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PEACEBUILDING NEGOTIATIONS BETWEEN INTERVENERS AND
INTERVENED IN BOSNIA AND HERZEGOVINA



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ABSTRACT

This research investigates the question of how peacebuilding is negotiated between interveners and intervened in Bosnia, which implies asking both for what actors do in peacebuilding negotiations, and what makes them successful. It focuses on three cases of peacebuilding negotiations in Bosnia and Herzegovina, namely defense reform, police reform and the state property negotiations. To analyze these processes of negotiation, I focus on interests, resources, strategies and outcomes. I find that in all three cases, the interveners had an interest in 'peacebuilding success' while the Bosnian political elites had an interest in maintaining access to political authority. This meant that the interests of the interveners and Bosnian Serbs, in particular, often conflicted, as the interveners' definition of peacebuilding success entailed centralizing political authority to the detriment of Bosnian Serb autonomy. In negotiating those diverging interests, the interveners were often less powerful than is commonly assumed. They were at an advantage with respect to resources only in terms of economic resources. Strategies based on those, however, were often not very successful. The intervened, on the other hand, had a powerful tool of blackmail by being able to let peacebuilding fail. In sum, the interveners were successful only in defense reform, where conditions were favorable, and the interveners used them well. Somewhat favorable conditions in the state property negotiations remained unused, and in police reform, there was little chance for compromise in the first place. Considering the limited prospects of peacebuilding success, interveners and intervened often did not work towards success but colluded in avoiding failure, by postponing decisions or by reinterpreting symbolic agreements as successes.

ZUSAMMENFASSUNG

Diese Arbeit beschäftigt sich mit der Frage, wie Peacebuilding zwischen Intervenierenden und Intervenierten in Bosnien verhandelt wird. Das beinhaltet sowohl die Frage, was Akteure in Peacebuilding Verhandlungen tun, als auch was sie darin erfolgreich macht. Die Arbeit konzentriert sich auf drei Fälle von Peacebuilding Verhandlungen in Bosnien-Herzegowina: die Verteidigungsreform, die Polizeireform und die Verhandlungen über staatliches Eigentum. Um diese Prozesse zu analysieren, nehme ich Interessen, Ressourcen, Strategien und Ergebnisse in den Blick. In den drei Fällen stelle ich fest, dass die Intervenierenden ein Interesse an ‚Peacebuilding Erfolg‘ hatten, während die bosnischen politischen Eliten ein Interesse daran hatten, Zugang zu politischer Autorität zu erhalten. Dies bedeutete, dass die Interessen der Intervenierenden häufig mit denen gerade der bosnischen Serben in Konflikt standen, da die Definition der Intervenierenden von ‚Peacebuilding Erfolg‘ beinhaltete, politische Autorität zum Nachteil serbischer Autonomie zu zentralisieren. Die Intervenierenden waren beim Verhandeln dieser unterschiedlichen Interessen häufig weniger mächtig als gemeinhin angenommen wird. Sie hatten nur in Hinblick auf ökonomische Ressourcen einen Vorteil. Strategien, die auf diesen Ressourcen aufbauten, waren allerdings häufig nicht sehr erfolgreich. Im Gegensatz dazu hatten die Intervenierenden ein machtvolleres Mittel der Erpressung, indem sie in der Lage waren, Peacebuilding scheitern zu lassen. Zusammengefasst waren die Intervenierenden nur in der Verteidigungsreform erfolgreich, wo die Bedingungen gut waren und auch gut genutzt wurden. Relativ gute Bedingungen blieben in den Verhandlungen über staatliches Eigentum ungenutzt, und in der Polizeireform standen die Chancen für Kompromisse von Anfang an schlecht. Da Peacebuilding oft wenig Aussicht auf Erfolg hat, arbeiten Intervenierende und Intervenierte häufig nicht auf Erfolg hin, sondern ‚verabreden‘ sich schlicht darauf, Fehlschläge zu vermeiden, indem sie Entscheidungen verschieben oder symbolische Übereinkommen als Erfolge reinterpretieren.

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ACRONYMS

ABiH	Army of BiH
AFBiH	Armed Forces of BiH
BiH	Bosna i Hercegovina (Bosnia and Herzegovina)
DPA	Dayton Peace Agreement
DRC	Defense Reform Commisison
ESDP	European Security and Defense Policy
EUPM	European Union Police Mission
HDZ	Hrvatska Demokratska Zajednica, Croat Democratic Union
HDZ BiH	Hrvatska Demokratska Zajednica Bosne i Hercegovine, Croat Democratic Union of Bosnia and Herzegovina
HDZ1990	Hrvatska Demokratska Zajednica 1990, Croat Democratic Union 1999
ICTY	International Criminal Tribunal for the former Yugoslavia

IEBL	Inter-Entity Boundary Line
IMF	International Monetary Fund
IPTF	International Police Task Force
JNA	Jugoslovenska Narodna Armija, Yugoslav People's Army
MAP	Membership Action Plan
NATO	North Atlantic Treaty Organization
NGO	Non-Governmental Organisation
OHR	Office of the High Representative
OSCE	Organization for Security and Co-operation in Europe
PDP	Partija Demokratskog Progres, Party of Democratic Progress
PfP	Partnership for Peace
PIC SB	Peace Implementation Council Steering Board
PRC	Police Reform Commissions
RS	Republika Srpska
RSNA	Republika Srpska National Assembly
SAA	Stabilization and Association Agreement
SBBBH	Savez za bolju budućnost BiH, Union for a Better Future for Bosnia and Herzegovina
SBiH	Stranka za Bosnu i Hercegovinu, Party for Bosnia and Herzegovina
SDP	Socijaldemokratska Partija Bosne i Hercegovine, Social Democratic Party of Bosnia and Herzegovina
SDS	Srpska Demokratska Stranka, Serbian Democratic Party
SFOR	Stabilization Force
SIPA	State Information and Protection Agency, later renamed: State Investigation and Protection Agency
SNSD	Savez Nezavisnih Socijaldemokrata, Alliance of Independent Social Democrats
UNMIBH	United Nations Mission in Bosnia and Herzegovina

INTRODUCTION

In 2009, two friends of mine and I organized a workshop on peacebuilding for German school students. As a warm-up exercise, we asked the students to name different measures that they would plan to do if they were to decide on a program of peacebuilding in a hypothetical post-conflict society. Within a matter of 10 minutes, these school students provided us with a near-extensive list of projects, programs and program areas for those activities commonly labeled as 'peacebuilding'.¹ Their suggestions included, for example, psychological care for traumatized persons, reforming the education system, the security sector and the economy, fighting corruption, reforming criminal prosecution and jails, inter-religious dialogue, democratization, reforming the civil service and many more. Apparently, about 20 years after the end of the Cold War, the 'program' of peacebuilding is both general knowledge and accepted as part of the standard responses to internal war.

Two years later, one of those two friends came to visit me in Bosnia while I was doing field research. I picked him up in Dubrovnik and we took a detour on our way to Sarajevo, through the eastern parts of Herzegovina. This area is part of Republika Srpska, the Bosnian Serb entity that since the Dayton Agreement is one of the two entities that make up the Republic of Bosnia and Herzegovina. The region was one of the strongholds of Bosnian Serb nationalism during and after the war and it is one of the most remote, thinly-populated and economically-suffering areas of Bosnia. It is also a region with impressive landscape and a beautiful national park. Towards the end of our trip, we stopped at a small roadside café that was seemingly in the middle of nowhere.

The place was run by a woman on her own, waiting for the very rare costumers to arrive. She asked where we had come from, and we replied that we had been in Dubrovnik. She replied that she had not been there in a long time, which she clearly seemed to find sad. I told her that we were on our way to Sarajevo. She asked about Sarajevo and what life was like there, and when I replied that it was good and

¹ To be fair, these school students were all members of school student councils and likely to be more interested in political matters than many of their fellow students. The workshop was part of an event organized by an organization that deals with education and youth in South Eastern Europe. These school students participated in the event as delegates of their respective schools, and while most of them had no or very little prior knowledge or contact with the Balkans, it is quite possible that some of them did, and through that knew more about peacebuilding than other school children would.

there was a lot happening, she told us how there was nothing going on where she lived, that it was difficult, and that there was ‘nothing’ there. She further asked what we were doing in our professional lives, and we told her we were studying political science. She told us that it was also possible to study political science ‘here’, that is, in Belgrade.

The place where this conversation took place was only about a 40-minute drive from Sarajevo. But for her, ‘here’ referred to Belgrade. It was very clear that she had not been to Sarajevo since the war, and although she was sad that ‘there was nothing’ where she was, the city around the corner appeared entirely out of reach. In many aspects that is true for large parts of the population; Bosnia is and remains divided, and 15 years of peacebuilding have done little to overcome these divisions.

These two experiences struck me as somewhat of a mismatch. On the one hand, peacebuilding is well known and accepted as part of the standard repertoire of international politics. However, its outcomes rarely live up to the high expectations towards peacebuilding. The example of the woman in the café and a vast body of research attest to that (see below). Second, while the program of peacebuilding as planned and imagined by the peacebuilders in international headquarters has become a part of general knowledge, little is known among the general public or the research community about what peacebuilding looks like in practice, when it happens ‘on the ground’ (Free 2010, p. 61).

This research investigates the practice of peacebuilding, by focusing on agency and process, and arguing that peacebuilding essentially is a process of negotiation. Research on peacebuilding commonly focuses on structural factors and mission design as ‘independent variables’ and ‘peacebuilding success’ as the dependent variable (Daxner et al. 2010, p. 8, Zürcher et al. 2013, p.146). Such an approach requires defining both the factors that influence the process as well as the possible results *a priori*, and thereby risks overlooking the process itself. It is also ill-suited to deal with the vagaries of human agency. In particular, it tends to overlook the agency of actors from within the intervened society.

I argue that agency (of interveners and intervened) and the process of peacebuilding provide an important part of the answer to the question of what peacebuilding looks like in practice, and consequently are worth considering when discussing its limited success. ‘Peacebuilding’ refers to those activities typically undertaken by the UN and other international organizations in countries that have recently experienced armed conflict, which are intended to prevent renewed war in the future (Barnett et al. 2007).² To do so, peacebuilding

² The term ‘peacebuilding’ has different meanings depending on who is being asked to define it: In the UN world, peacebuilding is conceptually different from peacekeeping. From the UN perspective, peacekeeping focuses on securing an absence

aims at a transformation of the postwar state and society, with the objective of installing a liberal, peaceful and democratic order that is believed to contribute to lasting peace (Ottaway 2003, Paris 2002, Paris 2004, Pouligny 2006). To implement this ambitious agenda, the interveners necessarily depend on 'local counterparts' (Barnett and Zürcher 2009, Narten and Zürcher 2009, Zürcher 2010). And, because the interveners need to interact with the intervened, peacebuilding in practice will depart from policy plans (Mosse 2005).

Peacebuilding is a process of social change in which many different and divergent interests meet, and, because this is the case, it is a process of negotiation, and of struggle and conflict (Daxner 2010, Long 1992, Mosse 2005, Olivier de Sardan 2005). In its efforts at democratization, market liberalization and 'good governance', peacebuilding aims at changing the ways in which political authority is organized in the intervened state. This, understandably, is often not in the interest of those who are currently in a position to exercise such authority (Barnett and Zürcher 2009). In those cases, the interests of the interveners and the intervened collide. The practice of peacebuilding, therefore, can be understood as an informal process of negotiating those divergent interests. These negotiations will often result in compromises that satisfy some, but not all, interests of interveners and intervened, alike (Barnett and Zürcher 2009).

To inquire into the practice of peacebuilding, this thesis focuses on agency, process and on peacebuilding as negotiation between interveners and intervened. The outcome of peacebuilding, I argue, is in no small part a result of those negotiation processes (Barnett and Zürcher 2009, Zürcher et al. 2013). The research question that guides this research is:

How is peacebuilding negotiated between interveners and intervened?

This research question consists of two broad aspects. One pertains to describing how negotiations proceed, and what it is precisely that actors do when they negotiate peacebuilding. The second aspect involves the outcomes of these processes, and whether there are certain aspects of the process that make negotiators in peacebuilding more or less successful. In approaching the research question, I focus on Bosnia and Herzegovina, on the realm of political decision-making and on three micro-level case studies of negotiations between interveners and intervened.

of violence while peacebuilding aims "to reassemble the foundations of peace and provide the tools for building on those foundations something that is more than just the absence of war." (UN 2000, p. 2) For researchers concerned with post-conflict processes but not with intervention, the term sometimes also refers to post-war activities without the involvement of external actors. I use the term to broadly refer to civilian intervention after war with the aim of contributing to a more peaceful post-war order.

Such an approach to peacebuilding is relevant both to academia and to practitioners. It addresses a gap in the literature on peacebuilding by addressing agency, the perspective of the intervened and the process that links commonly-assumed causal factors to outcomes. It provides insight into the practice of peacebuilding as a basis for addressing questions of success and failure. To practitioners of peacebuilding, it provides a reflection on what it is that they are involved in. The insights gained from this research suggest that practitioners of peacebuilding are well advised to acknowledge that peacebuilding often is about negotiation and that it is worthwhile, therefore, to plan accordingly.

1.1 RESEARCH ON PEACEBUILDING AND THE NEGLECT OF AGENCY AND PROCESS

While research on peacebuilding abounds, it lacks an analysis of the practical processes involved in it. By omitting process from the analysis, research on peacebuilding has largely focused on structural factors at the expense of agency. This implies two large gaps that this research aims to address. First, research on local agency in peacebuilding is only just beginning (Fortna and Howard 2008, p. 294). Second, while researchers readily assume that the interveners have a lot of power to shape process, there is little investigation into what actually determines such leverage in practice (Zürcher et al. 2013, p. 5). Recent research has started to address these and related questions by turning to more finely-tuned empirical analysis. This thesis is a contribution to this emerging strand of research.

The dominant strands of research on peacebuilding broadly address two questions (Bonacker 2008, Lidén 2006): One is a debate on changing international norms from state sovereignty to a Responsibility to Protect (ICISS 2001), and on the legitimacy of such attempts at social engineering (Lidén 2006). This debate focuses on asking: *Should we do this?*³. The largest part of the research on peacebuilding assumes that the answer to this question is yes, and goes on to explain the often limited success of peacebuilding missions (Chesterman 2004, Doyle and Sambanis 2000, Doyle and Sambanis 2006, Jarstad and Sisk 2008, Paris 2004). This part of the literature assesses the measures that have been implemented by the interveners and recommends improvements. This debate thus attempts to answer the question: *How can we do it better?*

The normative debate is important, as the legitimacy of post-conflict peacebuilding *per se*, and the ways how these missions are conceptualized, are far more controversial than is often assumed (Bar-

³ 'We' meaning those predominantly Western states and organizations who are the primary actors in interventions. Research on peacebuilding usually adopts the perspective of the interveners, hence the 'we' appears justified.

nett et al. 2007, Bellamy 2004, Bellamy and Williams 2004, Paris 2009). It discusses inherent tensions, such as those between democratizing aims and an authoritarian approach (Chesterman 2004, Goetze and Guzina 2008, Lidén 2006), as well as the more fundamental question of whether it is at all justified to interfere in the inner workings of states and societies, and on what grounds (Chandler 2004, ICISS 2001, Keohane 2003, Krasner 2004, Krasner 2007, Lidén 2006, Richmond 2004). Finally, this strand of research points out that peacebuilding does not promote universal norms and standards but rather a very particular model of governance that equates peacebuilding with statebuilding and statebuilding with 'liberal market democracy' (Chesterman 2004, Ottaway 2002, Paris 2002, Paris 2004, Richmond 2004). This debate, however, is not concerned with the empirical realities of peacebuilding. It investigates the interests and the plans of the interveners, but it does not consider whether those actually guide the practice of peacebuilding. For interventions in the realm of development cooperation, both James Ferguson (1994, p. 13) as well as David Mosse (2004, 2005) have argued convincingly, and based on nuanced empirical analysis, that the practice of development usually does not mirror international discourse or policy.

The second strand of research analyses how close peacebuilding endeavors get to achieving what they set out to do. This debate has been valuable in providing a track-record of peacebuilding (see for example Dobbins 2003, Dobbins et al. 2005, Doyle and Sambanis 2000, Doyle and Sambanis 2006, Fortna 2008, Zürcher 2006). It points out that while peacebuilding is often successful in securing the absence of violence, it rarely succeeds in its extremely ambitious attempts to transform state and society (Doyle and Sambanis 2000, Doyle and Sambanis 2006, Fortna 2008, Fortna and Howard 2008, Ottaway 2003, Paris 2004, Roeder and Rothchild 2005, Zürcher 2006)⁴. This strand of research is primarily concerned with making external involvement in post-conflict situations more effective. The recommendations are many and diverse. They include the call for more intrusive missions generally (Doyle and Sambanis 2000, Doyle and Sambanis 2006), more intrusive missions that build institutions first (Paris 2004), are better coordinated (Newman and Rich 2004a, Paris 2004, van Tongeren 2001), invest more resources (Chesterman 2004, Dobbins 2003, Dobbins et al. 2005, Doyle and Sambanis 2000, Doyle and Sambanis 2006, Ottaway 2003), or condition sovereignty (Fearon and Laitin 2004, Keohane 2003, Krasner 2004, Krasner 2007). The 'to do lists' in sub-areas of peacebuilding such as the security sector, media, civil society,

4 Doyle and Sambanis in fact do claim that peacebuilding is successful in achieving 'participatory peace'. They assess this including a certain threshold on the polity score in their measure of success. This threshold is at -7 (the scale ranges from -10 for completely authoritarian to +10 for completely democratic), which equals Belarus, Syria before the current war, the Soviet Union, or Chile while Pinochet was in power, for example.

justice etc. are equally long and diverse (for an overview of various 'to do lists', see Llamazares 2005, Lund 2001).

While this strand of research looks at peacebuilding in more detail, it largely neglects agency and process. In most cases, the mechanisms that link assumed causal factors and outcomes are discussed in theoretical terms but lack empirical scrutiny (an exception is Zürcher et al. 2013). Connected to this is a neglect of local agency. Actors from within the intervened state are merely treated as "spoilers" (Stedman 1997) and as posing 'obstacles' to be overcome (Pouligny 2006, p. xi, Talentino 2007). By neglecting agency, this approach fails to capture how interveners and intervened interact and thereby jointly shape the outcome of intervention in a constant process of negotiation.

Research on peacebuilding in Bosnia mirrors these general trends in peacebuilding research. Some researchers focus on the role of the interveners in general terms, often including harsh criticism of the highly-interventionist approach that was adopted in Bosnia (Chandler 1999, Chandler 2006a, Cox 1998, Knaus and Martin 2003, Morri-son 2009, Solioz 2007) and on the role of intervention policy, particularly with respect to the dysfunctional elements of the consociational constitution created in Dayton (Bieber 2006, Bose 2002, Bose 2006). The second strand assesses the achievements of peacebuilding in areas such as democratization (Džihic and Segert 2009, Evenson 2009a, Evenson 2009b, Gromes 2007, Tansey 2009), the process of moving towards EU membership (Džihic 2007, Grünther-Đečević 2008, Rech-ia 2007), security sector reform (Bojicic-Dzelilovic 2004, Collantes Celador 2006, Donais 2006, Donais 2008, Perdan 2008, Vetschera and Damian 2006), the economy (Andreas 2004, Divjak and Pugh 2008, Donais 2002, Tzifakis and Tsardanidis 2006, Zaum 2006, Zaum 2007), refugee return (Heimerl 2006, Peirce and Stubbs 2000), and other areas of concern to the peacebuilders.

Yet again, accounts of the day-to-day processes of peacebuilding are rare. One is offered by Coles (2007) who provides a nuanced insider's view of the OSCE in Bosnia. Her work, however, touches on interaction with the intervened only in passing. A second example is the in-depth account of the police reform negotiations by Lindvall (2009) that has been used extensively in the case study on police reform in this thesis. Lindvall discusses intervener-intervened interaction at length with a strong focus on the interests that guided negotiations. He does not systematically discuss the context and negotiating strategies employed, however.

In recent years, the focus of research (on peacebuilding in general and on Bosnia) has started to shift towards more nuanced empirical inquiries into the peacebuilding field.⁵ Some researchers have directed attention at the inner workings of peacebuilding organizations and communities, either with respect to organizational structures

⁵ On the 'peacebuilding field', see Chapter 2.2.

(Blume 2011, Campbell 2008, Herrhausen 2007, Junk 2012, Winckler 2010) or with respect to a specific culture that peacebuilders share (Autessere 2010). Others have focused on how local communities, and the population of the intervened states in general, perceive and make sense of intervention (Mac Ginty 2012, Neumann 2013, Pouligny 2006, Richmond and Mitchell 2011, Richmond and Mitchell 2012, Talantino 2007). Finally, some have explicitly made the interface where interveners and intervened interact the subject of research. Hensell and Gerdes (2012), for example, inquire into the impact that intervention has on elite formation in the intervened state and find that it is very limited. Taking a broader perspective, Bonacker, Daxner, and a number of other researchers (Bonacker et al. 2010) seek to describe the “societies of intervention” that emerge when interveners and intervened meet. Finally, Zürcher et. al. (Barnett and Zürcher 2009, Narten and Zürcher 2009, Zürcher 2004, Zürcher 2010, Zürcher 2011) explicitly focus on the interaction processes between the interveners and the political elites of the intervened state and call the frequent result a “peacebuilder’s contract”. They argue that these processes hold much of the explanation for the frequent failure of peacebuilding, as the interests of both sides ultimately converge on symbolic peacebuilding, where democratic reforms are formally implemented, yet informal power relations in the intervened state remain untouched.

This thesis is a contribution to this latter strand of research investigating the interaction of interveners and intervened. It takes the argument of the “peacebuilders contract” and the view on intervention as creating “societies of intervention” as its starting points. By focusing on agency and on the processes of negotiation between interveners and intervened, it provides insight into *how* it is that interveners and intervened interact and negotiate their interests and together bring about an outcome that frequently departs from the initial expectations of both.

1.2 AGENCY AND PROCESS: PEACEBUILDING AS NEGOTIATION

To study peacebuilding as negotiation, I take an inductive approach, which is complemented by existing theory and empirical insights from research on negotiations, peacebuilding, development and other areas. I conduct three micro-level case studies on defense reform, police reform and the distribution of state property in Bosnia and Herzegovina. Those case studies are guided by a conceptual framework that is itself a result of the research process and is briefly summarized below.

While the focus of this research is on agency, negotiations take place in specific social contexts. The context and its characteristics shape the way in which interaction proceeds and they delineate what is possible and what is not. I locate the case studies within the con-

text of the 'peacebuilding field' (Bourdieu 1985b, Bourdieu 1989). This field is both international and local. Negotiations are typically initiated by the interveners, and they are characterized by a lack of rules, because peacebuilding is inherently '*ad hoc*'. This absence of rules, however, complicates efforts to reach an agreement. Negotiations in the peacebuilding field concern the reorganization of political authority within the intervened state. This puts the interveners at a disadvantage because they lack information on the informal power relations determining the exercise of political authority within the intervened state.

Different actors participate in different social fields. As this research is not about formal negotiations where participants are picked and officially invited to the negotiation table, the question of who participates in peacebuilding negotiations is vital. I define actors in the peacebuilding field as 'strategic groups' (Evers and Schiel 1988) who share a common interest in furthering their chances of appropriation. Empirical research suggests that ethnicity is the decisive criterion for strategic group formation among the Bosnian political elites, and organizational affiliation among the interveners.

The members of those groups by and large share common interests. Those interests are diverse, they can lose or gain importance and sometimes, they contradict each other. However, there are overarching interests that Barnett and Zürcher (2009) argue characterize negotiations in peacebuilding, and that also dominated in my three case studies: The political elites of the intervened state want to maintain access to political authority, while the interveners are under immense pressure to demonstrate peacebuilding success. As pointed out above, those overarching interests often collide. This implies that the zone of agreement in peacebuilding negotiations – the area where interests converge and agreement is possible – is usually rather small.

Within a social field, particular resources matter, and different actors have diverging access to those resources. As different resources are important in different social fields, inquiry into resources was an issue of empirical research. In my three case studies, four types of resources played an important role in negotiations: coercive capacity, economic resources, organizational capacity and legitimacy. The distribution of those resources, against common wisdom in research on peacebuilding, favors the intervened. The interveners are at an advantage only with respect to economic resources.

These resources, however, do not matter 'on their own': they need to be put to use. Within the framework of the peacebuilding field, there is a lot of room for maneuver. Actors in peacebuilding negotiations have a repertoire of strategies that they employ regularly. Strategies are a particular kind of practices geared towards the long-term achievement of a complex goal (Evers and Schiel 1988, p. 81). As with resources, defining these strategies was a matter of empirical in-

quiry. In the three case studies, four large types of strategies featured prominently: pressure, bribery, capacity building and legitimizing arguments. How successful those strategies are is highly dependent on context as well as on the strategies adopted by other participating actors.

In most cases however, the outcome of peacebuilding negotiations resembles a compromise. This compromise reflects some, but not all, interests of the negotiating groups. Proposals might be accepted only selectively, and they are often implemented symbolically. Given the interveners' need for success, symbolic agreement is a likely outcome: The intervened agree to superficial reform while the interveners agree to leave the *de facto* organization of political authority intact (Barnett and Zürcher 2009).

1.3 FINDINGS: NEGOTIATED PEACEBUILDING IN BOSNIA

In the three case studies on defense reform, police reform and the distribution of state property, interveners and intervened alike used their resources in a broad range of strategies. In all three cases, the interveners' main interest was 'peacebuilding success'. Bosnian Serbs, however, strongly resisted any measure aimed at weakening their autonomy. In such conflicts, the interveners were often less powerful than has been commonly assumed. They had limited resources and those that they had were often not very useful in negotiations. The interveners were clearly at an advantage in relation to the intervened in terms of formal coercive capacity and economic resources. However, pressure by the interveners, whether by threatening formal sanctions or using blackmail, was mostly only successful in ensuring formal cooperation; it did not help in bringing about substantial compromises. The intervened, on the other hand, had a powerful tool of pressure in being able to threaten the interveners with peacebuilding failure.

The interveners often lacked organizational capacity, and were unable to agree on and follow through with a common policy. Bosnian Serbs, on the other hand, as the group most opposed to the interveners' interests, had strong organizational capacity especially since the change of government in 2006. This development in the Bosnian Serb political landscape also brought increased popular legitimacy, while the legitimacy of the interveners, and OHR in particular, faded.

The interveners' need for success often undermined their bribing strategies. For example, the interveners offered rewards for cooperation, which at the same time were crucial indicators for peacebuilding success, such as a Stabilization and Association Agreement between the EU and Bosnia. As the interveners needed to achieve agreements such as this one more urgently than the intervened, their bribes turned into traps of conditionality for them. Strategies of capacity building were influential only in areas where there was no major

conflict of interests. Other than that, they were often used more as a tool for winning time than as a strategy geared towards successful agreement. In two of the three cases (police reform and the state property negotiations), the interveners initiated negotiations without being able to come up with convincing arguments for why their proposed reforms were necessary and useful. In defense reform on the other hand, there was a clear and concise argument for reform that all parties could agree on which was one of the major factors contributing to successful agreement in this case.

The ability of the interveners to direct processes of negotiation towards their own interests decreased over time. Since 2006, OHR has constantly been in a mode of closure. This has further undermined their organizational capacity and legitimacy. All in all, divergent interests combined with a strong need for success have meant that very often, the strategies of interveners and intervened alike were not geared towards success. Rather, the two 'sides' have colluded in avoiding failure. They have done so by breaking down larger issues into very small 'baby steps' to increase the number of indicators for success, and by 'spin-doctoring' to reinterpret failures and symbolic agreements as successes. Ultimately, in the three case studies, the interveners were successful only when none of the negotiating party strongly opposed their proposals, and even then, it still took a lot of effort. The broader developments in Bosnia also suggest that the interveners are usually more successful in sustaining the *status quo* than they are in affecting change. In many peacebuilding negotiations, however, interveners and intervened do not actually work towards successful agreement. Rather, they collude in avoiding failure, by postponing it or by redefining symbolic agreements as successes.

What this means for peacebuilding is that the interveners are well advised to acknowledge that peacebuilding is about negotiation and that the interests of different parties to the process are often opposed. Peacebuilding is inherently political, and it stays political even when taking the shape of so-called 'technically-defined' check-lists. Peacebuilders need to be aware of this and assess realistically what it is that they reasonably hope to achieve. Such an assessment also involves searching for allies among the intervened, be it among the political elites or the population at large, which is all too often neglected in processes of negotiating peacebuilding. For scholars of peacebuilding, this thesis equally suggests that a focus on agency, on the politics in peacebuilding, and on practice rather than policy plans, helps in understanding what peacebuilding is in practice, when it happens, 'on the ground'.

1.4 OUTLINE OF THE THESIS

The thesis is divided into three major parts. Part one includes the conceptual framework, the framework of analysis and a chapter on research methods. Part two is concerned with the case studies. It consists of a chapter that introduces the peacebuilding field in Bosnia, and then turns to the three case study chapters on defense reform, police reform and the state property negotiations. Part three discusses those cases in comparative perspective, presents findings and draws conclusions.

1.4.1 *Part One: Researching Peacebuilding as Negotiation*

The conceptual framework (*Chapter Two*) that is briefly outlined above is discussed in more detail in the following chapter. The first three sections set the framework. They discuss how and why peacebuilding is about negotiation, and they introduce the peacebuilding field, its characteristics and the strategic groups within this field. The chapter then turns to the concepts that guide and structure the case studies: interests, resources, strategies and outcomes.

The conceptual framework was developed in a two-step process. The first step involved identifying and developing concepts as an inductive process informed by Grounded Theory methodology. In the second step, these concepts were then cross-checked and complemented with insights from existing research primarily on negotiations and on peacebuilding. Given the inductive approach adopted in this research, the conceptual framework is, in itself, both a result of the research process and part of the answer to the research question. In *Chapter Three*, these conceptual discussions feed into a framework for empirical analysis.

Chapter Four discusses research methods. The approach that was adopted is interpretive, building on constant feedback between data and analysis, and centering on three micro-case studies. The chapter discusses this approach as well as my individual research journey. It introduces criteria of trustworthiness against which this thesis is to be assessed as well as my personal perspective on and access to the research topic and 'the field' in Bosnia.

1.4.2 *Part Two: Peacebuilding Negotiations in Bosnia*

Chapter Five introduces the peacebuilding field in its Bosnian manifestation. The chapter focuses on those actors that played a decisive role in all three case studies. This chapter has a dual purpose. On the one hand, it serves as an introduction to the case studies. On the other hand, it forms an integral part of the empirical analysis, as it discusses the constellations of actors, interests and resources in the

peacebuilding field in Bosnia. *Chapters Six, Seven and Eight* present the case studies on defense reform, police reform and the state property negotiations.

As will be seen, initial attempts at defense reform started right after the war in 1996, while reform targeting political authority in the defense sector began in 2002. The process of negotiating defense reform lasted until 2005 and was judged successful by interveners and intervened alike. While there were three ethnically-defined armies and defense establishments after the war, the reform process resulted in integrating both political control and the armies at the central state level. A major compromise was struck in establishing mono-ethnic battalions that continued to exist within the integrated army but outside the chain of command. In some areas, defense reform remained symbolic as parts of the agreement were not implemented, particularly in the areas of the reserve army and the division of defense property.

Police reform was, at least in part, inspired by the unexpected success of defense reform and was hence very similar in design. It build on earlier efforts at reforming the police, which had not affected political authority. These later efforts at reorganizing authority over the police started in 2004 and lasted until late 2007. Different from defense reform, police reform was a clear failure for the interveners and Bosniak political elites, while it was largely a success for Bosnian Serb political elites. Bosnian Croats neither gained what they had hoped to achieve nor lost control of the cantonal police as they had feared they might have in the reform. Police reform resulted in a symbolic agreement that postponed reform into the indefinite future. This agreement was treated as a success by the interveners, while it left political authority over the police untouched.

Negotiations on the distribution of state property between the state and the entities started in late 2004, increased in intensity in 2008 and came to a first (though possibly not final) conclusion in March 2012. Different from defense and police reforms, OHR initiated the state property negotiations not so much because of a large interest in the issue but rather because their mandate implied that they had to. From a question that OHR treated as primarily technical, the issue soon developed into a bitter dispute about both the nature of the Bosnian state and the future of intervention in Bosnia. At the time of writing it is not possible to come to a final conclusion on the outcome of state property negotiations. The agreement currently in place is also symbolic, and similar to that in police reform. Different from police reform however, state property is an issue that 'faded out' rather than failed. As the political crisis about Bosnian statehood, ongoing in Bosnia from 2006, intensified in 2010 and 2011, the issue moved to the bottom of the agenda.

1.4.3 *Part three: Discussion and Conclusions*

The third and final part of the thesis discusses themes and findings that emerge from the case study and draws conclusions. *Chapter Nine* compares the three cases along the categories of interests, resources, strategies and outcomes. It finds that in those three cases, the interveners were successful only in defense reform where no party strongly opposed agreement, the interveners had exceptional access to resources, and translated those into successful strategies. The state property negotiations initially also offered chances for agreement, but those remained unused by the interveners. In police reform, however, where Bosnian Serbs strongly opposed reform, it appears that there was little that the interveners could have done to achieve an agreement mirroring their version of reform.

Chapter Ten takes up three major themes for discussion, emerging from the case studies. First, the process of 'exit' itself undermines the ability of the interveners to effect change in negotiations. Once the interveners decided to work towards an end of peacebuilding in Bosnia, they tried to speed up reforms, on the one hand, and, on the other, undermined their own capacity to do so by being 'half gone'. Second, the interveners and the intervened frequently colluded to avoid failure. And third, all of this does not imply that peacebuilding in Bosnia has never had any success: favorable circumstances did occur and have been used, and the interveners were often successful in maintaining the *status quo* at least. *Chapter Eleven* concludes by summarizing the findings and discussing avenues for further research.

Part I

RESEARCHING PEACEBUILDING AS
NEGOTIATION

PEACEBUILDING AS NEGOTIATION: A CONCEPTUAL FRAMEWORK

When reading through the existing literature on peacebuilding in Bosnia in the very early stages of work on my thesis, I came across a local-level case study on the interaction between interveners and intervened in the central Bosnian town of Travnik. In a book chapter, Peirce and Stubbs (2000) describe two projects dealing with minority return, the first of which ran into conflict with the Bosnian local authorities. The mayor appeared uncooperative towards the intervening organization, which was interpreted as nationalist and 'anti-Dayton' by some. However, from the point of view of the mayor, it would have meant "electoral suicide [...] to agree to reconstruction programmes targeted solely at minorities, whilst the majority population remains displaced and in poverty." (Peirce and Stubbs 2000, p. 164) The mayor's primary concern was his immediate electorate. The fact that the project was ethnically balanced on a national level quite understandably was of little concern to him.

This example illustrates an important point when talking about peacebuilding: It might of course happen that a certain measure is rejected by some actors based on political convictions. Many mayors in various towns in Bosnia probably did and do hold firmly nationalist beliefs that run counter to the interveners' aim of a single and multi-ethnic Bosnian state. But aside from that, the interveners' proposals often simply interfere with more urgent interests. We may assume that the mayor of Travnik probably wants, at least, to remain the mayor of Travnik. To maintain his position as the mayor of Travnik, however, he is dependent on those who elect him into office.

Abstracting from this concrete individual whom I do not know much about to a hypothetical mayor, one might assume a range of other aspects that help explain his strategies. Perhaps he does not only want to remain the mayor of Travnik but wants a position with more or different influence. He possibly wants to gain influence in national politics. Or maybe he wants to become the head of a large state-owned company. He is also dependent on his party, at the national level and/or the local level depending on how decentralized power is. He is dependent on his circle of friends in that party, or elsewhere. Depending on where this circle of friends has its origins, other obligations go along with that. Say, for example, the mayor fought during the war and is now a member of a veterans' organization whose members tend to help each other out. He will need to serve their interests as well. Maybe he has a history in the Communist Party of Yugoslavia

and will want to protect the interests of that faction within his party against the interests of those who grew important during the war. He might also have a family that does or not does not profit from international aid depending on how it is distributed. His brother-in-law might have helped him into the position he occupies now and might expect loyalty in return. Many more examples could come to mind.

The mayor has to take many interests into account, and all of them influence how he behaves when confronted with the programs of the interveners. The interveners' overarching interest, on the other hand, is to reorganize the ways in which political authority is exercised in the intervened state (Free 2010) by building a democratic, effective and stable state (Newman and Rich 2004a, Paris 2004, Whitehead 2004). Political authority (Herrschaft) is a form of power that claims legitimacy¹ (Weber 1978) and that is institutionalized (von Trotha 1994, p. 1ff).² This interest in changing the ways in which political authority is organized often clashes with the interests of those currently exercising it.

While the particular project in the example did not *directly* target political authority in Travník, it had an impact on the mayor's constituency and thereby constituted a threat. Many other intervener initiatives directly and explicitly concern the organization of political authority and often run into resistance from the political elites of the intervened state. Transparency in civil service recruitment undermines positions of power when these are grounded in clientelist networks that use positions in the civil service as a reward for loyalty.³ Removing ethnically-based criteria for political office threatens the hold on power of those political parties that derive their legitimacy from representing one single ethnic group. And privatizing the state-run economy threatens to cut the lifeline of those ruling elites that have previously relied on revenues from this realm, to give some examples. In short, implementing the peacebuilding agenda is often not in the interest of the political elites of the intervened state who want to maintain access to political authority (Barnett and Zürcher 2009, Narten 2007, Narten and Zürcher 2009, Zürcher et al. 2013).

In all of these cases, diverging interests need to be negotiated. The process of peacebuilding can thus be understood as an informal process of negotiation between interveners and intervened (Barnett and Zürcher 2009). This process takes place within a framework that is shaped by the (international) logic of the peacebuilding field that

¹ On legitimacy, see especially section 2.6.4 in this chapter.

² Von Trotha uses a good example to explain the difference between power that is sporadic and power that is institutionalized: The latter does not disappear when a powerful person dies (von Trotha 1994, p. 2).

³ This is not meant to suggest that only the intervened rely on patronage networks. Hüskens (Hüsken) points out that the way in which development organizations operate is often based on informal networks of patronage which compensate for opaque and overly complex structures within these organizations.

delineates what peacebuilding can or cannot do, as well as by the social and political realities of the intervened state. Different actors involved in negotiating peacebuilding have different strategies available to them, depending on the resources to which they have access. Within this framework however, substantial room for maneuver exists for those who are involved (Bierschenk 1988, Bierschenk and Olivier de Sardan 1997, Olivier de Sardan 2005, p. 53). The likely result is a compromise that departs from the initial expectations of the interveners as it reflects these processes of negotiation (Barnett and Zürcher 2009, Richmond and Mitchell 2011, Zürcher et al. 2013).

The remaining sections of this chapter propose a conceptual framework for studying peacebuilding as negotiation. This framework has been developed based on empirical inquiry (see Chapter Four on the methodological approach). Empirically derived concepts and categories have been complemented with insights from extant theories of negotiation, approaches to peacebuilding as well as other social science literature. The remainder of this section introduces negotiations and provides an overview of how they are studied in this thesis. The next section introduces the characteristics of the peacebuilding field that provide the context for negotiations. The following sections discuss the central elements of negotiations in peacebuilding that also form the structuring elements of empirical investigation: the interests of the negotiating parties, the resources that those parties have access to, the strategies they employ and the outcomes of negotiation.

2.1 STUDYING NEGOTIATIONS

Negotiation quickly emerged as the core category (Corbin and Strauss 2008, p. 107) of my approach to studying the practice of peacebuilding. All cases of peacebuilding initiatives that I investigated were characterized by a lengthy process of discussing, changing, accepting and rejecting proposals in part or in whole. Some resulted in compromises that were subsequently implemented, while in other cases, interveners and intervened failed to reach agreement. In other words: Peacebuilding was negotiated. This section provides a brief overview of existing approaches to studying negotiations and introduces how negotiations are investigated in this thesis.

Negotiation is what people do when they attempt to agree on an issue in which they hold diverging interests (Fisher et al. 1991, p. xvii). Negotiations sometimes happen explicitly and within a formal framework, and sometimes take place without being acknowledged as such (Doron and Sened 2001, p. 7, Fisher et al. 1991, p. xvii). Dragan Čavić who was president of Republika Srpska until early 2006 for example described the constitutional reform process as “real negotiations in the actual sense” (Interview with Dragan Čavić 2011), with a formalized framework and also with an international team of moderators.

Negotiations are a part of everyday life, and form the “primary mode of conflict management by which social actors settle their disputes.” (Gosztonyi 2002, p. 14) In the cases of negotiations that are the subject of this research, negotiation concerned the reorganization of political authority in Bosnia.

Negotiations have been studied from perspectives as varied as economics, historical analysis, a legal perspective, organizational sociology and social psychology (Kremenyuk 1991, p. 118). The issue areas in which negotiations have been studied are equally diverse, with economics (Dupont 1991), international politics (Kremenyuk 1991), international as well as internal war and conflict (Zartman 1991, Zartman 1995b), domestic politics (Doron and Sened 2001) and decision-making processes in organizations (Griffin and Moorhead 2008, p. 418-29) as some examples. Most approaches to studying political negotiations take economic theories of negotiation and bargaining as a starting point. Accordingly, they tend to base their arguments on game theory approaches (Doron and Sened 2001, Kremenyuk 1991, p. 118). These approaches assume unitary actors with a fixed order of preferences towards the outcome that can be determined *a priori* (Sebenius 1991). However, approaches concerned with empirical investigation of negotiation processes have relaxed most of those assumptions, as they are “usually too overly simplified to be directly applicable to concrete situations.” (Kremenyuk 1991, p. 118) As the empirical analysis in this thesis will show, the actors in negotiations are rarely unitary and the interests that underlie their negotiating positions are manifold, often contradictory and subject to change over time. Approaches informed by game theory focus largely on zero-sum negotiations where one side gains what the other side loses (Gosztonyi 2002, p. 17, Sergeev 1991, p. 59). A second influential strand of negotiation literature referred to as the ‘Harvard School’ focuses on win-win situations instead and with that on more cooperative forms of negotiation (Fisher et al. 1991, Gosztonyi 2002, p. 21). In practice, however, both of these approaches are present in most negotiations (Dupont and Faure 1991, p. 45). I draw on insights from both.

The two approaches share a focus on underlying interests that guide the negotiating parties and on the things that actors do in the negotiation process to achieve those interests. Game theory approaches usually focus on the options available to one negotiating party to increase its gains. The Harvard school, in contrast, directs attention to solutions that satisfy the interests of all negotiating parties. Both approaches focus largely on the actual situation of negotiating, that is, when individuals sit around a table and talk, with a restricted time frame and usually in a formalized setting. They do acknowledge, however, that negotiations take place reiteratively, in other words actors take into account the impact of one round of negotiations on the

next round when planning their actions. For example, actors in negotiations should have an interest in reaching an amicable agreement when they know that they will have to interact with the other negotiating parties in the future (Fisher et al. 1991, p. 20). Neither approach, however, considers the importance of informal negotiation processes, and these as well as the larger context of negotiations remain largely unaddressed in theory.

For the purposes of this thesis, such focus is too narrow. In peacebuilding, the negotiating parties interact closely with one another over a period of many years. In Bosnia, intervention has been ongoing for 17 years at the time of writing. Negotiations sometimes take place in a formal setting, but very often, they remain informal. Negotiations on one issue typically stretch over a period from many months to several years, and a vast number of issues are negotiated simultaneously. To study negotiations in peacebuilding, it is hence not enough to focus on interests and on individual actions in formal negotiations. Rather, a conceptual framework needs to include the context of negotiations as well as the larger, longer-term strategies that actors employ.

I conceptualize the context of negotiations as a 'peacebuilding field' with particular characteristics that shape interaction within the field (Bourdieu 1985b) (see the following section of this chapter on the peacebuilding field). While these characteristics do not define the precise moves available to actors in the field, they delineate the range of possible actions. As negotiations in peacebuilding do not take place in a narrow and formalized setting, the participants of negotiation processes are often not explicitly defined at the outset, and different groups of actors participate in different yet connected processes of negotiation. A discussion of context thus also requires a discussion of the actors that occupy this peacebuilding field. These actors are conceptualized as "strategic groups" (Bierschenk 1988, Bierschenk and Olivier de Sardan 1997, Evers 1973, Evers 1997, Evers and Schiel 1988) that share interests, strategies and access to resources (see section 2.3).

Within this field, the interests of the negotiating actors are vital for studying processes of negotiation. Interests determine the negotiating positions that actors adopt (Fisher et al. 1991) and the way in which they evaluate the outcome of a negotiation process. As pointed out above, interests tend to be less fixed than commonly assumed by game theory approaches to negotiations, and orders of preferences change over time and differ among factions of strategic groups. Pre-defining preferences, therefore, is not suitable to empirical research at the micro-level. Section 2.4 discusses the overall interests of interveners and intervened, while concrete interests, with respect to individual cases of negotiation, are described as part of the case studies.

Another vital aspect of accounting for context is to investigate the factors enabling or preventing actors from adopting particular strate-

gies. Actors within a social field have differential access to resources. Those resources in turn determine what strategies are available to them. For examples, strategies of bribing often depend on economic resources. Strategies of pressure depend not only on coercive capacity but on legitimacy as well. In theoretical approaches to negotiations, the analysis of resources is usually restricted to material resources (Schoppa 1999) and to an assessment of the overall power of a negotiating party, rather than asking how these resources can be made use of in negotiation processes (Fisher et al. 1991, p. 102). From my empirical research, four types of resources have emerged as decisive: coercive capacity, organizational capacity, economic resources and legitimacy. Rather than describing how aggregate access to resources makes an actor powerful or powerless, I focus on the way in which these resources in very specific situations enabled actors to employ certain strategies or prevented them from doing so (on resources, see section 2.5).

As approaches to negotiation focus on formal and usually individual situations of negotiation, much of this research is concerned with negotiating tactics in terms of short-term reactions to particular situations, rather than negotiating strategies as longer-term approaches to a prolonged negotiation process. I conceptualize strategies as a particular type of social practice and focus on routinized patterns of behavior. Four larger types of strategies emerged from empirical research that I have labeled as pressure, bribery, capacity building and legitimizing arguments (on strategies, see section 2.6).

Finally, studying negotiations requires an account of the outcome. This involves asking whether agreement has been reached at all, and specifying how this agreement (or non-agreement) reflects the interests of all actors involved in negotiating it (on outcomes, see section 2.7). Typically, these outcomes will resemble a compromise that reflects some, but not all, interests of interveners and intervened alike.

2.2 THE PEACEBUILDING FIELD

During my research stays in Bosnia, I met a foreign journalist who lives and works in Bosnia. He had travelled the world and particularly its more troubled regions extensively before settling in Sarajevo a few years ago. One of his areas of interest was what Bonacker, Daxner *et al.* call the “culture of intervention” (Bonacker et al. 2010, Daxner 2008): the impact that intervention has on the everyday lives of interveners and intervened alike. He told me about a bar that was very popular among foreign diplomats and employees of international organizations, and how he sometimes went there for a drink and listened to the conversations around him. Very often, he explained, newly-arrived diplomats would compare Bosnia to their previous duty stations, discussing how their staff were better here or there, comparing

accommodation, food, the possibilities for sports and excursions to the countryside, and their daily work load. It seems, therefore, that some things about intervention are universal: There are bars where the ‘internationals’ hang out, activities that ‘internationals’ regularly do when they are not working, and there also often is a standard repertoire of projects and programs that peacebuilding organizations implement in Bosnia, the DR Congo, Liberia or elsewhere:

“International peacebuilders have their own world, with its own rituals, its own customs, its own beliefs, its own roles, its own stars, its own villains, its own rules, its own taboos, its own meeting places [...]” (Autessere 2010, p. 1)

I call this world the peacebuilding field. Social fields are the metaphorical spaces where actors meet and interact, such as the political field, the economic field, the field of education, etc. (Bourdieu 1985b, Bourdieu 1989). They are “both a field of forces, whose necessity is imposed on agents who are engaged in it, and as a field of struggles within which agents confront each other, with differentiated means and ends according to their position [...]” (Bourdieu 1998, p. 32). Social fields have characteristics which set them apart from other fields, define who participates in the field and shape interaction. Along with these distinctive characteristics, the resources that are relevant vary from one field to another. Becoming the head of government has different requirements than being successful in car racing, to give one example (Free 2010, p. 65). Peacebuilding is a distinct social field because there are implicit rules about who can participate, specific rituals, customs and beliefs, and standards for how individuals engage with one another.

This section describes the characteristics of the peacebuilding field insofar as they are relevant to studying negotiation processes between intervening organizations and the political elites of the intervened state. As these characteristics concern the peacebuilding field in general, rather than only its local manifestation in Bosnia, this section draws primarily on the existing research on peacebuilding.

First, the peacebuilding field is international, but negotiation processes between interveners ‘on the ground’ and their local counterparts are concerned with the political field of the intervened state. Second, the initiative is with the intervened. They are the ones who set the agenda and the ones who initiate reforms, while the political elites of the intervened state need to react. Third, there are next-to-no rules for negotiating conflict between the interveners and the intervened, and I argue that this is due to the ways in which intervention is legitimized. Fourth, the interveners always lack information, particularly on informal power relations in the intervened state. The actors that participate in the peacebuilding field and the resources that govern this field are discussed in subsequent sections.

2.2.1 *International Meets Local*

In its main characteristics, the peacebuilding field is international. Very much the same language, rules and standard procedures apply to peacebuilding in Cambodia, Bosnia or Afghanistan, with certain changes over time and certain adaptations particularly regarding the security context.⁴ By and large, the same organizations intervene, and those organizations usually have headquarters that oversee intervention in a whole range of places.⁵ Others have pointed to the international fields of human rights and democracy promotion (Guillhot 2005) or of development (Bierschenk 1988, Olivier de Sardan 2005). Those fields are very similar in the way they are structured, the themes that dominate and also in ‘personnel’⁶. And crucially, all of them share the fact that they involve both an international level as well as a local level, which is where intervention meets the social reality of the intervened. Interaction and negotiation happen at all of those levels (Neumann and Winckler 2012).

This thesis focuses on the level of the “base camp in the capital” (Schlichte and Veit 2007, p. 18) of the intervened state.⁷ This is where mandates are interpreted and implemented (Neumann and Winckler 2012). While missions on the ground often possess a great deal of autonomy from international headquarters, the two are nevertheless intertwined and themselves involved in a process of negotiating the means and ends of intervention (Neumann and Winckler 2012, Winckler 2011). While I will not describe these processes in depth, the fact that, the interveners have constituencies and superiors needs to be kept in mind when thinking about interests.

At the base camp, intervention meets the political field of the intervened state.⁸ As intervention aims to change the ways that political authority is exercised in the intervened state, its measures have a direct impact on the political field. Consequently, conflicts can be ex-

4 In Afghanistan, security concerns have a large impact on intervener policy (Barnett and Zürcher 2009). In Bosnia, such concerns played a role in the first two years of intervention, but not so much afterwards (ESI 2000).

5 Bosnia differs from many other peacebuilding missions in that the UN is not the leading organization of intervention. However, while OHR is an organization that was set-up only for the purpose of peacebuilding in Bosnia, most other intervening organizations in the country are participating in other peacebuilding missions as well (such as the OSCE, NATO, the EU, the World Bank, and others. The UN was present in Bosnia as well but not as the lead actor.).

6 Most people I know (including myself) who have been involved in one of those fields on a practical level (or as researchers, and usually both) sooner or later became involved in the other ones as well. One might speculate whether those are not separate fields but rather one large ‘intervention field’, but this is beyond the scope of this thesis.

7 Next to the base camp, Schlichte and Veit broadly identify two other levels: the “metropolitan headquarters” and the “bush office” (Schlichte and Veit 2007).

8 Chapter five introduces the constellations of actors, interests and resources within the Bosnian political field.

pected to arise around issues that are located within the political field of the intervened state rather than the peacebuilding field. They usually concern issues like how the security sector shall be reorganized, how civil servants shall be recruited or how much the state shall be able to influence economic activity, for example. In contrast, conflicts between interveners and intervened rarely deal with decision-making procedures between the UN in New York and its country offices.⁹ This is important to keep in mind when thinking about interests in peacebuilding negotiations: The interests of the interveners usually concern intervention success, while the interests of the intervened are firmly rooted in domestic political issues and usually concern intervention only insofar as it interferes with those issues.

2.2.2 *The Initiative is With the Intervenors*

The peacebuilding field, in its local manifestation, comes into existence from the arrival of the interveners. This sometimes happens during the conflict and sometimes afterwards, and with or without the consent of the parties involved. But whether intervention happens or not, ultimately is a decision made by those who intervene, as is the size and scope (Röhner 2012, Zürcher et al. 2013) of intervention. Those in the intervened society become 'the Intervened' by the act of intervention (Daxner 2010, p. 75), and without interveners there is no peacebuilding field. This may seem a trivial point, but it is nonetheless important: it implies that while peacebuilding is an interactive process that involves multiple actors, the initiative is with the interveners. This is the case when intervention starts, and usually stays that way over the course of intervention. The interveners bring with them a program, concepts and resources, and the intervened need to position themselves accordingly. The interveners want to induce change and start reform initiatives, and the intervened will need to agree or disagree, in part or in whole.

While intervention should be seen as an interactive process, it is not a relation between equals. The interveners want the intervened to do things and to take on certain projects and proposals as their own (Reich 2006).¹⁰ The interveners try to do so by convincing the intervened that these policies are useful, by trying to cajole them into compliance by providing incentives in other areas, or – if they have the mandate to do so, as they do in Bosnia – by imposing measures in the hope that sooner or later, the intervened will realize that it was for their own good. This is not to say that the intervened are powerless,

⁹ The means of peacebuilding are sometimes subject to criticism from the intervened, when transitional administrations are criticized as overly autocratic and nontransparent (Distler and Riese 2012). But this usually tends to be accompanied by conflicts over other issues.

¹⁰ Hanna Reich also points out that accordingly, what the interveners call ownership is better described as persuasion.

or even that the interveners usually succeed in this attempt. In fact, they often do not. But nevertheless, it is the interveners who claim the right to set the agenda (Bellamy 2004, Schetter 2010). As will be discussed in detail below when talking about interests, this proactive role actually puts the interveners in a difficult position. Convincing others to bring about change is inherently more difficult than simply maintaining the *status quo* (Gosztonyi 2002, p. 19/20).

2.2.3 *Legitimizing Intervention and the Absence of Rules*

The arrival of the interveners creates a 'new', local manifestation of the peacebuilding field which Daxner *et. al.* call an intervention society (Daxner *et al.* 2010). At this point, formal or informal institutions for processing conflict among interveners and intervened do not exist.¹¹ One of the characteristics of the peacebuilding field is that, usually, no such rules are developed (see as well Distler and Riese 2012). This absence of rules undermines the chances of successfully negotiating conflicts between interveners and intervened. Fisher, Ury and Patton point out that "fair procedures" for negotiation will enhance the acceptance of an agreement because that process is designed in a way that provides equal chances to all parties (Fisher *et al.* 1991, p. 86ff). Similarly, Schoppa emphasizes the importance of international regimes in negotiations between states, as they can provide the process with procedural legitimacy (Schoppa 1999, p. 315). In other words, the absence of rules for negotiation lowers the prospects of success in peacebuilding.

I argue that the lack of rules stems from the ways in which peacebuilding is legitimized internationally and *vis-à-vis* the intervened society. The way that this is done hinders the development of rules and procedures for interaction. First, intervention is legitimized as a short-term response to situations of crisis and accordingly keeps its *ad hoc* character even when missions go on for much longer than originally planned. And second, intervention draws on norms and standards that are postulated as universal and non-negotiable.

Intervention is not intended to last. It is conceptualized as a response to situations of emergency where the society in question has proven unable to govern itself peacefully (Hughes and Pupavac 2005). Only in those situations is it deemed legitimate to suspend state sovereignty in part or in whole (ICISS 2001, Krasner 2007, Lidén 2006). Intervention within this line of argument aims at 'restoring' a situation where the state is willing and able to protect its citizens from large-scale violence and human rights abuses. Once this is achieved, intervention should end. Empirically, interventions rarely ever are

¹¹ Institutions are understood here as expectations about the compliance with binding rules (Esser 1999, p. 2). On institutions for processing conflict, see (Zürcher 2004, Zürcher and Koehler 2003).

short-term phenomena. They drag on into lower-scale interventions led by international development and civil society organizations (Bonacker 2010), and the tremendously-increased scope of peacebuilding makes 'exit' ever more difficult (Chesterman 2004, Knoll 2007, Röhner 2012, Zaum 2004). But, on the conceptual level, peacebuilding is about 'handing over ownership' (Chesterman 2004, Narten 2007, Reich 2006) and thus remains transitory. As intervention usually takes longer than anticipated, its prolongation is unexpected. Intervention tends to last long but nevertheless stays *ad-hoc*. Setting up institutions for processing conflict between interveners and intervened would run counter to this *ad hoc* character of peacebuilding. The more institutionalized intervention becomes, the more difficult it would be to end it. This is not in the interest of the interveners nor the intervened, and it poses a problem of legitimacy.

Intervention is also legitimized by referring to norms and standards that are held to be universal. Consequently, the program of peacebuilding is not negotiable, which again precludes the establishment of rules for negotiation. To be legitimate, intervention portrays itself as bringing 'universal' norms and standards to places where they are presumably not well entrenched (Bonacker 2010, Guilhot 2005, Zaum 2007, p. 58). The peacebuilding program is assumed to be the best recipe available to the problems that plague post-conflict states, and this has profound impact on the interaction between interveners and intervened. The 'content' of intervention is not subject to negotiation, and the promoters of peacebuilding see themselves as a neutral force rather than a negotiation partner. While ownership is one of the declared principles of intervention, from this perspective the term implies that the intervened society should adopt the peacebuilding program as it is (Reich 2006). As a result, it simply appears unnecessary and indeed counter-productive to establish rules and procedures for negotiation.

This is not to say that negotiation does not occur. But it is not explicitly acknowledged as a core aspect of peacebuilding and it lacks rules and procedures. Different forms of consultation between interveners and intervened do exist, but these are often *ad hoc* and created for a limited time period and for a specific purpose. In the early phase of intervention in Bosnia, formal mechanisms to consult with Bosnian representatives did exist but were dropped quickly in favor of more spontaneous and *ad hoc* forms of consultation (Interview with an OHR Official 2010a). While Paddy Ashdown was High Representative, commissions on specific reform projects were very fashionable. A number of high level negotiations about different issues happened, usually initiated and facilitated by individual members of the Peace Implementation Council's Steering Board. And currently, selected representatives of the Bosnian political spectrum are occasionally invited to join the meetings of the PIC Steering Board (In-

interview with Barkin Kayaoglu 2010). None of this happens, however, on the basis of clear regulations. And crucially, it does not include procedures for dealing with situations where interveners and intervened (or some interveners and some intervened) do not agree. With respect to negotiations between interveners and intervened, peacebuilding practice and peacebuilding policy are always at odds with each other. On the one hand, negotiation is part of the everyday business of peacebuilding. On the other hand, the short-term nature and the assumed universality of the content of peacebuilding preclude an explicit acknowledgement of peacebuilding as a negotiation process.

2.2.4 *The Intervenors Lack Information*

As the interveners come from outside the intervention state, their knowledge of the inner workings of the political field of the intervened state (and the intervened state and society in general) is restricted (Pouligny 2006, Sampson 2002). This applies in particular to the power relations that determine who exercises political authority and how. In post-conflict states, these power relations often are highly informal and do not correspond to the formal constitutional set-up (Barnett and Zürcher 2006). This increases the difficulties the interveners have in gaining information. For example, representatives of intervening organizations stated repeatedly that the government of Milorad Dodik had successfully monopolized power informally, extending not only to the political realm but to economics, media and other spheres of social life as well (Interview with Aleksandar Trifunović 2011, Interview with an OHR Official 2011, Rathfelder 2008, U.S. Embassy in BiH 2008). Yet, nobody was able to point out how precisely this informal system of governance worked.

Information is important in negotiations as it enables judging what is at stake for the other negotiating parties (Dupont 1991, p. 52) and assessing the credibility of threats (Beardsley 2011, p. 26, Gosztanyi 2002, p. 18). In peacebuilding negotiations, information is a vital basis for planning any peacebuilding activity. Peacebuilding aims at changing the ways in which political authority is organized; this requires information on the *status quo* with respect to political authority. The lack of information, of course, goes both ways. The intervened usually know very little about the inner workings of intervening organizations. However, as the subject of negotiation is changing the organization of political authority in the intervened state (rather than within the intervening organizations), the interveners' lack of information has the larger impact.

The interveners usually are aware of this problem and devote a lot of time, personnel and money on gathering information. However, the avenues available to them are limited and usually do not provide information on the informal aspects of power relations within

the intervened state. The interveners draw on two sources of information: one source is the 'clan' (Hüsken 2003), the other source stems from a practice commonly labeled as 'monitoring'. Clan in this context refers to fellow peacebuilders, including foreign as well as Bosnian employees of intervening organizations. Much of the information on political developments in Bosnia stems from meetings with representatives of other international organizations or foreign embassies. This happens either at formal coordination meetings, such as the weekly meeting of the 'Board of Principals' where the heads of the main international organizations meet, or it happens informally at the various social events that members of the 'international community' attend (Interview with Stefan Simosas 2010, Interview with Tilman Enders 2010).¹² Furthermore, an important part of information also comes from advisors, local employees and interpreters. These individuals are typically urban based and well educated and are usually inherited by one generation of peacebuilders from a preceding generation, and by one organization from another. The interveners, therefore, draw on information from a rather limited group of people (Distler 2010, Hüsken 2003).

The second major part of information gathering is commonly described as monitoring. The interveners monitor the activities of parliaments, governments, the police, and others. These efforts form the basis for being able to react when events happen that conflict with the agenda of the interveners (Interview with an OHR Official 2011, Interview with Stefan Simosas 2011). They also form the basis for reports to the respective headquarters in order to get approval for actions (Interview with a Representative of a Western Embassy 2010, Interview with Tilman Enders 2010). Monitoring also happens in a less formalized manner. The American Embassy in particular, as well as some individuals in OHR, put great emphasis on 'staying in touch' with Bosnian political elites regardless of having concrete issues to discuss (Interview with a Representative of a Western Embassy 2011, Interview with an OHR Official 2011). Most other embassies and organizations either lack the personnel to do this or do not see it as a priority (Interview with Elisabeth Tomasinec 2011, Interview with Tilman Enders 2010). Monitoring also includes media monitoring as well as a certain form of outsourced monitoring: Various interview partners stressed that reports by international think tanks such as the International Crisis Group and the European Stability Initiative are of great importance in shaping opinion among the interveners on Bosnian political matters (Interview with a Political Analyst 2010, Interview with an OHR Official 2011, Interview with Caroline Ravaud 2010).

¹² Those are receptions, discussion events on political issues as well as cultural events like classical concerts, independent film festivals and the like.

While the interveners spend a great deal of effort on gathering information, the picture necessarily stays incomplete. Information from the 'clan' draws on very limited and very particular sources, while monitoring necessarily extends only to those parts of political activity in Bosnia that are publicly visible. The inner, informal workings of political authority in Bosnia stay largely unknown to the interveners. This implies that the interveners lack crucial information for planning initiatives and for anticipating how their Bosnian negotiating partners will react in negotiations.

To summarize briefly at this stage, this section has introduced the peacebuilding field that provides the context for interaction. While the peacebuilding field is international, the conflicts that are negotiated are concerned with local issues. These, rather than intervention per se, are also the interests of the political elites of the intervened state. Peacebuilding negotiations are initiated by the interveners. They are the ones who propose changes to the existing order, to which the intervened are required to react. This implies that the interveners are in a difficult negotiating position from the outset, as they need to convince their negotiating partners to change the ways things are done, while the latter often have no interest in doing so. The negotiating situation is further complicated by an absence of rules. While negotiations are an everyday part of peacebuilding practice, they are not explicitly acknowledged as such. Consequently, no formal rules and procedures have been developed to settle differences between interveners and intervened. Finally, the interveners are at a disadvantage with respect to information on local power relations. Considering the fact that the issues being negotiated as well as the interests of the intervened concern local politics, this aspect also adds to the difficult position of the interveners.

2.3 ACTORS IN THE PEACEBUILDING FIELD

In Bosnia, one frequent topic of discussions over dinner or drinks, especially with newly-arrived foreigners, is what to call those two broad groups that negotiate peacebuilding. Among the interveners, they are usually called 'locals' and 'internationals' or 'Bosnians' and 'internationals' (for a discussion of those terms, see Coles 2007, p. 40/41). The Bosnians, themselves, refer to them as 'our people' and 'strangers'. In academic debate, the commonly-used terms are 'internal' or 'domestic' actors and 'external' actors, or 'peacebuilders'. Two issues are important, therefore, when talking about actors in the peacebuilding field: First, the names assigned to the interveners obscure the fact that although they come from somewhere outside the intervened state, they become a part of the intervened state and society (Daxner 2008, Free 2008). Second, neither interveners nor intervened are monolithic blocs. There is a range of discernible groups within those blocs. While

the participants are defined *a priori* in formal negotiations, this is not necessarily the case with respect to peacebuilding, and defining the relevant groups is an empirical question. I focused on political elites among the intervened and actors that were formally mandated and directly involved in political decision-making among the interveners. I conceptualized actors as 'strategic groups' and I found that groups were formed along ethnic lines among Bosnian political elites, and between organizations among the interveners.

The way that intervention and its protagonists are talked about suggests that the interveners are external to the intervened state and society. As intervention drags on, however, this is often no longer the case. Over the past 15 years, the Office of the High Representative (OHR) in Bosnia has been so much a part of the Bosnian state and government that it becomes next to impossible to describe the Bosnian political system without talking about OHR. Calling this organization an external actor only serves to obscure the role it has. To give another example, an American who lives in Bosnia for 15 years, speaks Bosnian, is married to a Bosnian and sends his children to school in Sarajevo is probably ill-described as a 'stranger'. Michael Daxner and the research network on 'cultures of intervention' have proposed the terms 'intervened' and 'interveners'. These terms have the advantage of conceptualizing both groups as part of a "society of intervention" (Daxner 2010, p. 90,93). I use those terms in this thesis, although I sometimes refer to the interveners as 'peacebuilders' for the sake of variation and because this term covers their 'profession' quite well, and to the intervened as 'Bosnians'.

Within this society of intervention, my focus is on those groups involved in political decision-making among both the intervened and the interveners. I am interested in those measures of intervention that aim at changing the ways in which political authority is organized and, therefore, I concentrate on those groups that are directly involved in negotiating those issues. Who those groups are was a question that I deliberately left open to be answered empirically in the early stages of research, not least due to frequent criticism from Bosnians to interveners as well as to researchers that ethnic categories of differentiation were perpetuated by intervention.¹³ I conceptualized groups as "strategic groups" (Bierschenk 1988, Bierschenk and Olivier de Sardan 1997, Evers 1973, Evers 1997, Evers and Schiel 1988).¹⁴ Strategic Groups are groups that share a common interest in furthering chances of appropriation not only in the economic realm

13 Such criticism was voiced in numerous private conversations prior to my research, when I was working with a number of NGOs in Bosnia. Kimberly Coles also discusses how international practice has constructed Bosnia as ethnically defined (Coles 2007, p. 35).

14 In the following chapters, I refer to those strategic groups as groups, strategic groups or actors interchangeably. Actors hence always refers to a collectivity rather than individuals.

but with respect to power, prestige, knowledge and the like (Evers and Schiel 1988, p. 10). Bierschenk and Olivier de Sardan (1997) propose identifying groups through their shared access to resources and the convergence of their strategies. In Afghanistan for example, central elites clearly had a different agenda than did rural elites (Barnett and Zürcher 2009). In other sites of peacebuilding, state bureaucrats, the military or religious groups might form strategic groups. Among the interveners, national groups, civilian and military personnel, or employees of different organizations might form strategic groups, for example.

As the case studies will show, ethnic affiliation was the criterion for group formation that mattered with respect to the Bosnian political elites.¹⁵ Professionals, such as army or police officials, sometimes had shared interests, but in none of the three cases did this translate into visible joint strategies. On the contrary, although for example high ranking police officials of different ethnic affiliations pointed out that they had very much the same perspective on police reform, they also made clear that while police reform was being negotiated, they acted on the directives of their political superiors (Interview with a Bosnian Official involved in Police Reform 2011, Interview with Uroš Pena 2011). Similarly, state level officials, by and large, did not develop joint interests and strategies but rather acted as representatives of their own ethnic and territorial sub-units (Interview with an OHR Official 2011). The relevant groups among the Bosnian political elites are ethnically defined as Bosniaks, Bosnian Croats and Bosnian Serbs. Within those groups, I focus on political parties and top-level civil servants.

On the side of the interveners, organizations served as a good guide to identifying groups. Many of my interview partners associated themselves with a range of possible groups, such as those that sympathize with the EU approach to peacebuilding in Bosnia and those that oppose it, individuals with the same national and/or cultural background, and the like. But they clearly acted as representatives of the organizations for which they worked. Other criteria did not matter beyond the level of working relationships between particular individuals (Interview with an OHR Official 2011, Interview with Heinz Vetschera 2010). I concentrate on those organizations who have a formal mandate to engage in peacebuilding, which is usually a part of a peace agreement that has ended a conflict, of UN mandates, or both. In the case of Bosnia, the central organization is the Office of the High Representative (OHR), which is responsible for overseeing the implementation of the civilian aspects of the Dayton Peace

¹⁵ On ethnicity as a basis for the formation of strategic groups, see (Elwert 1989) who points out that compared to for example socio-economic criteria, ethnicity offers the opportunity of mass support. It is important to stress that ethnicity as a principle of group formation in this thesis refers explicitly to political elites, not to society at large.

Agreement¹⁶. OHR's role evolved from one that was mostly about monitoring the progress of Dayton implementation by the Bosnians themselves, to becoming a very active quasi-government organization, and then back to a less pro-active approach in more recent years. A second important actor is the EU with an increasing role as it in the process of taking over responsibility for the remaining peacebuilding tasks while at the same time running its pre-accession programs in Bosnia. Other relevant actors for my case studies include NATO, the OSCE and a range of international embassies both in their joint role as the Peace Implementation Council Steering Board (PIC SB) and individually.

