additional factor that slowed the initial function of these institutions was their budgets. During this period, BiH institutions were on temporary financing, and thus expenditures were directed exclusively for current expenses, without the possibility of capital or other investments.

Despite these problems, two agencies started working in February 2009. The Agency for education and training of staff (AEPTM) began its work on February 26, 2009. In accordance with the Law on the Directorate for Coordination of Police Bodies and Agencies for support to the police structure of BiH, this agency received the primary role of research and education in the field of police training and security in Bosnia and Herzegovina. In the same month, the BiH Agency for forensics began working. The agency immediately attracted great attention with their unexplained relationship with the Ministry of Security, in connection to the ownership and the right to dispose of the equipment for DNA analysis.

In 2006, the European Union donated equipment for the DNA lab, which was temporarily housed in the premises of the Federation Ministry of Interior. The donation memorandum stipulated that the Ministry of Security would be the owner of all the equipment, regardless of where the equipment was installed. The agency, based on that wording, asked the Ministry of Security to comment on the status of the mentioned equipment, but it has never received an answer. Afterwards, in May 2010, the House of Representatives of the Parliament of Bosnia and Herzegovina adopted a conclusion whereby the BiH Ministry of Security, in contact with the Federation Ministry of Interior, is required to determine who is entitled to use the donated equipment and if the beneficiary is the state of Bosnia and Herzegovina, to ensure the transfer of equipment to the Agency. According to the Report of the Agency, the Ministry of Security has not complied with the conclusion of the House of Representative of the BiH Parliament, and this issue has still not been resolved.²⁷ In addition, the Agency tried to secure funds for new equipment from the BiH Budget, but given the situation of temporary budgeting, it was very difficult.

The Agency for Police Support began operating on the day the Director and Deputy Director were appointed; March 19, 2009. The agency is still located in leased premises,²⁸ because the issue of its permanent accommodation has not been solved.

²⁷ "Nezavisne novine", research: Analysis of agencies at the BiH state level (Part VIII). 07/31/2012, p.8th

²⁸ St. Marka Marulića no. 2 (Unipromet d.o.o. building)

By aiming to prevent the impact of corruption on the development of democracy and respect of basic human rights and freedoms, as well as its impact undermining the economic development of Bosnia and Herzegovina, and all other types of impact on social values and the coordination of combat against corruption, on December 30, 2009 the Law on Agency for prevention of corruption and coordination of combat against corruption was passed at the state level.²⁹ That established the Agency for prevention of corruption and coordination of combat against corruption (APIK), as an independent and autonomous administrative organization responsible for its work only to the Parliamentary Assembly of Bosnia and Herzegovina. The establishment and appointment of the Agency's management staff was not an easy task, considering the fact that it took nearly twenty months complete the appointments.

By appointing the director and two deputy directors of the Agency for coordination of police bodies by the BiH Council of Ministers in March 2010, it finally brought an end to the establishment of new bodies in conformity with the laws on police reform passed back in 2008. It created the opportunity to pass a Decision regarding the affairs, facilities, work assets and employees within the Ministry of Security of Bosnia and Herzegovina, SIPA, and the Directorate for coordination of police bodies of Bosnia and Herzegovina,³⁰ on December 31, 2010.³¹ Pursuant to that Decision, SIPA members from Department of VIP and facilities protection as well as the Department for cooperation with Interpol (originally within the BiH Ministry of Security) were reassigned to work within the Directorate.

Pursuant to conclusions of both Houses of the Parliamentary Assembly in April 2010, the deputy minister of security of BiH was charged with the function of acting director of the Agency for prevention of corruption and coordination of combat against corruption until the director was selected.

By the end of 2010, BiH citizens got some satisfaction due to the fact that on November 8, 2010 the European Council passed a decision by which the BiH citizens with biometric passports could freely travel to Schengen countries as of December 15, 2010. The decision on visa liberalization for BiH citizens was a kind of reward for the efforts of the BiH

²⁹ "Official Gazette of BiH" No. 103/09

³⁰ Decision on takeover of affairs, facilities, and work assets of the employees reached between the BiH Ministry of Security, SIPA and Directorate for coordination of police bodies of BiH, CoM ref. # 258/10 as of September 14, 2010.

³¹ 2012-2014 Strategic plan of activities for SIPA, Sarajevo: SIPA 2012.

Ministry of Security and other police organizations who made a major breakthrough in many areas concerning security. BiH met 176 conditions under the Road Map for visa liberalization,³² regarding the issues of border management, management of migrations and asylum, combat against illegal migrations, organized crime, trafficking in drugs and persons, corruption, economic crimes and money laundering, progress in terms of forming a system of efficient cooperation and coordination of activities in Bosnia and Herzegovina, as well as regional and international cooperation.

Even though they met these conditions, the process of visa liberalization is not yet completed; it is a process subject to joint monitoring by the EU and BiH. Following that process, on August 2, 2011, the management of the Agency for prevention of corruption and coordination of combat against corruption was finally appointed and a working group was formed to draft a new proposal of the Book of rules on internal organization and systematization of job positions. The Book of Rules was completed by the end of 2011. However, it failed to gain the support of the competent authorities and in further procedure a new Book of rules was proposed and consequently accepted. It introduced a systematization for significantly fewer employees as compared to the original proposal. The staffing process for APIK began in 2012. In the meantime, the material and technical preconditions for functioning of the Agency were obtained (office premises and equipment).

With regard to the level of the security environment in Bosnia and Herzegovina, it is important to mention that after nearly ten years of engagement in BIH, the EU Police Mission (EUPM) officially ended its mandate on June 30, 2012. EUPM activities, as a part of the European Union's greater approach to strengthening the rule of law in Bosnia and Herzegovina and the region, was focused on rendering support to the law enforcement agencies and criminal-justice system in the combat against organized crime and corruption, intensifying cooperation between the police and prosecutors' offices, and cultivating regional and international cooperation. The EUPM to BiH was also the first mission established under the auspices of the European security and defense policy.³³

³² 2010 Report on work of the BiH Council of Ministers. For more details, please check https://www.parlament.ba/sadrzaj/ostali_akti/izvjestaji/default.aspx?id=29407&langTag=bs-BA&pril=b

³³ For more details please check <http://www.eupm.org/Detail.aspx?ID=885&TabID=1>

During 2012, there was a continuation of the efforts aimed at strengthening the structure and capacities established during the most recent reform of police. The Agency for education and professional training promoted 18 cadets of the first generation at the end of July 2011, whereas the second generation, comprised of 43 cadets from SIPA, was promoted in December 2012. The Agency continued to develop capacities to enable the education of 130 attendees simultaneously and hired 45 out of 60 positions, as envisaged by systematization plan. In 2013, the Agency plans to conduct basic police training for 150 cadets of the BiH Border Police and the BiH Directorate for coordination of police bodies, who will earn the rank of “policer officer.”³⁴ The Agency for support of police structures filled its capacities with 39 officers out of an envisaged 49 and with certain limitations, performed duties and tasks imposed by the Law. The Agency for forensic examinations and expertise set up three expertise laboratories which started to provide support to BiH law enforcement agencies and hired 23 persons. The BiH Directorate for coordination of police bodies, which is responsible for a greater scope of work compared to the aforementioned agencies, has been gradually taking over its tasks and duties. Compared to the planned systematization, 65% staffing of the Directorate, as well as an inability to find a permanent, quality solution for accommodation of personnel currently being deployed across three locations, are certainly some of the limitations and reasons why it has not become fully operational.

The overview of police reform in BiH presented herein should serve the readers to get insight into the overall process of building the existing police organization in BiH and the wider socio-political context in which this process was developed. Having no intention to participate in discussions and assessments whether or not in BiH we have a case of postponed or fictitious police reform, or whether a breakthrough in the BIH security environment has been made, in the following text we shall try to identify some of the characteristics of the existing system of police organization. The findings of the research should, in the end, offer arguments on whether realized reforms led to better security of citizens; which certainly should be both the prime aim and motive of the state in its management of this segment of the security sector.

³⁴ <http://pogled.ba/mostar/novosti/31416-foto-agencija-za-kolovanje-i-struno-usavravanje-kadrova>

II ORGANIZATION, NUMBERS AND COMPETENCES

As one could see from the previous section of research, the complex constitutional structure of Bosnia and Herzegovina also determined the complex organizational police system of the state. In order to tackle a complete analysis of the BiH police structure we need to consider its content and organization at the three existing levels which are also a reflection of the existing constitutional-legal system of Bosnia and Herzegovina. For the purpose of this work, despite identifying Brcko District BiH as a special constitutional category within BiH, we opted to include its police organization into the organizational level of the entities, with respect to how the judicial and prosecutorial structures do their work. Presentation of the content and organization of the police system shall be supplemented by an analysis of the competencies at each level of police organization, i.e. independent police organizations which will be the subject of interest in follow-up research.

2.1. First Organizational Level

The first organizational level of the BiH police system is comprised of Cantonal Ministries of Interior in the Federation of Bosnia and Herzegovina. In the territory of the Federation of Bosnia and Herzegovina, there are ten Cantonal Ministries of Interior, in conformity with the constitutional system of the Federation of Bosnia and Herzegovina. Cantonal Ministries do not have hierarchical subordinate status towards the Federation Ministry of Interior for they are not an integral part of its organizational structure and have full independence in implementation of their duties and tasks. Hence, the Federation of Bosnia and Herzegovina has a decentralized police system with coordination elements. The Federation Ministry of Interior may entrust the Cantonal Ministries with work falling under its competency, which is stated in the laws on internal affairs of the cantons. The Cantonal Ministries of Interior are subordinated to Cantonal authorities and funded by their budgets. However, there is a link between Cantonal Ministries and the Federation Ministry of Interior reflected in the establishment of a single functional IT system and statistical data processing according to a standardized methodology as well as the formation of a joint

database in the area of internal affairs based on electronic data processing.³⁵ Cantonal Ministries of Interior are comprised of police administrations established on territorial and functional principles. The administration consists of two or more police stations formed at the municipal level (an example of the organizational structure of Canton Sarajevo Ministry of Interior is shown under *scheme 1*). The responsibilities of Cantonal Ministries of Interior have been prescribed by Cantonal laws on internal affairs and pertain to the protection of lives and assets, monitoring of police work, and in more complex cases and as required, the Cantonal Ministries of Interior are responsible for directly undertaking measures for prevention and detection of criminal acts and identification of the perpetrators. Cantonal Ministries of Interiors are also responsible for public peace and order, as well as cases of terrorist and other violent acts, i.e. armed riots. The activities of crime-technical expertise for the needs of police administrations is performed by Cantonal Ministries of Interior, in addition to acquisition of weapons, equipment, drafting programs for vocational trainings and professional development of police and other authorized official persons. It is important to mention that the laws stipulate that the Ministries perform scientific research work necessary for ensuring police activity as well as submitting operational data and notices as well as statistical data falling under joint responsibility to the Federation Ministry of Interior.

When tackling legal regulations, we realized that only two cantons (Tuzla Canton³⁶ and Bosnia-Podrinje Canton) decided to pass new laws that are more focused on the territorial specifics of their canton, whereas other cantons work under old laws they have been changing through multiple amendments.

Based on data obtained in this research, it was established that the ten Cantonal Ministries of Interior employ 10,392 persons.

2.2. Second Organizational Level

³⁵ Law on Internal Affairs of FBiH, Article 41, Paragraph 2.

³⁶New Law on internal affairs of Tuzla Canton was adopted on March 30, 2010 whereas the Law on internal affairs of Bosnia-Podrinje Canton was adopted on June 30, 2010. Other cantonal laws in this field were subject to some basic changes only. The Author's remark.

The second organizational level of the police system in BiH is comprised of police organizations at the entity levels (BiH Federation Ministry of Interior and Republika Srpska Ministry of Interior), and the Police of Brcko District BIH.

The competencies of the Federation Ministry of Interior (under which the Police Directorate operates) are prescribed by the Law on Internal Affairs of the Federation of Bosnia and Herzegovina³⁷ and pertain to, among other things, suppression of criminal acts of terrorism, inter-Cantonal crimes, placing narcotics in circulation, organized crime, identification, and arrest of perpetrators of the said criminal acts in conformity with the aforementioned Law. Data shows that the Federation Ministry of Interior employs 927 people. The organizational structure of the Federation Ministry of Interior is shown in *scheme 2*.

The competencies of the Republika Srpska Ministry of Interior are prescribed by the Law on Internal Affairs of the Republika Srpska.³⁸ In conformity with Article 4 of the Law on Internal Affairs, police jobs are operational-expert jobs providing protection of lives and personal security, human rights and freedoms, protection of all types of property, prevention of the perpetration of criminal acts, detection of criminal acts, identification, arrest and handover of perpetrators of criminal acts and offences to competent authorities, keeping public order, protection of certain persons and facilities, security of public gatherings and events, and security and control of traffic on the roads, etc.

As far as the territorial principle is concerned, the Republika Srpska Ministry of Interior is organized inot five public security centers (PSC) comprising of public security stations and police stations at the municipal level. Public security centers are directly subordinate to the Police Administration and Republika Srpska Ministry of Interior. The structure of the Republika Srpska Ministry of Interior is centralized, with clear procedures regarding coordination and subordination. The Republika Srpska Ministry of Interior employs 6,858 people. The organizational structure of the Republika Srpska Ministry of Interior is shown in *Scheme 3*.

³⁷ Official Gazette of FBiH # 49/05

³⁸ Official Gazette of RS, # 48/03

The Police of Brcko District BiH provide a secure environment to all persons in the District by respecting internationally recognized rights and basic freedoms as guaranteed by the Constitution of Bosnia and Herzegovina. The Police of Brcko District BiH has full, real and territorial jurisdiction in the territory of Brcko District BiH, as prescribed by the Law on Brcko District BiH Police.³⁹ The police are managed by the Chief of Brcko District BiH Police, who has one deputy. Furthermore, the police structure is comprised of seven units and an operational-communications center reporting directly to the Chief of Police (see *scheme 4*). Of the projected 339 police officers, the Police of Brcko District BiH employs 306 police officers. The structure of Brcko District BiH Police is centralized with clear procedures related to coordination and subordination. By examining the total number of employees within the second organizational level of police system in BiH (Federation of BiH Ministry of Interior, Republika Srpska Ministry of Interior, and Police of Brcko District BiH), it can be noted that within the district, there are 8,091 employees.

2.3. Third Organizational Level

The third organizational level of the police system in BiH is comprised of organizations at the state-level, including the Ministry of Security of Bosnia and Herzegovina and the seven administrative organizations within it. The Ministry of Security of Bosnia and Herzegovina competencies work in accordance with the Law on Council of Ministers of Bosnia and Herzegovina and Law on Ministries and other administrative bodies of Bosnia and Herzegovina. The Ministry is comprised of the following administrative organizations with operational independence: Border Police, State Investigation and Protection Agency, Foreign Affairs Service, Directorate for coordination of police bodies, Agency for forensic examinations and expertise, Agency for education and professional training, and Police support agency.

2.3.1. Ministry of Security of Bosnia and Herzegovina

The Ministry became operational when the Law on Ministries came into effect on March 15, 2003, and is responsible for: protection of international borders, internal border

³⁹ Official Gazette of Brcko District BiH, # 2/00 - 33/05

crossings, and regulation of traffic at border crossings; prevention and detection of perpetrators of criminal acts of terrorism, drug trade, forgery of domestic and foreign currency, trafficking in humans and other criminal acts with international or inter-entity elements; international cooperation in all fields falling within the competency of the Ministry; protection of persons and facilities; collection and usage of data of important for the security of Bosnia and Herzegovina; organization and harmonization of activities of entity Ministries of Interior and Brcko District BiH in realization of security tasks of interest to Bosnia and Herzegovina; enforcement of international obligations and cooperation in implementation of civilian protection, coordination in operations of entity services for civilian protection in Bosnia and Herzegovina and harmonization of their plans for natural disasters or other emergencies occurring in the territory of Bosnia and Herzegovina as well as passing plans and programs for protection and rescues; enforcement of BiH immigration and asylum policy; and the definition of procedures on movement and stay of aliens in BIH. Execution of administrative jobs under the competency of the Ministry is performed within the basic organizational units shown in *scheme 5*. The Ministry of Security of Bosnia and Herzegovina employs 188 persons.

Following is the short overview of the structure and responsibilities of the seven administrative organizations within the Ministry.

