

PICTURE STORY

On Mount Olympus

February 2007

On Mount Olympus



Between 1996 and 2002, UNMIBH ran a large police mission in Bosnia, the International Police Task Force (IPTF). One of the tasks it set itself was to rid the Bosnian police forces of inappropriate personnel through an exhaustive vetting procedure. These individuals were banned from serving as police for life. Yet the UN failed to offer the most basic procedural safeguards, which the UN Secretary-General himself has noted is the difference between legitimate vetting and "wholesale purges". What is most alarming, however, is that once the flaws in the process had become apparent the UN and other international institutions in Bosnia refused either to remedy them, or to allow Bosnians institutions to do so.



Table of contents

On Mount Olympus.....	4
The United Nations police mission in Bosnia.....	5
Human rights and the vetting process	6
The Fate of Husein Ramic.....	7
The fate of Zoran Bijelic	8
Police dog handlers Azmir and Camil (I).....	9
Police dog handlers Azmir and Camil (II)	10
The Venice Commission’s Opinion	11
The view from Mount Olympus: “We cannot err”	12
The police officers’ fight for justice.....	18
The Bosnian government acts?	19
Renewed pressure.....	20
Lessons: from Bosnia to Kosovo	21
Future of the post-status Kosovo mission?	22

On Mount Olympus



In classical Greek tragedy, there are two levels of action. One is the world of ordinary mortals. The other is the world of the immortal gods on Mount Olympus, omnipotent but fickle.

The Greek gods compete, quarrel and follow their whims, interfering with impunity in the lives of ordinary mortals.

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

The United Nations police mission in Bosnia



"IPTF shall at all times act in accordance with internationally recognized standards and with respect for internationally recognized human rights and fundamental freedoms, and shall respect, consistent with the IPTF's responsibilities, the laws and customs of the host country."

Dayton Peace Agreement, 1995

Between 1996 and 2002, the United Nations Mission to Bosnia and Herzegovina (UNMIBH) ran a large police mission in Bosnia, the International Police Task Force (IPTF) with more than 2,000 officers from around 40 countries. One of UNMIBH's goals was to rid Bosnian police forces of inappropriate personnel through an exhaustive vetting procedure. These individuals were banned from service as police *for life*. The reasons ranged from allegations of participation in war crimes, through concerns about fraudulent high-school certificates, to failure to attend UN human rights training. Altogether, the UN screened some 18,000 Bosnian officers, and denied "final certification" to 793 individuals.

Human rights and the vetting process



IPTF-disqualified policemen protesting in December 2006.
The sign reads: "War criminals have more rights than we"

In the vetting process, UNMIBH failed to meet basic principles of due process, as laid down two years later by the UN Secretary-General himself as guidelines for vetting the police and other public officials:

"Parties under investigation are notified of the allegations against them and given an opportunity to respond before a body administering the vetting process. Those charged are usually entitled to reasonable notice of the case against them, the right to contest the case and the right to appeal an adverse decision to a court or other independent body. The inclusion of such due process elements distinguishes formal vetting processes from the wholesale purges practised in some countries."

*UN Secretary-General,
The rule of law and transitional justice in conflict and post-conflict societies,
August 2004*

The Fate of Husein Ramic



Husein Ramic, 37, used to work for Bosnia's State Border Service (SBS). In April 2003, four months after UNMIBH had left the country, he was fired. The SBS explained that he had not received IPTF certification, which was the condition for continued employment. As the reason IPTF had cited the lack of valid education credentials.

Ramic was shocked. He had never been contacted by IPTF; and in 2001 he had passed the selection procedure that IPTF itself had organised for the recruitment for SBS officers. "How can my diploma be invalid if I passed an IPTF competition with it?" he asks.

Ramic's name showed up on a list, signed by the IPTF Commissioner, with the names of 43 SBS officers whom IPTF denied certification. The list was dated 31 December 2002, the last day of UNMIBH's mandate. Based on this list, Ramic and most of the other listed officers were dismissed (the SBS apparently kept a few well-connected officers in place in defiance of IPTF). None of the dismissed officers had been personally notified by IPTF. None of them had the opportunity to use the limited appeals procedure that IPTF's certification process envisaged. Some men still do not know why they were not certified.