2.4 INTERESTS IN THE PEACEBUILDING FIELD

The story of the mayor of Travnik that introduced this chapter illustrated that the interests of interveners and intervened are often at odds. The mayor's interest in remaining as the mayor of Travnik did not tally well with the interveners' interest in supporting minority returnees because these programs were upsetting the mayor's constituency. To give another example, various international organizations have attempted to introduce and support school student councils in Bosnian schools. While students generally were in favor of these projects, they were resisted in some places by school directors who feared that democratic decision-making procedures in schools would restrict their ability to take and implement their own decisions (Kalhorn 2008). Although concrete constellations of interests are specific to individual cases of peacebuilding negotiations, this section introduces some on the general dynamic with respect to interests in the context of peacebuilding. First, peacebuilding often interferes with at least some of the interests of some of the political elites of the intervened state. Counter-intuitively at first glance, this tends to put those groups in a very favorable negotiating position. Second, intervention can also be beneficial to the intervened. Third, the interveners are under constant pressure to demonstrate success, at the level of both organizations and individuals. Finally, these things taken together imply that the 'zone of agreement' (see below) is often small, and usually lies in letting go of the very ambitious aims of intervention in favor of symbolic agreements.

In general terms, I assume that the interveners want to see intervention succeed. At the same time, political elites in the intervened state want to maintain their positions of power. To the extent that peacebuilding measures aim at undermining such positions of power, these interests are not compatible (Barnett and Zürcher 2006). The interests of the intervened concern the political field of the intervened state. They probably want to be re-elected and thus they do things for

¹⁶ Hereafter referred to as either DPA or Dayton Agreement, or just 'Dayton'.

which they believe they have approval from their electorate. They will want to maintain control of state agencies if they have it or to gain control if they do not have it yet. They might also have an interest in decentralization if their power base is regional rather than national, or in centralization if they believe to be in a favorable position at state level. These are of course not the only interests that political elites have. Groups and individuals have multiple interests that sometimes are contradictory. Defense reform (see chapter six below) is an example of contradictory interests where Bosnian Serb political elites had an interest in sustaining a sizable army of their own as a symbol of statehood, yet they also had an interest in substantially reducing the costs of this army. Game theory approaches to negotiations usually attempt to rank the preferences of actors in negotiation (Sebenius 1991). In practice however, the importance of one interest over another may change, which means that preferences for a particular outcome will change as well. Furthermore, different factions within groups may disagree on which outcome is preferable. In short, preferences cannot be defined *a priori*.

Very often, however, the measures of the interveners are detrimental to at least some of the vital interests of the political elites in the intervened state. Relating this back to the insights garnered from theories of negotiation, this conflict in negotiating peacebuilding points out that frequently, those groups opposing peacebuilding measures find themselves in a comfortable position *vis-à-vis* the interveners. If peacebuilding is understood as a negotiation process, these interests translate into a negotiating position where no agreement is the preferred option. In the words of Fisher, Ury and Patton (1991), the actors opposing peacebuilding measures very often prefer the *status quo* rather than a negotiated solution. This puts them in a favorable position because they can choose to walk away without losing much.

Intervention, however, does not only undermine and threaten positions of power. It can also be beneficial in terms of providing material and symbolic resources (Narten and Zürcher 2009). External aid is one example that comes to mind. Intervention may also serve to enhance or diminish the prestige and legitimacy of particular groups within the intervened society. Beatrice Pouligny points out how specific groups in Haiti who lacked an electoral base used recognition by the UN as a substitute, as they “were convinced that the ‘international community’ could help them to get closer to power without having to go through elections.” (Pouligny 2006, p. 51) In Bosnia, at least for a certain period of time, political parties used to campaign with OHR much more than with their own electorate (Evenson 2009). Moreover, given that the interests of the different parties representing the three ‘constituent peoples’ in Bosnia are often opposed, the question of which side acquires the support of the international community is often vital in these internal power struggles.

As with the mayor of Travnik, and political elites of the intervened state in general, the interveners are equally situated in a web of relations and obligations that shape their interests. Those peacebuilders who are tasked with implementation 'on the ground' have responsibilities towards their headquarters and their organizations, at least as much as they do towards the 'beneficiaries' of their work. (Schlichte and Veit 2007, Winckler 2010) Furthermore, the peacebuilders find themselves within a network of advisors, local employees, and interpreters. On the level of organizations rather than individuals, NGOs need to respond to donors and have to take their terms of reference into account (Cooley and Ron 2002),¹⁷ international organizations must respond to their headquarters, and OHR is required to report to the Peace Implementation Council.

Interests that are not related to peacebuilding *per se* also often play a role. The EU's engagement in South-Eastern Europe is not only driven by concerns for peace and for EU enlargement but also by a tangible interest in fighting organized crime and 'illegal' migration before it reaches the EU proper (Aitchison 2007, p. 335, Mounier 2007, Woodward 2009). Such concerns had and continue to have a profound impact on EU policies in the realm of policing in Bosnia (see the case study on police reform in chapter seven below). As the case study on defense reform will also show, heavy US involvement in such reform was motivated by issues pertaining to the 'war on terror' more than by Bosnian peacebuilding concerns (Azinović 2007, Interview with an OHR Official 2011).

Turning to the individual level, personal career opportunities are important concerns as well (Elwert and Bierschenk 1988). Many of those individuals who do peacebuilding are employed on short-term contracts. Bosnia is a somewhat special case in this respect as the lead agency of civilian implementation is not the UN. The majority of OHR's staff is recruited by OHR itself, rather than seconded diplomatic personnel, or personnel of a larger, non country-specific body such as the UN.¹⁸ These people usually have an interest in seeing their mission's goals implemented, but they also, quite reasonably, pay the same attention to sustaining and furthering their own personal careers. When the activity of organizing elections was still done by the OSCE in Bosnia for example, it was widely seen as an entry point for those who wanted a career in international organizations, which posed considerable problems for the OSCE because these people usually did not remain very long (Coles 2007). Individuals who work in peacebuilding also need to deliver success if they are to get another

¹⁷ For these organizations, success often is also very much linked to being able to spend the whole allocated budget, because for reasons of reporting and of administration, donor organizations do not like getting money back, or because not spending it all in one year will lead to a budget reduction in the next.

¹⁸ For details on OHR's current personnel structure, see http://www.ohr.int/ohr-info/gen-info/default.asp?content_id=46241.

job in either a different organization in Bosnia or in a different peace-building mission. Both organizations as well as individuals, therefore, are under constant pressure to demonstrate success.

Successful negotiating, however, requires a zone of agreement (see as well Gosztonyi 2002, p. 15, Raiffa 2002, p. 110). Interests translate into more concrete negotiating positions that set out the preferred outcomes of negotiation. Agreement requires that the range of acceptable outcomes for all groups overlaps. The area where this overlap occurs constitutes what Raiffa calls the “zone of possible agreement” (Raiffa 2002, p. 110). Barnett and Zürcher (2009) argue that in general terms, this zone of agreement is usually found in trading democracy for stability. Interveners and intervened agree on symbolic reforms and stability as a common denominator. This allows interveners to declare success and the intervened to prove their cooperation with the interveners. The concrete zones of agreement and whether they exist depend, therefore, on the specifics of particular negotiation processes.

2.5 RESOURCES

In my interviews with interveners and intervened alike, one of the themes that frequently recurred was how certain actors were very powerful or powerless, either generally or in very specific situations. For example, the US embassy was often described as very powerful, because they had a lot of money and personnel (Interview with a Representative of a Western Embassy 2010) or because they were well organized in knowing what they want and communicating it (Interview with a Bosnian Official involved in Defense Reform 2010, Interview with a Political Analyst 2010). OHR on the other hand was often described as having lost a lot of power over the years, because High Representatives in later years had less backing from the Peace Implementation Council (Interview with Asim Sarajlić 2011), because some of OHR’s prior actions undermined its legitimacy (Interview with Stefan Simosas 2011), or because the organization was no longer able to formulate a clear policy (Interview with Kurt Bassuener 2010, Interview with Stefan Simosas 2011). Bosniak and Bosnian Croat political elites were also described as having lost power because of internal divisions, which meant that even “if you make deals with those leaders, they are no longer able to deliver.” (Interview with a Political Analyst 2010)

What these examples illustrate is that the ability to act and to be successful in negotiation processes does not come out of thin air. It is dependent on material and immaterial resources. The question of what resources are important is a matter of empirical investigation (Bierschenk and Olivier de Sardan 1997, Evers and Schiel 1988, p. 10, Few 2002, Olivier de Sardan 2005) and differs in different social fields (Bourdieu 1985a, Bourdieu 1985b). Additionally, resources are

intertwined and sometimes convertible (Bourdieu 1986). For example, organizational capacity often is closely interlinked with coercive capacity. For analytical purposes, separating the different kinds of resources nevertheless makes sense.

The following paragraphs provide an overview of those resources that emerged from the empirical research as relevant for peacebuilding negotiations, that is, coercive capacity, economic resources, organizational capacity and legitimacy. Information was found to be an important resource as well, but not in influencing individual negotiation processes. Rather, the interveners' lack of information proved to be a constant feature of the peacebuilding field. Accordingly, information is discussed as part of the characteristics of the peacebuilding field (see section 2.2 above) and will not be dealt with again here. While defining and categorizing resources emerged from the empirical inquiry, all four types of resources have been subject to theoretical and empirical research on negotiations, peacebuilding and other areas. The following sections combine these insights with my own, including a slightly longer theoretical introduction to legitimacy as a concept that is both inherently vague and extensively discussed by social science literature.

2.5.1 *Coercive Capacity*

By coercive capacity, I refer to those resources that enable an actor either to force other parties into agreement, or to impose sanctions.¹⁹ In Bosnia and other interventions that formally or *de facto* include international transitional administration; the interveners have formal coercive capacity by mandate. The use of military force and the threat of it also provide coercive capacity to the interveners. The intervened usually do not have formal coercive capacity *vis-à-vis* the interveners. They do however have the ability to let peacebuilding fail, which functions as coercive capacity as well.

Coercive capacity in terms of military capacity is often meant to provide a security guarantee for the internal parties that a peace agreement will be implemented (Walter 2002). Within this framework, military capacity serves as a threat to those parties who do not want to implement aspects of the peace agreement. In Bosnia, such threats were applied by the interveners in the early years of intervention.²⁰ In

¹⁹ Other researchers, concerned with state capacity and regime types, use the term to refer to the coercive apparatus of states (Albertus and Menaldo 2012, Hanson and Sigman 2011). Studies of war use the term to describe the military capacity of states and armed factions in internal war (Mason and Fett 1996). My understanding of the term is broader.

²⁰ In 1997, SFOR seized control of TV transmitters in the RS to support an effort by OHR to end extreme nationalist broadcasting (ESI 1999). In 2001, SFOR supported raids of various branches of Hercegovacka Banka in a larger campaign directed against informal Bosnian-Croat power structures (ICG 2001b).

the period under investigation in this thesis, military options played next to no role. First, the military arm of intervention became substantially smaller over the years: from 54,000 military personnel in 1996 to 6,300 in 2004 when the EU took over from NATO and down to 1,300 in 2011.²¹ Its capabilities were judged differently depending on who was asked about them. One political observer claimed that EUFOR soldiers could “hardly protect themselves” (Interview with a Political Analyst 2010), while another observer claimed that they were still a capable military force (Interview with Heinz Vetschera 2010). Second, and possibly more importantly, the use of military force would probably no longer be perceived as legitimate. The immediate post-war phase is over, and throughout the time period covered by this thesis, the security situation was generally considered stable (Evenson 2009).²²

The complete or partial take-over of state functions by the interveners also brings about coercive capacity. In the most extreme form, transitional administrations for a limited period of time assume executive as well as legislative power (Chesterman 2004, Röhner 2012, Zürcher and Gosztanyi 2004). Such authorities can be used to impose solutions where negotiating them with the intervened proves unsuccessful.²³ In Bosnia, OHR has made frequent use of this ability. OHR also has the mandate to dismiss Bosnian officials, which has been used as coercive capacity as well. Other intervening actors have often relied on OHR’s coercive capacity to push through their agenda, which made OHR powerful not only in relation to the intervened but also within the spectrum of intervening organizations (Interview with Kurt Bassuener 2010). Because of its ability to impose, OHR has been described as a “European Raj” (Knaus and Martin 2003) or a “god of Bosnia” (Interview with Mladen Ivanić 2011). As the case studies will show, formal coercive capacity of this type does not necessarily lend unlimited power. The ability to use these powers depends on organizational capacity as well as legitimacy. Organizational capacity determines whether an actor can take a decision to impose solutions and follow through on it, while legitimacy determines whether such impositions will be obeyed.

Formally, the intervened do not have coercive capacity with regard to the interveners. Peacebuilding is not designed to grant the inter-

21 The first two figures have been provided by Nora Röhner, for a discussion of those figures compared with other peacebuilding missions and for a discussion of data sources, see (Röhner 2012). The figure for 2011 is taken from (Azinović et al. 2011).

22 Some observers in recent years see the deteriorating political climate in Bosnia as bearing a real danger of renewed war (Azinović et al. 2011, Bassuener and Weber 2010). Others strongly reject this view (Dasani 2008, Knaus 2010).

23 In those interventions I know about, there is no explicit rule that impositions can happen only when negotiation fails (Distler and Riese 2012). In Bosnian peacebuilding practice, OHR usually tried negotiation first. Additionally, many impositions did not have coercive character but served as short-cuts to the lengthy legislative process for issues where agreement among the parties existed (ESI 2000, p. 26).

vened control over intervention (Chesterman 2004, p. 126ff, Distler and Riese 2012, Goetze and Guzina 2008, p. 329). The intervened, as well, can potentially resort to violence, though not legally.²⁴ In Bosnia, this option has not been utilized on a larger scale. The intervened however have other options as well. They can build on the interveners' need for success to generate coercive capacity and threaten to let peacebuilding fail. They can, for example, block those state institutions that the interveners intend to build. Due to Bosnia's consociational political system, central state institutions are unable to function without the participation of Bosnian Serbs. Building a functioning central state, however, is the central aim of intervention in Bosnia. Consequently, the threat to block those institutions works very effectively as coercive capacity. This example shows that this type of coercive capacity builds on another resource, that is, access to state institutions. In Bosnia's consociational system most parties have access to the state. Generating coercive capacity by threatening to let intervention fail can be problematic, however, for those parties who do not prefer the status quo to negotiated settlement, or in other words, for those who believe that intervention works in their favor.²⁵

2.5.2 *Economic Resources*

Economic resources are usually needed by post-conflict states, and the interveners are in a position to provide them. In Bosnia, they have provided the Bosnian armies with equipment, renovated the parliament and given it the financial means to set up a library, they offered grants and loans via the World Bank, the International Monetary Fund, the EU or bilaterally, they rebuilt houses and infrastructure and compensated for the absence of state-run social services. Economic resources, therefore, are very important in intervener strategies. They are significant for bribing or blackmailing the political elites as well as for strategies of capacity building. They also often form the basis for acquiring other resources: information, as pointed out earlier, often depends on the resources necessary to pay people to gather and process it. Output legitimacy also depends on economic resources, as does the coercive capacity of the interveners in terms of the military arm of intervention which needs to be financed as well.

With respect to bribes and blackmail (see the following section on strategies), the interveners may use economic resources as rewards to those who comply with an agreement and withhold funds from those who do not as punishment (Zürcher et al. 2013, p. 82ff). Economic resources obviously are useful as bribes or blackmail only if

²⁴ Afghanistan is an example.

²⁵ At first, it might seem that those parties do not have a need for coercing the interveners in the first place. As the case studies will show, they sometimes did. For example, when the interveners were about to give in on certain reform projects.

they are needed by those who are bribed and blackmailed. This, however, is very often the case in post-conflict states. A prominent example from Bosnia is from the earlier period of intervention, when the interveners withheld aid from Republika Srpska in response to its uncooperative stance. Biljana Plavšić's defection from the RS leadership, and her more cooperative approach to the interveners is also a result of her realization that the existence of the RS as an entity – which was very important to all factions of the RS leadership – was directly dependent on financial aid (ESI 2000). Economic resources, in this respect, appear to work only when concrete and coherent promises are involved and attached to concrete demands (Aybet and Bieber 2011, Zürcher et al. 2013, p. 110) – thus, when they are really closer to 'bribes' than to some vague 'incentives'. Bribes do not always work by the direct provision of economic resources. Sometimes, saving money is incorporated into reform proposals (by creating a smaller civil service, by freeing state assets from bans of sale, and so on) with the intention of making proposals more acceptable.

Economic resources are hugely important for all kinds of capacity building, simply because these efforts are costly. Intervention aims at re-modeling intervention states on a North-American and Western European model of governance, which as its basis requires functioning and fairly effective states (Paris 2002). If the intervened are to be able to implement reforms, many of these institutions need to be 'built' first – and this, quite simply, does not only cost time and effort, it also costs money.

Finally, the interveners attempt to utilize economic resources for output legitimacy (Zürcher and Gosztanyi 2004). Programs to 'jump-start the economy', to quickly rebuild houses and infrastructure, to provide money to returning refugees not only serve the purpose of their direct aims, but are also intended to shed a good light upon those who initiated the programs in the eyes of the population. Discussions on the visibility of donors, or on the negative effects of channeling aid money through national governments for their legitimacy, all evolve around this legitimacy aspect of financing post-war reconstruction (Higashi 2008, p. 43).

2.5.3 *Organizational Capacity*

With organizational capacity, I refer to the ability of groups of actors to both arrive at a common strategy and to implement it (see as well Long 1992, Raschke and Tils 2007, p. 273ff). The introductory examples to this section pointed out that organizational capacity matters greatly in negotiation processes. For example, Bosnian leaders were described as unable to deliver on agreements because internal divisions meant that they were not in control within their respective group. In most negotiations, the "negotiator is less a free

agent, empowered to act as he wishes, and more a representative of an organization whose signals may be mixed and contradictory.” (Rubin 1991, p. 92) Negotiations become more difficult when the negotiating parties lack internal coherence (Gosztonyi 2002, p. 15) for example because of struggles around leadership (Zartman 1995a, p. 23), or when those who negotiate do not actually represent the majority of those whom they claim to represent (Nordlinger 1972, Zartman 1995a, p. 23). This is especially important both for societies emerging from violent conflict and in ‘divided societies’ where cross-cutting cleavages are missing (Lijphart 1968). In those conditions, compromises are easily seen as a sell-out of group interests by other factions claiming to represent the same group (Horowitz 1985, p. 574). While the inner relations among the interveners are usually less antagonistic, organizational capacity nevertheless is vital and often difficult to achieve, given the diversity of organizations, headquarters and governments involved in both funding and sending such organizations. These organizations, therefore, often have problems in coordinating their interests and positions (de Coning 2007, Döring and Schreiner 2008, Herrhausen 2007, Paris 2009).

Organizational capacity builds on two aspects largely. First, several divergent power centers impede organizational capacity, because they will likely lead to competition within groups and as a result hamper the formulation of one coherent strategy (Raschke and Tils 2007, p. 282, Zartman 1995a, p. 23). Second, there needs to be internal mechanisms to jointly develop and agree on strategy (Bierschenk 2002, p. 9), which requires a certain degree of institutionalization (Eisinger 2002, p. 118) and a strategic center (leadership) that is charged with developing strategy (Raschke and Tils 2007, p. 282ff).

2.5.4 *Legitimacy*

Legitimacy is a vital resource in peacebuilding negotiations. As discussed, issues of legitimacy are important in shaping the characteristics of the peacebuilding field. But whether an actor holds legitimacy also often influences concrete negotiation processes. For example, Milorad Dodik’s large popular legitimacy as prime minister of the RS made it very difficult for OHR to threaten him with dismissal. On the other hand, the declining legitimacy of OHR also reduced its coercive capacity because the RS representatives, in particular, pointed out that they were not going to follow orders any longer (ICG 2007).

In this thesis, I differentiate between two aspects of legitimacy: the legitimacy ascribed to the actors in interaction, independent of or prior to the negotiation process, and the legitimacy that is gained or lost by particular strategies in negotiation. The legitimacy that actors bring into the process as a resource is discussed in this section,

while legitimizing and delegitimizing strategies are discussed in the following section on strategies. I first briefly introduce the concept of legitimacy and its sources and then turn to legitimacy as a resource in peacebuilding negotiations.

My understanding of legitimacy is empirical in terms of situations when social order has “the prestige of being considered binding” (Weber 1978, p. 31). Here, this implies that the authority that actors hold is considered legitimate. Pierre Bourdieu calls the same phenomenon symbolic power and gives an example:

“The president of the country is someone who claims to be the president but who differs from the madman who claims to be Napoleon by the fact that he is recognized as founded to do so.”
(Bourdieu 1998, p. 52)

In my interviews, the changing perception of OHR’s legitimacy for example was a dominant theme. While OHR and many of its decisions were not ever truly ‘liked’, the Bosnian population and political elites generally believed that OHR had the right to take those decisions and consequently respected them. Legitimacy, in other words, rests on the belief in such legitimacy by the relevant social groups (Heidorn 1982, Weber 1978, p. 213). Legitimacy thus requires an audience, which in the case of intervention is twofold: One audience is composed of the population and political elites of the intervened state, the other comprises the vaguely-defined ‘international community’ (Knoll 2007). The importance of an international audience is often acknowledged with respect to the interveners and their need for legitimacy (Daxner and Neumann 2012, Knoll 2007, Narten and Zürcher 2009, Steffek 2003). Given the internationalized nature of politics in the intervened state, it is equally important for the intervened to be also acknowledged (Bliesemann de Guevara 2008, Bonacker 2010).

I broadly differentiate between two sources of legitimacy (Zürcher and Gosztanyi 2004): legitimacy that stems from legitimate rules for decision-making, and legitimacy generated by output. Legitimacy of the Weberian rational-legal type rests on rules that are considered legitimate (Heidorn 1982, p. 19, Weber 1978, p. 215). As I am concerned with the legitimacy attributed to actors in peacebuilding, this implies that they have assumed and continue to exercise the authority they claim to hold by legitimate procedure. This usually refers to democratic procedure. Steffek (2003) points to a particular version of rational-legal legitimacy in the case of international organizations that cannot refer to democratic procedure. Instead, they rely on “good arguments” (Steffek 2003, p. 271). They need to justify that their “means, ends and values” make sense (Steffek 2003, p. 251).²⁶ If legitimacy builds on output, an actor and the authority he holds

²⁶ Steffek argues that this is a type of rational-legal legitimacy as this type of legitimacy is to be understood not as merely technocratic but as „an institutionalization of rational communication about means, ends and values“ (Steffek 2003, p. 251).

are considered legitimate because he successfully delivered whatever it was that the audience (here: Bosnian society on the one hand and the 'international community' on the other) wanted (Scharpf 2004, p. 6, Zürcher and Gosztanyi 2004, p. 25, Zürcher et al. 2013, p. 31).

In negotiations, legitimacy as a resource that is brought into the process is important in two ways. First, the claims and interests of a negotiating party need to be legitimized (Fisher et al. 1991, p. 51). A negotiating party will be more successful if it can convince the other parties that its concerns with respect to the issue at hand are legitimate, that others "might well feel the same way if they were in your shoes." (Fisher et al. 1991, p. 51) Negotiating positions that are perceived as not founded upon legitimate interests or are overambitious may well result in other parties refusing to negotiate (Lindvall 2009, p. 41).

Second, legitimacy is an important base of strategies that are built on pressure (Dupont and Faure 1991, p. 56, Gosztanyi 2002, Schoppa 1999). This refers to the question of how "far can a negotiator go without going too far?" (Dupont and Faure 1991, p. 56) In social psychological experiments, compliance occurred more often when those applying strategies of pressure were believed to have the legitimate authority to do so (Schoppa 1999, p. 312/13). According to Schoppa, this is because trust plays a role in all negotiations; illegitimate coercion destroys trust and raises doubts about whether the other party will stick to the terms of the agreement later on (Gosztanyi 2002, p. 27, Schoppa 1999, p. 315).

The political elites of the intervened state typically draw on popular support that has been expressed in democratic elections as a basis for their legitimacy. Early post-war elections, for quite some time, have been a central feature of peacebuilding missions, precisely for endowing the post-war leadership with legitimacy as a precondition for the eventual exit of the interveners (Chesterman 2004, Lyons 2002).²⁷ In intervention states, legitimacy is also often constructed in relation to the intervention. The intervened can gain legitimacy by ascribing to the norms of the interveners and portraying themselves as 'good reformers'. They can equally gain in legitimacy, however, by explicitly distancing themselves from the interveners, thereby demonstrating their independence. Bernhard Knoll (2007, p. 11) calls this "legitimacy through defiance".²⁸ Because one of the important tasks of intervention is physical and political reconstruction, output legitimacy in contexts of intervention is often not attributed to the political elites of the intervened state but rather to the interveners (Higashi 2008).

²⁷ Later on, others have argued that holding elections too early may have disruptive effects (Paris 2004). Bosnia is an example where early elections have been heavily criticized because they resulted in an overwhelming victory for the war-time nationalist parties (Evenson 2009).

²⁸ Knoll refers to Berman (2006) who is concerned with the international legitimacy of intervention.

The interveners cannot refer to democratic elections as a source of legitimacy. Instead, they rely on three things: arguments, mandates and output. The arguments why intervention is necessary and aimed at the common good have been presented in section 2.2 on the peace-building field. Briefly, intervention is legitimized as an extraordinary response to situations where societies are believed unable or unwilling to govern themselves (Hughes and Pupavac 2005, ICISS 2001, Krasner 2007, Lidén 2006). Mandates as well as formal agreements and treaties are another important source of legitimacy, as these are the reference points for what has been formally agreed on by interveners and intervened. In Bosnia, the Dayton Peace Agreement (DPA) is the crucial element here as this is where intervention was legitimized in the first place, where the powers of the interveners were initially defined, and where the broad outline of the 'program' of intervention was agreed upon. The various follow-up documents of the Dayton Agreement, usually in the form of statements and decisions by the Peace Implementation Council or its Steering Board, did not involve the intervened in decision-making anymore, but drew their legitimacy from the powers assigned to those bodies in the DPA. Since the early 2000s, agreements between Bosnia and the EU and by extension the vast body of EU regulations have played an important role as well. Other international bodies that Bosnia is a member of are sometimes important as well, such as the Council of Europe and its Human Rights Court in Strassbourg or the OSCE. Another important reference point is what is held to be accepted procedure in the majority of other democratically-governed states.

Output legitimacy is often one of the most important sources of legitimacy for interveners (Zürcher and Gosztanyi 2004, Zürcher et al. 2013, p. 31). The interveners justify their presence by enhancing living standards in the intervened country. Those are the quick impact and high visibility projects intended to 'win the hearts and minds'²⁹ of the intervened society (Zürcher and Gosztanyi 2004). With respect to OHR as an organization that is concerned with political process almost exclusively, this creates a somewhat paradox situation. On the one hand, many among the Bosnian political elites do not want OHR to implement its policies. On the other hand, if OHR does not succeed in doing so, it loses legitimacy, as Bosnian actors rightfully ask why the organization still remains in the country if it is not achieving anything (Interview with an SBiH Representative 2010).

The different resources discussed above delineate the range of possible strategies for interveners and intervened alike. Coercive capacity is necessary for the coercive strategies of threats and sanctions. Economic capacity equally can be a basis for sanctions if withholding funds is used as means of blackmailing other actors. But it can also

²⁹ The notion of 'hearts and minds' originates from a US campaign to win the support of the population during the Vietnam war (Bell 2008).

serve as a basis for 'bribing' as well as for all forms of capacity building. Organizational capacity is a precondition for most negotiating strategies, as it enables actors to formulate and implement strategy in the first place. Legitimacy is important, first because interests and negotiating positions need to be legitimized, and second, because coercive strategies require legitimacy.

The distribution of resources appears to favor the interveners only at first glance and only in the early phase of intervention. The only resources where the interveners clearly hold an advantage are economic resources. While only the interveners formally have coercive capacity, their need for success provides a powerful tool of blackmail to the intervened. Organizational capacity is specific to individual groups within both the interveners and the intervened and, therefore, very specific to a particular context.

The legitimacy of intervention tends to fade quickly. As intervention develops from being a short-term emergency measure into a quite durable element of the intervened society, disillusionment over slow progress as well as claims for ownership and self-determination tend to undermine intervener legitimacy (Distler and Riese 2012, Narten 2007, Talentino 2007). As coercive strategies also require legitimacy, this has an impact on coercive capacity as well. The negotiating power of the interveners is thus substantially reduced over time.

Finally, a lot also depends on the different actors' willingness to use their resources (Barnett and Zürcher 2006). The interveners often hesitate to use their coercive capacity for fear of either violent or in other ways damaging reactions (Barnett and Zürcher 2009). Donors also often hesitate to contribute finances especially when the initial attention to a conflict wanes, though in Bosnia, intervention was and continues to be generously funded (see chapter five for an overview, and for a comparison with other peacebuilding cases Zürcher et al. 2013, p. 91ff). In sum, it appears that especially over time, the interveners are at a disadvantage with respect to resources.

2.6 STRATEGIES

One of my interview partners told me a story from the very early phase in 1996 when he was involved in inspections of the Bosnian armies that were conducted by the OSCE. When an inspection was announced, the army that was to be inspected had to reply within 24 hours. There were official forms to be used for those replies. On one occasion, they received such a reply from the Bosnian Serb army, signed by Ratko Mladić. As Mladić had been indicted by the ICTY, he was banned from holding public office and thus certainly not allowed to sign these documents. To my interview partner, this presented a dilemma. By accepting the form as it was, he would have accepted Mladić as an official representative of the RS army. By sending the

document back, the entire process of inspections would have been jeopardized. Desperate for winning time to come up with a solution, my interview partner asked the official who had delivered the document to accompany him to his office. On the way, they came across a copying machine that offered a chance to improvise a solution. The OSCE official took the document, folded over the part of it that included the signature and a stamp, copied it thus and then handed back the original to the official. Luckily, the Bosnian Serb army official did not protest but appeared to agree with this maneuver. While falsifying the document solved the immediate problem, the OSCE had to come up with a way to prevent such incidents in the future. They did so by sending out a note to all offices and administrative units involved seeking to clarify the technical procedure for replying to announcements of inspections. This note pointed out that the official forms were part of the peace agreement and hence were not to be changed, for example by adding stamps or signatures.

Apparently, within the framework of the peacebuilding field, there still is substantial room for maneuver (Bierschenk 1988, Bierschenk and Olivier de Sardan 1997, Olivier de Sardan 2005, p. 53). The example above shows that the way in which this space is used often involves a lot of contingency. As another interview partner pointed out, "it really sometimes depends on who attends a meeting, how much a person at the top knows of the matter, who drafts the first paper, who is invited to comment." (Interview with an EUSR Official 2010) Sometimes, it comes down to walking by a copying machine at just the right moment. But beyond those issues of contingency, coincidence and personality, there is a repertoire of strategies that actors regularly employ in peacebuilding negotiations. Approaches on studying negotiations often focus on negotiating tactics, such as making the first offer, bluffing, acting tough, reaching out and the like (Dupont and Faure 1991, p. 46ff, Pruitt 1991). My concern in this thesis is with *strategies* in negotiation, as one particular kind of practice that actors employ. Practices are routinized patterns of behavior (Büger and Gadinger 2008, p. 8, Reckwitz 2003). With strategies, I refer to those practices that are geared towards the long-term achievement of a complex goal (Evers and Schiel 1988, p. 81).³⁰ As with the issue of resources, I took an inductive approach to studying strategies and linked this to theories of negotiation where applicable. Within this strand of research, two strategies feature prominently: pressure and bribery.³¹ Both are intended to alter the cost-benefit calculations

³⁰ What appears to the observer as 'strategy' might be the result of incorporated structures that guide a 'practical sense' (Bourdieu 1985a, p. 21) or intuition, or they might be the result of rational and explicit cost-benefit calculations, or both. The focus here is on the "lines of coherence which the observer can deduce based on empirical observation" (Olivier de Sardan 2005, p. 151, note 1), whatever their origin.

³¹ In the literature on negotiations, those are commonly called threats and incentives (Gosztonyi 2002, p. 14ff). I find pressure to cover a larger range of strategies than

of other negotiating parties (Gosztonyi 2002, p. 17, Schoppa 1999, p. 307/08). I include two more categories of strategies: Those that I label 'capacity building', and legitimizing (or delegitimizing) arguments.

2.6.1 *Pressure*

The term 'pressure' builds directly on the language used by my interview partners. Accounts of pressure that was applied by varying actors were frequent. Commonly, however, the meaning and content of 'pressure' remained ill-defined. What I mean by 'pressure' are coercive strategies that attempt to force opposing parties into agreement, which can take multiple forms. Examples are blackmail, sanctions and imposition. With blackmail, I refer to threats of sanctions. As pointed out above when discussing coercive capacity as a resource, the interveners can blackmail the interveners by threatening to let intervention fail. The interveners may threaten to freeze assets, withhold funds, issue travel bans and, depending on mandate, dismiss officials or impose unfavorable laws, to give some examples. While the literature on negotiations focuses on threats, the prolonged and repeated negotiations that characterize peacebuilding imply that such threats often are implemented. When they are, blackmail turns into sanctions. Imposition is a strategy that is usually available to the interveners only, at least in interventions that do not rely on the consent of the intervened state.³² Sometimes, the interveners use their coercive capacity as a short-cut to lengthy negotiations and to impose solutions. This requires coercive capacity that allows for imposition, as is usually the case in transitional administrations. In Bosnia since 1997, OHR has the power to impose laws and to dismiss officials if they act against the spirit or the letter of the Dayton Agreement. Such strategies, however, often do not yield the desired outcome. Imposed laws often stay unimplemented and dismissed officials continue to exert influence informally or are replaced with other officials who follow exactly the same strategies.

2.6.2 *Bribery*

Interveners and intervened alike try to bribe the other side, for example, by providing incentives or by making concessions in one area in exchange for no concessions in other areas. The interveners often use the prospect of aid money as a bribe (Reychler and Paffenholz 2001, p. 77, Zürcher et al. 2013, p. 82ff). Access to international organizations

threats (namely those where threats are actually implemented) and bribes to be a more accurate description of the underlying rationale.

³² This is different for example in development cooperation where the intervened are usually in a position to at least decide where and how measures can be carried out by the interveners.

– primarily the EU, but other organizations as well – is intended to function the same way, as access to these organizations provides both prestige and new channels for acquiring financial resources. The process of EU accession is broken down into many small steps that most often involve a formal agreement which signals the ‘next step on the road to EU membership’, and which is intended to work as an incentive for the intervened to implement EU-driven policy. In these cases, bribes are called ‘conditionality’ (Aybet and Bieber 2011, Perry 2012, Zürcher et al. 2013, p. 87). Often, bribes are directly related to the area of reform in question, but this is not always the case. The prospect of OHR closure was for example used as a bribe for Bosnian Serbs. OHR closure is in the proclaimed interest of the RS in particular, and thus the PIC SB attached various conditions to be met before closure could take place. Bribes that are based on financial promises are mainly a strategy of the interveners, because they have the necessary resources and the intervened usually do not. Apart from bribes based on economic resources, strategies of bribing are in principle available to the intervened as well. In the case studies I investigated, they were rarely ever used, however. One example is that Bosnian Serb cooperation on defense reform has been interpreted as an attempt to bribe the interveners into letting go of police reform instead (Interview with an international official 2010), though this attempt was ultimately unsuccessful. To be successful, bribes need to offer a tangible benefit to those who are being bribed, and the benefit needs to be great enough to offset the costs of compromise (Aybet and Bieber 2011, ESI 2000, p. 12).

2.6.3 *Capacity Building*

Strategies of capacity building are an important aspect of almost all peacebuilding measures. They are usually the realm of the interveners who attempt to educate, mentor or equip the intervened. Due to the focus on formal situations of negotiation in research on negotiations, capacity building does not typically play a role. It is however an important and often dominant aspect of peacebuilding as well as development interventions (Chauvet and Collier 2007). Depending on the way in which peacebuilding is planned, capacity building ensures that international administration can be handed over to trained and capable local authorities (Caplan 2004, p. 230). Capacity building, however, also plays a role in peacebuilding negotiations. Within this framework, I understand the term ‘capacity building’ broadly as all measures that are in some way intended to increase the ability of actors to agree on and implement a certain reform. Such strategies are usually the realm of the interveners. They organize trainings for the civil service, parliamentarians and other political representatives, policemen and soldiers, equip parliaments with libraries and admin-

istrations with technical equipment, and so on (Interview with an international official 2010, Interview with Heinz Vetschera 2010).³³ A whole range of external support focuses on making Bosnian officials and civil servants familiar with EU regulations and internal working procedures, so that these can in turn apply for grants, navigate the European programs for inviting foreign expertise or organizing study trips, write reports in a way that is useful to the EU and many more very specific tasks (Interview with a Bosnian Official involved in Defense Reform 2010, Interview with an Advisor to the RS Minister of Interior 2010, Interview with Valida Repovac 2010). Often, efforts at educating the intervened go beyond the level of technical knowledge and target the beliefs and attitudes of policemen, civil servants or political officials as well (Interview with Tobias Flessenkemper 2011, for examples from Afghanistan, see Rosén 2011). The assumption guiding such efforts is that the problem is not one of diverging interests (Chauvet and Collier 2007), but a lack of knowledge with respect to the issue *per se*, in terms of skills, or a lack of material resources to utilize those skills. These efforts are then assumed to make agreement in negotiations easier. The transfer of knowledge and efforts to change ‘mind-sets’ are meant to increase the acceptance of reform proposals in terms of their content. The transfer of skills is meant to make implementation and, thereby, agreement easier. Very often, the success of such strategies is limited (Rosén 2011) because in many processes of negotiating peacebuilding, interests are not aligned (Chauvet and Collier 2007).

2.6.4 *Legitimizing Arguments*

Legitimacy is a resource that actors bring into negotiations, but is also gained or lost in the process. In formal negotiations, there often are rules that guide the negotiating process (Doron and Sened 2001, p. 2). As discussed in section 2.2 on the peacebuilding field, this is usually not the case in peacebuilding because the important role of negotiations is not explicitly acknowledged.³⁴ The major avenue of legitimizing one’s own interests and negotiation positions and delegitimizing those of others are “good arguments”³⁵ (Steffek 2003, p. 271). They are used to convince the other negotiating parties as well as domestic and international audiences that one’s own position is ‘right’ and the way to do things. Not adhering to it would risk losing legitimacy and

33 This is also based on a range of information conversations with representatives of German political foundations in Sarajevo and with international consultants in Berlin who conduct such trainings.

34 Commissions and consultation mechanisms can be regarded as efforts to substitute for such rules, but they are usually *ad hoc* and designed by the interveners exclusively.

35 Such arguments, as one version of rational-legal legitimacy, have been discussed in section 2.5.4 on legitimacy as a resource.

prestige by appearing self-interested rather than acting for the public good, and being seen to be close-minded, or 'backward'.

Fisher, Ury and Patton argue that negotiations are more successful when the search for compromise builds on "objective criteria" (Fisher et al. 1991, p. 81). They argue that this will make the process more efficient and the resulting agreement will be "less vulnerable to attack" (Fisher et al. 1991, p. 83). This is indeed what interveners and intervened alike often (but not always) attempt to do by coming up with legitimizing arguments. They refer to standards that are postulated as objective and independent of their own interests. Some of those standards are formalized through laws and treaties, such as the regulations of international organizations (in the case of Bosnia, the EU, the OSCE or the Council of Europe for example) or the Bosnian constitution and Bosnian laws. Sometimes, reference is made to more vague and non-formalized standards, such as 'European standards' or common international practice. Such arguments are used to legitimate their own positions as well delegitimizing those of others.

Delegitimizing strategies, however, often do not refer to the concrete issue being negotiated but to the opponent of such. Accusations of corruption play a prominent role here and go both ways. For example, Transparency International accused the RS government and then Prime Minister Dodik of corruption. In response, the RS started investigations against Transparency International, accusing the organization of "blackmailing Bosnian Serb businessmen to the tune of thousands of euros each in order to keep them off US and EU 'black-lists'." (Alic 2008) Many of the frequent accusations of corruption in Bosnia may often be justified, but apart from that, they are also used to discredit actors holding opposing views (Interview with Tobias Flessenkemper 2010). Aside from allegations of corruption, the intervened often accuse the interveners of stepping beyond their mandate or acting undemocratically. In Bosnia, the RS in particular does so by using much the same vocabulary and also the same references as the interveners do, drawing once again on 'international norms and standards'. In a report to the UN Security Council for example, the crucial categories were democracy and human rights, and the report underpinned its arguments by reference to various reports of the International Crisis Group and the Institute for War and Peace Reporting as well as the famous "European Raj" (Knaus and Martin 2003). Conversely, the interveners accused the intervened of blocking "BiH's path to the European Union and to NATO" (OHR 2004), of living their fantasies of unlimited power on the back of the Bosnians (Interview with Gordan Milošević 2010) or of being ill-qualified (Interview with Gordan Milošević 2010, Interview with Mladen Ivanić 2011).

Such arguments are exchanged in direct communication, but given the broad audience they address, they are usually expressed *via* local

and international media, by official policy statements, *communiqués* and the like. Sometimes, they are communicated by ‘briefing proxies’. Interveners and intervened alike attempt to find groups and individuals on the ‘other side’ who can act on their behalf. For example, OHR is said to brief certain parliamentarians before decisions are taken in parliament so that they can argue in OHR’s favor in parliamentary debate (Interview with an international official 2010). The RS has hired American lobbying firms to disseminate the RS point of view among decision-makers in Washington (Hopkins 2011, Interview with Kurt Bassuener 2010).

Pressure	Blackmailing Sanctioning Imposing Creating Facts
Bribes	Offering economic resources Offering access to international organizations Offering concessions in other areas
Capacity building	Educating Providing Expertise Equipping
Legitimizing arguments	Defining ‘objective criteria’ (targeting negotiating positions) Accusing of breaking explicit or implicit rules (targeting actors)
<i>Communicated through:</i>	<i>Direct communication, media and public statements, briefing proxies</i>

Table 1: Strategies

The table provides an overview of strategies. How and when any of those strategies will be successful depends on the context, as well as the strategies of other negotiating parties. Strategies of pressure need to inflict costs that are high enough to make compliance worthy in the eyes of those who are being coerced. Too much pressure, however, risks pressure in response, leading to escalation which makes agreement more rather than less difficult (Gosztonyi 2002, p. 22). Bribes need to provide enough of an incentive to make compromise lucrative. Capacity building probably has most effect when no major conflicts of interest exist, as those stay largely unaddressed by such strategies. Further, legitimizing arguments work better when there is a clear-cut argument to make and commonly-accepted criteria to build upon. As a result, the success of negotiating strategies is highly context dependent.

2.7 THE OUTCOME: APPROPRIATING INTERVENTION

When interveners and intervened engage in negotiating if, how, and how much of the peacebuilders' agenda is to be implemented, it is fairly evident that the end result will rarely ever resemble the initial plans of either interveners or intervened. Rather, the result can be expected to be a compromise reflecting some, but not all interests of all parties involved. These compromises are usually viewed as undesirable by the interveners and scholars of peacebuilding, whose measure of success is the degree to which peacebuilding programs have been implemented. If peacebuilding is viewed as multi-faceted negotiation process, however, compromises become an integral element of peacebuilding and the expected result. They are, as Olivier de Sardan argues, also a necessary element if the intervened are to take 'ownership' of projects and reforms (Olivier de Sardan 2005, p. 150/51).

If looked at from the perspective of the interveners, these compromises can be imagined as ending up on a continuum ranging from full acceptance of the agenda of intervention to no acceptance at all. Both extremes are unlikely in practice. Most issues are controversial enough, at least in some aspects, that compromises will end up being struck. In addition, outright rejection of the peacebuilding agenda is unfavorable to the intervened because they need to continue working with the interveners for the foreseeable future. They usually have an interest, therefore, in maintaining a decent working relationship (Fisher et al. 1991, p. 20). Most often, the process will end up somewhere in between, however. Parts of project packages will be adopted while others will not (Olivier de Sardan 2005, p. 144/45), or reforms will be implemented symbolically only (Barnett and Zürcher 2009). This can imply that only superficial structures change, or functions can be moved elsewhere. For example, OHR in 2000 successfully closed the so-called 'payment bureaus' that allowed entity authorities to directly control all financial flows within their realm of influence (2006, Zaum 2006, Zaum 2007). However, Bosnian Croats, and allegedly Bosnian Serbs as well, substituted banks that were officially private but under political control for the payment bureaus (ICG 2001a, ICG 2001b).

Symbolic peacebuilding as a frequent outcome is closely connected to the interveners' need for success. Because the interveners have to demonstrate to themselves and their international audiences that what they do makes sense, they will usually portray their activities and their results as following policy models (Mosse 2005, p. 17). Rather than guiding practice, policy follows practice "in the sense that actors [...] devote their energies to maintaining coherent representations regardless of events" (Mosse 2005, p. 2). Symbolic peacebuilding is brought about by collusion between the interveners and

the intervened (Daxner 2010, p. 85, Free 2010, p. 57). The intervened agree to superficial reform while the interveners agree to lower their demands.

Finally, given the conditions under which peacebuilding negotiations take place, compromises are not very likely to favor the interests of the interveners. They operate in a framework where they are the ones initiating change while many among the political elites of the intervened state prefer to maintain the *status quo*. Consequently, the interveners need negotiations to succeed but are faced with negotiating partners who often prefer their alternatives to negotiated settlement. The framework is also characterized by a lack of rules for settling disputes between interveners and intervened and by a constant disadvantage for the interveners with respect to information, further complicating the negotiation process. With respect to most other resources as well, the interveners are less powerful than is often assumed. They have access to economic resources which they can use for strategies of bribing or capacity building. While they often have coercive capacity, however, this is counterbalanced by ample opportunities for blackmail by the intervened.

Both interveners and intervened try to make the best of those resources that they have. They attempt to coerce or bribe each other into agreement. The interveners try to enhance the capacity of the intervened to agree on and implement reform. Furthermore, both spend great efforts on legitimizing their own positions and delegitimizing those of others. The case studies on defense reform, police reform and the distribution of state property provide a nuanced account of how these struggles for and about peacebuilding take place.

2.8 CONCLUDING SUMMARY

Peacebuilding is a process in which diverging interests are negotiated between interveners and intervened. These negotiations concern the reorganization of political authority, and they take place within the framework of the 'peacebuilding field'. This field is both international and local, it is characterized by a mode of operation that is ad hoc and lacks rules for negotiation, and the initiative is typically with the interveners who, however, lack information on domestic power structures. 'Interveners' and 'intervened' are not monolithic blocs but comprise a range of strategic groups. Focusing on the realm of political decision-making, those are, in Bosnia, ethnically defined groups among the intervened and peacebuilding organizations among the interveners.

The interests of those strategic groups are often at odds with each other. Groups among the interveners have an interest in peacebuilding success. As peacebuilding aims at reorganizing political authority, this often conflicts with the interests of at least some groups among the intervened, namely those who risk losing access to political au-

thority. In negotiating those diverging interests, groups draw on a range of resources. The ones identified as important here are coercive capacity, economic resources, organizational capacity and legitimacy. With the exception of economic resources, the interveners are often at a disadvantage with respect to resources.

These resources, however, need to be used. Groups in negotiation employ a range of strategies to do so. In this research, relevant strategies are identified as pressure, bribes, capacity building and legitimizing arguments. If, and how those strategies are effective depends on context and on the strategies of other negotiating groups. Ultimately, negotiations can be expected to result in a compromise in which some aspects of peacebuilding proposals are adopted while others are not, or where symbolic agreements are struck.

FRAMEWORK OF ANALYSIS

The preceding chapter presented a conceptual framework for studying negotiations in peacebuilding processes. It suggested breaking down those processes analytically into interests, resources, strategies and outcomes. This chapter provides a framework for empirical analysis.

To inquire into the negotiation of peacebuilding, I develop a two-stage analysis. First, I conduct analysis of the peacebuilding field in Bosnia in general, focusing on its most important actors. The second and crucial stage consists of a micro-level analysis of three cases of negotiations between interveners and intervened. By cases, I refer to particular peacebuilding initiatives, such as a proposed reform of the civil service, the introduction of value added tax, for example. The cases I chose for analysis are defense reform, police reform and the distribution of state property (case selection is discussed in the following chapter on the methodological approach). Those are analyzed with respect to interests, resources, strategies and outcome. The results contribute to the analytical framework that was presented in the preceding chapter and provide the basis for a comparative discussion of how peacebuilding was negotiated. The conceptual framework is itself based on empirical analysis; it not only paves the way for the chapters that follow but is also, in itself, a result of the research process, and provides one part of answering the research question.

3.1 INTERESTS

Interests determine what groups hope to achieve in negotiations. Accordingly, they are the starting points for the things that actors do in negotiations. They are also the first step of empirical analysis. I assess interests both with respect to the overall constellation in the peacebuilding field in Bosnia as well as with respect to individual cases of negotiating peacebuilding reforms. To give an example, Bosniak political elites had an overall interest in strengthening the Bosnian central state. In concrete cases of negotiations, this for example translated into an interest in abandoning ethnic criteria for allocating political authority in the defense or policing sector.

Interests are diverse, sometimes contradictory, and they change over time. I account for this by describing in detail the interests of all individual groups, and factions within those groups, as well as tracing their development over time. In concrete negotiations, interests result in negotiating positions and do or do not form a zone of

agreement that can be wide or narrow. Describing this zone of agreement for the individual cases provides an understanding of the starting points, initial chances for success in reaching an agreement, and where it might end up. I assume that, often, this zone of agreement is rather narrow because the interveners' interest in achieving success in peacebuilding threatens the interest of (some of) the political elites in maintaining the *status quo*.

3.2 RESOURCES

While interests determine the goal of strategies, resources determine what strategies are available. Resources are not evenly distributed among groups. This implies that different groups involved in negotiations have divergent choices available to them. In the initial stages of empirical research, the inquiry into resources was deliberately very open and not focused on particular resources suggested by the literature on either peacebuilding or negotiations. This openness enabled the inclusion of possibly relevant resources that are not accounted for in that literature. One result of the empirical research conducted for this thesis was the specification of four broad types of resources that emerged as significant in the three cases under investigation: coercive capacity, economic resources, organizational capacity and legitimacy. All of those resources were important in determining what strategies were available to the different groups.

Inquiring into resources implies describing which groups possess what kinds of resources and how this has an impact on their ability to influence outcomes. Resources are again assessed both with respect to the Bosnian peacebuilding field in general and with respect to particular processes of negotiation. This is important as not all resources are available in all negotiations. For example, OHR can use its formal coercive capacity only in cases that build on implementing the Dayton Peace Agreement (DPA) as this is its formal mandate.

The availability of resources is also subject to change over time. International financial flows decrease while domestic revenue increases, the legitimacy of intervention fades over time, and organizational capacity is affected by splits or successful efforts at centralization within groups. Again, I describe resources in detail for individual groups and explain the changes that occurred over time. I expect to find that the overall distribution of resources plays into the hands of the interveners. While interveners typically have more economic resources, the interveners, in the long run, have greater access to all other types of resources.

3.3 STRATEGIES

This aspect concerns the practical strategies of groups in negotiation. While interests and resources set the framework in which interaction processes take place, there is still substantial room for maneuver. This section is concerned with what actors do when they use the resources they have to achieve certain interests. It is the part where negotiation 'happens'. Based on empirical analysis, I differentiate broad categories of strategies in terms of pressure, bribery, capacity building and legitimizing arguments.

I inquire into strategies by assessing how the actors involved in negotiations make use of the resources available to them. As strategies are geared towards specific issues and the desired outcomes with respect to those, they are analyzed only with respect to the three case studies. For each case study, strategies are described in depth for the individual groups. This includes an empirical analysis of the inter-relations of strategies and resources. These relations are complex. To give an example, strategies of pressure rely not only on coercive capacity, but also on organizational capacity as a lack of this resource often implies that threats are not credible because an actor does not appear capable of executing it. Legitimacy is also important for pressurizing strategies, as threats are more effective when an actor is perceived as holding the legitimate right to impose sanctions. Finally, economic resources sometimes are used as a basis for blackmail, which is another type of pressure.

There is no overarching expectation with respect to the success of different strategies. I expect the success of strategies to be highly context dependent. Strategies of pressure can force other groups into compliance, but they also bear a risk of counter-pressure and escalation. Bribery will work only when the offer is good enough, however a bribe might be lucrative in one situation but not in another. Capacity building probably works best when there is a large zone of agreement from the outset. Further, legitimizing arguments require commonly-accepted criteria to build on; these sometimes exist and sometimes do not. Which strategies were chosen, how they were implemented and whether they were successful or not is subject to detailed empirical description.

3.4 OUTCOMES

I argue that the outcome of individual reform initiatives is the result of a negotiation process between interveners and intervened. In very broad terms, one can understand the outcome as lying somewhere on a scale ranging from an outcome that reflects the interests of the interveners, to an outcome that reflects the interests of the intervened. Neither interveners nor intervened are homogeneous groups,

however, and the various sub-groups might have very different interests. One example in Bosnia are the diametrically-opposed interests of Bosniak political representatives and Serb political representatives regarding the degree of centralization of political authority in Bosnia. The outcome, therefore, finds itself somewhere on a scale with multiple end points.

For each case study, the outcome is assessed in two steps. First, I describe the outcome in terms of content, specifying if changes took place in the respective realm (defense, police and the distribution of state property) and what those changes were precisely. Second, I relate those changes (or non-changes) back to the initial interests of all groups involved in negotiation, explaining how the outcome reflects the interests of each of them. I expect that, most commonly, the outcome will find itself somewhere in between the points of the scale, reflecting some sort of a compromise. All things considered, I expect these compromises to usually not favor the interests of the interveners.

3.5 OUTLINE OF THE EMPIRICAL CHAPTERS

The empirical part of this study is divided into three parts. The first part (Chapter Five) introduces the peacebuilding field in Bosnia in depth. It provides some background on the intervention and then introduces the groups that negotiated peacebuilding, their general interests and the resources to which they have access. The case studies form the second part of the empirical investigation (Chapters Six to Eight). These chapters discuss interests and resources more specifically with respect to the cases and then provide a nuanced account of the negotiating process and strategies as well as outcomes. The last part (Chapters Nine to Eleven) compares the case studies, takes the discussion of interests, resources and strategies and outcomes back to a more general level, draws conclusions and suggests avenues of further research.

3.5.1 *The Peacebuilding Field in Bosnia*

This chapter provides an overview of relevant actors for the case studies, their general interests, and the resources they have access to. On the one hand, this provides the background to the case studies. On the other hand, the chapter is part of the empirical analysis in its own right. It specifies how actors in the peacebuilding field relate to one another in terms of their interests and resources.¹ However, I restrict the analysis of the peacebuilding field in Bosnia to those groups that are relevant to all three case studies and, indeed, most cases of ne-

¹ Pierre Bourdieu describes this as the 'positions' that actors hold within a social field (Bourdieu 1985b, p. 742).

gotiating peacebuilding in Bosnia. Actors that played an important part in negotiating only one of the three cases are introduced in the case study chapters. I exclude entirely other actors that are important members of the Bosnian peacebuilding field but did not participate in the particular negotiations covered here. While this means that the description of the Bosnian peacebuilding field stays incomplete, the restriction was necessary in practical terms and also adds focus.

3.5.2 *The Case Studies: Defense Reform, Police Reform and the State Property Negotiations*

The case study chapters (together with the comparative chapter) form the heart of the empirical analysis. They focus on the concrete and practical interaction of the different groups in peacebuilding. These three chapters all follow the same outline. A first section provides the background to the case by focusing on the situation as it presented itself at the end of war and the early interventions, prior to reforms, aimed at reorganizing political authority, where such efforts took place. The second section goes back to describing the field in terms of actors, interests and resources. It includes actors that were relevant only to those specific cases (OSCE and NATO for defense reform and EUPM for police reform) and discusses how general interests translated into concrete, case-related interests and which resources were relevant for individual groups in each specific case. The third section provides a descriptive narrative of the particular negotiation process. On this basis, the fourth section discusses strategies in detail. The fifth section describes the outcome with respect to initial interests, while the sixth section concludes the discussion.

3.5.3 *Comparing Cases*

This part consists of three chapters. One chapter discusses interests, resources, strategies and outcomes in comparative perspective and asks whether these differed among the cases, how they differed and why. It draws conclusions that cover all three cases and describes patterns that emerge. The second chapter turns to aspects that stand out as recurring themes in all case studies and over time and discusses those. The last chapter concludes. It summarizes results and discusses what the findings of this thesis contribute to further research and for participants of peacebuilding.

RESEARCH METHODS

This chapter discusses the methodological approach and the research process. The first section introduces the broad methodological approach. This approach is qualitative, interpretive and reconstructive. The aim is to access and understand the meanings attached to the negotiation of peacebuilding by those who are directly involved in doing it. Within this broad framework, I combined an approach oriented towards Grounded Theory (Corbin and Strauss 2008) with an approach building on extant social science theory. The second section describes how the site of research and cases for indepth analysis were defined. The site of research is Bosnia and Herzegovina. The cases of defense reform, police reform and the state property negotiations were chosen by a process of theoretical sampling (Corbin and Strauss 2008, p. 143ff). The third section specifies the sources of the data. The central elements are qualitative, semi-structured interviews with participants of peace-building in Bosnia. Those were complemented by existing research, official documents and media reporting. In the fourth section, the methods of data analysis are described. Sensitizing concepts formed the starting point to get the research under way, and an iterative process between data and coding along the guidelines of Grounded Theory was used to develop the conceptual framework. The concepts that emerged guided a review of theoretical approaches to negotiation, peacebuilding and other areas that complemented inductive concept development. The fifth section discusses how criteria of trustworthiness have been incorporated into research. The last section reflects on how I personally approached the research topic and how access to the Bosnian peacebuilding field proceeded.

4.1 APPROACH: INTERPRETIVE AND RECONSTRUCTIVE

This thesis adopts an approach at qualitative research that is called interpretive (Mottier 2005, Yanow 2006) or reconstructive (Bohnsack 1999). This approach takes the social realities and systems of meanings as constructed by the participants of research as a starting point (Bohnsack 1999). It is 'reconstructive' in that it attempts to reconstruct those meanings as well as the process by which the researcher attempts to understand them. It is 'interpretive' as it assumes that the perception, predisposition and prior knowledge of the researcher play an important role in this reconstruction, knowledge is generated, therefore, by interpretation (Yanow 2006). The core assumption is that people develop theories of their own about what is going on around

them, and, hence, research is an interpretation of those already existing interpretations (Geertz 1973, p. 9, LeCompte and Schensul 2010, p. 67, Yanow 2006, p. 10).

To gain an understanding of those interpretations, such research builds on an open and relatively unstructured methodological approach. In this way, the participants can structure communication and thereby explain how a research question fits into their systems of meaning and how they interpret the matter at hand. Theoretical concepts are developed and refined on this basis, they are a result of the research rather than where it begins. This thesis adopted such an inductive approach as its starting point. The concepts that emerged were then compared, contrasted and developed with existing theory. The conceptual framework in Chapter Three is the joint result of those two approaches. The combination of using an inductive approach as a first step and the incorporation of social science theory as a second step is, I believe, well suited to the research at hand. An inductive approach allows us to get an insight into how those who *do* peacebuilding make sense of peacebuilding practice and negotiation. By incorporating academic knowledge on negotiations, peacebuilding and other areas, I make sure, then, that these insights respond to ongoing scholarly debates.

The most prominent 'school' for developing theoretical concepts from empirical material is *Grounded Theory* (Corbin and Strauss 2008). Grounded Theory is an approach or a style of research more than a clearly-defined method and is flexible to adapt to the specific needs of research (Böhm 2008, p. 476, Strauss 2004, p. 434).¹ My research process followed the major components of the research process in Grounded Theory, though the aim was more modest. Grounded Theory typically aims at theory development. My aim was to develop a conceptual framework for analysis in this thesis that is, at least in part, useful for transferring to other cases of peacebuilding. Additionally, this thesis puts greater emphasis on incorporating existing theory than is common in many Grounded Theory approaches.

Grounded Theory, in short, has three major elements: First, it starts the research process with empirical data and relatively little prior theoretical specification. Second, the process itself consists of constantly going back and forth between data and theory. Third, concepts are developed from data by successive coding, grouping categories around a 'core category', and by constant comparison within and between concepts and categories². These processes and how they were applied in this research project are explained in further detail below.

¹ There is a range of suggestions for a more formalized approach to Grounded Theory. An overview is provided by (Flick 2006, p. 427ff).

² In the language of Grounded Theory, categories are higher-level concepts, while concepts are "[w]ords that stand for ideas contained in data. Concepts are interpretations, the products of analysis." (Corbin and Strauss 2008, p. 159)

4.2 CASES

The site of research was Bosnia and Herzegovina. Peacebuilding in Bosnia was in many ways an experimenting ground for later peacebuilding missions. Among the many examples of negotiations between interveners and intervened in Bosnia, I chose to focus on three cases: defense reform, police reform and the state property negotiations. Those were chosen by “theoretical sampling” (Corbin and Strauss 2008, p. 143), which implies that data collection, analysis and case selection go hand in hand.

4.2.1 *Bosnia: The Peacebuilders’ Laboratory*

For practical reasons, all cases discussed in this thesis are located in the same intervention state: Bosnia and Herzegovina. This way, context and actors remained the same throughout, and the practical aspects of fieldwork were manageable. There were two reasons for focusing on Bosnia. The first reason is practical as well: I know Bosnia and its intervening community very well and am able to communicate and read in Bosnian/Croatian/Serbian. This greatly facilitated access. Second, Bosnia is a case particularly suitable to studying negotiation processes between interveners and intervened. The country has a history of 17 years of peace-building. In many ways, Bosnia has been an experimenting ground and a template for later missions (Chandler 1999, p. 2). Even more than elsewhere, peacebuilding in Bosnia was characterized by a great deal of experimenting and adaptation to new domestic or international needs and problems throughout. There is hence a lot to observe in terms of negotiating and renegotiating peacebuilding.

4.2.2 *Theoretical Sampling*

In research designs that are based on testing theory, cases are usually chosen based on theoretically-derived variables. With inductive approaches, this is hardly possible (Kelle and Kluge 2010, p. 47). Instead, choosing cases takes place in parallel with data gathering and based on concepts derived from previous data gathering. Proponents of a Grounded Theory approach call this theoretical sampling (Corbin and Strauss 2008, p. 143ff, Flick 2006, p. 117ff, Kelle and Kluge 2010, p. 47/48). Based on important concepts that have been already identified, new cases are included to increase insight into those concepts. The main criterion for the inclusion of cases is not their representativeness but their relevance in terms of inquiring into concepts (Flick 2006, p. 118). Similar cases allow for increasing depth in concepts, while different cases bring in heterogeneity and variation (Kelle and Kluge 2010, p. 48). In principle, the idea is to continuously add cases until

a point of saturation is reached. That stage occurs when all concepts are well explained and well connected, and new data does not bring in new themes and categories (Corbin and Strauss 2008, p. 149).³

There was an important practical restriction to this approach: The possibility of adding new cases rested on the ability to do new field research. This ability was constrained by time and money. To deal with those constraints, I organized the choice of cases in stages. Prior to the first fieldwork in spring 2010, I developed a broad overview of major peacebuilding negotiations that took place in Bosnia over the course of intervention. I investigated many of those during the first fieldwork in 2010. On this basis, I developed a first version of the conceptual framework and then defined which cases I would investigate in detail. Those turned out to be defense reform, police reform and the state property negotiations.⁴ Those cases were the focus of the second fieldwork in spring 2012. Additionally, I made sure to choose cases that, in themselves, offered sufficient variation so that the search for similar and diverging elements could continue based on existing data (Corbin and Strauss 2008, p. 150).

4.2.3 *Choosing Cases: Defense Reform, Police Reform and State Property*

The dynamic described in the conceptual framework should, in principle, be observable in any area where the interveners attempt to induce change. I focused on those cases where changes to the ways in which political authority is exercised were explicitly negotiated. Many reforms started with less intrusive intervention and refocused on reorganizing political authority later on. Where this was the case, I focused on those later phases of intervention. In the case study chapters, I refer to those phases as ‘reforms targeting political authority’, as ‘statebuilding reforms’ because the underlying rationale was increasing state stability by reallocating political authority at the central state level, or simply as ‘structural reforms’ because, in practical terms, they aimed at changing the organizational structures of, for example, the defense sector and the police, which include political structures.

Based on insights from the first field research in 2010, I focused on three main criteria in selecting cases. First, I aimed to include cases with different outcomes although the process leading there looked

³ Corbin and Strauss readily acknowledge that saturation is never truly reached, it is ultimately a decision of the researcher that categories have enough depth to end data gathering (Corbin and Strauss 2008, p. 149).

⁴ Constitutional reform was originally included as well. I later on decided to exclude constitutional reform because the matter is too broad (it includes several parallel negotiation processes that are only loosely connected) and has not come to any point of conclusion yet. Constitutional reform was still in the picture during the second round of fieldwork, and some of those interviews were put into the analysis for more general issues on negotiations in peacebuilding.

similar. This enabled inquiry into the fine differences that brought about those different results. Defense reform and police reform were very similar in the way they were approached by the interveners, yet defense reform was a success for the interveners while police reform was clearly a failure. The state property negotiations, while different in process, presented a third type of outcome: As was the case with police reform, agreement was symbolic, but rather than ending in a big blow, the issue somehow ‘faded out’.

Second, I looked for cases that were negotiated in different time periods of intervention. One important insight from the initial fieldwork was that both among the Bosnian political elites as well as among the interveners, the situation in terms of resources changed tremendously over the years. Choosing cases in different time periods enabled the inclusion of those changes as part of the investigation. I excluded the very early phase of intervention as I feared that it would be difficult to get in touch with most of the protagonists particularly from the intervening side.⁵ The phase of defense reform that targeted political authority started in 2002 and lasted until 2005. Structural police reform commenced in 2004 and lasted until 2007. The state property negotiations started in 2005 and came to a first conclusion in 2012.

Finally, I chose cases that involved different actors. The main actors stayed the same on the Bosnian side throughout, though under different leadership. These changes in leadership are accounted for in the research by looking at different periods in time. To gain insight into differences in resources and strategies among intervening actors (other than how these changed over time), I chose cases where different intervening actors were involved alongside OHR. In defense reform, OSCE and NATO played important roles. Police reform was a project by not only OHR but also prominently the EU. And in the state property negotiations, the PIC Steering Board played a much more proactive role than it did in other processes of negotiation.

4.3 ACCESSING DATA

I relied on a range of methods for accessing data.⁶ Semi-structured interviews with interveners and Bosnian political elites formed the central element. Those were complemented by a few expert interviews, existing scholarly research on Bosnia as well as reports by interna-

⁵ This fear at least partially proved unfounded, as quite a few of my interview partners from intervening organizations had arrived in Bosnia just after the signing of the Dayton Agreement, or else had already been involved in the region before. However, quite a few of those who were influential in Bosnian politics at the time are not in Bosnia anymore. Some left the country for various reasons, and others have been tried for war crimes at ICTY.

⁶ Dvora Yanow (Yanow and Schwartz-Shea 2006, p. xviii/xix) argues that “accessing data” is a more adequate expression than “collecting data”, as researchers in the social sciences do not bring their data to a laboratory. The data that is analyzed are not the people but transcripts of interviews, observational notes and the like.

tional and Bosnian think tanks, official documents and Bosnian media reporting.⁷

An analysis of existing research and think tank reports served as the background for field research and as preparation for the interviews. A detailed time-line of peacebuilding in Bosnia based on this data enabled the identification of possible cases for in-depth investigation. It also provided initial information on issues and on resources and strategies as well as on assessments of the outcomes through the eyes of outsiders to the process. An inside perspective on outcomes was taken from reports by intervening organizations where these were available. However, these reports only cover the perspective of the interveners and they also represent merely the official version of this perspective, which often differs from the informal perspectives of the individuals involved.

I conducted a total of 73 semi-structured interviews and an additional 10 more casual background talks. These latter were not formally put into the analysis but served to provide me with orientation. I talked to 70 people in total, and to some of them repeatedly. Of those, 57 were participants of peacebuilding negotiations in Bosnia, while 12 were observers and interviewed as experts. Thirty-two represented the intervened, 33 represented the interveners, and four were Bosnians working for intervening organizations and hence have a view on peacebuilding from both 'sides'. However, as I interviewed those individuals – as I did everyone else – primarily for their professional perspective on peacebuilding, I lean towards characterizing them as representing the interveners. A list of interviews can be found in Annex One.

These interviews followed a loosely-structured interview guide. This guide centered on interests, resources, strategies, outcomes and initially on strategic groups as well.⁸ Semi-structured interviews are especially suitable here as they direct the interview to the issue of interest (the way in which interveners and intervened interact) while leaving space for narratives in the form of 'short stories' (Kvale 2007) that provide insight into how those who are involved themselves perceive these issues. The interview guide is attached in Annex Two. Interviews with participants of the process were supplemented by expert interviews. The term 'experts' here refers to individuals who are active in any context that is explicitly concerned with politics and peacebuilding in Bosnia (Meuser and Nagel 2002). These experts were researchers, analysts and NGO representatives. Interviews were conducted in Bosnian, English and German. In all interviews in the Bos-

⁷ This section builds on the section on research methods in an application I wrote to the German Foundation for Peace Research in early 2011 on "Peacebuilding in Practice. Researching the Interaction of Intervenors and Intervened".

⁸ As discussed, groups were not assumed as fixed initially. During the research process, it became apparent that groups indeed largely formed along ethnic lines among Bosnian political elites and along organizational affiliations among the interveners.

nian language except for two, I relied on interpretation. Interpretation was mostly necessary to help me phrase my questions and follow-up questions clearly and precisely. My knowledge of Bosnian/Croatian/Serbian is good enough to understand my interview partners well. Notes and transcripts for these interviews were developed from both the original and interpreted speech. In the text of this thesis, quotes from interviews in either German or Bosnian are translated to English. For all interviews, transcripts were based on recordings where available and on notes for interviews that were not recorded.