2.3.1.1. Border Police of Bosnia and Herzegovina

The Border Police is an administrative organization within the BiH Ministry of Security which has operational independence. Competences of the BiH Border Police are prescribed by the Law on Border Police of Bosnia and Herzegovina⁴⁰ and include enforcement of the Law on border control; Law on movement and stay of aliens and asylum; prevention, detection and investigation of criminal acts prescribed by criminal laws of Bosnia and Herzegovina when such criminal acts are aimed against the security of the state border or against execution of duties and tasks falling under the competency of the BiH Border Police. Falling herein are the criminal acts in conformity with provisions on abuse of public documents that serve as proof of identity and obligation on holding a visa; as well as provisions on movement and stay of aliens and asylum, should they be committed when

⁴⁰ “Official Gazette of BiH”, no. 50/04, 27/07 and 59/09.

crossing the border or are directly related with border crossing; criminal acts pertaining to transport of goods across the state border where that traffic is not permitted; goods lacking official approval or in cases where they violate an existing ban. The BiH Border Police is in charge of control of the state border which is 1,551 kilometers long, and has 89 border crossings.⁴¹ In addition, the Border Police has the authority to undertake measures for protection of civilian air traffic and the security of the premises of international airports in BiH.⁴² Within the BiH Border Police there is a Central Investigative Department authorized with the prevention and detection of criminal acts falling under organized trans-border crimes and particularly, the segment of trafficking in humans, illegal migrations and smuggling of goods. In realization of its tasks and duties, the Border Police employs 2,202 people out of the projected number of about 2,500 police officers. The seat of the BiH Border Police is in Sarajevo. The organizational structure is shown in *scheme 6*.

2.3.1.2. State Investigation and Protection Agency (SIPA)

The State Investigation and Protection Agency (SIPA) was established in 2004 as an administrative organization within the BiH Ministry of Security, with operational independence. The Agency is managed by a Director who holds the highest police rank and who is responsible to the Minister of Security and the BiH Council of Ministers for his own work and the work of the Agency. The Director has deputies and assistants who are responsible to Director for their own work. The competencies of the State Investigation and Protection Agency are prescribed by the Law on State Investigation and Protection Agency,⁴³ and pertain mostly to organized crimes, terrorism, war crimes, trafficking in persons and other criminal acts against humanity and values protected by the international law, as well as serious financial crimes. SIPA processes data and maintains records in conformity with the Law on police officials of BiH, Law on protection of personal data of BiH, Law on protection of secret data, and other regulations of Bosnia and Herzegovina. Execution of the work falling under the legally defined competencies of SIPA is done within basic organizational units established by law and other organizational units

⁴¹ Out of 89 border crossings, 55 are international border crossing whereas 34 are local border crossings.

⁴² There are four international airports: Sarajevo, Mostar, Banja Luka and Tuzla.

⁴³ Official Gazette of BiH # 27/04, 63/04 and 49/09

established by the Book of rules on internal organization and systematization of the State Investigation and Protection Agency.

Due to the adoption of the Law on Directorate for coordination of police bodies and agencies for support of police structure in Bosnia and Herzegovina, amendments to the Law on State Investigation and Protection Agency were made, based on which the provisions pertaining to physical and technical protection of persons, facilities and other protected property under his law were removed in addition to removal of the Department for security of persons and facilities, which, as a basic organizational unit was in charge of the aforesaid duties and tasks. These jobs were transferred to the competencies of the Directorate for coordination of police bodies of BiH.

In the framework of the existing material and personnel potential, SIPA is in a position to conduct the most complex investigations of organized crime criminal activity. The Agency has regional offices in Banja Luka, Mostar, Sarajevo and Tuzla with its seat in Sarajevo. A detailed presentation of its organizational structure is shown in *scheme 7*. SIPA has 711 employees.

2.3.1.3. Foreigners Affairs Service of Bosnia and Herzegovina

The Foreigners Affairs Service of BiH has been established as an administrative organization within the BiH Ministry of Security, which has operational independence. The competencies of the Foreigners Affairs Service of BIH are prescribed by the Law on Foreigners Affairs Service of BiH⁴⁴ and pertain to administrative affairs concerning movement and stay of aliens and asylum (cancellation of visas to aliens, issuance of personal and travel documents to aliens as well as seizure of issued documents, registration of stay or changes thereof for aliens, certification of guarantee letters and letters of invite, issuance of permits on stay of aliens, and asylum requests), deciding on administrative matters upon request for approval of temporary or permanent stay in BiH, placing aliens under surveillance and expelling aliens from the country, and maintenance of cases and the competencies of inspection affairs. The Service employs 222 persons. The seat of the Service is in Sarajevo and the organizational scheme is shown in *scheme 8*.

⁴⁴ “Official Gazette of BiH” no. 54/05 and 36/08.

2.3.1.4. Directorate for Coordination of Police Bodies of BiH

The Directorate for Coordination of Police Bodies of BiH was established by the Law on Directorate for Coordination of Police Bodies and Agencies for Support of Police Structure in Bosnia and Herzegovina⁴⁵ as an administrative organization within the BiH Ministry of security, with operational independence. The Directorate is managed by Director who is responsible to the Minister of Security and the BiH Council of Ministers for his own work and work of the Directorate. The Director has two deputies who are responsible to the Director for their own work. The competencies of the Directorate mostly pertain to communication, cooperation, and coordination among police organizations of BiH; cooperation and communication with corresponding foreign and international organizations concerning issues of police work of international importance or common interest; cooperation of police bodies of BIH with corresponding organizations in BiH concerning police works or issues in relation to the competencies of the Court of BiH; standardization of work with regard to police matters in BiH, daily combining of security information of importance to BiH; the work of physical and technical protection of persons and facilities of BiH organizations; diplomatic-consular bodies to receive protection in conformity with corresponding laws and international obligations; collection, monitoring, analyzing and usage of data important to BIH security; and enforcement of international treaties on police cooperation falling under the competency of the Directorate as well as other works stipulated by other regulations.

Within the Directorate, there is an Office for cooperation with Interpol (NCB Interpol Sarajevo), whose competencies and obligations are regulated by special provisions. Its task is to provide and improve cooperation with police forces and judicial bodies in the combat against organized crimes and other types of international crimes, in a spirit of “Universal declaration on human rights.” The Directorate has 825 employees out of a projected 1,268. The seat of the Directorate is in Sarajevo. The Organizational structure of Directorate is shown in *scheme 9*.

⁴⁵ “Official Gazette of BiH” no. 36/08.

2.3.1.5. Agency for Forensic Examinations and Expertise

The Agency for forensic examinations and expertise was established by the Law on Directorate for coordination of police bodies and agencies for support of police structure of BiH. It runs its affairs as an administrative organization within the BiH Ministry of Security, with operational independence. The Agency is managed by a Director who is responsible for the legality of the Agency's work and allocation of assigned funds. The Director has a deputy who is responsible to Director for his work.

The agency's competencies include the following: ballistics and mechanoscopies expertise, chemical and toxicological examinations, dactylographic expertise, graphology expertise, biological examinations, biochemical examinations, DNA analyses, special trainings, maintenance of records, statistical data and database, expertise of fires and explosions, providing assistance to other organizations included in the aforementioned Law, standardization of work in the field. as well as other work as prescribed by law and other regulations. The Agency currently has 23 employees. The seat of the Agency is in East Sarajevo.

2.3.1.6. Agency for Education and Professional Training

The Agency for education and professional training was established by the Law on Directorate for coordination of police bodies and agencies for support of police structure of Bosnia and Herzegovina.⁴⁶ The Agency works within the BiH Ministry of Security but has operational independence and has an autonomous budget. The Agency is managed by a Director who is responsible to the Minister of Security and the BiH Council of Ministers for his own work and work of the Agency. The Director has one deputy who is responsible to the Director for his own work. The competencies of the Agency pertain to education and vocational training of personnel in accordance with the needs of the police bodies in BiH and other services of such agencies in the field of security. In addition to education of police personnel in BiH,⁴⁷ the Agency is also given the authority to train the members of the agency for protection of persons and property as well as members of detective agencies. In addition to the aforesaid activities, the Agency has the competency for

⁴⁶ Official Gazette of BiH # 36/08

⁴⁷ Level I- police officer and level II-junior inspector

development, harmonization and proposal of new curriculum and training plans in conformity with the needs of the police bodies of Bosnia and Herzegovina and other services and agencies in the field of security; expert training (courses, seminars, etc.); development of research-publishing activities; contribution to the overall improvement and modernization of police work; librarian work; as well as maintenance of corresponding records and documentation falling under its competency. The Agency runs its business with 45 employees out of a projected 65 work positions. The seat of the Agency is in Mostar.

2.3.1.7. Police Support Agency

The Police Support Agency was established by the Law on Directorate for coordination of police bodies and agencies for support to police structure in BiH. The Agency operates as an administrative organization within the BiH Ministry of Security, with operational independence. The Agency is managed by a Director with one deputy. The Director and deputy director are appointed by the BiH Council of Ministers based on a proposal of the Minister of Security. The competencies of the Agency are mainly focused on police support in the field of maintenance of central data records on employees in police bodies of BiH; combining data on required personnel in police bodies of BiH; preparation of analyses, reports and reviews falling under Agency's competency for the needs of state organs; participation in drafting and monitoring of the application of laws and other regulations concerning police bodies of BiH and rendering expert opinions with reference to the application of such regulations; conducting internal control of the expenditure of budgeted funds; maintenance of legally prescribed financial and material records for the Agency; proposing to the BiH Council of Ministers along with consent of police bodies of corresponding documents defining standardized equipment for police bodies in BiH; performing and implementing procurement procedures for the Agency's needs; implementing tender procedures for special equipment for police bodies of BiH; and participation in the development of application and system programs for various databases and maintenance of databases. The Agency employs 39 people. The seat of the Agency is in Sarajevo.

By analyzing the total number of employees within the BiH Ministry of Security and the seven organizations at the state level, we determined that this organizational level has 4,255 employees.

As for the number of employees within the entire police structure of BiH, data indicates that the three aforesaid organizational levels employ 22,738 people.

If this data is compared with the data on employees in the police structure ten years ago, including employees of all Ministries of Interior and the Border Police Service (currently the Border Police), i.e. data from 2003, it can be observed that there has been an increase in the number of employees in the police organizations. More specifically, the present police organizations have 88 more employees compared to 2003.⁴⁸

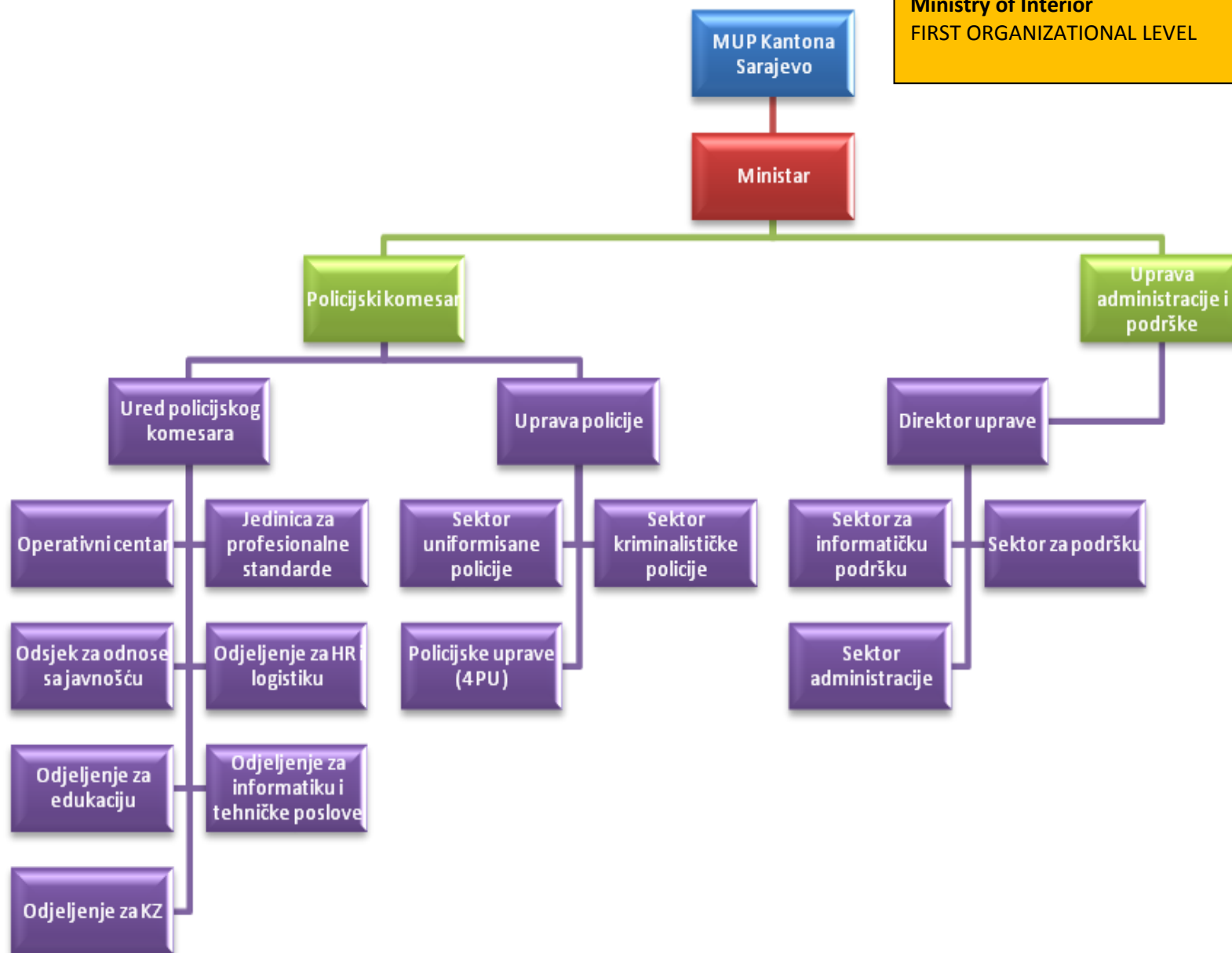
In addition to the seven organizational units at the state level, it must be emphasized that pursuant to the Law on independent and supervisory bodies of police structure of BiH, the Independent Board, Board of Appeals of police officers, and the Board of citizens' appeals have been established as independent bodies within the police structure of Bosnia and Herzegovina.

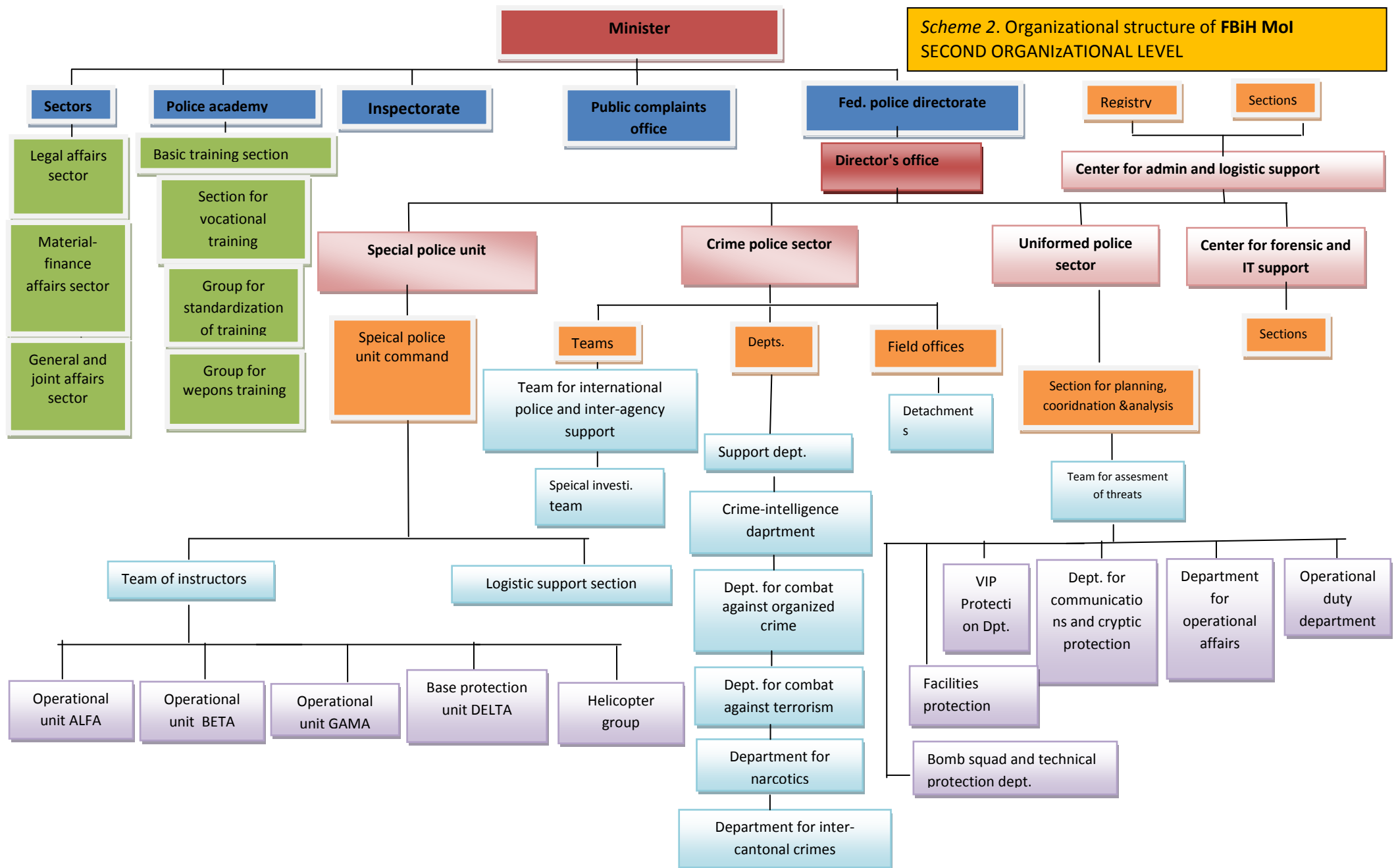
Furthermore, when discussing the state organizational structure, the Agency for prevention of corruption and coordination of combat against corruption needs to be mentioned.⁴⁹ This Agency was established with the purpose of preventing the impact corruption has on the development of democracy and respect of basic human rights and freedoms, as well as to prevent its disruptive effects on the economic growth of BiH and all other types of negative effects on social values, as well as for coordination of the combat against corruption. The Agency is an independent administrative organization accountable for its work to the Parliamentary Assembly of Bosnia and Herzegovina. The Agency is managed by a Director appointed by the Parliamentary Assembly of BiH upon the proposal of a special commission for the election and monitoring of the Agency's work.