Ramic fought hard, but he has not been able to regain his job. He has also not been able to find other permanent employment. He says people are suspicious of IPTF-disqualified policemen and do not want to get in trouble with the international community in Bosnia. To provide for his family of four, he has resorted to casual labour on construction sites and in warehouses in Bosnia and Slovenia.

The fate of Zoran Bijelic



In November 2002, Zoran Bijelic from Doboj, 50, received notification from IPTF that he was "not eligible for certification" due to ongoing criminal proceedings against him. The IPTF Commissioner wrote that his certification was "pending resolution of the case. [...] Following the final verdict, you are entitled to request UNMIBH/IPTF or EUPM to reconsider your case." IPTF did not insist on his dismissal until the completion of the proceedings, so Bijelic's employer only suspended him.

In March 2003, Bijelic was acquitted of the charges in first instance, and in September 2003, in second and final instance. According to IPTF's original intention, he should then have been reinstated. But IPTF was no longer in the country. And in April 2003, the head of the police of Republika Srpska had fired him with the explanation that the international community insisted on the dismissal of *all officers denied certification* . Even though he was found innocent in the court proceedings, he has remained out of a job.

The European Union Police Mission (EUPM), which succeeded IPTF in 2003, says his is one of "more than 150" cases that IPTF did not complete due to ongoing criminal or disciplinary proceedings against the officers. During the handover talks, IPTF asked EUPM to finalise these "pending" cases once the relevant proceedings were completed. EUPM refused. On 31 December 2002, UNMIBH departed, leaving unresolved the fate of these cases.

Bosnia's Associations of Decertified Policemen say that among their non-certified members are 34 such cases that should have been reinstated in line with IPTF's original policy. There could be more, of course.

Today, Zoran helps out with the paper work at a private security company in Doboj to pay for his two daughters at university. As new legislation on security companies bans non-certified police officers from working in such companies, he cannot receive a proper employment contract.

Police dog handlers Azmir and Camil (I)



Left picture: Azmir (with dog Svip), right picture: Camil (with dog Tutu)

In August 1999, police dog handlers Azmir Omerovic, 40, and Camil Selimanovic, 37, participated in the search of a crowded restaurant in Sarajevo. Some of the people checked later complained to IPTF that they had been beaten by members of the special police, formally known as Sarajevo's "Support Unit", in which Omerovic and Selimanovic served.

Nineteen members of that unit were charged with serious breaches of law. Omerovic and Selimanovic were not among them: with their dogs, they had looked for drugs and stood guard, but not dealt with any member of the public. However, six weeks before the trial ended (with an acquittal), the IPTF Commissioner decided to deny certification to them, as well as the 19 officers on trial. "We were absolutely stunned when we received the letters," said Omerovic. "IPTF had never even spoken to us, and nobody had ever claimed that we had done anything wrong."

In IPTF's view, Omerovic and Selimanovic had failed "to demonstrate ability to uphold human rights and/or abide by the law". IPTF's main allegation was that the dog handlers were covering up for their colleagues:

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

Police dog handlers Azmir and Camil (II)



Omerovic, Selimanovic and colleagues during happier days

Obviously, IPTF had formed the view that the dog handlers had witnessed their colleagues use violence and were lying to protect them. But the letter gives no indication of how IPTF had reached that conclusion, and the dog handlers vehemently deny that they saw any wrongdoings.

Omerovic and Selimanovic never learnt what evidence IPTF had against them. They never had an opportunity to speak to the IPTF investigators in person and state their case. IPTF's certification process only allowed them to request "a reconsideration" of the Commissioner's decision in writing. With their non-certified colleagues, they engaged one of Sarajevo's best law firms, which wrote a detailed appeal for each of them, but IPTF rejected the appeals. A few days later, they were dismissed by the Sarajevo Ministry of Interior. A court case they initiated has still not been decided.