The data derived from the interviews was complemented by an analysis of official documents and Bosnian media coverage of the case studies. Those sources served several purposes. First, they constituted important vehicles for one of the main strategies in negotiation: legitimizing arguments were often exchanged publicly, by official statements or statements in the press. Second, these sources served to verify details on the 'facts' about the way in which negotiation proceeded. Lastly, they served to cross-check anecdotes from interviews about which I was less confident. Analysis relied heavily on statements and decisions by OHR and the PIC SB. Diplomatic cables from the US Embassy in Sarajevo were included later on, as they were made available online.⁹ Bosnian media reporting was not analyzed broadly due to practical constraints: online access is restricted, and the bulk of available data is simply very large. Instead, I purposefully searched for data on specific instances where I either lacked information on how events proceeded or wanted to know how Bosnian political elites dealt with those issues in public.

In sum, interviews with participants of defense reform, police reform and the state property negotiations provided the main body of data. Other sources of data provided background in preparation for the research, served to cross-check information, and for certain issues (legitimizing arguments, in particular) also formed an important basis for analysis in their own right.

4.4 DATA ANALYSIS

Data analysis took place in repeated stages over the course of research. One of the crucial elements of Grounded Theory is that analysis starts with the first data gathered, and further data gathering and analysis then proceed in an iterative process. My journey in brief was as follows: I started with a few broad "sensitizing concepts" (Blumer 1954, p. 7) to guide initial data gathering. On this basis, I started to refine concepts and developed a first version of a conceptual framework. Equipped with those more specific questions and concepts, I

⁹ This unfortunately happened only when the second case study was almost completely written down. These cables were hence included later as complementary data.

entered into a second round of fieldwork and then engaged in multiple rounds of coding data and integrating the resulting concepts into a comprehensive conceptual framework. This framework was cross-checked and complemented with existing theory.

4.4.1 *Sensitizing Concepts*

Grounded Theory in its purest and earliest versions called for a completely inductive approach (Strübing and Schnettler, p. 427). In practice, this is impossible as any researcher will necessarily bring prior theoretical knowledge into the process (Kelle and Kluge 2010, p. 28). Building on prior knowledge is also highly advisable in practical terms as it provides orientation. Later on, proponents of this approach argued for the use of “sensitizing concepts” (Blumer 1954, p. 5, Kelle and Kluge 2010, p. 28). The term has been coined by Herbert Blumer who argued that social science concepts were “distressingly vague” (Blumer 1954, p. 5). He recommended using this vagueness as an advantage. Vague concepts can be used as guidance for empirical research as they “suggest directions along which to look.” (Blumer 1954, p. 7). In the course of empirical research, sensitizing concepts become specific and filled with life (Kelle and Kluge 2010).

My starting point was the general argument put forth in the peacebuilders’ contract, which holds that the outcome of peacebuilding is a product of an interactive process between the interveners and intervened (Barnett and Zürcher 2009, Narten and Zürcher 2009, Zürcher 2010, Zürcher 2011, Zürcher et al. 2013). Early on in the research, this directed the focus to ‘interaction’ as the core category. Later on, this core category was narrowed down to ‘negotiation’ as a particular type of interaction. To study interaction, I started out with sensitizing concepts derived from the works of Pierre Bourdieu as well as from sociological approaches to development. The concepts I used were Bourdieu’s notion of the social field, where actors have particular kinds of capital (or resources), and they employ specific practices to gain access to these.¹⁰ I later on replaced the term ‘capital’ with resources for the sake of compatibility with other approaches. While I initially focused on practices broadly, I later on narrowed down the analysis to strategies as types of practice (see Chapter 2.6). I complemented these concepts with the notion of ‘strategic groups’, which plays an important role in sociological approaches to intervention in the realm of development cooperation (Bierschenk 1988, Bierschenk and Olivier de Sardan 1997, Elwert and Bierschenk 1988, Olivier de Sardan 2005)

¹⁰ There is no space here to discuss field theory in detail. A short overview of Bourdieu’s understanding of different kinds of capital is found in (Bourdieu 1986). The field has been discussed in Chapter 2.2. An introduction to Bourdieu’s general approach to studying social relations and practices can be found in (Bourdieu 1977), and (Schwingel 1995) provides a very clear and comprehensive overview of Pierre Bourdieu’s work in general.

(see Chapter 2.3 for details). In those approaches, development workers are conceptualized as one strategic group among many, and the practical process of implementing a development project is analyzed in terms of interaction among all of those groups.

4.4.2 *The Coding Process*

In data analysis, these broad and vague concepts get specified and developed. This process builds primarily on coding data into concepts and working with those. Codes are “an abstract representation of an object or phenomenon” (Bazely 2007, p. 66). Coding text into concepts rests on two major strategies: asking questions of the text such as who is involved, what is the issue, or why does something happen (Flick 2006, p. 310), and making comparisons across pieces of data, within and between codes (Corbin and Strauss 2008). I relied on NVivo as a coding software.¹¹

The process usually starts with open coding which implies that concepts are developed from data as they emerge (Böhm 2008, p. 477). In my case, this implied creating a long list of codes under the headings of the sensitizing concepts¹², and additional codes that did not fall under those headings. For example, I initially included a range of codes that referred to perceptions of other groups as well as codes on types of interaction. Later on, I found most of those issues fitted well within the structure outlined above. Codes were initially very detailed¹³ but by comparing and contrasting data within and across codes, these concepts were reorganized, grouped under overarching concepts, and related to one another. This process was aided by memos that were written on individual codes, connections between them, questions to clarify, and in general any thoughts that emerged while analyzing data.¹⁴

As a next step, in what Corbin and Strauss call “axial coding” (Corbin and Strauss 2008, p. 195), a few important categories were selected for further inquiry (Flick 2006, p. 312). This step for example led to grouping strategies into the four large categories of pressure,

¹¹ While computer-assisted coding risks a preoccupation with coding as opposed to other strategies of data analysis, it also opens up many opportunities for organizing and reorganizing data that otherwise would not exist (Bazely 2007, p. 7ff).

¹² Coding was hence not entirely open.

¹³ For example, an already much-reduced list of codes for strategies of pressure (the overarching category of ‘pressure’ was added mid-way in the process) included: (threats of) formal sanctions, blackmail, creating facts, cutting access to money, delegitimizing, demonstrating force, demonstrating presence, legitimacy by defiance, monitoring and control, refusing to negotiate, selective law enforcement, threats of violence, and timing (in terms of using moments of strengths and weakness). Other lists were similarly long and detailed.

¹⁴ For example, I wrote memos on trade-offs between intervener interests, on the many purposes of conditionality, on the peace-builders’ need for success, on legitimacy as resource and as strategy, and many more.

bribery, capacity building and legitimizing arguments.¹⁵ In a final step of “selective coding” (Flick 2006, p. 312) or “integration” (Corbin and Strauss 2008, p. 103), categories were connected to form a conceptual framework. This process entailed “choosing a core category, then retelling the story around the core category using the other categories and concepts derived during research.” (Corbin and Strauss 2008, p. 107) My core category initially was interaction and later negotiation, but as this is a particular type of interaction, this did not imply a change of focus but rather a decision to narrow it down. The major categories I grouped around this core category were interests, resources, strategies and outcomes. Only after this process did I cross-check my concepts with the literature on negotiations. This was a deliberate decision. Approaches to negotiation tend to be very specific and prescriptive. Including them at earlier stages of research would have substantially narrowed down the focus and would have risked overlooking important aspects that are not covered by those approaches. I also included the literature on peacebuilding and on the individual concepts in the theoretical framework where they fitted with my thinking on concepts and the relationships between them. The details of the conceptual framework that resulted were discussed in Chapter Two above.

4.5 QUALITY CRITERIA: TRUSTWORTHINESS

Criteria for the quality of research that is not variable-oriented are subject to extensive and ongoing debate (Flick 2006, p. 381ff, Schwartz-Shea 2006, Shenton 2004), because the concepts of validity and reliability as the crucial measures of quality in variable-oriented research are not readily applicable in this type of research (for a discussion on why this is the case, see Schwartz-Shea 2006). Instead, assessments of quality focus on ‘trustworthiness’. Lincoln and Guba (1985, p. 289ff) proposed four criteria for trustworthiness: credibility, transferability, dependability and ‘confirmability’, which form the basis of much of the discussion on trustworthiness (Schwartz-Shea 2006, Shenton 2004) and, therefore, are also taken as a basis here. Credibility as the crucial criterion refers to how adequately research findings reflect ‘reality’. Findings are credible when they make sense to both those people whose life worlds are subject to research as well as to the research community (Miles and Huberman 1994, p. 278). Transferability is the equivalent of generalizability in variable-oriented research. The aim is to present findings in a way that allows applying and comparing them to other cases (Lincoln and Guba 1985, p. 298, Shenton 2004, p. 69). Dependability implies that the research process needs

¹⁵ Corbin and Strauss recommend a fairly formalized model for axial coding that has been criticized precisely for being too formal (Flick 2006, p. 313/14). I opted for a more open approach.

to be sufficiently transparent and findings sufficiently consistent so that the research process can be repeated (Lincoln and Guba 1985, p. 299). While the unique perspective of the individual researcher prohibits exact replication, the idea is that others should be able to understand what a researcher did, how it was done, and why. Finally, confirmability refers to efforts to “ensure as far as possible that the work’s findings are the result of the experiences and ideas of the informants, rather than the characteristics and preferences of the researcher.” (Shenton 2004, p. 72) Considering the fact that the perspective of the researcher will always have an impact on research and research findings, the crucial element here is being transparent about one’s own perspectives and positions towards the research topic (Bourdieu 1988, p. 49ff, Mauthner and Doucet 2003, Shenton 2004), for “reasonable freedom of unacknowledged researcher biases” (Miles 1994, p.278).

There is a long list of recommendations of what researchers can do to adhere to those four criteria. In my opinion, those recommendations center on three issues. First, qualitative researchers need to make an effort to ensure that their research is an adequate representation of the ‘story’ as it is perceived by those whose story it is. Doing so ensures both credibility and dependability. Second, researchers need to be transparent both about their research process as well as their own positions and perspectives. Transparency is vital for credibility, dependability and confirmability. And third, researchers need to assure plausibility by providing a rich and nuanced account. Aside from credibility, this also serves the purpose of establishing transferability (Lincoln and Guba 1985).

4.5.1 *Adequate Representation*

There is a long list of measures recommended to assure that research adequately represents reality as perceived by those whose reality it is. One is “prolonged engagement” (Lincoln and Guba 1985, p. 301) to become familiar with the field that is being studied (Shenton 2004). There were practical restrictions in terms of time and money, however, that did not allow for a very long stay in the field. I spent two months in 2010 and six weeks in 2011 on field research in Bosnia. More time would have been desirable particularly for research in Banja Luka. I spent a week in Banja Luka which was enough for doing the interviews that I needed, but it was not sufficient to truly develop familiarity with what Bosnian political reality looks like when seen from a Bosnian Serb perspective. As most of my interview partners were located in Sarajevo, however, more time in Banja Luka would have left too little time for interviews in Sarajevo. I was lucky to come across a few interview partners who were happy to devote a lot of time to talking to me and who very openly shared their perspective not only

on matters related to the case studies but on their working reality and their view of Bosnian politics in general. To some extent at least, this compensated for the lack of time spent in Banja Luka.

Second, I employed 'triangulation' of data sources and of methods of accessing data (Flick 2006, p. 444/45, Shenton 2004, p. 65/66). Triangulation of data sources was inherently part of my research, given that I needed to talk to both interveners and Bosnian political elites. Those two groups come from very different backgrounds and often have very different views on one and the same topic. Additionally, I found representatives of the interveners to be divided into two broad groups with differing and often antagonistic views of how intervention was to proceed best. One group advocated a heavy-handed approach increasing the pressure and intense involvement of the interveners, while the other group argued for Bosnian ownership as a guiding principle.¹⁶ I made sure to constantly compare and contrast those views. There is one issue that made triangulation of data sources difficult at times especially with respect to the interveners: The intervening community in Bosnia is small, particularly now as more than 15 years have passed since Dayton. Ideological divisions on what is the right mode of intervention aside, these people know each other, they meet and they talk. Specifically with regard to defense reform and police reform, this community has already established a version of the story that is now more or less common sense among the intervening community in Bosnia. While this increases my confidence that I did, indeed, understand how these stories are interpreted by the interveners in Bosnia, it also made it difficult to come across diverging perspectives. The state property negotiations were both more recent and less prominent. Here, perspectives on the issue clearly differed among different interview partners.

"Negative case analysis" (Lincoln and Guba 1985, p. 309) was employed in contrasting the three cases that differed substantially in many respects. Finally, I discussed emerging concepts, findings and working hypotheses extensively with friends, fellow researchers, my three research assistants in Bosnia and my supervisors as well as with a few selected interview partners in repeated formal and informal meetings.¹⁷

¹⁶ The first group usually supported Paddy Ashdown's approach as High Representative while the latter had more sympathy for Christian Schwarz-Schilling. Equally, the first group usually wanted OHR to continue its presence in Bosnia while the second group preferred the EU to take over. The two think tanks with most influence in Bosnia, the International Crisis Group and the European Stability Initiative, were also broadly associated with those two stances, the ICG advocating the first and ESI the latter approach. The ICG policy towards Bosnia, however, has changed repeatedly over the years.

¹⁷ Lincoln and Guba refer to the first type of cross-checking with other people as „peer debriefing" (Lincoln and Guba 1985, p. 308) and to the latter as „member checks" (Lincoln and Guba 1985, p. 314). Peer debriefing is meant to detect bias and to check for plausibility, member checking aims at ensuring that the perspectives of those sub-

4.5.2 *Transparency*

Transparency refers to both the research process and to my own pre-dispositions with respect to the issues that are studied. Transparency of the research process is the primary purpose of this entire chapter on research methods. The sections on interests, resources and strategies within the conceptual framework are a very direct and comprehensive reflection of the coding scheme that I used to analyze data. To illustrate the process of coding and analysis, I am attaching a sample of a coded interview in Annex Three. My own perspectives and positions on studying peacebuilding negotiations in Bosnia are discussed in the last section of this chapter.

4.5.3 *Plausibility*

Plausibility and, by extension, transferability are established by providing sufficient detail on both the line of argument and its context for others to be able to make sense of it. This is done by ‘thick description’ of the case studies. The term here implies a vivid, in-depth description that allows the reader to gain access to the thoughts and the everyday experiences of the subjects involved (Bohnsack et al. 2003). On this basis, other researchers are able to assess to what extent findings are transferable to other cases. Additionally, I took care to connect the conceptual framework I developed from the data to existing research where applicable. Finally, my research started from an argument made by Christoph Zürcher and others with the “Peacebuilders Contract” (Barnett and Zürcher 2009, Narten and Zürcher 2009, Zürcher 2010, Zürcher 2011, Zürcher et al. 2013). This argument initially built on examples from Afghanistan and Tajikistan (Barnett and Zürcher 2009) as well as Kosovo (Narten and Zürcher 2009). My research, therefore, is, in itself, already a transfer and a specification of a general argument. Beyond the issue of transferability, plausibility is established by taking care that concepts are well connected and by closing logical gaps (Corbin and Strauss 2008, p. 109ff).

In sum, striving to achieve adequate representation, transparency and plausibility is crucial to fulfilling criteria of trustworthiness. I did so by relying on a wide range of data sources and methods of accessing data, by contrasting cases, by making explicit my research methods, my personal research journey and my personal approach to the issue, by providing a thick description and by cross-checking results

ject to research are adequately reflected. A lot of criticism has been voiced against member-checking (the homepage of the ‘Qualitative Research Guidelines Project’ offers a concise summary at <http://www.qualres.org/HomeMemb-3696.html>). Members and researchers have different goals and perspectives, it might be problematic to figure out which to follow if there is disagreement. My compromise was to not confront interview partners with their own prior interviews but rather discuss summarized initial findings.

with existing approaches at negotiations as well as with participants of the research and other researchers.

4.6 LOCATING THE RESEARCHER AND ACCESS TO THE FIELD

This section does two things: First, it explains how my personal history led me to this research topic and the way in which it directed my perspective on peacebuilding in Bosnia. My personal background clearly implies closeness to the interveners rather than the intervened. Second, it describes how I entered the 'field', what worked well in the process and what difficulties I encountered.

4.6.1 *Bosnian Peace-building and I*

My personal background implies a perspective that initially is closer to the interveners than the intervened. It also includes relatively close prior knowledge of Bosnia. There are several reasons for this. First, the peacebuilding project and I share a geographical and cultural realm of origin. Peacebuilding has been promoted by governments and organizations (governmental and non-governmental) from the 'West', and the discussions around such missions clearly have shaped my perspective towards the issue. Second, I have a long personal history with peacebuilding in Bosnia. I worked in Bosnia as a project coordinator for a German youth NGO for two years and three months between 1999 and 2001 and continued to spend a lot of time in Bosnia both for NGO projects and privately in the following years. From our NGO perspective, we were highly critical at the time of the 'official' realm of peacebuilding. But we were certainly much more a part of the same sub-culture than we were ready to acknowledge. My first working experience hence was as a peacebuilder in Bosnia. These experiences and the questions that resulted dominated my university studies and ultimately led me to writing this thesis. Finally, the peacebuilding world is, among other things, a labor market for social scientists from Europe and North America (Coles 2007, p. 41, Guilhot 2005). The dividing line between those who analyze peacebuilding and those who do it is generally very fine or non-existent.

These things had various implications for my approach to researching this issue, and for access to the field. My prior contact with the peacebuilding world was instrumental in my research interest in the first place. I clearly felt that there was a mismatch between academic debate and the practice of peacebuilding.¹⁸ This provided the motivation to inquire into the practice of peacebuilding. My background with both peacebuilding and Bosnia also greatly facilitated access. I

¹⁸ This seems strange in light of the close relations between practitioners and researchers and is probably rooted in conventions and practical restrictions of social science more than in a lack of knowledge among researchers.

had existing contacts to use for identifying interview partners and to organize the practical aspects of my stays in Bosnia. Existing contacts also provided social surroundings outside of 'working contacts'. Besides making me feel more comfortable, this environment also proved valuable for discussing my research while I was conducting it. In general, then, I needed very little time for orientation. However, my background also meant that my perspective was heavily skewed towards that of the interveners. I have experience as a peacebuilder, but not as a Bosnian politician. My Bosnian friends are mostly active in civil society contexts and are careful to keep a distance from 'politics' which is perceived as a dirty business. Very often, I share their criticism of the often inefficient and divisive politics in Bosnia.

I attempted to counter-balance this bias to some extent by spending particular time and effort to get to know and understand the Bosnian political elites. For example, I deliberately split the second field research into two portions, one each for interveners and intervened, so that I had a chance to get familiar with the world of Bosnian political elites and leave aside the world of the interveners for a while. However, I do believe that the emphasis on the interveners is also a part of my research question and hence makes sense in terms of analysis. I decided to focus on peacebuilding, and its impact on the Bosnian political field. Potentially, the opposite would clearly be possible as well. With my focus, while the interests, resources and strategies of the intervened are very important, intervention clearly takes center stage.

4.6.2 *Access to the Peacebuilding Field*

Access was much easier with respect to the interveners than to the intervened. I was perceived as 'one of them', and representatives of the interveners in Bosnia are generally very used to responding to requests from researchers. Matters were more difficult with respect to Bosnian political elites. First, I had no easy starting points and I was clearly not perceived as 'one of them'. Second, as the political landscape in Bosnia is highly divided, I needed access to four networks rather than one: Bosniaks, Bosnian Croats, Bosnian Serbs, and those who reject ethnic categorization. In some cases (though those were very few), the only possible access point was *via* representatives of the interveners who had worked with certain individuals. This was not optimal, as it sometimes restricted interview partners from speaking freely. Across the board, it proved difficult to make contact with party leaders, with the exception of Dragan Čavić who was earlier the head of SDS and Mladen Ivanić who continues to lead PDP. Access to advisors of those party leaders was much easier. Aside from those advisors, I talked to representatives with functionally-defined jobs in the state administration, (such as ministers), and to professionals.

Part II

PEACEBUILDING NEGOTIATIONS IN BOSNIA

THE PEACEBUILDING FIELD IN BOSNIA

While some aspects of the context of peacebuilding negotiations are part of the general characteristics of the international peacebuilding field (as discussed in Chapter 2.2), others are specific to the local context of the intervened state and society. To give an example, the geographic proximity to the EU is a factor in certain aspects of the peacebuilding process in Bosnia.¹ This proximity has an impact on the everyday life of the interveners (most interveners in Bosnia come from EU member states, and they can easily fly home over the weekend) and the intervened (the EU integration process changes many bureaucratic procedures for example) as well as on the policies of intervention and the organizations that are involved. Another example for a factor that shapes peacebuilding negotiations in Bosnia is the country's ethnic division.

This chapter introduces the particular Bosnian manifestation of the peacebuilding field. First, it provides a brief overview of how peacebuilding in Bosnia came into being. Second, it introduces the different groups of actors within the spectrum of Bosnian political elites and within the intervening community. It describes the interests of those groups and the resources they have access to in general terms, while more specific interests, resources and their changes over time are explained in the case study chapters. This chapter discusses interests and resources for each group individually, with one exception: there is no data on economic resources that is sufficiently disaggregated to discuss individual groups. Economic resources are thus discussed for the Bosnian political elites, as a whole, and for the interveners as a single group.²

5.1 THE END OF YUGOSLAVIA AND THE BEGINNING OF THE BOSNIAN POST-WAR ORDER

The reasons for the break-up of Yugoslavia, for the war, and their consequences for post-war Bosnia have been debated at length.³ This section gives a very brief introduction, arguing that ethnic affiliation had a history in Yugoslavia as a category of political organization (but not as a means for pitting societal groups against each other),

¹ Kosovo and Macedonia are the other two examples of peacebuilding close to the borders of the EU.

² Some limited data is available on OHR's budget, this is reported in the section on OHR.

³ For an overview of debates on the break-up of Yugoslavia, see for example (Dragović-Soso 2008).

that the ethnically-divisive agreement of Dayton is, next to Yugoslav legacies, also a result of international views on the war, and that the peacebuilding mission that ensued is even more ad hoc in character than than peacebuilding elsewhere.

5.1.1 *Yugoslavia: Stability, Erosion and the Path to War*

The Yugoslav state and its legitimacy were built on a number of factors: partisan struggle in World War II; economic well-being and opportunities for private consumption very much unlike those in other socialist states; its own version of socialism; non-alignment; and federalism (Kaldor 1999, Pattinson 2012).⁴ The relations between the six Yugoslav republics (and two autonomous provinces) were organized by a system similar to what Lijphart and others have called 'consociationalism' (Andeweg 2000, Lijphart 1968, Sisk 1996), except that it was not democratic.⁵ It included far-reaching autonomy for the republics, proportional representation in the central government and the public sector⁶, and consensual decision-making (Woodward 1995, p. 31ff). Hence, in Yugoslav times, as had been the case earlier,⁷ group affiliations (first religious and later as nations/people⁸) played an important role. However, those categories did not set up societal groups antagonistic to each other but were categories of *political* organization.⁹

The stability, and soon also the legitimacy, of this system crumbled when a foreign debt crisis that began in the 1970s and worsened in the 1980s led to rapid economic decline.¹⁰ For the large Yugoslav middle-class, this created substantial insecurity (Pattinson 2012). In all the republics, emerging nationalist movements were (almost) the only available outlet for public discontent with government policies (Calic

4 On the history of Yugoslavia, see for example (Calic 2010).

5 The concept was developed by Arend Lijphart to describe democracies in societies that were culturally divided and lacked cross-cutting cleavages. He observed that these democracies were based on group consensus rather than competition at the political center, combined with substantial autonomy of groups in what was defined as their own affairs.

6 Proportional representation was sometimes based on constituent peoples and sometimes on republics.

7 In those areas of the former Yugoslavia that were part of the Ottoman Empire, for example, the 'Millet System' applied. Millets were religiously-defined institutions of self-governance, with responsibility not only for religious matters but also for law and education, for example (see for example Bieber 1999).

8 The term in Bosnian/Croatian/Serbian, 'narod' means both, nation and people.

9 In the 1990s in particular, the break-up of Yugoslavia was often explained as due to 'ancient hatreds' that had been merely suppressed by communist rule and resurfaced at its end. A prominent example is (Kaplan 1993). As Susan Woodward argues, this meant turning "the story upside down and begin[ning] at its end" (Woodward 1995, p. 18). Ethnic fear, and perhaps 'hatred' as well, were the result of, not the reason for, war.

10 On economic developments in Yugoslavia, see especially (Woodward 1995), and with a particular focus on consumer culture (Pattinson 2012).

2010, p. 269, Woodward 1995, p. 77). At the political level, disputes on how to respond to economic decline led to a constitutional crisis and an increasingly hostile confrontation between those republics who were better off economically and wanted to further decentralize the economic sphere (Slovenia, and Croatia), and those who favored a reintegration of the state in economic and political terms (that is, Serbia and its provinces, Montenegro, the army which had as much a say as the republics, and initially also Bosnia and Macedonia) (Woodward 1995, p. 82ff). This conflict worsened dramatically when Serb nationalism became official party policy in Serbia after 1987, including the claim to Serb-inhabited areas of the other republics.¹¹

The common federal institutions ceased functioning in 1990, which was precisely when the first democratic elections took place (Woodward 1995, p. 116/17). These elections brought victories for the nationalist forces in nearly all the republics (Calic 2010, p. 300/01).¹² In Bosnia, the elections brought to power three nationalist parties which together received 70% of the vote: SDA for Bosniaks, HDZ for Bosnian Croats and SDS for Bosnian Serbs (these parties are described in detail below).¹³ These three parties entered into a coalition and an uneasy power-sharing arrangement. This coalition fell apart over the question of independence from Yugoslavia, which had become urgent after the recognition of Slovenian and Croatian independence in January 1992 (Woodward 1995, p. 190/91). SDS left the coalition and – successfully – called on Bosnian Serbs to boycott the referendum on independence that was held on February 29 and March 1 1992. Bosnia's independence was recognized internationally just over a month later, on April 6 1992, and a day after that, Bosnian Serbs declared their independence from Bosnia and began to conquer territory using military force (Calic 2010, p. 312). Bosnia was at war.

Three years of war left about 260,000 dead and two thirds of the Bosnian population displaced (Kaldor 1999, p. 52). Next to the Bosnian ethnically-defined parties, Serbia and Croatia were, with their armies and paramilitary groups, heavily involved in the Bosnian war. The war was characterized by appalling atrocities that became known to the world as 'ethnic cleansing'. This strategy of war was used by

11 In 1987, Slobodan Milošević overthrew the old party leadership, drawing heavily on nationalist sentiments (Silber and Little 1996, p. 37ff, Woodward 1995, p. 90).

12 The elections were won by the successors of the League of Communists in Serbia and in Montenegro. In Serbia in particular, however, this party also followed a nationalist course. Slovenia and Croatia declared sovereignty soon after the elections, and gained independence in June 1991. The ensuing wars cannot be treated here in detail. They are discussed, for example, in (Calic 2010, Silber and Little 1996, Woodward 1995).

13 This was not necessarily an expression of nationalist beliefs among the population, considering that in a survey just half a year before the election, 74% of the population had stated that they were in favor of banning nationalist parties (Kaldor 1999, p. 68). There were simply not many alternatives to nationalist parties on the one hand and discredited communists on the other.

Bosnian Serbs in particular but also by Bosnian Croats (and only on a much smaller scale by Bosniaks) to gain control of the population (by creating ethnically-homogenous regions, and generating fear among those of other ethnicities) and, thereby, territory (Kaldor 1999, p. 73ff).

International attempts to end the war rested on the assumption that Bosnia's people indeed hated one another (and, therefore, took on the views propagated by the nationalist leaderships), and that consequently, peace could be found only by separating them (Kaldor 1999, p. 93/94, Woodward 1995, p. 8/9). A series of proposals for peace, accordingly, were all based on the division of territory on ethnic grounds.¹⁴ At the same time, international actors were afraid of intervening militarily, fearing that they would be drawn into the war, which resulted in a half-hearted UN intervention that was, among other tasks, meant to create safe havens and protect humanitarian aid but lacked a mandate to enforce those measures (Calic 2010, p. 320, Kaldor 1999, p. 95). The international approach changed from 1994 and especially after the massacre of Srebrenica in July 1995,¹⁵ to greater involvement of the United States, NATO airstrikes and a US-brokered agreement between Bosniaks and Croats. Massive bombardments as well as US support to the Croat and Bosniak armies shifted the military balance away from Bosnian Serbs and created a situation that made negotiations, and agreement, possible (Silber and Little 1996, p. 351).

5.1.2 *The Dayton Peace Agreement*

The war in Bosnia formally ended on December 14 1995 with the „General Framework Agreement for Peace in Bosnia and Herzegovina“ (Dayton Peace Agreement, DPA), that was also based on dividing territory along ethnic lines. Bosnia remained formally intact as a state but was divided into two entities, the Serb-dominated Republika Srpska (RS) and the Bosniak-Croat Federation (Federation, or FBiH). The DPA included a constitution that comprised mechanisms of power-sharing familiar from the Yugoslav system, but developed them much further. The entities had far-reaching autonomy, while the central state was responsible only for issues of foreign and inter-entity relations (Dayton Peace Agreement 1995, Annex 4, Article III.1). Central state institutions included a tripartite presidency, a council of ministers, a parliament of two chambers (the House of Peoples that comprised delegates of the entity parliaments, and the House of Rep-

¹⁴ Those peace plans are discussed in detail for example in (Heider 2010, Silber and Little 1996, Woodward 1995).

¹⁵ The mass killings in Srebrenica, where Bosnian Serbs killed about 8,000 Bosniak men, became the first legally-recognized genocide in Europe since 1945 (Calic 2010, p. 322).

representatives that was elected by popular vote in the entities),¹⁶ and a constitutional court. The political system of the RS was centralized without an intermediate layer between the political center and the municipalities. The Federation comprises 10 Cantons (five of which are predominantly Bosniak, three Bosnian Croat, and two mixed), which again have substantially more power than the government of the Federation itself. In the mixed Cantons, power is *de facto* decentralized further to the municipal level.

As part of the agreement, international actors were assigned a decisive role in the peace and transition process. A NATO-led force was tasked with monitoring the military aspects of implementation. Civil implementation was to be coordinated by a High Representative who was answerable to the Peace Implementation Council, and other tasks were assigned to other organizations such as the UN and the OSCE.¹⁷ Initially, international intervention in Bosnia was planned much like the UN interventions of the early 1990s: based on a separation of military forces and early post-war elections that simultaneously served as a tool for transition from international to domestic authority (Zaum 2007, p. 83). In Bosnia, these first post-war elections in 1996 cemented rather than eased ethnic divisions, as the war-time nationalist parties won overwhelming victories.¹⁸ Fearing for the success of peacebuilding, the interveners substantially increased the intrusiveness of intervention. In 1997, OHR was turned into a *de facto* transitional administration (see below) and its mandate prolonged indefinitely (Chandler 2006a, p. 35). Hence, even more than elsewhere, peacebuilding in Bosnia developed out of an *ad hoc* adaptation to perceived needs 'on the ground'.

5.2 THE BOSNIAN POLITICAL ELITES

As described in Chapter 2.3, strategic groups among the Bosnian political elites formed along ethnic lines of affiliation. This chapter, therefore, differentiates between Bosniak, Bosnian Croat and Bosnian Serb political elites.¹⁹ While there is a lot of plurality within those three broad groups, they can be treated as strategic groups because their different factions share access to the same resources and their strategies often converge. Among the Bosniak political elites, three political parties dominated the political landscape: SDA (Stranka Demokratske

¹⁶ The House of Peoples has 15 members (five of each ethnic group), while the House of Representatives has 42 members of whom two thirds are elected in the Federation and one third in the RS.

¹⁷ Details can be found in Annexes 10 and 11 of the DPA (Dayton Peace Agreement 1995).

¹⁸ For the House of Representatives, SDA won 54.4% of the votes in Federation and HDZ 23.4%, in the RS, SDS won 54.4% as well (Inter-Parliamentary Union 1996).

¹⁹ This refers explicitly to political elites and not to the population. Those elites refer to ethnic segments of society and are elected by them, but group formation on the basis of ethnicity is first and foremost an elite phenomenon.

Akcije, Party of Democratic Action), SBiH (Stranka za Bosnu i Hercegoviu, Party for Bosnia and Herzegovina) and SDP (Socijaldemokratska Partija Bosne i Hercegovine, Social Democratic Party of Bosnia and Herzegovina).²⁰ SDP considers itself a multi-ethnic party. However, its constituency is largely Bosniak and other parties often perceive SDP as representing Bosniaks (Evenson 2009b, p. 18). Additionally, its crucial interest of a more centralized Bosnian state converges with that of SDA and SBiH. Until 2006, Bosnian Croats were largely represented by HDZ BiH (Hrvatska demokratska zajednica Bosne i Hercegovine, Croat Democratic Union of Bosnia and Herzegovina). Since 2006, HDZ 1990 (Hrvatska demokratska zajednica 1990, Croat Democratic Union 1999), a break-away faction of HDZ BiH, has also played an important political role. Among Bosnian Serbs, SDS (Srpska Demokratska Stranka, Serbian Democratic Party), PDP (Partija Demokratskog Progres, Party of Democratic Progress) and SNSD (Savez Nezavisnih Socijaldemokrata, Alliance of Independent Social Democrats) were the dominant parties.

BOSNIAK POLITICAL ELITES	BOSNIAN CROAT POLITICAL ELITES	BOSNIAN SERB POLITICAL ELITES
SDA	HDZ	SDS
SBiH	HDZ 1990	PDP
(SDP)		SNSD

Table 2: Strategic Groups among the Bosnian Political Elites

5.2.1 Bosniak Political Elites

Bosniaks constitute the largest share of the Bosnian population. Different from Bosnian Croats and Bosnian Serbs, they do not have a neighboring patron country to rely on. As a result, during the war and in Dayton, Bosniak representatives concentrated on keeping the integrity of the Bosnian state intact, because otherwise, they would have been left with an isolated and unviable Bosniak enclave surrounded by Croat and Serb territory (Bose 2002, Gromes 2007, Petritsch 2001). Today, all major Bosniak parties still have an interest in strengthening

²⁰ In the 2010 elections, the newly founded SBB (Savez za bolju budućnost BiH, Alliance for a better future of BiH) gained a substantial share of the votes. Its leader Fahrudin Radončić, owner of Dnevni Avaz which is one of the largest newspapers in the country, received 30.49% on the Bosniak list for the presidency, for example. In comparison, Bakir Izetbegović of SDA who won the Bosniak seat on the presidency received 34.86% (Izborna Komisija Bosna i Hercegovina 2010). However, the party was founded only in 2009 and did not participate in government on any level after the 2010 elections. It played no role in any of the three case studies and is, therefore, not discussed in detail.

the central state *vis-à-vis* the entities although they do so on different grounds. Some (SBiH in particular) emphasize the war history, claiming that the RS was built by war and therefore illegitimate, while others (SDP primarily) argue for a state based on civic principles and individual rather than group rights. SDA, the largest party, nowadays occupies a middle ground between these two stances. The three major parties compete for the same votes and for the same posts within the Bosnian power-sharing system. While not all parties participated in government continuously, all were important interlocutors for the interveners who often addressed party leaders rather than governments or parliaments with their reform proposals (Interview with a Political Analyst 2010).

SDA was founded in 1990 and controlled by a group around Alija Izetbegović that had its roots in a pan-Islamic movement. By stepping in when Yugoslavia was in crisis, the SDA quickly managed to become the center and main advocate of Bosniak nationalism (Solioz 2007). When the war started, SDA substituted the disintegrating state with its own networks and parallel institutions, and when the state apparatus was recreated (in 1993), it staffed it with its own people (Solioz 2007). As a consequence, both the Bosniak parts of the Federation as well as the rudimentary central state organs were SDA dominated in the initial years after the war (Bieber 2006, ESI 1999). There are various competing power centers within SDA, divisions existing for example between different regional war time leaders and between urban and rural party structures (ESI 1999, Peirce and Stubbs 2000). This leads to a situation where, “if you go to five people, you get five different positions.” (Interview with a Representative of a Western Embassy 2011b). In 2000, SDA lost its majority among Bosniak voters to SDP, regained it in 2002 and lost it very narrowly again to SDP in 2010 (Izborna Komisija Bosna i Hercegovina 2010, Karić 2012). At the same time, SDA regained the Bosniak seat on the presidency in 2010 from SBiH. Despite the loss of votes, SDA continues to be the dominant party within the Bosniak spectrum but less so than in the 1990s. In 2001, war-time leader Izetbegović stepped down as party president and was succeeded by Sulejman Tihić who quickly consolidated his position although he is not as fully accepted internally as Izetbegović was (ICG 2003). Since that time, SDA has adopted a more moderate tone (ICG 2003).

The SBiH is led by Haris Silajdžić who left SDA in 1996 to found what was originally meant to be a secular alternative to SDA (Gavrić and Banović 2007). The SBiH has been part of all governing coalitions since Dayton, subjecting it to allegations that its only interest is power (ICG 2003, p. 24). Haris Silajdžić left Bosnia for several years and returned to the country and Bosnian politics in late 2005, positioning himself and his party as a more radically Bosniak-nationalist alternative to SDA. He portrayed himself as “the savior of the Bosnian

nation" (Interview with a Bosnian Civil Society Activist 2011) and won the presidential elections for the Bosniak representative of the presidency with the slogan "100% BiH" (Gavrić and Banović 2007, p. 58, Interview with Caroline Ravaud 2010). He lost his seat in the presidency again in 2010 to Bakir Izetbegović of SDA (Arslanagic 2010a). SBiH is heavily centered on Silajdžić and a very narrow circle around him and lacks a clear and differentiated political program (ICG 2010).

The SDP predates the war and is the successor party of the Yugoslav communist party. It is one of the few parties with a recognizable political program and one of "two parties here [in Bosnia] that have structures and can drive things"²¹ (Interview with a Representative of a Western Embassy 2011a). SDP is social democrat, advocates the strengthening of central state institutions, and does so with a civic rather than an ethnic focus. Its electorate however is mostly Bosniak, and it is perceived by Croats and Serbs as a Bosniak party.²² The party is led by Zlatko Lagumdžija. Since the end of war, SDP has led the Federation governments twice. It emerged as the strongest party in the 2000 elections²³ and in 2001 and 2002 headed the 'Alliance for Change' government (ICG 2002a, p. 1). While the Alliance government was able to induce changes in a number of areas, it was unable to deliver on its promises to revive of the economy and work efficiently against corruption.²⁴ These failures and the decision by the Alliance parties to run independently in the 2002 general elections²⁵ contributed to the renewed victory of the war-time parties in the elections of October 2002 (ICG 2003). SDP once again won the largest share of the votes in the Federation in the general elections in 2010.²⁶ In the Federation, SDP formed a coalition government with SDA, SBiH and smaller Croat parties, excluding HDZ and HDZ 1990 (see the section on Croat parties below). At state level, it took 15 months before an agreement on the formation of government was reached, as cooperation between SDP and both SNSD and the Croat

21 The other party being SNSD in the RS, see below.

22 As is exemplified by the conflict around the Croat member of the presidency Zlatko Komšić who was elected in 2006. He is a member of SDP, and while being a Croat and hence occupying the Croat seat in the presidency, he was elected by many Bosniaks (Evenson 2009b, p. 9,18). This led the Croat parties, HDZ and HDZ 1990, to argue that he was not a legitimate Croat representative in the presidency, because they saw themselves as the political representatives of this ethnic group.

23 With 26% of the vote for the Federation House of Representatives (OSCE BiH 2000b) and 22% for the BiH House of Representatives (OSCE BiH 2000a).

24 This 'Alliance for Change' was in a difficult position from the beginning with only a shaky majority in the Federation, an HDZ majority in Croat dominated Cantons, and being forced to rely on non-formalized cooperation with four of the Serb parties at the central state level. These parties were in coalition with SDS at the same time in the RS which made cooperation often difficult. Internally, the coalition was very diverse (ICG 2002a).

25 Before 2002, general elections in Bosnia took place every two years. Since then, they take place every four years.

26 With 26.07% of the vote for the BiH House of Representatives and 24.53% for the Federation House of Representatives (Izborna Komisija Bosna i Hercegovina 2010).

parties proved difficult (Jukic 2011). For most of the time that defense reform, police reform and state property were negotiated, SDP was in opposition.

Compared to Serbs and Croats, the Bosniak political elites are the weakest in terms of organizational capacity (Interview with a Representative of a Western Embassy 2011a, Interview with a Representative of a Western Embassy 2011b, Interview with an OHR Official 2011d). This weakness can be attributed to the fragile internal cohesion of SDA as the dominant party, and competition among the three major parties. For example, in the negotiations under the so-called Prud Process in November 2008 (described in detail in Chapter Eight on state property), Milorad Dodik of SNSD, Dragan Čović of HDZ and Sulejman Tihić of SDA attempted to find compromises on a range of controversial issues. The process was harshly attacked by Haris Silajdžić as a selling out of Bosniak interests, which, in all probability, led to Tihić backing out of the process, because he feared losing the support of the Bosniak population to Silajdžić (Morrison 2009, p. 15/16, US Embassy in BiH 2008e).

As Bosniak and intervener interests often tend to be aligned, Bosniak and sometimes Bosnian Croat elites often rely on the organizational capacity of the interveners. While Bosnian Serbs had to develop their own capacity in presenting or arguing against proposals because they were usually opposing intervener initiatives, this necessity did not exist for Bosniaks and Bosnian Croats. One OHR representative who works closely with the state parliament described how the very proactive approach of OHR was problematic in this respect:

“The problem with our approach was that we created dependence especially on the Bosniak and Croat side of the authorities. There are basically in the Parliament very often Bosniak MP’s who would basically rely on our presence, on our expertise, they were sometimes not reading the legislation because they knew that we would be following that.” (Interview with an OHR Official 2011e)

The Bosniak political elites could potentially have coercive capacity *vis-à-vis* the interveners by blocking central state institutions. Doing so, however, makes little sense from their point of view, as they share the interveners’ interest in strengthening the central state. In relation to the other groups within the Bosnian political elites – usually Bosnian Serbs – Bosniak political elites often relied on (or hoped for) intervener coercive capacity. Furthermore, intervener attempts to push through certain reforms have usually worked in the interest of Bosniak elites. Many argue that this is the reason that Bosniak elites do not want OHR to leave, hoping that it will eventually act against Dodik (Interview with a Political Analyst 2011). Similarly, several Bosniak interviewees called on OHR to live up to what they perceived to be their duty. For example, an SDP representative in interview, refer-

ring to Dodik's attempts to increase RS autonomy, argued that OHR "failed its mandate since Christian Schwarz-Schilling, there are lots of violations of the DPA and they don't react" (Interview with an SDP representative 2010b). An SBiH representative argued that OHR ought to finish its business before it leaves the country, in order to make the country more functional which in his view implies making it more centralized:

"That's another thing with OHR, the OHR was never planned to last for 15 years. The OHR was supposed to be transitional. The plan of the International Community was for Dayton to evolve into something that then enabled this country to function by itself, without IC involvement. But anyway, essentially the presence of the OHR, I'm not saying it should leave which is what Dodik would say, I'm saying it should leave only once the conditions that necessitated their arrival are removed. It is a non-elected body that decides about life and death for 15 years. For the general public and politicians. The answer for them isn't to leave, but to essentially overcome the obstacles." (Interview with an SBiH Representative 2010)

This reliance on OHR coercive capacity also means that Bosniak representatives tend to be much more assertive about those years where OHR played a very intrusive role. Asim Sarajlić of SDA argued that the international community needed to focus on Dodik, and that Dodik "understands just pressure. He recognizes force. Like Paddy [Ashdown did it], you sign something, or you will have problems with OHR, international community." (Interview with Asim Sarajlić 2011).

Bosnian Serb representatives often claim that Bosniaks have and exercise coercive capacity by deliberately rendering the Bosnian state institutions ineffective, thereby forcing the interveners to react with centralizing measures (Interview with Gordan Milošević 2010, Interview with Stanislav Čađo 2011). Considering the very complicated power-sharing mechanisms that characterize the Federation internally, it seems to me that the ineffectiveness of the Federation compared to the RS is probably a result of those complicated mechanisms more than of purposeful obstruction.

In terms of legitimacy derived from popular support, SDA enjoyed huge legitimacy in the early years. While it is still the party with the most stable support its dominance has been weakened since 2000 when it lost its position as the strongest Bosnian party in parliament for the first time. Furthermore, the shifts in voter support back and forth between the parties indicate that Bosniak voters have not felt well represented by any of them. Bosniaks legitimize their claims regarding the interveners in different ways. SBiH, and at times SDA, tend to emphasize the war and the status of Bosniaks as victims of the war, reminding the international community of its failure to protect Bosniaks during the war (Interview with a Representative of a

Western Embassy 2010, Interview with Asim Sarajlić 2011). Part of this argument also claims that the RS is illegitimate (see above). Sulejman Tihić of SDA however publicly accepted the existence of the RS a permanent part of the Bosnian state (ICG 2009b). Other parties, SDP primarily, legitimize their arguments with reference to a civic state and anti-nationalist positions, thus echoing the liberal foundations of the peacebuilding project.

To summarize, the main interest of the Bosniak political elites in most peacebuilding negotiations is to further centralize political authority, at the expense of ethnic and territorial autonomy. Their organizational capacity is weak due to intense internal competition, and they had less coercive capacity than the other two groups as threatening the failure of peacebuilding is not an option. The different factions within the Bosniak political elites draw on different themes for legitimacy, either on their role as victims of the war or on civic as opposed to national values. Popular legitimacy has been undermined, again, by the intense competition between the parties.

5.2.2 *Bosnian Croat Political Elites*

As the smallest of the three ethnic groups,²⁷ Bosnian Croats have been focused since Dayton on avoiding dominance by the other two larger groups, and, at the same time, increasing Croat autonomy (Parish 2007, p. 12). A recognized third entity has long been part of the Croat agenda, although, at the time of writing, this claim has largely been abandoned. When it comes to reorganizing competences among the Bosnian levels of government, Bosnian Croats usually argue for a model that allocates as much power as possible to the Cantons because the Croat-majority Cantons are the only level of government where Croat parties hold a dominant position.

In the initial years after Dayton, the Bosnian Croat political elite largely ignored the DPA constitutional framework and continued governing Croat majority areas *via* the parallel 'Herceg Bosna' institutions that were closely integrated into Croatia proper and governed by HDZ BiH²⁸ (Bojicic-Dzelilovic 2004, Gosztonyi 2003, ICG 1998). After the Washington Agreement in 1994 and particularly after the Dayton Agreement, the Croatian government came increasingly under pressure, both internally and from the international community, to loosen its ties with Herceg Bosna. This pressure intensified once Croatia sought integration into Western regional structures (Manning 2008, p. 86). In 2000, political change in Croatia after the death of Tudman brought Herceg Bosnia's close ties to an end (Hagelin et al.

²⁷ The Croat share of population according to the 1991 census was 17.4% (Federacija Bosne i Hercegovine Federalni Zavod za Statistiku without year). It is decreasing continuously due to emigration to Croatia.

²⁸ In the following, I use HDZ BiH and HDZ interchangeably, referring to the Bosnian party, not to HDZ in Croatia.

2004, p. 40). In 2001, OHR and SFOR mostly succeeded in destroying Herceg Bosna parallel structures that were already weakened by the end of support from Croatia (ICG 2001c). HDZ BiH's leader Ante Jelavić was banned from public office by OHR, although he and his associates were replaced by a group around Dragan Čović that held similar views. The closed character of the top HDZ BiH leadership allowed little room for others in the party to participate in party leadership and politics. In 2005, this led to increasing conflicts between the HDZ BiH leadership and a group around Božo Ljubić and Martin Raguz who eventually left HDZ BiH to form the new HDZ 1990 (Manning 2008).

The dominant party in Bosnian Croat areas is the HDZ BiH, which has split twice. In 1998, a group dominated by Central Bosnian interests broke away and founded the NHI (New Croat Initiative) (Bojicic-Dzelilovic 2004). The NHI was part of the 'Alliance for Change' that formed a national government from 2001 to 2003. Within the Croat-controlled Cantons, however, NHI never was a serious challenge to the HDZ BiH and has not played a role in national politics or in any of the reform issues to be discussed in subsequent chapters below. It will not be treated in detail, therefore. In 2006, another split in the HDZ BiH led to the foundation of the HDZ 1990, which positioned itself as more nationalist and more catholic than HDZ BiH (Interview with Asim Sarajlić 2011). Both parties however often act together and within the international community in Bosnia are often referred to as 'the HDZs'.

Until early 2006, the HDZ BiH claimed the exclusive right to representing Bosnian Croats (ESI 1999, p. 7, Gavrić and Banović 2007, p. 56). The inner circle controlled the parallel institutions of 'Herceg Bosna', while 'moderates' from Central Bosnia were sent to represent the Bosnian Croats in the central state institutions (ESI 1999). The internal structures of Herceg Bosna (and HDZ BiH with it) have been described as "the purest example of the transformation of communist structures into a one-party, nationalist system with authoritarian control over all political, social and economic affairs in its territory" (ESI 1999, p. 7). Gosztonyi (2003) however argues convincingly that this transformation was superficial and Herceg Bosnia did not have an efficient internal structure and demonstrated little ability to act strategically. These weak party structures have continued into the post-Herceg Bosna period, and international representatives often believe the party leader Dragan Čović to be the only one responsible for decision-making and hence the only sensible interlocutor for political negotiations (Interview with a Representative of a Western Embassy 2011a).

The HDZ 1990 emerged in 2006 as a break-away faction of HDZ BiH. It broke away not due to differences in political program but due "to the domination of individual interests" (Divjak and Pugh

2008, p. 378). The split occurred after HDZ BiH president Ćović had been indicted for misuse of office (Gavrić and Banović 2007). Almost all members of parliament of HDZ BiH switched to HDZ 1990 (Gavrić and Banović 2007). The new HDZ 1990 also had the support of Croatia's HDZ and the Catholic Church in Bosnia (Gavrić and Banović 2007, Morrison 2009, p. 3). In the 2006 elections, HDZ 1990 won an almost equal share of the vote as HDZ²⁹, but only half of that share in the 2010 elections (Izborna Komisija Bosna i Hercegovina 2010).³⁰ The HDZ 1990 is centered around its leader Božo Ljubić.

Compared to Bosniak and Serb political elites, the Croats find themselves somewhere in the middle in terms of organizational capacity, which is an assessment shared by observers of the political spectrum in Bosnia (Interview with a Representative of a Western Embassy 2011a). Both HDZ's are driven from the top, but despite the lack of efficient party structures there is not a lot of jostling for power between different power centers within the parties. In 2006, by comparison, such competition for power existed, which led to the formation of HDZ 1990. Since then, both parties have cooperated closely (Interview with Asim Sarajlić 2011).

As the smallest of the three constituent peoples, the Croats have coercive capacity by being able to tip the scales in conflicts between Bosniaks and Serbs. Like the two other groups, they are able to block political decision making. In 2010, for example, after the elections, they refused to send delegates to the Federation house of peoples, thereby blocking the formation of a government, putting pressure on SDP (Arslanagic 2010c, ICG 2011b). The Croats have also threatened to revive Herceg Bosna structures, thus blackmailing both Bosniaks and the interveners. For example, when SDP attempted to form a government in the Federation without the participation of the two HDZ's, HDZ BiH representatives threatened to leave the Federation institutions altogether and revive Herceg Bosna (Azinović et al. 2011), and the HDZ's announced the formation of a Croat Assembly in the Federation, which would be parallel to the official institutions (Hadzovic 2011a, ICG 2011b).³¹ In the earlier years of intervention, Croats have frequently mobilized street protests and violence primarily *via* war veterans' organizations (Bojicic-Dzelilovic 2004, ICG 2001c), often directed against the interveners. While this opportunity still exists, it has not been used on a larger scale since 2001.

The HDZ's see themselves as the only legitimate representatives of Bosnian Croats. They base this claim on group representation and electoral legitimacy, referring to the fact that they hold a majority of

29 6.3% compared to 7.3% for HDZ for the Federation Parliament (Gavrić and Banović 2007, p. 59).

30 HDZ BiH got 10.99% and HDZ 1990 4.81% in the Federation for the BiH House of Representatives, for the Federation House of Representatives, the shares of the vote are 10.64% for HDZ BiH and 4.68% for HDZ 1990.

31 The HDZ's lost this struggle and did not become part of the Federation government.

votes among Bosnian Croats. One example is the election of Željko Komšić of SDP as Croat member of the presidency in 2006 (Džihic 2011, p. 63).³² The presidency is elected in the entities, meaning that the RS elects the Serb member of the presidency and the Federation elects the Bosniak and Croat members. This is done on entity level rather than based on voter ethnicity. Komšić as a Croat candidate got more votes than the HDZ candidate because he got a lot of votes from Bosniak voters.³³ In the eyes of the HDZ's, this made Komšić an illegitimate Croat member of the presidency. The election of Komšić inspired renewed calls for a third entity and an alliance with Dodik in the RS who supported this claim as it strengthened the territorial principle of dividing power in Bosnia (Džihic 2011, p. 63). The HDZ's legitimize their claims by reference to group rights in other areas as well. They tend to emphasize the ethnic power-sharing elements of Dayton over the territorial provisions. In light of recent discussions about the discrimination of minorities *vis-à-vis* the constituent peoples within the Bosnian constitution, Croat representatives, for example, often argue that *all* discriminating elements need to be removed from the constitution. This refers for example to the principle of entity voting which disadvantages Croats who do not control or dominate an entity (Interview with Barisa Čolak 2011).

To summarize briefly, the interests of the Bosnian Croat political elites are geared towards avoiding dominance by Bosniaks and Bosnian Serbs. In recent years, this resulted in negotiating positions that focused on strict ethnic quota at the central state level and on the devolution of political authority to the cantons. The organizational capacity of Bosnian Croats suffers from a lack of internal party structures and from splits within HDZ as the main party. It is however not as weak as the organizational capacity of the Bosniak political elites. While Bosnian Croats in principle have coercive capacity by blocking peacebuilding and state institutions, in cases where they opposed intervener initiatives, they often chose to rely on Bosnian Serb coercive capacity instead. Both HDZ and HDZ 1990 draw their legitimacy from claiming to be the 'true' representers of the Bosnian Croat population, and by insisting on minority rights. Their dominant status among Bosnian Croat voters suggests that both claims are supported by their electorate.

5.2.3 *Bosnian Serb Political Elites*

During the war, Bosnian Serb politics and war strategies aimed at creating an 'ethnically pure' Republika Srpska in as large a territory as possible, and to prepare this entity for eventual unification with Serbia. Both aims were essentially achieved when the war ended (ESI

³² Komšić left SDP in 2012 to form his own party, the Democratic Front (Efendic 2013).

³³ At least this is what is suspected. Votes are not counted on basis of ethnicity.

1999, p. 11). In Dayton and after, the aim was to maintain as much as possible of this autonomy and the long-term option of secession from Bosnia (ICG 2001d, Petritsch 2001). Against this backdrop, the Bosnian Serb stance towards the Agreement of Dayton changed substantially over the years. Initially, Bosnian Serb political elites attempted to implement as little of the Dayton provisions as possible, as it would have meant a closer integration with the Bosnian state. When Paddy Ashdown's mandate as High Representative (HR) began, however, the interveners started reinterpreting their mandate. Seeing that the complicated power-sharing system instituted with Dayton did not create the stability desired by the interveners, policy changed from implementing Dayton to overcoming Dayton. Intervention thus became concerned with creating a more centralized state that was less focused on ethnicity than had been envisaged in Dayton (Ashdown 2002, Ashdown 2007, p. 221/22, Hays and Crosby 2006). This change of intervener policy endangered Serb aspirations to autonomy and possibly independence. From the Bosnian Serb perspective, Dayton now became the main safeguard for the existence of the RS and for maintaining its competences. Since the interveners changed their policy towards overcoming Dayton, the Bosnian Serb political elites usually insist on the exact implementation of the Agreement.³⁴

Three main parties have dominated the Bosnian Serb political landscape since Dayton. During the war years, and the immediate years after, the SDS was most prominent. The PDP was the party of all post-war governments up to 2006, while the SNSD has been the most influential party in Bosnian Serb politics since then.³⁵

Displaced Serbs comprised the core constituency of SDS, the dominant party of the war and early post-war years (ICG 2001d). The SDS always incorporated various factions, such as regionally-based groups around local strongmen who had concentrated economic (legal and illegal) and military power in their hands during the war (ICG 2001d). In terms of ideology, the party was and largely continues to be Serb nationalist, though "Some were true believers in 'heavenly Serbia'; others were homicidal maniacs; and still others were opportunists with eyes on the main chance." (ICG 2001d, p. 20) In the early years after the war, the party was dominated by a small group centered around the war-time leaders Radovan Karadžić, Momčilo Krajišnik and Biljana Plavšić, and the regional center of power was situated in Eastern RS between Bijeljina and Pale (ESI 1999). Splits within this leadership were exploited by the interveners to enthrone Biljana Plavšić as RS president in 1997 and to move the power center

³⁴ Though their interpretation of what that means has been referred to as "Dayton à la carte" by Haris Silajdžić of SBiH as well as by international observers (Bassuener 2010, Bieber 2010a, Morrison 2009, p. 15, US Embassy in BiH 2007e).

³⁵ In the early years, the SRS (Serb Radical Party) also played an important role as close ally of SDS, but as the party hasn't been relevant for any of the case studies that follow, it is not described in detail here.

away from Pale to the more cooperative regional grouping around Banja Luka (ESI 1999).³⁶ In later phases, the main cleavage within SDS was between those who were powerful during the war and those who joined the party later on. From 2002 onwards and especially after OHR removed a lot of SDS officials in summer 2004, a new party leadership around Dragan Čavić followed a substantially more pragmatic course, though faced with strong opposition from SDS hardliners (Lindvall 2009, p. 191). Čavić left the party in 2009 (Latal 2009). The SDS has been in opposition since 2006. Consequently, it is largely cut off from profiting from the state apparatus, in terms of both economic and organizational capacity.

The SNSD was founded by Milorad Dodik in 1996. As a party that was not involved in the war, it was for a long time considered 'moderate' by the interveners and as such heavily supported. It used to describe its position as social democrat (ICG 2003), though there have been disputes about this in recent years that culminated in the exclusion of the party from the Socialist International in September 2012 (Jukic 2012b). The SNSD headed an RS coalition government for the first time from 1998 to 2001, but it remained weak in relation to the entrenched power of SDS, and the dire economic situation in the RS further diminished its range of action (ESI 1999). It soon gained in popularity again, presenting itself as a more modern alternative to SDS that was increasingly perceived as backwards and old fashioned. And while Dragan Čavić became increasingly under pressure to cooperate with the interveners on initiatives as unpopular as police reform (see Chapter Seven), SNSD was able to present itself as an alternative that would stand up to the interveners as well (Gavrić and Banović 2007). A successful vote of no confidence in spring 2006 made Dodik RS premier a few months before the elections (Gavrić and Banović 2007, Gromes 2007). SNSD won the 2006 elections in the RS with 43.3% of the vote (as opposed to 18.3% for SDS) (Gavrić and Banović 2007) and was the first party to hold an absolute majority in the RS National Assembly (RSNA). The electoral campaign had been dominated by nationalist rhetoric and also by clear opposition to the policies of the interveners (Gavrić and Banović 2007, p. 58). The SNSD has clearly dominated RS political life ever since. Furthermore, its control goes beyond the narrow political realm. It allegedly has tight control of the civil service, of most media outlets, of the economy and it also controls NGO activities with a heavy hand (Interview with Aleksandar Trifunović 2011, Interview with an OHR Official 2011d, Rathfelder 2008, US Embassy in BiH 2008a).³⁷ In addition, informal

³⁶ (ESI 1999) provides a very informative account of how this happened. The so-called 'transmitter war' constituted the first instance where the interveners actually used the threat of armed violence, and it also prepared the ground for the 'Bonn Powers' that turned OHR into a de facto transitional administration.

³⁷ The latter was reported by RS NGO activists at a discussion event hosted by the Foundation Schueler Helfen Leben in Berlin on 30.11.2011.

mechanisms of control as well as corruption are reported to be very entrenched, though little is known about the actual workings of the 'Dodik system'.³⁸ One OHR representative described this:

"The political compliance of everyone in the RS, and I have experiences, outside of my job in OHR, but through social contacts, business contacts, people who interact with them, as businessmen, who have nothing to do with this political debate, even they buy in to this political debate. So the level of discipline is incredible. And that explains the depth of the problem. Because the buy in of the idea has trickled all way down clearly through the mid ranks of the civil service, the mid managers and the entity ministries and state ministries, that's easy, those guys they know exactly what their lines are, but it trickled down to into business circles, and citizens blogs, and student activities, it is everywhere. I don't know who or what process can reverse that." (Interview with an OHR Official 2011d)

The SNSD is also reported to have very tight and efficient internal structures. It is described as "a very controlled party" (Interview with a Representative of a Western Embassy 2011b), the only party next to SDP that has internal structures and is able to act strategically as a party (Interview with a Representative of a Western Embassy 2011a). It is also said to have clear internal guidelines of how to deal with the interveners and with foreigners in general (Interview with a Representative of a Western Embassy 2011b, Interview with an SBiH Representative 2011).

The PDP is a relatively small party that is also considered moderate by the interveners, and its leader Mladen Ivanić was liked and supported by the interveners especially after the first Dodik government failed (ICG 2001d).³⁹ The party is largely centered around Ivanić without a clearly defined political program. Although small in size and percentage of votes, the PDP has been important in RS politics as it was a member of every governing coalition up until the 2006 elections, and was usually the crucial factor in forging a majority for the

³⁸ I find it remarkable that there is a lot of talk about corruption and autocratic methods in the RS, but no research at all. Research on how corruption turns into a mode of governance and on how precisely these informal systems work exists for other post-socialist areas such as Ukraine or the Southern Caucasus (Christophe 2004, Darden 2002, Di Puccio 2004, Smolnik 2012). Such research would be highly useful for Bosnia and the RS in particular. My explanation for the lack of such research is the fact that Bosnia is subject to peacebuilding. First, this leads foreign researchers to focus almost exclusively on issues of intervention. This focus implies that very little attention is paid to local power structures, at least in those realms unconnected to peacebuilding issues. And second, the large number of international governmental and non-governmental organizations in Bosnia has led the SNSD government to develop clear rules and strategies for dealing with those foreigners, meaning that it is very difficult to obtain the information necessary for research on informal power structures. For example, SNSD has clear rules for who is allowed to talk foreigners, and when (Interview with an SBiH Representative 2011).

³⁹ Not least because he is fluent in English and generally well able to adapt to the intervener *habitus*.

one camp or the other (Gavrić and Banović 2007, Gromes 2007, ICG 2003). While being viewed as 'moderate' by the interveners, in the Federation PDP is seen "as the SDS's smarter and smoother younger brother" (ICG 2003, p. 24).

While organizational capacity was high in the early years after Dayton with SDS firmly in control in the RS, this changed later on, also due to intervener attempts to weaken SDS (ESI 1999, Lindvall 2009, p. 189ff). Ever since SNSD has governed the RS, organizational capacity is decidedly higher than it is among the Bosniaks or Bosnian Croats. SNSD has built on its absolute majority in parliament, tight and efficient party structures, and solid informal control of most other spheres of public life. Additionally, as the RS is centralized, it is much easier to control than the Federation. As a consequence, the RS also holds a great deal of control at the central state level, because no decisions can be taken without RS consent.

Both SDS and SNSD governments have employed coercive capacity by blocking political process at the central state level. For example, the RS prime minister, his government, the BiH Minister of Foreign Affairs and the BiH Minister of Communication and Transport resigned in protest to pressure on police reform (ICG 2005, p. 8). In 2007, the Bosnian Prime Minister Nikola Spiri (from SNSD) resigned and the all other RS representatives in the Council of Ministers threatened to resign in response to OHR attempts to change the voting procedures in the Council of Ministers (Džihic 2011, p. 66, Tolksdorf 2011). This threat proved successful, as OHR eventually had to back down on the issue.⁴⁰ In so doing, the interests of the interveners were undermined as it rendered central state institutions dysfunctional. Another means of pressure that has been applied is the invention of facts on certain issues. For example, a referendum that Dodik prepared to hold in 2011 would have undermined the authority of BiH courts in the RS (ICG 2011c, Kovačević 2011). The interveners finally gave in by promising Dodik negotiations on the judicial system, and in response the referendum was postponed indefinitely (Hadzovic and Remikovic 2011). Another example of these kinds of strategies the passing of an RS law on state property obstructing a BiH-wide solution which was one of the conditions for OHR closure.⁴¹ Although the law was declared unconstitutional in July 2012 (Katana 2012a), the move was successful in halting the negotiation processes on state property in the meantime.

Bosnian Serb political elites have legitimized their claims by insisting on their right to ethnic autonomy. Once the interveners focused on moving beyond Dayton, RS representatives increasingly drew on the Dayton Agreement to do so (see above). SDS enjoyed large popular legitimacy in the early years after the war, while SNSD clearly profits from popular legitimacy since 2006. Its absolute majority puts

⁴⁰ For details on both issues, see Chapter Seven below on police reform.

⁴¹ For details, see the case study on state property in Chapter Eight.

it in position to openly confront OHR, through which it gains additional respect among the population. Lastly, another way of generating legitimacy lies in being 'more professional'. RS representatives have frequently been judged as being better prepared than their Federation counterparts in meetings with the interveners (Interview with an OHR Official 2011e, Interview with Christian Haupt 2011, Interview with Heinz Vetschera 2011). In general terms, the RS has been said to work much more smoothly and efficiently than the Federation. In October 2012 for example, Dodik argued that the RS would eventually become independent, seeing that it was in his eyes "the only self-sustainable community in Bosnia-Herzegovina in economic, political and every other sense." (Barlovac 2012) These arguments are often used to legitimize unilateral moves by the RS on issues that are intended by the interveners to happen at the central state level. For example, the RS created its own EU Integration Unit within the Ministry of Interior, while the EU clearly prefers to interact with the state rather than the entities. Officials working at the RS Unit argued that it was founded because they "waited for some time that something happens at some institutions, but nothing happened, so now we do it." (Group Interview at the RS EU Integration Unit 2010).

Furthermore, the RS under the SNSD government clearly has invested resources in communicating with the interveners using their own arguments and the same language. The RS has published numerous reports to the UN Security Council, explaining their stance towards the issues presented to the Security Council by the High Representatives (Office of the Prime Minister 2011, Republic of Srpska Government 2009). In their central arguments, these reports build on democracy, the rule of law, human rights and stability (Distler and Riese 2012, Office of the Prime Minister 2011). These arguments are used both to prevent centralizing measures in Bosnia and to criticize OHR. One example concerns constitutional reform, where the RS wanted to avoid political negotiations and legitimized this by reference to democratic procedure:

"Constitutional reform must be accomplished through a transparent, democratic and constitutional process in order to achieve legitimate and enduring reform." (Republic of Srpska Government 2009, p. 4)

On more general terms, international interference in Bosnia is criticized as undemocratic and violating international law:

"International law and rule of law must be adhered to by all parties, including the international community and especially the High Representative." (Republic of Srpska Government 2009, p. 4)

and

"The international community can play a beneficial role in its relations with BiH, but only if members of the international community respect and defend the rule of law and constitutional democracy, including with regard to their own actions and actions of the High Representative. [...] Questioning actions of the High Representative and seeking the views of our citizens are not violations of the Dayton Accords, but are means of exercising democracy and legally protected rights." (Office of the Prime Minister 2011, p. 3/4)

Not only do the reports employ the same language and the same key words as the interveners, but by quoting the International Crisis Group, the European Stability Initiative and the Balkan Crisis Reports of the Institute for War and Peace Reporting, these reports refer to the very same sources as those consulted by the interveners.

Finally, the RS has not only learned to speak 'peacebuilding language', it has hired people to do so. Many interview partners pointed out that the RS hired US companies to lobby on their behalf in Washington and Brussels (Interview with a Representative of a Western Embassy 2011b, Interview with an SDP representative 2010b, Interview with Kurt Bassuener 2010, Interview with Tilman Enders 2010). According to a Constitutional Court ruling, the RS has allocated funds in its budget in 2008 and 2009 "for the representation of RS abroad" and, to this effect, entered into contracts with Quinn Gillespie & Associates in the US and Hill & Knowlton International in Belgium (Constitutional Court of Bosnia and Herzegovina 2009). In 2009, for example, the company Dewey & Le Boeuf sent a lengthy reply to various hosts and participants of a discussion event organized by the United States Institute of Peace at which Paddy Ashdown had presented his ideas for a 'muscular intervention' in Bosnia. The central argument of Dewey & Le Boeuf's response was that for solutions to be lasting and legitimate, they had to come from within rather than outside Bosnia (Picard 2008). In February 2010, a "Republika Srpska Update" distributed by Quinn Gillespie pointed out that the PIC SB had reiterated that constitutional reform was not a condition for OHR closure (the RS wants to avoid constitutional reform), and that Serbia's Foreign Minister had argued that a centralized state was "not a viable outcome" in Bosnia (Quinn Gillespie & Associates 2010). In summer 2010, Quinn Gillespie also circulated a document in US political circles stating how the RS government was praised by the Bosnian Islamic community for restoring a mosque in Banja Luka (Milošević 2010). The RS was represented by Quinn Gillespie from 2007 until 2010, and since then has been represented by Picard Kentz & Rowe LLP (Hopkins 2011). Besides maintaining political contacts, the company also runs a website called 'BiH Dayton Project' that provides information on Bosnia "for journalists, scholars and policy makers" with a clearly critical position towards OHR.⁴² In 2009, the RS was re-

⁴² See <http://www.bihdaytonproject.com>.

ported to be the third highest spender on political lobbying in Washington, after the Cayman Islands and the United Arab Emirates. In comparison, Bosniaks and Croats invest in lobbying only on a very small scale (Hopkins 2011). There appear to be two objectives to RS lobbying in Washington. Firstly, it has sought to change the US position on certain issues by way of circumventing the US embassy in Sarajevo. However, as US decision-makers rely on their embassy for policy advice on Bosnia, the impact of this strategy is likely to be limited. A second objective was possibly more successful. In more general terms, RS lobbying has intended portraying OHR as the real problem in Bosnia and slowly but surely turn international opinion against OHR (Interview with Tilman Enders 2010).