⁴⁸ As per ICMPD SWOT analysis from 2003, employees in all ministries of interiors and Border Police by December 31, 2003 totaled 22.650 out of which 18.331 were police officers.

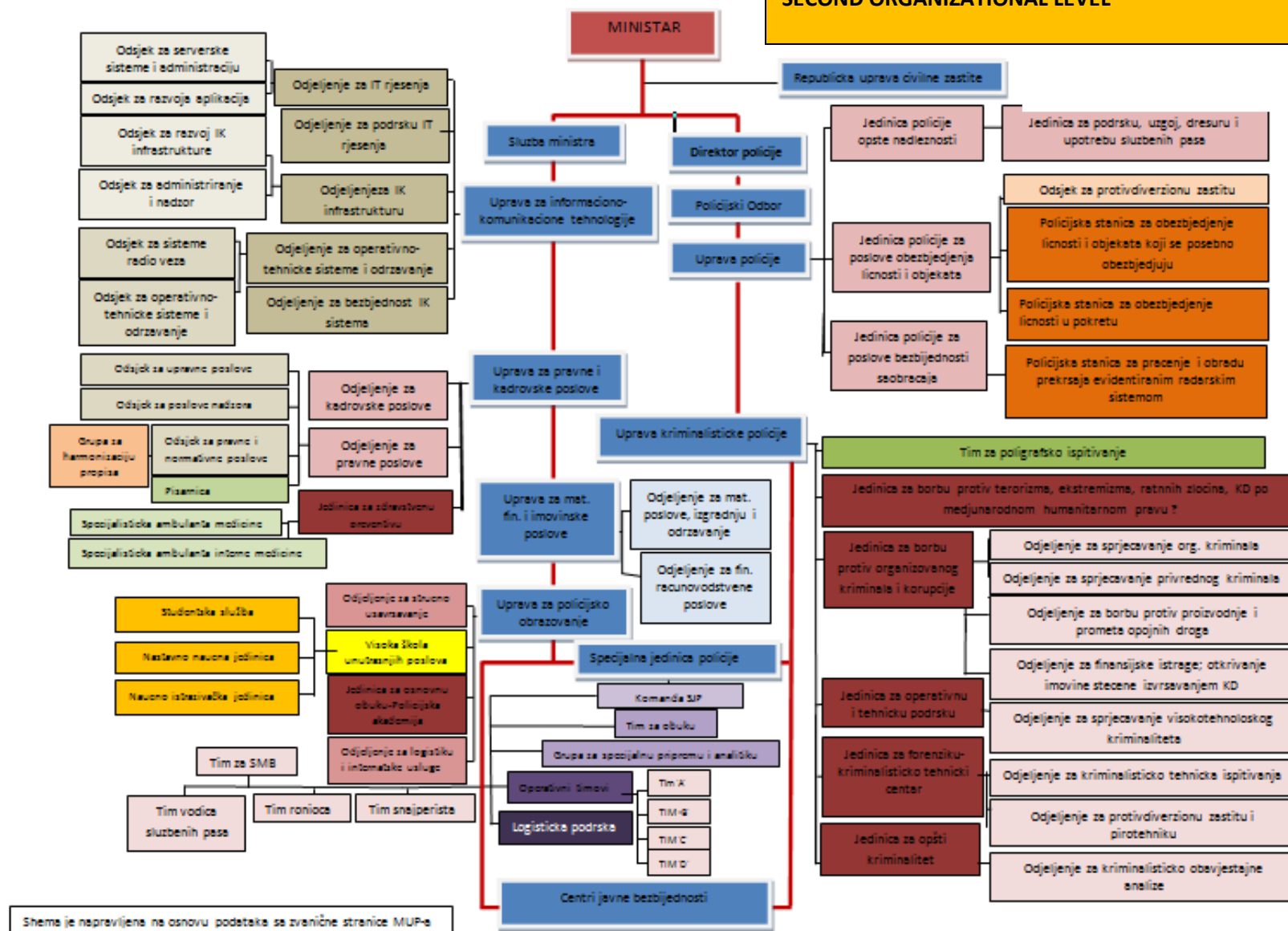
⁴⁹ Law on Agency for the Prevention of Corruption and Coordination of Fight against Corruption - „Official Gazette BiH, no. 103/09.

*Scheme 1. Organizational structure of **Cantonal Ministry of Interior***
FIRST ORGANIZATIONAL LEVEL





Scheme 3. Organizational structure of the RS Ministry of Interior
SECOND ORGANIZATIONAL LEVEL

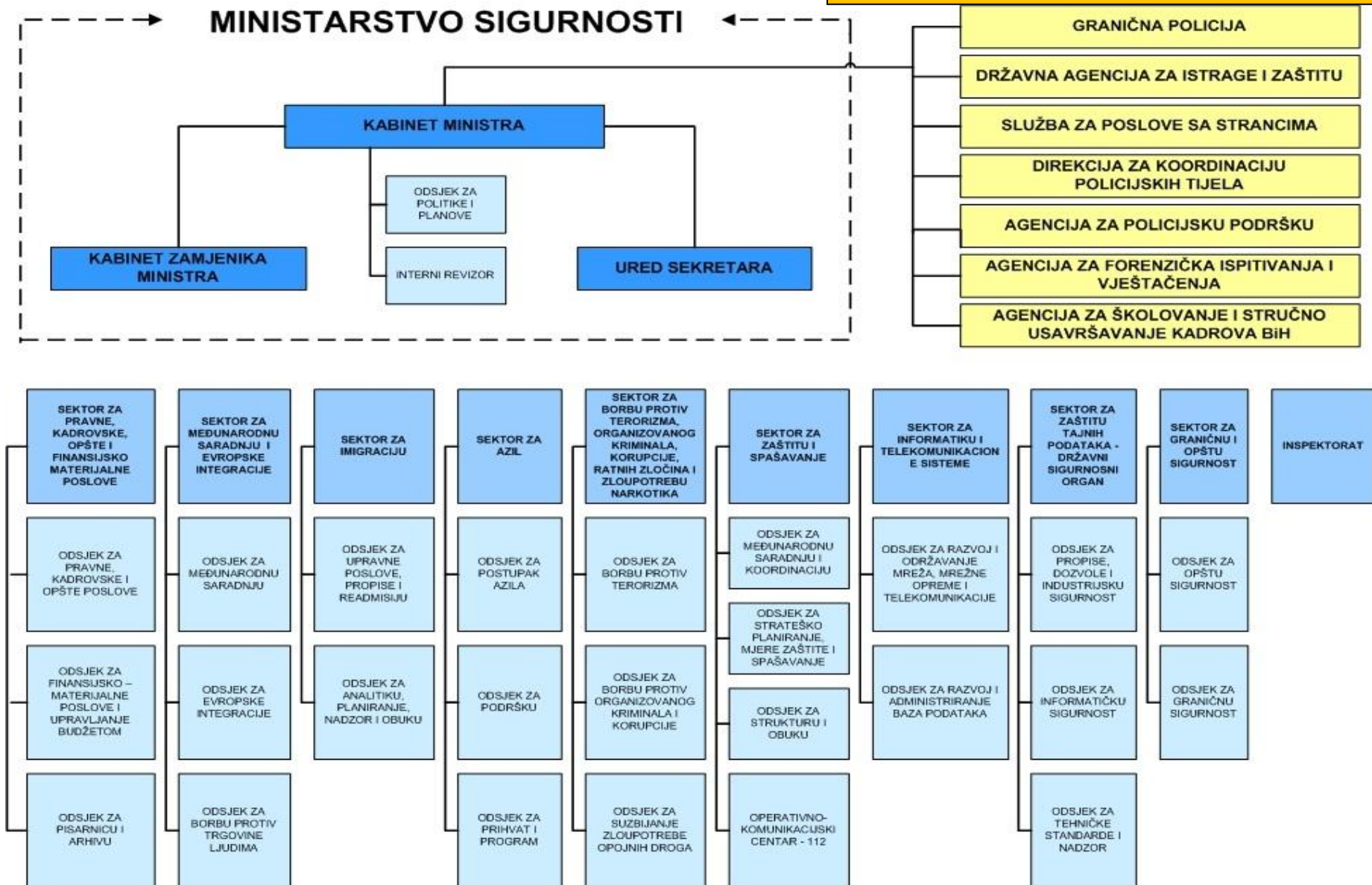


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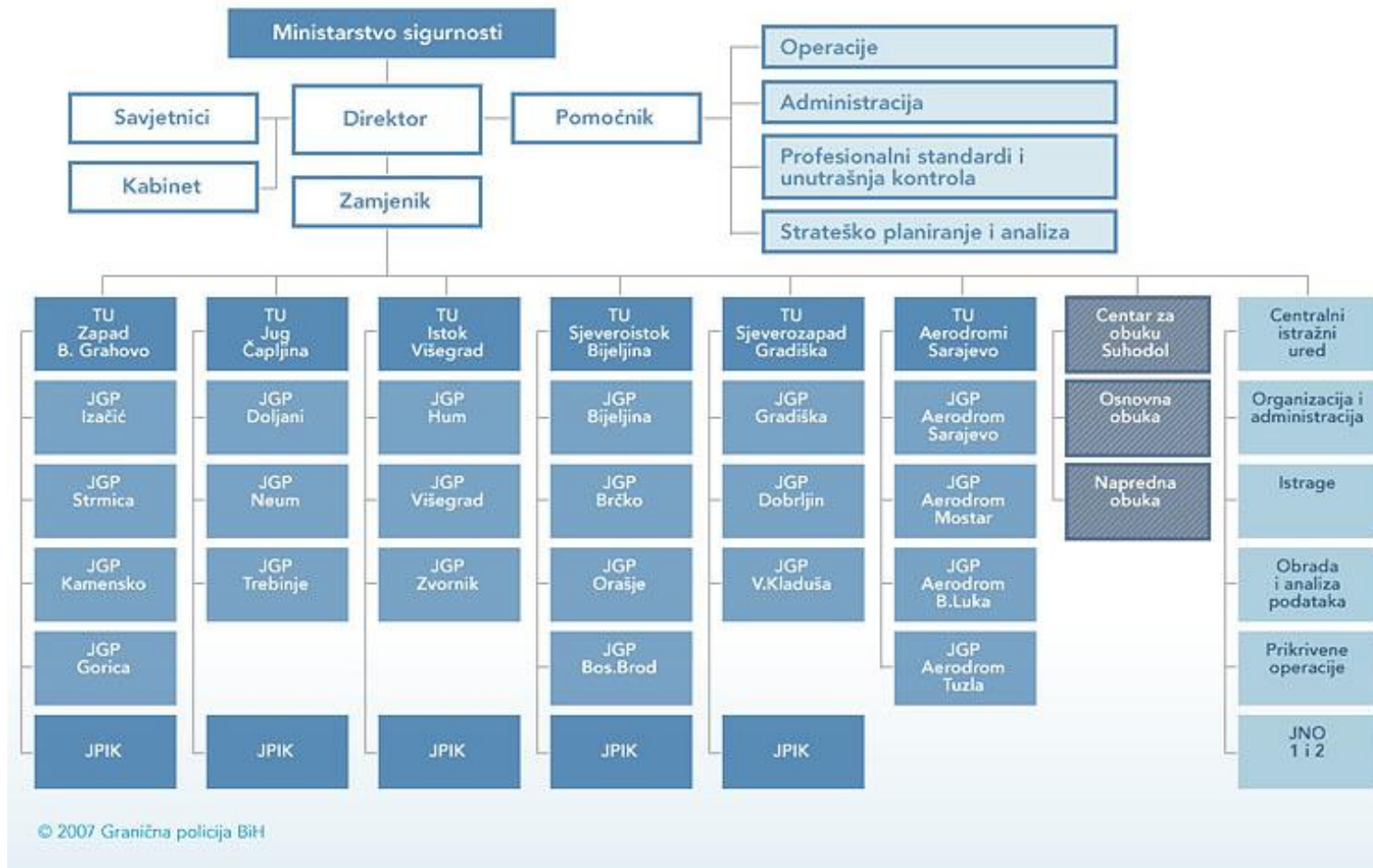
Scheme 4. Organizational structure of Brcko District BiH Police
SECOND ORGANIZATIONAL LEVEL



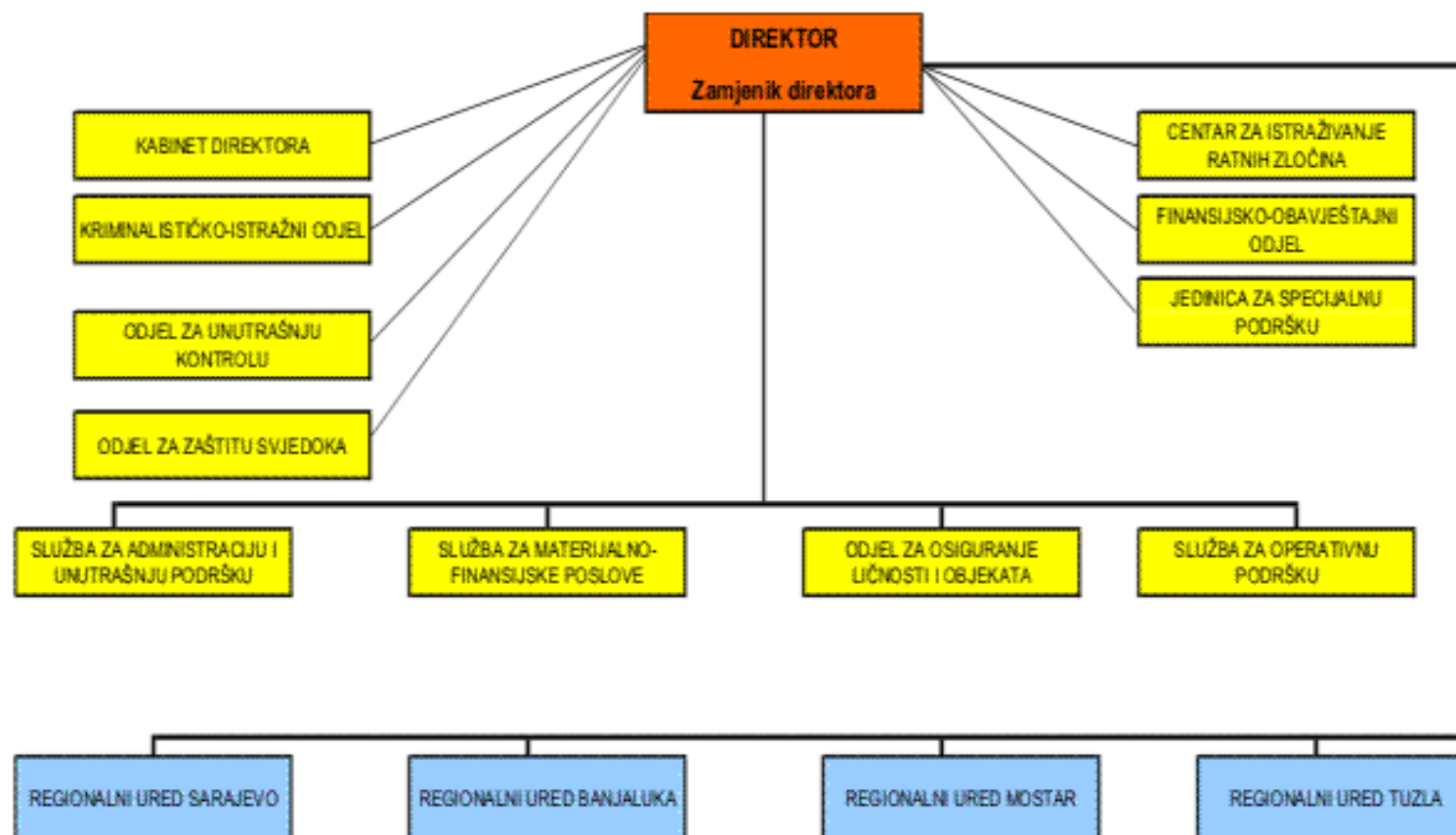
Scheme 5. Organizational structure of the BiH Ministry of Security
THIRD ORGANIZATIONAL LEVEL