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

The Venice Commission's Opinion



Police officers disqualified by IPTF demand a review of the IPTF decisions against them and their reinstatement, December 2006

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

Venice Commission, 24 October 2005

The view from Mount Olympus: “We cannot err”



Mount Olympus

In 2003, a growing number of police officers denied certification turned to Bosnia's courts in the hope of clearing their names and recovering their jobs. It appears that the courts have dealt with at least 262 cases. Initially, a number of first-instance courts declared their dismissals from work unlawful, as Bosnian law did not list IPTF decisions among the reasons that justified the termination of employment contracts. Bosnian law also confirmed their right of access to a court.

These rulings alarmed the international community's High Representative in Bosnia, Paddy Ashdown, who himself was vested with the powers to dismiss obstructive Bosnian officials and to impose laws. He wrote to Jean-Marie Guehenno, UN Under-Secretary-General for Peacekeeping Operations. What followed was an exchange of letters during the following two years.

Letter from Ashdown to Guehenno, 13 May 2003:



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

Letter from Guehenno to Ashdown, 28 May 2003:



"I can confirm that we fully endorse the comprehensive process of police certification. [...] I am convinced that the process of certification was both exhaustive and sound. [...] I should also stress that decisions by the Commissioner of the IPTF, in relation to police certification, remain final and binding."

Letter from Guehenno to the members of Bosnia's Presidency, 10 October 2003:



"Attempts to reinstate those individuals deemed ineligible for certification threaten the basis for the rule of law in Bosnia and Herzegovina. [...] I would therefore be grateful if you could take the necessary steps to set aside the judgements challenging the validity of the certification process and to ensure that no similar decisions are taken in the future."

Letter from Ashdown to Guehenno on 22 December 2003, with regard to a video conference between OHR and UN staff on 12 December 2003:



"I understand that the issue of certification cases where errors of law or errors of fact might have occurred, was discussed, and I welcome the fact that the UN has agreed that such cases should be reviewed and corrected if necessary. [...] But I was most concerned to hear that the representative of the UN Office of the Legal Counsel had indicated during the meeting that the laws of Bosnia & Herzegovina were inapplicable to the certification process. [...] Considering that [...] the adoption of such legislation should have been discussed with [the] authorities prior to the issuance of certification decisions, it is clear to me that the United Nations should, in addition to its commitment to review problematic cases, provide guidance to the relevant authorities about how to tackle this problem."

Letter from Guehenno to Ashdown, 21 January 2004:



"I fully share your views on the political significance of local challenges to the outcomes of police certification. [...] I believe that the priority now should be given to identify and implement a legally sound course of action."

Letter from Ashdown to Guehenno, 8 March 2004:



"You indicated that the UNSC [UN Security Council] was considering a Presidential Statement [...] reminding the BiH authorities of their international obligations and directing them to bring their laws into line with these obligations without delay. [...] There is also a pressing and urgent need for a review mechanism for cases where factual or legal errors might have occurred.

"Our legal experts advise me that there is no one at present in BiH with the authority to review these UN decisions. Neither the OHR nor EUPM has either the mandate or the resources to review UN decisions today. [...] Leaving them to the BiH authorities would almost certainly lead to decisions whose effects would be to roll back the UN's achievements in police reform."

Letter from Guehenno to Ashdown, 16 March 2004:



"We cannot comment on allegations that certain decisions of the IPTF Commissioner not to certify police officers were made in error.

"Should [a review of IPTF decisions] be considered necessary [by the Security Council],

we feel that any review should be carried out by EUPM [...], your own office or some combination of the two. [...] As the final authority in BiH in the area of civilian implementation of the Peace Agreement, we believe that your mandate would authorize you to discharge such a role." [...] We share your reluctance to entrust such a process to the local authorities, particularly given their repeated failure to act thus far."

Statement by the President of the Security Council, 25 June 2004:



"The Security Council [...] fully endorses this process. The comprehensive and rigorous vetting procedure was designed to create a police force comprised entirely of personnel meeting internationally recognized standards of personal integrity and professional performance. [...] The Security Council expresses concern at the failure of the competent authorities in Bosnia and Herzegovina to take due steps to implement decisions to deny certification. The Council notes that this failure has already led to several challenges before the courts in Bosnia and Herzegovina. [...]