To summarize briefly, Bosnian Serb interests center on ethnic autonomy. Their organizational capacity was subject to changes over time. It was high in the immediate years after Dayton, then decreased as SDS lost its dominant position, and rose again substantially since SNSD is firmly in control in the RS. The Bosnian Serb political elites also have high coercive capacity since they can threaten to let peace-building fail, and, by controlling one of the two entities, are in a good position to follow through on such threats. The SNSD government has established tight control in the RS and has developed efficient 'tools' for engaging with the interveners. Especially since the interveners increasingly seek to overcome rigid power-sharing provisions, the Bosnian Serb political elites draw on the Dayton Agreement as base of legitimacy, next to very substantial popular legitimacy.

5.2.4 *Bosnian Political Elites and Economic Resources*

While Bosnia is not as poor as most other intervention states, economic resources are generally scarce. In interaction with the interveners, this scarcity of resources has been used frequently by the interveners for attempts at 'bribing' the Bosnian elites into accepting reforms.⁴³ For some years after 2006, the RS was less dependent on intervener funds than the Federation was, adding to Milorad Dodik's ability to openly confront the interveners.

Data on the financial situation of the individual political parties in Bosnia is available from 2005 onwards but only for individual years rather than in aggregate.⁴⁴ Furthermore, it is likely to be misleading as many parties receive substantial support in-kind, such as the provision of office spaces for example, and the reports are not transparent (Transparency International Bosna i Hercegovina 2010). Most parties and especially those in government, probably also have access to funds informally or illegally, *via* quasi-state owned banks, state-

⁴³ Defense reform is an example where this played a large role, see Chapter Six.

⁴⁴ Data provided by the parties is available in Centralna izborna komisija Bosne i Hercegovine, 2013.

owned companies and the like (ESI 1999). An assessment of economic resources below uses information on entity finances, which are accessible to those parties in government at a given time in the Federation and the RS.

As can be seen in the table below, economic resources are and were scarce, both in the Federation and in the RS. This proved to be a powerful argument for reform in all three cases of reform initiatives that this thesis investigates, but especially in defense reform, as defense budgets constituted a substantial share of the overall budget both in the Federation and the RS.

	FEDERATION	RS	RS % OF FBH
2000	1.788,22	1.173,84	65,64
2001	1.898,42	1.257,14	66,22
2002	2.046,89	1.603,67	78,35
2003	2.124,52	1.606,37	75,61
2004	2.263,15	1.804,10	79,72
2005	2.406,59	2.037,15	84,65
2006	2.694,35	2.317,56	86,02
2007	3.047,49	2.610,66	85,67
2008	3.430,36	3.019,42	88,02
2009	3.340,71	2.929,49	87,69
2010	3.435,61	2.964,19	86,28
2011	3.544,07	3.093,35	87,28

Table 3: GDP per capita in Euro in Federation and RS and GDP of RS as percentage of GDP in Federation⁴⁵

Between 2000 and 2011, GDP per capita was constantly lower in the RS than in the Federation but the difference between the two entities decreased steadily until 2005 and has remained relatively constant since. The RS budget, however, got a significant cash infusion in 2006 when RS Telekom was sold to Telekom Srbija. It was sold

⁴⁵ I excluded GDP per capita in Brčko District. The GDP data is taken from publications of the Bosnian Statistical Agency (Agencija za statistiku Bosne i Hercegovine 2010, Agencija za statistiku Bosne i Hercegovine 2011, Agencija za statistiku Bosne i Hercegovine 2012) which bases its reports on data collected by the statistical agencies of the Entities and Brčko District. The data for 2011 is based on first results only. The data is published in KM but here reported in Euro. The KM is pegged to Euro with an exchange rate of 0,51129. Data for population in the RS and Federation statistical agencies, as the Statistical Agency of BiH only uses official census data, with the last census in 1991. In RS, data was available for all relevant years up to 2010 (Republika Srpska Republički Zavod za Statistiku), for 2011, I used the population figure for 2010. In Federation, only the statistical yearbook of 2011 is available online, which reports only the population figure for 2011 (Federacija Bosne i Hercegovine Federalni Zavod za Statistiku 2012).

for 646 million Euro, which was a lot more than expected both by outside observers and by the RS itself (Falconer-Stout 2009). This price has been interpreted as a subsidy from Serbia to the RS, as Telekom Srbija is state-owned (Falconer-Stout 2009, Interview with an OHR Official 2011a). While this deal was made by the SDS government, the new Dodik government greatly profited from it, using these funds and those from other privatizations to increase its popularity by spending it on salaries, health care and pensions (Interview with an OHR Official 2011a). The Federation at the same time got into substantial financial trouble, as it issued a law increasing payments to war veterans and widening eligibility for these funds short before the elections in 2006 (Falconer-Stout 2009). From that time until at least 2008⁴⁶, the Federation was “in a near constant state of budgetary crisis.” (Falconer-Stout 2009, p. 48) Table two, below, shows the increases in public spending in 2006 in both the RS and the Federation. Taking into account the fact that defense spending was transferred to the central state in 2006, these increases are even larger (Zupcevic and Causevic 2009, p. 34).

LEVEL OF GOVERNMENT	2003	2004	2005	2006
BiH (State)	101,24	125,27	241,84	410,05
FBiH (Entity)	512,06	492,27	495,03	600,82
FBiH cantonal/municipal budgets	722,71	797,92	852,73	817,14
RS (Entity)	506,89	509,55	508,73	546,36
RS municipal budgets	152,52	173,74	187,54	204,4
Brčko District	89,48	79,76	91,52	102,77
Total Budget	2.084,89	2.178,50	2.377,40	2.681,56
Budget expenditure as % of GDP (excluding social insurance transfers)	33,1	31,5	31,3	32,8

Table 4: Budgetary spending in million Euro, data from (Zupcevic and Causevic 2009, p. 34)⁴⁷

Within the Federation, Bosnian Croats had until 2001 been running their own informal system of generating funds and channelling funds from Croatia to Croat areas in Bosnia. This system was however largely destroyed in 2001 by OHR and SFOR raids of Herzegovina

⁴⁶ Falconer-Stout's thesis covers only the period until 2008, and it unfortunately is the only detailed account of economic developments in the entities, rather than BiH as a whole.

⁴⁷ Zupcevic and Causevic used data provided by the Ministry of Finance and Treasury of BiH, FBiH Finance Ministry, RS Finance Ministry and the Central Bank of BiH. They report the data in KM, I converted it to Euro.

Banka (Bojicic-Dzelilovic 2004, ICG 2001a, ICG 2001c, Zaum 2007), and funds from Croatia stopped flowing after the change of government there the same year (Bieber 2001, Hagelin et al. 2004, p. 90, ICG 2001b, p. 11/12). Likewise, Bosnian Serbs had received substantial financial support from Serbia (particularly in the defense sector) in the 1990s, this support declined considerably after the end of the Milošević regime (Hagelin et al. 2004, p. 90).

To summarize briefly, economic resources were scarce for both entities. In addition to domestic revenue, Bosnian Croat and Bosnian Serb political elites had profited from financial support from Croatia and Serbia in the 1990s, but this declined significantly or stopped in the 2000s. The RS government of Milorad Dodik profited from the sale of RS Telekom in 2006, and all parties had some access to informal financial flows *via* the control of publicly-owned companies and the like (ESI 1999). Despite these foreign and informal sources of economic resources, however, all groups generally lacked funds that the interveners were able to provide.

5.3 THE INTERVENERS

Among the interveners, the dominant actors are OHR (Office of the High Representative), the PIC SB (Peace Implementation Council Steering Board) countries and embassies, and the EU (European Union). These are discussed in this section. Some other organizations were relevant only to individual case studies (OSCE and NATO for defense reform and the EUPM, the EU Police Mission as a sub-unit of the EU, for police reform) and are introduced within the case study chapters. The section starts with a brief discussion of the general interests driving intervention in Bosnia and then describes OHR, the PIC SB and the EU in terms of their interests, organizational capacity, coercive capacity and legitimacy. The last section discusses economic resources, again for intervention in general rather than for individual organizations.

5.3.1 *Interests: The Goals of Intervention*

The stated objectives of intervention in Bosnia were and are to build peace in Bosnia through developing a democratic and multi-ethnic state. In practice, this proceeded from keeping the peace, *via* building up state institutions, and only, then, democratization (Evenson 2009b, p. 48). With respect to a multi-ethnic state, the ethnic power-sharing that was implemented as a result of Dayton was a compromise that the interveners increasingly saw as an obstacle to the development of a reasonably stable state (Bieber 2006). Consequently, from about the time that Paddy Ashdown took office as High Representative in 2002, overcoming Dayton and constructing a more integrated politi-

cal system became the issue of the day. At the same time, EU integration appeared on the agenda as a credible perspective for Bosnia. At their summit in Thessaloniki in 2003, the EU member states officially opened up a membership perspective for the South East European states (European Union, 2003). This statement was decisive for the peacebuilding agenda in Bosnia in two ways. First, it added a whole new area of reforms that were directed towards fulfilling EU accession criteria. Second, as intervention now did not rest on implementing Dayton anymore but rather on moving beyond Dayton, the EU accession perspective became the new driving force and justification behind intervener initiatives. In 2003, the ICG assessed that “Lord Ashdown aims to put himself out of a job by putting BiH on the road to the EU.” (ICG 2003) EU integration thus became both the main goal of intervention as well as the interveners’ exit strategy.

5.3.2 *The Office of the High Representative*

OHR was set up by the Peace Implementation Council as the main agency overseeing the implementation of the civilian aspects of the Dayton Agreement. It was tasked with monitoring implementation, coordinating international organizations that were involved in implementing Dayton, facilitating the resolution of difficulties in implementation, participating in donor conferences and providing guidance to the UN police mission (Dayton Peace Agreement 1995, Annex 10, Article II.1). It was to report to the UN, EU, US, the Russian Federation, and other organizations or governments that were interested. The OHR was to maintain close contact with IFOR (later SFOR, then EUFOR), but did not have authority over the military branch of intervention. When the EU took over the military force, this was changed and the High Representative, in his capacity as European Special Representative (EUSR) now officially led the force politically (Laudes 2009, p. 67). EUFOR however had a much reduced troop strength compared to IFOR and SFOR, decreasing from almost 60,000 in 1996 to 7,000 when EUFOR started in 2004 and 2,200 in 2008 (Laudes 2009, p. 68, Wentz 1997). Importantly, the Dayton Agreement named OHR the “final authority in theater regarding interpretation” of the Agreement (Dayton Peace Agreement 1995, Annex 10, Article V). Originally, this did not imply executive powers for OHR. This situation changed in 1997 when the so-called ‘Bonn Powers’ gave OHR the power to enact provisional legislation and to dismiss officials that OHR believed were obstructing the process of DPA implementation (see below on coercive capacity).

After the initial years of building up the organization, OHR turned into a well-funded and well-staffed organization. From 1996 to 2004, its budget was usually between 20 and 30 million Euro, according to Walter Laudes (2009, p. 83). Its budget decreased substantially from

then, however, to around 15 million in both 2005 and 2006, to around 10 million each year after that, up to the time of writing.⁴⁸ From 2000 to 2004, it had a staff of between 600 and 700, which then declined steadily to 250 in 2007⁴⁹ and to 135 in 2012 (Laudes 2009, p. 82, OHR 2012). The decrease in funding and staffing mirrors the debates around the closure of OHR that dominated international policy in Bosnia from 2006 onwards.

OHR's internal organizational capacity was usually high. This has been attributed to the fact it is not part of a larger and very bureaucratic international organization, but was created for the purpose of implementing Dayton and was thus able to adapt flexibly to new tasks (Interview with an OHR Official 2010a).⁵⁰ It is also an organization that usually had clear leadership and was very much shaped by the different High Representatives during their mandates. In particular, Wolfgang Petritsch and Paddy Ashdown have been described as strong leaders who still had "*fans*" within the organization a long time after they had left (Interview with Kurt Bassuener 2010). In addition, both Petritsch's and Ashdown's mandate coincided with a time when OHR was perceived externally as strong (Interview with Stefan Simosas 2010). The High Representative is supported by a cabinet whose members are chosen each time by the new High Representative. The HR and cabinet serve as the organization's strategic center (Ashdown 2007, Interview with Kurt Bassuener 2010, Interview with Stefan Simosas 2010).

The fact that OHR is not a UN organization also has implications for its personnel. While part of the personnel is seconded from PIC governments, the larger part is hired directly by OHR. Many of the people at OHR have a previous working history in the region and have brought this expertise into the organization. In addition, OHR employees tend to stay very long.⁵¹ The majority of my interview partners in OHR had been in the country for ten years or more, many consistently with OHR and some with other organizations or think tanks before joining OHR. Three of my interview partners at OHR, for example, had worked with a range of international think tanks

48 Laudes reports data until 2009. OHR's budget in 2012/13 was just above 8 million Euro (OHR 2012b).

49 Data provided by Laudes includes contracted personnel but not seconded personnel (Laudes 2009, p. 83). OHR data for 2012 includes seconded personnel (but there were six seconded OHR officials only).

50 I do not have personal insights into the inner workings of UN interventions, but existing research suggests that communication with the headquarter takes a lot of time and effort before decisions can be taken (Winckler 2010).

51 This is not particular to Bosnia. Conversations with researchers and practitioners with expertise on peacebuilding in Kosovo, Liberia and (South) Sudan confirmed that personnel in international missions there also tends to stay for many years, with the exception of those places where living conditions are exceptionally harsh. Peacebuilding personnel in Bosnia often has an even longer history in the country and the mission, but this is also due to the fact that peacebuilding in Bosnia started earlier than, say, in Liberia.

and media outlets in the region prior to joining OHR. The ability to hire directly and the resulting mix of personnel were frequently been given as a reason for high organizational capacity (Interview with an OHR Official 2010a, Interview with an OHR Official 2011a, Interview with Stefan Simosas 2010). As a result, OHR was seen as having a good balance between ‘diplomats’ and “people to get practical things done” (Interview with an OHR Official 2010a).

Organizational capacity has declined over time, however, particularly since 2006, with reduced personnel and funding and the prospect of OHR closure on the horizon. The expectation of possible closure, in particular, has impeded long-term planning (Interview with Stefan Simosas 2011) and has also led to instability among staff. Those OHR employees who were not seconded by their governments have had to start thinking about other job opportunities, for instance (Interview with Barkin Kayaoglu 2010).

In order to make decisions and implement them, OHR is also restricted by the PIC and its Steering Board in particular. While ‘strong’ High Representatives such as Paddy Ashdown were able to control and direct the PIC Steering Board to a large degree (Interview with Kurt Bassuener 2010), in later years, this has not been the case. The ability of Ashdown especially to direct his directors was in part rooted in the Bonn powers that were still used frequently at that time:

“Ashdown always counted on the Americans and Brits, at PIC meetings he was in reality running the show. That’s not happening anymore. The High Rep had a toy that everyone wanted to play with – the Bonn Powers. [...] Everybody wanted to make their agenda the High Rep’s agenda. Christian Schwarz-Schilling said no Bonn Powers, so there was no hub anymore. If you are not willing to do that anymore, then why should be coordinated by you?” (Interview with Kurt Bassuener 2010)

Additionally, in recent years, the PIC SB has not had a common policy on Bosnia (see below). Disunity in the PIC SB however means that OHR’s coercive capacity is blocked:

“And with the lack of consensus and political support from the PIC and European Union, the OHR is weaker than it was before. It is becoming quite difficult sometimes, you have these very strong powers formally speaking, but there is very little political maneuver space.” (Interview with Stefan Simosas 2011)

OHR is the only civilian intervening organization in Bosnia with formal coercive capacity. The Bonn Powers allow OHR to enact legislation and to dismiss officials who are held to obstruct DPA implementation. The use of the Bonn Powers peaked during Paddy Ashdown’s term and then declined drastically. With the mandate of Christian Schwarz-Schilling, international policy changed towards an

approach based on Bosnian ownership.⁵² The use of the Bonn Powers was henceforth meant to be restricted to serious violations of the DPA. Efforts to revive the Bonn Powers later on largely failed because OHR was not seen as being legitimately able to use them anymore (see Chapter Seven on police reform). Additionally, the use of the Bonn Powers also often rests on consent with the PIC SB⁵³ and, therefore, is restricted by its disunity.

Even when they were still effective, the Bonn Powers were restricted in their applicability, however. As OHR was mandated to oversee the civilian implementation of the Dayton Agreement, the Bonn powers could only be used for this purpose. Reform efforts that included changes to the Dayton order were hence not covered by the Bonn Powers. Police reform is one example where the kinds of changes envisaged by OHR were outside the realm of the Bonn Powers. Constitutional reform, hotly debated since 2005, is another example. In such cases, OHR has often found ways of applying coercive capacity nevertheless. In the early years of intervention, OHR has sometimes relied on threats of military power by cooperating with SFOR. Examples are the so-called “transmitter war” (ESI 2000, p. 25) of 1997 when OHR and SFOR wrested control of RS public television from nationalist hands. Another example was a series of raids of Hercegovacka Banka in 2001 (ICG 2001c). In later years, OHR started to use its Bonn Powers indirectly. This can be viewed as a version of selective law enforcement, where OHR for example dismisses officials for non-cooperation with The Hague rather than for non-cooperation on a particular reform as that latter is not possible. This will be discussed in detail below in Chapter Seven on police reform.

OHR’s legitimacy rests first and foremost in its formal mandate as the civilian guardian of the Dayton Peace Agreement. Secondly, in its early years it generated output legitimacy by being very active and often very efficient. And finally, it has attempted to generate procedural legitimacy through the establishment of commissions on particular issues.

As part of the Agreement that was signed in Dayton, OHR was created and mandated as the principal guardian of civilian implementation. As the agreement was accepted by all parties, the role of OHR was also, which led to the organization being generally acknowledged as part of the post-Dayton political order in Bosnia. After initial difficulties in exercising its mandate, the organization boosted

52 Many observers who are critical of this approach tend to blame Christian Schwarz-Schilling personally. Debates on the advantages and disadvantages of heavy-handed interventions or light footprints aside, I believe this to be unfair. Schwarz-Schilling was chosen purposefully to fulfil a very different mandate than his predecessor. The new High Representative was meant to act less intrusively, and Schwarz-Schilling was the right candidate for this approach.

53 The High Representative is not formally required to wait for consent by the PIC before using his Bonn Powers.

this legitimacy by demonstrating power and the ability to act. During the times of Petritsch and Ashdown as High Representative, OHR was accordingly “really seen as very effective, by the whole Bosnian population. I’m not saying the OHR was liked by everybody, but respected.” (Interview with Stefan Simosas 2010). This perception was also facilitated by the fact that the early years up to and including Petritsch’s and Ashdown’s times when the ‘big’ Dayton reforms were enacted. Major issues such as establishing a common currency and a central bank, a first round of constitutional changes with the ‘constituent people’s decision’, major breakthroughs on minority return and so on, all happened in the earlier years. By the time the perception of OHR as a potent and active force changed, the majority of the Dayton provisions had already been implemented.

OHR also attempted to underpin reforms with procedural legitimacy by setting up commissions, particularly during Paddy Ashdown’s term as High Representative. These commissions always involved a range of Bosnian representatives from both technical and political backgrounds. According to the view from inside OHR, they “gave the process more legitimacy, because people were involved. That doesn’t mean they agree with everything, but they will be able to say we agree with a lot of it.” (Interview with an OHR Official 2010a)

Since the mid-2000s, the perceived legitimacy of OHR has declined considerably. Surveys conducted by UNDP, as part of its early warning system, noted a considerable drop in confidence in OHR particularly among Bosniaks and Bosnian Serbs (UNDP BiH 2006, UNDP BiH 2007, UNDP BiH 2008). Bosniak support for OHR dropped from 70% to just above 40% between 2000 and late 2005, and while it recovered to around 50% later on, Bosniak support never rose back to the overwhelming levels of confidence in earlier years. Bosnian Serb support of OHR fell from just under 50% to 40% between 2000 and late 2005, to roughly 20% in 2007, rising back to about 30% in 2008.⁵⁴

OHR ran into trouble with respect to both formal legitimacy and output legitimacy. OHR was not intended to last for 15 years, so the formal legitimization *via* the Dayton Peace Agreement today seems questionable. Additionally, since 2002 OHR has sought to overcome the Dayton order rather than protecting it, thereby undermining its own formal basis of legitimacy (Chandler 2006a, p. 33). It has attempted to address this deficit by focusing on EU accession rather than Dayton implementation, with limited success. Furthermore, a series of failures to impose its will has undermined the perception of OHR as powerful and effective. This has left OHR in the posi-

⁵⁴ In the survey, the item is labeled “Confidence in/approve of the work of the OHR” (UNDP BiH 2006, p. 48). Data is available until 2008, after that, the Early Warning System was not continued. The survey was conducted four times a year. Bosnian Croat confidence in OHR was usually low at around 30% with various peaks at specific moments in time.

tion of the emperor whose 'new clothes' are exposed as non-existent. Crucial failures in this regard are those of police and especially constitutional reform.⁵⁵ Efforts to revive the Bonn Powers in 2008 were bluntly rejected by the RS and OHR eventually backed down withdrawing the legislative changes it intended to impose (see Chapter Eight on state property for details). At this point, the High Representative Laják himself judged, according to the US Embassy in Sarajevo, "that OHR's credibility and authority have atrophied and that the Bonn Powers are, for all intents and purposes, dead." (US Embassy in BiH 2008c).⁵⁶

Finally, the prolonged debate about the closure of OHR and the transition to a reinforced EU presence also undermined legitimacy. This debate started in 2006 and lasted until 2010. During those four years, various PIC SB members made it clear that they favored OHR closure (Interview with Christian Schwarz-Schilling 2012). As a consequence, not only was OHR seen as a dying species, it also visibly lacked continued support from its backers and superiors. The head of OHR's political department described this:

"It is good that at least the talks about transition have started. We have been talking about this already since, when was it, 2006, when Schilling came, first serious discussions about closing OHR. You remember the decision then to close in 2007 and then it didn't work out. The theme since then has popped up every year. And that clearly hasn't resulted in anything, not yet. But it has had negative consequences for OHR, the credibility, and OHR has suffered. Because we have been on our way out, clearly." (Interview with Stefan Simosas 2010)

In 2010, the transition debate was ended by a decision to 'de-couple' OHR and the EU Special Representative. Since September 2011, Peter Sörensen acts as EUSR while at the same time heading the EU Delegation (Flessenkemper 2012, p. 63). OHR exists in parallel and without being formally tied to the EU institutions other than by the PIC SB.

To summarize briefly, then, OHR had substantial organizational and coercive capacity until about 2006 and was generally perceived as exercising its powers legitimately. Since then, failed reforms and a lack of clarity about the future of the organization has reduced all three of those resources.

⁵⁵ Constitutional reform was officially not led by OHR because the organization clearly has no mandate for constitutional reform. Instead, the process was organized by a US-based NGO called 'Dayton Project', with former Principal Deputy High Representative Donald Hays as the main international negotiator. The process was nevertheless clearly part of OHR's peacebuilding agenda (Interview with a Bosnian Civil Society Activist 2011).

⁵⁶ The Bonn Powers have been used afterwards, though not on major issues.

5.3.3 *The PIC SB Embassies*

The Peace Implementation Council (PIC) only met in full in the immediate years after Dayton. The last full meeting took place in May 2000, and since then, the PIC SB is the main body to which OHR reports.⁵⁷ The PIC SB is not only relevant as the direct superior of OHR, however. The individual countries sitting on the Board as well as their embassies in Bosnia also have decisive influence in parallel to OHR.

In terms of organizational capacity, these embassies differ from embassies in other countries because of their very active involvement in daily Bosnian politics. Nina Sajić, foreign policy advisor to the Serb member of the Bosnian presidency, pointed out that she rarely discusses foreign policy with foreign diplomats, but rather Bosnian internal affairs (Interview with Nina Sajić 2010). Similarly, Tilman Enders from the German Embassy in Sarajevo pointed out in interview that the embassy in Bosnia was dealing with a whole range of Bosnian internal political issues while other embassies mainly perform representative functions (Interview with Tilman Enders 2010). This high level of direct involvement in peacebuilding sometimes undermines the organizational capacity of the PIC SB as a whole. One OHR representative described this with respect to EU embassies in particular:

“You have member states who basically have very active embassies here. EU member state embassies which have elevated profile, and EU doesn’t like to acknowledge they have elevated profiles in Bosnia that they don’t have in many countries. Very few countries, I don’t think any country. I don’t know, but for sure, you know, every Friday, all these Peace Implementation Council Ambassadors meet and discuss in details their affairs in BiH. That doesn’t happen in any other country. In most other countries these ambassadors are opening schools, and issuing visas, and I don’t know whatever else they do. But they don’t get involved in politics, right? That’s comes from the home office, that comes from Berlin, or wherever.” (Interview with an OHR Official 2011d)

The US embassy is particularly influential, often very directly involved and sometimes the main player in a particular reform initiative (Interview with a Representative of a Western Embassy 2011a). The issue of defense property, for example, was mainly negotiated and pushed by the US embassy (Interview with a Representative of a Western Embassy 2011a, Interview with a Representative of a Western Embassy 2011b). The organizational capacity of the individual

⁵⁷ PIC Steering Board members are: Canada, France, Germany, Italy, Japan, Russia, United Kingdom, United States, the Presidency of the European Union, the European Commission, and Turkey as representative of the Organization of the Islamic Conference (OIC) (PIC 2012).

embassies obviously varies and is very much dependent on differing resources.

The PIC SB, as a whole, has lacked in organizational capacity in recent years due to disunity within it. The main issue of contention has been the future of OHR. Russia and some EU states wanted to see OHR closed as soon as possible, while the US and Turkey pushed for OHR to stay open (Interview with Kurt Bassuener 2010). The PIC SB's ability to act has also been restricted by global and regional factors. In 2007 for example, the upcoming independence of Kosovo clearly restricted the ability to act decisively on police reform, as the PIC Steering Board was afraid this could adversely affect the overall regional situation (Lindvall 2009, p. 238).

Another factor undermining the Steering Board's organizational capacity is its lack of a strategic center. To coordinate, it holds regular meetings both at the level of ambassadors and of political directors (Interview with Barkin Kayaoglu 2010).

The PIC SB and its individual members have coercive capacity for example by issuing visa bans against particular individuals or freezing assets abroad (Interview with a Representative of a Western Embassy 2011b, Potter 2005, p. 225). Besides, it often acts in concert with OHR. OHR's coercive capacity when it was still in use provided a powerful incentive for the PIC SB to cooperate closely with the High Representative (Interview with Kurt Bassuener 2010).

The legitimacy of the PIC SB as a whole is closely tied to that of OHR, as the PIC SB and OHR are usually perceived as one. The legitimacy of the individual embassies differs and builds on cultural and economic ties as well as the role they played before and during the war. For example, Russia, traditionally, is respected by Bosnian Serbs and, as a result, has a lot of leverage, while the same occurs for Turkey with respect to Bosniaks (Interview with a Representative of a Western Embassy 2011a). The United States are generally respected simply because they are powerful and have been heavily involved during the war and since. One observer described this as one of the pillars of security in Bosnia (the other being the threat of military force, in his view). According to him, this was the case "because you always could count on, at the end of the day, no matter if they are right or wrong, if the Americans hit the fist on the table and start screaming, the locals will do it. No matter how much they like it or dislike it or how much the Americans are wrong or right, it'll work because they are Americans." (Interview with a Political Analyst 2010) While this does not necessarily imply legitimacy, it certainly implies a great deal of leverage.

The PIC SB, in sum, has had changing interests and has low organizational capacity. Coercive capacity and legitimacy go hand in hand with those of OHR. Individual embassies play a role as well, and the American embassy stands out with particularly large organizational

and coercive capacity as well as, if not legitimacy, then certainly respect.

5.3.4 *European Union*

When the break-up of Yugoslavia began, the EU anticipated but never adopted a major role in bringing about an end to the wars (Flessenkemper 2012, p. 47, Rupnik 2011a, p. 18). It lacked creativity and the ability to act as one coherent actor (Flessenkemper 2012, p. 51) and the war was ended by US and NATO involvement rather than by the EU. During Dayton and since, the EU has played a vital role, however, not least because Bosnia was generally viewed as a European problem that the US had become involved in only by necessity (Kagan 1995, Kozaryn 1997). For the EU and its shattered reputation in the region, Bosnia became an important testing ground for its Common Foreign and Security Policy (CFSP) and European Security and Defense Policy (ESDP)⁵⁸, with huge pressure to prove itself and achieve success (Flessenkemper 2012, p. 51). In the early years after Dayton, EU policy in the region was exclusively focused on keeping and stabilizing peace (Rupnik 2011a, p. 18). This changed from 2000 onwards, when membership perspectives for the South East European states became an issue for the first time (Flessenkemper 2012, p. 52). In 2003, these countries were officially declared “potential candidates” (European Union 2003). Ever since, the EU has been involved in Bosnia for both peacebuilding and “member-state building” (Flessenkemper 2012, p. 53).

Within the framework of CFSP/ESDP, the EU gradually adopted a range of functions in Bosnia. In 2002, the High Representative became ‘double-hatted’ as EU Special Representative (EUSR), with the medium-term plan of transferring OHR functions entirely to the EU.⁵⁹ In early 2003, the EU Police Mission (EUPM) took over from the previous UN-led mission and in December 2004, EUFOR replaced NATO-led SFOR (Gromes 2007, p. 302). In parallel to those peacebuilding aspects, the Delegation of the European Commission was responsible for overseeing Bosnia’s EU accession process. Until the treaty of Lisbon, these two branches remained largely unconnected. While the

⁵⁸ The CFSP exists since 1993, the ESDP, which has been renamed Common Security and Defense Policy with the treaty of Lisbon in 2009, since 1998 (Tolksdorf 2010, p. 11). The CFSP has been first put in motion with the treaty of Maastricht in 1991 and was an attempt to respond the geopolitical changes after the end of the Cold War (Reichel 2005, p. 33). The treaty entered into force in 1993. The CFSP among other things aimed to protect common values and interests of the member states, strengthen their security, allow the EU to assume an active role internationally and to prevent crises (Reichel 2005, p. 39). The treaty of Amsterdam that entered into force in 1999 brought a common security and defense policy (Reichel 2005, p. 193) and aimed at being more efficiently able to react to crises.

⁵⁹ This plan failed, and the two functions have been decoupled again since 2011. See above.

ESDP missions answered to the EU Council of Ministers, the delegation answered to the Commission (Recchia 2007). Furthermore, these two branches often followed contradictory interests. While the ESDP missions contributed to and were an integral part of Bosnia's peacebuilding architecture, from the Commission perspective, international oversight had to end as soon as possible as it prevented Bosnia from becoming a credible EU candidate (Recchia 2007). Since the treaty of Lisbon, all of these functions have been formally integrated, and the EC Delegation has consequently been renamed EU Delegation.

While the EU has now developed the capacity to deploy missions, it has been criticized for lacking a common understanding of the aims behind such missions which makes strategic planning difficult (Rehrl 2009). In Bosnia, in addition, the EU's interests are manifold and often unclear. Generally, and especially since 2000, the EU has attempted to pacify and democratize the region by integrating it. The success of this approach has so far been limited. In addition to a general enlargement fatigue, these limited results added to a special 'Bosnia fatigue' (Bieber 2010a) of the European Union. There is little alternative for both Bosnia and the EU, however, to proceeding on the path towards eventual membership (Flessenkemper 2012). Aside from the overall membership perspective, the EU has a range of very concrete interests in Bosnia and the region. These relate first and foremost to issues of migration, border security and generally cooperation in security matters (Woodward 2009). These interests have played an important role in security-related reforms such as police reform, as will be explained in more detail below.

The EU has high organizational capacity in some areas but not in others. With its experience and its well-established procedures for enlargement processes, it is particularly well equipped to provide guidelines, benchmarks, and expertise. A range of EU tools and instruments exists that offers expertise in the form of external consultants, study trips and such like (Interview with an Advisor to the RS Minister of Interior 2010, Interview with Elisabeth Tomasinec 2011, Interview with Jurgis Vilcinskas 2010, Interview with Valida Repovac 2010).

In terms of actively-influencing political process in Bosnia and in terms of evaluating and adjusting its own approach to Bosnia, the EU has less organizational capacity or has chosen not to use it. It is important to note that the EU Delegation does not have an ambition to be particularly proactive. The EU primarily sees its role in Bosnia as one of providing benchmarks and then supporting domestic initiatives to fulfill those. When asked about the Sejdi/Finci verdict⁶⁰ and

60 In December 2009, European Court of Human Rights in the case of Dervo Sejdi and Jakob Finci vs. Bosnia and Herzegovina ruled that the Bosnian Constitution is in breach of the European Convention on Human Rights because it discriminated

whether the EU Delegation was planning to get involved in bringing about a solution, one representative of the EU Delegation answered:

“No. We have only been very clear. We have funds available which can be used when you decided you are ready to go ahead.” (Interview with Elisabeth Tomasinec 2011)

The ESDP missions (EUSR, EUPM and EUFOR) are more proactive in their approach, though EUPM for example also focuses much more on ownership than its UN-led predecessor mission (Collantes Celador 2009). The less proactive approach of the EU and its insistence on dealing with Bosnia as any other accession country also implies that the Delegation in Sarajevo lacks the personnel to get involved on a larger scale:

The EU delegation is made in the same ways in BiH and Serbia and Croatia and all other accession countries. [...] Here, OHR has probably some 100 people in total and dealing with political, legal and communication mainly. The EU delegation has five people dealing with political stuff, economic stuff and communication. [...] So of course we don't have the same kind of capacity like OHR. OHR was involved in drafting laws, and of course has been used to also be able to use Bonn powers when something did not work. The EU delegation has been very clear, it's not the delegation itself it was the commission, has been very clear that they don't want to make a different approach towards BiH.” (Interview with Elisabeth Tomasinec 2011)

The benchmarks that are set by the EU Commission and communicated by the Delegation largely follow the requirements of the *acquis communautaire* (Tolksdorf 2011, p. 414). Only in some cases were other issues added to the agenda. Police reform was one of these examples. In so saying, however, the EU strategy is largely fixed, with relatively little flexibility to adapt to changing circumstances in Bosnia. In so far as this ability exists, furthermore, it resides with Brussels or the capitals of EU member states and less with the Delegation in Sarajevo.

The EU approach has often been described as more technical than political (Flessenkemper 2012, p. 53, Interview with a Political Analyst 2010). An overall policy exists and the organization has the capacity to implement it, however it often lacks the capacity for re-evaluating its strategy and goals (Bassuener et al. 2008, p. 7). EU strategy is based on the accession process with few alternatives, which implies that the EU also often sees Bosnia with a very limited focus

against individuals who were not part of one of the three constituent people. Specifically, the verdict is about the fact that seats on the presidency and in the BiH House of Peoples are reserved for members of the constituent peoples. This means that members of minorities cannot run as candidates. There is no agreement among Bosnian political elites on the changes necessary to remedy this, with some calling for large-scale constitutional reform while others insist that small cosmetic changes will be sufficient. Details on the Sejdic/Finci case can be found in (Hodžić and Stojanović 2011).

- "The European accession process is the right tool for a country for which the main repair needed is preparation for EU membership." (Perry 2012, p. 1) Seen from the perspective of OHR as a clearly political organization, this approach appears particularly problematic, as one OHR representative explained when talking about the times of police reform negotiations:

"Especially in those days, it's going to change a little bit under Lisbon, but not much probably, not fast – in those days, the EU presence in BiH was commission-led and these guys are pure technocrats. And if it doesn't match up to the technical exercise, they don't know how to deal with it. It's just not part of their institutional culture. They deal only with task managers and project managers, but raw politics? They can understand it, but they have no institutional capacity for processing and bringing this into some kind of useable tool for BiH. They don't know how to do it. So it is impossible for them even to try. It's a different language. But that's how this process was being run in those days because it was a pure commission-led thing, it still is, but it's nominally changing." (Interview with an OHR Official 2011d)

The difficulties the EU has with adapting its approach are exemplified in the discussions held from 2005 to 2010 about the transition from OHR to a reinforced EU presence. While the EU very much insisted on taking the lead among international organizations in Bosnia, it largely failed to present a concept of what a reinforced EU presence would entail in practice (Bieber 2010a, ICG 2011a). In spring 2010, one observer complained that "Transition is still as opaque as it was in May 2005. [...] Transition at what point? To what? What for?" (Interview with Kurt Bassuener 2010).

The EU's organizational capacity is not only restricted by its choice of approach but also by its internal structure. Coordination between different member states, different ESDP missions and the Delegation, and the various institutions in Brussels is often difficult (Schroeder 2007, Tolksdorf 2010, p. 430/1). These difficulties are compounded by the fact that several of its missions are not run exclusively by the EU. OHR (although from 2002 to 2011 double-hatted as EUSR) is subject to control by non-EU PIC SB members as well. EUFOR is subject to control by the UN Security Council and NATO states (Flessenkemper 2012).

The EU in principle has coercive capacity *via* EUFOR. EUFOR however is perceived as the military capacity of OHR/EUSR (Interview with Heinz Vetschera 2010) and explicitly mandated to support OHR (Laudes 2009, p. 67). It is, therefore, not a force that supports the EU in Bosnia as such. Furthermore, while political oversight over EUFOR rests with the EU, it is mandated by the UN Security Council and organized by building on NATO structures and, as a result, never entirely in EU control (Flessenkemper 2012, p. 63, footnote 27). Aside

from military capacity, the EU has some coercive capacity *via* blackmail. It can withhold money, postpone putting treaties into action or even suspend treaties such as the Stabilization and Association Agreement. In practice, measures of this sort have had little coercive impact. This is because the EU needs success in Bosnia at least as badly as the Bosnian political elites do (Flessenkemper 2012). In that sense, more radical measures such as suspending the SAA are potentially harmful to the EU itself and hence not likely to happen (Interview with Caroline Ravaud 2010). In general, the EU tends to build on incentives rather than coercion and plans its future engagement in Bosnia that way (Interview with a Representative of a Western Embassy 2010).

The EU legitimizes its policies via the prospect of EU accession and the standard procedures attached to this process. EU accession has been declared a major policy goal not only by Bosnia but by all countries of the region (Rupnik 2011a, p. 17). Consequently, they have granted authority over the process to the EU:

“the fact that all South East European countries have placed EU accession at the top of their foreign policy agenda means that they are prepared to accept EU conditions, objectives, and criteria.” (Anastasakis 2005, p. 82).

The EU has attempted to build on both output and procedural legitimacy. The overall promise of EU membership is a promise of a desirable outcome. It is equated with economic, social and political well-being (Dzihic 2009). Moreover, the principles and procedures that guide the accession process are meant to be transparent and impartial in that they have been accepted by both sides and apply to all candidate countries equally. Both aspects have proven problematic in practice, however. EU accession appears to be too vague and distant a goal to be credible (Perry 2012). The EU’s declining enthusiasm about enlargement adds to this. Furthermore, ‘output’ legitimacy primarily rests on a potential output in the future. And procedural legitimacy is undermined by the fact that standards and procedures are often not perceived as impartial and technical as portrayed by the EU. In addition, due to its insistence on technical standards independent of the particularities of Bosnian politics, the EU is often perceived as distant, disinterested, and also not well informed about political processes in Bosnia, which adds to its lack of legitimacy in the eyes of Bosnian political elites (Interview with a Bosnian Official involved in Defense Reform 2010, Interview with an OHR Official 2011a, Interview with an SDP representative 2010b).

To summarize briefly, the interests of the EU in Bosnia do not only relate to peacebuilding but also to issues of member-statebuilding and to other issues related to the EU’s immediate neighborhood. It has strong organizational capacity in some areas but not others, and particularly lacks the flexibility to adapt its approaches if needed. It has coercive capacity by possessing blackmail material, and it draws

legitimacy from the prospect of EU membership and from standard procedures for the accession process. However, the EU's legitimacy suffers from its much criticized role during the war and from its approach that is perceived as overly distanced.

5.3.5 *The Interveners and Economic Resources*

Data on the budgets of the individual organizations is largely unavailable.⁶¹ Overall international payments (grants and loans) to Bosnia according to OECD data have been roughly US\$ 500 million on average between 2002 and 2010 (OECD 2012).⁶² Until 2004, the United States were the single largest donor, since then, the EU institutions have taken over this role while US contributions have declined substantially. Compared to other interventions and in terms of both overall aid to the country as well as funds for the peacebuilding mission, intervention in Bosnia was very well funded. In a comparison of nine cases, Bosnia (together with Kosovo and Timor Leste) was among those countries who received most aid in the first five years after war, with about US\$ 300 per capita per year (Zürcher et al. 2013, p. 142). The costs of intervention in Bosnia (military and civilian) amounted to about US\$ 20 billion in the first five years, again similar to Kosovo. While this is exceeded by far by Afghanistan, it is also much more than spent on other missions, which during their first five years had budgets between US\$ 50 million and US\$ 3 billion (Röhner 2012, p. 72).

Such significant funding has meant that intervener strategies requiring money were usually possible. Indeed, a lack of funding has not been cited as a problem with respect to any of my case studies. Individual organizations and embassies sometimes lacked resources, but when this was the case it related to financing a greater number of staff to be able to address more issues, and the lack of financing in these instances usually was a political decision (Interview with Tilman Enders 2010). In general, there were funds for capacity building, for 'bribing' Bosnian political elites, or for withholding them as a form of 'blackmail'.

5.4 CONCLUDING SUMMARY

This chapter has provided an in-depth discussion of the Bosnian peacebuilding field. The actors that occupy this field, their interests and the relative distribution of resources among them delineate the framework of interaction and negotiation processes between interven-

⁶¹ Data on OHR finances and staff has been reported in the section on OHR.

⁶² I chose 2002 as a starting year because this is where the earliest of my case studies (defense reform) started. Data is available until 2010. Data includes OHR finances but does not include the military component of intervention.

ers and intervened. On the side of political elites, the Bosnian peace-building arena is characterized by three ethnically defined groups. On the side of the interveners, numerous organizations exist and are actively involved. The dominant organizations are OHR with the PIC SB as its backer and the European Union. As the case studies will show, the interests of all of those groups have been very stable. The main aim of intervention from the outset until today has been to keep Bosnia intact as a stable, reasonably multi-ethnic and democratic state. While democracy has been largely uncontested, at least in terms of electoral democracy, there is no consensus on the ethnic and territorial divisions of power within Bosnia. Bosniak interests are usually aligned with those of the interveners in terms of allocating more power to the central state and lessening ethnically-based divisions of power. Bosnian Serbs on the other hand usually oppose all measures intended to strengthen the central state *vis-à-vis* the entities and ethnic groups. Bosnian Croats find themselves between those polar opposites. In most cases, they are in favor of strengthening the central state if such measures include provisions for group representation. Alternatively or sometimes at the same time, Bosnian Croat political elites opt for decentralized models that allocate more authority to the cantonal level. Conflicts usually take place between the interveners and Bosniaks on the one hand and Bosnian Serbs on the other, while Bosnian Croats align with either side depending on the particular issue at stake. Since 2002, in particular, the interveners' interest in a Bosnian state that is both stable and multi-ethnic to some degree has often translated into negotiating positions that include centralizing competences at the state level, sometimes clearly beyond the constitutional framework designed in Dayton. In cases where the main issue of negotiation is centralization, Bosnian Serbs clearly prefer the *status quo* over any negotiated settlement.

The different groups have diverging access to a range of resources. With respect to economic resources, the situation is relatively straightforward: The interveners have money which the intervened need. While Bosnia is not as poor as other intervention states, it has clearly been dependent on foreign aid over the past 17 years, and intervention in Bosnia has been exceptionally well-funded. As the case study chapters will show, this has been frequently used by the interveners as a means to bribe Bosnian political elites into accepting reforms. As the case study chapters will also show, financial bribes on their own were usually not sufficient.

In terms of organizational capacity, coercive capacity and legitimacy, two aspects of the previous discussion stand out: First, Bosnian Serbs are much better equipped than the other two Bosnian groups to safeguard their own interests. The Bosnian Serb political spectrum is less fragmented, the RS as a centralized entity is easier to govern, and since 2006 Dodik enjoys very clear popular legitimacy based on

his decisive victory in elections and has centralized and monopolized political power in his and his close associates' hands. Second, OHR has been a very powerful organization at the time when defense reform got off the ground in 2002, but its organizational capacity, its legitimacy and, as a result, its coercive capacity have declined over the years. At the time of writing the case studies (in 2011/12), OHR is largely unable to use its Bonn Powers and suffers from an unclear organizational future that limits its planning abilities. While the EU has plans to substitute itself for OHR's role, this has worked only to a very limited extent. The EU remains focused on the accession process and is largely unable to develop plans and programs outside this process. The EU has also lost legitimacy over time, though for different reasons than OHR.

DEFENSE REFORM

At the end of the war, Bosnia had three different armies and defense establishments that had just fought a bitter war against each other. In terms of military strategy, all three continued to focus on fighting off threats from within the country – meaning one another – rather than external threats. The continued existence of those three armies hence constituted a tangible threat to post-war security. In addition, they were overstaffed and a very heavy burden on state and entity budgets. Reforming these armies and defense establishments was on the agenda of intervention from 1996 onwards. The modes and aims of these efforts however changed substantially over the years. They proceeded from “military reform” in the early years (from 1996 to about 2002) to “defense reform” (Interview with an OHR Official 2011c) in the statebuilding phase of intervention in Bosnia.

The reforms that aimed at reorganizing political authority over defense matters started in 2002 and accelerated in 2003 (Caparini 2005, Haupt and Fitzgerald 2004, Interview with an OHR Official 2011c, Interview with Heinz Vetschera 2011, Vetschera and Damian 2006). In concrete terms, efforts progressed from separating the contending armies and creating a balance of power immediately after Dayton, to demobilization, disarmament and confidence building measures, and finally to structural changes in the overall defense establishment. Most of the changes in the realms of political authority were facilitated by a Defense Reform Commission (DRC) comprising of intervening and Bosnian actors. In two working phases, the DRC first created structures for command and control as well as parliamentary oversight at the state level, and later joined the different armies into one formally-integrated Armed Forces of BiH (AFBiH) (Defence Reform Commission 2003, Defence Reform Commission 2005).

Defense stands out among other reform processes as it is widely judged a success by interveners and intervened alike. Not only is it assessed as successful but the reform progressed much faster than anticipated by those who planned it within OHR. The interveners profited from a constellation of interests where nobody was very much against reform but some very much in favor. The interveners possessed legitimacy in calling for reform, were able to provide resources that the intervened needed or wanted, and were able to build on organizational capacity developed in early years of intervention in the defense sector. This favorable basis was used well by the interveners whose strategies proved largely successful.

This chapter focuses on the phase of defense reform that explicitly targeted political authority from 2002 onwards. The chapter proceeds as follows. The first section provides the background for defense reform. It presents an overview of the *status quo* in the defense sector at the end of the war and of early reform efforts prior to the statebuilding phase of intervention. The second section describes the peacebuilding field in defense reform. It lays out the constellation of actors involved in defense reform, their interests, and the specific distribution of resources in this case. The third section provides a nuanced account of how defense reform proceeded. The fourth section analyzes the strategies applied by the actors throughout the process. The fifth section summarizes outcomes with respect to the initial interests of all groups involved. The last section discusses the results.

6.1 BACKGROUND TO DEFENSE REFORM

This section provides the background to analyzing reform in the defense sector. The first part describes the status quo in the defense sector at the outset of intervention. Three factors determined this status quo: the role and institutional set-up of the defense sector in former Yugoslavia, the impact of war, and the defense-related provisions of the Dayton Agreement. The second part of this section describes early reform efforts in the defense sector in the years before intervention in Bosnia became geared towards reorganizing political authority in earnest. The final part summarizes the situation in the defense sector at the outset of defense reform in 2002.

6.1.1 *Status quo in the Defense Sector at the End of War*

Based on the Yugoslav legacy and the legacy of war, there were four major issues that the interveners deemed problematic with respect to the Bosnian armed forces and defense establishments: These were the ethnically- and entity-based organization of the armed forces, the size and cost of the armies, the issue of command and control, and democratic oversight. The Dayton Agreement addressed issues of arms control, separation of forces and confidence building measures but left most other issues untouched. The size and cost of the armies and democratic oversight, however, were subject to OSCE treaties that provided guidance to much of the early interventions into the defense sector.

In Yugoslav times, the JNA (Jugoslovenska narodna armija, Yugoslav People's Army) played an important political role and formed one of the most important bases of the Yugoslav state and the Yugoslav idea (Bašić 2004, Calic 2010, p. 194).¹ Yugoslavia's founding

¹ This role was allegedly much larger than it was in other real socialist states (Boyce 2006, p. 33).

myth rested on tales of how Yugoslavia had been liberated in Second World War without substantial Soviet support but instead by reliance on Tito's partisan forces (Boyce 2006, p. 22).² The JNA was seen as the successor to the war-time partisans. It formed an important part of the Yugoslav statebuilding agenda by being multi-ethnic and stationing soldiers outside their home republics. Being a member of the JNA was a highly prestigious position within Yugoslav society (Interview with Heinz Vetschera 2010 and own observation). It was however also a relatively closed realm within society, forming a "state within the state" (Semanic 2010, p. 38), with next to no civilian oversight. The role of the JNA as 'Yugoslav' changed in the late 1980s when non-Serb officers, or officers not loyal to Serb nationalist ideas, were deliberately driven out of the JNA (Boyce 2006). Next to the JNA, Territorial Defense Forces (TDF) existed since the 1960s in the different republics and were controlled at the republic rather than federal level (Boyce 2006). During the war, Croat and in part Bosniak forces drew on the TDF while Bosnian Serbs controlled the JNA forces on Bosnian territory. The core of all three armies, however, was JNA trained (Heinemann-Grüder et al. 2003, p. 8).

Three 'official' armies developed during the war, the Bosnian Serb Army (VRS), the Croat Defense Council (HVO) and the (Bosniak) Army of Bosnia and Herzegovina (ABiH). During the war, all three continued to occupy an important status politically, similar to the old JNA, and had direct access to financial resources as they controlled the defense industries within Bosnia (ESI 1999, p. 5). The bulk of JNA weapons and material that was located in Bosnia was controlled by Bosnian Serbs (Kaldor 1999, p. 76).³ The Bosnian Serb and Bosnian Croat armies had close ties and substantial support from Serbia and Croatia proper. A large number of paramilitary groups fought in Bosnia as well, in cooperation with and often under the command of the ethnic armies. According to a UN expert commission, 56 paramilitary groups fought on the Serb side, 13 for Bosnian Croats, and 14 for Bosniaks (Kaldor 1999, p. 76). In addition, all sides were supported by foreign mercenaries.

Ethnically based mobilization meant that at the end of the war, there were three large ethnically defined armies, "each consisting of regular soldiers, paramilitaries and young men and women drafted on an *ad hoc* basis." (Heinemann-Grüder et al. 2003, p. 8). Officially, about 400.000 men (in a country with roughly 3.3 million inhabitants⁴) were in one way or another members of one of the three armed

² This myth was successfully transported in Yugoslav historiography although it is historically not very accurate since de facto, the Red Army played a decisive role in liberating Serbia from German occupation (Marković 2006, p. 290).

³ Due to its strategically important location and geography, most of the JNA's material and assets were located in Bosnia (Woodward 1995, p. 295).

⁴ Population in 1996 according to UN estimates, available at <http://esa.un.org/unpp>.

forces.⁵ About 300.000 of those soldiers – those who were not affiliated to political parties, police or paramilitary groups - left within the first six months after the end of the war (Heinemann-Grüder et al. 2003, p. 9), though not in any organized fashion. The armies were also oversized in terms of equipment as they possessed far too many old small arms (Defence Reform Commission 2003, p. 2). They were overly costly as well. According to official budgets, both entities spent more than 5% of GDP on defense, the global average being 2.5%. According to an OSCE audit in 2000, these amounts were estimated to be much higher at 10.5% of GDP in the Federation and 6.5% in the RS (Hagelin et al. 2004, p. 89). In terms of the share of the overall budget, the army accounted for 30% in the Federation in 2002, while an additional 25% were paid for veterans and war invalids (ESI 2004a, p. 4).⁶ The entity and state budgets, however, accounted for only a part of defense expenditure while for all three sides, the remainder was covered by external sources.⁷ By far the largest part of the defense budgets was spent on personnel with 76% in the Federation and 84% in the RS (Orsini 2003, p. 81).

In terms of internal organization and strategy, all three armies were “based on wartime needs and arrangements that no longer [applied]” (Defence Reform Commission 2003, p. 77). The Bosniak and Bosnian Croat forces were by then officially one army, but *de facto* remained two. All three armies remained oriented towards defending ethnically held territory rather than the state of BiH (Defence Reform Commission 2003). Their internal organization differed widely and was incompatible (Defence Reform Commission 2003). Command and control was at entity level or below, in the case of Bosnian Croats. While Dayton formally established a Standing Committee on Military Matters (SCMM) at the state level to coordinate defense matters, the central state practically had no say with respect to the armies.

The defense sector also posed problems for the interveners’ democratizing agenda. Going back to the way in which the military was organized during Yugoslav times and during the war, democratic oversight of the armed forces was almost non-existent. Mechanisms for democratic oversight formally existed at the entity level but were insufficiently used, and no mechanisms existed at state level (Defence Reform Commission 2003, Perdan 2008).

⁵ This does not imply that all of them were on active duty. In fact, many – about half with respect to the Bosniaks – didn’t even have access to weaponry (Heinemann-Grüder et al. 2003, p. 9).

⁶ This report does not provide data for the RS.

⁷ External support for Bosniaks after the war stemmed from a US Train and Equip program and from Islamic countries. Croat forces were supported by Croatia until 2001, and the VRS was supported by Serbia until 2002 for example by paying salaries for many officers who held dual rank in the Yugoslav army (Hagelin et al. 2004, p. 90, ICG 2001b, p. 11/12).

For some of these issues, changes were formally required by either the Dayton Agreement or other treaties.⁸ Dayton included a regional treaty on arms reduction, detailed provisions for the separation of forces within BiH and put OSCE in charge of confidence-building measures and arms control. The Agreement neither allocated defense to the state nor to the entities. It stated clearly however that “All armed forces in Bosnia and Herzegovina shall operate consistently with the sovereignty and territorial integrity of Bosnia and Herzegovina” (Dayton Peace Agreement 1995, Annex 1A, Article 1.2). The constitution that is a part of the Agreement grants “civilian command authority over armed forces” (Dayton Peace Agreement 1995, Annex 4) to the state Presidency. It also stipulates that the Standing Committee on Military Matters shall be selected by the presidency and tasked with coordination among the armed forces in BiH. The Agreement hence provided a basis for structural and centralizing reform, albeit a weak one.

In the defense sector, Bosnia’s OSCE membership also included obligations related to defense reform. The most important ones were a strong focus on democratic control and rule of law in matters of defense and security, a commitment “to maintain only those military capabilities commensurate with individual or collective legitimate security needs” (Defence Reform Commission 2003, p. 40) and related to this restraint and transparency in defense spending, and a commitment to “provide controls to ensure that authorities fulfill their constitutional and legal responsibilities” (Defence Reform Commission 2003, p. 41).

6.1.2 *Early Intervention Into the Defense Sector*

After Dayton, the situation in the defense sector presented a dilemma to the interveners. On the one hand, the situation with three disparate and overly large armies was regarded as unsustainable and potentially dangerous and additionally, the exceptionally high costs for maintaining these armies were a strain on entity budgets which were under financed in any case. On the other hand, far-reaching structural changes were considered taboo, because they were regarded as unrealistic and potentially disruptive (Barakat and Zyck 2009, p. 548, Interview with Heinz Vetschera 2011, Orsini 2003, p. 73). This early phase was hence “characterized by efforts to reduce the consequences of the military division without openly challenging it” (Vetschera and Damian 2006, p. 30). This was done mainly through capacity building, though sometimes with contradictory goals. US actors favored an approach aiming at stability in the short run via creating a balance of power, while most other actors favored an approach of downsizing

⁸ For a more detailed discussion of the legal basis for reforming the Bosnian defense sector, see for example (Haupt and Fitzgerald 2004).

and creating confidence and ties between the different Bosnian armies (King et al. 2002, p. 13, Orsini 2003).⁹ Since 2000, efforts started to strengthen those state level institutions formally involved in defense matters.

The private military company MPRI (Military Professional Resources Incorporated) implemented a US Train and Equip Program for the Bosniak army that had been part of the 'bribes' offered to the Bosniak negotiation team in Dayton in order to prevent Bosnian Serb aggression (Caparini 2005, Cilliers and Douglas, p. 112, Pietz 2006, p. 161). This program lasted from 1996 to 2002 and included equipment, substantial military training and efforts at enhancing cooperation between the Bosniak and Croat parts of the Federation army (Caparini 2005, Cilliers and Douglas 1999, USIP 1997).

The OSCE conducted confidence building measures between all three armies by organizing seminars and meetings between them (Interview with Heinz Vetschera 2010). From 1999 onwards, the OSCE also focused on enhancing the capacity for civilian oversight by offering advice and training to the entity parliaments (Haupt and Saracino 2005, p. 64, note 6). Although not a part of the Dayton mandate, the OSCE confidence-building measures were seen as laying the groundwork for a process eventually leading towards the integration of the different armies (Orsini 2003, p. 79). OSCE, NATO and, with respect to the Bosniak army, MPRI also, aimed at professionalizing the armies as well, by internal restructuring to increase effectiveness, by vetting personnel, by attempting to disband irregular forces and by offering training at various levels and building up military education (Interview with Heinz Vetschera 2010, King et al. 2002, p. 13).¹⁰

Despite the problem of overly large armies, demobilization programs started rather late. Dayton had not called for demobilization as international negotiators feared this would raise concerns among the Bosnian warring factions (Barakat and Zyck 2009, p. 551). Organized efforts at demobilization started in 1998 (Heinemann-Grüder et al. 2003, p. 10). By 2001, the total number of active soldiers in Bosnia was down to 34.000 plus a reserve of 15.000 (Heinemann-Grüder et al. 2003, p. 5), and 19.000 plus reserve in 2002 (Defence Reform Commission 2003, p. 68).

The interveners participated in these efforts at capacity building, though for the most part with little enthusiasm. An internal OSCE report in 1999 according to Dominique Orsini stated that "they [the parties] consider the [sic] inter-Entity cooperation like a 'gift' to be given to the International Community rather than a substantial obligation deriving from the Dayton Peace Accord and a substantial and

⁹ Another aim with respect to the Train and Equip program from the US side was to counter Iran's influence in Bosnia (Cilliers and Douglas 1999, p. 116).

¹⁰ The UN mission in Bosnia (UNMIBH) was partly involved in these efforts as well by training the first Bosnian contingent of military observers that served in a UN mission abroad, in Ethiopia and Eritrea in 2001 (King et al. 2002, p. 15).

specific advantage for their peoples” (quoted in Orsini 2003, p. 80). There is, however, in this phase especially a clear difference between the group of professionals on the one hand and political representatives on the other hand. Cooperation with the political elites was generally judged as being difficult (Interview with Heinz Vetschera 2010). Professionals, in this case army officials, were often more inclined to cooperate with the interveners, for two reasons (Interview with Beriz Belkić 2011, Interview with Heinz Vetschera 2010). First, many defense and military officials had a background in the Yugoslav army (JNA) before the war. Despite now being part of different ethnically defined armies, they shared a strong identification with the JNA and its Yugoslav history. Organizing meetings with these people often turned out to be much easier and much less conflictual than anticipated by OSCE personnel (Interview with Heinz Vetschera 2010).

Second, as professional soldiers, the army officials had a strong interest in having the resources and conditions in place that were needed to keep their armies functional. Given the dire situation of the three armies, cooperation with the interveners, particularly when connected to the carrot of eventual NATO membership, was seen as beneficial. Modernizing the army was sometimes valued as more important than keeping the armies ethnically separated. Heinz Vetschera for example described an episode when he talked to a Bosnian Serb army official:

“I asked him what the result of military downsizing was. He said that this was not a problem, but the fact that they only had very old planes was bad. This he said would be different if they were in PfP, then they would get modern planes. This is of course not the case, this is an illusion, but you shouldn’t take people’s illusions away. But there were criteria for membership in PfP, and one of those was a common army. Later we reduced this to a common high command. So I asked him: What would you prefer, you know what the criteria are – modern planes in a common army, or keeping divided armies and the old planes? He of course first said, I don’t answer political questions. But then he said: As a professional soldier, to be honest I would prefer the planes.” (Interview with Heinz Vetschera 2010)

Around 1999 and 2000 and with the arrival of Wolfgang Petritsch as High Representative, the PIC and OHR put increasing emphasis on strengthening those few state institutions that formally were to have a say in defense matters (Hadzovic 2009, p. 21, Perdan 2008, p. 263, Petritsch 2001). Reform of political authority in the defense sector now became part of the intervention agenda, though within the realm outlined by the Dayton provisions on defense matters. The only state level body dealing with defense matters that formally existed was the Standing Committee on Military Matters. This body however largely existed on paper only. Efforts to get the Standing Committee to work required putting a range of legal and policy regulations into

place. These were a defense policy, a decision of the Presidency of BiH on the organization and functioning of Bosnia's defense institutions, and terms of reference for the SCMM. These efforts were described as slow and difficult but eventually resulted in producing and adopting the required documents between May and August 2002 (Haupt and Fitzgerald 2004). They were developed with intense involvement of OHR's military cell, through providing advice to the state government on content and legal matters, organizing seminars and being directly and actively involved in drafting the defense strategy for example (Haupt and Fitzgerald 2004, p. 154/55). OHR also built the capacity of the SCMM by providing the necessary funding for the body to work (King et al. 2002, p. 13).

6.1.3 *The Status Quo at the Outset of Statebuilding Reforms*

Overall, the success of these measures was mixed. In many respects however, they formed an important basis for the ensuing reforms. Demobilization and cutting expenditure was partly successful, though not to the degree deemed necessary by the interveners. In 2002, the total armed forces numbered slightly above 19,000. The Defense Reform Commission clearly pointed out that this was "economically unsustainable" (Defence Reform Commission 2003, p. 68). In part, demobilization efforts were sidetracked by demobilizing loyal soldiers into the police forces (ESI 1999, p. 10). And the symbolic character of the army in terms of a symbol of statehood made inter-entity cooperation difficult.

The MPRI-run Train and Equip program did professionalize the ABiH to some extent (Orsini 2003, p. 80/81). The program however had outright counter-productive results in other areas. It raised concerns among Bosnian Serbs especially, thereby running counter to confidence-building measures. The program did have important implications however, for structural defense reform. First, American financial support for the Bosniak army probably provided leverage, or a tool for blackmail, *vis-à-vis* the Bosniaks. Second, an end to the program (that was implicitly included in structural defense reform) was in the interest of Bosnian Serbs and thus provided an incentive to participate in reform efforts (Barakat and Zyck 2009).

No accounts are available on the success of capacity building for parliamentary oversight at that stage. This is probably due to the fact that shortly after the OSCE started these programs in 1999, parliamentary oversight was moved to the central state level (in 2003). This was hence a very brief period. It is plausible to assume, therefore, that efforts at this stage provided experience that was helpful later on, after structural defense reform had taken place. Since 2003, OSCE and other organizations succeeded in enhancing the degree of oversight

at the state level substantially (Haupt and Saracino 2005, Hubbard 2006).

The OSCE confidence-building measures had important implications directly for structural defense reform negotiations. They created durable working relationships on several levels. Among Bosnian military personnel, ties were created or renewed in the case of former JNA officials (Interview with Heinz Vetschera 2010). Solid working relationships were created between military and defense officials on the one hand and OSCE personnel on the other. This proved important later on during the negotiations on structural defense reform. It meant that most individuals involved in the commission looked back on a history of working together, which translated into productive working relationships within the commission (Interview with an Official at the Bosnian Ministry of Defense 2011, Interview with an OHR Official 2011c, Interview with Christian Haupt 2011). The early capacity-building efforts had also created efficient and durable working relationships and coordination mechanisms between the intervening organizations involved in defense matters (Interview with Heinz Vetschera 2010). These increased the overall organizational capacity of the interveners in defense reform.

Finally, OHR's efforts at targeting central state institutions laid the groundwork for statebuilding reforms in the defense sector by providing arguments for reform. In devising defense policies and similar documents, Bosnia had stated that it saw a role for the central state in defense matters. It had also clearly stated that it was aimed at NATO membership which opened up new possibilities of conditionality (Haupt and Fitzgerald 2004).

6.2 THE FIELD IN DEFENSE REFORM

Before turning to the process of reorganizing political authority in defense reform in the following section, this section provides an overview of actors, interests and resources with respect to defense reform. It first deals with Bosnian political elites and then with intervening actors. It takes as its starting point the time when statebuilding reforms started in 2002. The section describes the situation of each individual group in terms of resources and their specific interests with respect to defense reform. Among the Bosnian political elites, the focus is once again on Bosniak, Croat and Serb political elites. Among the interveners, the section provides an update on the situation of OHR and specifies the roles of individual PIC countries, particularly the United States. Next to the main intervening actors, OSCE and NATO also played a crucial role in defense reform and are hence introduced in this chapter.

6.2.1 *Bosnian Political Elites in Defense Reform*

Within the Bosnian political spectrum, the three ethnic groups were the main protagonists in defense reform. Military professionals did not play a decisive role anymore in this phase as they were only involved in providing technical expertise to those who negotiated political content.

Structural defense reform took place after the 2002 elections and before the next elections in 2006.¹¹ The constellation of political power did not change substantially over the course of reform. In 2002, the Alliance for Change government had just lost power to the war-time ethnic parties at state level and in the Federation. At the state level, SDA, HDZ, SDS, PDP and SBiH entered into coalition with Adnan Terzić of SDA, acting as Chairman of the Council of Ministers. SDA, HDZ and SBiH formed a government in the Federation. In the RS, SDS and PDP continued their cooperation now including SDA as well. As before, the government was formally headed by PDP but *de facto* dominated by SDS (for a summary and a discussion of 2002 election results, see ICG 2003, p. 12-14).

Despite the change back to nationalist governments, this period was characterized by increased cooperation with the interveners and also by a sense of optimism. First, all of the war-time parties had experienced a change in leadership from their war-time leaders to more moderate post-war elites. The state by this time had developed from being a state merely on paper to one that was actually existing and taking shape, although in restricted areas only (Bieber 2006). Second, the immediate post-war period was over, and physical and to some extent economic reconstruction had advanced. Third, the EU had started a process of opening up the possibility of membership for the countries of the region. This perspective for some years generated a substantial drive for reform (Lindvall 2009, p. 110).

The Bosniak political spectrum at the time was dominated by SDA. The party had re-established its control over the Bosniak part of the Federation. Sulejman Tihić had succeeded Alija Izetbegović as party leader and actively worked towards opening up the party to more secular and less nationalist segments of Bosniak society (ICG 2003, p. 16). While he didn't have the undisputed authority Izetbegović enjoyed, he managed to assume effective party leadership (ICG 2003).

The Bosniak political elites were in favor of an integrated defense establishment. Their preferred option was a single army where the three ethnic components would no longer play a role institutionally. Bosniak preference for an integrated army was however not rooted in anti-nationalist sentiments, however. As they constitute by far the largest population group in Bosnia, an army without ethnic criteria

¹¹ This refers to the phase of negotiating defense reform. Implementation lingered on over the following years and is still not fully completed at the time of writing.

would almost automatically be dominated by Bosniaks. This position hence fits well with the general interest of Bosniak political elites in less power sharing and power division. This context also explains the second interest of Bosniak political elites in defense reform: Based on the experiences of war, one of their big concerns was security and the ability to defend themselves (Interview with an OHR Official 2011c). This resulted in a negotiating position where they opted for an army as large as possible, including a very large reserve and for holding on to conscription (Interview with an international official involved in defense reform 2011, Interview with Christian Haupt 2011, Interview with Heinz Vetschera 2010). The large reserve in particular was meant to be a security guarantee *vis-à-vis* Croats and Serbs and hence was vigorously defended by Bosniak representatives throughout the negotiations:

“This reserve doesn’t exist, it’s just a bunch of names on paper. But they argued we can’t do it. For them, that’s their strength. That they can call on more than anyone.” (Interview with an international official involved in defense reform 2011)

The same reason presumably led the Bosniak side to hold on to a conscription army. Generally, with the experience of war still recent, being able to defend themselves militarily against Croats and Serbs was important, at least symbolically, at this time.

Among the Croats, HDZ continued to be dominant. While Croat parallel structures in Herzegovina had been largely abolished in 2001, the HDZ was still in firm control of its power center in the Croat-dominated cantons. HDZ had however lost substantially in the elections (30% of the votes in previous elections) (ICG 2003, p. 15). The party had a new leadership as most of the old leaders had been tried for corruption (Bieber 2006, p. 27) and had by now stopped calling for a third entity, instead looking for other, more decentralized options of ensuring a political role for Bosnian Croats (ESI 2004b, p. 1, ICG 2003, p. 19).

The Bosnian Croats were generally not against defense reform and were also not against downsizing – according to some participants of the process - because they could ultimately rely on Croatia and hence had fewer security concerns than Bosniaks (Interview with an international official involved in defense reform 2011). But they insisted on keeping as much of a distinct identity as possible in a joint defense establishment and insisted on ethnic quota (Interview with an OHR Official 2011c, Interview with Christian Haupt 2011, Interview with Heinz Vetschera 2010). This fits with the general interest in assuring a say for Croats as the smallest group in political decision-making.

In the RS, Cooperation between SDS and PDP was uneasy and SNSD as the main opposition party had won a relatively large share of the vote (21,79% for the RS parliament as compared to 31,19% for SDS (Izborna Komisija Bosna i Hercegovina 2002). The RS govern-

ment was relatively weak, therefore, in terms of organizational capacity and in terms of legitimacy, and challenges started to appear on the horizon. The new SDS leadership of Dragan Čavić and Dragan Kalinić was decidedly more cooperative towards both the interveners and the other constituent groups than the Serb war-time elites had ever been (ICG 2003).