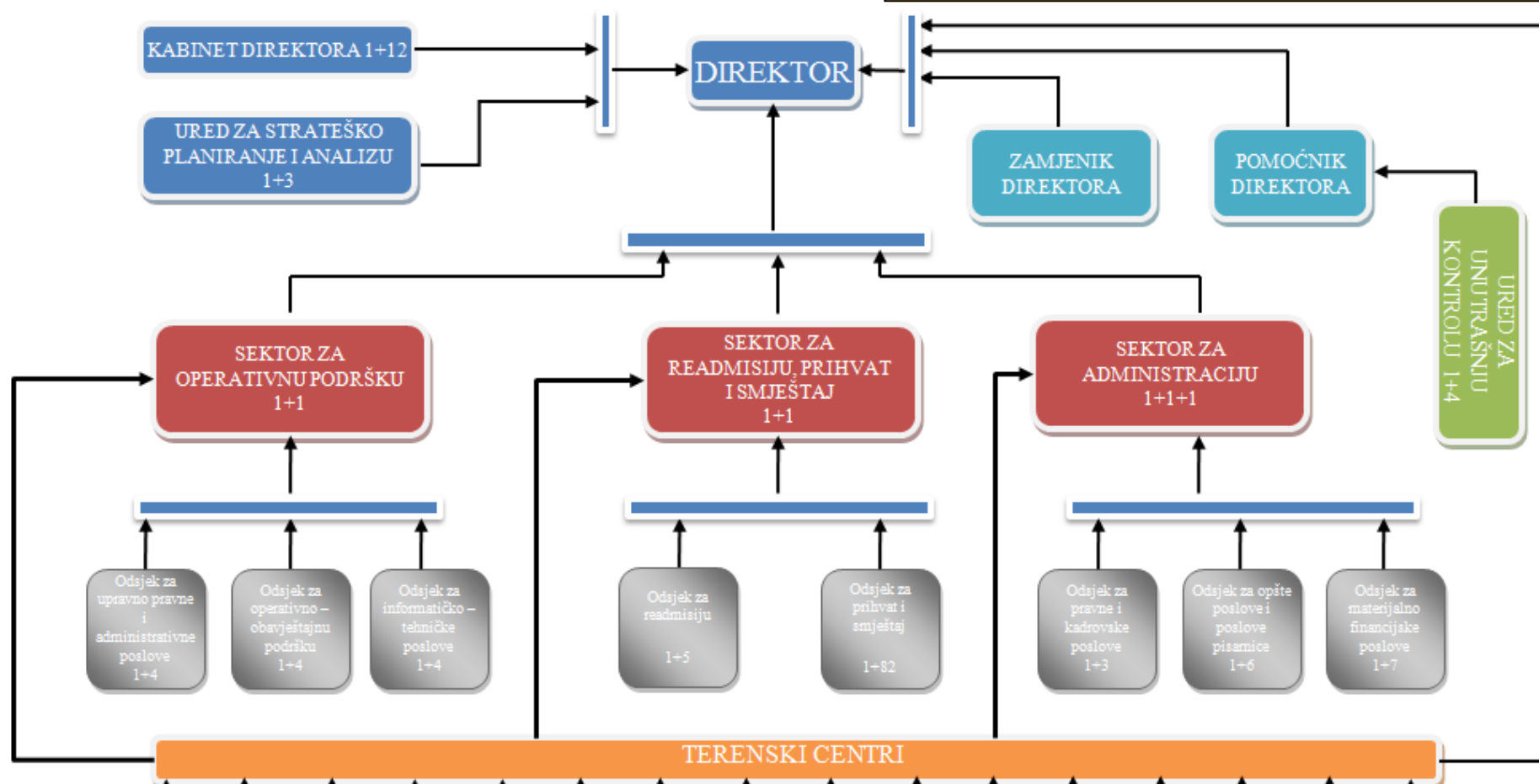
**Scheme 6. Organizational structure of the BiH Border Police
THIRD ORGANIZATIONAL LEVEL**



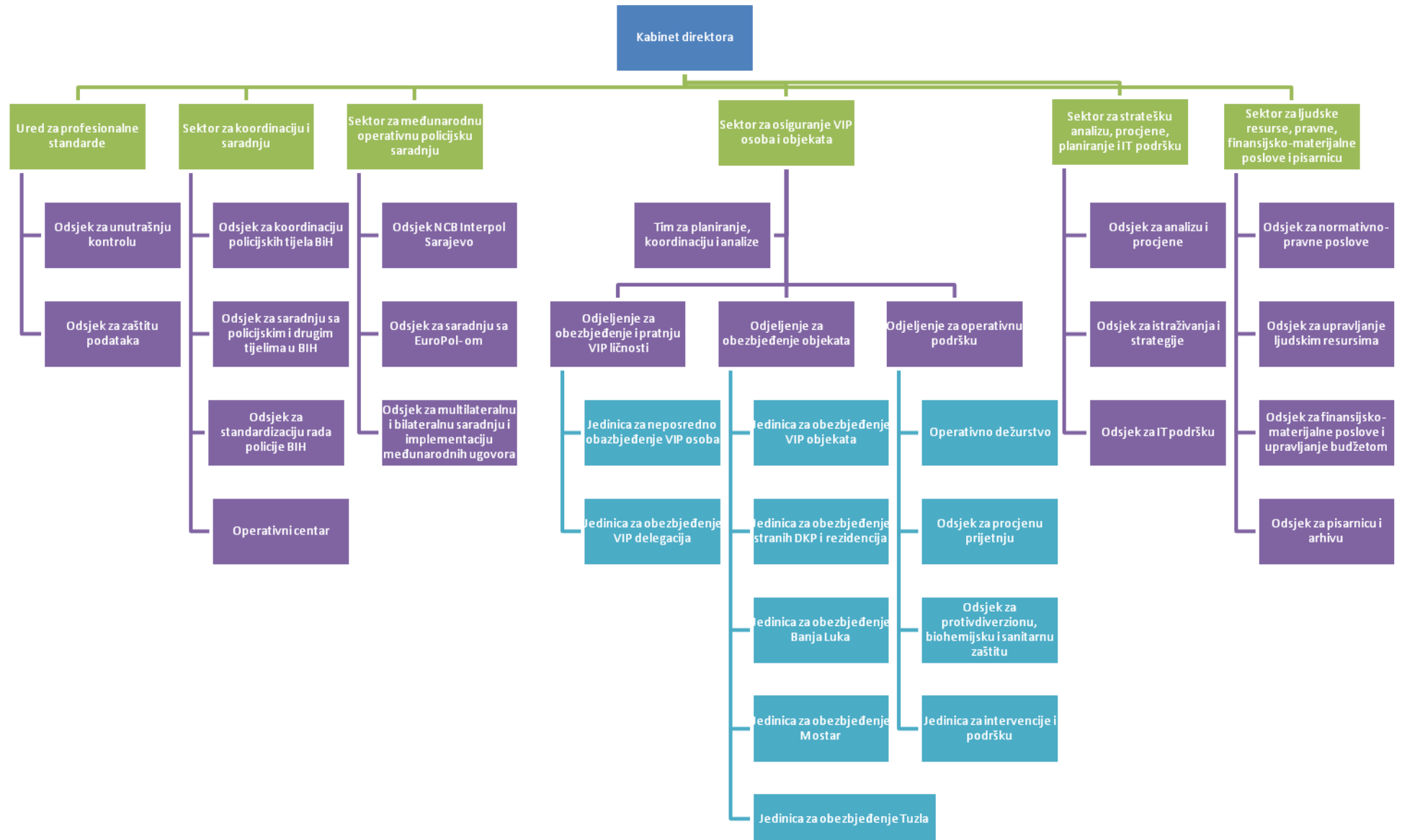
Scheme7. Organizational structure of the State Investigation and Protection Agency (SIPA)
THIRD ORGANIZATIONAL LEVEL



**Scheme 8. Organizational structure of the BiH Foreign Affairs Service
THIRD ORGANIZATIONAL LEVEL**



Scheme 9. Organizational structure of the Directorate for coordination of police bodies of BiH
THIRD ORGANIZATIONAL LEVEL

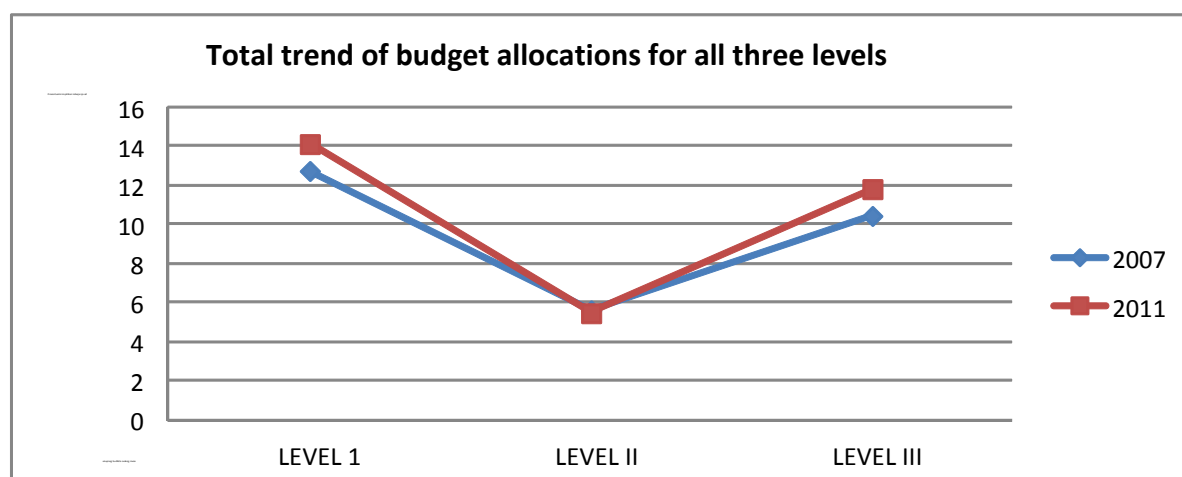


III FINANCING OF THE POLICE SYSTEM IN BiH

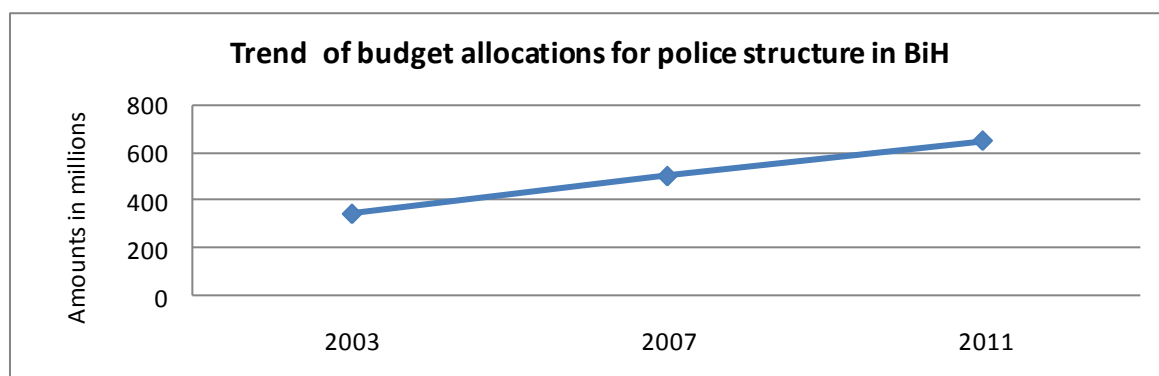
In the part referring to general competencies, it can be seen that the Ministries of Interiors and Directors/Commissioners of police are responsible for budget preparation for these institutions. Drafting budget proposals for the needs of police officials, as well as their material resources, is the responsibility of managers of the police organizations.

Preparation and drafting of the budget represents a significant responsibility since the police systems may efficiently function only if they are financed in an appropriate manner, while taking into account that the budgeting processes should not jeopardize the independence and political influence of the police and Ministry. Furthermore, it is important that the budgets are well thought out, so that every required budget item, together with the amount earmarked for that particular item, can be documented and substantiated with evidence. In cases where budgets are projected like this, police and Ministries of Interiors will be in a better position to get the budget amounts they are asking for.

The following analysis shows consolidated and individual overviews of budget amounts of the Ministries of Interiors and other security/police agencies at all organizational levels of the BiH police structure. At the annual level (analysis for 2011), the total budgets of the Ministries of Interiors (cantons and entities), Brcko District BiH Police, and the BiH Ministry of Security with its seven administrative organizations at the state level, amount to 647 million KM. Within the previously mentioned institutions, there are 22,738 employees. If this amount is seen from a total budget point of view (entities, cantons, Brcko District BiH, and state budget), it can be said that these institutions are spending 9.15% of the total budget.



If this amount and number of employees is compared with the same variables from 2003, it can be noted that the citizens were paying less money for security nine years ago. More specifically, back in 2003, for 22,650 employees within police organizations (Ministries of Interiors and State Border Service), 343 million KM⁵⁰ was allocated from the budget. It can be noted that over the last nine years, through police reform which resulted in the establishment of new police organizations, there has been a constant increase in the budgetary fund allocations for police organizations, whereas the number of employees in these structures remained the same or increased slightly. Thus in 2011, as opposed to 2003, budgetary funds allocated for police organizations rose to 47%, or 304 million KM.



Compared to 2007 these allocations increased by 147.5 million KM, or 22.7%.

In terms of percentages, the majority of funds from the governmental budgets are spent by Cantonal Ministries of Interiors – on average 14.12% out of the total budget. However, there are some significant variations when comparing certain cantons. As such, the Central-Bosnia Canton tops the other cantons by allocating most of its funds out of the total budget for the needs of the Ministry of Interior (21%). It is followed by Herzegovina-Neretva Canton, Livno Canton, and Posavina Canton. The least amount of funds for the Ministry of Interior is allocated by the government of Canton Sarajevo (10%). Presented below are the budget amounts of the Cantonal Ministries of Interiors, number of employees and percentages of budget allocations for the work of Cantonal Ministries of Interiors against the total Cantonal budgets.

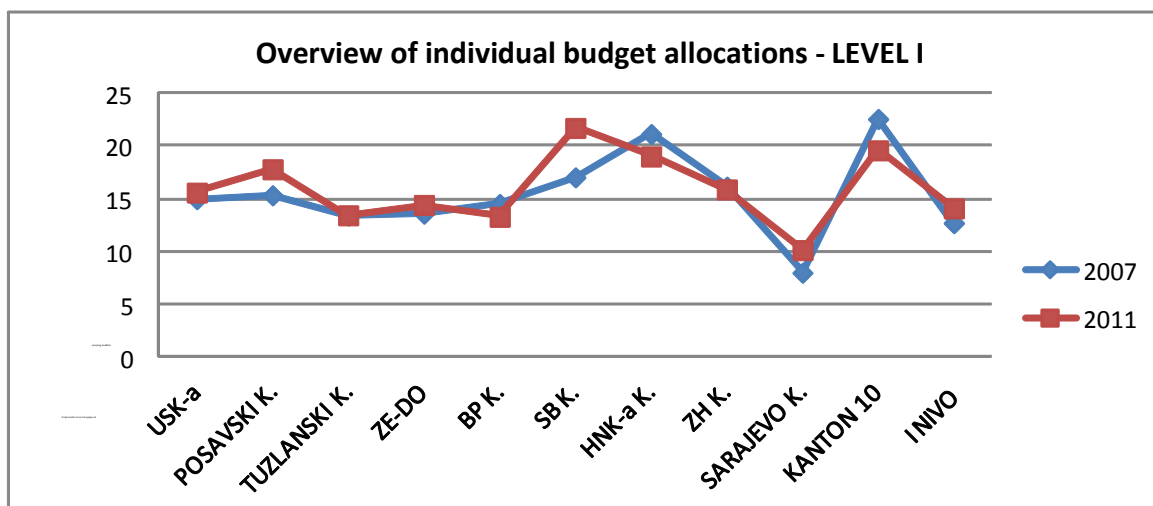
⁵⁰ ICMPD SWOT Analysis, Sarajevo, 2003.

MINISTRY OF INTERIOR	Ministry of Interior budget	% out of total 2011 budget	Number of employees	Cantonal budget
Una-Sana	30.781.167,00	15,62	1157	196.963.130,00
Posavina Canton	5.584.900,00	17,83	205	31.329.500,00
Tuzla Canton	49.873.497,00	13,47	1915	370.362.369,00
Zenica-Doboj Canton	38.403.774,00	14,46	1560	265.500.800,00
Bosnia-Podrinje Canton	6.418.160,00	13,34	251	48.090.901,00
Central Bosnia Canton	33.921.400,00	21,75	1303	155.917.800,00
Herzegovina-Neretva Canton	35.405.570,00	19,04	1215	185.915.800,00
West-Herzegovina Canton	11.135.000,00	15,92	401	69.938.300,00
Sarajevo Canton	72.985.400,00	10,18	1919	716.500.000,00
Livno Canton	12.800.921,00	19,61	466	65.279.056,00
TOTAL	297.309.789,00	14,12	10.392	2.105.797.656,00

Spreadsheet 1: 2011 Overview of number of employees and funds allocations for Cantonal Ministries of Interiors

Source: 2011 Audit report and Cantonal budgets from official web-pages of Cantonal governments

In spreadsheet 1 it can be observed that the ten Cantonal Ministries of Interiors of the BiH Federation annually spend 297 KM which is 45.88% of the entire budget of the Ministry of Interiors and other security/police agencies across all levels in BiH. This ratio of budgeting for Cantonal Ministries of Interiors makes them the highest budgetary spenders in comparison with other Ministries of Interiors and security/police agencies in BiH.