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

Letter from Madeleine Rees, head of the Office of the UN High Commissioner for Human Rights in Bosnia, to Ashdown, 20 August 2004:



"It now appears that the DPKO is now [sic] seeking [to] invoke the statement of the Security Council in order to continue to refuse to accept that some of the decisions made were erroneous, did not allow for appeal, or simply were not communicated to the individuals involved. This would place the DPKO in breach of international and national law. [...] There must be some speculation that the Presidential Statement was made without the members being sufficiently apprised of all the facts pertaining to the situation."

OHR summary of an OHR/UN meeting 26-28 July 2004:

"The UN representatives acknowledged that some cases were problematic;

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

"The UN representatives acknowledged that some minor technical procedural deficiencies may be corrected by the UN outside the ambit of a review mechanism. [...]

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

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

Ashdown to Guehenno, 11 August 2004:



"The discussions between your representatives and my office constitute a step in the right direction, especially since the existence of flawed decisions has now been acknowledged. This is a major step forward and opens the way to the review process."

Guehenno to Ashdown, 17 August 2004:



"Unfortunately, both your letter and the summary report do not accurately reflect the results of the discussions that took place between the representatives of the United Nations and your Office. Referring to those discussions, your letter states that 'the existence of flawed decisions has now been acknowledged.' The clear implication is that representatives of the United Nations Secretariat acknowledged that certain decisions of

the IPTF Commissioner were 'flawed'. This is incorrect. We are aware of allegations to this effect, which have been communicated to us by your Office."

Guehenno to Ashdown, 14 October 2004:

"The United Nations Secretariat does not believe that such a review is warranted, nor does the Security Council envisage such a procedure, as is clear from the Presidential Statement of 25 June 2004."

Ashdown in his regular report to the UN Secretary-General, 17 November 2004:



"Owing to efforts by the Office of the High Representative and EUPM, Bosnia and Herzegovina legislation now stipulates that all police officers denied certification (or whose provisional authorization was withdrawn) must be dismissed, thus providing a solid legal basis for decisions by both the local authorities and the international community."

UN Department for Peacekeeping Operations to ESI, 31 August 2006:

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

The police officers' fight for justice



Ramo Sulic, president of the Federation Association of Decertified Policemen, speaking to journalists during a demonstration in front of the OHR, December 2006

Bosnia's disqualified police officers, having failed to win support from the international mission, set about helping themselves. They founded the Association of Decertified Policemen in the Federation on 2 February 2004, and its counterpart in Republika Srpska on 31 January 2005. The objective of the two associations is to achieve a review of the IPTF decisions and a re-instatement of those officers who were unfairly disqualified. Representing a total of 281 former officers, they have staged protests and demonstrations, written letters and petitions, held dozens of meetings with international and Bosnian officials, and organised 157 applications to the European Court of Human Rights. "We won't give up until we obtain justice," said Ramo Sulic, president of the Federation association.

The Bosnian government acts?



Mirsad Kebo, Minister for Human Rights (2003-2007)

On 14 December 2006, the Bosnian caretaker government finally decided to take matters in its own hands. It passed a "Decision on the establishment of a Commission to review individual cases of decertified police officers who have initiated court proceedings before the courts of Bosnia and Herzegovina".

"In the legal vacuum that has been created, we have to act.[...] We don't want to reopen IPTF decisions, we only want to, and must, extend the guarantees of the European Convention on Human Rights to our citizens because our legislation requires us to do so. [...] It is unacceptable that the policemen have been kept in limbo for more than four years, and that nothing has been done to help them."

Human Rights Minister Mirsad Kebo, 2 February 2007

Renewed pressure

However, no sooner had the government issued its decision, than it came under renewed pressure from OHR and various countries involved in the peace process. They declared the establishment of the Commission "a unilateral step", "undermining the authority of the United Nations", "violating Bosnia's international obligations." It remains to be seen whether the incoming Bosnian government, which should take office in February 2007, will be able to follow through with the Commission. In all the circumstances it seems entirely appropriate for the Bosnian government to proceed with such a Commission and finally bring this matter to a successful conclusion.

Lessons: from Bosnia to Kosovo



Demonstrations in January 2006. The signs read: “UN and OHR are trampling on human rights”, “Lord??? Paddy Ashdown go home!”, “War criminals have more rights than we”

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

Future of the post-status Kosovo mission?



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

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