The Bosnian Serb political representatives were initially very skeptical about defense reform, as their interest was in proving the autonomy of the RS. While the RS army was not needed any longer in military terms, it was highly important as a symbol of independent statehood. At the 10th anniversary of the RS Army in 2002, the then RS Prime Minister Mirko Šarović pointed this out:

“The destiny of the army is tightly related to the destiny of the RS. Regardless of the fact that the number of soldiers is to be drastically reduced in order to meet the international obligations, the tradition or constitutional role of the RS will not be jeopardised.” (OHR 2002)

Bosnian Serbs, as the only ones clearly opposing an integrated army, were also “nervous about not having a enough of a say in the commission and later defense establishment.” (Interview with an OHR Official 2011c)

Another factor however made defense reform a desirable goal: The RS was unable to finance its army in the long and even medium term. Financial support to the army from Yugoslavia had ended, and the RS was financially in a difficult situation in any case. While the symbolic character of the army was important, “the checks were writing up for that symbol, they were getting too big.” (Interview with an OHR Official 2011c) Mladen Ivanić, head of the Bosnian Serb PDP and at the time Minister of Foreign Affairs, also stated that this was his main reason to agree to changes in the defense sector (Interview with Mladen Ivanić 2011).

Once it became clear that a separate army was not a goal likely to succeed, RS representatives switched negotiating positions and argued for complete demilitarization (Interview with Heinz Vetschera 2011). This would have solved the financial problems and at the same time would have elevated the importance of the police. The Dayton Agreement clearly made police an entity matter. By concentrating security matters in the hands of the police only, RS hoped to assure entity control of the security while at the same time reducing the expenditure and satisfying the demands of the interveners.

6.2.2 *Intervening Actors in Defense Reform*

Among the intervening actors, OHR, OSCE and NATO were the driving forces of defense reform.¹² Among the PIC states, the US played a decisive role both in shaping the content of defense reform and by providing the financial resources necessary (Kikic 2007, p. 35, Semanic 2010). The EU played no role in defense reform.

In terms of overall intervener interests, geopolitical factors were important. After the terrorist attacks of September 11 2001 in the US, Bosnia received renewed international attention, specifically within the context of international and particularly US security concerns (Interview with an international official involved in defense reform 2011). Bosniak ties to Mujahedeen in Bosnia were increasingly investigated, and the security establishment as such became an issue of concern (Azinović 2007, Interview with an OHR Official 2011c).

A scandal in autumn 2002 that became known as the 'ORAO affair' increased the sense of urgency in this respect. The ORAO company, a state-controlled military company in the RS, had been selling military spare parts to Iraq, in clear violation of the UN arms embargo against Iraq and just when the US was about to start a war against that country. As one participant of the process put it, "this was the last example of something that was really irritating. The Americans were extremely upset." (Interview with an international official involved in defense reform 2011). From the perspective of most of the interveners, but driven by the US and some in OHR, this indicated the need to increase control of the defense sector. This was to be done by establishing centralized control.

With more urgent conflicts to solve in Afghanistan and Iraq, the interveners also increasingly sought to bring peacebuilding in Bosnia to an end. Paddy Ashdown's term as High Representative, which started in May 2002, was meant to bring about those reforms needed to enable Bosnia to function without international oversight (Interview with Christian Schwarz-Schilling 2012). According to the assessment of the interveners, this implied a major focus on the rule of law, and on integrating at least some of the very decentralized functions of the state. It also implied an increased focus on pressuring particularly the RS into cooperation with the tribunal in The Hague, as this court was to be closed in the short to medium term as well.

Turning to individual actors within the spectrum of intervening organizations, OHR in 2002 was at the height of its perceived power, resources and manpower. It had proven its ability to act and to achieve concrete outputs in previous years. Both Paddy Ashdown as well as his predecessor Wolfgang Petritsch were capable leaders who suc-

¹² In the early years, the UN mission in Bosnia (UNMIBH) was involved as well, but by the time structural defense reform got off the ground, UNMIBH had already ceased to exist.

ceeded in bringing both the organization as well as the PIC on to their agenda (Interview with Kurt Bassuener 2010). OHR's role as the highest authority in the country was not yet contested by anyone, and while OHR was not necessarily liked, its decisions were respected by all sides (Interview with Stefan Simosas 2010). Through its mandate OHR was responsible not for working with the armies themselves but with the rudimentary state-level defense institutions, meaning the SCMM and the presidency. When Paddy Ashdown arrived in Bosnia in 2002, defense reform was definitely not among his priorities. Defense reform was however perceived as a pressing issue within the Politico-Military Section in OHR's political department. It apparently was, to some extent, also an initiative by individual OHR officials. From their perspective, the bottom-up approach of OSCE and NATO was too slow and ineffective. They believed that a top-down approach would better serve the interveners' interest in centralization. The ORAO affair then provided the basis to put defense reform on OHR's agenda:

"In autumn of 2002 I received a very long report from a US contact about an RS based company called ORAO which had been allegedly selling spare parts, military spare parts to Saddam Hussein. And of course that was illegal because of the embargo, they also found something with the Burmese authorities, also clearly in breach of... I think they travelled there. You know... I am sure that the climate is very nice, but not the political climate. So, when I got this, I thought this was clearly the political opportunity to bring forward an attempt to shift from this military technical reform things to put the OHR in a lead to make a political reform of the defense establishment, a defense reform." (Interview with an OHR Official 2011c)

These efforts succeeded particularly with support from the US embassy (Interview with an international official involved in defense reform 2011, Interview with an OHR Official 2011c), and once OHR had adopted defense reform as part of the work plan, its goals were clear. OHR opted for a fully integrated army and defense institutions at the state level. This was anticipated to be a difficult process and planned to last at least until 2007 (Interview with an OHR Official 2011c).

The OSCE's realm in Bosnian defense matters were confidence-building measures and issues of democratic oversight. OSCE's focus was thus very much on working directly with the respective armed forces in the two entities. As the OSCE had started this work in 1996 and had a history of security cooperation in the region before the war, it had developed considerable expertise, experience as well as personal relations and trust with Bosnian military officials (Interview with Heinz Vetschera 2010). Looking at the state of affairs from that perspective, many OSCE officials were initially very skeptical about a top-down attempt at structural defense reform. They were not con-

vinced about its chances of success and afraid that such an attempt would undermine their ongoing work and working relations (Interview with an OHR Official 2011c, Interview with Heinz Vetschera 2010). Those OSCE representatives who had been in charge of confidence building measures in earlier years were awarded important positions within the defense reform commissions. This contributed greatly to the commission work but also successfully served to convince the OSCE representatives to embrace structural reform (Interview with an OHR Official 2011c).

NATO had played an important role in Bosnia during the war, as it was NATO intervention that eventually ended the war. Since Dayton, NATO was responsible for the military part of intervention. From 2002 onwards, NATO membership became an important policy goal in Bosnia, and consequently, NATO conditionality also started to play a role. From this perspective, NATO's interest in defense reform lay in making the Bosnian army and defense establishment compatible with NATO structures. The basic precondition for this was an integrated army. Beyond that, a whole range of issues of inter-operability and the like were important. NATO's role and expertise were well respected (Interview with a Bosnian Official involved in Defense Reform 2010). Furthermore, NATO was also able to offer material resources that were desired and badly needed by the Bosnian armies (Interview with Heinz Vetschera 2010).

Among the PIC SB members, the US embassy also played a crucial role in defense reform. Against the backdrop of the war on terror and the ORAO affair, the US made defense reform in Bosnia a priority. The main interest was to make sure that something like ORAO would not happen again, which was to be achieved through more transparent (and less localized) control of the armed forces. The American push for defense reform was exemplified in them sending a very high-ranking official, James Locher III, to lead the reform commission.

While the US and the UK supported defense reform both in principle and financially, other PIC members were more skeptical. They considered the reform to be overly ambitious, and were afraid that it would create more insecurity rather than security (Interview with an OHR Official 2011c). Russia supported the RS in its quest to keep as much of a distinct identity as possible in the defense sector, but also clearly did not oppose reform. One OHR representative explained how the Russian delegation at a PIC meeting described the message they had delivered to Bosnian Serbs beforehand. According to him, they said

"On defense reform, we are, we will back you in your persistence and your insistence to having as large a role in this new establishment [as possible]. But, you cannot embarrass us by insisting on having two armies in one country, that is not a Russian message. Right? The last thing we want in our own country." (Interview with an OHR Official 2011c)

All in all, while there were different levels of enthusiasm about defense reform among the interveners, nobody was decidedly against reform either. Those who were skeptical were well-integrated into the reform efforts by being involved at crucial positions in the reform commissions. In this way, OHR was able to profit from their expertise while it was also able to reign in OSCE resistance (Interview with an OHR Official 2011c). Intervener unity was relatively high on defense reform, therefore. With OHR and the US, influential actors were driving the reform, while no other actors actively opposed it. Unity increased further once the process was successfully under way.

Looking at Bosnian and intervening actors, the picture is mixed. All actors except for Bosnian Serbs agreed (Croats more or less) on centralization. Importantly, while centralization in the defense sector for Bosnian Serbs was not desirable, it also didn't touch upon vital elements of their political power bases. All actors agreed that the costs of the defense sector needed to be reduced. Bosniaks however valued their security concerns more than reducing the costs of the army. Over the course of reform, this constellation of interests nevertheless proved compatible. Bosniaks and interveners got an integrated army and Croats got ethnic quota, while Bosnian Serbs were able to reduce costs by moving budgetary responsibility to the state level.

6.3 THE STORY OF DEFENSE REFORM

This section tells the story of those reforms in the defense sector that targeted political authority. These took place between 2003 and 2005 and resulted in a formally integrated army and defense establishment. The ORAO affair led to the establishment of a Defense reform Commission (DRC). The DRC worked in two major phases, resulting in two reports that each proposed a range of legislative changes that were subsequently adopted by state and entity parliaments. The first working phase led to the establishment of a state ministry of defense and to moving command and control to the state level. Below that, it left the entity defense structures largely intact. The second working phase was initiated by yet another scandal when OHR found evidence that the VRS had continued to finance and to hide Ratko Mladić (Hadzovic 2009, p. 49, OHR 2005b). It resulted in the abolition of entity ministries and entity armies and the creation of a formally integrated army and defense establishment.

6.3.1 *The Defense Reform Commission and a First Round of Negotiations*

While structural defense reform seemed entirely unrealistic in the early years of intervention, there was a decisive shift in intervener policy towards the issue in 2001 and 2002 when OHR started to put increasing attention on strengthening state level capacity in the de-

fense sector. Efforts that went beyond the Dayton provisions were triggered by the ORAO affair. This affair was utilized by those in OHR who wanted a defense reform to gain support of both the High Representative and the US Embassy, and it served as a tool of blackmail against the RS in particular.

The affair highlighted to the interveners that the defense sector in Bosnia did not work in their interests. Moreover, it was implicitly known to everyone that RS officials were involved in the scandal, and that the interveners were able to point out who was involved, should they decide that they wanted to (Barakat and Zyck 2009, p. 553, Interview with Heinz Vetschera 2011). To this and the spying scandal of early 2003, OHR replied in April 2003 by amending the entity constitutions, in the process removing all mention of statehood from the constitution of the RS, and abolishing its Supreme Defense Council (OHR 2004g, Pietz 2006, p. 164). Two days later, the Serb member of the presidency Mirko Šarović stepped down (OHR 2004g). He had been President of the RS from 2000 and 2002 and hence politically responsible for defense matters, including the ORAO company (Hornstein Tomic 2003). OHR threatened prosecution of RS officials (Barakat and Zyck 2009, p. 553). The affair constituted a “moment of weakness” (Interview with Heinz Vetschera 2010) for the RS leadership, which according to many observers was what got them to the negotiation table and open to compromise on defense matters (Haupt and Fitzgerald 2004, p. 166/67, Pietz 2006).

ORAO and the spying affair were also used to justify defense reform. OHR argued that the problem was not one of individual companies, but rooted in systemic deficiencies and in particularly a lack of control of the defense sector (Interview with an OHR Official 2011c, Pietz 2006). Within other international organizations in Bosnia dealing with defense matters, there clearly was the perception that ORAO was deliberately used to push a certain agenda:

“I don’t know how, why, who, what was decided, but apparently there was the will in OHR and the interest to direct this reform, or to push it, and these events were obviously suitable to then impose the corresponding mandates.” (Interview with Christian Haupt 2011)

The crucial measure that was imposed was the establishment of the Defense Reform Commission. The commission was mandated by the High Representative on 9th of March 2003. It had 12 members in total. For the interveners, these included the Secretary General and Deputy Secretary Generals of the SCMM, and from both entities the Entity Minister of Defense plus one other civilian representative. For the interveners, OHR/EUSR, NATO, SFOR and OSCE each had one representative. The US, the EU Presidency, Turkey and Russia all were to appoint an observer. James Locher III, a US former Assistant Secretary of Defense, served as chairman (Hadzovic 2009, p. 48,

OHR 2003). Many more people were involved in the secretariat and expert working groups on defense policy, parliamentary oversight, entity matters, implementation, legal matters, technical matters and conscription (Defence Reform Commission 2003).

The working process of the commission was guided by the mandate imposed by the High Representative on the one hand and by NATO conditionality on the other. The HR mandate tasked the commission to come up with legislative changes to assure that Bosnia's defense institutions were suitable for Euro-Atlantic Integration, conformed with OSCE requirements, were subject to democratic oversight, established command and control at the state level, created interoperability within Bosnia and restricted the budget to limits defined by the democratic process (Defence Reform Commission 2003, p. Appendice 10.1). NATO conditionality provided another framework for the negotiations. Next to full co-operation with the tribunal in The Hague, the crucial condition for joining PfP was "an effective and credible state level command and control structure" (Defence Reform Commission 2003, p. Appendice 10.2).

A lot of the process during the work of the commission was shaped by James Locher III personally (Interview with an international official involved in defense reform 2011, Interview with an Official at the Bosnian Ministry of Defense 2011, Interview with an OHR Official 2011c, Interview with Christian Haupt 2011). Within the framework of pressure and blackmail created by the ORAO affair, his style of facilitation contributed greatly to a cooperative working atmosphere. Defense reform ultimately worked because there were good arguments to present to all parties (Interview with an OHR Official 2011c). The general goals to be achieved by the commission were set by the mandate that was imposed by the High Representative. This mandate mirrored NATO conditions for PfP membership. To arrive at a more concrete set of goals and a corresponding working program, the work of the commission started with a one-week intense workshop at the NATO school in Oberammergau to develop a concept paper (Haupt and Fitzgerald 2004, p. 167). At this workshop, a preliminary concept paper was tabled and discussed. There were a lot of objections to the paper, but compromise was finally reached in what those involved describe as a very painful process (Interview with an OHR Official 2011c). However, once agreement on the concept paper was reached, the major compromise was struck: everyone had agreed on "the principle of a single armed forces and a single defense establishment at the state level" (Interview with an OHR Official 2011c).

Throughout the negotiation process, the chairman of the commission, James Locher III, made sure to talk to all political leaders before commission meetings to ensure that their opinions and positions were taken into account (Interview with an international official involved in defense reform 2011). Crucially, this provided the members

of the commission with the political cover necessary to conduct meaningful negotiations (Interview with an international official involved in defense reform 2011). Locher himself called it “an intense period of consensus building and negotiation” (Locher III and Donley 2004, p. 2). The way in which the negotiation process was organized left room to include the concerns of the Bosnian political elites. While the mandate was imposed, the precise shape of reform and the ways in which to get there were a matter of negotiation. “There were no finished laws that were tabled and then only agreed upon, the laws were developed in a long and work intensive process”, which also included discussing technical matters “like for example how the reserve is to look like, how the ranks are to be called”, and so on (Interview with Christian Haupt 2011).

This was made possible by the framework that was set particularly by James Locher III. At the outset of the negotiations, all participants had agreed that nobody except for Mr. Locher was to talk to the media about the proceedings. In so doing, the commission was able to buy the time necessary to discuss matters in detail and to voice and discuss concerns. Mladen Ivanić, at the time first prime minister of the RS and then Bosnian foreign minister, described Mr. Locher’s role as very helpful because he approached the matter in a pragmatic way:

“There were no high expectations at the beginning and there was enough time to solve all the problems which the players at the local level had at that time. And I think, so, he was a technician, a practical, pragmatic guy. He did not create a problem in the media, in the public, he had enough time to buy time and just to give the time to the players to express their expectations with everything, and because of that I think that the whole process was successful.” (Interview with Mladen Ivanić 2011)

All participants in the process interviewed for this thesis agreed that ultimately, defense reform succeeded because good arguments existed and were presented in a very skillful manner (Interview with an Official at the Bosnian Ministry of Defense 2011, Interview with an OHR Official 2011c, Interview with Christian Haupt 2011, Interview with Heinz Vetschera 2010, Interview with Heinz Vetschera 2011, Interview with Mladen Ivanić 2011). This, on the one hand, included arguments about the legitimacy of the current arrangements and legal arguments based on the Bosnian constitution, and, on the other hand, included arguments that defense reform had something to offer all Bosnian parties involved. The commission worked from May to September 2005 when it presented its unanimously agreed report to the High Representative (Defence Reform Commission 2003). The recommended changes were adopted by the parliaments at all levels in the following months (Caparini 2005, p. 26, Haupt and Fitzgerald 2004, p. 168).

The first working phase of the Defense Reform Commission established a state level ministry of defense and command and control at the central state level. The two armies however remained separated under this umbrella, resulting in “three ministries [two at entity level and one at state level] and two armies” (Interview with an international official involved in defense reform 2011). The chain of command now ran from the presidency to the state minister of defense – who was to be in charge of the “operational chain of command” (Defence Reform Commission 2003, p. 3) – and from there to the also newly-created Joint Staff. The state now had “the exclusive right to mobilise and employ forces, except in a highly extraordinary natural disaster or accident during which an entity President could authorize an immediate, but limited use of units from the entity army to assist civil authority” (Defence Reform Commission 2003, p. 2). Administrative responsibilities remained with the entities, who kept their defense institutions in place, though now with narrower tasks – the entity ministers were clearly subordinate to the state minister of defense.

A parliamentary committee was also created (the Joint Committee on Defense and Security) to enhance democratic control of the armed forces. The right to declare a state of war now lay with the parliament, which also had the authority to exercise legal oversight (Defence Reform Commission 2003, p. 4). The commission recommended reducing the size of the army substantially: from 19,090 to 12,000 active soldiers and from 240,000 to 60,000 reservists. The conscript training period was shortened by two months, and the number of conscripts to be taken in reduced by half.

Implementation of the reform package started in 2004, but was, according to one of my interview partners, “very awkward and slow” (Interview with an international official involved in defense reform 2011), as was also assessed by the DRC in 2005:

“The state’s authority in administrative areas was limited to setting standards, and by the end of 2004 it had become clear that attempts to exercise even this limited authority were meeting considerable institutional inertia.” (Defence Reform Commission 2005, p. 2)

Implementation was particularly difficult with regard to the state level Ministry of Defense, as the entity ministries refused to delegate staff (Aybet and Bieber 2011, p. 1930). Apparently, there was little political will to truly implement changes that would lessen entity control of the defense sector. This was recognized by the interveners, who eventually reacted with a new round of DRC negotiations and renewed pressure to cede control of the defense sector to the central state.

6.3.2 *A second Working Phase for the DRC*

The first phase of structural defense reform had created some state institutions, but the daily business in the defense sector remained at entity level. There was agreement within the commission, including its Bosnian members, that this was to be only “a first step towards total integration of BiH’s armed forces, which would be required before any full membership of NATO” (OHR 2004i). According to one of my interview partners who was involved in the commission’s work, there were already concrete organigrams for further changes to the defense establishment, one for 2005 and a final one for 2007 (Interview with an OHR Official 2011c). Paddy Ashdown in a press conference in December 2004 stated that further changes towards a fully-integrated army had been planned for the next three years after the first set of changes had been adopted (Defence Reform Commission 2005, p. 183). These organigrams were, my interview partner explained, not published because the Serb representatives, in particular, were concerned that doing so would unnecessarily increase public resistance in the RS. Contrary to these initial plans, the process was significantly sped up in 2005, as the earlier changes were seen as insufficient and progress in implementation too slow (Caparini 2005, Čubro 2005, Hadzovic 2009).

Throughout 2004, conflict between OHR and the RS over cooperation with ICTY intensified. In June 2004, NATO at its Istanbul summit refused to admit Bosnia into NATO PfP. While the defense-related conditions had been fulfilled, cooperation with ICTY in NATO’s assessment had not improved (North Atlantic Council 2004). This led to a harsh reaction by OHR. SDS funds were frozen and 59 SDS officials were dismissed, among them the RS Minister of Interior and the President of the RS and chairman of SDS Dragan Kalini (Gromes 2007, p. 297, OHR 2004c). OHR also used this situation to initiate structural reform of the police (see Chapter Seven, below). For defense reform, another public scandal in December 2004 “provided the pretext for Paddy to speed up what would otherwise come anyway.” (Interview with an OHR Official 2011c) International forces conducted a raid on an old headquarter of Ratko Mladić in Han Pijesak and according to OHR found evidence that VRS had been paying pension to Mladić until 2002, that he had been in hiding in Han Pijesak for some time in summer 2004, and that he had celebrated VRS day there¹³ (Hadzovic 2009, p. 49, OHR 2005b). This scandal was used as evidence for a direct link between an unreformed security sector on the one hand and

¹³ Bosnian officials both from the RS and the state ministry of defense claimed that this was not the case, and asked OHR to present the evidence, which OHR did not do (OHR 2005b). To me, it seems fairly plausible that elements of VRS had been supporting Mladić, considering he was their former boss. At his point however, it suffices to note that this event formed the basis of OHR action.

non-cooperation with ICTY on the other, as Paddy Ashdown made clear in his press conference on the matter:

"I mentioned Han Pijesak earlier. This is just one symptom of the lack of control by the State over the armed forces. [...] By now the command and control of all BiH forces should be at the State level. The Han Pijesak incident clearly shows this is not the case in the RS." (Defence Reform Commission 2005, p. 182)

In reaction to the Han Pijesak affair, Paddy Ashdown prolonged the mandate of the Defense Reform Commission on 31st of December 2004 until the end of 2005. Its new tasks included assisting implementation of the first set of reforms, and to come up with proposals for "transferring the competencies of the Entity Ministries of Defence to the level of the State of Bosnia" (OHR 2004b). The commission essentially consisted of the same institutions and individuals as before. As Bosnia now had a state level ministry of defense, the commission was now co-chaired by Minister Nikola Radovanović and Raffi Gregorian for NATO. This time as well, the working process was described as smooth and based on consent (Interview with an international official 2011, OHR 2005a). This was apparently a surprise to OHR as well, as in their report to the UN Secretary General, they noted that "Against the odds, a general consensus was built and maintained" (OHR 2005a).

The general constellation of interests stayed the same. The Bosnian Serbs initially and at least publicly attempted to hold on to the entity ministry of defense. In March 2005, Dušan Stojičić, president of parliament, publicly declared that Bosnian Serb representatives „believe that this reform in this phase cannot result in the abolition of the Ministry of Defense of Republika Srpska and the General Staff of the Army of Republika Srpska."¹⁴ (Stegić 2005). They gave in eventually due to intervener pressure (see below) and because an integrated army had already been officially accepted. Bosniaks still opted for as large an army as possible, while Croats concerned themselves with being adequately represented at the state level. The interveners, and OHR especially, wanted to see the army centralized.

The framework of negotiations stayed largely the same as well. The arguments had been presented already and there was general consensus on creating an integrated army (Interview with an OHR Official 2011c, OHR 2004e). NATO conditionality continued to guide the process. An issue that gained in importance now was cooperation with The Hague which was especially problematic in the RS. On the one hand, ICTY cooperation generally started to play a more prominent role, in particular in OHR policy in 2004 (Ashdown 2007, p. 292). On the other hand, this was a condition for PpP membership, meaning that success in integrating the Bosnian armies would not be sufficient

¹⁴ Translated by the author.

to fulfill NATO conditionality. As ICTY cooperation was explicitly part of OHR's mandate, this aspect also opened up opportunities for coercive measures, or the threat thereof. The second working phase of the DRC lasted from early 2004 to July 2005 (Hadzovic 2009, p. 49). Negotiations were difficult and got stuck in the process over the issue of keeping or abandoning ethnic identification within the new army (Interview with an international official involved in defense reform 2011). A compromise was struck that created three ethnic regiments specifically for the purpose of maintaining ethnic traditions and heritage. This opened up the way to consensus on the final outcome of the negotiations. RSNA by the end of August officially accepted that defense reform would include abolishing the entity ministry and army, with the support of SDS, SNSD and PDP (Sarač 2005).

The final consensus included the abolition of the entity ministries and with that, the transfer of all authority over defense matters to the state by the end of 2005. There was an end to conscription and further downsizing to 10,000 professionals and up to half that number of reservists (Pietz 2006). The new integrated Armed Forces of BiH (AFBiH) were to consist of three regiments, each made up of three battalions. These battalions were ethnically homogeneous, the regiments, however, consisted of one battalion of each ethnic group. Additionally and cross-cutting this structure, the three mentioned ethnic regiments were formed. These were not part of the regular chain of command. The proposed laws were adopted by the entity and state parliaments in December 2005 (OHR 2006a).

6.4 STRATEGIES IN DEFENSE REFORM

The interveners used their leverage well in defense reform. They had a straightforward argument for defense reform and additional arguments to present to the individual parties as to why reform was beneficial to them. They utilized the experience and working relations created by earlier efforts at capacity building. Training, equipment and NATO membership were all promised as benefits in exchange for cooperation on defense reform. In addition, scandals provided ample opportunity for pressure in the form of blackmail.

6.4.1 *Arguments: Defense Reform as Necessary and as Beneficial to All*

In defense reform, the interveners successfully argued that on the one hand, defense reform was necessary given international standards and Bosnia's international obligations and aspirations. On the other hand, they also successfully constructed arguments for all sides that defense reform had something to offer to them all.

The general argument for defense reform was straightforward, which according to many participants in the process was a major

advantage compared to other intervener attempts at reform. The importance of having a solid argument for the necessity of reform was stressed by many of my interview partners (Interview with an OHR Official 2011c, Interview with Heinz Vetschera 2011, Interview with Mladen Ivanić 2011).

In constructing the general argument for defense reform, the interveners referred to international practice and experience (Interview with Heinz Vetschera 2010, Interview with Heinz Vetschera 2011). They argued that having several armies and, most particularly, several chains of command in one state was not found legally in other places in the world. Furthermore, in situations where several armies (though not state sanctioned) did exist, they usually turned out to be detrimental for security. Importantly, this very basic argument succeeded in getting the Russian representatives in the PIC SB on board; although they had been skeptical initially and traditionally supported the Bosnian Serbs.

For Bosnian Serbs as the group most opposed to structural reforms, there were not a lot of good counter-arguments. One avenue they used was to refer to legal arguments. In the first meeting of the commission, the then RS Minister of Defense Stanković argued that the planned reform was not possible because from the RS point of view, it had no basis in the Bosnian constitution (Interview with an OHR Official 2011c). The interveners countered this with a presentation at the second meeting on the compatibility of the Bosnian constitution with defense reform. Various articles were used to “prove the legality of the proposed crucial changes” (Pietz 2006, p. 165). The most important was Article III (5) that authorized the state to assume those responsibilities necessary to preserve its sovereignty and territorial integrity. Additionally, the interveners based their arguments on Article III (1) that attributes responsibility for foreign policy to the state level, and Article III (2) that obliges the entities to provide all necessary means to the central state to fulfill its international obligations (Pietz 2006, Dayton Peace Agreement 1995). Being able to base the reform project on existing constitutional provisions was a major advantage for the interveners, as changes to the Dayton constitution remained inherently difficult in Bosnia.¹⁵

Additionally, the interveners throughout the process based their arguments on Bosnia’s pledges to join NATO PfP. Once the Bosnian presidency had publicly stated in 2001 it wanted Bosnia to become a member and NATO had laid out its conditions, it was much easier

¹⁵ This was different in police reform and one of the factors that accounted for the difficulties experienced there. See Chapter Seven for details.

to use these conditions as benchmarks for reform.¹⁶ The presidency¹⁷ had, on its own initiative (though with substantial influence by the interveners) declared PfP membership a foreign policy goal (Haupt and Fitzgerald 2004). The mandate of the commission was accordingly built around NATO conditions, and the report of the first working phase was entitled “The Path to Partnership for Peace” (Defence Reform Commission 2003). Compared to other conditionalities such as those in the EU accession process, NATO conditionality was relatively clear. It pertained to one specific area – the defense sector – and rewards such as PfP membership were in much closer reach. Additionally, NATO has clear standards of what makes an army and defense establishment compatible with NATO, and there were hence few alternatives to the proposed changes if eventual NATO membership was the goal (Interview with Tobias Flessenkemper 2011).

These legal and formalistic arguments on their own, however, did not produce a compromise. Yet, in light of a very legalistic political culture in former Yugoslavia (Interview with an international official involved in defense reform 2011),¹⁸ they were important in laying the groundwork. Significantly, with respect to defense reform, the interveners were able to argue concisely and convincingly that it was both legitimate and legal to centralize defense at the state level.

While reference to the Bosnian constitution and the conditions for NATO PfP membership helped to portray defense reform as necessary and legally possible, there were specific arguments to be made for all three sides why defense reform was also beneficial. With respect to all sides, financial arguments were important, as all three groups were barely able to finance their overly large armies. These arguments were combined with bribery, as closer cooperation with NATO and its member states also implied stronger financial support (see below). With respect to Bosnian Serbs, another argument pertained to the chain of command of the VRS which *de facto* ended not in Banja Luka but in Belgrade. For Bosniaks, an important factor was professionalization. Croats, meanwhile, counted on being able to play a stronger role in national level defense institutions than they could within the Federation.

The financial situation of all three armies before defense reform was dire (data was reported above). While they had external financial support in the early years, this ended in 2001 and 2002 due to regional political changes. The external support to HVO ended after Tuđman died and a change in government occurred in 2001, while Yugoslav

¹⁶ The required measures were: adopting a state defense law, establishing state level command and control, democratic and parliamentary oversight, establishing a state level ministry of defense, transparent military budgets, common standards for equipment and training, strengthening state level institutions and fulfilling obligations to ICTY (Staples 2004, p. 34).

¹⁷ Meaning all three presidents.

¹⁸ My own observations confirm this.

support to VRS largely ended in 2002 (Hagelin et al. 2004). Support to ABiH through the Train and Equip program ended when structural defense reform started (Barakat and Zyck 2009, p. 554). This meant that RS in particular, but the other two groups as well had severe budgetary problems in sustaining their armies financially. For example in 2002, the Federation had allocated only a third of what was necessary for personnel costs in the Federation army (Barakat and Zyck 2009, p. 555). Mladen Ivanić for the RS side stated that the financial situation was one of the major reasons to agree to reform. While not being directly responsible for the defense sector, as prime minister and then foreign minister he was acutely aware of the financial situation. Although he opposed defense reform initially, he later on strongly supported it. He said that

“I have to say that I completely agree with the way how this reform was done. Why? First, my goal, and I will talk about it really like a Serb leader, my goal was to reduce the size of the army in Bosnia because we had too many soldiers at the time. Too many officers and we’ve spent too much money on that. [...] I knew [...] that the government doesn’t have the money to pay its own army for long. So we could formally have an army without being able to buy even a small tank for the next decades. So the main reason for us was then to reduce the size of the army.” (Interview with Mladen Ivanić 2011)

RS representatives in the commission and beyond argued for complete demilitarization (Interview with a Bosnian Official involved in Defense Reform 2011, Interview with Mladen Ivanić 2011). This would have permitted the reduction of the costs of the military to zero. However, it was also an attempt at what Olivier de Sardan calls “sidetracking” (Olivier de Sardan 2005, p. 145), meaning that a certain reform is implemented to serve very different aims than those anticipated. One of the major aims of defense reform was to strengthen the central state. This was also the aspect most vehemently opposed by Bosnian Serbs. Demilitarization would have not only prevented the centralizing effect of defense reform, it would even have strengthened the entities. In the absence of a military force, the police would have been left as the only big element of the security sector. This would have very much increased the importance of the police. Policing, in the Dayton constitution, however, is clearly a responsibility of the entities. As a result, entity autonomy would actually have been strengthened (Interview with Heinz Vetschera 2011). This, however, was countered by the interveners with reference to Bosnia’s desire to join NATO PfP. NATO stated clearly that membership would not be possible without an army (Interview with a Bosnian Official involved in Defense Reform 2011).¹⁹

¹⁹ NATO membership in some cases is possible without an army – Iceland is an example for this.

While demilitarization was not an option that the interveners or Bosniaks would accept, reducing the costs of the armies was a common interest of all groups. The first phase of defense reform left the entities in charge of financing their defense establishments but included substantial reductions in the active armed forces. Due to the financial situation of the entities, this would have been necessary in any case. With defense reform, the entities were in the comfortable position to blame these cuts, which were very unpopular with their electorate, on the interveners, who were the main initiators of reform (Barakat and Zyck 2009, p. 555).

Defense reform was also perceived as beneficial in financial terms because it opened up closer cooperation with NATO and its member states, which typically includes support for demobilization programs and for modernizing and professionalizing the army (Barakat and Zyck 2009, p. 555).²⁰ Finally, from the Bosnian Serb perspective, defense reform was also a means of ending a very asymmetric form of external support to the military in Bosnia. Integrating the Bosnian armies also implied an end to the American Train and Equip Program that only benefited the Bosniak army (Barakat and Zyck 2009, p. 554).

While the financial argument was important with respect to all three sides, a second argument related especially to Bosnian Serbs. Here, the ORAO affair and especially the spying affair of early 2003 drew attention to the close involvement of Yugoslavia's²¹ security sector in the RS (ICG 2001b, Interview with an OHR Official 2011c). Informally, the entire chain of command appeared to be leading to Belgrade more than it did to Banja Luka. The ICG judged that "In sum, the VRS may be considered a branch of the Yugoslav Army" (ICG 2001b, p. 12). The two scandals in this respect were especially problematic for the Bosnian Serb leadership: The interveners insisted on establishing who was politically responsible and on taking appropriate action (Ashdown 2007). The RS leadership was held responsible, but they were not actually in control. This argument was used by the interveners to convince Bosnian Serbs of a defense reform that would among other things help to align formal with informal chains of command and responsibility (Interview with an OHR Official 2011c). Dragan Čavić, the then prime minister of the RS, used this argument in a speech in March 2003 when lobbying for support in the RSNA. He explicitly mentioned parallel structures within and outside the RS, and said VRS officers needed to "choose between serving the RS or Serbia, since they could no longer do both" (ICG 2003, p. 22). Defense reform consequently also offered a way for the RS leadership to en-

20 NATO offers a whole range of "partnership tools", a list is available at http://www.nato.int/cps/en/SID-39685C49-29CAE256/natolive/topics_80925.htm.

21 The country was renamed "Serbia and Montenegro" in 2003.

hance their autonomy and room for maneuver *vis-à-vis* Belgrade, if not *vis-à-vis* the Bosnian central state.²²

A third argument related particularly to Bosniak representatives. The Bosniaks had insisted on a very large conscript army with a very large reserve (Interview with an international official 2011). This was a result of their experiences during the war, when a Serb-dominated JNA turned against the Bosniaks, who throughout the war had struggled to gather enough men and equipment so as not to be overrun by Bosnian Serbs. The Bosniaks wanted to make sure that this could never happen again (Interview with Heinz Vetschera 2010). They saw their military strength specifically in having a large reserve to draw on (Interview with an international official involved in defense reform 2011). OHR and NATO countered this argument primarily by pointing out that such a concept of defense was outdated, and a large reserve that existed on paper mainly was in any case not a good security guarantee and also overly costly:

“[...] so we said you do this and you get rid of all this passive reserve and you get closer to real security. Passive reserves is not what is real security, it’s something that scared people have. We will try and bridge that fear.” (Interview with an OHR Official 2011c)

SDA representatives initially also rejected the idea that two armies were to persist under a common central state roof, but eventually agreed on postponing the full integration of the armies (Glas Javnosti 2003). While these arguments existed, it was Mr. Locher’s task to convey them. My interview partners unanimously agreed that Mr. Locher was extremely skilled at doing so.

There was not a lot that Bosnian political elites could do to counter these arguments. Rather than attacking the content of the proposals, the RS leadership occasionally attacked the manner in which they were presented as forcing “everyone to accept the ideas and projects of the High Representative.” (Hadzovic 2009, p. 48) This however did not keep them from cooperating on defense reform.

6.4.2 *Capacity building: Preparing the Ground and Sustaining Reform*

Most of the reform efforts in the defense sector until 2002 centered on capacity building. Capacity building in this phase included demobilization programs, the provision of equipment and training specifically for the Bosniak army, confidence-building measures, the development of defensive military doctrine and efforts to increase parliamentary oversight. Capacity building continued throughout and after structural defense reform in all of those areas. The early efforts at capacity building were important in several ways.

²² One reason that this became important to the RS leadership was the murder of Serbian prime minister Đinđić (ICG 2003, p. 22).

First, they created working relations and trust among those interveners and interveners who were involved (Interview with a Bosnian Official involved in Defense Reform 2010, Interview with a Bosnian Official involved in Defense Reform 2011, Interview with an international official involved in defense reform 2011, Interview with an OHR Official 2011c, Interview with Christian Haupt 2011, Interview with Heinz Vetschera 2010, Interview with Heinz Vetschera 2011). This is apparent at the time of writing, for example, in the fact that at least some of those who were involved in these early capacity building exercises still maintain contact with their former counterparts and are able to point out the current whereabouts and occupations of most of them.²³

Second, they created working relations and coordinating bodies between the intervening organizations and between those organizations and the Bosnian government, which later on greatly facilitated the transition to structural defense reform and smooth cooperation. Coordinating bodies between OSCE, SFOR, OHR, UNMIBH and, at times, the Bosnian government existed from early December 1998 (Haupt and Fitzgerald 2004, p. 160/61). The working routines of those bodies carried over into the DRC (Interview with Heinz Vetschera 2010).

Finally, military capacity building by NATO itself or by important NATO member states had created familiarity among all three armies with the NATO ways of organizing the defense sector. For the military professionals, this created a genuine interest in joining the Partnership for Peace and eventually NATO, which facilitated Bosnia's decision to adopt this as a policy goal and hence provided the ground for NATO conditionality (Aybet and Bieber 2011, p. 1929).

There is however a caveat to be noted with respect to the role of capacity building in defense reform. The process of defense reform was comparatively smooth from the outset. This is partly due to the fact that although the issue was contentious, it was not as contentious as other cases. Another part of the explanation lies with the exceptional skills of James Locher as a negotiator. As there was less conflict in defense reform, there were fewer occasions that could have undermined the productive working relations.

6.4.3 *Bribes and Conditionality: NATO, Money and Equipment*

Bribery played a role throughout the process. Promises of money and equipment in exchange for compliance were important aspects of the Train and Equip program in the early phase until 2002, and formed an important aspect of American strategy, in particular, in implementing the structural reforms. Participation in international missions was another kind of bribe. NATO conditionality was important in guiding structural reform and providing incentives for cooperation. This

²³ Own observation in several interviews.

conditionality proved substantially more successful than did EU conditionality for example in police reform (a more detailed comparison of bribery and blackmail in those two cases can be found in Chapter Nine). Finally, the design of the reform itself included a financial bribe. By downsizing and centralizing the army, the entities in particular were relieved of the heavy financial burden of financing independent armies.

The US-led Train and Equip program was offered to the Bosniak negotiators in Dayton as a bribe in exchange for them accepting the overall agreement (Caparini 2005, Cilliers and Douglas, p. 112, Pietz 2006, p. 161). While the program itself ended in 2002, US support particularly to the Federation army continued. This was deliberately used as leverage, telling them that “If you don’t play it our way, we can take it away.” (Interview with a Representative of a Western Embassy 2011b) Another kind of bribery targeted (and continues to do so) individual soldiers and through that aimed to put pressure on those in charge of political decisions. The interveners actively supported Bosnian involvement in international peacekeeping and peacebuilding missions which were beneficial to the individual soldiers but tied to multi-ethnicity within the army:

“We keep them engaged in peacekeeping missions. Afghanistan. It is not important for us in Afghanistan whether they are there. It is good for their army. We insist that all deployments are multi-ethnic. Soldiers are all for it, they get a 100 a day. Show that when paid okay, they will do it.” (Interview with a Representative of a Western Embassy 2011b)

Involvement in international peacekeeping is a matter of money and prestige, and a vehicle for military education not only for individual soldiers but also for Bosnian political elites (on the rationales of troop-contributing countries, see Bellamy and Williams 2012). As a consequence, it was used to foster multi-ethnicity within the army and also as a bribe to establish common military education rather than ethnically divided education in Croatia, Serbia and elsewhere. A Peace Support Operations Training Center was established in Sarajevo and started working in 2005 (Peace Support Operations Training Center 2008). The center officially aims at training the AFBiH for international missions but unofficially also aims to build up standardized and joint military education throughout BiH (Interview with Heinz Vetschera 2011).

NATO conditionality served as an important bribe in negotiating structural defense reform. In this respect, NATO was substantially more successful than the EU in other areas of reform. There was general consensus among all three Bosnian parties that joining PfP and eventually NATO was a desired goal (Interview with a Representative of a Western Embassy 2011b). On this basis,

“NATO has a much better technocratic ownership of defence reform than the EU has over police reform. This is because NATO has had long-standing experience, since the end of the Cold War, in conveying its technocratic know-how in defence reform, from establishing civil–military relations to defence conversion in the former Warsaw Pact countries.” (Aybet and Bieber 2011, p. 1912)

Apart from experience, the other decisive issue was that, in its much more restricted realm of action, the standards and criteria were relatively clear. Once Bosnia had declared its intent to become a member, NATO established criteria for joining the Partnership for Peace (PfP). The PfP was a precondition for a tailor-made Membership Action Plan (MAP) that would eventually lead to membership. NATO’s conditions for accepting Bosnia into PfP were: authority over defense issues at the state level, a transparent planning and budgeting process, establishing democratic oversight, common doctrine and training throughout Bosnia, organizing the armed forces in a way compatible with NATO standards (Alkalaj 2005), and full cooperation with the International Tribunal in The Hague (Aybet and Bieber 2011, Dabos 2005). The first condition of state level authority in practice translated into calls for an integrated high command and a state level ministry of defense (Aybet and Bieber 2011, Interview with Heinz Vetschera 2010).

These conditions guided the first phase of DRC negotiations successfully. They were concrete, derived from NATO standards that applied universally rather than only to Bosnia, and they were restricted to one particular area (that of defense) rather than asking for a complete reorganization of the Bosnian state as EU accession conditionality does. By adopting the recommendations of the first report of the Defense Reform Commission, Bosnia had largely fulfilled requirements with respect to the defense reform (Greenwood and Hartog 2005, Staples 2004). The main reason not to accept Bosnia at the Istanbul Summit in June 2004 was the lack of cooperation with the ICTY. In its *communiqué*, NATO stated that:

“We welcome Bosnia and Herzegovina’s significant progress in defence reform, a key condition for PfP membership. [...] We are concerned that Bosnia and Herzegovina, particularly obstructionist elements in the Republika Srpska entity, has failed to live up to its obligation to cooperate fully with ICTY, including the arrest and transfer to the jurisdiction of the Tribunal of war crimes indictees, a fundamental requirement for the country to join PfP.” (North Atlantic Council 2004)

As a result, NATO conditionality worked in concert with OHR’s attempt to use non-cooperation with ICTY to also speed up the second phase of defense reform. A letter from NATO Secretary General Jaap de Hoop Scheffer to the Bosnian Presidency, also in December 2004, supported this argument. It stated once again that full cooperation

with ICTY was a crucial condition for PfP membership, and that full cooperation in his view required structural changes in the defense sector including a transfer of competencies from the entity ministries of defense to the state (Defence Reform Commission 2005, p. 185/86).

Finally, the way in which defense reform was designed included financial bribes. One major aspect of defense reform was reducing the costs of the armies. This was to be done by downsizing. Additionally, budgetary responsibility was moved from the entities to the state level. From the perspective of the RS in particular, this implied the removal of a heavy financial burden. The fact that the RS lacked the means to finance its army meant that downsizing probably would have had to happen at some time anyway. Accordingly, RS officials were able to reduce the costs of the army while also being able to blame this unpopular move on the interveners' insistence on defense reform, rather than having to take the blame themselves.

6.4.4 *Pressure: Blackmailing Bosnian Serbs into Compliance*

While there were good arguments for defense reform, a solid basis through earlier efforts at capacity building and NATO conditionality as an incentive, intervener pressure was decisive in bringing the Bosnian Serbs in particular to the negotiation table, and such pressure continued throughout the process. This pressure built less on OHR's formal coercive capacity (although that was important) but more on informal coercive capacity and strategies of blackmail. The first round of DRC negotiations used the ORAO and spying affairs for blackmail purposes, while the second round of negotiations used the Han Pijesak affair as well as non-cooperation with The Hague and to some extent police reform.

The ORAO affair had revealed illegal arms sales to Iraq that very likely happened with the involvement of RS officials. The spying affair also served to shed negative light on the RS leadership. OHR insisted on prime minister Šarović stepping down (Ashdown 2007, p. 251) and abolished the RS Supreme Defense Council. Other than that, however, OHR refrained from either dismissing officials or calling for criminal prosecution but it used the threat of these as blackmail. Bosnian Serbs had to choose between cooperating on defense reform or facing legal consequences for ORAO (Interview with Heinz Vetschera 2010).

For the second round of negotiations, the Han Pijesak affair, revolving around continuing ties between VRS and Ratko Mladić, was used in a similar way. This time, non-cooperation with ICTY was the central theme of the blackmail. This was backed up by NATO, as NATO refused to admit Bosnia into PfP until cooperation with ICTY improved. After the mass dismissal of summer 2004, OHR in reaction to

the Han Pijesak affair removed nine RS security officials in December 2004, explicitly for assisting indictees:

“indicted individuals remain at large within Republika Srpska and have been and are presently assisted in evading justice by individuals in positions of authority and by institutions of a state and political character.” (OHR 2004c)

There was a clear threat of more to come if the RS did not cooperate on defense reform (and on police reform) (Hadzovic 2009, p. 39). Paddy Ashdown also explicitly threatened to target RS institutions if cooperation did not improve. In the press conference already mentioned above, he pointed out that Bosnia had twice failed to be admitted into PfP, and that there would be consequences for failing a third time:

“But if that happens – if the RS, and because of it, BiH fails a third time – then I need to make it very clear that I will not hesitate to take measures that deal, directly and powerfully, with the assets and institutions of the RS. And I can tell you now, no options are currently ruled out, if it comes to this.” (Defence Reform Commission 2005, p. 181)

In both cases, OHR skillfully used those moments where the RS was in a weak position in relation to OHR.

RS officials occasionally attempted to apply counter pressure by blackmail as well. When the recommendations for legal changes proposed by the first DRC were discussed in BiH parliaments, Serb representatives initially walked out in protest, thereby blocking the body’s decision-making capacity. But they ultimately accepted the legislation in parliament, and their earlier protest was judged as aiming at support from the RS public more than actually resisting reform (Hadzovic 2009, p. 48). The RS political elites were clearly careful throughout the process to avoid OHR sanctions.

6.5 OUTCOMES: SUCCESS AND FAILURE IN DEFENSE REFORM

Defense reform, while unimaginable at an earlier stage of the post-conflict process, has widely been hailed a success for the interveners (ICG 2009b, Pietz 2006). In the years immediately after Dayton, “the international community accepted the military division as a fact.” (Vetschera and Damian 2006, p. 30). This changed around 2000 with a modified intervention strategy, and then the ORAO Affair provided a new sense of urgency in reforming the defense sector. The great success of reform was nevertheless a surprise even to those who were involved in working on it.

Defense reform achieved a range of things. First, it established joint command and control and established a ministry at the state level. In a second step, the three armies were formally united. This means that

there are joint control structures, and at the level of brigades, the army is multi-ethnic. Below that level, however, battalions continue to be mono-ethnic. Yet on that level as well, command structures are multi-ethnic, with every person in charge having two deputies of different ethnicities (Interview with an Official at the Bosnian Ministry of Defense 2011). For peacekeeping missions, battalions are multi-ethnic. Defense reform was also a success from the perspective of Bosniak, Croat and Serb political elites in terms of reducing the costs of the army and in achieving admission into NATO PfP, although this took longer than anticipated.

However, defense reform was of course not just a success for interveners and intervened alike. It included compromises, some aspects were not implemented, and some only at a symbolic level. Implementation was much more difficult than the negotiations were. It dragged on for a long time, and is not completely done by the time of writing. As one representative of a Western Embassy put it, what is being dealt with now is a “clean-up of what was already agreed upon” (Interview with a Representative of a Western Embassy 2011b). This however is not always due to resistance, however (though in part it certainly is), but sometimes also simply a result of the organizational difficulties of uniting various armies and bureaucracies (Interview with a Bosnian Official involved in Defense Reform 2011). There were too many personnel both in the armies and in the ministries which implied painful decisions about whom to keep and whom to send away into unemployment. The units that remained had then to be reorganized. There was too much equipment also, as well as too much property. People and equipment had to be redistributed and moved all around the country.

Some aspects of defense reform still have not been implemented despite being part of the agreements of the reform commission. The main issue in this respect is defense property. The sale of property still happens at the entity level rather than the state level. This issue quickly became intertwined with the general issue of state property (see Chapter Eight) and with that subject to an entirely different debate with different interests at play (Interview with a Representative of a Western Embassy 2011b). An agreement between the heads of the six major political parties was finally struck in March 2012 on how and which property will be transferred to the central state (Katana 2012b). Whether it will be implemented remains to be seen.

Another aspect that still lacks implementation is the reserve, where not even a framework exists so far (Interview with an international official 2011). In terms of multi-ethnicity within the army, Bosniaks, Croats and Serbs tried to hold on to their aim of mono-ethnic units by attempting to separate at least some of the multi-ethnic brigades again (Interview with a Representative of a Western Embassy 2011b,

Interview with an international official 2011).²⁴ Also, for some years Bosniaks continued keeping lists of potential recruits although conscription was abolished, apparently in an attempt to eventually turn the wheel back in this area as well (Interview with an international official 2011). Furthermore, many are convinced that informally, parallel ethnic structures of command continue to exist (Interview with a Representative of a Western Embassy 2011b, Interview with an international official 2011). Military education apparently is not integrated either – it is, however, not only ethnically divided but for now appears to be completely disorganized, with a lot of education for officers taking place abroad in a vast number of countries and educational programs (Interview with Heinz Vetschera 2011).

Defense reform was hence in part selective, as some of the more contentious issues – defense property, and abolishing ethnicity as an organizing principle at lower levels as well – have been left out. In other respects, defense reform remained symbolic. Ethnic command and control structures are likely to persist, and in other areas such as conscription and multi-ethnic brigades, there are attempts to circumvent the new rules and continue applying the old ones. Defense reform, while more successful than many other reform processes, therefore resembles a compromise between the various interests involved.

6.6 CONCLUDING SUMMARY

In defense reform, two things contributed to the overall success of the interveners. On the one hand, defense reform was a relatively easy case in terms of interests and resources. On the other hand, this favorable base was used well by the interveners whose strategies proved largely successful.

In this process of negotiation, there was a constellation of interests that worked for the interveners. While all three groups of Bosnian political elites were critical about some aspects of defense reform, none of them saw this issue as a vital threat to their bases of power. On the contrary, especially for Bosnian Serb political elites, defense reform offered an opportunity to reign in an alternative center of power with very close ties to Belgrade. While Bosniaks were not in favor of downsizing, they saw the financial benefit of doing so, as did everyone else, and agreed with the interveners on the goal of an integrated army. Bosnian Croats, while not happy about giving up their own army, saw greater potential for a distinct Croat role in the defense establishment at state level than in the current arrangements within the Federation.

While nobody among the intervened was very much against defense reform, there were some among the interveners who were de-

²⁴ This was an issue that was ongoing while I conducted my last interviews in Bosnia in spring 2011.

cidedly in favor and put a great deal of weight (in terms of money, personnel, time and coercive capacity) behind it. These were the Politico-Military Section in OHR on the one hand and the American Embassy on the other. Some within OHR were convinced that top-down structural reform was needed and the only way to proceed and actively lobbied for this project both within and outside OHR (Interview with an OHR Official 2011c). Finally, following the ORAO scandal, defense reform became part of US foreign policy and security interests. This constellation of interests alone was favorable to the interveners. Ultimately and despite diverging interests, a zone of agreement came into existence as some interests were shared (reducing costs) while others were at least not contradictory and were possible to accommodate within the framework of defense reform.

However, the distribution of resources in this case also worked into the hands of the interveners, and their strategies used these resources well. They possessed legitimacy in calling for reform both because they had an argument and because they had a mandate. There is general consensus that several hostile armies in any one country constitute a threat to security. It was hence difficult to question the argument for reform. The Dayton Agreement, while not explicitly calling for an integrated army, also provided a basis of legitimation. This was important as it fed into coercive capacity by allowing OHR to threaten coercive measures based on its Dayton mandate. By setting up a relatively open negotiation process in the two commissions and by coming up with arguments for why defense reform is not only possible but also beneficial, the interveners turned this basis of legitimacy into a huge advantage.

In terms of capacity building and organizational capacity, the first served to increase the latter also for the interveners. Early strategies in the defense sector created organizational capacity that was valuable in structural defense reform. The intense and long-standing capacity building efforts by the interveners not only enhanced the capacity of the intervened. They ultimately also became a capacity building program for the interveners themselves. The knowledge, personal ties between individuals and coordinating bodies that developed in the early phase of reform in the defense sector were all incorporated into structural defense reform. However, the relatively smooth and successful process of negotiating in the DRC itself contributed to enhancing organizational capacity among the interveners, as everyone felt that they were participating in a successful project (Interview with an international official 2011).

Capacity building also formed the basis for the NATO accession process that provided opportunities for bribery and conditionality. In this realm, the interveners had something to offer (NATO PfP and money that was needed and desired) and used it in a targeted and very concrete way. Finally, a lot of coercive capacity beyond OHR's

Bonn Powers originated from the various scandals in this period. This capacity was deliberately used for blackmail in different ways. The interveners threatened Bosnian Serbs with criminal prosecution for ORAO. Later on, non-cooperation with The Hague and the threat of sanctions in this realm served a similar purpose. Defense reform was hence a case that was both easy and skillfully maneuvered by the interveners.

POLICE REFORM

Analogous to the defense sector, three different, ethnically defined police forces existed in Bosnia after the war. While reform efforts in the early years of intervention targeted the individual police forces and the inner workings of these three forces, the structures of political authority in the policing sector remained intact. Inspired by the focus on rule of law and by successful statebuilding reforms in other areas, structural police reform became a part of OHR's agenda in 2004. Different from defense reform, police reform ran into substantial and sustained resistance from the RS. Police reform efforts lasted from 2004 to late 2007. They ended with a symbolic agreement that satisfied EU conditionality but left Bosnian policing structures untouched. While Bosnian Serbs were decidedly opposed to police reform, the EU, which was induced by OHR to provide the rationale for reform, was also not fully behind the process. The reform process lacked legitimacy as the interveners failed to produce convincing arguments in its favor. Ultimately, police reform failed in terms of content and had devastating effects for the credibility of both OHR and the EU.

The first section of this chapter sets out the background for statebuilding reforms in policing. The following section describes actors, interests and resources in the peacebuilding field for police reform. The third section tells the story of structural police reform while the fourth section discusses the strategies applied. The fifth section relates outcomes to initial interests and the last section discusses the results.

7.1 BACKGROUND TO POLICE REFORM

This section provides the background to the system of policing that the interveners intended to reform and describes early interventions into the police and policing prior to statebuilding reforms. As with the army and defense establishment, the state of policing when post-conflict intervention started was shaped by Yugoslav legacies, the war and by the provisions of Dayton. Early efforts with respect to the police had two main pillars which were capacity building on the one hand and (de)certification of police officers on the other. Some initiatives targeting structural aspects of policing began in this period, but on very limited scale.

7.1.1 *Police and Policing in Bosnia at the End of War*

Several issues with respect to policing were regarded as detrimental to peacebuilding in Bosnia. First, the police as an important instrument of war continued to pose a security threat, particularly to ethnic minority groups. Besides general security concerns, this also threatened to undermine minority return which was one of the central aims of intervention (Collantes Celador 2006). Second, the police were under direct control of the three political leaderships and were an instrument of power rather than a police force protecting the security of citizens. Third, the police were ethnically divided which was seen as detrimental to statebuilding in general and problematic for fighting organized crime in particular as little cooperation beyond entity borders was possible. And lastly, the police was over-staffed and too expensive. The Dayton Agreement and subsequent police restructuring agreements between the entities and UN IPTF (United Nations International Police Task Force) addressed the issue of Human Rights abuses by the police, downsizing and, indirectly at least, matters of political control. The ethnic division of the police remained untouched, however.

The role of the Yugoslav police force had been twofold. Aside from handling crime, a core task was protecting the state and state ideology (Hensell 2008, King 1998, Köszeg 2001, p. 1, Kutnjak Ivković and Haberfeld 2000). The police force “ensured political conformity, stability and order for Tito’s multinational but single party regime.” (Collantes Celador 2009, p. 233). Its organizational structure was militarized, and its organizational culture subject to “mystification” (Kutnjak Ivković and Haberfeld 2000, p. 195): The police force saw itself and was seen as responding to a higher authority, while ordinary citizens were not supposed to know about the inner workings of the organization. Different from the JNA, which was organized at federal level, the police were subordinate to the ministries of interior of the Yugoslav republics and enjoyed considerable autonomy *vis-à-vis* the federal level (Lindvall 2009, p. 64). During the wars that accompanied the break-up of Yugoslavia, the police played a central role together with the Territorial Defense Forces (see the preceding Chapter on defense reform) (Aitchison 2007, Calic 2010, Collantes Celador 2009, Metz 2009). They were actively involved in the wars and in serious war crimes as well (Aitchison 2007). As with the army, the police in Bosnia were quickly divided into three separate, ethnically defined spheres of influence, while police officers of other ethnicities were removed and top positions were staffed with politically loyal personnel (Lindvall 2009, p. 65). These ethnic police forces were involved in and financed by black-market activities (Andreas 2004, Collantes Celador 2009, Metz 2009). When the war was over, the police continued to

constitute a threat rather than providing security, particularly for minority representatives (Collantes Celador 2006, p. 59).

By the end of war, the police had become a central instrument of power for the three ethnic leaderships in Bosnia. Together with private and secret police forces built around demobilized soldiers, they provided a tool for controlling political opponents (ESI 1999, p. 5/6). Police forces were directly controlled by the powerful ministries of interior in the entities and at cantonal level with the Ministers exercising control down to everyday decisions on recruitment and the like (ICG 2002b, p. 33). The police frequently allowed or even participated in violence and harassment against people of other ethnicities (UNSC 2002, p. 2). Additionally, the police were also vastly overstaffed. At the end of the war, more than 44,000 served in the three separate forces, which was more than three times what it had been before the war (UNSC 2002, p. 2). The institutional set-up of the police differed between the RS and the Federation. The RS had a centralized police structure with five districts, while the Federation police were decentralized with unclear divisions of competence between the interior ministries and entity and cantonal levels.¹ Cross-IEBL cooperation occurred but was often difficult (Metz 2009). Crucially, it was not institutionally organized, but depended on the personal relations of the individual police chiefs (Lindvall 2009, p. 117).

Different from the defense sector where the constitution that was agreed upon in Dayton stayed vague, authority over the police was explicitly allocated to the entities (Dayton Peace Agreement 1995, Annex 4, Article III.2.c). There were however concrete provisions to reform these separate forces internally. Annex 11 included an agreement between the Bosnian state and the two entities on an international police force, tasked to monitor, advise and train Bosnian law enforcement agencies (Dayton Peace Agreement 1995, Annex 11). The IPTF mandate of December 1995 was related to law enforcement and broadly consisted of two pillars, the police and the justice sector (Stodiek 2004, p. 165, UNSC 1995). IPTF was to be autonomous, but coordinated and guided by the High Representative (Dayton Peace Agreement 1995, Annex 11, II.1 and II.3). According to its initial mandate, IPTF had no sanction capacities on its own but only *via* reporting to the High Representative who could then take action (Stodiek 2004, p. 165). This mandate was adapted in 1996 to also allow IPTF its own investigations into human rights violations within the police (Bieber 2010b, p. 9, UNSC 1996, p. III.28), which, together with cooperation agreements with FBiH in 1996 (Framework Agreement FBiH 1996) and RS in 1998 (Framework Agreement RS 1998), effectively endowed IPTF with sanction capacity, as police officers guilty of human rights violations faced dismissal. From 2001 onwards, IPTF itself was also able to dismiss police officers (Stodiek 2004, p. 254).

¹ Not much has changed about this structure. Brčko has its own police.

7.1.2 *Early Interventions in Policing: IPTF and EUPM*

Early efforts with respect to the police focused on capacity building within the police and on reorganizing them with respect to human rights standards. Capacity building evolved from basic training in the early stages to training at the managerial level in later years and a heavy focus on fighting organized crime under EU leadership with EUPM (Schroeder 2007). There were some efforts to restructure the police internally which were mainly focused on making them more efficient. Efforts to depoliticize the police existed but failed. At the state level, specialized law enforcement agencies were created but these did not touch on the structure of the existing police forces.

The early phase of police reform under the auspices of IPTF was characterized by capacity building on the one hand and the certification process on the other. The overall aim was a police force adhering to principles of “democratic policing”, implying a police force that serves citizen needs and is democratically accountable (Collantes Celador 2006, p. 59 and 67, footnote 1, ICG 2002b, p. 7). Aside from training programs, IPTF’s main activities included a major program aiming at officer certification according to human rights standards and professional conduct, compulsory training courses, a program aimed at enhancing minority representation in the police, and a program installing police commissioners within the ministries to reduce political interference in the police (UNSC 2002). IPTF also supervised the deployment of the state border service when it was created in 2000, provided training and equipment for a court police, and helped in setting up the State Information and Protection Agency (SIPA. Later renamed State Investigation and Protection Agency) (UNSC 2002). Aside from the State Border Service and SIPA, none of the IPTF activities touched upon the ethnically divided political structures in law enforcement, or on the larger political and institutional set-up of the police (Donais 2006).

When the UN mission in Bosnia ended in 2002, UN IPTF was succeeded by a European Union Police Mission (EUPM) in 2003. The mission was granted to the EU after intense competition with OSCE for it (Collantes Celador 2009, p. 234). For the EU, taking over the police mission in Bosnia provided an opportunity to test its defense and security policy in practice. The EU was very intent on clearly pointing out the distinctly ‘European’ character of its police mission, setting it apart from its predecessor (Collantes Celador 2009). Different from IPTF, EUPM did not have formal coercive capacity. Its approach built on Bosnian ownership, with the broad aim of improving policing standards in Bosnia (Council of the EU 2002).

This was broken down into developing police independence and accountability, fighting organized crime and corruption, the financial viability of the local police, and institution and capacity building. The

focus on Bosnian ownership intensified as Bosnia's EU accession process gained in political prominence (Collantes Celador 2009, Interview with an EUPM Representative 2011b). EUPM for example included Bosnian police officers in operational planning processes (Collantes Celador 2009). The EU emphasis was on "strengthening" rather than "substitution" of local capacities (Interview with Tobias Flessenkemper 2011). Developing the capacity to fight organized crime now acquired a greater focus than before, also because this directly coincided with EU interests (Aitchison 2007, p. 335, Mounier 2007, Woodward 2009). In addition, a strong emphasis was put on the managerial side of policing, such as developing budgets (Collantes Celador 2009, p. 236, Council of the EU 2002). While EUPM continued with capacity building efforts, the parallel process of structural police reform soon came to dominate those ownership-based activities in the police sector.

7.1.3 *The Status Quo at the Outset of Statebuilding Reforms*

The success of IPTF's programs was mixed. Police forces were substantially reduced, from roughly 45,000 at the end of war to about 23,000 in 2002 when IPTF's mandate ended (ICG 2002b, p. 2). The certification program was heavily criticized later on, as the program itself was questionable in terms of rule of law standards. It did not offer a chance for appeal by decertified officers, a problem compounded by the fact that the UN mission in Bosnia officially ended in 2002, leaving a legal vacuum as to who was to be in charge of dealing with appeals (ESI 2007a). When IPTF's mandate ended, ethnic minority police officers constituted about 10% on average (UNSC 2002), which did not match initial aims (Collantes Celador 2006). By 2002, only the police of Brčko District and the State Border Police were reasonably multi-ethnic (Collantes Celador 2006), and minority police officers often were subject to discrimination (ICG 2002b).

The training programs were deemed fairly successful. This was confirmed by surveys conducted by SFOR, which found that the population by 2002 perceived the police as more qualified than before the war (ICG 2002b), although they were regionally imbalanced, and ill-coordinated among the various agencies involved (ICG 2002b). Greater difficulty was encountered with regard to political interference. The commissioner project is, in itself, an almost classic example of "co-opted peacebuilding" (Barnett and Zürcher 2009): The program has been met with considerable resistance from the interior ministries and from all three ethnic groups. To save the project as such, IPTF eventually had to accept that the ministries heavily influenced the process of selecting commissioners and appointed candidates suitable to their interests (ICG 2002b).

The mandate of EUPM only started shortly before structural police reform was initiated by OHR. Crucially, this top-down initiative stood in stark contrast to EUPM's approach of partnership with Bosnian law-enforcement agencies and authorities.

7.2 THE PEACEBUILDING FIELD IN POLICE REFORM

This section describes actors, interests and resources in police reform, again starting with the Bosnian political elites and then turning to the interveners. The Bosnian political elites are once again divided along ethnic lines, though changes in the internal constellation of actors occurred on all three sides in this period. Among the interveners, OHR, the PIC SB, the EU and its police mission EUPM played a role.

7.2.1 *Bosnian Political Elites in Police Reform*

Structural police reform started in 2004 when the three war-time parties were in power at state and entity level. The 2006 elections and the period leading up to them brought about substantial changes for all three ethnic groups, leading to fragmentation among Bosniaks and Bosnian Croats and a centralization of power among Bosnian Serbs. The changes within the Bosnian Serb political spectrum were in large part a direct result of police reform. The lack of organizational capacity among Bosniaks and Bosnian Croats ultimately led to the failure of a large-scale attempt at constitutional reform in 2006. The so-called 'April Package' failed in parliament by two votes, as a result of attempts by SBiH and the newly-formed HDZ 1990 to set themselves apart from SDA and HDZ respectively (see for example Hays and Crosby 2006, Maršić and Marko 2007, Sebastian 2007). The political atmosphere between the parties worsened as a result of the failure of April Package, which led to a substantial loss of trust among them. Ever since², the polarizing political stances of Milorad Dodik of SNSD on the one hand and Haris Silajdžić of SBiH on the other have dominated political discourse. In each of the major issues that were debated at the time, both usually adopted extreme negotiating positions that minimized the room for compromise.

The Bosniak political spectrum was dominated by SDA led by Sulejman Tihić from 2004 to 2006. In 2005 and 2006, the return of Haris Silajdžić to Bosnia and as leader of SBiH resulted in a boost in popularity for SBiH and competition among the two parties for voter support in the ensuing years. Compared to SDA, SBiH took a decidedly more nationalist stance and argued for abolishing RS as an entity altogether (Tolksdorf 2010, p. 316). Silajdžić was elected as the Bosniak member of the presidency in autumn 2006. In the later stages

² This was the situation until October 2010, when Silajdžić was voted out of office as member of the presidency (Arslanagic 2010a).

of police reform, SDA also adopted more hardline positions for fear of being sidelined by SBiH (Lindvall 2009, p. 166-69). In line with a general interest in centralization, the Bosniaks were clearly in favor of OHR attempts to move authority over the police to the state level (Muehlmann 2007, p. 3, Tolksdorf 2010, p. 291). Once these plans were on the table, Bosniak political representatives considered anything less than these a clear failure (Lindvall 2009, p. 118). Accordingly, Bosniaks supported the interveners in the early stages of police reform and started to oppose them in later stages when the interveners increasingly sought a compromise with RS. For the Bosniaks, internationally-driven police reform also provided a chance to utilize international support for their overall agenda. The reform as initially planned by the interveners necessitated constitutional changes towards a more integrated state. This was favorable to Bosniak interests but something that Bosniaks clearly were unable to achieve without international support (Laudes 2009, p. 127, Metz 2009, p. 61).

HDZ's position as the sole representative of Bosnian Croat interests ended in 2006 when a number of HDZ officials left the party to form the new 'HDZ 1990'. This break was caused more by personality issues and individual aspirations to power than by political differences (Divjak and Pugh 2008, p. 378). HDZ 1990 gained an almost equal share of votes compared to HDZ in the 2006 elections and since then had to be taken into account as an important political force within the Bosnian Croat spectrum. While both parties often followed the same aims and often cooperated, this could not be taken for granted. Concerned with the Croat cantonal strongholds on the one hand and Croat influence at the state level on the other, both parties favored an integrated police structure that kept the cantons as an important political and administrative unit (Lindvall 2009, p. 126, Metz 2009, p. 61). At the state level, all ethnic groups typically received an equal share of influence, which would have been favorable to the Croats as the smallest ethnic group. As the Croat main basis of power lies below the entity level in Croat majority areas, they clearly favored a new police structure with a large number of police districts. This would have allowed them to keep control of the police in Croat majority areas (Metz 2009, p. 57). Proposals with less decentralized structures were detrimental to Bosnian Croat interests, but rather than voicing opposition directly, Bosnian Croats usually counted on the Bosnian Serbs to do so (Muehlmann 2007, p. 3).