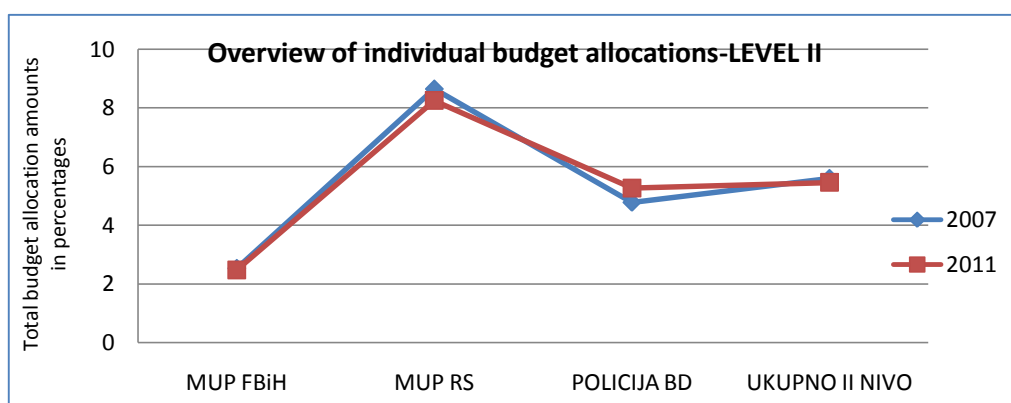


Also, it must be emphasized that police organizations of this level continued to increase their required annual funds from the budget even after some new police organizations at the state level were established, so in 2011, as compared to allocations back in 2007, these allocations have increased for 1.38% or 58 million KM.

As for the second organizational level (entity Ministries of Interior and Brcko District BiH Police), there are also some big differences not only in the organization and numbers, but also in expenditure of budget funds. The Republika Srpska Ministry of Interior is the largest at this level, employing 6,858 people within the Ministry. For the needs of the Ministry of Interior operations annually, some 150 million KM are allocated, which represents 8.25% of the allocations for the Ministry of Interior out of the total Republika Srpska budget. If this amount is compared with the overall budget allocation across all levels in BiH for Ministries of Interiors and security/police agencies, then the Republika Srpska Ministry of Interior takes second place by having the largest participation in this budget of 23.24 %.

MINISTRY OF INTERIOR	Year	Ministry of Interior budget	% of total budget	Number of employees	Cantonal budget
REPUBLIKA SRPSKA MINISTRY OF INTERIOR	2011	150.550.649,00	8,25	6.858	1.825.000.000,00
FEDERATION MINISTRY OF INTERIOR	2011	42.183.286,00	2,48	927	1.699.318.442,00
BRCKO DISTRICT BiH POLICE	2011	10.661.302,00	5,27	306	202.396.520,00
TOTAL	-	203.395.237,00	5,46	8.091	3.726.714.962,00

Unlike the Cantonal Ministries of Interior and Republika Srpska Ministry of Interior, the Federation Ministry of Interior and Brcko District BiH Police are organizations with smaller budgetary allocations. Thus, the Federation Ministry of Interior annually expends about 42 million KM, or 2.5%, for its 927 employees out of the total BiH Federation budget. The smaller Brcko District BiH Police organization has 306 employees and a budget exceeding 10.5 million KM. Brcko District BiH allocates 5.27% of its budget for the Police. Out of the overall budget of all Ministries of Interior and security/police agencies in BiH, the Brcko District BiH Police participates with 1.65%, whereas the Federation Ministry of Interior participates with 6.5%. Even after establishing the new police organizations at this level, there was no noticeable, statistically significant increase in additional allocations for police organizations, which ranges between -0,40 to +0,49%.



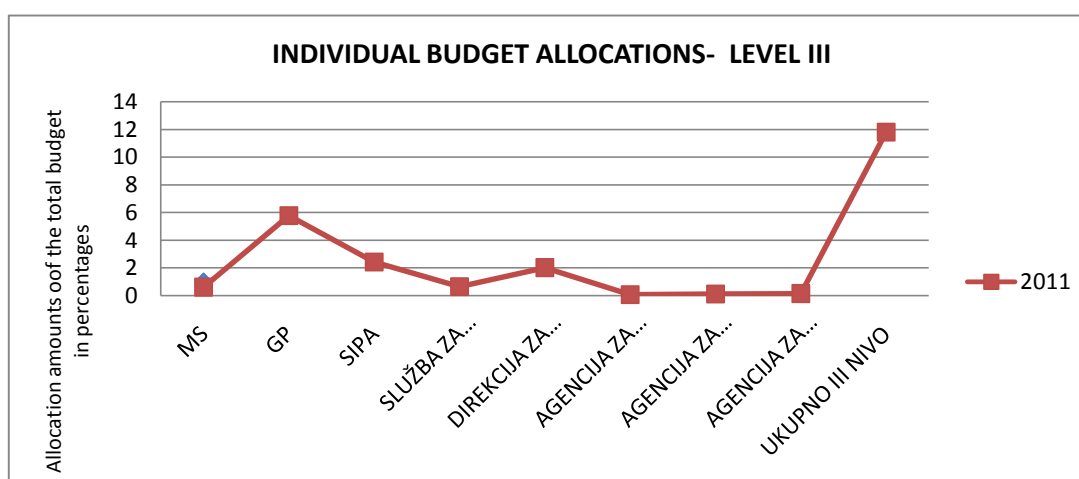
As for financing of the third organizational level of the police system in BiH, research shows that the BiH Ministry of Security, with seven administrative organizations at the state level in 2011, set aside 147 million KM, so it earmarked 11.81% of total state budget for those bodies. Within the Ministry of Security and seven administrative organizations, there are 4,255 employees. Based on the indicators it can be seen that the state level takes third place in proportion to the largest budgetary allocations for security/police agencies in BiH, following the Cantonal Ministries of Interiors and the Republika Srpska Ministry of Interior.

TITLE OF BODY/ORGAN	Year	Individual budget amount	% out of total budget	Number of employees	Budget amount for BiH (state level)
MINISTRY OF SECURITY BIH	2011	7.565.791	0,61	188	1. BILLION 245.115.495
BORDER POLICE BIH	2011	71.791.324	5,77	2.202	1. BILLION 245.115.495
SIPA	2011	30.298.000	2,43	711	1. BILLION 245.115.495
FOREIGN AFFAIRS SERVICE	2011	8.057.018	0,65	222	1. BILLION 245.115.495
DIRECTORATE FOR COORDINATION OF POLICE BODIES BiH	2011	25.200.000	2,02	825	1. BILLION 245.115.495
AGENCY FOR FORENSIC EXAMINATIONS AND EXPERTISE BiH	2011	896.780	0,07	23	1. BILLION 245.115.495
AGENCY FOR EDUCATION AND PROFESSIONAL TRAINING BiH	2011	1.879.938	0,15	45	1. BILLION 245.115.495
POLICE SUPPORT AGENCY BIH	2011	1.373.924	0,11	39	1. BILLION 245.115.495
TOTAL	2011	147.062.755	11,81	4.255	1. BILLION 245.115.495

Source: 2011 Audit Report

By looking at budget allocations for the Ministries of Interiors and security/police agencies at the first and second level (cantons, entities and Brcko District Police) against the third level (state level) it can be concluded that the first and the second level are spending 78.01% of the total budget, whereas the remaining amount goes to the state level. However, the fact is that the Federation of BiH annually spends the majority of funds for the work of the Ministries of Interior (ten Cantonal Ministries plus the Federation Ministry of Interior), which is 331 million KM for 11,177 employees. The other entity (Republika Srpska) at the state level, allocates 159 million for the work of the Ministry of Interior employing 6,858 persons. The state level takes third place by allocating 147 million annually for 4,255 employees, and finally Brcko District BiH, which allocates about 10 million KM for the work of Police.

By looking at fund allocations for the third (state) level of police organizations, it can be noted that upon establishing the new organizations, there was an increase in the allocation of budget funds. Thus by comparing budget allocations for the work of the police organizations at this level back in 2007, prior to this report and 2011, it can be seen that in 2007 the state allocated 10.44% of the budget, or 98 million KM for the work of the Ministry of Security, Border Police, SIPA and Foreigner Affairs Service. By establishing new administrative organizations within the Ministry of Security, there was an increase in budget allocations from this level during 2011 in the amount of 48 million KM, or a 33% increase compared to 2007.



IV STRUCTURAL ANALYSIS OF JURISDICTION IN LEGISLATION AND PRACTICE

The complex structure of the state is also reflected in the police structure of jurisdiction in BiH. In terms of their organization, the jurisdictions of the police structures partially overlap or cannot be defined by drawing a sharp line between them. The Police system in BiH is based on the principle of coordination,⁵¹ not subordination.⁵² That implies that the Ministry of Security of Bosnia and Herzegovina and other agencies at the state level have no executive function over entity Ministries of Interior and agencies; whereas the Federation Ministry of Interior, or Federation Police Directorate (when tackling operational matters), has no executive function over the Cantonal Ministries of Interiors. This is partly a reflection of the non-harmonized legal framework, but is also reflected in the decentralized police system and functioning of the police system in Bosnia and Herzegovina. Due to this, it is a common occurrence that various police bodies/agencies in Bosnia and Herzegovina carry out tasks which, according to the legal provisions in force, fall under the direct jurisdiction of another agency. Such a condition with the traits of overlapping jurisdictions became more complicated after 2008 when several police agencies at the state level, with operational independence, such as the administrative organizations of the Ministry of Security, were established. This was caused due to the fact that many laws at the lower levels remained non-harmonized with those passed at the state-level or because a sharp line between the jurisdictions failed to be drawn. Therefore, one part of the activities being assigned as competencies of the state agencies remained the competency of the entities, or the cantons, or it became very hard to determine a sharp line and differentiate things in terms of certain competencies of police work. Representatives of police structures with whom we interviewed and consulted during work on this research also agreed with this conclusion. In their opinion, the most recent reform was more of a formal character and reflected political compromise, while essentially it led to further fracturing of the police structure in Bosnia and Herzegovina. Furthermore, the reform

⁵¹,Coordination as concept of hierarchical relation in management assumes, even in case of retaining the organizational pyramid, the feedback relations and horizontal connecting (lateral connection with other services, organizational units etc.), „Criminal justice science glossary“, Dusko Modly and Nedžad Korajlic, Center for education and culture Tesanj, 2002.

⁵² Subordination – type of hierarchical relations which may be marked as strictly pyramidal-linear relation where communication always starts from the top of the pyramid and goes downward.

additionally burdened the budget and created an overlapping of subject matter jurisdiction and territorial jurisdiction of police organizations.

Competencies of police organizations are regulated by the laws on the work of the relevant institutions, whereas the authorities given to the police officials, besides the above mentioned, are regulated by the Criminal Procedure Codes and the Laws on Police Officials adopted at the state, entity, District of Brcko and Cantonal levels.

It is necessary to look at the competencies of police organizations in BiH in the big picture, for example, in the context of a total security system and the framework of organization and functioning of the police structure. One of the reasons is because police organizations at the entity and Cantonal level – Police Departments – fall within civil institutions, that is, within the Ministries of Interior. The other reason is that, besides police organizations at the level of BiH which perform operational police work and hire police officials, there are other organizations which hire civil servants dealing with security issues, and their work is partially similar to police work. Those organizations at the state level provide support to police structures or are involved in solving the problems of security and crime, and similarly to those at the entity and Cantonal level, perform security-related administrative or legal-administrative work.

This complex organization of the police structure and unclear division of competencies between the police organizations creates dilemmas in BiH with regard to the number of police organizations that are active in Bosnia and Herzegovina, and within the police system itself. In order to attempt to solve the dilemmas and for the purpose of this research, we decided to suggest a possible solution that, in the end, would have the goal of calculating the unique and agreed upon number of police organizations in Bosnia and Herzegovina. Therefore, we divided the existing organization into authorized police organizations and unauthorized organizations, but dealing with crime-related tasks. We hope that such an approach will have the approval of the relevant institutions and experts in this field, so we can at least have a common opinion on the number of police organizations, and avoid further dilemmas and mixed interpretations on the number of existing police organizations in Bosnia and Herzegovina.

4.1. Authorized police organizations

According to existing laws on police officials at all levels in BiH, police officials are those that use police authorities in their work regulated by those laws and act as authorized officials pursuant to the Criminal Procedure Codes.⁵³ They use police authorities and apply operational-tactical and criminal-investigative actions and methods. Police organizations are those recognized as such by the Law on Police Officials. Following the jurisdictions and authorities, we put the following police organizations into this group:

1. SIPA BiH
2. BiH Border Police
3. Directorate for coordination of police bodies of BiH
4. Federation Ministry of Interior
5. Republika Srpska Ministry of Interior
6. Brcko District Police
7. Una-Sana Canton Ministry of Interior
8. Posavina Canton Ministry of Interior
9. Tuzla Canton Ministry of Interior
10. Zenica-Doboj Canton Ministry of Interior
11. Bosnia-Podrinje Canton Ministry of Interior
12. Central-Bosnia Canton Ministry of Interior
13. Herzegovina-Neretva Canton Ministry of Interior
14. West-Herzegovina Canton Ministry of Interior
15. Canton Sarajevo Ministry of Interior
16. Canton 10 Ministry of Interior

The Directorate for Coordination of Police Bodies of BiH is in this group because their officials have police authorities pursuant to the BiH Law on Police Officials. At the same time, pursuant to the Criminal Procedure Code of BiH, causing the author's dilemma if this was done by intention or purely not updated; police officials of this police body are not given the status of authorized police officials.

⁵³ Article 2 of LPO BiH, Article 2 of LPO FBiH, Article 2 of LPO RS and Article 2 of LPO BD

4.2. Organizations non-authorized, but dealing with crime-related tasks

In this group, we put organizations whose job is related to combating crime, supporting police bodies, and performing legal-administrative and inspection jobs that are related to the security business. These organizations hire civil servants instead of police officials. They act throughout the territory of BiH, and considering that even though the unsuccessful reform of the police system was directed to that level of Administration, many jobs doubled resulting in the situation where police officials and civil servants perform similar jobs. The following organizations are in this group:

1. BiH Ministry of Security
2. BiH Foreigners Affairs Service
3. BiH Forensic Examinations and Expertise Agency
4. BiH Agency for Education and Professional Training
5. BiH Agency for the Support to the Police Structure
6. BiH Agency for the Prevention of Corruption and Coordination of the Fight against Corruption

As you can see, we included the BiH Ministry of Security in the group of organizations that do not have police authorities, even though this may create a certain dilemma considering its legal competencies. Pursuant to the Law on the Council of Ministers of BiH, and the Law on Ministries and Other Administrative Bodies in BiH,⁵⁴ this Ministry is, among other things, entitled to many competencies, which implies that this organization is competent to use police authorities. This interpretation has its legal grounds, because the BiH Ministry of Security consists of administrative organizations with operational independence (SIPA, BiH Border Police, and the Directorate for coordination of police bodies), which all have police authorities. In the context of this research, we have decided that the BiH Ministry of Security should be observed closely, through its organization of the main office, and functions through its sectors and inspectorates.

The second organization that we also included in this group of bodies is the BiH Agency for the Prevention of Corruption and Coordination of the Fight against Corruption. The

⁵⁴ “Official Gazette of BiH”, no. 5/03, 42/03, 26/04, 42/04, 45/06, 88/07

Agency has investigative authorization, but it is not a police organization, nor does it have a command function in relation to the police bodies that deal with the fight against corruption. It is not even directly connected to the work of the police bodies, but considering its importance and description of jurisdictions, we decided to put this organization into the group of organizations that combat crime.

4.3. Determining jurisdiction through existing legislation

Police organizations at all levels of government, according to their legal jurisdictions, are dealing with prevention, detection, and solving of crimes and capturing perpetrators of those crimes, as well as with analysis of those crimes. Police agencies are involved in this job, because when police officials use police authorities pursuant to the Criminal Procedure Codes (CPC) and the Law on Police Officials (adopted at all levels of government), that is operational work. Exceptions to this are the Indirect Taxation Authority (ITA) and entity level financial police (whose officials are not police officials) which, within their jurisdictions, may investigate offences related to financial crime and report it to the competent Prosecutor's Offices. Also, when performing their jobs, police officials may use means of force, pursuant to the Law on Police Officials, and the Books of Rules on Use of means of force, adopted in particular police agencies.

One of the main tasks and common work of police is crime prevention and the detection of perpetrators; that is, solving crimes and cooperating with competent Prosecutor's Offices. The competency for performing this work is regulated by specific Labor laws of those organizations, and with the Law on Internal Affairs and Laws on Police Officials. Police organizations, which, pursuant to laws on their organization and functioning, have the competencies of detecting and investigating crime are: SIPA, BiH Border Police, Federation Ministry of Interior, RS Ministry of Interior, Brcko District Police, and Cantonal Ministries of Interior in the Federation of BiH. Therefore, in this part of the text, we will focus on analysis and comparison of the competencies of the abovementioned organizations.

The Legal framework defines competencies in two ways (two options). The first way is a direct determination of competencies through the Labor Law of particular police organizations which:

1. Directly defines criminal offences from their jurisdiction, or
2. Negatively defines competencies through the formulation of exempt crimes (duties) that are in the exclusive jurisdiction of other police agencies.

The second way is a direct determination of a crime through linkage with the Criminal Code, so that the Labor Law of particular organizations exactly defines the police organization that performs duties pursuant to a particular Criminal Code (which defines particular crimes).

To explain more precisely, these are law-defined options of determining competencies; we will explain each of them in detail. As we already mentioned, in a direct determination of competencies, we have two law-defined options.

4.3.1. Crime specification

Police organizations which, in their Labor law, have precisely defined what crimes are a part of their competencies are: SIPA, BiH Border Police, Federation Ministry of Interior, and somewhat, the Cantonal Ministries of Interior. The Law on the State Investigation and Protection Agency⁵⁵ (SIPA), in Article 8 of the Law, directly defines which particular types of crimes are in jurisdiction of the Agency, linking the competencies with jurisdiction of the State Court of BiH, and which are defined as crimes in the Criminal Code of BiH. The same article of the Law on SIPA, defines specifically, the competencies of the Agency for the acts of organized crime, terrorism, war crimes, human trafficking and other crimes against humanity and values protected by international law, and serious financial crimes. The BiH Border Police is also in-charge of investigation of crimes within the BiH territory, although investigating crimes is neither their first nor their only duty. The Law on BiH Border Police determines that jurisdiction of this organization is related to crimes against the security of the state border or against the duties and tasks of Border Police. However, the Law on BiH Border Police also defines competencies of this organization as taking actions in relation to other crimes and minor offences, as requested by a competent body. That means that the legal framework left the possibility for the State Prosecutor's Office of

⁵⁵ The Law on the State Investigation and Protection Agency, Official Gazette of BiH, no. 27/04, 63/04 and 49/09, 40/12.

BiH, as a body competent for conducting investigations, to use police officials of the Border Police, as well as police officials of SIPA or police agencies at the lower levels.

In the same way, the Law on FMUP, in Article 2, Paragraph 1, determines exactly what types of crimes are in the direct jurisdiction of the Ministry, citing: terrorism, inter-Cantonal crimes, drug trafficking and organized crime.⁵⁶ However, even in this case, the Law on FMUP, in Article 3, links the competencies with crimes in the Criminal Code of FBiH, and Criminal Code of BiH, in a way that precisely defines that the crimes of terrorism and drug trafficking relate to those crimes,⁵⁷ as defined in the Criminal Code of FBiH (that is for the reason that those crimes are listed in Criminal Codes of BiH, RS, and Brcko District), and organized crime as defined in the Criminal Code of BiH.

The Laws on Internal Affairs of Cantons somewhat define the competencies of Cantonal police organizations in regard to a type of crime. So, for example, The Law on Internal Affairs (LIA) of Una-Sana Canton, (Article 12, Paragraph 1), LIA of Bosnia-Podrinje Canton (Article 8, item a), and LIA of Sarajevo Canton (Article 12, Paragraph 1), assign these cantons with competencies for the protection of lives and property. Therefore we can conclude that besides the other types of crimes, Cantonal MUPs are in-charge for crimes against life and body, against liberties and citizens' freedoms, against health of people and a group of crimes against property, from the Criminal Code of FBiH.

4.3.2. Negative jurisdiction determining

The Cantonal Laws on Internal Affairs and the Law on Police of Brcko District, negatively determine some competencies. Cantonal laws mainly define that the competencies of those organizations are the duties and task of police, except duties in the jurisdiction of the Federation, whereas the Law on Police of Brcko District defines that the competencies of that organization include prevention, detection and investigation of crimes and minor offences that are not in the exclusive jurisdiction of other police organizations in BiH. However, in most of the Cantonal Laws on Internal Affairs, and the Law on Internal Affairs of RS, it is clearly defined that, if a Cantonal police official, when performing their

⁵⁶ Article 2 Paragraph 1 LIA of F BiH, Official Gazette of F BiH no. 49/05

⁵⁷ The LIA of F BiH stated „terrorism“ and „international terrorism“

duty, determines that a crime is being prepared or has been committed, which is in the competency of other police organizations in BiH, they may take only the necessary measures and activities for the prevention of the crime or location of the perpetrators, and inform the competent police organization immediately.

4.3.3. Indirect jurisdiction determining

When talking about the second option of determining legal competencies, we talk about indirect determination of competencies through links with criminal laws.

The Law on Internal Affairs of RS⁵⁸ does not precisely define the crimes in the competency of that Ministry, but, that is determined through the links with the Criminal Code of RS. Article 7 of the LIA RS defines that employees of the Ministry perform their police duties pursuant to the Criminal Code of RS and other laws. That indicates that all the crimes defined in the Criminal Code of RS are in the competency of the RS Ministry of Interior.

4.4. Analysis of jurisdictions in legislation in practice

The Laws defining crimes in BiH are: the Criminal Code of BiH (CC of BiH), the Criminal Code of FBiH (CC of FBiH), the Criminal Code of RS (CC of RS), and the Criminal Code of Brcko District (CC of BD). According to the current framework, certain groups of crimes (even though their titles are different), as well as the crimes themselves, such as terrorism, armed mutiny, financial crimes, corruption crimes, tax and customs crimes, organized crime, etc, are in all these laws; whereas the other groups of crimes, such as crimes against life and body, property crimes, and some other groups of crimes, can be found only in the entity laws and the Criminal Code of Brcko District.

Groups of crimes do not have identical titles,⁵⁹ but the titles of crimes, as well as the conditions for existence and the prescribed penalty, are the same. However, in most cases,

⁵⁸ Official Gazette of RS no. 4/2012

⁵⁹ For example, crimes of terrorism and similar crimes in the CRIMINAL CODE of BiH are in the group of crimes against humanity and values protected by international laws, in the CRIMINAL CODE of F BiH and the CRIMINAL CODE of BD – under Group of crimes of terrorism, in the CRIMINAL CODE of RS – under crimes against constitutional order of RS

the difference is expressed in reference to the damaged party; that is, if the crimes were committed against BiH or its entities, or Brcko District.

So, in relation to the type of crime, the current legal framework for determining competencies is not based on a type of crime or the prescribed penalty, but mostly on the damaged party; that is, a constitutional subject which had been damaged (actual jurisdiction) and based on the territory where it had been committed (territorial/local jurisdiction). Therefore, in reference to investigation of crimes, the competency is mainly linked with the crimes defined in a particular Criminal Code in BiH.

Depending on who was the damaged party, there are competent Prosecutor's Offices at several levels in BiH. They have an obligation to investigate and document crimes from the Criminal Code at a certain level of government, so police organizations submit their reports to them accordingly. So, for example, the State Prosecutor's Office of BiH is competent for investigating crimes defined by the Criminal Code of BiH (that is, those crimes that are in the jurisdiction of the State Court of BiH), and the Prosecutor's Offices in RS are competent for investigating crimes defined by the Criminal Code of RS, etc.

It happens often that police organizations at all levels are investigating the same type of crime. So, for example, the crimes of terrorism, organized crime, drug trafficking, human trafficking, and financial crime and corruption, are investigated and reported to the competent Prosecutor's Office by SIPA, BiH Border Police, Indirect Taxation Authority (ITA) (for financial crimes), the Federation Ministry of Interior, and the RS Ministry of Interior, entity level Financial Police, as well as Cantonal Ministries of Interior in the Federation of BiH. The same organizations are also collecting data, and do the follow-up and analysis of situations in BiH in regards to the mentioned types of crimes. Therefore, the legal framework that regulates the competencies of police organizations does not take the complexity of a crime as a criterion, because entity level Ministries of Interior, as well as Police Departments in cantons, can investigate very complex crimes. It is interesting to mention that, pursuant to the Labor Laws of police organizations at the state level, only SIPA and BiH Border Police have prevention, detection and investigation of crimes in their direct jurisdiction as defined by the Criminal Codes in BiH. The Directorate for coordination of police bodies is competent, among other things, for communication, cooperation, and coordination of the work of police organizations, and only a certain

number of their employees have the status of a police official, but, as stated earlier, the CPC of BiH does not treat them as authorized officials.

According to representatives of police organizations that we talked to, this type of legal competencies leads to positive and negative conflicts of competencies.⁶⁰ A positive conflict of competencies is viewed in having several police organizations declared competent for prevention and investigation of the same criminal act. A negative conflict of competencies is viewed in declaring a police organization not competent for prevention and investigation of a particular crime, claiming that another police organization is competent for that crime. In regards to showing competencies of particular police organizations, it is necessary to consider the complex and de-centralized police system in Bosnia and Herzegovina, which is organized and functions in the three levels that we mentioned in the chapter on Organization, Strength, and Competencies. Therefore, in the following part we will explain in detail, some types of crime that create a dilemma in regards to determining the competencies in practice.

The crime of **terrorism** is listed in the Criminal Code of BiH (Art.201)⁶¹ in the group of crimes against humanity and values protected by international laws, in the Criminal Code of F BiH (Art. 201)⁶² and in the Criminal Code of Brcko District (Art.198)⁶³ in the group of crimes of terrorism, in the Criminal Code of RS (Art.299)⁶⁴ in the group of crimes against constitutional order of RS. Maximum penalty in all above mentioned laws is a penalty of long-term imprisonment.

In regards to **financial crime**, it is not clear in the Law on SIPA, which prescribes competencies of that police organization, what crimes are considered to be “serious financial crimes.” But the Criminal Code of BiH recognizes several groups of crimes, listing crimes from the area of financial crime (Crimes against economy and unique market, and Customs crimes – Chapter XVIII,⁶⁵ Corruption crimes and crimes against

⁶⁰ Opinions and views presented at a joint meeting in Sarajevo on 11/30/2012, organized by CSS, attended by representatives of the most police organizations in BiH, and representatives of the Ministry of Security.

⁶¹ Criminal Code of BiH recognizes Financing terrorism (Art. 202), Public enticing to terrorist activities (Art. 202 a), Recruiting for terrorist activities (Art 202 b), Training for terrorist activities (Art 202 c), Organizing terrorist group (Art 202 d), as separate articles of Law.

⁶² Criminal Code of FBiH recognizes Financing terrorism (Art. 202) as separate articles of Law.

⁶³ Criminal Code of BD recognizes Financing terrorism (Art. 199) as separate articles of Law.

⁶⁴ Criminal Code of RS recognizes Financing terrorism (Art. 301) as separate articles of Law.

⁶⁵ Crimes against economy and unique market, and customs crimes, also include a crime of money laundering (Article 209), tax evasion or fraud (Article 210) and Customs fraud (Article 216)

official and other duty).⁶⁶ So, considering that these crimes are defined by the Criminal Code of BiH, then SIPA has competencies to investigate these crimes as defined in the Criminal Code of BiH. However, the same types of crime are listed in the Criminal Code of FBiH, Criminal Code of RS, and the Criminal Code of Brcko Distric, but the groups of crimes have different titles. For example, in the Criminal Code of FBiH, these crimes are in the group of crimes against economy, business, and security of the payment system – Chapter XII.⁶⁷ Then there is the group of tax crimes (Chapter XIX), listing tax evasion, and the group of crimes of bribery and crimes against official and other responsible function (Chapter XXXI), including receiving and giving gifts and other forms of gain, etc.

In regards to the legal grounds for investigating a so called act of **organized crime**, only four police organizations are entitled to investigate: SIPA, the RS Ministry of Interior, the Federation Ministry of Interior, and the Police of Brcko District, because this crime is defined by all four Criminal Codes in BiH.⁶⁸ It means the commission of a crime which is listed in a particular law that was committed within an organized criminal group.⁶⁹ So, for example, a crime defined by the Criminal Code of RS, committed by a member of an organized criminal group, represents an act of organized crime and is investigated by RS Police. Considering that competencies of the Federation Ministry of Interior include the prevention and detection of acts of organized crime (Art. 2 of LIA of FBiH), it is obvious that Cantonal Ministries of Interior do not have the competencies for investigating this type of crime.

In regards to the competencies for investigating crimes related to **drugs**, all police organizations have some. That is because the crimes related to drugs are defined by all Criminal Codes. Criminal Codes of entities and Brcko District list two crimes, illicit production and trafficking, and possession and enjoying drugs (Criminal Code of FBiH Art. 238 and 239, Criminal Code of RS Art. 224 and 225, Criminal Code of BD Art. 232

⁶⁶ Article 217 – 229 define 12 crimes, including receiving and giving gifts and other forms of gain, illegal mediation, abuse of position or authorities, embezzlement, business fraud, etc. For many of these crimes, a penalty may be 10 years in prison.

⁶⁷ Including money laundering (Article 272), but the Criminal Code does not define a damaged party at all.

⁶⁸ Criminal Code of BiH Article 250, Criminal Code of FBiH Article 342, Criminal Code of RS 383a, Criminal Code of BD 336

⁶⁹ Organized criminal group is three or more persons existing for a certain period of time, and acts in agreement with purpose of committing one or more crime, punishable by law with more than three years in prison or more, for purpose of making material gain (Criminal Code of BiH Article 1. Paragraph 20, Criminal Code of FBiH Article 2, Paragraph 18, Criminal Code of RS Article 147 Paragraph 12 – Organized criminal group, Criminal Code of BD Article 2, Paragraph 18)

and 233), whereas the Criminal Code of BiH defines the crime of mediation in international trade, or illicit international trafficking of drugs (Criminal Code of BiH Art. 195). According to this, entity level police organizations should investigate crimes defined by entity laws, and SIPA should investigate crimes of international drug trafficking. However, in the Federation of BiH, the Law on internal affairs of the Federation of BiH (LIA of FBiH) clearly defines direct competencies of the Federation Ministry of Interior in the prevention and detection of the crime of drug trafficking,⁷⁰ whereas, accordingly, Cantonal Ministries of Interior investigate crimes of enabling drug use. This is a special problem in the FBiH, for it is very hard to draw a line between these two types of crime, and it is hard for investigation purposes to limit, for example, enabling drug use, and yet exempt drug trafficking. That is why it often happens often in practice, that Cantonal Ministries investigate and report crimes of drug trafficking, which is strictly in the jurisdiction of the Federation Ministry of Interior, or that the Federation Ministry of Interior investigates and reports a crime of enabling drug use, which is in the jurisdiction of the Cantons. Also, if Cantonal Ministries of Interior, the Federation Ministry of Interior or the RS Ministry of Interior, when investigating crimes within jurisdiction, document that there is are grounds for suspicion of the existence of international drug trafficking, they should submit their report to the State Prosecutor's Office, because that type of crime is defined only by the Criminal Code of BiH. In practice, this means that in cases like these, the police organizations do not hand over their case to SIPA. Instead, they investigate and report the case to the State Prosecutor's Office directly. This partially happens because of the drive for better efficiency, and because handing over the case to some other agency during the collection of evidence would take a lot of time, which could result in the unsuccessful documentation of a sufficient amount of evidence. This also happens because of the "traditional" aspiration of all police organizations to submit charges for as many crimes as possible.

As far as investigation of **human trafficking and war crimes**, that is in the direct jurisdiction of SIPA, because the group of crimes against humanity and values protected by international laws is defined only by the Criminal Code of BiH; whereas the entity's Criminal Codes do not have it. But in practice, as a representative of one of the police organizations said,⁷¹ criminal acts related to cyber crime, which are closely related to

⁷⁰ LIA of FBiH, Article 2

⁷¹ Interview, Teslić 11/05/2012

human trafficking, are investigated by all police organizations but SIPA, because this type of combating crime was not assigned to them. So, SIPA is authorized for combating human trafficking, but due to an inconsistency in legislation that did not authorize SIPA to combat cyber crime, the Agency is not capable of properly responding to a threat of human trafficking, which definitely has international character.

According to the legal grounds, the difference is found, as we mentioned before, in the issue of the damaged party; that is, who was damaged in the case, the state of BiH or its entities. However, pursuant to the LIA in the FBiH, the Federation Ministry of Interior has jurisdiction for investigating crimes of terrorism, organized crime, and inter-Cantonal crimes, which may be financial crimes too, but in accordance with definition of those types of crimes in the Criminal Code of FBiH. It is important to say that inter-Cantonal crime is not defined by the Criminal Code of FBiH, because it does not represent a type of a crime, and only the Law on Internal Affairs of the Federation of BiH defines what is considered to be inter-Cantonal crime.⁷² The Criminal Code of RS defines crimes of financial crime, terrorism, and organized crime committed against the RS.⁷³ The Criminal Code of BD defines the same crimes as the Criminal Code of FBiH and Criminal Code of RS, so the Police of Brcko District are in charge of investigating those crimes.