The RS government led by SDS with Dragan Čavić as prime minister, which was in place from 2004, was weak from the outset. Increased pressure by OHR to cooperate on numerous centralizing reforms, and on police reform in particular, further weakened the government. These reforms were highly unpopular in RS and provided ample opportunity for RS opposition parties and opposition to Čavić within SDS to attack the government for selling out RS interests (In-

interview with Dragan Čavić 2011, Lindvall 2009, p. 191). Police reform ultimately brought about the end of the SDS government. SDS's coalition partner PDP successfully initiated a vote of no-confidence in spring 2006 that brought SNSD and Milorad Dodik to power. Dragan Čavić was not too unhappy about this as he hoped he could let Dodik deal with the unpopular police reform and return to government later (Lindvall 2009, p. 193). However, the elections 2006 brought an overwhelming victory for SNSD and a very solid basis of legitimacy. With an absolute majority in RSNA, a very effective party structure and funds available through the recent privatization of RS Telekom, SNSD quickly managed to monopolize power not only within the political apparatus but also established tight control of the economic sphere, media and public administration (Interview with Aleksandar Trifunović 2011, Interview with an OHR Official 2011a, Rathfelder 2008, US Embassy in BiH 2008a). Bosnian Serb organizational capacity was higher than ever, as a result, which allowed Dodik to openly confront OHR.

All Bosnian Serb parties decidedly opposed any centralization of the police. While the army had been important only in symbolic terms after the war, the police were a crucial element of political control (ESI 1999). After defense and intelligence reform, the police were also the only element of the security sector that was still in entity control which additionally increased its importance (Interview with Beriz Belkić 2011, Interview with Heinz Vetschera 2010). Importantly, police reform was also strongly rejected by the RS public (Lindvall 2009). Police reform was however not only rejected because of matters relating to the police directly, however. It was seen as an attempt to renegotiate the territorial division of power in Bosnia. According to the OHR and EU criteria, police districts were to cross the Inter Entity Boundary Line (IEBL). The entity structure however had not been open to renegotiation since Dayton and represented the lowest common denominator in Bosnian politics. As one OHR official put it

"Territory is a tough issue. It's the only matter you can't talk about in BiH. You can't talk about a third entity for the Croats, and you can't talk about crossing the IEBL. It doesn't work."
(Interview with an OHR Official 2011d)

Police reform also touched upon the territorial division of power in Bosnia as it required constitutional changes. Because of this, it was perceived as an attempt at constitutional reform through the back-door and at eventually abolishing the RS (Interview with an OHR Official 2011d, Interview with Dragan Čavić 2011, Interview with Mladen Ivanić 2011, Interview with Tobias Flessenkemper 2010, Lindvall 2009). Mladen Ivanić argued that this was a plan by Paddy Ashdown himself, that "Paddy really believed in the success in police reform, he believed that by eliminating the RS police he will basically eliminate the RS. Even Paddy wanted that." (Interview with Mladen

Ivanić 2011) In the eyes of RS political elites, police reform turned into a matter of political survival.

7.2.2 *Intervening Actors in Police Reform*

Structural police reform was initiated by OHR. The EU commission was heavily involved in police reform as it became tied to the EU accession process. EUPM was involved in police reform by mandate and took over a leading role in later phases of reform. Different PIC SB member states also were heavily involved in the negotiation process.

When police reform started, OHR was in its most active and most powerful phase with Paddy Ashdown as High Representative. It still had coercive capacity *via* the Bonn Powers and organizational capacity which built on a large number of personnel and skilled leadership. Coercive capacity in police reform was restricted, however, as OHR opted for a model of police reorganization that necessitated constitutional changes, an area that was not covered by the organizations' mandate. OHR instead legitimized its attempts at police reform by drawing on its second 'hat' as EU Special Representative, but this mandate did not include coercive capacity.

OHR lost in coercive capacity, organizational capacity and legitimacy over the course of police reform. The demise of OHR is in no small part a result of the failure of police reform itself, because it appeared to be motivated more by a desire to weaken RS than by concerns over policing (Interview with Mladen Ivanić 2011, Interview with Tobias Flessenkemper 2010, Lindvall 2009, p. 107) and because the failure of police reform clearly demonstrated the limits of OHR's power (Interview with an SDP representative 2010a). With police reform, Paddy Ashdown clearly took interventionism a step too far (Interview with Tobias Flessenkemper 2010). Consequently, when his mandate ended, the PIC SB member states opted for reorienting OHR towards a less intrusive approach. The successor they chose was Christian Schwarz-Schilling who was known to advocate an approach focusing on ownership and on parliamentary procedure rather than impositions and high-level negotiations (Interview with Tobias Flessenkemper 2010, Laudes 2009, p. 123). Schwarz-Schilling began his mandate in January 2006 and early on stated publicly that he would restrict the use of the Bonn Powers to grave violations of the DPA. This statement was assessed as seriously undermining OHR's coercive capacity, as the threat of the Bonn Powers was gone (Interview with Kurt Bassuener 2010, Interview with Stefan Simosas 2011). Schwarz-Schilling's less intrusive policy as well as his leadership style were highly contested inside OHR, allegedly also leading to decreasing organizational capacity (Interview with Kurt Bassuener 2010). He

also met resistance from some of the PIC SB member states, the US in particular (Interview with Christian Schwarz-Schilling 2012).

This was also the time when the debate about transition from OHR to a reinforced EU presence started. A first date for OHR closure was announced for June 2007 (Interview with Christian Schwarz-Schilling 2012, Laudes 2009, p. 124). With that, OHR was perceived as already half gone, its capacity to push through reforms and decisions decreased further as those unhappy about reforms knew that they just needed to hold out long enough until OHR would close (Interview with Stefan Simosas 2011). Disunity in the PIC SB over transition added to diminishing OHR organizational and coercive capacity. When Schwarz-Schilling was succeeded by Miroslav Lajčák, OHR made another attempt at reviving its coercive capacity. This attempt failed as by then OHR was no longer perceived as being legitimately able to use these coercive powers.

OHR's interest in police reform developed over time, but once reform was on the agenda, it turned into a very dominant issue (Potter 2005, p. 212). Paddy Ashdown did not initially plan to make police reform part of his agenda, but when he did, it fitted well into the overall rule of law agenda (Interview with an OHR Official 2011d) (on Ashdown's agenda as High Representative, see Ashdown 2007, p. 225-31). First, Paddy Ashdown considered his task as High Representative to be state- rather than peacebuilding in order to prepare for intervener exit (Ashdown 2007, p. 220). With the end of intervention on the horizon, OHR aimed to speed up the process and use the time it still had to implement as much state-strengthening measures as possible. Successful reforms in other areas such as defense, intelligence and value added tax had created a sense of optimism about what was achievable in this context (Interview with an OHR Official 2011c). Second, in line with shifts in larger international discourses at the time, the emphasis on statebuilding in practice translated into a focus on corruption and organized crime. In Paddy Ashdown's assessment, at the time when he arrived Bosnia was "very close to the status of a criminally captured state" (Ashdown 2007, p. 222). This view fitted well with the US anti-terrorism agenda (Interview with an OHR Official 2010a, Potter 2005, p. 35), increased EU efforts to combat organized crime in its immediate neighborhood (Mounier 2007, Woodward 2009, p. 51), and a general discourse on corruption as an impediment to statebuilding stemming from international experiences in Afghanistan (Interview with Tobias Flessenkemper 2010). With this focus, a police force free from political interference by those politicians that were suspected of participating in organized crime seemed crucial. Similar to the rationale behind defense reform, centralizing political authority over the police at the state level was thought to lessen political interference.

OHR clearly aimed at introducing a police structure that moved control over the police to the central state level. This goal was re-

laxed only towards the end of the police reform efforts as it became apparent that it was unachievable. By then, it was clear that police reform blocked progress in the EU accession process and towards OHR closure and would continue to do so. OHR interest now shifted to finding a face-saving way out of police reform, and the content of reform at that point no longer played an important role.

With the debate on OHR transition starting, there was substantially less unity in the PIC Steering Board and hence less organizational capacity and backup for OHR (Interview with Christian Schwarz-Schilling 2012). When OHR's mandate was prolonged in February 2007, Russia opposed the decision and thereby ended the implicit principle of taking decisions by consensus in the PIC SB (Laudes 2009, p. 129, PIC 2007). Russia continued pressing for a timely and concrete closure date for OHR in the following years (US Embassy in BiH 2008b). Police reform itself also met considerably different levels of support in the PIC SB. Generally, the effort was seen as a European project with little American involvement beyond technical support (Interview with Tobias Flessenkemper 2011). Among those EU states that were members of the PIC SB, there was little consensus on police reform either. Some quickly started to feel that the conditions that OHR had lobbied for and that were tied to the EU accession process started to hold the EU process hostage (Lindvall 2009). In sum, there was little coherence within the PIC SB with respect to police reform, and no clearly-defined common interest either.

While police reform was initiated by OHR, it was the EU that was, formally, driving it. The EU was involved in police reform in Bosnia in two ways. On the one hand, effective yet democratic law enforcement was a precondition for EU accession. Police matters, therefore, were part of the pre-accession processes between Bosnia and the European Commission. On the other hand, with the European Union Police Mission, the EU had deployed its first-ever ESDP mission in Bosnia and was directly involved in reforming the Bosnian police on the ground.

From the EU accession point of view, the EU Commission was involved in police reform through conducting assessments of the *status quo* and setting conditions for how policing in Bosnia had to be changed in order for Bosnia to first sign a Stabilization and Association Agreement (SAA) and eventually join the EU. The EU adopted criteria for signing an SAA that were proposed by OHR and which narrowed down police reform to creating a centralized police (see below). While these criteria were formally adopted by the EU, they were neither unanimously supported within the EU nor by all member states (Interview with Tobias Flessenkemper 2011, Tolksdorf 2010, p. 364). Those responsible for the process in the EU Commission were skeptical about the conditionality from the outset, as they feared that the conditions would undermine Bosnia's EU accession process:

“The EU accepted to set the conditionality on the proposal of the High Representative but they were not very happy. Since the beginning and they should have probably at that time point their will in the sense they should have known better that they wouldn’t not be able to respect or to apply the conditionality, because the EU ambassador here knows probably better how the EU policy works or they should be more loud in saying let’s not put the conditionality, we’re not going to make it work and stick with it.” (Interview with an EUPM Representative 2011a)

While the EU formally adopted the leadership in structural police reform by providing the commission chair and the finances, these divergent stances within the EU and between the EU and OHR were nevertheless apparent to the interveners. This reduced organizational capacity as the EU was unable to convincingly stand behind its own conditionality (Tolksdorf 2010, p. 364). The EU was also unable to turn its conditionality into coercive capacity, as it was soon apparent that the EU needed success in signing an SAA with Bosnia at least as urgently as Bosnia did (Flessenkemper 2012). Finally, because the criteria were not rooted in commonly accepted EU standards, the EU lost legitimacy in the eyes of the interveners when it continued to portray these criteria as ‘European Standards’ (see below).

EU interests with respect to the police revolved around developing ESDP capacities, continuing on the path of stabilization through integration, and internal security concerns. As outlined above, Bosnia was a testing ground for the EU’s newly-developed ESDP and the place where the EU hoped to demonstrate its capability of successfully dealing with crises. Second, the EU’s main recipe for furthering stability and democratization in Eastern Europe so far had been enlargement conditionality. This was and is a major strategy in the Western Balkans as well, where failure would seriously undermine strongly-held beliefs and commonly-applied policy within the EU institutions (Interview with Kurt Bassuener 2010). Third, one of the major interests of the EU with respect to the Western Balkans in general was fighting organized crime, as this was seen as a direct contribution to combating organized crime within the EU (Lindvall 2009, p. 73, Osland 2004). A centralizing police reform tied to EU enlargement conditionality was seen as serving all of those interests.

The EU Police Mission had no executive mandate and hence lacked coercive capacity (Maras 2009). In terms of organizational capacity, EUPM has been criticized for ineffective organization that severely hampered output, especially in the first two years although there were improvements later on (Lindvall 2009, p. 72). For legitimacy, the clear focus on ownership and provision of expertise meant that EUPM was generally well-respected even by those who were usually critical of international intervention in Bosnia (Group Interview at the RS EU Integration Unit 2010). EUPM generally agreed on the need for structural reform in the police sector, but was clearly skeptical of the

way in which OHR planned and designed the reform (Interview with Tobias Flessenkemper 2011, Tolksdorf 2011). This related both to the content and to the way that reform was to be negotiated. EUPM disagreed with OHR's top-down approach in principle as its own focus was on ownership (Tolksdorf 2011, p. 439). The two approaches were difficult to combine, especially as EUPM personnel was supposed to be involved in both. When the process had been underway for a while, EUPM assessed it as not having much of a chance of success and refocused its priorities on its other issues and programs (Interview with an EUPM Representative 2011b). In terms of the content of reform, EUPM was particularly critical of the fact that police reform evolved from a matter of policing and of technical issues into one of overall statebuilding and constitutional change (Lindvall 2009, p. 102).

In terms of a zone of agreement, the negotiating positions of Bosnian Serbs on the one hand and of OHR and the EU precluded a mutually beneficial compromise. For Bosnian Serbs, a police reform that would create police districts crossing the IEHL was seen as threatening political survival. OHR on the other hand, and the EU whose entire approach to the region depends on the credibility of its conditionality, were unwilling to relax the criteria for police reform. In police reform, compromise clearly required that one of the two 'sides' had to back down eventually.

7.3 THE STORY OF STRUCTURAL POLICE REFORM

This section describes how structural police reform became part of the interveners' (particularly OHR's) agenda, the process of negotiating it and its results. Similar to other reforms of the time, it was approached by working with several commissions. As justification for reform could not rest the implementation of Dayton, it was tied to the EU accession process. RS representatives in particular were very much opposed to police reform. Police reform lasted from 2004 to 2007. It started with a commission that failed and then moved on to political talks without agreement, then on to a Directorate that had little chances of success from the outset, until renewed political talks led to a symbolic agreement. This agreement left Bosnian policing structures mostly as they were but it was accepted by the EU to satisfy its conditionality.

7.3.1 *A Police Reform Commission*

Police reform initially was not part of the mission implementation plan but became a part of OHR's agenda in 2004. The immediate rationale for reform was provided by a study conducted by the EU in 2003 to assess the feasibility of Bosnia signing a Stabilization and Association Agreement (SAA) with the EU. This feasibility study clearly

criticized the fragmentation of the existing police structure (EC 2003, ESI 2007b). It was followed-up by a technical review of the police (ICMPD and TC Team Consult 2004) and both together were used to justify and initiate reform, as they provided the “empirical explanation for why the fragmented policing system in BiH should be modernized” (Interview with an OHR Official 2011d).

Internal preparations for structural police reform in OHR started in spring 2004 (Ashdown 2007, p. 292, Lindvall 2009, p. 108). The design of the process largely followed that of defense reform by using a trigger event, by building on conditionality (this time EU rather than NATO) and by setting up a commission to come up with reform proposals. The EU and all PIC SB members except for Russia generally supported the initiative (Potter 2005, p. 177). Bosnian political elites and Bosnian Serbs specifically were induced to discuss reform again by a mix of blackmail and conditionality. The former was based on the RS’s failure to arrest suspected war criminals, while the latter built on the desire of all Bosnian political parties to become members of the EU.

To organize blackmail, OHR deliberately waited for a moment of weakness similar to the ORAO affair in defense reform. The NATO summit in Istanbul that also led into the second phase of defense reform provided such an opportunity:

“We could have started earlier, but we waited. It is a tactical, or let’s say, it was a timing decision to launch the reform after the NATO conference in Turkey, where we were going to get some helpful language on police reform, to build better arguments” (Interview with an OHR Official 2011d).

NATO emphasized RS responsibility for the lack of cooperation with ICTY. OHR used this to argue that statebuilding reforms in the policing sector were necessary to improve the effectiveness of the police in apprehending war criminals.

OHR also responded to the NATO summit rejection with a range of other harsh measures. It dismissed 59 officials and froze SDS accounts (see Chapter Six on defense reform). This and the additional dismissals in December 2004 were clearly interpreted as blackmail to cooperate not only on defense but also and especially on police reform (Interview with Dragan Čavić 2011, Interview with Mladen Ivanić 2011, Interview with Stanislav Čađo 2011).³

Conditionality was provided by the EU. The EU feasibility study and the functional review that followed pointed out that changes in the policing sector were necessary for EU accession. The functional review presented different models of reorganizing the police, only one of which was a fully centralized model (ICMPD and TC Team

³ For 13 of those removed in June and December 2004, the ban was lifted in November 2005 as response to increased ICTY cooperation and agreements on police and defense reform in November 2005 (OHR 2005e).

Consult 2004). This particular model became the one OHR built upon in its reform efforts (ESI 2007b, p. 5). With these EU reports, police reform became tied to the EU accession process. This conditionality would intensify later on.

The Police Restructuring Commission (PRC) was established on 5th of July 2004 (OHR 2004a). It was tasked with proposing “a single structure of policing for Bosnia and Herzegovina under the overall political oversight of a ministry or ministries in the Council of Ministers.” (OHR 2004a). The new police structure was to be guided by principles of efficiency, effectiveness and democratic standards, reflecting the overall ethnic structure of the population and operating free from political interference. The Commission had 11 members of whom ten represented the different Bosnian levels of government. The only international member was the EUPM Commissioner. The chairman and vice-chairman were international. With former Belgian prime minister Wilfried Martens, the EU provided a chair with high political profile in order to signal the importance assigned to the process by the interveners (Interview with an OHR Official 2011d, Lindvall 2009, p. 78). The PRC met first on 22nd of July 2004 and held seven sessions until December 2004.

Despite the intense pressure that led up to the PRC, the first meetings reportedly took place in an open and constructive working atmosphere with active participation of all delegates, and without a fixed concept of what the result should be, even though there was disagreement within OHR on how predefined the work of the Commission should be:

“We went to this process, even though Paddy was more the type who wants to precook, predesign everything, and we said no, it’s policing Paddy, you got to leave it alone, let it happen. And we truly went in with not knowing exactly how to redesign the system. There are the many ways to do it. There are many ways to envision this reform. You know, it’s policing, it’s very specific.” (Interview with an OHR Official 2011d)

This changed around the third and fourth meeting. First, the new RS Minister of Interior Darko Matijašević joined the Commission in the third meeting and took a very confrontational and sometimes provocative stance within the Commission, substantially changing the working atmosphere (Interview with an OHR Official 2011d, Interview with Uroš Pena 2011, see as well Lindvall 2009, p. 136). Second, at the fourth meeting of the Commission the chair presented a concept paper that explicitly included a police structure without entity control of police forces (Martens 2004a). This met strong opposition from Bosnian Serb delegates, who reacted by leaving the room (Lindvall 2009). The main contentious issue was the question of police districts crossing the Inter Entity Boundary Line, thereby effec-

tively eliminating entity control of the police forces (Interview with an EUSR Official 2010).

In response, the High Representative and Christopher Patten, as EU Commissioner for External Relations, substantially tightened the conditions for SAA negotiations (Lindvall 2009). In a letter to Bosnian prime minister Adnan Terzić, Patten specified three principles that had to be met for police reform to be accepted by the EU: First, authority over the police (including political oversight and legislative and budgetary competences) had to be at the central state level; second, there was to be no political interference; and third, police districts were to be determined by technical policing criteria rather than “political considerations” (Patten 2004). While the letter came from Patten, the initiative came from Paddy Ashdown who specifically asked Patten to do this (Ashdown 2007, p. 222, Interview with Christian Schwarz-Schilling 2012, Interview with Mladen Ivanić 2011). These criteria substantially reduced the opportunities for compromise with Bosnian Serbs (Lindvall 2009, p. 154). When asked for the ‘tools’ available to OHR in this process, one senior official acknowledged there was “not much because the process was early in the game, and I think this was a right move by Paddy, the process was very early in the game tied to these famous EU three principles.” (Interview with an OHR Official 2011d)

From this point onwards, the Bosnian Serbs essentially boycotted the process (Interview with an OHR Official 2011d). In the end, the report had to be published as a chairman’s report because the Commission as a whole did not reach any conclusions. It proposed a unified police force with control at the state-level and police districts based on technical criteria that would cross the Inter Entity Boundary Line (IEBL). The State Ministry for Security was to be politically responsible, and an independent police inspector was to be created at the central state level (ICG 2005, Martens 2004a). This central police was to include intelligence, border police, and local police (up until then, only intelligence –SIPA– and the border police were located at the central state level). The report included various versions of police districts, of which the High Representative and EUPM opted for a version that proposed nine police districts plus Sarajevo. The report emphasized that there was consensus among all members except Bosnian Serbs (Martens 2004b).

Throughout the process, the conflictual element consistently was that of the political structure of policing. The work on the specific, technical aspects of police work went relatively smooth:

“What we had, the work on the professional issues, ideas, this always went relatively smooth because those were dealt with by experts who looked into, what are the desiderata, how could you organize this, and so on. This was a process that wasn’t actually very antagonizing, because there is a shared interest, right? These are all policemen and police of course always also

wants to expand its possibilities.”⁴ (Interview with Tobias Flessenkemper 2011)

By autumn 2004, it was clear that police reform would not be accepted by the RSNA (Lindvall 2009, p. 146). OHR reacted to the failure of the Commission and the simultaneous Han Pijesak affair by more dismissals in December 2004 and by speeding up defense reform (see Chapter Six above on defense reform and on Han Pijesak). RS political representatives in turn responded by applying pressure as well. They did so by resigning from their positions, thereby threatening the central interest of intervention in establishing functioning state institutions. Those who resigned were RS prime minister Mikerević and the RS government, and at the state level Minister of Foreign Affairs Mladen Ivanić, and the Minister of Transportation Branko Dokić. Other Serb ministers at the state level threatened to withdraw as well but eventually did not (ICG 2005). They did so explicitly as a response to international pressure to change RS institutions (Lindvall 2009, p. 190). In February 2005, the ministers, however, withdrew their resignation (ICG 2005, p. 9).

7.3.2 *Political Talks*

After the Commission failed, police reform talks resumed on the political level in spring 2005. These talks continued to be based on the three EU principles, which the High Representative again confirmed as non-negotiable (OHR 2005f). The PIC SB had set a deadline for police reform for the end of April 2005 (ICG 2005, PIC 2005). The leaders of all major political parties were invited to Vlašić, a mountain resort nearby Sarajevo at the end of May (N.N. 2005a). This meeting was preceded by a major PR campaign by OHR, portraying the meeting as the place where the decision about Bosnia’s EU future would be made (Lindvall 2009, p. 140). Yet again, while there was agreement on most of the technical issues in police reform, the situation remained unchanged with respect to police districts. This was followed by another round of negotiations in Sarajevo in May 2005, again without result (N.N. 2005b). At this Konak (a government building in Sarajevo) meeting, RS representatives insisted that they needed RSNA approval before starting to negotiate constitutional changes (ICG 2005, Lindvall 2009, N.N. 2005b). With that, the May deadline failed. RS President Čavić by this time was trying to forge a compromise, as he was indeed worried that Bosnia would be excluded from the EU accession process in the region (Lindvall 2009, p. 146). His position was however neither supported by large parts of his party nor by the RS population. He was increasingly under pressure internally. In May, the RSNA adopted a decision that police reform had to stay within

4 Originally in German, translated by the author.

the boundaries of the existing constitution if it was to be accepted (Muehlmann 2007, p. 9). In September, yet another compromise proposal was rejected by the RSNA (Muehlmann 2007, p. 10). OHR in response targeted SDS finances, ordering party branches to pay back money that was allegedly illegally obtained, and ordering all transactions to go through a central bank account (Muehlmann 2007, p. 10).

In early October 2005, Čavić presented another compromise proposal. It stated that all party leaders were to express once again their support for the EU principles, and suggested a technical level Directorate be formed to work out the details of police reform over the next five years (Čavić 2005, Lindvall 2009). This proposal was agreed to by Paddy Ashdown, Dragan Čavić and Milorad Dodik and accepted by the RSNA on October 05 2005 (Čavić 2005) and shortly after by the Council of Ministers and the Federation Parliaments (Muehlmann 2007, p. 11). The agreement was vague enough to allow for contradicting interpretations. For example, it included language about accepting the EU (and OHR) principles as well as about leaving the existing constitutions untouched (Lindvall 2009, p. 150). It was nevertheless welcomed by the High Representative, the PIC SB and the European Commission (Tolksdorf 2011, p. 427/28). On that basis, SAA negotiations began in January 2006. One of the reasons for the approval of the agreement certainly also was the imminent departure of Paddy Ashdown as High Representative, who needed a success and a closure on the largest project of his term (Lindvall 2009, p. 235, Tolksdorf 2011, p. 428).

7.3.3 *A Directorate*

In early 2006, the political scene in Bosnia changed both in the RS and in and around OHR. At the end of January 2006, SDS lost power to SNSD in a vote of no confidence in the RSNA. Milorad Dodik became prime minister and the leading political figure in the RS (Lindvall 2009, p. 158, Večernje Novosti online 2006). In February, Paddy Ashdown's mandate ended and Christian Schwarz-Schilling took over as High Representative. Schwarz-Schilling was chosen among other reasons because the PIC SB member states wanted a less intrusive approach (Interview with Tobias Flessenkemper 2010). The new High Representative refrained from direct interference in police reform matters, but made clear repeatedly that police reform was crucial for the EU accession process (OHR 2006b, OHR 2006c, OHR 2006e). With the beginning of the Directorate negotiations, OHR's role in the day-to-day issues of police reform was declining, while the EU (primarily *via* EUPM) took over (Interview with an OHR Official 2011d).

In the meantime, the Police Reform Directorate was established in January 2006 based on the agreement of October 2005. Its members

were all police professionals from both state and entity level, with Vincenzo Coppola, the head of EUPM as the only representative of the interveners (Council of Ministers 2005b). No political representatives were directly included. It was supported by a number of working groups formed by Bosnian and EUPM technical experts (Interview with an EUPM Representative 2011b). The RS however objected to the voting procedures in the Directorate, argued that there needed to be ethnic voting and considered the Directorate with its current procedures as illegitimate (ICG 2007). The conflict around voting procedures in the Directorate reflected the radically different interpretations of the October Agreement. While the Bosnian Serbs saw it as a general agreement to continue negotiating, Bosniaks and the interveners read it as an acceptance of the three principles and thereby a unified police force (Lindvall 2009, p. 150, 63, OHR 2006d). If the latter interpretation applied, no ethnic voting was necessary because all important compromises between the ethnic groups had already been agreed.

The work of the directorate lasted until the end of 2006. Despite the lack of political agreement, deliberations on technical details continued within the Directorate, also with a lot of support in terms of expertise and money from EUPM (Interview with an EUPM Representative 2011b). The RS delegates participated, though only with observer status. They stuck to their position that police reform had to take place within the existing constitutional framework. The Directorate's final report was issued at the end of 2006, it resembled the Martens report in content but refrained from defining police districts (Lindvall 2009, p. 164, Tolksdorf 2010, p. 320). The report was rejected Bosnian Serbs (Lindvall 2009, p. 164).

7.3.4 *And Political Talks Again*

Deadlines were set by the interveners for adopting the recommended laws by March 2007, and as no progress occurred, OHR's mandate was prolonged in February to last until summer 2008 (OHR 2007d). At the same time, the interveners continued to insist that police reform had to abolish entity police forces. In an interview for Dnevni Avaz, Deputy High Representative Raffi Gregorian stated clearly that according to OHR's view of the matter, "The current RS Police will not stay and the same goes for the *status quo*."⁵ (Numanović 2007). In March 2007, political talks took place at the High Representative's residence. At this point, the interveners began to lower the bar. A compromise proposal was presented that would keep the RS police intact but integrate it into state structures (Interview with Christian Schwarz-Schilling 2012, Lindvall 2009, p. 166). Milorad Dodik agreed to the proposal. Haris Silajdžić of SBiH, however, rejected it because

5 Original in Bosnian, translation by OHR.

it included the name of Republika Srpska. Dodik in consequence argued that this was proof that SBiH really only wanted to abolish the RS and there was no use in continuing negotiations on this basis (Interview with an OHR Official 2011d, Interview with Christian Schwarz-Schilling 2012, Lindvall 2009, OHR 2007e, OHR 2007g).⁶

When Miroslav Lajčák took office as High Representative in July 2007, he also made police reform one of his priorities, and set a deadline for police reform for October 2007. At this point in time, the EU had realized it had become hostage to its own conditionality. Consequently, the three principles and especially the idea of abolishing entity police were now dropped (Lindvall 2009, p. 173). This was strongly criticized by Bosniak political leaders and Silajdžić in particular. He argued that the RS was illegitimate altogether because it was built on genocide (Lindvall 2009, p. 170, Tolksdorf 2011, p. 432). In August, Lajčák proposed a compromise with several police districts in the RS that were not to cross the IEBL. As with the previous proposal in March, the RS under this proposal would have been able to keep its police units, but under central state leadership (Lindvall 2009, p. 173). It was accepted only by SDP and the two HDZ's. The SDA later on in September of that year changed its position and accepted the proposal, leaving the two main antagonists Dodik and Silajdžić out of the deal. Those two responded with a coup: They came up with a competing proposal that was substantially less concrete. It reiterated the commitment to police reform but moved the more concrete steps to after a constitutional reform had been agreed upon (Mostar Declaration 2007). This proposal was however rejected by the other parties, and put the interveners in a very difficult position (Lindvall 2009, p. 176). The agreement was initially assessed as clearly not sufficient by OHR, the US embassy and other intervening actors (US Embassy in BiH 2007a).

Faced with the continuing lack of compromise on police reform, Lajčák decided to raise the pressure exerted on the Bosnian parties. In October, he issued a law changing the voting procedures in the Council of Ministers, thereby lowering the chances of boycott by any single ethnic group (ICG 2009b, p. 12, OHR 2007b). Based on an interview with the Deputy High Representative at the time, Raffi Gregorian, Lindvall claims that the "strategy was to identify problematic issues that had been left unresolved and impose solutions on these until the domestic politicians were ready to return to the negotiation table." (Lindvall 2009, p. 176)

6 The reasons for Dodik's sudden change of mind with respect to police reform are somewhat opaque. Christian Schwarz-Schilling gave two possible reasons: First, he assured Dodik in bilateral talks that he had no intentions to entirely abolish the RS police, but simply to put it under a central state roof. This might have convinced Dodik. Second, Dodik might have known beforehand that Silajdžić would reject the proposal and hence did not lose anything by being cooperative with the interveners. (Interview with Christian Schwarz-Schilling 2012)

Dodik however replied by putting pressure on OHR as well. He openly questioned the legitimacy of the High Representative's decisions, and thereby of the High Representative as such, and threatened to block the Council of Ministers by withdrawing SNSD ministers, Nikola Spirić of SNSD stepped down as prime minister (ICG 2009b, p. 12). In this situation, the proposal by Dodik and Silajdžić offered a way out (Lindvall 2009, p. 178). The six main party leaders and e met in Mostar and drafted an agreement building on this proposal, postponing police reform to after constitutional reform, and including a few new state level policing institutions that were to be created (Čović et al. 2007). In response, Lajčák changed the interpretation of his earlier decision on the Council of Ministers, thereby effectively taking it back (ICG 2009b, p. 12). The Mostar Declaration, together with an action plan on implementation was accepted by the EU as fulfilling the criteria for initialing the SAA, which happened on December 4 in Sarajevo.⁷

7.4 STRATEGIES IN POLICE REFORM

In police reform, the interveners did not succeed in coming up with convincing arguments. The criteria they put forth in police reform were easily taken apart by Bosnian Serbs. Similarly, bribery and especially blackmail also turned against the interveners. The EU needed success in police reform (as one step in the accession process) at least as urgently as the Bosnian parties and consequently got trapped by its own conditionality. Lastly, as OHR was unable to use its Bonn powers in police reform directly, it resorted to pressure by means of selective law enforcement. Doing so ultimately proved unsuccessful, and it further decreased OHR's legitimacy particularly in the eyes of Bosnian Serbs.

7.4.1 *The RS Has Arguments, OHR Does Not*

In police reform, OHR clearly did not succeed in constructing legitimacy *via* providing sound and convincing arguments for reform. The argument the interveners presented rested on two pillars. First it was argued that to be successful in the EU accession process, Bosnia needed a police force adhering to "the highest European Standards" (OHR 2004a). Second, the failure of the RS especially to arrest persons indicted by the ICTY was taken as proof of the lack of efficiency of the police especially in areas that were sensitive politically. The RS reacted by deconstructing both arguments. With respect to European Standards, they pointed out that centralized police forces were in fact

⁷ See the EU Commission website on relations with Bosnia for details: http://ec.europa.eu/enlargement/potential-candidate-countries/bosnia_and_herzegovina/eu_bosnia_and_herzegovina_relations_en.htm

not a standard in the EU at all. And since late 2004, the RS cooperation with the ICTY had increased substantially, thereby proving that the RS police in its current structure was indeed able to function efficiently (Lindvall 2009, p. 192). Besides deconstructing OHR's arguments, RS representatives also exploited the fact that police reform necessitated constitutional changes. They pointed to democratic procedure and argued that they could not act against the constitution without parliamentary approval. Bosniaks supported their position by moral arguments pertaining to the role of the RS and particularly its security forces during the war. None of these arguments was as clearly convincing as those presented by the interveners in defense reform. The decisive factor however was that OHR as the driver of reform was unable to legitimize its claims for structural reform.

Because police reform necessitated constitutional changes, the High Representative relied on his role as EU Special Representative for this particular reform. Bosnia's stated desire to become an EU member formed the basis of conditionality. The feasibility study had argued that the Bosnian policing system was too costly and inefficient, cooperation was difficult, and "further reform and enhanced State-level enforcement capacity [...] needed." (EC 2003, p. 26). This provided the normative foundation for reform: police reform was needed for Bosnia's European future. A European future was, in public statements by OHR and other intervening organizations, portrayed as equaling a good, modern and prosperous future (Džihic 2007, Majstorović 2007, Sarajlić 2008). Getting there required accepting the reforms proposed by the interveners, while "failure to join Europe is discursively constructed as the local politicians' incompetence" (Majstorović 2007, p. 644).

There was a problem with using the EU argument as a basis for reform, however. The feasibility study made police reform a condition for starting negotiations on an SAA, but it did not call for centralizing the Bosnian police. On the contrary, the functional review explicitly stated that the existence of 15 different police agencies was "not a weakness per se" and referred to other European countries whose police forces were equally decentralized (ICMPD and TC Team Consult 2004, p. 8). It did however point out that two rather than three layers were sufficient, and that there was a lack of institutionalized cooperation between the agencies (ICMPD and TC Team Consult 2004, p. 8).

The PRC mandate however called explicitly for "a single structure of policing for Bosnia and Herzegovina under the overall political oversight of a ministry or ministries in the Council of Ministers" (see as well ESI 2007b, OHR 2004a). After it became apparent that the PRC would run into difficulties due to RS resistance, this was narrowed down even more to the EU three principles that clearly included police districts crossing current administrative units.

The EU argument was easy to take apart, however, especially after it had been narrowed down to the three principles. EU conditionality typically relates to the *acquis communautaire* and conventions and treaties by other organizations such as the Council of Europe, OSCE or the international financial institutions (Tolksdorf 2011, p. 414). This was not the case with police reform conditionality in Bosnia. Aside from a few areas such as police education, the EU has no common standards of policing (Collantes Celador 2009, p. 237). First, many EU countries have decentralized police forces. Second, when talking about technical criteria defining police districts, common practice within the EU is to match policing districts with administrative borders (Interview with Tobias Flessenkemper 2011). The EU principles required Bosnia to do precisely the opposite. This was then used by Bosnian Serbs to turn the argument against OHR, accusing the organization of “misuse of the European idea” (Interview with Mladen Ivanić 2011). The EU argument for police reform clearly was not plausible:

“First, we did not see the logic and there was no logic. In European experience you cannot find any decentralized country with a centralized police. So they couldn’t even give us one example. [...] But if there are no arguments for this then don’t ask me for any reform, and especially don’t tell me that this is European. Because if anything, I know that, I was Minister of Foreign affairs, I am professor of Economics, I know these things and I will never agree with the... you know, just the pure statement this is the European story. You have to give me arguments, which case, where, why Bosnia and Herzegovina has to be in that position. That is the reason why it didn’t succeed.” (Interview with Mladen Ivanić 2011)

As OHR stuck to it nevertheless and insisted on constitutional changes for police reform, the RS accused them of using the police for a covert attempt at constitutional reform (Interview with an OHR Official 2011d, Interview with Dragan Čavić 2011, Lindvall 2009). OHR was thus accused of sidetracking the police reform effort, of following a hidden agenda directed against the RS, and of using Bosnia’s EU perspective for its own purposes.

Cooperation with ICTY, or rather the lack thereof especially in Republika Srpska, was one of the crucial issues during Paddy Ashdown’s term as High Representative (Interview with an OHR Official 2011c). This was in OHR’s view closely intertwined with organized crime, as criminal networks were suspected as forming the primary support base for indictees (Lindvall 2009). The issue became urgent as war crimes prosecution was to be moved at least partly from The Hague to Bosnia itself, and the interveners were afraid that the functionality of both this panel of the newly created State Court as well as the one on organized crime would suffer (Wisler 2007, p. 264). The failure of the RS police to arrest ICTY indictees was seen and por-

trayed as a structural problem. This case was made at the NATO Istanbul summit where NATO representatives explicitly called for structural reform in the “security and law enforcement structures” (North Atlantic Council 2004).

A few months later, Carla Del Ponte, at the time Chief Prosecutor at ICTY indicated structural problems particularly in the RS:

“But it remains the case that, nine years after Dayton, the authorities of Republika Srpska have not apprehended a single individual indicted by the ICTY. This raises fundamental questions both about the willingness of RS leaders to match their pledges to co-operate with the ICTY with firm action. It also now confirms, I believe, that there are fundamental systemic weaknesses built into the law enforcement and security structures in Bosnia and Herzegovina, and in particular the Republika Srpska. They must be tackled so that these structures finally help, not hinder the country in co-operating with the Tribunal.” (Del Ponte 2004)

This argument was deliberately used by OHR to propose that if weaknesses were systemic, than what was needed was an overall reform of the system (Interview with an OHR Official 2011d, Potter 2005, p. 173). William Potter, at the time head of the rule of law section in OHR, described how the NATO Istanbul Summit was used in this way:

“We have held planning meetings to determine what actions the High Representative should take as a result of that failure. One action upon which we all agree is that we will launch an effort to create a single police force throughout BiH. We will argue that the failure of the RS police to arrest these guys demonstrates that entity police forces are incapable of operating free of politics and free of nationalist or ethnic influence. We will argue that this can be solved only by moving all police functions to the state (central government level. [...] We will use the NATO rejection as a leverage to persuade them to enter into such an agreement on police.” (Potter 2005, p. 173)⁸

The OHR decision establishing the PRC explicitly referred to the Istanbul Summit *communiqué* and its criticism of RS non-cooperation with The Hague (OHR 2004a).

However, since late 2004, RS cooperation with ICTY increased substantially, owing partly to international pressure and partly to changes in SDS leadership resulting from OHR’s removal of Dragan Kalinić (Lindvall 2009, p. 191/92, Tolksdorf 2011, p. 429). First arrests took place in November 2004, and in March 2005, four indictees were extradited to The Hague (Tolksdorf 2010, p. 314). By November 2005, 12 people had been extradited from the RS to the ICTY (OHR 2005e). What this meant for police reform, however, was that OHR’s success with respect to improving ICTY cooperation undermined its own argument for police reform. The RS provided proof that its police were

⁸ Also referred to in (Lindvall 2009, p. 97).

capable and willing to arrest indicted war criminals. This was positively noted by OHR, among other things resulting in OHR lifting the bans on 12 RS and SDS officials (OHR 2005e). Pressure to continue on this path was maintained nevertheless. In January 2006, Paddy Ashdown insisted that Mladić and Karadžić had to be arrested as well for BiH to be allowed into PFP (OHR 2006d, see as well Tolksdorf 2011, p. 315). In sum, while ICTY cooperation certainly was a goal in itself, in this case it was also deliberately used to construct an argument for security sector reform. When ICTY cooperation increased, OHR had to raise the bar or else its argument would have been lost. As a result, RS representatives found it easy to pull apart both the EU and ICTY arguments.

A third argument by RS officials was based on legal arguments rooted in the Bosnian constitution. RS politicians accused OHR of disregarding Bosnian laws. In PRC discussions, RS Minister of Interior Darko Matijašević refused to discuss the proposals of the interveners as he claimed he was legally bound by the constitution and talking about proposals violating the constitution would be illegal (Interview with an OHR Official 2011d). By doing so, he essentially blocked the negotiation process (Lindvall 2009, p. 135). There was nothing left to do for the chair other than note in the sessions that there had been agreement among most members of the commission, except for Matijašević (Martens 2004a, p. Appendix 8). This approach substantially changed the atmosphere within the commission. Similarly, a publication by SNSD on police reform cites Nikola Špirić, a key SNSD politician and later prime minister of Bosnia, following the same line of argument, and specifically criticizing that the entity parliaments had no say in this:

“Špirić asked whether police reform was a matter of the current or of a new constitutional framework. What was happening with police reform would be illegal in every European country. If the commission for police reform comes back from Brussels with the attitude that BiH needs to have a single police, this means that from New Year onwards a strong initiative starts to change the constitution of BiH and the entity parliaments will have no possibility whatsoever to position themselves on the transfer of jurisdiction, Špirić said.”⁹ (Ljepojević 2009, p. 53)

During the political level negotiations on Vlasić and at the Konak building in spring 2005, RS representatives argued that they needed RSNA approval before they could enter into negotiations on consti-

9 Translated by the author. The original reads: “Špirić je upitao da li je reforma policije stvarana za postojeći ili za novi ustavni okvir. Ovo što se radi sa reformom policije bi u svakoj evropskoj državi bila ilegalna aktivnost. Ako Komisija za reformu policije iz Brisela dođe sa stavom da BiH treba da ima jedinstvenu policiju, to znači da će od Nove godine krenuti snažna inicijativa za promjenu Ustava BiH i entitetski parlamenti neće imati nikakve mogućnosti da se izjašnjavaju o prenosu nadležnosti, rekao je Špirić.”

tutional changes (N.N. 2005a, N.N. 2005b). When the RSNA decided in May 2005 that police reform had to stay within the boundaries of the RS constitution, this argument was reinforced and dominated the RS approach to police reform throughout the working period of the Directorate and beyond (Interview with Uroš Pena 2011).

The constitutional argument in its early version was not a lot more logical than the EU argument put forth by OHR. Talking about the possibility of constitutional changes is not illegal. The argument made sense however when taking into account the fact that the proposed laws had to pass different parliaments, which was unlikely to happen with respect to the RSNA. This was even clearer after the RSNA adopted its decision limiting police reform to the current constitutional order.

Bosniak political elites in the early phase of structural defense reform simply adopted the interveners' arguments as their own. Once it became apparent that the interveners were desperate for a compromise, the Bosniak parties stepped up resistance (see as well Lindvall 2009). Haris Silajdžić who had returned to Bosnia only in late 2005 attempted to position himself vis-à-vis the more conciliatory SDA by lobbying for the "true elimination of the effects of war" (Interview with an SBiH Representative 2010). In SBiH's interpretation, this implied the dissolution of the RS as a political entity, as they saw the RS as a product of war and genocide and, therefore, illegitimate (Lindvall 2009). In March 2007, Silajdžić rejected Dodik's offer on police reform because according to this proposal, the name of the RS police would have stayed, although the police would have been under state level control. In its reports on the matter, the US embassy described the situation as Silajdžić sticking to his position that the RS was illegitimate:

„Silajdzic [sic] rejected Dodik's proposal out of hand. The PRD report and the timeline are a compromise, he said, repeating his familiar mantra, and he would not make any more concessions to the RS. The name "RS Police" was completely unacceptable. The RS Police had committed genocide, Silajdzic continued. [...] Silajdzic then went further, underscoring that any reference to 'Republika Srpska' as well as to 'RS Police' in police reform legislation would be unacceptable." (US Embassy in BiH 2007c)

Once OHR with Lajčák's arrival began to lower the bar for police reform, SDA joined in on this rhetoric, and both parties accused OHR now of violating European principles and of giving in to Dodik.

"The European Union and the EU Police Mission in Bosnia and Herzegovina didn't sufficiently insist on the standards. They took the line of the least resistance to assure the participation

in reforms, so that this [police reform] unfortunately was not concluded.”¹⁰ (Interview with Beriz Belkić 2011)

On those grounds, further compromise proposals were rejected until Silajdžić changed course and agreed on the compromise proposal with Dodik that led to a closure of police reform negotiations.

In sum, OHR attempted to legitimize reform by declaring it a European Standard and by pointing to matters of efficiency. Bosnian Serbs legitimized their point of view by pointing to the constitution and the parliamentary procedure that police reform attempted to circumvent. Bosniaks legitimized their position by moral arguments. While both Serb and Bosniak arguments were relatively unconvincing, the important issue was that so were the arguments of the interveners. The interveners, however, were the ones proposing and pushing reform. But throughout the process, they were unsuccessful in plausibly explaining why this reform effort was necessary or legitimate.

7.4.2 *Bribery and Blackmail: Trapped in Conditionality*

Police reform rested on EU conditionality. The prize that was offered was a Stabilization and Association Agreement with the EU. This conditionality was intended to work as a bribe first in terms of a positive incentive. When the RS did not cooperate on police reform, the interveners attempted to change conditionality into blackmail, threatening that non-cooperation would leave Bosnia isolated within the region. However, as the EU needed success with respect to the SAA at least as urgently as Bosnian political elites, conditionality ultimately turned into a trap for the interveners.

Police reform was originally an OHR project and not linked to the EU integration process. Because OHR's formal coercive capacity did not apply with respect to police reform, the High Representative actively sought to attach the issue to the SAA conditionality, thereby broadening the tools available to his office (Ashdown 2007, p. 249). This led to sometimes confusing and contradictory approaches, as OHR followed an agenda “often at odds with the EU accession methodology” (Penska 2008, p. 29). It was no secret that police reform conditionality had been adopted by the EU at Paddy Ashdown's request (Interview with Christian Schwarz-Schilling 2012, Interview with Mladen Ivanić 2011). Because of this, it was seen as a misuse by OHR of the EU accession process to advance its own statebuilding agenda and as unfair treatment of Bosnia in comparison with other accession states (Interview with Mladen Ivanić 2011, Interview with Tobias Flessenkemper 2011).

¹⁰ Translated from Bosnian by the author. The original quote is: “Evropska Unija i policijska misija Evropske Unije u Bosni i Hercegovini su nedovoljno insistirale na standardima. Išlo se linijom manjeg otpora da se obezbijedi učešće u reformama, tako da ovaj, nažalost, ona nije dovršena.”

As it had become apparent early on during the PRC negotiations that the RS would not compromise, OHR and the EU tightened the conditionality by introducing the three principles. Until then, EU conditionality served as an incentive, or a bribe. The message was, if you cooperate on police reform, you will get economic and political rewards *via* the SAA. This message turned into a threat: if you don't cooperate on police reform, you will be isolated in Europe, and everyone will know that it was your fault. At a meeting in Brussels, Paddy Ashdown said:

"[...] the message is clear. Brussels wants the countries of the Balkans to join. But the question lies less with Brussels and more with Banja Luka. Is Banja Luka ready to undertake the commitment to reform that is necessary for SAA talks to begin?" (EUSR 2005)

Two years later, Lajčák's message in a speech in September 2007 was essentially the same:

"What remains outstanding is a clear commitment by the political leaders to find agreement on an issue that will improve security of the citizens and the country: Police reform. [...] The country's political leaders face a simple choice, between EU integration, which is what vast majority of the citizens want, and isolation, which is not in anyone's interests." (OHR 2007g)

This threat did certainly add to Bosnian Serb willingness to continue negotiations, as they could reasonably expect their electorate to be unhappy about blocked EU accession (Lindvall 2009, p. 230). At the same time however, OHR substantially limited its room for maneuver by introducing the three principles (Lindvall 2009, p. 154). This approach was based in a very strong belief in the attraction of prospective EU membership. Some observers, though not directly in relation to police reform, have called this the "Brussels Dogma", arguing that the successes of the accession process in Central and Eastern Europe have led EU actors to very strongly believe that ultimately, the same pull will materialize in Bosnia (Bassuener et al. 2008, p. 7). With respect to police reform, this was clearly not the case. At this point, police reform conditionality started to be problematic to the EU. As the SAA is a standard step on the path to EU accession, the entire accession process became hostage to police reform. At the same time, the interveners were not yet willing to let go of their conditionality, as they were afraid that doing so would lastingly undermine their leverage with Bosnian actors in general (as it did, later on). However, as in other areas of EU conditionality, the fact that the EU needed success in its enlargement strategy as well was apparent to Bosnian political elites who could reasonably speculate that the EU would eventually relax its conditions (Lindvall 2009, p. 231).

By the time Miroslav Lajčák arrived as High Representative, it was clear that police reform as such had failed and all that was left to do

was to find a face-saving way out of the conditionality problem. This also entailed finding a way for Bosnia to sign the SAA, as it was a necessary step on the road to EU accession, and integration in EU processes was judged decidedly more important than seeing police reform succeed:

“The price, meaning the Stabilization and Association Agreement, is more important now, especially as the condition of a constitutional reform [referring to the fact that police reform would have required constitutional changes] is a very big one for such an agreement. We are not talking about accession, we are just talking about a trade agreement with a political chapeau, including a contractual relation to the European Union.” (Interview with Tobias Flessenkemper 2011)

In this situation, those responsible for assessing progress on the ground – representatives of EUSR and EUPM – judged the Mostar Declaration sufficient for SAA negotiations to begin. With that, the interveners had finally given in, and while they had solved their conditionality problem, the process had also seriously worsened the relation between the RS and the interveners, and had undermined the credibility of both OHR and the EU.

7.4.3 *Pressure, (Post)Soviet-Style, and Counter-Pressure by Blocking State Institutions*

OHR was not able to use its Bonn powers to impose police reform. The reform envisioned by OHR required constitutional changes. OHR is mandated to protect the constitution and, consequently, is unable to impose changes to it. As described in the previous sections, one way out was to build on OHR’s second ‘hat’ as EU Special Representative and on the EU accession process rather than DPA implementation. The other way out was to use the Bonn powers on issues not related to police reform directly. The strategy that OHR adopted bears remarkable resemblance to strategies of blackmail employed in the Soviet Union and its successor states described under the label of “kompromat” (Allina-Pisano 2010, p. 375). Drawing on examples from Ukraine, Keith Darden describes this as a mode of governance where “graft, combined with systematic surveillance, blackmail, and the selective enforcement of laws, is a means employed by state leaders to exert control over their subordinates and to expand their authority into areas where its exercise is formally prohibited.” (Darden 2002) Based primarily on US and British intelligence (Ashdown 2007, Lindvall 2009, p. 98, Potter 2005, p. 220,33/34), OHR used corruption and non-cooperation with ICTY to pressure Bosnian Serb political elites into cooperating on police reform. In later phases of police reform, OHR employed another strategy of selective enforcement when it used the Bonn powers to change legislation in areas detrimental to

RS interest. Although these measures were usually not explicitly tied to police reform, they were clearly understood by RS representatives as responses to non-cooperation on this matter (Interview with Dragan Čavić 2011, Interview with Mladen Ivanić 2011, Interview with Stanislav Čađo 2011). Different observers of the process clearly saw this link as well (ICG 2009b, p. 12-14, Lindvall 2009, p. 98). RS representatives also often claim that the charges against the dismissed individuals were manufactured. Whether they were justified or not, the issue here is that OHR used its coercive capacity selectively to pressure Bosnian Serbs into accepting police reform. RS representatives frequently mounted counter-pressure by attempting to block the statebuilding process altogether. They did so by withdrawing from state institutions (or threatening to do so) and by threatening mass protest.

The first wave of dismissals for non-cooperation with ICTY had happened shortly before the Police Reform Commission was established when 59 SDS officials were dismissed in July 2004.¹¹ This was not a punishment related to police reform directly, but rather a general statement with respect to security sector reform and a threat of more to come should the RS not cooperate on the new police initiative. The justification for the dismissals explicitly linked non-cooperation with ICTY to the RS law enforcement agencies:

“Said failure could not have occurred without the active assistance of individuals and entities, or indeed without the general culture of both overt and secret complicity and of silence prevalent in the one Entity of Bosnia and Herzegovina where such individuals are believed to have found sanctuary, i.e., Republika Srpska.” (OHR 2004d, OHR 2004e)

In December 2004, nine RS officials were dismissed in reaction to the failure of the PRC. And in July 2007, High Representative Lajčák dismissed Dragomir Andan, who had been RS Director of Police from 2004 to 2006 (Lindvall 2009, p. 57) and by 2007 was involved with police matters at the RS Ministry of Interior (OHR 2007c). RS officials clearly understood these dismissals as punishment for their refusal to agree to police reform. When asked for the types of pressure applied by OHR, Dragan Čavić for example explained that

“The second step was, party members were dismissed. Supposedly because of non-cooperation with The Hague. Not only party members, many policemen as well. There were many political threats, dismissals, and mounted law suits. The aim was to exert pressure on the actors from RS to implement police police. But still the reform wasn’t implemented as Ahsgdown wanted it to. The reform was supposed to lead to abolishing RS. And we stood up against it.” (Interview with Dragan Čavić 2011)

¹¹ ‘The first’ refers to the first round of dismissals related to police reform, not the first round of dismissals in general.

Sanctions other than dismissals were also used. Mladen Ivanić, for example, was banned from entering the United States to attend the UN general assembly in his capacity as foreign minister. He saw this also as a very personal offense, being treated the same way as the Iranian and Venezuelan representatives and being unfairly punished for not agreeing to domestic reforms (Interview with Mladen Ivanić 2011, Potter 2005, p. 230).

Next to non-cooperation with ICTY, corruption formed the second basis for selective law enforcement. This was done through dismissals, law suits, and freezing assets of individuals as well as of SDS as a party. (Bliesemann de Guevara 2009, p. 224, Interview with Dragan Čavić 2011, Interview with Mladen Ivanić 2011, Interview with Stanislav Čađo 2011, Potter 2005). These measures did not only serve as blackmail and punishment, but also to delegitimize the Bosnian (particularly Bosnian Serb) political elites (Interview with Tobias Flessenkemper 2010). This was perceived as clearly going beyond the range of means of pressure that are perceived as legitimate, as Mladen Ivanić explained, for example:

“That [allegations of corruption] was the main pressure here, not the normal pressure. Of course you can press the players by, I don’t know, not giving them IMF money or bank money or financial support, that’s normal pressure. But this was not very normal, it was an almost Stalinistic way [sic]. Nobody will speak about this, they will say, these local players are all corrupted. We are not all corrupted. Simply, we are not all so negative. Many yes, I agree with that, but not all. And I have to say not all of the internationals are so clean.” (Interview with Mladen Ivanić 2011)

Going even further, Dragan Čavić claimed that the lawsuit against SDS was entirely unfounded, and pointed out that the conviction was overturned later, although the fine of two million KM that had been paid had not been returned to the party yet (Interview with Dragan Čavić 2011).¹²

Later in the process, High Representative Lajčák used his right to issue laws as pressure to find an agreement on police reform. In October 2007, he issued a law changing the voting procedures in the Council of Ministers, thereby lowering the chances of boycott by any one ethnic group (OHR 2007d, Tolksdorf 2011). Based on an interview with at the time Deputy High Representative Raffi Gregorian, Lindvall claims that the “strategy was to identify problematic issues that had been left unresolved and impose solutions on these until the domestic politicians were ready to return to the negotiation table.” (Lindvall 2009, p. 176) RS counter-pressure in the end forced the

¹² As stated above, my purpose here is not to find out how justified these allegations were. The fact that the courts in the end could not prove SDS corruption certainly does not prove that there was not any.

High Representative to refrain from requesting the implementation of these changes.

Counter-pressure was frequently applied by RS representatives by drawing on their ability to block the statebuilding process. In essence, they resigned (or threatened to resign) from central government positions, thereby rendering the central state organs unable to make and implement decisions. In response to the dismissals of December 2004, Mladen Ivanić resigned as foreign minister, as did RS Prime Minister Mikerević, his government, and BiH Communication and Transportation Minister Dokić (ICG 2005, p. 8, Interview with Mladen Ivanić 2011, Lindvall 2009, p. 190). Ivanić and two more ministers withdrew their resignation in March 2005 (The Jakarta Post 2005). The Chairman of the Council of Ministers, Nikola Spirić of SNSD, resigned in response to Lajčák's attempts to change voting procedures in the Council of Ministers, and in his statement explicitly criticized the non-democratic behavior of OHR and its international backers:

"Bosnia-Herzegovina is absurd. If the international community always supports the high representative and not the institutions of Bosnia-Herzegovina, then it doesn't matter if I am the head of that state, or Bart Simpson." (MacDonald 2007, quoted in ESI 2007b, p. 8)

The Bosnian Serb parties threatened to remove all their representatives from joint institutions (Collantes Celador 2009, Metz 2009, Tolksdorf 2011). And in this specific event, the RS leadership not only reacted by institutional blockade but also by threatening street protest. This was also a reply to threats by OHR to remove RS Prime Minister Dodik from office:

"If the High Representative wants to see that I can gather 200,000 people in Banja Luka, he can try to remove me, and we shall see what will happen. Do you want me to bring 50,000 Serbs to demonstrate in Sarajevo now?" (Globus, 17 January 2007, quoted in ICG 2007)¹³

In the end, and after a face-saving agreement on police reform had been found, OHR backed down and issued an "authentic interpretation" of its previous decision (OHR 2007a), effectively declaring it irrelevant.

In sum, OHR did find ways to exert pressure despite the lack of formal coercive capacity with respect to police reform. While this pressure certainly succeeded in getting Bosnian Serbs to the negotiation table and in keeping negotiations going, it did not bring about a compromise on police reform. On the contrary, Bosnian Serb threats to block the statebuilding project altogether forced OHR to step down in its attempts to revive the Bonn powers. Furthermore, OHR's strategy of selective law enforcement came at a price: It further undermined

¹³ The original newspaper article in Globus was not available to the author.

OHR's legitimacy in the eyes of Bosnian Serbs who clearly saw OHR's actions as illegitimate.

7.5 OUTCOME: SUCCESS AND FAILURE IN POLICE REFORM

The outcome of structural police reform was clearly symbolic, leaving most of Bosnia's policing structures untouched. Police reform created two major new state level agencies, the state level Ministry of Security and the Directorate for the Coordination of Police Bodies. Both have little authority and lack enforcement mechanisms over entity police forces (Azinović et al. 2011, p. 43). When relating the outcome with the interests of those groups involved, police reform very clearly was a failure for the interveners (OHR and the EU in particular) as well as for Bosniaks. It was an unequivocal success for Bosnian Serbs. Meanwhile, Bosnian Croats did not achieve their desired enhanced role at the state level, but also did not lose control of cantonal police, as they had feared.

Besides the structural police reform effort, it is important to note that police training had visible positive effects (ESI 2007b), and cooperation between the entity police forces increased, though not based on institutionalized cooperation (Azinović et al. 2011, p. 42). The failure of structural police reform, however, had implications beyond policing. Its effects were detrimental for both OHR and the EU. The fact that EU conditionality on police reform was widely seen as unjustified, substantially weakened the credibility of EU accession conditionality (Aybet and Bieber 2011, p. 1918). OHR's failed attempts to pressure Bosnian Serbs into agreement turned OHR into an emperor without any clothes. The RS and Dodik in particular, had successfully defeated OHR and thereby proven that OHR's power, as well as its willingness to use this power, were limited. The Bonn powers have been effectively dead ever since (US Embassy in BiH 2008c).

7.6 CONCLUDING SUMMARY

In police reform, strong objections against reform by the RS met with little enthusiasm from the EU which should have been the main player, and with weak legitimizing arguments in favor of reform. The RS had a very strong interest in keeping control of its police. First, the police were an important instrument of political control, and second, centralizing police reform met strong resistance within the RS public. Most importantly however, the kind of police reform that the interveners proposed was seen as a covert attempt at abolishing the RS. Against this backdrop, keeping control of the police proved important enough to endure all kinds of sanctions by OHR. While OHR had a very strong interest in police reform, the EU Commission as well as EUPM were skeptical. However, as OHR on its own did not

have a mandate for police reform, it needed the EU on board. From the EU perspective, once it was clear that police reform was not feasible, its own EU accession process became decidedly more important.

In this already unfavorable situation, OHR and the EU failed to convincingly legitimize their call for reform. The reference to EU standards was unfounded as such standards do not exist on policing matters. After the RS had stepped up cooperation with The Hague, it became much harder to argue that the RS police were inefficient and therefore needed to be reorganized. The constellation of interests and the lack of legitimacy of police reform meant that EU conditionality ultimately turned into a trap for the interveners. RS representatives could reasonably believe that the EU would eventually readjust their conditionality (Lindvall 2009, p. 231). The lack of a clear basis for the conditionality in EU standard procedures resulted in a view that Bosnia was being treated unfairly. With the refusal of Bosnian Serbs to agree to the three principles of police reform, the EU accession process that had become the main strategy for peacebuilding in Bosnia was stuck. Police reform thus endangered the overall intervention strategy. In this situation, the pressure applied by OHR did not produce the desired results. Instead, it was detrimental because it further undermined the legitimacy of the interveners' negotiating strategies. OHR had to back down, which led to symbolic agreement on police reform and a durable loss of legitimacy and coercive capacity for OHR.¹⁴

¹⁴ Police reform was of course not the only element in this. The failure of constitutional reform also played an important role in the demise of OHR (Interview with a Political Analyst 2010).

STATE PROPERTY

From late 2004 until March 2012¹, Bosnian political elites and OHR tried to negotiate a settlement to state property ownership in Bosnia. This process concerned public property previously held by either the SFRJ or Bosnia as a republic of the SFRJ (OHR 2009a). State property was a matter of statebuilding in several respects. The provision of public services requires property such as school and university buildings for education. Institution building also necessitates property, for example when new ministries and agencies need office space. State property is also a matter of financial revenue, requiring defining who is allowed to sell it. It is also an issue of economic development in general. Finally, ownership of state property is a symbolic matter of statehood.

In the Bosnian conflict over state property, the question of where authority lies in Bosnia first and foremost, that is, with the central state or with the entities, became most important. Another aspect was added half-way through the process when OHR made a resolution on the state property issue one of the benchmarks for OHR closure. From this point onwards, the issue became a proxy for the conflict around the future of OHR in Bosnia. The process of finding and implementing an agreement on state property is not finished at the time of writing. From where it stands now, the outcome of state property negotiations resembles a symbolic agreement. Different from police reform however, the state property issue has more or less 'faded out'. As success was unlikely in the foreseeable future, the interveners implicitly took the issue off the agenda, and with political crisis coming to a head in 2011, the issue was simply overtaken by events.

This chapter starts with a short introduction to the background of the Bosnian state property debate which is rooted in issues of Yugoslav state succession that have been discussed since the Slovenian and Croatian declarations of independence up to 2004. The second section describes the peacebuilding field by providing an account of actors, interests and resources with respect to state property. The third section tells the story of state property negotiations in Bosnia, while the fourth section discusses strategies. The fifth section describes outcomes in relation to initial interests and the last section concludes.

¹ At the time of writing, the process did not come to a definite conclusion yet.

8.1 BACKGROUND

The issue of state property resulted from the dissolution of Yugoslavia and the succession agreement between its former republics that came into force in 2004. This agreement regulated what property was allocated to Bosnia and Herzegovina, but it did not regulate the distribution of property between Bosnia's administrative units.

During the war, issues of Yugoslav state succession had already been discussed within the framework of first the Working Group on Succession and then, from 1992 onwards, by the Conference on the Former Yugoslavia (Hasani 2007, Stanič 2001). When the Dayton Agreement was signed, the Peace Implementation Council tasked OHR to deal with Yugoslav succession issues (Hasani 2007, Stanič 2001). While questions of financial assets and external debt were mostly solved by the five new states bilaterally with international creditors, the issue of movable and immovable property was subject to prolonged political debate and struggle (Stanič 2001). The main obstacle to an agreement lay in diverging views on succession between Serbia, on the one hand, and the other former Yugoslav republics, on the other. The Serb government argued that the Yugoslav Federation had in fact not dissolved but that the break-up of Yugoslavia happened by secession, so that the Federal Republic of Yugoslavia² represented its legal heir and the other republics were only entitled to a small share of former Yugoslav assets (Hasani 2007, Stanič 2001). The other republics argued that Yugoslavia had dissolved and all former Yugoslav Republics were legal successors. This was compounded by the difficulty of defining what was being negotiated. Yugoslav law did not have a category of state property but only socially-owned property, a mere part of which eventually became defined as state property (Jetzinger 2006, p. 43-52, Stanič 2001, p. 764). Compromise became possible after the end of the Milošević regime in Serbia, and an agreement ("Succession Agreement") was signed in May/June 2001 (Hasani 2007, Stanič 2001), and ratified by Croatia as the last signatory in March 2004 (US Embassy in Croatia 2004). The agreement dealt with movable and immovable property, diplomatic and consular properties, the remaining financial assets and liabilities, archives, pensions, and some other issues (Succession Agreement 2001). For the Bosnian state property debate, the relevant aspects are those of immovable state property and of diplomatic and consular properties. Immovable state property was divided according to the territorial principle: All republics became owners of the property located within their own territory (Dayton Peace Agreement 2001, Annex a, Article 2.1). Some diplomatic and consular properties were divided by direct negotiations, while the remainder was divided by a distribution key that was adapted from the one the IMF had used to divide up

² Comprised of Serbia and Montenegro.

Yugoslav debt. The 'IMF key' had already been accepted by all republics in the 1990s and was based on issues such as the republics' share of the Yugoslav federal budget, of social product and export earnings, and on relations of territory and population (Stanič 2001, p. 759). For consular and diplomatic property, Bosnia received 15% (Dayton Peace Agreement 2001, Annex b, Article 3).³

Prior to the succession agreement, the issue of state property in Bosnia remained unregulated as there was no basis to determine what property actually constituted Bosnian state property. Once the succession agreement came into force, finding a solution to state property in Bosnia became part of OHR's statebuilding agenda by mandate.

8.2 THE PEACEBUILDING FIELD FOR STATE PROPERTY

This section describes resources and interests first for the three Bosnian ethnically defined groups, and then for OHR and the PIC SB as the main intervening actors in state property negotiations, as well as for the EU who played a minor role. Importantly, the state property negotiations involved two major conflicts: One about the nature of the Bosnian state and another about the future of OHR. Those are described briefly before turning to the resources and interests of the groups involved.

First, the question of whether property belonged to the state or the entities turned into a conflict about the question of whether political authority in Bosnia fundamentally lay with the entities or with the state. One of my interview partners pointed out that an agreement on state property essentially amounted to "a contract over authority" (Interview with an Official at a Foreign Embassy 2010). This conflict needs to be seen against the background of attempts at constitutional reform that were ongoing since 2006. Discussing constitutional reform meant that the issue of the ethnic and territorial division of power in Bosnia was opened up for renegotiation. In this context, the question of whether the entities or the central state were the main locus of power in Bosnia was suddenly acute again. In this context, the state property issue became a proxy conflict for this larger and more fundamental issue.

In terms of negotiating positions, this translated into three controversial issues. While all parties agreed that state and entity institutions should be able to use the property they needed, there was no agreement on whether they should be allowed to own it. Second, there was disagreement over whether the remaining property that was not needed by any state body was to be allocated to the state or to the entities. And third, conflict revolved around the question

³ Croatia received 23.5%, Macedonia 8%, Slovenia 14%, and the Federal Republic of Yugoslavia (FRY) 39.5%. The 'IMF key' in comparison was: Bosnia 13.2%, Croatia 28.49%, Macedonia 5.4%, Slovenia 16.39% and FRY 35.52% (Stanič 2001, p. 759).

of where the property should be registered first (with the state or entities), before being transferred to any of the levels.

The second major conflict that state property became a part of was that of OHR closure. In February 2008, the PIC SB decided not to announce any further dates for OHR closure but rather came up with a list of objectives and conditions to be met in order for OHR to close (see below). A solution to the issue of state property was one of the objectives. Accordingly, negotiating state property meant negotiating the future of OHR which had to be taken into account by all parties involved, interveners and intervened alike. For those groups in favor of OHR staying, there was now substantially less reason to compromise. This applied to the Bosniaks mainly among Bosnian actors, and to the United States and its allies in the PIC SB with respect to the interveners. Bosnian Serbs on the other hand did not believe that OHR would indeed leave once 5+2 was fulfilled and accordingly did not perceive these conditions as an incentive for compromise either (Interview with a Representative of a Western Embassy 2011b).

8.2.1 *Bosnian Political Elites in State Property Negotiations*

State property as a Bosnian internal matter appeared on the agenda in 2004, and the commission on state property started working in 2005. This means initial talks on state property started before the failure of April package that soured the political atmosphere in Bosnia, and before the elections of 2006 that strengthened Milorad Dodik and Haris Silajdžić as two politicians advocating radically-opposed visions of Bosnia's future. Most of the negotiations on state property took place after these decisive changes in the Bosnian political landscape. Ever since, the Bosnian political spectrum has been characterized by an organizationally strong government in the RS on the one hand and disunity among the Bosniak and, to some extent, the Bosnian Croat parties on the other.

The 2010 elections changed little in the RS. In the Federation, SDP was the largest winner while SBiH lost substantially. The competitive situation between several parties did not change in the Federation. Forming governments took five months in the Federation (Arslanagic 2010a) and fifteen months at the state level (Jukic 2011). As a result, 2011 was a lost year for any state level policy issue, including state property. The political situation again worsened dramatically in spring 2011 when Dodik announced the holding of a referendum on whether RS citizens supported the laws imposed by OHR on the state court and prosecution (ICG 2011c, p. 14, footnote 163, Kovačević 2011).⁴ After a few tense months, the referendum issue was resolved

⁴ This goes back to a conflict between OHR and the RS about the mandates of international judges at the state court. These mandates were prolonged by OHR which was opposed by Dodik (ICG 2011c, p. 14).

by a visit to Sarajevo and Banja Luka of the EU High Representative for Foreign Affairs and Security Policy. Catherine Ashton. Besides promising structured dialogue on the judicial system, the visit elevated the RS to a direct negotiating partner of the EU (Flessenkemper 2012, ICG 2011c, p. 15). In response, the referendum was postponed indefinitely (Hadzovic and Remikovic 2011). Although the referendum crisis itself had been resolved, the sense of crisis and insecurity about the future of the Bosnian state prevailed (Azinović et al. 2011, p. 22).