In regards to the above, we may ask the question how members of police organizations, when they document the existence of a crime; which, as we mentioned, is defined in several Criminal Codes; can recognize (establish) who was damaged in the case, and how they determine which Prosecutor's Office is competent for that crime. It is important to emphasize that the Federation Ministry of Interior is not able to report crimes of terrorism, inter-Cantonal crimes, illicit drug trafficking, and organized crime to the Prosecutor's Office of the Federation BiH. Even though by the law on that institution, the Federation Prosecutor's Office has a first instance role in regards to these crimes, they cannot use it, because the Supreme Court of the FBiH, to which this Prosecutor's Office may send the charges, does not have a first instance competency for these crimes. Therefore, the Federation Ministry of Interior reports these crimes to the Cantonal Prosecutor's Offices or the State Prosecutor's Office, depending on the type and the size of the crime.

⁷² Inter-cantonal crime, pursuant to the Law on Internal Affairs of the FBiH, refers to a crime where the perpetrators and victims live in different cantons, the crime was committed at territory of several cantons, the crime was initiated in one and finished in another canton, or the crime for which the damage caused, affected the territory of two or more cantons. Article 3, Paragraph 1 of LIA of FBiH

⁷³ Article 4 and Article 7 of the Criminal Code of RS

The overlapping of the competencies happens mainly in the stage of collecting operational information on the crime and the perpetrators; that is, in the stage before the police submit a report or any information to the Prosecutor's Office. Based on police reports, the Prosecutor's Office sends instructions to the police, or, if it is estimated that there are grounds for suspicion of existence of the crime, issues an order to conduct the investigation or to conduct specific investigative actions. In this case, the Prosecutor's Office, pursuant to the CPC, determines which police organization will be assigned for conducting particular actions. Therefore, we can say that certain dilemmas can be created at the very beginning of collection of information on commission of a crime, because Cantonal, entity, and state bodies have actual and territorial jurisdiction for taking actions from their domain. The lack of cooperation and exchange of information during this initial stage of investigation of the crime creates certain problems in practice, and once the appropriate Prosecutor's Office is involved, the procedure is regulated in a quality manner. Within that context, we need to respect the opinions of the representatives of police organizations who stated that to a certain extent, positive conflict of interest in some cases and is good, but the cooperation and efficiency need to be improved, especially at the operational level.⁷⁴

From the previously described method of determining competencies, the legal framework which regulates competencies for investigating types of crimes may greatly point to a conclusion that the competencies of police organizations for solving particular crimes should follow the level of a particular Criminal Code. Namely, police organizations in BiH should be in-charge of investigations of crimes defined by the state Criminal Code, and entity police and Police of Brcko District should investigate crimes from entity level Criminal Codes, and the Brcko District Criminal Code. However, practice shows that this is not the rule, but it happens very often that some police organizations investigate and report crimes to the competent Prosecutor's Office, which are strictly in the jurisdiction of other police organizations. For example, all police organizations submit information and reports to the State Prosecutor's Office. Especially when investigating crimes of terrorism, serious financial crimes and organized crime, which is explicitly in the jurisdiction of SIPA, as well as investigations related to drug trafficking, when talking about the Federation of BiH. For the purpose of this research, the State Prosecutor's Office submitted information that from SIPA, they had received 160 reports on crimes committed, 70 reports

⁷⁴ Opinions and views presented at a joint meeting in Sarajevo on 11/30/2012, organized by CSS, attended by representatives of the most police organizations in BiH, and representatives of the Ministry of Security.

from the BiH BP, 3 reports from the Federation Ministry of Interior, 33 reports from the RS Ministry of Interior, and 124 reports from other police organizations in 2011. The State Prosecutor's Office declared themselves not to be competent for 34 reports which they received from police organizations in 2011, and they transferred those cases to the competent Prosecutor's Offices. In the given period, the Special Prosecutor's Office of RS did not receive any report that they declared not be competent for, whereas the Federation Prosecutor's Office confirmed that they do not have first instance jurisdiction, and therefore did not receive any reports from police organizations.⁷⁵

4.5. Police Divisions and Units for Fighting Major Crimes

The internal organization of all police organizations in BiH was described in detail within the Chapter "Organization, figures and competencies," where it was evident which parts of their organizational structures are involved in investigations and clearance of the above mentioned offenses. It is undisputed that the law pre-disposed the internal organization of police structures, but the big concern is whether such a fragmentation of human and material resources in practice inhibits the best and most efficient results when it comes to prevention, investigation and clearance of the most serious offenses. In order to explain this dilemma, we will give a few examples that illustrate the existing structure of police organizations in combating certain crimes.

In terms of investigation and clearance of the criminal offense of terrorism, relevant units exist within police organizations at the state level, entity level and District of Brcko. SIPA has the Criminal Investigation Department and the Team for combating terrorism acts within it. Regional Offices also have these teams. Within the Crime Police Sector of the Federation Police Directorate there is the Department for combating terrorism, and in the RS Ministry of Interior within the Crime Police Administration there is a Unit for combating terrorism, war crimes and crimes under International Humanitarian Law.

A specialized Financial-Intelligence Department within SIPA Headquarters deals with financial crimes and corruption. Regional Offices also have specialized teams for

⁷⁵ Correspondence of the Center for Security Studies with Prosecutor's Offices in BiH, no: A-440/012 dated on 11/27/2012., A-476/12 dated on 11/14/2012. And A-I-127/12 dated on 12/24/2012.

combating corruption. However, all police organizations in BiH have organizational units that deal with investigations and clearance of corruption cases within their competencies. In the Federation Ministry of Interior, within the Crime Police Sector there is Department for combating organize crime, which in its composition has investigators specialized for financial investigations, corruption and money laundering. The Police Directorate of Republika Srpska has the Special Unit for combating organize crime and corruption, while within the Crime Police Unit of Brcko District there is the Department for Organized Crime that deals with these issues. Cantonal Ministries of Interior and the Public Safety Centers in Republika Srpska have organizational units of the crime police that can process these cases if they detect them during their work. Investigations and prosecution of such crimes at the state level are conducted by the Special Department II for organized crime, economy crime and corruption within the BiH Prosecutor's Office.⁷⁶

When it comes to investigation of **human trafficking and war crimes**, there is a special unit within SIPA, the Center for War Crimes, which collects data and investigates war crimes. However, although competencies of the entity Ministries of Interior cannot be associated with war crimes, the RS Ministry of Interior has the abovementioned Unit for combating terrorism, war crimes and crimes under International Humanitarian Law. Brcko District Police also has a special unit, the Center for war crimes investigations and Cantonal Ministries of Interior have inspectors who work on war crimes investigations. According to statement of a police representative, it has become the practice that the BiH Prosecutor's Office gives such investigations to the police bodies at the entity or Cantonal level and Brcko District Police. It is a similar situation with the cases of human trafficking, because police units at all levels have inspectorates investigating these cases.

Besides these police organizations, the Directorate for Coordination of Police Bodies, as a police agency at the State level, deals with these issues to the extent that is necessary to carry out communication at the international level, especially when it comes to cooperation with INTERPOL and Europol.

Based on the aforementioned, it is very difficult to conclude how much positive or negative conflicts of jurisdiction of police organizations in Bosnia and Herzegovina

⁷⁶ Rulebook on Internal Organization of the BiH Prosecutor's Office - „Official Gazette of BiH“ No. 31/10 Article 30

prevail. It is undisputed that the complex police system in BiH reflects the current constitutional and administrative structure of the state. The positive and negative sides of these defined jurisdictions are visible in particular examples. In the case of the terrorist attack on the US Embassy in Sarajevo, several police organizations could have proclaimed it fell outside of their jurisdiction, or they might have the jurisdiction to respond in the actual case, but under different grounds. For example, the Ministry of Interior of Canton Sarajevo had the power to react on the basis of protection of people and property and disturbance of public order and peace; the Federation Ministry of Interior and SIPA could react due to the existence of grounds of suspicion for the crime of terrorism, because investigation of this type of crime is under their jurisdiction. The delay in their reactions implies the negative consequences of overlapping jurisdictions. However, a positive example of a conflict of jurisdiction was demonstrated in the Trebinje case, when a member of the RS Ministry of Interior promptly reacted to an event which was likely under the jurisdiction of SIPA. Furthermore, by analyzing the legal framework and through discussions with police representatives in BiH, there is an absence of a unique plan for managing crises situations in BiH, where participation of several police organizations is necessary.⁷⁷ The existence of such plans with clearly identified holders of activities and clearly identified hierarchy in management, should define the role and responsibilities of all police organizations from the highest to the lowest organizational level and in a great part facilitate actions of police organizations in crisis situations.

Some representatives of police organizations indicated that there are practical issues related to conducting special investigative actions.⁷⁸ Namely, sometimes several Prosecutor Offices order special investigative actions to be conducted against the same person, but based on different cases and different grounds, which can lead to complications in police organizations while carrying out these activities. For example, in some cases, one Prosecutor's Office may order the use of an undercover investigator and informant, while another Prosecutor's Office may order surveillance and recording of telecommunications or physical surveillance and technical surveillance against the persons from the same

⁷⁷ Interview, Sarajevo, December 5, 2012.

⁷⁸ According to all CPC in BiH, special investigative actions include: surveillance and technical recording of telecommunications; access to computer systems and computerized data; surveillance and technical recording of the premises; secret surveillance and technical recording of persons, vehicles and items associated with them; use of undercover agents and use of informants; simulated and controlled purchase and bribery; monitored transport and delivery of items associated with criminal offense.

group. Thus, the police officers who were engaged as informants can find themselves in a compromising situation at the respective Prosecutor's Office which ordered surveillance and recording of telecommunication or physical surveillance and technical surveillance, and they may be associated with the crime. Although these cases result in inadequacy of evidence, they represent huge complications and problems for police work, given that in practice there is no exchange of information on persons against whom these actions are carried out and there is no unique database that can be accessed by all prosecutors. The problem is further complicated due to the fact that the BiH Intelligence Security Agency (OSA) is competent for the collection of intelligence and its officials may carry out these actions and provide results to the relevant authorities in BiH.

Without getting into a deeper discussion on positive and negative sides of jurisdictions in the existing system of police organization in BiH, for which we couldn't ensure a uniformed stance of the representatives of police organizations we consulted with during preparation of this study, we hope that the study shall serve as a basis for further discussions on these issues. In our opinion, all the discussions should focus on the wellbeing and safety of citizens. It is up to the experts and politicians to find the most appropriate and most efficient organizational and functional police system in BiH which will include all police organizations in Bosnia and Herzegovina.

V INTERNAL AND INTERNATIONAL COOPERATION

In the Chapter “Historical review of police system reform in BiH,” we indicated the socio-political context in which the last reform of the police system was conducted under the auspices of the European Union. Looking from this time distance, it can be concluded for sure that the reform was carried out only in the function of fulfilling the political goal of signing the Stabilization and Association Agreement between Bosnia and Herzegovina and the European Union. Maybe at that time, the agreed to police reform was the correct political decision, having in mind the complex political environment, but inconsistency in implementation of all components of the political agreement for sure does not go in favor of its expediency. Most practitioners in the field of policing agreed with this assessment and pointed out that the recent reform did not provide any benefits, rather the police system become even more complex.⁷⁹ It was emphasized that the reform was conducted formally but not in essence; it additionally burdened the budgets and did not increase the security of citizens, thereby not devoting enough attention on how the new legislation would affect the existing legal framework and assigned competencies.

In that regard, we shall offer a short analysis on mutual cooperation between police organizations and cooperation achieved at international level.

5.1. Mutual Cooperation of Police Organizations

With respect to the state level, the legal framework has given the possibility to all organizational units of the BiH Ministry of Security to communicate and cooperate, regardless of whether they have police authorities. More precisely, the BiH Ministry of Security and its administrative organizations can independently carry out almost all duties and tasks related to mutual cooperation of police organizations and cooperation in combating crime at the state and entity level. The identical principle is established at the lower organizational levels (Entities and Cantons), which can mutually communicate and cooperate. Based on legal grounds, cooperation is based on contacts, agreements, contracts,

⁷⁹ Opinions and views expressed at the joint meeting held in Sarajevo on November 30, 2012, organized by CSS, which attended representatives of most police organizations in BiH as well as representatives of the Ministry of Security

protocols, information exchange which is of mutual interest, establishing, maintaining and developing integral functional communication system and developing a program for joint investigative actions. Accordingly, while carrying out their own tasks and duties, if they detect a crime within the jurisdiction of other police bodies in BiH, all police organizations are obliged to take necessary measures to prevent the crime or locate perpetrators and to immediately inform the relevant police organization.⁸⁰

Also, the same rule applies to cooperation in relation to vertical communication, where police organizations can directly communicate and cooperate in the realization of tasks under their jurisdictions. For example, the Law on SIPA (Article 21) and the Law on Border Police (Article 18) requires all organizations and other institutions of BiH, entity and Cantonal Ministries of Interior, Customs and Tax Authorities, Financial Police, Organizations for International Police Cooperation, relevant bodies of Brcko District of BiH and other relevant organizations to cooperate and provide assistance to SIPA and Border Police; but also requires these two organizations to provide assistance to all the abovementioned organizations. In addition, all Cantonal laws on internal affairs oblige Cantonal Ministries of Interior to cooperate with other police organizations when detecting a crime that is under the jurisdiction of these organizations. In this regard, the laws specify the method of communication and cooperation between FBiH Ministries of Interior and Cantonal Ministries of Interior and obligates the FBiH Ministry of Interior to inform if it becomes aware that a committed crime is under the jurisdiction of a Cantonal Ministry of Interior and vice versa. It is interesting that the Law on Federation Ministry of Interior identifies the possible existence of a conflict of interest between the Federation Ministry of Interior and Cantonal Ministries of Interior (Article 9, Law on Federation Ministry of Interior), and refers to the Constitutional Court of FBiH in case of conflicts. The existence of these possibilities is one of the facts which supports that in some cases it is very difficult to determine the border between jurisdiction of the Federation Ministry of Interior and the Cantonal Ministries of Interior.

The RS Ministry of Interior also has an obligation for emergency reporting to other police organizations if they gain information on a committed crime which is under the jurisdiction of another police organization, while carrying out duties under their own jurisdiction.

⁸⁰ RS LIA, Article 49

The Law on Brcko District Police specifies principles of cooperation with other police organizations and regulates the powers of police officers in joint activities of police organizations.

Given that the issue of cooperation, coordination and exchange of information is pointed out as the biggest obstacle to efficiency of police organizations, we shall try to commit more to this segment of police work. We saw that police inter-organization cooperation is regulated by different legal possibilities, with certain understatements which in some cases provide discretion to police bodies to make decisions on scope and method of cooperation. According to a police organization representative,⁸¹ this kind of cooperation is inadequate and slow. Operational officers resort to exchanging information at a personal level because that is the only way they can collect information needed at that moment. An example of an effort to improve cooperation between the Federation Police Directorate and Cantonal Ministries of Interior is the best evidence of the police organizations' intent to find models which will suit them. To this end, these organizations prepared Instructions to proceed in carrying out investigations, signed by all Commissioners and Directors; but the agreement has not yet been put into the force because the laws primarily define methods and possibilities of cooperation.

When it is done under the auspice and instructions of the Prosecutor, mutual cooperation of police organizations functions well. This kind of cooperation has been proven to be very successful in practice and has resulted in good results on the ground. As shown in the previous Chapter, exchange of information between the three organizational levels of police system in BiH is the most noticeable problem. The system for electronic exchange of information between police organizations in BiH, which is in the implementation phase within the Directorate for coordination of police bodies of BiH, should partly improve this segment of internal cooperation. The lack of subordination of police organizations in BiH, for which political consensus was not reached during the last attempt of police reforms, is one of the causes of the weak connectivity between relevant police organizations, according to the opinion of some police organization representatives.⁸² During police reform, legislators were aware of the reality of the political environment and different

⁸¹ Opinions and views expressed at the joint meeting held in Sarajevo on November 30, 2012, organized by CSS, which attended representatives of most police organizations in BiH as well as representatives of the Ministry of Security

⁸² Same

political interests, so they found a compromise which would improve existing cooperation to some extent. Whether and how that was accomplished we shall try to find out in the following text, where we will provide insight into certain legal responsibilities related to cooperation. It is important to note that the latest police reform – reform of the police system in BiH, did not improve the cooperation between the three organizational levels of the police system in BiH, but for the most part it was limited to the state level due to the political interests. Therefore, we will focus analysis on this level of police organizations, but also on the provisions which are in conflict with the lower levels of the organization.

Based on the results of the reform, the issue of cooperation, communication and coordination between police organizations at the BiH level are primarily assigned to the jurisdiction of the Directorate for coordination of police bodies of BiH.⁸³ Responsibilities of the Directorate are mainly related to communications, cooperation and coordination between BiH police organizations as well as cooperation and communication with relevant foreign and international organizations in relation to issues of police affairs of international importance or common interest.⁸⁴ Having in mind that the Directorate has police powers; its authorities are collecting, monitoring, analyzing and using data which is important for the security of BiH.

Besides the Directorate, we can see that some other police organizations at the state level are dealing with the same or similar issues. Thus, except investigating crime, SIPA conducts monitoring and analysis of security situations and events which are good for emergence and development of crime. Previously we presented legal provisions which allow this organization to cooperate with other police organizations in BiH.

Along with SIPA, the Ministry of Security has similar competencies through two sectors. The Sector for the fight against terrorism, organized crime, corruption, war crimes and abuse of narcotics is, among other things, responsible for coordination and cooperation with organizations within Ministry as well as with other relevant bodies in BiH; collecting reports, analysis and monitoring of the overall situation; as well as monitoring of implementation of the laws and regulations related to combating these crimes. Also, this Sector is cooperating and coordinating activities with relevant bodies of the Entities and

⁸³ Article 6, of the Law on Directorate for coordination of police bodies and agencies for supporting police structure in BiH, Official Gazette BiH no.36/08

⁸⁴ Competences of the Directorate are described in details in the Chapter „Organization and Competences“

Brcko District as well as with other subjects in relation to combating organized crime and corruption.⁸⁵ Jobs related to monitoring security are assigned to the jurisdiction of the Sector for border and general security within the Ministry of Security. This Sector conducts monitoring, studying, analyzing and assessing of the overall situation of general and border security in relation to the implementation of the law and regulations from the area of protection of public order; monitoring and analyzing implementation of international legal instruments aimed to more effective protection of all types of public peace and order; as well as protection of the border, airports, persons and facilities. The Sector prepares reports, proposes necessary measures in order to efficiently conduct activities related to border and general security, and cooperates with international organizations and other countries on issues related to general security. Furthermore, the Department for Combating Human Trafficking, which operates within the Sector for International Cooperation and European Integration at the Ministry of Security, monitors and analyzes the situation in this area.

Certainly, in a review of police organizations at the state level we have to take into consideration the responsibilities of the BiH Border Police, which in terms of its independent operational responsibilities undertakes police powers. Besides the duties and tasks related to protection and control of the border, there is a Central Investigation Department within the Border Police whose jurisdiction is the prevention and detection of organized cross border crime, especially in the area of human smuggling; illegal migrations; and smuggling of goods. It is important to emphasize that Border Police Officers can be used for other police activities and tasks per order of the relevant Prosecutor's Office, which may not be directly related to jobs assigned to them by the Law on Border Police.

Consequently, it is evident that the above mentioned Sectors of the Ministry of Security, as well as SIPA, Border Police and the Directorate for coordination of police bodies, have very similar legal jurisdictions defined through the monitoring, reporting and analyzing of the overall situation in the area of security. Unlike the mentioned Sectors and Departments of the Ministry of Security, employees of SIPA, Border Police and the Directorate for coordination of police bodies are, as previously stated, police officers and in their activities,

⁸⁵ <http://www.msb.gov.ba/onama/?id=1677>

they are acting as authorized police officials according to the Criminal Procedure Law. Therefore, with duties that are related to the monitoring, reporting and analyzing of the security situation, these three police organizations can take measures and actions to investigate these crimes.

In this respect, the legitimate question is regarding the expediency and functionality of the existence of so many services/organizations at the state level which perform the same or similar duties. According to representatives of police organizations, mutual cooperation of these organizations is not at a high level and more clearly defined jurisdictions would lead to a more efficient and more useful model of organization at the state level.⁸⁶ It is evident that reforms which were conducted in this sector did not pay enough attention, or due to the political reasons ignored, its functionality. Therefore, the question arises concerning the rationalization and economic feasibility of the number of employees which are performing the same or similar duties and tasks.

This work parallelism is evident at the state level, while at the entity and Cantonal level it is not present, having in mind that at these levels additional organizations or units do not exist, which conduct tasks similar to police duties. At these levels, there are analytical services or operational analysts within the police organizations which do jobs supporting police needs. Worth noting is that within the Sector for border and general security at the Ministry of Security, and at the Directorate for coordination of police bodies, we still can find certain legal possibilities to connect the three organizational levels of the police system in BiH. We stated that monitoring and analyzing of the security situation in relation to enforcement of the Law on Protection of Public Order is under the jurisdiction of the Ministry of Security of BiH, namely the Sector for border and general security. At the same time, the Directorate has the defined jurisdiction of cooperation of police organizations in BiH with the relevant authorities in BiH related to police duties or related to the issues under the jurisdiction of the State Court, as well as collecting, monitoring, analyzing and using data related to the security of BiH. This area is under the full jurisdiction of the Entities (Cantonal Ministries of Interior and Public Security Centers, RS Ministry of Interior and Brcko District Police) because protection of persons and property and maintaining public peace and order is one of their primary responsibilities. In practice,

⁸⁶ Interview, Banja Luka, October 22, 2012.

these opportunities which are provided by the law, are not used enough to improve cooperation between the police organizations in BiH.

The biggest step in the mutual design of jurisdictions and cooperation in the relations of police organizations in BiH was made in the area under the jurisdiction of the Foreigners Affair Service of BiH. This administrative organization of the Ministry of Security with operational independency has clearly defined relations and delimited responsibilities to other police organizations in BiH. The cooperation and the relationship with the Sector for Migrations and Asylum of the Ministry of Security is quite well regulated, so they appear as a second-instance administrative body or body that conducts the entire process related to procedures for asylum seekers in our country. Perhaps a question can be raised about the number of employees in this Sector, because its initial systematization has not changed even after the Sector within the Ministry became the Foreigners Affair Service, where a significantly larger number of employees are working. Some of inconsistencies of the regulations relate to the procedure when the Service apprehends a person who is illegally present in BiH, and that same person seeks asylum. In practice, it happens that after the person is handed over to the Ministry of Security, the relevant Sector placed him in an open-type asylum center. Some people take advantage of escape from this type of accommodation, and again the person is illegally staying in BiH, and as such is again subject to another search by the Foreigners Affairs Service. Despite these minor negative developments in practice, this distribution of responsibilities and cooperation between the Foreigners Affairs Service and police organizations in BiH can be an example of good practice.

In this part of the study, we decided to look at the activities and position of the three administrative organizations of the Ministry of Security which were formed in accordance with the latest police reform. A fourth organization, the Directorate for coordination of police bodies of BiH was discussed in previous text, so we will not specifically address it in the next part. We will briefly focus on the Police Support Agency, the Agency for Education and Professional Training, and the Forensic Examination and Expertise Agency. It is noticeable that these organizations are still not fully established in the police structure even after several years of funding. Their establishment during a constant political crisis and the temporary budget financing of the BiH Institutions, are certainly some objective

reasons for this situation. We will try to give further explanations of why these Agencies have not achieved the functionality desired or provided by law.

The Police Support Agency has a wide range of responsibilities, but to a large extent it depends on the cooperation and capacities of other police organizations. So far, the Agency has tried to position itself in accordance with defined competencies, but the lack of support from other administrative organizations at the state level has significantly influenced results and effectiveness of the organization. To what extent the legal provisions such as participation in development and monitoring of laws and regulations related to police organizations of BiH or tender procedures for certain equipment for the police organization of BiH, are clearly defined competencies of the Agency and to what extent the same competencies have been granted to other administrative organizations, should be the subject of significant analysis that would precisely regulate this issue. Therefore, the Agency could carry out work and tasks in a much more favorable environment and more efficiently.

Schooling and education are responsibilities of all levels of BiH Government. Entity and state levels, in principal, carry out training of police officers for their structures while Cantonal Ministries of Interior in the FBiH participate in drafting proposals and programs for education. The education and professional training of police officers at the state level has been entrusted to the Agency for Education and Professional Training.⁸⁷ The legal competencies of this Agency are, among other things, organizing and conducting education and professional training and development for members of police bodies in BiH as well as other service agencies from the area of security (basic, specialized, permanent and other police training); including training for police officers level I – for purpose of acquiring rank “Police Officer;” and level II – for purpose of acquiring rank “Junior Inspector.” The Agency also organizes and conducts training for the members of the agencies for protection of persons and property and members of detective agencies; organizes professional training (courses and seminars); develops research-publishing activities and contributes in the overall improvement and modernization of police work; library work; and keeps proper records and documentation under its jurisdiction. As stated, training for the members of police bodies in BiH still remains under the jurisdiction of the entities. Thus, these tasks are performed in the entity Ministries of Interior; which is in the RS High School of Internal Affairs (RS LIA, Article 5, Item 1, Point g., Article 51-53), and in the

⁸⁷ Competences of the Agency are described in details in the Chapter „Organization and Competences“

Federation Police Academy of the Federation Ministry of Interior (LIA of the FBiH Article 44-48-Professional training). It is interesting that in the current LIA of the FBiH it states that the Police Academy can educate officers for the needs of the Border Police,⁸⁸ Brcko District Police, RS Police, Court Police and other law enforcement agencies (LIA of the FBiH, Article 45). It means for example, the officers from the Border Police, SIPA or other law enforcement agencies at the BiH level can be trained at the Police Academy of the Federation Ministry of Interior. Thus, the legal framework in the Federation regarding training of the officers was not harmonized after the Agency for education at the state level was formed, namely it is not explicitly specified that the Federation Ministry of Interior can educate officers only for the needs of the Federation. Another inconsistency relates to the jurisdiction for organizing training for the members of the agencies for protection of persons and property and detective agencies. This are is clearly regulated by the entity laws and the laws of Brcko District, and within the existing legal framework, and it is not possible to establish a protection agency at the BiH level, thus the question is justification of this legal provision. Entity laws and the laws of Brcko District in its provisions recognized certification of employees from these agencies based on education carried out by the entity institutions.⁸⁹

Crime-technical expertise has been performed by each police organization and for their own purposes, except when it comes to organizations at the state level. In the FBiH, crime-technical examination and expertise is carried out by the FBiH Ministry of Interior,⁹⁰ as well as all Cantonal Ministries of Interior which were analyzed in the framework of this study⁹¹ and have the responsibility of performing these types of tasks for the needs of these Ministries. The Federation Ministry of Interior can perform expertise for the needs of other relevant bodies. Also, the RS Ministry of Interior is responsible for crime-technical examination and expertise due to the duties of identifying persons, items and trace evidence by crime-technical methods (RS LIA Article 4, Paragraph 1, Item i). In the RS

⁸⁸ The Law says „State Border Service of BiH“ because amendments are not prepared after the Law on SBS changed

⁸⁹ Law on Agencies and Internal Departments for Protection of Persons and Property in FBiH (“Official Gazette of FBiH” No. 78/2008); the Law on Agencies for Protection of Persons and Property and Private Detective Activity of RS (“Official Gazette of RS”, No. 4/12); the Law on Agencies for Security of Persons and Property and Private Detective Activities. More on training and professionalism of private security in BiH see: Krzalic A. (2007) Private Security, Sarajevo Center for Security Studies. p.52-53.

⁹⁰ LIA FBiH, Article 13, Item 8, and Article 18, Item 2

⁹¹ These are: Zenica-Doboj Canton, Tuzla Canton, Bosnia-Podrinje Canton, Una-Sana Canton, Posavina Canton, Herzegovina-Neretva Canton, West Herzegovina Canton and Sarajevo Canton

Ministry of Interior, there is a Forensics Unit – Crime-Technical Center which operates within the Crime Police. In the Brcko District Police, there is a Department for Forensics and Contra-Diversion Protection, which performs this type of expertise for their needs.

However, at the state level, forensics examination and expertise are not within the existing police organizations which have police powers, such as SIPA, Border Police or the Directorate for coordination of police bodies; but it is given to the jurisdiction of a separate agency - Forensic Examination and Expertise Agency. Specific responsibilities of this Agency are described in the Chapter on Organization and Competencies.

Facts indicate that, despite such a large number of units which have these responsibilities, police organizations in BiH are faced with an inability to conduct complex expertise and very often seek help from police of other countries. Under the jurisdiction of the Agency is a wide scope of work related to examinations, expertise and conduct of specialized training which requires substantial investments into equipment and highly profiled employees. So far, the Agency has managed to establish expertise in the three areas, so probably it will be a long time before it becomes operational in accordance with its assigned competencies. Having in mind the complexity and financial burdens related to these jobs, but also their great significance in the area of police work, the question is why legislators did not anticipate the possibility of using the services of this Agency by other police organizations which are not at the state level; naturally, when the Agency becomes fully equipped and capable to carry out tasks and duties entrusted by legal responsibilities.

5.2. International Cooperation

International cooperation of police organizations in Bosnia and Herzegovina is also another area that is regulated differently and with insufficient clarity. We would reiterate that the BiH Ministry of Security was allocated with international cooperation related competencies within their tasks and duties, in all areas that fall under the competencies of the Ministry, which are, as we saw, extensive. The Ministry's Sector for International Cooperation and European Integration liaises with international bodies. Some of the Ministry's administrative organizations exclusively use this channel for international cooperation. This also allows the Foreigners Affairs Service to communicate with international bodies through the Ministry of Security. The Law on Foreigners Affairs

Service⁹² enables the Service to cooperate with law enforcement bodies and appropriate international organizations in order to conduct tasks within their competency, and this cooperation is performed through the Ministry of Security. At the same time, some administrative organizations within the Ministry use the possibility to establish international cooperation independently, while the Offices for Cooperation with Interpol and recently with Europol establish such cooperation as part of their primary tasks and duties. By establishing the Directorate for Coordination of Police Bodies, this organization was also given the competency for cooperation and communication with local authorities in the affairs of an international character, referring to police matters. This Ministry's Sector is responsible for sending police officers to the peacekeeping missions, and has been achieving satisfactory results so far, and this is something that distinguishes it from other police organizations. The UN recognized and valued these efforts by assigning the Award for Public Service to the BiH Ministry of Security in the year 2011.⁹³

With regard to the realization of international cooperation, law amendments on SIPA and BiH Border Police (which were made after the establishment of the Directorate for Coordination and other units with operational independence) suggest that this type of cooperation is implemented through the competent organizations and institutions in BiH. However, it remained unclear in this part - what are the respective bodies, which created a dilemma on whether the changes were made due to the establishment of the Directorate or for any other reason. The legal framework grants jurisdiction to the Directorate for Coordination of Police Bodies to conduct communication, cooperation and coordination between police organizations of BiH, as well as respective bodies in BiH with appropriate foreign and international organizations, but at the same time, does not obligate the organizations in BiH to establish international communication exclusively through the Directorate for Coordination. Therefore, it often happens that SIPA or the BiH Border Police implement all aspects of international cooperation on their own, without contacting the Directorate. Some of the representatives of these organizations stated that this happens for practical reasons, because cooperation and the agreements on international cooperation were made before the establishment of the Directorate and therefore, such communication still exists. Perhaps this is a positive conflict of jurisdiction but such legislation leaves

⁹² Article 32 of the Law on Foreigners' Affairs Service, "Official Gazette of BiH", No. 54/05 as of August 9th, 2005 and no. 36/08 as of April 16th, 2008.

⁹³ For more details see: <http://www.msb.gov.ba/vijesti/saopstenja/?id=7524>

doubts and offers managers the discretion whether to use this legal option. We would emphasize that this area of international cooperation is related to police matters.

Furthermore, within the Ministry of Internal Affairs of the Federation of BiH and the Ministry of Internal Affairs of Republika Srpska there are Departments for international cooperation, through which these Ministries cooperate with international bodies and other countries. Unlike the entity levels, this kind of cooperation is not enabled for the Cantonal Ministries. Provisions of the Cantonal laws on Interior do not leave the possibility for the cantons to independently cooperate, within their jurisdiction, with other law enforcement organizations at the international level.

VI CONCLUSION

Police reform in every country in transition is a long and hard process. The general consensus of the authors and practitioners in this field is that this process is, in fact, learning of the language of democracy. The basic function of democratic policing is to provide security to citizens in all aspects, despite the aspirations of the government to have the police in the service of the state and the ruling group. Democratic principles, on which the legitimacy of policing is to be based, are professionalism and accountability. From the presented studies, it appears that reform of the police system in Bosnia and Herzegovina has not produced the expected results, and there is much more to do in order to obtain the democratic form we aspire to. Therefore, the readers may wonder whether we are in the initial stage of police system reform in BiH or can it be considered complete, as it can appear to someone who analyzes social and political practices in recent years.

The noticeable absence of a democratic debate on the continuity of police reform in BiH indicates that relevant officials believe this process has been completed and, therefore, by reviewing the situation in this area, we are trying to point out that there is plenty of room for improvement in policing, which faces rapid changes daily in Europe as well.

We hope that with this research, we will contribute to the general understanding and knowledge about activities of the police structure in Bosnia and Herzegovina and it is up to officials to disprove the comment made by one experienced police officer who stated “we have never had more police organizations and less security.”