The Bosniak political spectrum until 2010 was characterized by competition between SDA and SBiH, with SDA in government and SBiH holding the Bosniak presidency seat. In the 2010 elections, SDA won the presidency seat, while SDP got the majority of Bosniak votes and dominated the governing coalition in the Federation,⁵ SBiH lost considerably (Arslanagic 2010a). Furthermore, the newly founded Union for a Better Future for Bosnia and Herzegovina (SBBBH), did better than Silajdžić's SBiH in both parliamentary and presidential elections (Arslanagic 2010a). This party did not play a role in state property negotiations but its good result is another indication of the fragmentation of the Bosniak political spectrum.

Considering the fact that SBiH as well as the new SBBBH also had to be taken into account, competition in the Bosniak political spectrum increased from three parties to four. For the most part, organizational capacity was low.⁶ Before 2010, the competition between SDA and SBiH had meant that on several occasions, SDA aligned itself with SBiH on its more radically nationalist stance, after having been attacked as selling out Bosniak interests by SBiH. After SDP won the elections, much capacity and attention went into the conflict around forming a Federation government (Azinović et al. 2011, p. 21/22, ICG 2011b) and into an intense power struggle between the secular SDP and the politically-influential Islamic Community leadership (Interview with an SDP representative 2011).⁷ All Bosniak parties except for

⁵ This coalition was formed without including the two major Croat parties who had tried to prevent government formation by not joining the parliamentary assembly (see for example Arslanagic 2010c).

⁶ SDP profits from an effective internal organization (Interview with a Representative of a Western Embassy 2011a, Interview with a Representative of a Western Embassy 2011b), as became apparent also in its struggle with the Islamic leadership after government formation. But its non-ethnic and decidedly secular approach to politics made cooperation with the other Bosniak parties often very difficult.

⁷ This conflict came to a head first in spring 2011 when the newly-appointed Minister for Education in Sarajevo Canton, Emir Suljagi announced the removal of religious education from school education. Children up until then were free to choose whether to attend these classes or not, but those who did usually received good grades which were then included in of the average grade calculation. SDP argued that this discriminated against those not attending religious classes (private conversations with SDP representatives, civil society and media representatives and representatives of Friedrich-Ebert-Foundation in Sarajevo, see as well Hadzovic 2011b). Suljagić resigned in February 2012 and left Bosnia in response to death threats "from

SDP continued to legitimize their claims by portraying themselves as the better representatives of Bosniak interests, while SDP constructed its arguments around a general rejection of the ethnicized Bosnian political system (Arslanagic 2010b, IRI 2010). These arguments however also resonated particularly well with the Bosniak electorate.

With respect to state property, the Bosniak political elites generally had an interest in assigning as much as possible to the state level. Symbolically, this underlines the integrity of Bosnia as a state, and economically and practically it grants them a say in the use of all property, including the property that is located in the RS. The Bosniak negotiating position, dominated by SDA, was initially pragmatic, however. SDA insisted that the state had to get what it needed to function properly, with everything else generally negotiable. This was also reflected in a compromise between Tihić, Dodik and Čović in Prud in November 2008 (see below). The Prud compromise was vigorously attacked by SBiH which led Tihić to abandon the compromise in favor of SBiH's position that all property needed to be registered at state level first as he feared that the compromise would be seen as selling out Bosniak interests.

The split between the two major Croat parties persisted. On several occasions, however, they cooperated well, while on other issues, they did not (ICG 2010, ICG 2011b). This also means that the HDZ's earlier claim to being the sole legitimate representative of Croat interests was not valid anymore. In negotiations with the interveners, the two parties usually cooperated rather well. Still, coordinating two parties is presumably more difficult than coordinating one, particularly considering that cooperation was substantially less smooth on issues internal to Federation politics (ICG 2010). The Croat interests in the state property issue once again reflected general Croat attempts to move more competencies and control to the cantonal level. Their preferred option was a compromise that would not only divide state property between state and entities but would distribute it to lower administrative levels as well.

Among Bosnian Serbs, SNSD led by Milorad Dodik dominated clearly throughout the entire period that state property was negotiated. While SNSD lost some votes in the 2010 elections, it was still firmly in control and had large popular support (ICG 2011c). Next to Željko Komšić of SDP who is the Croat member of the presidency, Dodik was the country's most popular politician (IRI 2010). This support was in large parts based on Dodik's firm opposition to Bosniak calls for more centralization, which prior to the 2010 elections culminated in intensified talk about secession by Dodik and the SNSD (Arslanagic 2010b).

hardline Muslims opposed to educational reforms allegedly downplaying the importance of religion." (Jukic 2012a, Tomiuc and Kovacevic 2012).

With respect to state property, Bosnian Serb political elites clearly favored control at the entity level. SNSD and RS parties in general agreed that the state should get what it needs to use indefinitely, but should not own the property (Interview with Gordan Milošević 2010).⁸ The remaining property would go to the entities. RS representatives also opposed the idea of registering all property at state level first, not only for symbolic reasons but also because they feared that the second step of re-registering it to the entities might not happen (Interview with Zvonimir Kutleša 2011). For the RS where the majority of the property in question is located, the question of who is allowed to sell it is also especially important in financial terms.

8.2.2 *Intervening Actors in the State Property Negotiations*

From the intervening side, the state property process was driven by OHR. When the issue became part of the 5+2 agenda for OHR closure, the issue also played a more prominent role for the PIC SB as this was where the process leading towards closure was discussed. As the closure of OHR was to lead to a reinforced EU presence, the EU as a PIC SB member also started to play a role.

Facilitating an agreement on Yugoslav succession issues was part of OHR's mandate and so were the consequences of this agreement for Bosnia. The issue was not a priority until it became part of the 5+2 agenda. At this point, it became urgent. The rationale behind making state property one of the objectives for OHR closure was the belief that the issue of state property could be solved by mid-2009, which was the date internally planned for OHR to transition to the EU (Laudes 2009, p. 195). While this informal closing date was never made explicit, it was apparent, for example, by the fact that OHR's budget was only planned up until then (Laudes 2009, p. 195, footnote 65). An agreement on state property proved more difficult than anticipated. However, with the 5+2 agenda, OHR was under pressure to facilitate agreement on this issue as its success as an organization was now measured against achievement of these objectives and conditions (Interview with an OHR Official 2011b). By this time, OHR had clearly finished its most active phase. In late 2007, Dodik had successfully challenged the legitimacy of OHR's Bonn Power decisions.⁹ Ever since, OHR and the PIC SB had been very careful with using the Bonn Powers, as it was questionable whether such decisions would be accepted. Internally, OHR considered the Bonn Powers effectively dead (US Embassy in BiH 2008c). While OHR, in principle, had a mandate to impose changes with respect to state property, it lacked the practical ability to do so. Coercive capacity was much reduced. Thus, although OHR's mandate to deal with state property was gen-

⁸ In Prud, Dodik appeared willing to compromise on this issue.

⁹ See Chapter Seven on police reform.

erally recognized, its legitimacy as an organization was now seriously questioned, and by the RS in particular.

OHR's interests with respect to state property were twofold. First, a solution to state property was seen as conducive to statebuilding in very practical terms, such as being able to allocate office space to new state institutions, and as conducive to economic development (Interview with an OHR Official 2011b). Second and as outlined above, an agreement on state property since February 2008 was a necessary step on the road to OHR closure. OHR's interest in being judged a successful organization thus also played a role. When it became apparent that no agreement on state property would be possible soon, some in OHR increasingly started to argue for relaxing the conditionality (Interview with Stefan Simosas 2010).

Before the 5+2 decision, the PIC SB relatively unanimously supported OHR's efforts on state property, by appeals to "the BiH authorities to provide a lasting solution to this issue" (PIC 2004), by calling on the RS to nominate delegates to the CoM commission on state property so it could commence its work (PIC 2005) and similar actions. This coherence in approach ended with the 5+2 agenda. Russia strongly opposed the entire benchmark-driven approach and argued for a time-driven approach for closure instead (Laudes 2009). While initially going along with the 5+2 decision at the PIC SB meeting in February 2008, the Russian representative at the June PIC SB left the meeting in protest, as the other PIC SB members were unwilling to agree on setting a date for OHR closure at the next meeting in November (US Embassy in BiH 2008b). Once it became apparent that 5+2 implementation would take much longer than the planned year, other PIC SB members also started arguing for a way out of the conditionality as they were afraid that these conditions would hold up the EU integration process (Laudes 2009, p. 196).¹⁰ Those PIC SB members who were decidedly against closing OHR – the United States and Turkey were the most vocal representatives, supported by Canada and at times others – insisted on strict adherence to the conditionality, but obviously had little motivation to work for a quick solution to state property. In particular, as other 5+2 issues were already solved or making good head-way towards resolution, the United States increasingly started to see state property as "the last man standing" (Interview with a Representative of a Western Embassy 2011b).

The EU was involved in state property *via* the 5+2 debate, as this concerned transition to a reinforced EU presence. It was directly involved with the issue during the Butmir negotiations in winter 2009. There was again no common EU policy on state property and the 5+2 agenda in general. While some argued for transition with or without

¹⁰ According to an informal conversation with someone who was present at an information meeting after the Butmir talks, this was also the main motivation behind the compromise proposed on state property in Butmir.

the implementation of 5+2, others believed conditionality needed to be upheld because of credibility concerns (Laudes 2009, p. 196/97).

In general, there was a zone of agreement with respect to state property that was not so small. The Bosnian actors all agreed that both state and entities were to get the property they needed either to own or to use indefinitely. On the latter aspect, the position of the RS changed from time to time. There was no agreement, however, about what was to happen to the remaining property. Considering that the overall amount of property and accordingly its overall value was not very large, and considering that a wide range of possibilities of division existed, this appears to be a minor problem in practical terms. There was no agreement on the symbolical implications of dividing state property. This was, however, not so much related to state property negotiations *per se*, but rather to the larger political debates around constitutional changes and the future of OHR. The interveners did not narrow down the zone of agreement. They insisted that there had to be an agreement, but different from what occurred in defense and police reforms, they largely refrained from specifying the content of this agreement.

8.3 NEGOTIATING THE DIVISION OF STATE PROPERTY

State property has been negotiated between late 2004 and early 2012. The process will potentially continue, at the time of writing. Negotiating state property started with a commission that was led by the Bosnian Council of Ministers with OHR as an observer. As this did not lead anywhere, OHR increased pressure by making a resolution to the state property issue one of the conditions for OHR closure in February 2008. In response, some Bosnian political leaders attempted to negotiate a compromise on the issue in a series of talks that became known as the 'Prud Process', but with little success. To speed up the process, OHR itself conducted an inventory of state property in autumn 2008, while a renewed working group of Bosnian officials attempted to negotiate a solution. After a final unsuccessful attempt to solve the issue as part of high-level negotiations in Butmir in late 2009, the interveners had to let go of the issue and consciously 'faded it out'.

8.3.1 *It All Starts With a Commission*

Once the succession agreement entered into force in 2004, it had consequences for Bosnia internally. While up until then, the status of state property was entirely undefined, the agreement formed the basis for deciding how property was to be divided among the different levels of government in Bosnia. In particular, this related to the division of property between the Bosnian state on the one hand and the

two entities on the other. With the property situation unresolved, allocating spaces for new state institutions such as for example the newly created Ministry of Defense, always required negotiations with both entities as well (OHR 2004h). For OHR, this very practical aspect of the state property issue initially was one of the main reasons to push for a solution (OHR 2004h). In August 2004, then head of OHR's rule of law department William Potter noted:

"One of the issues we will have to address shortly is the issue of ownership of property that was owned by Yugoslavia prior to Bosnia and Herzegovina's declaration of independence. [...] In view of the critical shortage of facilities for many institutions, particularly newly established state institutions, this issue must be resolved in the near future. The Office of the High Representative hoped to remain aloof from this issue and to have the governments resolve it themselves. However, it is increasingly apparent that they will not resolve it without pressure from OHR. [...] Some of the state government agencies are simply unable to work because of their lack of facilities. Many of the employees of the Ministry of Security sit all day in the cafeteria because they have no other place to sit. The problem has been brought to the attention of the Prime Minister on several occasions but he seems almost uninterested." (Potter 2005, p. 186)¹¹

In September 2004, therefore, the PIC Steering Board urged action and explicitly connected this to Bosnia's integration into the EU and NATO. It "called on all levels of authority in BiH to carry out the necessary steps to ensure that all of the institutions of BiH – at the State level – have the premises they need in order to be fully staffed and implement the requirements of the Stabilisation and Association Process. Failure to do this will amount to obstruction of BiH's further progress towards Euro-Atlantic integration." (PIC 2004) The PIC Steering Board also asked for a commission to be formed by the Council of Ministers in order to come up with a "lasting solution" (PIC 2004).

This commission was formed in December 2004 by a decision of the Council of Ministers. It was tasked with defining criteria to determine what constitutes state property and how it could be distributed, with defining the rights and obligations of the different levels of government with respect to state property, and with proposing draft legislation on these matters (Council of Ministers 2004b). It consisted of 14 members representing state and entity bodies and Brčko District, such as the ministries of justice and finance of both state and entities and the Public Attorney's Offices of the state and the entities as well as the entity Administrations for Geodetic and Property Legal

¹¹ It seems to me that the lack of facilities for the State Ministry of Security might not so much be rooted in practical problems but rather in the fact that the ministry lacked political support.

Affairs¹². The BiH Minister of Justice served as secretary of the commission. No representatives of intervening organizations were members of the commission, but OHR was a permanent observer (Council of Ministers 2004b, p. Article 7, Interview with Stefan Simosas 2011). The final report was planned for the end of May 2005, giving the commission a period of six months to conduct its work (Council of Ministers 2004b, Council of Ministers 2005a). While the discussions were ongoing, the High Representative in March 2005 issued a ban on disposing of state property (OHR 2005c), to prevent the Entities from creating facts that would make an agreement useless (Interview with an OHR Official 2011b). The ban was meant to be temporary until agreement had been found and was supposed to last for six months (Interview with Zvonimir Kutleša 2011). At the same time, the High Representative prolonged the commission's mandate by six months and altered its mode of decision-making from consensus to a qualified majority of at least three representatives of the state, the RS and the Federation each, plus one vote from Brčko (OHR 2005d).¹³ The same decision also tasked the commission with deciding on exemptions from the OHR ban.

The commission however got nowhere fast. Instead of the planned six months, its work lasted for almost three years, until October 2007 (Interview with Zvonimir Kutleša 2011). From a practical and also economic issue, the negotiations soon evolved into a "philosophical" debate (Interview with an OHR Official 2011a) about the question of where authority lies in Bosnia first and foremost. There were two to three different concepts. Bosniak representatives argued that all state property was to be registered with the state first and then the state would pass on to the entities what they needed to exercise their functions. The Serb argument was the exact opposite, namely that everything should be registered with the entities first which would then give the state what it needs. Bosnian Croats argued that the state should get what it needs as legal owner, and the rest (probably the larger part) should be distributed to the lower levels of government, that is the cantons and municipalities. (Interview with a Bosnian Official at the State Attorney's Office 2011, Interview with an OHR Official 2011b, Interview with Zvonimir Kutleša 2011). The decision-making process was complicated by the requirements of the qualified majority (Interview with Zvonimir Kutleša 2011). While there was general consensus that both state and entities needed to be able to use (whether as owners or not) the property they needed to function efficiently, the main controversy was about the question of where to register the property first. This was in large part a symbolic question about where authority lies – with the state or with the entities.

¹² The latter two were added to the originally twelve members on 16th of December 2004 (Council of Ministers 2004a).

¹³ This almost amounts to decision-taking by consensus: It implies a majority within all ethnic groups and of 10 out of a commission of 14.

It was not entirely symbolic however, as a certain part of the property that was not currently needed by any level of government would stay with that level where it was registered first (Interview with Stefan Simosas 2010). The issue, therefore, had an economic aspect as well. Considering that overall state property only amounts to 0,69% of overall property in Bosnia (Interview with Zvonimir Kutleša 2011), this economically viable share is not very large. Aside from the larger debate and attempts to come up with draft legislation, the commission dealt with exemptions from the ban on a regular basis. This was usually done by always granting an equal number of exemptions to both entities (Interview with an OHR Official 2011b, Interview with Stefan Simosas 2011).

OHR participated in all commission sessions, offered advice and monitored the proceedings particularly with respect to exemptions (Interview with Stefan Simosas 2011, Interview with Zvonimir Kutleša 2011). While OHR and the PIC SB provided relatively clear opinions on how the process was to be organized, they did not interfere with what a solution should look like (Interview with an OHR Official 2011b, Interview with Stefan Simosas 2010). The commission had lengthy discussions on how property should be distributed and prepared draft laws, none of which got the necessary votes however (Interview with a Bosnian Official at the State Attorney's Office 2011, Interview with Zvonimir Kutleša 2011, Omeragić 2006). In summer 2007, new members were appointed to the commission to try once again to find a compromise, while OHR set a deadline to do so for September of the same year (OHR 2007f). In October 2007, the commission agreed on a "functional-territorial principle" whereby "the Entities would own the property not needed by the State" (OHR 2008a). This however did not solve the question of where property was to be registered first, at state or entity level.

8.3.2 *Raising the stakes: The 5+2 Agenda, and a Response in Prud*

The decision to make state property one of the benchmarks for OHR closure gave new urgency to the issue. At the time, OHR had repeatedly announced dates for closure of the office. As the political climate had continuously deteriorated since the failed attempts at police and constitutional reform¹⁴, the PIC SB now refrained from setting another concrete date. Instead, OHR's mandate was prolonged and connected to the fulfillment of five objectives and two conditions

¹⁴ For police reform, see Chapter Seven, for constitutional reform, see for example (Hitchner 2009, Joseph and Hitchner 2008, Maršić and Marko 2007, Sebastian 2007). Both processes led to a tremendous loss of trust both between the Bosnian parties as well as between those and OHR. Additionally, the electoral victories of Milorad Dodik in the RS and Haris Silajdžić of SBiH as Bosniak State President contributed to the worsening climate, as both held opposed nationalist views.

that became known as the “5+2 Agenda”¹⁵ (OHR 2008b). Finding a solution for state property was one of the objectives.¹⁶

Aside from the daily work of the commission on exemptions from the ban and the like, only occasional talks on state property took place throughout most of 2008 (Interview with an OHR Official 2011b), and OHR very soon started to see the 5+2 agenda as problematic. The US Embassy put part of the blame for the lack of progress on OHR’s inaction:

“Accomplishing these objectives, particularly the state and defense property and Brčko objectives was never going to be easy, but Lajcak’s inaction, and we strongly suspect, private signals to some key players that he is willing to accept less than full implementation of the objectives have contributed to our current problems.” (US Embassy in BiH 2008d)

Prior to the PIC SB meeting in November, however, movement came from the Bosnian side. In November 2008, Dragan Čović of HDZ, Milorad Dodik of SNSD and Sulejman Tihić of SDA met in the village of Prud to discuss a range of issues that were controversial between the Bosnian parties and between those and the interveners at the time. This meeting was motivated, on the one hand, by the PIC SB and EU foreign ministers meetings shortly afterwards and the desire to take the pressure out of those (Interview with Kurt Bassuener 2011). On the other hand, it was an attempt to recreate working relationships, particularly between Tihić and Čović (Interview with Asim Sarajlić 2011), while at the same time isolating the Bosniak member of the Presidency, Haris Silajdžić of SBiH (Metiljević 2008). In Prud, the three party leaders dealt with issues that were at the time controversial, such as constitutional reform, state property or a population census (Čović et al. 2008). None of the issues was dealt with in detail however. With respect to constitutional reform for example, the agreement only indicated a few issues that were to be talked about once talks on constitutional reform happened, such as “more functional institutions of BiH” (Čović et al. 2008, p. Article 1.3). This lack of detail supports the argument of some observers who believe that Prud was not so much an attempt to find political compromise but rather meant to appease the interveners (Interview with Kurt Bassuener 2011).

On state property, the three party leaders agreed that the state should receive what it needed to function, while other assets were

¹⁵ See for example at the OHR website: http://www.ohr.int/ohr-info/gen-info/default.asp?content_id=46773.

¹⁶ The other conditions were: A solution on defense property, the completion of the Brčko final award, agreement on a Permanent Indirect Taxation Authority as a means to achieve fiscal sustainability, and adopting a National War Crimes Strategy, a law on aliens and asylum and a justice sector reform strategy as a means to further the entrenchment of the rule of law. The two conditions were signing an SAA with the EU, and “positive assessment of the situation in BiH by the PIC SB based on full compliance with the Dayton Peace Agreement”. (PIC 2008) The last open issue in November 2009 was state property (ICG 2009a).

to be “given to the entities or the cantons and the municipalities, pursuant to the needs of their institutions.” (Čović et al. 2008) The American Embassy as well as SDA party officials not involved in the talks were skeptical about the implementation of the agreement, and Bosniak and Croat opposition leaders Haris Silajdžić (SBiH) and Božo Ljubić (HDZ 1990) decidedly opposed the agreement (US Embassy in BiH 2009). Silajžić insisted that all property had to be registered at state level first before being distributed (Borić 2010). He argued that by not registering everything with the state first, the solution envisaged by the Prud Agreement would violate the constitution (Huseinović 2009). The three participants to the process immediately afterwards expressed divergent views of how the compromise on state property should be interpreted (ICG 2009b). Several meetings followed in early 2009 to further discuss the issues touched upon in Prud, until the talks finally were considered dead in summer 2009 (SETimes 2009). SNSD representatives blamed Tihić for backing out of the deal, while SDA representatives blamed Dodik (Interview with Asim Sarajlić 2011, Interview with Gordan Milošević 2010, Republic of Srpska Government 2009, p. 18-19). The RS also explicitly blamed OHR for allegedly supporting the view held by Silajdžić that all property needed to be registered at state level first (Republic of Srpska Government 2009, p. 19), thereby making it impossible for Tihić to continue supporting the Prud Agreement (Interview with Gordan Milošević 2010).

8.3.3 *An Inventory, and a Working Group*

By the time of the Prud Agreement, the process had definitely become hostage to the larger dispute on the character of the Bosnian state. To ‘depoliticize’ the debate, OHR now proposed to break the task down into smaller parts and work first on getting an overview of which property was actually under discussion (Interview with an OHR Official 2011b). They asked the Council of Ministers to devise an inventory of state property. The Council of Ministers formed a working group consisting largely of the same group of people as the earlier commission and had a period of six months to come up with an inventory (Council of Ministers 2009). The working group however never got to the point of collecting data, as it failed to reach consensus on the criteria defining what constituted state property (Interview with an OHR Official 2011b, Interview with Stefan Simosas 2011, Interview with Zvonimir Kutleša 2011, OHR 2009a). At this point, OHR took on a much more proactive role. Realizing that the Working Group would not be able to complete the task, OHR decided to compile an inventory of state property on its own initiative (Interview with an OHR Official 2011b, PIC 2009a, PIC 2009b). With financial support from Germany, Italy, Sweden and the United States, OHR gathered a team

of consultants and started contacting the cadastral offices and land registers with requests to provide data (OHR 2009a, p. 5). Offices in the RS initially did not cooperate with the OHR inventory team and did so only after they got governmental permission to do so in November 2009 (OHR 2009a, p. 10). Immediately after the inventory was published, it was strongly rejected by the RS for the criteria it applied to what constituted state property (Interview with an OHR Official 2011b).

8.3.4 *Giving up on State Property*

Another attempt to reach an agreement on state property took place in November and December 2009, when high-ranking US and EU officials tried to negotiate a package deal on the remaining 5+2 issues and on constitutional reform. These talks became known as the 'Butmir process', as they took place at the EUFOR base in Butmir behind closed doors, a rather explicit reference to the Dayton negotiations. In Butmir, the interveners presented a complete package to be adopted of which state property formed only one part. This package was criticized by many as ill-prepared, especially the absence of prior talks with Bosnian party leaders to find out what sort of agreements would be possible (Interview with an Official at a Foreign Embassy 2010, Interview with an OHR Official 2011a, Interview with Kurt Bassuener 2010). Apparently, the documents were only provided to the participants a few days prior to the conference (Interview with Asim Sarajlić 2011). Secrecy was meant to create a surprise effect, though this was not well received by the Bosnian elites and by those in the international community in Sarajevo who had not been part of the preparation (Interview with Tilman Enders 2010).

On state property, the Butmir proposal included a compromise largely along the lines of the Prud Agreement, granting property not needed by the state to the entities. According to the debriefing after the first round of negotiations, there was to be a five-year moratorium on the sale of property granted to the entities, the state was to have the right of first choice of what property it required but with a chance for appeal by the entities, and all properties abroad would be owned by the state (N.N. 2009). Many saw the Butmir talks as an ill-fated attempt to find a quick route to OHR closure (Interview with an SDP representative 2010b, Interview with Kurt Bassuener 2010). None of the proposals discussed in the different rounds in Butmir was accepted (Alic 2009, Borić 2010). After that, no large scale international initiatives happened with respect to state property.

In summer 2010, the RS attempted to end negotiations on state property by taking the issue into its hands unilaterally. The entity government issued a law on state property that defined all property on the territory of the RS as owned by the RS (Dodik 2010). This

move was also explained by the upcoming elections in October 2010 and in this sense was a classic example of 'legitimacy by defiance', where Dodik attempted to ensure a good result in elections by defying OHR (Interview with an OHR Official 2011a). The process of implementing the law was slowed down by a veto based on vital national interest by the Bosniak caucus in the RSNA (OHR 2011a), which was invoked allegedly on the initiative of OHR in order to win time (Interview with an OHR Official 2011a). Sulejman Tihić formally requested the BiH Constitutional Court to assess whether the law violated the constitution (Katana 2012a). In January 2011, OHR banned the implementation of the RS law until the constitutional court had ruled (OHR 2011c). With that, the process was temporarily stalled until after the constitutional court ruling (Interview with an OHR Official 2011b, Interview with Stefan Simosas 2011, Interview with Zvonimir Kutleša 2011). At the same time, the RS threatened to hold a referendum that was seen by many as preparing for independence and that also constituted a direct threat to OHR (ICG 2011b, Kovačević 2011). This situation was judged as easily one of the largest crises since Dayton (Interview with an OHR Official 2011b). With this acute sense of crisis, the discussion on OHR closure, and with it the discussion on state property, was essentially overtaken by events. When asked about why the 5+2 agenda appeared to not be of very high priority anymore, one OHR representative responded:

"How could it be! I mean, 5+2, we are so well beyond the issue of 5+2, we have one entity challenging the very existence of the state, and certainly competences between the state and the entities." (Interview with an OHR Official 2011b)

At this point in time, OHR closure did not appear desirable any more to most of the interveners. Additionally, the question of 'transition' to a reinforced EU presence had been resolved by redividing EUSR and OHR so that both functions from summer 2011 onwards were institutionally independent.

In spring 2011, there was a change in the way in which state property was discussed among interveners. Now, comments were increasingly heard that pointed to experiences in other East European countries, where these issues were not solved by one overall agreement but rather incrementally by individual court decisions (Interview with a Representative of a Western Embassy 2011b).¹⁷ Movement on the issue returned in March 2012, when the party leaders once again signed a general agreement on the principles according to which the state property issue was to be resolved (VOANews 2012). According to the agreement, the Council of Ministers and the entity governments have one year to find and adopt a decision. During that time, the state

¹⁷ And informal conversations in Sarajevo in spring 2011.

property commission needs to come up with an inventory¹⁸ and draft decisions (OHR 2012a).

This agreement was welcomed by OHR and the PIC SB, though they pointed out that OHR closure would not happen before the agreement had actually been implemented (Kulaga 2012). OHR's assessment of the agreement was cautiously positive. It judged that

The 9 March agreement on defence and State property opens the door potentially for an acceptable and sustainable resolution of the issue of apportionment of property between the state and other levels of government as well as an acceptable and sustainable resolution of defence property" (OHR 2012a)

In July 2012, the constitutional court ruled the RS law to be unconstitutional, a decision that met great support from Sulejman Tihić and was vigorously opposed by Milorad Dodik who argued that the decision had been taken under political pressure and was directed against the RS (Katana 2012a). In October 2012, it was still an open question whether the RS would let go of its property law and whether the compromise agreement would be implemented.¹⁹

8.4 STRATEGIES

The interveners initially seriously underestimated the conflictive potential of the state property negotiations. Their strategies were accordingly not very proactive and they failed to come up with convincing arguments for reform. As they saw their role mainly as facilitators, a lot of strategies focused on capacity building instead. When state property was made a condition for OHR closure, the main purpose was not bribing or blackmailing the interveners, but rather devising an exit strategy for OHR. However, because state property negotiations were more difficult than anticipated, this conditionality turned against the interveners just as the EU conditionality in police reform had. While legitimizing arguments, capacity building and pressure all played a role in state property negotiations, strategies based on bribery played next to no role.

8.4.1 *Arguments: State Property as an Educational Exercise, and 'What's Legal is Legitimate'*

As OHR did not believe state property to be a very difficult issue, it never attempted to present convincing arguments for the necessity of reform, other than stating that it was part of the 'to do' list of state-building in Bosnia and that it was important in practical terms to allocate premises to state organs and to reduce their costs by saving rent

¹⁸ The one prepared by OHR has not been accepted by the RS.

¹⁹ This is based on email conversation with an international observer in Sarajevo.

(OHR 2004h, OHR 2010a, Potter 2005, p. 186). From 2008 onwards, intervener arguments centered on the 5+2 agenda and on European integration. They argued that a solution to the state property issue was necessary because it was a condition for OHR closure, and OHR closure in turn was a precondition for European integration:

“The agenda of five objectives and two conditions set by the Peace Implementation Council must be fulfilled. Focus is now clearly on the State Property and launching of the inventory. Transition of OHR to a substantially reinforced EU mission is our common goal and it will take place as soon as the conditions are fully met.” (OHR 2009c)

At this point, the argument was no longer about state property as such. Rather, like the other conditions of the 5+2 agenda, the issue became a test case for Bosnian leaders to prove that they had earned sovereignty:

“These two items, finding a resolution to the state property question and finding a sustainable solution on Brcko [sic], are essential elements to demonstrate that the political leaders in Bosnia and Hercegovina are mature enough to decide about essential issues in the country.” (OHR 2009b)

In sum, the interveners did not put forth ‘good arguments’ for why a resolution on state property was necessary. The issue turned from one that OHR thought needed no explanation to an educational exercise in governing.

The Bosnian parties (Bosniaks and Bosnian Serbs primarily) firmly advocated their own particular views of the issue, and by doing so also campaigned with OHR and the wider international community. They did so by constructing legal arguments (Interview with a Bosnian Official at the State Attorney’s Office 2011), to enhance the perceived legitimacy of their point of view and to delegitimize counter-arguments as unprofessional, illegal or unconstitutional. None of the arguments was ultimately convincing, and none of them was adopted by the interveners. While the interveners did not get involved in these legal debates directly, they built on this legalistic discourse when trying to find a way out of the state property issue. At that point, they argued that the matter was one for lawyers rather than politicians and should consequently be solved by court decisions bit by bit.

Reference to legal experts is one example of how both Bosniaks and Bosnian Serbs attempted to justify their political arguments. In the following examples, this was used to legitimize views that were diametrically opposed. Gordan Milošević of SNSD argued that:

“Dayton established two territories, saying the competences for BiH are those mentioned, every other entity competence. You can ask any constitutional expert what establishing two territories means, they will tell you that means division of property

according to the territorial principle. We have no reason to give the BiH institutions anything to own. If they need it for their functionality, they can use it, forever, without paying rent, that's our concession. But we are not supposed to give them ownership." (Interview with Gordan Milošević 2010)

Asim Sarajlić of SDA used the same strategy to argue for the opposite, when he described negotiations between the SDA and SNSD delegations in Prud:

"We discussed about defense property, state property in Prud. Tihić said, okay, find your legal expert who explains your view, I'll sign. He knew, everyone from a legal background knows the procedure. You need to put it at state level first and in a single document, and then you can put it wherever you want." (Interview with Asim Sarajlić 2011)

Basically, these two arguments related to differing understandings of what precisely was created in Dayton. The Serb position, as also expressed by the RSNA, is that Bosnia does not exist beyond its entities (European Commission for Democracy through Law (Venice Commission) 2011, p. 4). From the RS government perspective, this means that property belongs to the entities. The Bosniak side, in contrast, emphasized BiH's legal continuity, also with reference to the Bosnian constitution. From this perspective, property belongs to the state.

The interveners for a long time through the process stayed out of these legal arguments, but simply insisted that some solution had to be found. The European Commission for Democracy through Law of the Council of Europe (the 'Venice Commission') argued in 2011 that neither the arguments of Bosniaks nor those of Bosnian Serbs were well-founded (European Commission for Democracy through Law (Venice Commission) 2011). Even when the RS pronounced its own law in 2010, OHR did not challenge the constitutionality of the law itself but rather left it to the Bosnian Constitutional Court to do so. All OHR did was ban the implementation of the RS law until a court decision had been made.

The legalistic nature of the negotiations on state property, however, provided a basis for finding a way out of the state property issue when it seemed that no solution would be found any time soon. At this point, the story that started to be told in Sarajevo pointed to other transition countries, where issues of state property had been solved not by one overarching agreement, but by individual court decisions. By 2010, there had already been a growing feeling that 5+2 would not be fully implemented and a different way would have to be found for OHR closure (Interview with Stefan Simosas 2010, Interview with Tilman Enders 2010). By early 2011, it was described as an "issue that many people say will not be resolved completely but it can only be resolved case by case." (Interview with a Political Analyst 2011) One of my interview partners made this very clear:

“We’ll have to capitulate on state property. The question is how and when. There will be law suits for 50 years, but who cares.”
(Interview with a Representative of a Western Embassy 2011b)

Once it became clear that a negotiated solution would not be achievable in the near future, state property, in the arguments of the interveners, turned from an educational exercise into an issue that was not political but legal, which had to be solved by the courts rather than politicians.

8.4.2 *Capacity Building: A Technical or a Political Problem?*

OHR initially perceived the state property issue as a practical, technical and legal issue. It did not anticipate a protracted political conflict (Interview with an OHR Official 2011b). OHR also did not devise plans as to what a solution to state property would look like, at least not until very late in the process. All that was needed from OHR’s perspective was clarity on the issue, whether that meant the property clearly belonged to the state, the entities, or was divided up among them. For most of the process, OHR concentrated on strategies of capacity building, aiming to put Bosnian political elites in a position to decide on state property. They did this by attempting to act as a facilitator in the decision-making process, by providing expertise, and by providing resources in terms of money and manpower.

OHR, and with it the PIC SB, acted as a facilitator for the state property issue in that the “PIC came up with a rather detailed language about how it should be solved basically” (Interview with Stefan Simosas 2010). It did so by first urging that a commission be formed (Interview with an OHR Official 2011b, PIC 2004) and proposing to solve the issue by an inter-governmental agreement rather than through legislation because the former was thought to be easier (Interview with Stefan Simosas 2011). While OHR pressed for a commission, its role was much less intrusive than it had been in defense and police reform:

“It was a consultative process whereby they have already identified the problems by themselves and we said what we thought might be way to address the problem. I think there were some consultations on drafting a Council of Ministers decision, but ultimately, they put forward their own draft to the Council of Ministers and adopted it and that ultimately created the commission. We came after that, I would say we tried to facilitate.”
(Interview with an OHR Official 2011b)

The lower degree of intrusiveness is also reflected in the fact that the commission was set up and headed by the Council of Ministers, rather than by a decision of the High Representative. The fact that OHR did not try to push a particular solution on the state property issue however did not mean that it did not care about the issue. In

this case, it appears, OHR showed great interest in finding a solution, but refrained from specifying what this solution should be (Interview with a Bosnian Official at the State Attorney's Office 2011).

OHR and the PIC SB later on proposed an inventory in order get the process moving again and to turn it from an ideological battle into a set of technical exercises (Interview with an OHR Official 2011b). Only when the Inventory Working Group turned out to be unsuccessful did OHR adopt a more proactive stance and decided to do the inventory by itself.

Throughout the process, OHR provided expertise and, in particular, legal advice (Interview with a Bosnian Official at the State Attorney's Office 2011, Interview with Zvonimir Kutleša 2011). OHR representatives participated in the commission sessions though without voting rights. They presented proposals on ways to approach certain aspects of the issue, but according to the Council of Ministers' General Secretary Zvonimir Kutleša who also acted as secretary of the commission, they never implied that these proposals were in any way binding (Interview with Zvonimir Kutleša 2011). For as long as political agreement seemed distant, this role was also intended as a way to prevent the situation from deteriorating:

"State property is our portfolio, so of course we always try to give them some guidance, so at least nothing stupid is happening. But we don't force them to agree if they don't want to." (Interview with Stefan Simosas 2011)

OHR representatives were also consulted by commission members before meetings to get acceptance on proposals that the commissions members intended to present (Interview with Zvonimir Kutleša 2011).

Finally, OHR provided resources when it decided to do the inventory. This was an explicit response to the Inventory Working Group members stating that they did not have the resources to conduct an inventory themselves:

"[...]we said, okay, they're complaining about everything from the lack of resources, and they couldn't even agree on how to conduct such an inventory. So what we did was, we said okay, we can seek support from our members of the PIC, from the International Community as a whole and we can provide technical expertise to do a low key, low level technical process of simply gathering the documentation, which in fact we did." (Interview with an OHR Official 2011b)

OHR pointed out, however, that the inventory was in no way binding but rather meant to serve as a starting point for further discussion (OHR 2010b).

The Bosnian political elites responded in two different ways. First, they demonstrated that they were being active. They formed commissions and working groups, held meetings at working level and among the party leadership, and came up with a range of proposals

– none of which in the end had enough political support to pass. The commission, for example, produced seven different proposals for a state property law. Despite this, it was still clear to the commission members that their work would not achieve anything because political consensus was lacking (Interview with a Bosnian Official at the State Attorney's Office 2011, Interview with Zvonimir Kutleša 2011).

Secondly, the RS representatives responded by delegitimizing the other parties. With regard to Bosniaks, for example, they questioned their motives, arguing that the Bosniak political elites did not actually want a solution to the state property issue because they did not want OHR to close (Interview with Gordan Milošević 2010). In relation to OHR, RS representatives criticized the technical approach it was adopting:

“And the make a famous list [inventory]. They say, look, those incompetent Bosnians, they can't even do such a technical job. How could we, if we don't have a political agreement on what is supposed to be on the list. It is not a technical matter. It is a huge political issue. But worldwide they present it as a technical job, and look, they are not even able to do the technical, we will do it instead. We want for OHR to be closed, we don't want the processes to be blocked.” (Interview with Gordan Milošević 2010)

With much the same language that OHR used about the Bosnian Serb political elites, the RS government accused OHR of obstructing the process. When the SDA backed out of the Prud Agreement and OHR did not insist on its implementation but rather called for the inventory, the RS government in a letter to the UN Security Council called this obstructive:

“Another example of the new High Representative's obstruction of legitimate progress achieved by local officials, and changing the terms of the PIC's 5+2 Agenda for closure of the OHR, is the High Representative's action related to Objective One: resolution of the issue of apportionment of state property.” (Republic of Srpska Government 2009)

The political nature of the problem and the mismatch of OHR's quite technical approach were also criticized by others, which made it easy for the RS government to use these grounds for argument. Zvonimir Kutleša, who put a lot of effort into the work of the technical/legal commission for example, clearly stated that “It was political from the beginning and will be until the end. I knew that it was a political question, and organized meetings with Tihić, Čović and Dodik.” (Interview with Zvonimir Kutleša 2011) Similarly, an OHR representative pointed out that the issue was not only a technical matter but “touches upon the fundamentals of the state” (Interview with an OHR Official 2011a).

8.4.3 *Bribery, Pressure, and a Proxy Conflict about the Future of OHR*

Up until early 2008, there was very little pressure from any side with respect to state property. There were no attempts to offer bribes in exchange for a compromise, either. The OHR ban constituted a form of pressure in terms of blackmail, as it blocked the sale of property until an agreement had been reached. There was allegedly some pressure on the Chairman of the Council of Ministers Nikola Spirić to act more decisively on state property, but this did not go beyond formal letters, meetings between Inzko and Spirić or PIC SB *communiqués* calling for swift action (Interview with Stefan Simosas 2010). OHR monitored the commission, which put the commission under pressure to at least not be entirely uncooperative. But beyond this, OHR did not push for a solution. Consequently, there was no need for counter-pressure by the interveners either.

There are several explanations for OHR's reluctant approach. First, in light of many more pressing issues, state property was not a priority. Police Reform was still unresolved, and from 2006 onwards, constitutional reform became one of the main issues on the interveners' agenda (Hays and Crosby 2006, ICG 2007, Joseph and Hitchner 2008). Second, there was a clear desire not to enter into conflict with RS due to the overall regional situation. In December 2007, the American Embassy in Sarajevo reported that this was the reason that no Bonn Powers were used with respect to state property:

"Lajcak [sic] reminded Quint Ambassadors that he had planned to press for resolution of the state property issue during December, when the HighRep's current ban on the disposal of state property expires. Language on the issue in the June and October Peace Implementation Council (PIC) communiques was designed to justify using the Bonn Powers to resolve the issues, if the parties failed to do so, which Lajcak reported, had been the case. Nonetheless, Lajcak told Quint Ambassadors that he planned to extend the ban by three months (until the end of March) in light of the more recent guidance from Quint capitals to avoid confrontation with the RS until after Kosovo final status was resolved." (US Embassy in BiH 2007b)²⁰

²⁰ The June PIC communiqué on state property states that: "The Steering Board is deeply dissatisfied with the three-year failure of the State and entity authorities to reach an agreement on the issue of apportionment of State Property, thereby necessitating the High Representative yet again to extend the ban on disposal of State Property. It calls on the Chairman of the Council of Ministers and the Entity Prime Ministers to reach finally an inter-governmental agreement and requests the High Representative to undertake efforts to bring this issue to a conclusion before the end of September." (PIC 2007b). The October PIC then was more clear with threats to use the Bonn Powers: "The Steering Board also deplors the fact that state and entity authorities have failed to reach an agreement apportioning the ownership and use of state property, despite the strong appeal that they do so issued by Political Directors in June of this year. It reminds the three prime ministers of the urgent need to reach an inter-governmental agreement on this question and requests the High Representa-

OHR used its Bonn Powers within the state property process to prolong the ban on state property, and later on to ban the unilateral RS law on state property in 2010.

Intervener activism increased from 2008 onwards when conditionality came into play with the 5+2 Agenda. In this phase, the interveners concentrated on bribery first, and resorted to blackmail when the desired results did not materialize. The conditionality attached to the 5+2 Agenda served a dual purpose. Its first purpose did not target the intervened but an international audience. The conditions were meant to provide a tangible basis on which OHR would be able to declare success and leave. The second purpose was to bribe to Bosnian Serbs. The state property issue was believed to be 'easy', what was assumed to be lacking was an incentive to cooperate. The interveners attempted to offer such an incentive by making a promise that Bosnia would gain full sovereignty once the 5+2 Agenda was implemented.

While none of my interview partners was directly involved in defining the objectives and conditions, many claim that this list was not so much based on considerations of what was necessary to achieve before OHR could close, but rather on what was believed to be feasible within a reasonable time frame (Interview with an OHR Official 2011b, Interview with Stefan Simosas 2010). It was certainly perceived like that by many among the Bosnian political elites. For example, one representative of SBiH argued that:

"They are looking for a way out. 5+2 is totally arbitrarily made up. Okay, let's come up with a list, a check list, then check out the boxes of what is possible and then we can say that we can leave." (Interview with an SBiH Representative 2010)

Gordan Milošević of SNSD similarly saw the list as relatively arbitrary, arguing that OHR "basically made a list of things that were mentioned more than once in PIC communiqués before". (Interview with Gordan Milošević 2010)

The rationale behind establishing the conditionality was not so much the concrete result, but rather the perceived need to establish some sort of benchmarks. One of my interview partners described this as "the real condition is: we want them to do *something*" (Interview with a Representative of a Western Embassy 2011b).

Making state property part of the 5+2 agenda was intended in particular to bribe the RS, as the RS had a clear interest in seeing OHR closed. However, it also had the reverse effect of creating pressure for OHR to act on state property (Interview with an OHR Official 2011b). Moreover, it turned the conflict into one about the future of OHR itself. OHR's ability to exercise pressure with respect to state property was substantially hampered by the fact that the issue became one of OHR closure. The PC SB members themselves were divided on the

tive to undertake all appropriate measures to bring this issue to a conclusion." (highlighted by the author) (PIC 2007b).

issue of OHR closure. As a result, OHR lacked backing in the PIC SB to take more drastic measures.

When the Prud Process failed, it was clear that offering bribes for cooperation was not enough. OHR now started to apply pressure by blackmail. It did so by inventing 'facts' and thereby time pressure, by setting up high-level, Dayton-like negotiations, and by attempting to tie a package of reforms including state property to the EU visa liberalization process.

OHR created an inventory on state property and, consequently, 'facts' about such property. This resulted in time pressure for the interveners, as they now were unable to use lengthy discussions on the criteria for a future inventory as an excuse for not being able to talk about the division of property itself. The next step was taken not by OHR but by its PIC SB backers – in this case, the EC, Sweden's Carl Bildt for the EC, and the United States – with the Butmir talks. State property was one of several issues that were negotiated in these talks. While the main subject of negotiations were constitutional changes, the interveners pushed for compromise on the package as whole as part of their attempt at blackmail, thus ensuring the inclusion of state property. The Butmir talks involved higher-ranking officials than the talks in Dayton did (Interview with a Political Analyst 2010), and attempted to create pressure by imitating the approach taken in Dayton, where all representatives were locked up at an army base until agreement was reached. Failure to reach agreement in such prominent negotiations risked a loss of prestige internationally. The international community in Butmir also engaged in blackmail by attempting to connect adoption of the package to visa-free travel to the EU. Visa liberalization was discussed between Bosnia and the EU at the time the negotiations took place (Azinović et al. 2011, Bassuener and Weber 2010, Džihic 2011) negotiations took place and originally was subject to a very concrete set of conditions that Bosnia needed to fulfill (Interview with Tobias Flessenkemper 2011, Populari and ESI 2009). When the first round of negotiations in Butmir failed, the interveners used this for blackmail purposes. They now warned "local politicians that the success of the so-called Butmir talks will also be linked to potential EU visa liberalization for Bosnia." (Alic 2009).

By this time, however, it was apparent that not all PIC SB members insisted on the implementation of the 5+2 Agenda. Germany and France, for example, were allegedly more interested in seeing the transition to a 'reinforced EU presence' happen and were willing to compromise on 5+2 (Interview with an OHR Official 2010b). In spring 2010, the head of OHR's political department also indicated key EU actors, in particular, were ready to compromise:

"We have of course this formal agenda, of the five objectives and two conditions, that the PIC agreed to in February 2008. Because it was then seen that we need to have something concrete

to put on the table. As a way to give some incentives to the local guys to actually move towards the closure. I think we have to say that this has worked only partially. There is a growing feeling, certainly within the European Union and in Brussels that we have become more or less trapped by this 5+2 agenda. We might not really be able to move forward on that." (Interview with Stefan Simosas 2011)

The US representatives especially, along with a few others, did not want OHR to close and hence insisted on full implementation (Interview with a Representative of a Western Embassy 2011b).

For the Bosniak representatives, conditionality had the opposite effect than that intended. They had little interest in OHR to close and hence were less inclined to compromise. For example with respect to Butmir, one political analyst in Bosnia argued:

"The much bigger problem was that the idea behind Butmir package was the closure of OHR. Bosniaks do not want the OHR closed, as long as there is even a slightest chance that the OHR might in the end wake up, use its powers, dismiss Dodik and continue working for a centralized Bosnia and Herzegovina. That was the problem. Butmir package even before it started became hostage to itself." (Interview with a Political Analyst 2010)

Due to US reluctance to close OHR, Bosnian Serbs did not necessarily believe that the rewards for cooperating on state property would materialize (Interview with a Representative of a Western Embassy 2011b). They then reacted with counter-pressure. The RS property law in 2010 was clearly an attempt to create facts with respect to state property, thereby undermining OHR's conditions.

By 2011, the issue had been overtaken by events. By then, the political situation was clearly judged bad enough by the interveners to prevent OHR closure on these grounds, as the second condition called for "positive assessment of the situation in BiH by the PIC SB based on full compliance with the Dayton Peace Agreement" (PIC 2008). As a consequence, a solution to state property was no longer a matter for the future of intervention in Bosnia.

8.5 OUTCOME

At the time of writing, the process of finding and implementing a settlement to state property is still under way. I use the current state of affairs to judge success and failure, which is a symbolic agreement merely on the principles according to which a compromise can be found. On this basis, the state property up until now has been a failure for OHR. The desired goal of an intergovernmental agreement on state property has not been reached. For the three groups of Bosnian political elites, the outcome of state property negotiations is

open. So far, all three have succeeded in avoiding a compromise deal that might grant them less property than they believe they should receive. With that, they have also avoided the symbolic consequences for Bosnian statehood that a state property agreement would have, in their view. However, without an agreement in place, none of the three groups is able to dispose of state property as they wish. As long as there is no actual agreement on state property, the ban issued by the High Representative remains in place. So far, state property, therefore, is neither success nor failure for the Bosnian political elites.

8.6 CONCLUDING SUMMARY

Different from police and defense reforms, nobody had a strong interest in state property. OHR got involved in the issue by mandate, and because it saw very practical benefits to having a solution to state property. While an agreement on state property involves potential financial benefits for the Bosnian parties, these are not overly large and apparently not a great enough incentive to agree on a compromise. When state property became part of the 5+2 agenda, there was even less incentive to work on a compromise for both Bosniaks as well as those among the interveners who wanted OHR to stay.

While OHR did not narrow the room for maneuver unnecessarily by calling for a very specific solution, there was also nobody driving the reform process. Rather, OHR believed that Bosnian political elites should solve this on their own as proof of their capacity to govern. However, Bosniaks had no incentive to prove that they could function without OHR, while Bosnian Serbs did not believe that the promised benefit – the closure of OHR – would materialize. Furthermore for all three groups, the issue was not a technical matter but touched upon fundamental questions of the nature of the Bosnian state. In a situation where the interveners had initiated attempts to renegotiate the basic compromises of Dayton with opening debates on constitutional reform, these questions (re)gained vital importance.

Because the issue was not a major priority and its conflictive potential was underestimated, OHR never proposed arguments for the necessity of reform. Instead, OHR treated the issue as a technical task on the 'to do' list of Bosnian statebuilding and supported the process through measures of capacity building. However, in the absence of political will, these measures did not enhance the chances for success. OHR's ability to exert pressure was limited, firstly because of disunity in the PIC SB, secondly because OHR generally was beyond the phase where Bonn Power decisions were accepted unanimously, and finally because part of the negotiating position entailed that Bosnian leaders should do this on their own.

All in all, the state property issue quickly became tied up in larger conflicts both about the nature of the Bosnian state as well as about

the future of intervention in Bosnia. The interveners initially underestimated the conflictive potential of this issue and then were ill-prepared to deal with it.

Part III

DISCUSSION AND CONCLUSIONS

PATTERNS OF NEGOTIATION: DEFENSE REFORM, POLICE REFORM AND STATE PROPERTY COMPARED

This chapter discusses in comparative perspective how peacebuilding has been negotiated in defense reform, police reform and the state property negotiations. In all three cases, negotiations focused on the division of political authority among the three ethnically-defined groups of political elites and between the central state and the entities as one particular version of reorganizing political authority. Within this framework, conflicts of interests usually involved the interveners and Bosniak political elites on the one hand and Bosnian Serb political elites on the other. This translated into OHR and other intervening organizations trying to push through reforms and Bosnian Serbs resisting it. However, the resources that the interveners relied on in negotiations diminished over time. They lost both legitimacy and organizational capacity, which undermined coercive capacity as well. At the same time, Bosnian Serb political elites since 2006 have been in a very comfortable position with large popular legitimacy and high organizational capacity. This constellation has affected the available range of strategies. In the later phases of the state property negotiations, OHR was unable to mount substantive pressure, while the ability of Bosnian Serbs to do so increased. But even when the interveners still had greater access to resources, their ability to translate those into effective strategies was mixed. Pressure often succeeded in initiating and sustaining negotiations but not in bringing about compromises. Bribery often turned into a trap of conditionality for the interveners as the prizes they offered were more valuable to them than they were to the intervened. Legitimizing arguments were sometimes difficult to find. Furthermore, capacity building often was a strategy of gaining time and avoiding failure rather than aiming at peacebuilding success. Bosnian Serbs, on the other hand, very effectively pressured the interveners by threatening to let peacebuilding fail, and they successfully dismantled intervener arguments on police reform. The interveners were successful with their strategies only in the case of defense reform. However, defense reform was also the least controversial as it did not target vital aspects of political authority. This chapter explores the concepts of interests, resources, strategies and outcomes and compares the case studies along those categories.

9.1 INTERESTS

Subject of inquiry was the constellation of interests in the Bosnian peacebuilding field in general, and specifically in the three cases of defense reform, police reform and the state property negotiations. In describing the zones of agreement, I mapped out the areas where interests converged and made agreement possible. I argued that those zones of agreement are often narrow, as the interveners' interest in peacebuilding success and the interveners' interest in maintaining the *status quo* often contradict each other. Zones of agreement were initially narrow in all three cases. However, in defense reform, compatible interests existed as well that made compromise possible. In state property, the existing space for agreement remained unused, while in police reform, the zone of agreement was and remained narrow.

The emphasis on ethnic and ethno-territorial criteria for organizing political authority has meant that a large portion of the interests of the Bosnian three groups were not compatible with each other, and Bosnian Serb interests were not compatible with those of the interveners. In defense and police reform, Bosnian Serbs preferred keeping control of their own army and police (although their insistence on this was stronger in police reform), Bosnian Croats opted for ethnic quotas and Bosniaks chose integration. In the state property negotiations, these interests translated into a preference for entity ownership among Bosnian Serbs, state ownership among Bosniaks and sub-entity ownership among Bosnian Croats. The interveners, favored strengthening the central state in all three cases. Interests not related to ethnic and territorial criteria played a role as well, but were important only in defense reform where an interest in reducing costs had an impact on the negotiating position of Bosnian Serbs.

While there were contradictory interests involved in all three cases, they differed with respect to zones of agreement. In defense reform, integration of the armies and defense establishments served Bosniak and intervener interests in moving political authority to the state level. At the same time, it served Bosnian Serb interests in reducing costs, as budgetary responsibility was transferred to the state as well. Croat interests were served by introducing ethnically-assigned posts in both the ministry and the army. Hence, there was a basis of compatible interests.

Mutual gain was, initially, also possible in the distribution of state property, as agreement would have lifted the ban on selling state property. Furthermore, all parties agreed that the central state and the entities were to be allocated the property they needed. However, no agreement materialized. The issue was not an urgent matter for any of the parties involved. Consequently, the space available for agreement remained unused. Since early 2008, the zone of agreement was

reduced by the overall political developments in Bosnia. The state property issue turned into a proxy conflict for the overarching question about the nature of the Bosnian state. In this situation, the *status quo* for all groups became the option that was clearly preferable to a potentially-damaging compromise.

In police reform, there was no zone of agreement initially, and the negotiating position adopted by OHR and the EU prevented the creation of such a space. Bosnian Serbs clearly insisted on keeping control of their police forces. The interveners, on the other hand, early on precluded any agreement that would leave entity police forces intact. By doing so, they restricted the zone of agreement substantially (see as well Lindvall 2009, p. 154/55). Compromise became possible only when the interveners let go of their rigid criteria for success. Symbolic agreement was the result (see below).

In those three cases, the existence of a zone of agreement was vital, but not a guarantee for compromise. In police reform, the chances were poor from the outset. In state property, opportunities for agreement existed but were not utilized and then disappeared. In defense reform, the existing zone of agreement has actively and successfully been exploited by the interveners in search for a compromise. In the other two cases, agreement became possible once the interveners re-defined their negotiating positions. In both these cases, the interveners decided that their interest in declaring success was greater than their interest in effecting change. This led them to include symbolic agreement as an acceptable outcome, which then made the two sides' interests compatible. The interveners were able to stick to the *status quo*, while the interveners were able to declare success.

The constellation of interests, as pointed out, was similar in all three cases, with Bosniaks and interveners opting for a stronger central state, Bosnian Serbs for a stronger RS and Bosnian Croats for stronger cantons. This constellation has dominated most peacebuilding negotiations in Bosnia.¹ Different lines of conflict have existed as well, however. First, in cases where intervener initiatives did not target the distribution of political authority between state and entities, they sometimes faced significant resistance by all three Bosnian groups of elites, as for example in the abolition of the payment bureaus and the reform of the civil service. These reforms aimed at reducing political control over financial flows and civil service appoint-

¹ To give some examples, the introduction of a Value Added Tax system in 2006 clearly aimed at providing the central state with a stable basis of income that was independent of the entities (Evenson 2009b, p. 20, Interview with Mladen Ivanić 2011). Media reform entailed the creation of a state-level Public Broadcasting System and a state-level media commission that was to control the conduct of public and private media (Gromes 2007, p. 225/26). And in judicial reform, one of the main aims next to reducing corruption and political control was changing the ethnic composition of courts and prosecutor's offices (Gromes 2007, p. 275).

ments, respectively, for all three groups.² Second, Bosnian Serbs were not the main opponent of the interveners in all peacebuilding negotiations. Bosnian Croats, particularly up until 2001, pursued an interest in ethnic autonomy similar to that of Bosnian Serbs, but dropped this negotiating position later on in favor of attempting to preserve and widen Croat autonomy within the state and the Bosniak-Croat federation. Although Bosniak interests have usually been aligned with those of the interveners, exceptions existed. One example is constitutional reform that was boycotted by SBiH because they felt that the changes to the constitution were not integrative enough (Sebastian 2007). In those cases, however, the general dynamic of negotiation remained the same. The three case studies, therefore, are an illustration of the incompatibility of interests in Bosnian peacebuilding. They illustrate the most common constellation of interests. One should keep in mind however that this constellation can change.

9.2 RESOURCES

With respect to resources, I assessed which groups had access to what kinds and ‘amounts’ of resources, and how these had an impact on their ability to influence the outcomes of negotiations. I argued that, overall, the distribution of resources was not likely to favor the interveners. Based on the case studies, there are two points especially worth noting. Both are rooted partially in developments specific to Bosnia but also reflect dynamics that characterize other peacebuilding missions or negotiations in general. First, Bosnian Serbs in all three cases were in a particularly comfortable position with respect to resources, especially from 2006 onwards, not only as a result of developments in Bosnia but also because, as the party most comfortable with the *status quo*, they had the opportunity of allowing peacebuilding to fail. Second, the situation with respect to resources deteriorated for the interveners over time. This was partially a result of decisions that the interveners took in Bosnia but also reflects the growing legitimacy problems that characterize intervention as time passes.

9.2.1 Coercive Capacity

Coercive capacity rested on ‘blackmail material’ for all groups involved and, additionally, on formal coercive capacity for OHR. While

² Negotiations on the payment bureaus took place between mid-1998 and mid-2000. Here, the main interest of the interveners was in reducing the ability of all three groups to control financial flows within their realms of influence (ICG 2001a, ICG 2001c, Zaum 2006, Zaum 2007). Reform of the civil service aimed at reducing political control over appointments of civil servants (Interview with a Representative of a Western Embassy 2011b).

the interveners often experienced problems in utilizing their coercive capacity, this was not the case for Bosnian Serbs.

In the three cases, OHR did not make use of its formal coercive capacity to impose solutions. Formal coercive capacity was used, however, to either impose sanctions for non-cooperation or else threaten such sanctions. In the earlier years of intervention, imposition had been relatively common.³ But in these three cases, OHR either had no mandate or had lost the ability to impose. There was no mandate for imposing solutions in police reform and one that was quite opaque in defense reform. By the time state property was negotiated, OHR lacked the ability to impose because organizational capacity and legitimacy had weakened. In terms of sanctions and threats thereof, formal coercive capacity was used both for direct sanctions (such as OHR abolishing the RS Supreme Defense Council in response to the ORAO Affair), and as a basis for strategies of selective law enforcement (as in police reform). Formal coercive capacity hence also served as a basis for more informal forms of pressure. Next to formal coercive capacity, OHR also drew on blackmail material from a wide range of sources. These comprised the various political scandals that were used to put pressure on Bosnian political elites, information on corruption and other illegal practices that was gathered either by OHR itself or provided by intelligence agencies of PIC SB member states, and the conditionality tied to membership of the EU or NATO. In all three cases, coercive capacity contributed to initiating and sustaining talks, but the interveners were unable to pressurize the intervened into making compromises, as is discussed in detail in the section on strategies below.

For the intervened, there were two major sources of blackmail material: the blockade of state institutions, and the blockade of individual negotiation processes. While both were, in principle, available to all three groups, they were *de facto* used in those three cases only by Bosnian Serbs. First, the complex power-sharing system in Bosnia with its multiple formal and *de facto* veto mechanisms provided ample opportunity to render the Bosnian state institutions dysfunctional.⁴ This worked as blackmail material because it threatened to undermine the central intervener interest of building a stable state, and if followed through would have meant that OHR needed to reassume its role of micro-managing the Bosnian state apparatus itself. Second, the in-

³ Since the Bonn Powers were established in 1997 and until the end of 2005, successive High Representatives have imposed 757 decisions (Parish 2007, p. 15) in areas as diverse as “economic reform, media development, property laws and refugee return, and judicial reform” (Zaum 2007, p. 93) as well as matters of citizenship, vehicle license plates, a BiH flag as well as national anthem and the like (for a concise overview until January 2000, see ESI 2000, p. 27). Detailed information is available at OHR’s website at <http://www.ohr.int/decisions/archive.asp>.

⁴ The Bosnian Croat political elites used this type of blackmail material after the 2010 elections to put pressure on SDP into granting them access to the newly-formed Federation government (Hadzovic 2011a, ICG 2010, Karić 2012).

tervened gained powerful blackmail material from being able to let concrete reform initiatives fail. Police reform is a prime example of how such blackmail material has been used by Bosnian Serbs. Bosnian Serbs clearly preferred the *status quo* over any negotiated settlement. Consequently, they boycotted the negotiation process until the interveners finally gave in to their demands. In the state property negotiations, they blocked negotiations by inventing facts in terms of a unilateral RS law. Both of these sources of coercive capacity are powerful. While OHR sanctions such as dismissing certain officials hurt individuals and sometimes organizations, the ability to block the peacebuilding process is a direct and all-encompassing threat to the central interest of the interveners in peacebuilding success. The interveners have given in to those threats both in police reform and the state property negotiations.

Since the change of government in 2006 and Dodik's successful centralization of power in the RS, using this coercive capacity became much easier for Bosnian Serbs. Significant organizational capacity meant that their threats were credible, as it was very likely that Bosnian Serb officials in state institutions would obey orders to withdraw (see below). The considerable legitimacy of Bosnian Serbs also meant that OHR had difficulties in reacting to threats by dismissing Dodik.

In sum, the interveners were often unable to use their coercive capacity due to their lack of legitimacy or organizational capacity, or both. Where they were able to use it, it did not have the desired effects. Bosnian Serbs on the other hand had a very powerful tool in coercive capacity and were in a position to use it effectively.

9.2.2 *Economic Resources*

Economic resources played some role in all three cases but were decisive only in defense reform. The interveners did not lack resources in any of the three cases and in all of them they used the promise of economic resources as a bribe. In defense and police reforms, this implied both a reduction in costs as reform proposals included downsizing the army and the police respectively, and access to new income streams by entering into treaties with NATO and the EU respectively. In the state property negotiations, agreement was tied to lifting OHR's ban on the sale of property. In the defense reform negotiations, economic considerations tipped the scale for Bosnian Serbs. It is important to note that they also had less to lose in this case than they had in police reform and the state property negotiations.

More generally, economic resources that became available from the sale of RS Telekom in 2006 were used by the RS authorities for the purposes of output legitimacy and thereby contributed to their enhanced negotiating power *vis-à-vis* the interveners. Together with other fac-

tors, this added to Dodik's substantial domestic legitimacy. Still, the interveners clearly had an advantage with respect to economic resources and used them to offer bribes, but in police reform and the state property negotiations, these bribes were not perceived as offsetting the losses incurred by entering into an agreement.

9.2.3 *Organizational Capacity*

Organizational capacity was important in its own right and also because it had an impact on other resources. The interveners profited from significant organizational capacity in defense reform but not in police reform and the state property negotiations. Meanwhile, Bosnian Serbs had considerable organizational capacity from the time the government changed in 2006, which added to their ability to block peacebuilding negotiations. Among Bosnian Croat and especially Bosniak political elites, however, organizational capacity was limited which undermined their ability to enter into compromises.

In defense reform, the interveners were able to build on both on a shared interest in unifying the army as well as on well-established and well-working coordination mechanisms from the earlier phases of intervention in the defense sector. This meant that despite initial skepticism about structural defense reform on the part of the OSCE and some PIC SB countries, the interveners were able to formulate and implement one single consistent policy. However, significant organizational capacity in this case is also a result of the success of defense reform itself. There were, in contrast, decisive divisions among the interveners on means and ends in both police reform and the state property negotiations. Divisions materialized between OHR and the EU as well as between different PIC SB member states. These undermined coercive capacity, as OHR often did not get approval from the PIC for using its Bonn powers and it undermined the credibility of using bribery or blackmail. Some among the interveners usually appeared willing to relinquish conditions that served as blackmail material, or to give away 'for free' rewards that were meant to be used as bribes.

Among the intervened, the strong organizational capacity of Bosnian Serbs, from the time SNSD and Milorad Dodik took over power in government from SDS and PDP had an impact on negotiations. First, it brought with it a profound professionalization in devising and disseminating legitimizing arguments, as the RS now clearly had a 'PR strategy'. Second, it greatly enhanced the credibility of threats. In comparison to the earlier years, it was clear now that Bosnian Serb officials in central state institutions would follow orders from Banja Luka to abandon their posts (Interview with an OHR Official 2011d).

The lack of organizational capacity among Bosniaks and Croats sometimes impeded concrete negotiations, and more generally made

negotiations more difficult and time-consuming. The lack of Bosniak organizational capacity and its consequences were especially apparent in the state property negotiations, where Tihić abandoned the agreement on state property struck in Prud because of ethnic out-bidding by his direct competitor Haris Silajdžić. Bosnian Croat lack of organizational capacity did not play a decisive role in any of the three case studies presented here but was one of the major reasons that the negotiations on constitutional changes failed in April 2006 (Sebastian 2007). More generally, the lack of organizational capacity among Bosniaks and Bosnian Croats meant that a much increased number of negotiating parties had to be taken into account. Additionally, the fragmentation of the political spectrum among Bosniaks and Bosnian Croats meant that the various parties were unable to form a government in the Federation for almost half a year after the elections of October 2010. This was one of the factors (though not the only one) impeding the formation of a state government for 15 months after the elections. The state level parliament also convened only in spring 2011. This meant that peacebuilding negotiations came to a halt because there were no governments and parliaments to formally adopt and to implement reforms.

Some of these developments are specific to Bosnia, such as the diverging approaches to peacebuilding taken by OHR and the EU and the need to always include at least three (Bosniak, Bosnian Croat and Bosnian Serb) actors in negotiations. However, peacebuilding always involves a large number of organizations and states with diverging and often conflicting agendas (Paris 2009), and fragmentation of the political landscape is frequent in post-conflict (Riese 2008) as well as transition (Ágh 1998, Carothers 2004) states. In that sense, the specific Bosnian dynamic is an illustrative example of how and why the lack of organizational capacity is detrimental to successful peacebuilding.

9.2.4 *Legitimacy*

The distribution of legitimacy changed substantially over time. While the interveners lost legitimacy, Bosnian Serbs gained legitimacy from 2006 onwards. These two developments reinforced each other, and they decisively influenced the negotiations on police reform and state property to the advantage of Bosnian Serb interests.

There were various factors that contributed to OHR's and the EU's loss of legitimacy. As peacebuilding and OHR's mandate dragged on for much longer than anticipated, the transitory nature of intervention became questionable, and Bosnian Serb representatives increasingly argued that OHR and its Bonn powers were not necessary in Bosnia any longer (Interview with Gordan Milošević 2010, Interview with Nina Sajić 2010). Even some of the representatives of the Bosniak political elites who were traditionally most supportive of OHR

agreed that OHR had to leave soon, but that it had to make sure the central state was functional first (Interview with an SBiH Representative 2010). The debate about OHR closure that was ongoing since 2006 made this issue more acute (this is discussed in detail in the following chapter), and as the major reforms mandated by the Dayton Agreement had already been implemented, OHR also generated less output and thereby less output legitimacy. Another aspect of OHR's loss of legitimacy was self-inflicted: By deciding to 'move beyond Dayton', OHR chose to engage in reform issues that were beyond its formal mandate. Police reform is an example where OHR claims for reform were clearly seen as illegitimate by Bosnian Serbs. This loss of legitimacy undermined the ability to put forth legitimizing arguments, and it undermined coercive capacity. First, Bosnian Serbs increasingly believed that they had to expect sanctions no matter what – police reform being a case in point. Second, once OHR's legitimacy was drawn into question publicly, the organization could not count on Bosnian actors obeying their orders any longer. In the state property negotiations, OHR had *de facto* lost its ability to impose sanctions.

The EU was in a somewhat difficult position in Bosnia from the outset, stemming from its heavily-criticized role during the war (see Chapter 5.3.4 on the EU within the Bosnian peacebuilding field). Post-war, the perceived distance and disinterestedness of the EU towards Bosnia did not help to increase its legitimacy in the eyes of the Bosnian political elites. Finally, police reform further undermined EU legitimacy as EU standards were perceived as politically motivated, one-sided and highly unfair. In police reform – as a case where the EU played a major role, this undermined bribery as the EU's primary strategy of engaging with the Bosnian political elites.

As with organizational capacity, the decline of the interveners' legitimacy was due to specific developments in Bosnia but was also similar to experiences of other peacebuilding missions elsewhere. The legitimacy of intervention faded after some years both in Kosovo (Narten 2007b) and Timor Leste (Myrtilinen 2009), for example. It appears that over time, peacebuilding gets increasingly difficult to legitimize.

The considerable popular legitimacy enjoyed by Dodik and his SNSD government since 2006 added to their strong position in relation to the interveners, which has been described in the preceding sections. This affected negotiations on police reform and state property. First, this large popular legitimacy was one of the factors that allowed Dodik to quickly build up large organizational capacity as his large parliamentary majority allowed him to control RS institutions without having to share power with other parties. Second, popular legitimacy was one of the factors that prevented him from being dismissed by OHR and put him in a position to openly confront OHR.

The loss of OHR's legitimacy and the rise of Dodik's legitimacy are interrelated. Dodik was now in a position to openly confront OHR. This was most drastically apparent when Dodik refused to implement legislation imposed by High Representative Lajčák in 2007, arguing that OHR as an organization was not legitimate and neither were its impositions. When Lajčák responded by effectively conceding, he implicitly accepted that OHR did not have the legitimate power to impose legislation any longer (US Embassy in BiH 2008c). The public display of that acceptance further undermined the legitimacy of OHR's Bonn Powers. At the same time, Dodik's public defiance of OHR strengthened his own public legitimacy (Distler and Riese 2012). In sum, fading legitimacy narrowed the range of strategies available to the interveners, while this fact and the increased legitimacy of the SNSD government allowed the latter to increase pressure on the former.

9.2.5 *Summary: Resources*

Taken together, the interveners had an advantage only with respect to economic resources. A certain level of economic resources is necessary to keep peacebuilding functional, and more economic resources make the work of the interveners easier. In terms of making an impact on peacebuilding negotiations, economic resources only played a role in defense reform. With respect to all other resources, Bosnian Serbs as the main opponents to initiatives of the interveners were in a better position. This gap grew over time in part due to factors that are specific to developments in Bosnia and in part due to more general peacebuilding dynamics. While the interveners had coercive capacity, so did Bosnian Serbs, and as their coercive capacity enabled them to threaten the interveners with outright failure, this coercive capacity proved very powerful. The interveners were in a difficult position with respect to organizational capacity and legitimacy from the outset, and both declined substantially over time. At the same time and for reasons specific to Bosnia, Bosnian Serb organizational capacity and legitimacy increased substantially.

9.3 STRATEGIES

Inquiring into strategies implies asking how the actors involved in negotiations make use of the resources available to them. This is the story of what peacebuilding negotiations look like in practice. The questions of if and when those strategies are successful are highly context dependent. In the three cases investigated here, pressure by the interveners influenced negotiations by inducing formal cooperation. The intervened sought to avoid sanctions by initiating and sustaining negotiation, yet without making any major concessions. Pressure by

the intervened, on the other hand, proved more successful. Bribery was a strategy used exclusively by the interveners, and while they contributed to agreement on defense reform, which was a relatively 'easy' case of negotiation, bribes turned into a trap for the interveners in the other two cases. Capacity building is equally a strategy exclusive to the interveners, and in most cases was used not to bring about agreement but because no other better option existed. The power of legitimizing arguments – for interveners and intervened alike – depended on whether the groups succeeded in coming up with clear criteria that were accepted as 'objective' by all.

9.3.1 *Pressure*

Strategies of pressure were primarily exercised by the interveners and Bosnian Serbs. The ability to apply pressure depended not only on coercive capacity. Pressure was a risky strategy as it possibly induced opposing parties to react with pressure as well. Furthermore, threats needed to be credible to be effective. Organizational capacity was necessary in making decisions to apply pressure, and for creating facts. Moreover, organizational capacity and legitimacy enhanced the credibility of threats; and legitimacy, then, provided protection against sanctions.

As discussed in the section on resources, imposition played a minor role in the pressure exercised by the interveners. Where imposition has been used, it was a tool of blackmail to start negotiations on defense reform and to speed them up in police reform. In defense reform, OHR abolished the RS supreme council and in police reform, it changed the voting procedures in the Council of Ministers, in both cases threatening that there was more to come. Both OHR and the PIC considered imposing solutions on state property. They opted for less confrontational strategies, however, for fear that impositions would be resisted by Bosnian Serbs and upset regional stability, as Kosovo was about to declare its independence at the time.

The interveners' main approach to pressure was blackmail. Various political scandals were used to threaten Bosnian Serbs with legal consequences should they prove unwilling to cooperate on defense reform. In police reform, threats of selective law enforcement with respect to cooperation with the ICTY as well as corruption played a similar role. Here, EU conditionality was also clearly used as blackmail as Bosnia's progress in the accession process was tied to very specific criteria on police reform. In the state property negotiations, blackmail became a major strategy of the interveners from 2008 onwards when it became apparent that offering OHR closure as a bribe would not bring about compromise. Then, the interveners attempted to blackmail Bosnian Serbs by creating facts and time pressure, by threatening to expose them internationally as uncooperative in high-

level negotiations, and by linking the EU visa liberalization process to the package of reforms negotiated in Butmir in winter 2009.

In various instances, the interveners did not only threaten consequences but actually used sanctions. The mass dismissal of summer 2004 set the stage for police reform and was a sanction for the slow and difficult implementation of defense reform; it ultimately triggered the second round of DRC negotiations. Police reform was accompanied by frequent sanctions. There were several rounds of dismissals, trials for corruption that were motivated, at least in part, by non-cooperation on police reform, bank accounts were frozen and travel bans were issued. The laws imposed by High Representative Lajčák in October 2007 on voting procedures in the Council of Ministers clearly were sanctions connected to police reform as well. No outright sanctions, however, materialized in the state property negotiations. The interveners attempted to create facts for example in the state property negotiations, when they conducted the inventory of state property in Bosnia.

Intervener pressure was effective in initiating negotiations and in keeping them going, but it did not bring about compromise. It is worth noting at this juncture that this pattern of relations between the interveners and intervened has a long history. In 1998, Marcus Cox investigated strategies of intervention in Bosnia and argued that the dominant Bosnian parties had "become very sophisticated at playing the international community's game, through a pattern of general obstruction balanced by occasional concessions." (Cox 1998, p. 14) In the projects on minority return that Cox investigated as well as in the three cases in my inquiry, this translated into formal but not substantive cooperation by the Bosnian political elites. In defense reform, the Orao Affair was instrumental in initiating talks and assuring that all parties participated and the Han Pijesak Affair played a similar role for the second round of defense reform negotiations. In police reform, the threat of sanctions for non-cooperation with ICTY was one aspect that triggered negotiations. The Prud Agreement of November 2008 also clearly was an attempt to avoid sanctions at the PIC and EU foreign ministers' meetings that followed shortly after. In the state property negotiations, OHR monitored the proceedings of the commission, which, according to OHR personnel, helped to keep negotiations going, though without reaching any conclusion. Similarly, all parties participated in the Butmir talks as non-participation would have risked sanctions, yet they did not attempt to work out a compromise.

The intervened took intervener pressure seriously by seeking to avoid sanctions where possible. However, at a certain point both in police reform and in the state property negotiations, Bosnian Serb political elites decided to take the risk of sanctions and began to mount counter-pressure. In police reform, they argued that the Directorate

was illegitimate and stopped participating, and Bosnian Serb representatives withdrew from the state government. In the state property negotiations, they refused to recognize the OHR inventory as a basis of negotiations and later on issued a unilateral law on state property.

One of the major reasons for counter-pressure in police reform, rather than opting for formal cooperation, was that this reform threatened vital interests of the RS. Consequently, the loss of political authority by accepting reform was believed to be far more serious than the loss that would be incurred by enduring OHR sanctions. A second reason was that OHR's pressurizing strategies were clearly perceived as illegitimate by the RS representatives (Interview with Dragan Čavić 2011, Interview with Mladen Ivanić 2011, Interview with Stanislav Čađo 2011). This implied that they no longer believed that cooperation would pay off, as they suspected that OHR would still impose sanctions. Finally, particularly since the change of government in the RS but also before that, to some extent, Bosnian Serb representatives were in a strong enough position *vis-à-vis* the interveners to not be overly afraid of sanctions. The former's power relative to the interveners increased with the 2006 elections as Dodik now effectively controlled the Bosnian state institutions.

This last aspect was decisive in the escalation of the state property negotiations. The ability of OHR to follow through on its threats by this time appeared questionable. With constitutional reform and the prospect of OHR closure, there also were other and more pressing issues that the interveners tried to negotiate with the intervened. Against this background, the danger of threats turning into sanctions was low. Apparently, the Bosnian Serb political elites calculated that no truly harmful sanctions would materialize, and they were correct. In earlier years, a similar unilateral law on state property in the RS would probably have provoked harsh reactions by OHR. In this case, however, it only resulted in OHR suspending the implementation of the law until the Bosnian Constitutional Court had made a decision (OHR 2011c).

Bosnian Serb counter-pressure was quite effective in both cases. OHR accepted symbolic agreement in police reform and for the time being in the state property negotiations as well. High Representative Lajčák took back his impositions in 2007 when faced with RS resistance to them. In the state property negotiations most particularly, the interveners clearly feared open confrontation with the RS. By being able to let negotiations fail, the intervened had a powerful tool of blackmail *vis-à-vis* the interveners which they were able to use to great effect. Counter-pressure sometimes also involved creating facts, such as when the RS issued its own unilateral law on state property, on when its representatives withdrew from the Police Directorate. In both these cases, however, these moves also posed direct threats of peacebuilding failure.

9.3.2 *Bribery*

Strategies involving bribes were exclusively used by the interveners. Bribery was present in all three cases, though with little effect except in defense reform. In the other two cases, unsuccessful bribes turned into traps for the interveners rather than inducing the intervened to cooperate. The bribes in defense reform were possibly chosen 'smarter', but again, there was also less to lose for the intervened.

In the defense reform negotiations, bribes consisted of the benefits of NATO PfP membership in terms of money and prestige, continued financial support by the US, and importantly the prospect of saving money by downsizing and centralizing the army. EU conditionality, again offering both prestige and access to financial resources, was the main bribe in police reform. In the state property negotiations, the interveners offered concessions by promising the closure of OHR in exchange for a package of reforms.

The bribes in defense reform were concrete and lucrative and they targeted tangible problems. For Bosnian Serbs in particular, the financial offers in defense reform provided an answer to a problem that was acute at the time, as Serbia had considerably reduced its financial support to the RS army. Compared to EU conditionality in police reform, NATO conditionality was concrete, less intrusive and based on standards that were accepted as legitimate. EU conditionality in police reform, on the other hand, promised a prize that was distant in time and had questionable credibility, considering the EU's waning enthusiasm for enlargement. While police reform was an important aspect of the conditions for signing an SAA, EU conditionality as such was much broader than NATO conditionality and required changes in basically all aspects of state organization. Finally, the EU police reform criteria were perceived as illegitimate because they were not rooted in EU standards but rather reflected the interests of OHR.

However, the comparatively larger impact of bribery in defense reform also needs to be seen in light of the price that the intervened were asked to pay. For RS, an independent army was important in symbolic terms but not as a central pillar of political authority. The police on the other hand were crucial to political authority, and the way in which police reform was designed was perceived by the RS representative as an attack on the RS itself. There was much more to lose in police reform, therefore. Meanwhile, although the price in the state property negotiations also was not overly large, the 5+2 conditionality targeted not only state property but a larger package of reforms that implicitly (though not explicitly) included constitutional reform (Interview with Kurt Bassuener 2010). This turned the package into one with potentially very large losses for all three of the Bosnian groups.

However, once the bribes in police reform and the state property negotiations were publicly on the table, they became problematic for the interveners. The SAA and the closure of OHR closure were not only bribes for the intervened, they were also crucial indicators for the success of intervention. A failure of the SAA process would have seriously drawn the EU's larger policies in the region into question. The closure of OHR was so important to some of the PIC SB members that they considered giving away the prize without insisting on an agreement on state property. The fact that others on the PIC SB clearly wanted OHR to stay further undermined the bribing strategy, as the message that was conveyed was that OHR closure really was subject to a power struggle within the PIC SB, rather than being a crucial part of the 5+2 Agenda.

In sum, bribery appeared to be a difficult strategy. In the three cases under examination, they brought about the desired effect only in defense reform where the price to pay in exchange for the reward being given was not overly large. In the other two negotiation processes, bribes clearly backfired on the interveners. The rewards for cooperation that the interveners chose to offer in both cases were also important indicators of intervention success. This implied that, in essence, conditionality in both cases was imposed on the intervened and interveners alike. However, only the intervened were able to deliver what was being asked for in exchange for those 'prizes'. Consequently, the interveners were held hostage by their own conditionality.

9.3.3 *Capacity Building*

Capacity building was present in all three cases but played a minor role compared to the other strategies. It was an important strategy in paving the way for structural reform attempts in defense and police reforms, though it had more effect in defense reform. In the state property negotiations, capacity building was present throughout the process, mostly because there was no better option available.

Capacity building in defense reform proved valuable in paving the ground for statebuilding reforms, as it created working relationships between interveners and intervened as well as effective coordination mechanisms among the intervened in the defense sector. In addition, NATO capacity building successfully introduced a familiarity with NATO standards and a genuine interest in joining NATO PfP. Consequently, capacity building eased the working atmosphere, enhanced the organizational capacity of the interveners and paved the way for conditionality. As noted when discussing organizational capacity above, this was not only the result of capacity building but also of the relatively smooth negotiation process itself. Early capacity building in the policing sector achieved a lot in enhancing the professional conduct and efficiency of the Bosnian police. This mode of interven-

tion did not continue into structural police reform, however, because actors changed and because OHR in this case was less successful in co-opting other intervening organizations.

In the state property negotiations, capacity building strategies were adopted initially because OHR assumed that no major conflict of interest existed. OHR saw its role primarily as enhancing the capacity of the Bosnian political elites to find agreement amongst themselves, by providing expertise, resources and acting as a facilitator in negotiations. This approach continued even when it became clear that capacity to reach agreement was not the crucial problem. At this stage, capacity building turned into a strategy that was chosen for want of a better option, and in order to avoid or postpone failure. The initiative for the inventory, for example, was an attempt to continue working on a negotiation process that was stuck.

Capacity building in defense and police reforms also sought similar objectives. Early capacity building strategies in the defense sector can be seen as a strategy that was chosen because others were not feasible, as unifying the armies was deemed impossible at the time. Capacity building also offered some solution in police reform when it was clear that structural reform had failed. This role that capacity building played is part of a more general finding: very often, the strategies in peacebuilding negotiations are geared more towards avoiding failure than achieving success. This is discussed in more detail below.

In sum, capacity building strategies were often chosen when the interveners believed that they did not have better options. In defense reform, this strategy helped to pave the way for structural reforms. In both defense and police reform, capacity building qualitatively enhanced the work of defense and policing institutions respectively, which is an important achievement in itself. The cases of police reform and the state property negotiations, however, also suggest that capacity building strategies are not helpful in bringing about agreement on structural reform when the problem lies in incompatible interests rather than in a lack of capacity.

9.3.4 *Legitimizing Arguments*

Legitimizing arguments are an integral element of any negotiation and formed an important part of all three cases. The search for criteria and attempts to establish those as 'objective' formed the central element of those strategies. The interveners succeeded in proposing such criteria in defense reform, while in police reform, Bosnian Serbs successfully took those arguments apart. In the state property negotiations, none of the groups was very successful in legitimizing their own positions on the issue by referring to 'objective' criteria.

The argument the interveners used in defense reform was straightforward. According to international standards, a state is to have one

army and not several. Everything else is clearly considered a security risk. The interveners also succeeded in putting forth arguments about how defense reform as potentially beneficial particularly for Bosnian Serbs who were the most skeptical about it. By doing so, they managed to “invent options for mutual gain” (Fisher et al. 1991, p. 56ff).

There was no such unequivocal argument in police reform, however. Control over the police forces is decentralized in many countries around the world, including several EU member states. Intervener arguments that centered on ‘European Standards’ clearly lacked legitimacy, therefore. Furthermore, arguments by the interveners focused on police efficiency were undermined by the fact that the efficiency of the police had increased substantially despite its decentralized structure. This made it easy for Bosnian Serbs, as a result, to pull apart invener arguments. They thus constructed counter-arguments by building on criteria derived from the Bosnian constitution that explicitly allocated responsibility for the police to the entities. In addition, they used the incoherence of the interveners’ argument to delegitimize invener attempts at reform, stating that OHR was pursuing a hidden agenda to abolish the RS.

Different from defense and police reforms, OHR arguments in the state property negotiations did not focus on the issue that was being negotiated. No reference was made to international practice in regulating state property issues, provisions of international law or the like. Rather, the interveners attempted to define benchmarks of what is required to prove capable governance without the need for international oversight, and argued that the ability to find an agreement on state property provided such proof. However, the interveners themselves were divided in their assessment of Bosnia’s ability to rule itself and thereby undermined their own argument. The intervened, in turn, focused on arguments using the Bosnian constitution and international law. Due to the ambiguity of those sources, however, none of those arguments was ever accepted as ‘objective’.

In sum, it appears that being able to come up with legitimizing arguments and criteria that are accepted by all sides is vital in negotiation processes. Comparing defense and intelligence reforms with police reform, an OHR official who was closely involved in the two former issues argued that this was the most important factor:

“But I think that central question that we did with the defense reform and intelligence reform was: Why? It was a little bit more forced, the answer to the ‘why’ of police reform. Do you understand what I am saying? The debate or, the answer is too long. It is a little bit too complex. Whenever it becomes a little bit too long and too complex, you have all kinds of people shooting and successfully shooting into that argument. And it needs to be very tight. A one-liner. And I think that’s, in my experience, that’s the essence of any reform. Why?” (Interview with an OHR Official 2011c)

The fact that there was a clear argument for defense reform clearly put the interveners under pressure to either comply with the reform proposals or to find an equally good justification for not doing so. There was an overly complex argument for police reform that lacked legitimacy, and there was essentially no argument for state property. This meant that in police reform, justifications for not complying with the interveners' agenda were easy to find, while there was little pressure to come up with arguments in the state property negotiations.

9.3.5 *Summary: Strategies*

The interveners were able to translate their resources into successful strategies only in defense reform. They had a clear and concise argument and tangible bribes that were attractive to the interveners. They had a basis of working relations to build on and made use of this, while events like the Orao scandal provided the material necessary to blackmail Bosnian Serbs to join the negotiation table. However, defense reform also was an 'easy case' for the interveners, considering that the reform did not ask anyone to make concessions on vital elements of political authority. In the other two negotiation processes, the interveners failed to make a convincing point for reform and tremendous efforts at pressuring and bribing did not produce substantial change. Capacity building in those cases was a strategy of avoiding failure for the time being, rather than one of working towards successful agreement.

9.4 OUTCOMES

I wanted to find out in what ways the outcomes of negotiation processes reflected the initial interests of the negotiating parties, and argued that they would constitute a compromise that very often did not favor the interests of the interveners. As seen, the outcomes of all three cases departed from the initial plans of the interveners. The outcome of defense reform comes closest to intervener interests. Police reform and the state property negotiations resulted in symbolic agreements where the interveners had to concede much of their ambitions, while the interveners had to compromise in terms of form but not in content.

The outcome of defense reform clearly reflects the interest of the interveners as well as Bosniaks in integrating three previously-divided and ethnically-defined armies. In this respect, defense reform actually went beyond the initial expectations of the interveners of what was achievable. To make such agreement possible, the interveners had to enter into compromise with Bosnian Serbs and Bosnian Croats by setting up ethnically-defined regiments that are dedicated to commemorating 'national' heritage, and introducing various elements of ethnic

quota and power sharing within the army and defense establishment. The outcome served Bosnian Serb interests particularly in reducing costs. While the interveners certainly achieved a lot in terms of pushing their own interests in defense reform, the outcome nevertheless stayed symbolic to some extent. Ethnic chains of command are likely to persist informally, and all parties tried to avoid the implementation of some aspects of reform or attempted to keep the door open for eventually reversing certain elements. Hence, while defense reform certainly was a compromise that leans towards intervener interests, it still clearly resembles a compromise that integrated some of the interests and needs of all sides.

Police reform as well as the current state of affairs in the state property negotiations constitute symbolic agreements. In both cases, “the symbols of reform” (Barnett and Zürcher 2009, p. 35) have been adopted, while the organization of political authority remained untouched. The police reform agreement included no changes to the existing policing structures or political authority over the police. It created two state level agencies as symbolic compliance with the intervener call for state-level integration. Those agencies however have no authority over entity police forces but exist as a detached additional layer of policing structures with little concrete competences. This outcome largely reflects Bosnian Serb interests. The interveners got those state level agencies as well as a formal agreement that formed the basis of declaring success. Bosniak interests were clearly not served with this reform, while Bosnian Croats neither lost nor gained. Meanwhile, the current outcome of the state property negotiations is symbolic in that it is an agreement on the principles of finding a compromise between the Bosnian parties. The compromise itself has been postponed. While this clearly is a failure for the interveners, it does not constitute a clear success for any of the Bosnian parties either. All of them succeeded in preventing a treaty on authority in Bosnia through the back door of state property. Without an agreement however, none of the parties is able to use or sell state property as they wish.

Of those three cases, therefore, defense reform is the only case where the interveners managed to see a lot of their interests reflected in the agreement. This is also the case where there was least resistance, where the interveners were strongest in terms of all types of resources, and where they skillfully used those resources to their advantage. In police reform, it appears that intervener success was unlikely at least as long as reform entailed taking away entity control of the police forces. In the state property negotiations, existing opportunities to bring about agreement remained unused.

9.5 CONCLUDING SUMMARY

When looking at all three case studies, it appears that the interveners were less powerful than is often assumed. Approaches to studying peacebuilding often readily assume that intervention itself is the only crucial 'variable' in explaining outcomes (Daxner et al. 2010, p. 8). In the three negotiation processes on defense reform, police reform and state property, the ways in which the interveners reacted to peacebuilding initiatives and the means they had at their disposal to avoid reform were at least equally important. While the interveners had formal coercive capacity, they were often unable to use it or chose not to do so. The intervened, on the other hand, had very effective coercive capacity by being able to let peacebuilding fail. The interveners often had difficulties in aligning themselves behind a common interest and common strategies, and their organizational capacity declined over time. Similarly, legitimacy declined considerably as intervention dragged on. At the same time, both the organizational capacity as well as the legitimacy of the Bosnian Serb political elites, as the main opponents of most peacebuilding reforms, increased. The interveners had sufficient economic resources while the intervened did not. However, only in the case of defense reform did this translate into successful bribery. In the two other cases, economic resources played less of a role, for bribing or any other kind of strategy.

Pressure by the interveners often helped to initiate and sustain negotiations. However, both in police reform and the state property negotiations, pressure led to counter-pressure and escalation by Bosnian Serbs who felt that they had little to lose. Bribery worked in defense reform where interests were not entirely opposed. In other cases, strategies of bribing did not overcome strong interests against agreement. Furthermore, the interveners chose bribes that were more valuable to them than they were to the intervened which consequently turned into problems for the interveners themselves. Legitimizing arguments worked for the interveners in defense reform and for Bosnian Serbs in police reform. In the state property negotiations, none of the parties succeeded in coming up with convincing criteria for or against agreement. Capacity building helped to pave the way for defense reform and increased standards and efficiency in policing. Other than that, it was a strategy that was adopted when other options were lacking, mostly to bide for time until agreement appeared more likely. In sum, when faced with clear and decisive resistance by the intervened in police reform, there was little that the interveners were able to do to bring about agreement. Furthermore, even when nobody was strongly against reform, it still took a big and sustained effort by the interveners as well as a favorable context to see their agenda succeed. Such efforts occurred in defense reform, but not in the state property negotiations.

PEACEBUILDING IN PRACTICE

Three broad themes emerged from the case studies. The first two take issue with the interveners' limited prospects of success. The process of fading out intervention in itself undermined the ability of the interveners to induce change. And because bringing about change was tremendously difficult yet success was necessary, many strategies were not actually geared towards achieving success. Rather, interveners and intervened colluded in avoiding, postponing or reinterpreting failure. The last section looks at the overall picture of peacebuilding in Bosnia and raises the question of what the conditions and issues are where intervention in Bosnia has been successful although interests have been opposed. I argue that first, favorable conditions for the interveners do occur and second, intervention has usually succeeded in keeping the status quo from deteriorating.

10.1 THE TROUBLE WITH EXIT

The situation in terms of resources deteriorated for the interveners once they started preparing for an end to peacebuilding. In preparing for this, two aspects proved especially problematic. First, exit required that the Bosnian state was sufficiently stable to continue working and existing without international safeguards. The interveners had identified the provisions of the Dayton Agreement as the major obstacle to a reasonably stable and multi-ethnic state. By trying to overcome the shortcomings of Dayton, they opened up for renegotiation the minimal consensus that had characterized most of the post-war period. Second, in 2006, the PIC SB announced the imminent closure of OHR. While closure has been postponed repeatedly, from that time OHR has been in a constant mode of being 'half gone'. This increased the pressure for success while at the same time bringing questions of legitimacy to the forefront again.

10.1.1 *Ending the Dayton Consensus*

With the change from Wolfgang Petritsch to Paddy Ashdown as High Representative in May 2002, 'moving beyond Dayton' became the key headline of international engagement. The interveners refocused their policy from implementing the peace agreement to enhancing the powers of the rudimentary central state that had been created by Dayton. With his inaugural speech, Paddy Ashdown set the framework in which the coming reform efforts would be evaluated. He made clear

that the provisions of Dayton no longer set the boundaries for possible reforms:

*"Dayton is vital. Without it there would be no peace.
But Dayton is the floor, not the ceiling.
It is the foundation for the state we are trying to construct. And like
all foundations, it must be built on."* (Ashdown 2002)¹

Ashdown started this agenda of centralization immediately after the 2002 elections by creating two new state level ministries (justice and security) as well as various agencies located at the central state level (Gromes 2007, p. 310). All three of the case studies were clearly part of this centralizing agenda. However, while defense reform still remained within the Dayton framework, police reform did not. At this time, the rhetoric of 'moving beyond Dayton' had translated into concrete intervener policy. Police reform still was perceived as an attempt to change the Bosnian constitution through the back door. When talks on constitutional reform itself were initiated in 2005, this agenda became even more explicit.

While these attempts at overcoming the divisions of Dayton aimed at creating more stability, they had the opposite effect. Dayton was accepted by Bosnian Serbs and Bosnian Croats only grudgingly immediately after the agreement was signed, but over the years, it turned into the minimal consensus that set the framework for Bosnian politics. The intervener decision to 'move beyond Dayton' reopened this consensus for negotiation. Kurt Bassuener who closely observed the political processes in Bosnia at the time pointed out that the failure of April package had far greater detrimental effects than had been anticipated beforehand:

"I thought at the time – not that big a deal. I didn't even know what I was for. [...] I thought it was a rush job, it was a rush job, they wanted it done before the elections. [...] It wasn't clear at the time how poisonous this would make the atmosphere. [...] The downside of it failing was much greater than the potential upside of it succeeding." (Interview with Kurt Bassuener 2010)

Opening up the minimal consensus to negotiation was problematic in two ways. First, intervention as I have argued lacks rules that define the procedures of negotiation between interveners and intervened. However, the Dayton Agreement until this point had at least provided guidance on the issues that were negotiable and on what claims were legitimate. This was now no longer the case. Both Bosniaks and Bosnian Serbs (Bosnian Croats to a much lesser degree) used this to push their agenda. While Haris Silajdžić on the Bosniak side started arguing openly for abolishing the entities (US Embassy in BiH

¹ Original emphasis.

2007d), Milorad Dodik started to talk openly about secession (Interview with Christian Schwarz-Schilling 2012). His foreign policy advisor Gordan Milošević, in interview, legitimized those statements by linking them to the reopened debate about Dayton:

“He [Dodik] says, please, but respect Dayton, let’s make improvements, but on the Dayton structure, let’s not touch the basic elements of balance that were established in Dayton because they are essential for this country. [...] But if someone insists on changing this structure, and on undermining or completely abolishing our autonomy, then one has to understand, leaving Dayton means that all options are open. Not only a centralized state. But secession also. Like, if Dayton is not an option anymore, how comes that a centralized state is a legitimate option and secession is not, that’s what he asks, that’s what he says. That is the meaning of these statements.” (Interview with Gordan Milošević 2010)

With the minimal consensus drawn into question, negotiation processes turned into negotiations on very fundamental questions of Bosnian statehood, independent of the issue being negotiated. Both police reform and the state property negotiations, therefore, turned into existential questions. Much more was at stake now than just the distribution of state property or the organizational structure of the police. This, then, fortified Bosnian negotiating positions, and it turned negotiations into antagonistic struggles for ‘all or nothing’.

Second, the new focus of intervention implied a legitimacy problem for the interveners and for OHR in particular. Its mandate was part of the Dayton Agreement, and clearly made OHR responsible for assuring that the Dayton constitution was implemented, rather than overcome. Annex 10 mandated the High Representative to “Monitor the implementation of the peace settlement” and to “Maintain close contact with the Parties to promote their full compliance with all civilian aspects of the peace settlement [...]” (Dayton Peace Agreement 1995, Annex 10, Article II, 1. a, b). Civilian aspects of peace implementation were to “entail a wide range of activities”, including “the establishment of political and constitutional institutions in Bosnia and Herzegovina” (Dayton Peace Agreement 1995, p. Article I, 1). Changing the constitutional basis for those institutions clearly was not part of OHR’s mandate. The organization was by then ‘double-hatted’ as High Representative and EU Special Representative. It attempted to use this second EU role as a basis for legitimation. But, as the example of police reform has shown, this did not work well in areas outside the realm of the standard EU accession repertoire. This problem with legitimacy also had implications for coercive capacity. OHR was not able to use its Bonn powers directly in cases like police reform, so it resorted to other strategies of pressure instead. Those were clearly perceived as illegitimate and hence further undermined OHR’s legitimacy. In sum, while the initiative to overcome the divisive elements

of Dayton was meant to create more stability and to push the agenda of the interveners forward, it ultimately had the opposite effect. It intensified conflicts between the three Bosnian groups of political elites, led to blockades in issue areas that otherwise might have been more prone to agreement, and it undermined OHR's ability to intervene in those conflicts.

10.1.2 *Constant Closure*

By 2005, the PIC SB assessed that Bosnia was now sufficiently stable to start working towards exit in earnest. Internally within the PIC, this decision already motivated the choice of Christian Schwarz-Schilling as High Representative and successor to Paddy Ashdown in late 2005 (Interview with Christian Schwarz-Schilling 2012, Interview with Kurt Bassuener 2010). At the time, it was assessed that peacebuilding in Bosnia was largely complete except for police reform, and the country was "on a path towards Euro-Atlantic integration that is irreversible, it was just a question of how fast." (Interview with Kurt Bassuener 2010)

Mr Schwarz-Schilling explained that closure clearly was the message of the PIC SB members when preparing for his term:

"And it was explained to me as well, already in the preparatory meetings in Washington, Ottawa, Moscow, Paris, that this was too long now with Paddy Ashdown, we wanted to end it already but it wasn't possible. But now one to two years at most, everything is fine anyway, all treaties are closed, everything is in order." (Interview with Christian Schwarz-Schilling 2012)

The intention to close OHR was officially announced for the first time in 2006 when a date for closure was set for June 2007. However, in the meantime, the situation in Bosnia deteriorated substantially in terms of political stability. With Dodik in the RS and Silajdžić in the Federation, two figures dominated the political sphere who were successful in their attempts to gain legitimacy by taking uncompromising stances towards the other entity. The implications of constitutional reform, and particularly the failure of the negotiations on this, have been discussed above. Christian Schwarz-Schilling in autumn 2006 started arguing against OHR closure in 2007 because of the worsening political situation in Bosnia, but at the time lacked the support of the US administration for prolonging OHR's mandate (Interview with Christian Schwarz-Schilling 2012). He eventually got support for postponing closure and in February 2008, closing dates were replaced by the 5+2 Agenda. But from the first announcement of closure in 2006, the issue of closure dominated OHR's agenda. The organization, as a result, was seen as being in a constant mode of being 'half gone'. It was perceived like that as well by the Bosnian groups:

“And so we found ourselves in a dilemma. The International Community said every three to six months, we close, but then it wasn’t possible at all because the conditions were not there. [...] There was too much talk of closure and Bonn Powers in the International Community. This was clearly understood by the Serbs among others as a weakening of the International Community. Since Lajčák and especially since Inzko, because they know that Inzko isn’t supported 100% by all members of the PIC, since then RS can afford to say very openly, this and that decision we won’t implement, it isn’t even published in the official gazette.” (Interview with Caroline Ravaud 2010)

First, OHR was clearly believed to be no longer sufficiently powerful to impose sanctions. Second, the decision to close OHR shortly brought the issue of the transitional character of intervention to the forefront. This made it easy for Bosnian Serbs to argue that OHR ought to close down because its presence was meant to be transitional in the first place (Interview with Gordan Milošević 2010, Interview with Nina Sajić 2010). Third, there clearly was no unity in the PIC SB on the future of OHR. While some, led by the United States, insisted that OHR needed to stay for the time being, others clearly wanted to speed up closure. Russia supported the Bosnian Serb point of view that OHR needed to be closed, and the EU as well as most EU member states on the PIC SB were in favor of replacing OHR with some sort of reinforced EU presence in Bosnia. Finally, the absence of a clear deadline made it difficult for OHR as an organization to develop and implement policy. With closure on the horizon, the organization had “a very unclear mandate” (Interview with a Representative of a Western Embassy 2010). It also meant that individuals working for OHR increasingly left the organization when job opportunities that were less insecure were available elsewhere (Interview with Barkin Kayaoglu 2010).

At the same time, the EU was slow to establish a more substantial presence on the ground. Considering that OHR until that had been an integral part of the Bosnian political system, this left a vacuum that was difficult to deal with and made it difficult for intervening organizations in Bosnia to organize and develop a common strategy:

“And then, I guess, the transformation has been slow, OHR’s position clearly has deteriorated but there is not a substitute. We’re still in that middle zone, OHR, its ability to exercise, to influence the political dialogue has decreased and the EU certainly has not been able to come up with a substitute. So we are really in a situation right now where there is no main player. It’s a multi-polar world in the International Community right now.” (Interview with an OHR Official 2011d)

Taken together, all of these issues substantially undermined the organizational capacity of both the interveners, in general, and OHR, specifically. There was no security for planning ahead and no clear

strategy on how to re-establish a situation where planning was possible. At the same time, the closure debate worked into the hands of Bosnian Serbs by providing them with arguments to delegitimize OHR.

Working towards exit clearly presented the interveners with a dilemma. On the one hand, they attempted to bring about more fundamental changes in order to speed up intervention success and be able to leave. On the other hand, the process of leaving itself weakened the ability of the interveners to affect change. Many aspects of this dilemma of exit are specific to Bosnia. The conflicting approaches of OHR and the EU, for example, played a big role in this prolonged process of exit. And the fact that exit meant reopening the minimal consensus for negotiation is a direct consequence of the Bosnian power-sharing arrangements and the zero-sum politics between the three ethnic groups. However, the dilemma of trying to bring about more and faster change while resources of all kind are decreasing appears to be one that is inherent in the logic of exit (see as well Zaum 2004). Decisions on if and how to end intervention also appear especially prone to dividing the interveners, as this is the point where 'definite' decisions need to be taken and where the interveners need to decide to let go of their influence, or not.²

10.2 DEALING WITH FAILURE

As discussed in the previous chapter, peacebuilding often remains symbolic. Both police reform and the state property negotiations are examples of this. In consequence, a lot of the strategies applied by the interveners and intervened are not actually geared towards achieving success. Rather, interveners and intervened collude in avoiding failure or dealing with it in the least harmful way. They employ strategies of capacity building and use legitimizing arguments as two ways of avoiding failure, that is, to postpone decisions or to reinterpret them. First, redefining the steps of success is an attempt at both postponing and avoiding. Taking 'baby steps' keeps the interveners and intervened busy, which is important because the interveners need to prove that they are working on fulfilling their mandate, and the intervened need to prove that they are working on cooperating with the interveners. At the same time, when redefining overarching agreements into a list of very small goals, small achievements can be proclaimed as developments in the right direction. Second, once this is no longer working and failure is imminent, the intervened come up with sym-

² Kosovo is another example where this was the case (Kosovar Stability Initiative 2008).

bolic agreements while the interveners engage in ‘spin doctoring’ to reinterpret those agreements as successes.³

10.2.1 *Baby Steps*

First, when one overarching agreement proves impossible, the interveners try to “inch the process forward” (Interview with an OHR Official 2011b) by breaking it down into smaller, technically defined bits. One aspect here is making steps smaller, the other is to declare those small steps to be technical issues in order to keep them out of political negotiations. Those small steps are, then, to be discussed by technical experts who deal with the fine print rather than the political implications of making one or the other decision. Taking baby steps aims to prove that ‘something’ happens on the issue, to adjust the measurement of success to smaller units, and to win time until a situation arises where success in political negotiations becomes an option again. Breaking issues down into smaller pieces that are reinterpreted as being technical has been a part of both police reform and the state property negotiations. It is also a dominant working mode of the EU in Bosnia in general. An OHR official who was intensely involved in the state property negotiations described the underlying rationale:

“It became, I think by 2008, actually mid-2008, by then it became a victim of the deteriorating wider political climate, and the commission in the most part produced drafts upon drafts but to be honest, they were getting nowhere. So then, [...] if there can’t be broad political agreement, than let’s try and take baby steps.” (Interview with an OHR Official 2011b)

In police reform, this strategy was used early on in the process when it was already clear that political agreement was lacking. Rather than stating directly that policing districts had to cross the IEBL, the EU and OHR criteria required that policing districts had to be defined in accordance with the technical criteria of policing (Patten 2004). On this basis, it was argued that the current structure of policing districts that followed the IEBL was not functional.⁴ But more importantly, framing this issue as a technical matter was an attempt to move the discussion on policing districts away from the political negotiations as much as possible and into the realm of the technical experts. Those technical experts were to work out, using different criteria, what the best option was for defining policing districts.

³ The terms, baby steps and spin doctoring, are taken from interviews on state property (Interview with an OHR Official 2011b) and police reform (Interview with Tobias Flessenkemper 2011) respectively. Each however played a role in both cases.

⁴ Tobias Flessenkemper pointed out that this ‘technical’ argument was flawed, as one of the ‘technical’ criteria for policing districts commonly is that administrative and policing districts are to correspond to each other (Interview with Tobias Flessenkemper 2011).

In a similar attempt at avoiding a 'politicization' of the process, EUPM deliberately sent technical experts rather than political personnel to the various commissions and directorates on police reform, as they had always argued that this was a technical rather than a political process (Interview with Tobias Flessenkemper 2011). The exit strategy in police reform also fits this pattern, as police reform now became reinterpreted again as an issue of bottom-up capacity building rather than one of top-down structural reform. Police reform became once more a matter of professional policemen rather than politicians, and it was broken down into dealing with many small aspects of policing in Bosnia rather than the entire structure of the police at once.

In the state property negotiations, breaking down the process into smaller components was a response to political difficulties in finding agreement, as exemplified by the quote above. The result of this attempt at 'baby steps' was first to push the Bosnian authorities, for the time being, to focus on an inventory of state property. When this also proved impossible, OHR carried out the inventory itself. Here, as well, the exit strategy appears to follow the same logic. The interveners increasingly started arguing that state property was a matter to be solved by the courts in a piecemeal way, rather than by political agreement.

Finally, this approach also characterizes the general EU's approach to difficult reforms in Bosnia. It is pursued as a way to force "politicians to move away from the big political issues to smaller, technical issues. Instead of questions about state existence and entity existence." (Interview with a Representative of a Western Embassy 2010) The example of the state property negotiations suggests that this strategy does not necessarily have the desired effect. In the state property negotiations, political questions continued to dominate the agenda no matter how small the steps were that OHR requested. The Foreign Policy Initiative, a Bosnian think tank that monitors progress in matters of EU integration bi-annually, made a similar argument for EU-driven reforms. In late 2009, they judged that success was only "visible in areas where there is an undivided political interest of the members of the coalition government and in expert areas where, because of the professionalism and enthusiasm of those doing the job, the political influence on the reform initiatives was avoided." (Foreign Policy Initiative 2009, p. 5) In other words, in all other areas, the EU did not succeed in reframing political issues as technical matters.

Rather than actually working towards success, this strategy appears to serve the purpose of demonstrating activity. For the interveners, declaring failure is not an option. Accordingly, there is a need to continue working on issues, even if success is unlikely. OHR's decision to conduct the state property inventory was taken because they "institutionally were under pressure to try moving this along" (Interview

with an OHR Official 2011b). The underlying logic is that the smaller the steps, the more 'boxes' to tick on the to-do list. Ticking boxes, in turn, is held to be a sign of progress. The idea is "that we can see something happens" (Interview with a Representative of a Western Embassy 2011b).

The interveners readily cooperate with turning big reforms into baby steps, as it serves their interests as well. They avoid sanctions if they prove that they cooperate with the interveners. This implies that they need to show that they are putting effort into those issues that the interveners bring to their agenda. As the report by the Foreign Policy Initiative cited above pointed out, the interveners readily cooperate on 'ticking boxes' in all those areas where no vital interests are touched. Additionally, they too attempt to prove activity by taking baby steps.

In both police reform and the state property negotiations, the interveners readily engaged in lengthy working processes in various commissions, directorates and working groups. And, indeed, they put a lot of effort into them. The commission on state property produced seven different complete packages of draft laws, knowing that none of those would have a chance to be accepted (Interview with Zvonimir Kutleša 2011). It inquired into differently named categories of state property in Bosnia and ways of aligning those. In addition, different commissions were tasked with coming up with a list of property that the state needed or with an entire inventory (Interview with an OHR Official 2011b, Interview with Zvonimir Kutleša 2011). When the Police Restructuring Commission failed to reach agreement in December 2004 and it was fairly clear that agreement was unlikely, the process continued within the Directorate on Police Restructuring. Here as well, different working groups were busy coming up with proposals for a centralized policing structure while knowing that none of those proposals would receive political blessing (Interview with Uroš Pena 2011). In both cases, lengthy parts of the negotiations were spent for example on determining voting procedures within the commissions, working groups and directorates.

While it is certainly helpful to find explicit agreement on the mode of decision-making, in those cases it often seemed to be more of a way of actively working while avoiding to talk about substantial issues. Caroline Ravaud of the Council of Europe observed the same phenomenon in negotiations in a commission on constitutional reforms as a consequence of the verdict of the European Court of Human Rights in December 2009 (Interview with Caroline Ravaud 2010).⁵ She explained that the Council of Ministers in early March 2010 was asked to come up with an action plan within the next 20 days. This action plan was presented in time, but it consisted of a plan to form a working group. This working group, in turn, was tasked to come

⁵ This verdict and its implications have been discussed in Chapter 5.3.4.

up with proposals for constitutional changes by the end of March. However, at their first meeting on 16th of March, they did not get beyond defining voting procedures. In all of those cases, it appears that the aim clearly is to actively cooperate while avoiding or postponing decision-making. In sum, interveners and intervened appear to cooperate rather well in proving that they are working actively on an issue while delaying the arrival at a point where political decisions need to be made.

10.2.2 *Spin Doctoring*

Further into the process, the interveners often need to let go of an issue, recognizing that agreement will not materialize. In these situations, they often engage in “spin doctoring” (Interview with Tobias Flessenkemper 2011). The interveners typically do not say officially that some project was a failure, even if they readily admit this in more informal settings. Often, failures are reinterpreted as successes. For example, when asked about the future of the 5+2 Agenda, on which OHR had become stuck, OHR’s head of political department Stefan Simosas explained how he perceived the policy of the PIC SB:

“Formal policy is that we need to have a 5+2 Agenda. But at least I would not exclude that there will be at least a relaxation of that. We will never say that we are not committed to 5+2 anymore. But at least there will be way around, with the implementation or something like that.” (Interview with Stefan Simosas 2010).

A year later, there was a lot of talk in Sarajevo on how state property really was an issue for the courts rather than politicians. This clearly appeared to be the early stages of finding a way out of the state property issue without openly calling the process a failure. In police reform as well, it was clear at some point that the interveners had to find a way to end the negotiations while still being able to sign an SAA with Bosnia. So failure had to be reinterpreted as being enough of a success to declare the conditionality fulfilled. Likewise, in police reform, this was facilitated by the fact that for assessment of the conditionality process, the EU relied on its missions on the ground, meaning EUPM and the EUSR. Those ‘EU instruments’ needed to reinterpret the police reform agreement as good enough:

“It is unsatisfactory, but – a lot is in the communication. You always need to assess, you always need to fulfill our mandate and communicate our mandate. And a lot in communication really also is spin doctoring, finding ways to put things, of course especially if things don’t work, because most of the times nothing works, so giving the whole thing a spin – ‘largely satisfactory’ or ‘has the potential to’, such things are not unimportant.” (Interview with Tobias Flessenkemper 2011)

Officially, the interveners chose not to acknowledge failure. They would not admit that police reform “wasn’t done well and a lot of money was wasted” (Interview with Uroš Pena 2011) because they were under pressure to fulfill their mandates. The interveners – again, at the level of official statements – played along with these reinterpretations as they served their interests. Bosnian Serbs especially wanted to avoid police reform, and all three Bosnian groups wanted to avoid an agreement on state property. With these sorts of symbolic agreements and reinterpretations, those interests were served as well, and the interveners were still able to benefit from the rewards offered for cooperation. Thus, the interveners and intervened colluded in pretending to have reached agreement.

10.3 THE (IM)POSSIBILITY OF PEACEBUILDING

All in all, the interveners’ ability to effect change in peacebuilding negotiations appeared rather limited. Their interests were usually at odds with those of at least some of the political elites of the intervened state, they often lacked the resources necessary to effect change, and they frequently got into difficulties when attempting to use the resources they had. However, this is not to say that intervention never has a chance when interests are opposed: First, circumstances that make agreement easier do occur. When they do, they need to be used. And second, the interveners were often able to keep the *status quo* from deteriorating which opened up space for post-conflict development.

Defense reform was an example of favorable circumstances that have been used well by the interveners. The negotiations on state property, on the other hand, initially also seemed to allow for agreement. In this case, however, the interveners chose not to get proactively involved. There have been other examples, however, where the interveners also found themselves in a good position from the outset and used their resources well. Those are, for example, the introduction of common license plates and of a common currency in 1998. The interveners had exceptional coercive capacity with respect to the license plates, while they made very smart use of their economic capacity (as a tool of pressure by ‘inventing facts’) when introducing the Konvertibilna Marka (KM). License plates that do not reveal the place where a car is registered were strongly rejected by all political elites. However, OHR convinced the EU and Croatia to close their borders to cars that still had the old license plates. Not accepting the license plates would have left the Bosnian population as well as companies engaged in cross-border trade unable to leave the country (ESI 2000, p. 56). This made it impossible for the Bosnian political elites to resist reform because of strong popular pressure. Similarly, the interveners were able to use their resources effectively with respect to the

introduction of a common currency. This reform as well was strongly resisted by Bosnian Serbs and Bosnian Croats when it was imposed in 1998 (ESI 2000, ICG 2001a, Solioz 2007). However, the interveners began to pay their own employees and suppliers in Konvertible Marks (KM), which meant, given the overwhelming economic weight of the peacebuilding machinery within Bosnia, that KM soon was the dominant currency in the country and had to be accepted by Bosnian Serbs and Bosnian Croats as well (ESI 2000).

In both these cases, the interveners had exceptional access to resources and used them well. However, access to resources was not the only aspect that made for a favorable context: both issues were highly important to the Bosnian population. Pressure, hence, came not only from the interveners, and public interest increased the legitimacy of intervener demands. In the case of the license plates, Bosnians who feared for their summer holidays at the coast organized a massive public protest (ESI 1999).⁶ However, most of the issues that the interveners deem important have very little relevance to the population at large. Defense reform and the state property negotiations did not touch upon popular interests directly, and in police reform, there was a clear preference for entity police forces among the population in the RS. What these cases illustrate, however, is that the interveners can succeed in negotiations even when faced with opposing interests of (some of) the political elites, if the context is favorable and resources are used well.

Furthermore, the interveners have often been able to prevent matters from getting worse and thereby contributed effectively to keeping the Bosnian state formally intact. As pointed out in the comparison of defense reform, police reform and the state property negotiations, the interveners have usually sought to avoid sanctions by upholding at least a minimum of cooperation. On this basis, the interveners have usually succeeded in keeping the Bosnian political elites from changing all too radically the *status quo* to the detriment of peacebuilding interests. The most recent example was the RS referendum that was planned in 2011. By challenging the authority of the BiH State Court over the RS, the referendum was widely seen as a preparatory step to a referendum on independence (Hitchner and Joseph 2013, Interview with an OHR Official 2011b, Kovačević 2011). This situation was assessed by the interveners as so grave a danger to stability in Bosnia that OHR managed to muster enough support in the PIC SB to credibly threaten severe sanctions (Azinović et al. 2011, p. 13). Inzko described the situation as Bosnia's "worst political crisis since the end of the war in 1995" (OHR 2011b). By pointing out that the

6 The visa dialogue with the EU in 2009 and 2010, though not strictly a case of peacebuilding, also presented favorable conditions to the interveners by building on popular interest, and Bosnia ultimately fulfilled the EU criteria (Interview with a Bosnian Political Analyst 2010, Interview with a Representative of a Western Embassy 2011b, Interview with Tobias Flessenkemper 2011).

referendum violated the DPA and threatening “harsh penalties” to “Dodik and his associates” (Kovačević 2011), he made clear that dismissing Dodik was an option as well. While the conflict was solved by EU bribery (see above), these threats clearly contributed to bringing about a solution. In this situation and similar instances over the past 17 years, intervention has at least assured the status quo and thereby has contributed to setting a framework that has allowed some state institutions to become stronger, has facilitated some economic development and has brought improvements in many other areas of post-war recovery.

10.4 CONCLUDING SUMMARY

This chapter discussed various aspects of how and why the interveners are often not successful in negotiating peacebuilding, what they do if they are not, and what they sometimes achieve nevertheless. The process of ending intervention itself undermined an already difficult position. On the one hand, the interveners have sought to speed up the process to reach a point where they could reasonably declare success. On the other hand, the beginnings of the exit process implied a less intrusive approach which cut off strategies that were available earlier. Furthermore, there was disagreement among the interveners on the exit, as such, and on how this process of fading out OHR was to be organized, which undermined organizational capacity. While the renewed negotiations on the basic Dayton consensus and disagreement between the EU and other intervening actors made the process of exit particularly problematic in Bosnia, the dynamic, at least in part, is also an example of a more general dilemma related to exits.

Yet, despite their difficult position, the interveners nevertheless are under immense pressure to succeed. In consequence, interveners and intervened collude in avoiding or postponing outright failure. They do so by breaking large political questions down into small technical issues and producing detailed checklists that transform one big ‘success’ into a large number of small ones. When failure is imminent, furthermore, symbolic agreements are struck that are then reinterpreted as successes. This is beneficial to both sides: The intervened avoid sanctions by upholding cooperation, while the interveners avoid an outright failure in peacebuilding.

Finally, it is worth remembering, that although peacebuilding often remains symbolic, intervention does bring about change. Sometimes, the context does favor the interveners as was the case in defense reform. If it does, the interveners still need to make use of those favorable conditions. They did so in defense reform, but not in the state property negotiations. Very often, though, the interveners have succeeded in preventing the *status quo* from deteriorating, thereby pro-

viding a framework that has enabled changes – with or without the involvement of the interveners – to develop and become established.

CONCLUSION

This research aimed at shedding light on what peacebuilding looks like in practice. It argued that that agency and the process of negotiating peacebuilding itself are vital elements in developing an understanding of the practice of peacebuilding. Such an understanding of peacebuilding is necessary for thinking about its success, which is often limited. The first section of this chapter briefly summarizes the approach taken in this thesis and the findings. The following sections draw conclusions both for further research and for participants of peacebuilding negotiations. First, issues of transferability from Bosnia to other cases of peacebuilding are discussed, arguing that the approach to peacebuilding as a process of negotiation, as well as the resources and strategies discussed in preceding chapters, can fruitfully be transferred to other cases. Some aspects, however, are specific to peacebuilding negotiations in Bosnia. Next, I argue that by focusing on agency and process and through micro-level analysis, this research adds some missing links between those factors commonly assumed to be important in peacebuilding and the outcomes of such processes. I suggest that further research focuses on those links. Furthermore, the case studies suggest that the ones who care the most about peacebuilding are usually the interveners. To peacebuilders and researchers, this suggests the need to be careful about taking peacebuilding too seriously, and to put more thought into the role and interests of the citizens of intervened states, as most issues that are negotiated within the framework of peacebuilding have little impact on those citizens' daily lives. Finally, researchers of peacebuilding as well as practitioners are well advised to acknowledge the political nature of peacebuilding. It involves negotiations and negotiating contexts, interests and compromises, and all of those issues need to be taken into account.

11.1 NEGOTIATED PEACEBUILDING IN BOSNIA

Peacebuilding, as I have argued, is a process of negotiating the often divergent interests of interveners and intervened. Consequently, the research question of this thesis asked how peacebuilding was negotiated between interveners and intervened. This question was divided into two aspects, namely inquiring what it is precisely that actors do in such negotiations, and whether there are factors that influence how successful negotiators are in influencing outcomes in their favor. To study peacebuilding as a process of negotiation, I focused on three

cases of intervener-intervened negotiation in Bosnia, that is, defense reform, police reform, and the distribution of state property.

Defense reform was a success for the interveners, while the other two cases resulted in symbolic agreements. In those three cases, I found that the interveners were less powerful in negotiations than is commonly anticipated. In sum, in the three case studies, there was little that the interveners were able to do when faced with decisively opposed interests, which were present in police reform. And even when interests were compatible, as in defense reform and, initially, the state property negotiations, it still took a sustained effort as well as favorable conditions for the interveners to succeed. This happened in defense reform, but not in the state property negotiations. Given the limited prospects of peacebuilding success, interveners and intervened often were not working towards peacebuilding success but colluded in avoiding failure, by postponing decisions or by reinterpreting them as successes. The following paragraphs briefly summarize the approach taken in this thesis, which led to those findings.

11.1.1 *Context: The Peacebuilding Field*

Peacebuilding negotiations, I argued, need to be viewed within the context that shapes the negotiating situations. I called this context the 'peacebuilding field'. This field is characterized by '*ad hocism*' and an absence of rules for negotiations, by its being both international and local, and by an information deficit on the part of the interveners regarding domestic power structures. The absence of rules implies that negotiations are generally more difficult than in a more regularized setting, while the interveners' information deficit puts them at a disadvantage in negotiations from the outset. Within the peacebuilding field, I focused on the realm of political decision-making and on strategic groups. In the Bosnian peacebuilding negotiations, those groups were ethnically defined among the Bosnian political elites, and were seen to be formed along organizational affiliations among the interveners. To investigate negotiations within this field, I focused on interests, resources, strategies and outcomes.

11.1.2 *Interests: Peacebuilding Success and Access to Political Authority*

I argued that the interveners were interested in the success of peacebuilding initiatives, while the political elites of the intervened state were focused on maintaining access to political authority. As peacebuilding aims at reorganizing political authority in the intervened state, those interests were shown to be often at odds. Accordingly, peacebuilding negotiations are often faced with a zone of agreement that provides very limited space for compromise.

This was the case in police reform and, from 2008, the state property negotiations. Defense reform was the only case where compatible interests provided for a more substantial zone of agreement. In police reform, the interveners' interest was in centralizing political authority over the police at the central state level. Bosnian Serbs, however, perceived this initiative as endangering the very existence of RS and opposed it vigorously. There was, initially, room for compromise in the negotiations on state property. However, these negotiations turned into a proxy-conflict about the question of where political authority lies in Bosnia, at the level of the entities or the central state. This again made compromise difficult. Defense reform was the only case where the interests of both interveners and interveners were compatible. As in police reform, the interveners wished to centralize authority at the level of the central state. For Bosnian Serbs, letting go of their own police forces was less problematic, as the army was important symbolically, but it was not a central pillar of political authority. Additionally, all three Bosnian groups, but the RS in particular, had substantial problems in financing their armies and centralizing the armies relieved that pressure.

11.1.3 *Resources and Strategies: The Limited Power of Peacebuilding*

Within the peacebuilding field (as in any other social field), specific resources are important. Based on the case studies, four types of resources proved vital: coercive capacity, economic resources, organizational capacity and legitimacy. The way in which those resources were put to use depended on the strategies that groups chose to adopt. Again, four types of strategies were found to be important in the case studies: pressure, bribery, capacity building and legitimizing arguments. The relations between resources and strategies were manifold. As shown, pressure required not only coercive capacity, but also organizational capacity and legitimacy to make threats credible. Bribery often required economic resources, but organizational capacity and legitimacy were required as well to be able to make promises credible. Strategies of capacity building often required economic resources. Legitimizing arguments depended not only on legitimacy but also on the organizational capacity necessary to agree and then follow through on a particular line of argument.

In the three case studies and over time, the distribution of resources did not favor the interveners. Their organizational capacity and legitimacy decreased substantially as time passed, and this development also undermined their coercive capacity. While economic resources were available, bribery and capacity building (as strategies that often require economic resources) were often not successful. Bosnian Serbs, on the other hand, as the group most often opposed to the interveners' interests, had substantial resources available and, furthermore,

increased their access to those resources over time. Given the interveners' strong need for success, the Bosnian Serbs had effective coercive capacity by being able to let peacebuilding fail. After the change of government in the RS in 2006, the organizational capacity and legitimacy of the Bosnian Serb political elites increased substantially, which made confronting the interveners easier still. Bosniaks and Bosnian Croats, by contrast, suffered from a lack of organizational capacity as well as a lack of coercive capacity. Both groups were characterized by intense internal competition, and they had fewer options available for threatening the interveners with peacebuilding failure.

Pressurizing strategies were successfully used by Bosnian Serbs, but only to a limited extent by the interveners. Threats of sanctions by the interveners succeeded in initiating negotiations and in keeping them going but they did not induce the Bosnian political elites to enter into compromises. On the other hand, threats by Bosnian Serbs to let peacebuilding fail, especially in police reform and the state property negotiations, ultimately led the interveners to lower their ambitions and accept symbolic agreement. Bribes were used exclusively by the interveners, but these too were often undermined by the interveners' need for success. Bribes such as the Stabilization and Association Agreement with the EU (in police reform) or the closure of OHR (in the state property negotiations) were ultimately more important to the interveners, which – again – allowed the intervened to use the threat of peacebuilding failure.

Strategies of capacity building, meanwhile, were often only used as a means of gaining some time, and they did not create more favorable conditions for agreement when the interests of both sides were not aligned. Finally, legitimizing arguments were readily available to the interveners in defense reform. In police reform, Bosnian Serbs had the better arguments, while no side succeeded in legitimizing its stance on the issue of state property.

In sum, the interveners were at an advantage only with respect to economic resources, especially so in the later stages of intervention. They were able to translate their resources into successful strategies only in defense reform, which was, however, a less difficult process of negotiation from the outset. In the other two cases, the interveners did not put forth convincing arguments, and their efforts at pressuring and bribing did not produce substantial change. Capacity building in those cases was a strategy of avoiding failure for the time being, rather than one of working towards successful agreement.

11.1.4 *Outcomes: Rare successes and symbolic peacebuilding*

In this research, 'outcome' refers to how the result of a process of negotiation reflects the interests of the negotiating parties. These outcomes, I have argued, would always resemble a compromise. Often,

those compromises imply symbolic agreement. In those cases, as seen, proposals by the interveners are formally accepted, but no substantial changes to the organization of political authority occur.

The outcome of defense reform came closest to satisfying the interests of the interveners. That process culminated in the integration of the three separate armies and defense establishments. As a compromise, ethnic regiments continue to exist, but fall outside of the chain of command. Police reform resulted in a symbolic agreement that favored the interests of Bosnian Serbs in particular. Their interest had been in keeping control of their own police forces, and they succeeded in this. At the time of writing, the outcome of the state property negotiations also resembles a symbolic agreement. As the issue is currently in abeyance, none of the groups has gained from the agreement, but, with the exception of the interveners, none has lost either. The Bosnian parties avoided creating precedence on the distribution of authority between the state and the entities. The interveners failed, however, because they did not manage to resolve the one remaining issue pertaining to the closure of OHR.

Ultimately, in the three case studies, the interveners only succeeded under exceptionally favorable circumstances. Such conditions were found in the defense reform negotiations: interests were compatible, the ORAO affair and further political scandals provided the interveners with blackmail material, there was a clear and concise argument for reform that was not opposed by anyone, and the interveners had significant organizational capacity as they succeeded in aligning themselves behind one common policy. In this case, however, the interveners also used their resources well, by using the ORAO affairs for their agenda, by building on earlier efforts at capacity building, and by constructing a straight-forward argument for reform.

In the negotiations on state property, there was, initially, also a relatively large zone of agreement. However, the interveners did not get involved proactively, neither by attempts at pressure or bribery nor by putting forth arguments for agreement, and only to a limited extent by capacity building. In 2008, intervener efforts intensified, but by the time, the issue became hostage to the larger political conflicts in Bosnia. This later phase of the state property negotiations, as the entire negotiations on police reform, were characterized by conflicting interests and there was little room left for mutual gain. In police reform, sustained efforts by the interveners did not bring about agreement as the version of reform proposed by the interveners was decidedly opposed by Bosnian Serbs. Additionally, the arguments put forth by the interveners lacked in legitimacy as they were based on 'EU Standards' that didn't exist. In those latter two cases (state property and police reform), the 'exit' process for ending peacebuilding compounded the difficulties faced by the interveners, as they attempted to speed up the reform processes while already being on their way

out. This process further undermined legitimacy and organizational capacity.

All of this does not imply that peacebuilding is entirely without effects: The broader Bosnian experience with peacebuilding suggests that favorable circumstances do occur and sometimes are used, and also that the interveners often succeeded in maintaining at least the *status quo*. But in cases like police reform and the later phase of the state property negotiations where success was unlikely, negotiations between interveners and intervened changed course: Rather than working towards agreement, both sides colluded in order to avoid failure. This was favorable for both of them, as the interveners were able to show that they were working towards fulfilling their mandate, while the intervened were able to avoid sanctions by proving their willingness to cooperate. They broke processes down into 'baby steps', thereby increasing the indicators for success. When this was no longer feasible, interveners and intervened engaged in 'spin-doctoring', redefining symbolic agreements as successes.

11.2 ISSUES OF TRANSFERABILITY

As discussed in the conceptual framework (Chapter Two), I understand peacebuilding, in general, as a process of (often informal) negotiations between interveners and intervened. In any case of peacebuilding, interveners have an interest in peacebuilding success, while the political elites of the intervened state oppose those initiatives when they threaten their access to political authority. This dynamic has been described for Afghanistan and Tajikistan (Barnett and Zürcher 2009) as well as for Kosovo (Narten and Zürcher 2009). This suggests that the approach taken in this research can fruitfully be used for transfers to other cases of peacebuilding.

Next to the general constellation of interests, I assume that coercive capacity, organizational capacity, economic resources and legitimacy certainly matter in all local manifestations of the peacebuilding field, though their availability is bound to vary, and the concrete 'shapes' that those resources take for individual actors will look differently. Similarly, I would expect to find strategies of pressure, bribes, capacity building and legitimizing arguments in other intervention states as well, though they too might look very different. The interveners' loss of legitimacy and organizational capacity over time, as argued above, are phenomena that are common to peacebuilding, though they occur at varying speeds; they also depend on issues such as mission plans, deadlines and output legitimacy.

There are, however, a few issues that clearly are specific to Bosnia. First, the clear and persistent division into three groups of political elites whose interests usually are mutually exclusive is rarely found elsewhere. In cases like Mozambique and Namibia, for ex-

ample, there was one party that clearly dominated the post-war order while another party remained in opposition (Zürcher et al. 2013). In Afghanistan, a very large number of groups competed for political power, and one of the main cleavages was between central and rural elites (Barnett and Zürcher 2009), while in Cambodia, in contrast, there were four large groups which engaged in shifting alliances (Riese 2008). In Bosnia, the existence of three groups who all have access to political authority and who are engaged in a zero-sum game amongst themselves clearly was one of the dominant characteristics of peacebuilding negotiations.

A second aspect that sets Bosnia apart from other cases of post-conflict peacebuilding are the comparatively concrete, detailed and rigid provisions for peacebuilding, and for the Bosnian post-war order, that were agreed upon in Dayton. In most peace agreements, political aspects include a time-frame for elections and/or interim governments, and some of them grant parties previously excluded from power access to government, the civil service, and give them the right to form a political party (Harbom et al. 2006, p. 624). Only very few go beyond those provisions to include an agreement on power-sharing (Harbom et al. 2006, p. 624). In Bosnia, the DPA did not only call for power-sharing, it also included an entire constitution for Bosnia that so far has remained largely unchanged. Consequently, the space available for the interveners for proposing changes is rather limited compared to other cases of peacebuilding, as their mandate is based on this constitution.

A final factor, and one that Bosnia shares with Kosovo and Macedonia, is its proximity to the EU. This had several effects. It increased attention during and after the war, and with attention came a generous contribution of economic resources from Western and particularly European states (Zürcher et al. 2013). It meant that the personnel of peacebuilding organizations in Bosnia was predominantly European, and it led to greater involvement of the EU in terms of peacebuilding, and also with respect to 'member-statebuilding'. While the perspective of EU membership certainly helped as a 'bribe' at various instances (Zürcher et al. 2013), the conflicting approaches and interests of the EU as a peacebuilder and the EU as a member-statebuilder have also undermined the organizational capacity not only of the EU but of the interveners as a whole. Finally, Bosnia's proximity to the EU increases the already huge pressure on the interveners to achieve peacebuilding success. As most other countries in the region are firmly set on a path to EU membership (or are already members), not integrating Bosnia is potentially problematic.

11.3 PROCESS AND AGENCY AS TIES BETWEEN 'CAUSES' AND OUTCOMES

For future research on peacebuilding, this thesis demonstrates that a focus on agency and process and a micro-level perspective fill an important gap. Factors that are often assumed as influencing the success or failure of peacebuilding are connected to outcomes. This can be seen, for example, in coercive capacity (or having 'strong mandates'), organizational capacity (and 'coordination'), legitimacy, economic resources, and also in the assumed 'dependent variable' of peacebuilding success.

With respect to coercive capacity and pressure, this research demonstrated a number of interesting points. First, formal mandates are not the only, and often not the most important, source. Both interveners and intervened creatively invent and use blackmail material for pressurizing strategies. Macro-level perspectives tend to overlook those sources of coercive capacity because they are not apparent from mission mandates, and are often specific to individual processes of negotiation. Second, this research has shown that far more than coercive capacity is needed to engage in strategies of pressure. These strategies require organizational capacity and legitimacy as well, and both are subject to changes over time. Third, the case studies point out that analyses of peacebuilding need to take the coercive capacity of the intervened into account as well, rather than only focusing on the coercive capacity of the interveners. Finally, this thesis has provided numerous illustrations of the effects that pressure had in negotiations. The interveners, it turned out, were much more vulnerable to Bosnian Serb threats than the other way around, and at the same time, all of the intervened groups knew very well how much cooperation on their part was necessary in order to avoid sanctions.

Similarly, the case studies connect fruitfully to debates on coordination between, and organizational structures within peacebuilding organizations, by focusing on their organizational capacity. Here, the analysis supports Roland Paris' claim that problems of coordination between peacebuilding organizations are not so much rooted in the technical difficulties of keeping each other informed, but in problems related to aligning behind common interests, negotiating positions and strategies (Paris 2009). Second, as with coercive capacity, the organizational capacity of the intervened is as important as that of the interveners. In the case studies, both the strong organizational capacity of Bosnian Serbs and the weak organizational capacity of Bosniaks at times made agreement difficult. Finally, the analysis illustrates how and when organizational capacity matters: It is vital for the credibility of both threats and bribes, and in a case like the state property negotiations, the absence of organizational capacity has kept the interveners from taking any kind of proactive stance. Defense reform,

on the other hand, suggests that organizational capacity is sometimes the result of a successful process, rather than one of its causes.

Furthermore, the empirical analysis demonstrated how declining legitimacy sometimes leads to very concrete and tangible problems. After 2006, OHR turned into 'an emperor with no clothes', and with that lack of legitimacy, formal coercive capacity disappeared. Again, the legitimacy of political elites in intervened states is equally important, as the example of the Dodik government and its ability to challenge the interveners demonstrates. As was apparent from the case studies, legitimacy is not only important as a resource that actors bring into the process. Additionally, individual proposals for reforms (and rejections of these) need to be legitimized, by presenting criteria that can be accepted by all actors involved.

Economic resources often play a central role especially in large-N studies on peacebuilding (Dobbins 2003, Dobbins et al. 2005, Doyle and Sambanis 2006, Roehner 2009). However, the case studies demonstrate that often, the crucial problems of peacebuilding are not about money. Rather, they are about political decision-making, as peacebuilding concerns the organization of political authority. The failure of police reform was not a result of a lack of resources, nor was the failure of the state property negotiations. In both cases, the problems lay in political decisions that needed to be taken and in the divergent interests which prevented these. Economic resources helped in capacity building and providing bribes but, as seen, where there was decisive resistance, the interveners were not willing to be bought. Attempts to do so often turned into 'traps' for the interveners instead. These findings suggest that research on peacebuilding should develop more clarity on which precise aspects of peacebuilding are presumed to be influenced by economic resources.

Finally, the discussion above suggests that variable-oriented approaches to peacebuilding might often consider the wrong dependent variable. Very often, the goal is not the successful implementation of the peacebuilding agenda. Rather, interveners and intervened collude in avoiding failure. Research on peacebuilding would benefit from further inquiries into the processes that link those and other assumed causal factors to the 'real-life' outcomes of peacebuilding.

11.4 WHO CARES ABOUT PEACEBUILDING?

The agenda of the peacebuilders, as shown in case studies, is often at odds with the interests of the political elites of the intervened state. But even when this is not the case, peacebuilding simply is often not a priority. For example, finding a solution to the distribution of state property was clearly not a priority for any of the groups among the Bosnian political elites. The immediate concerns of the interveners, therefore, are often not those of the intervened. This has two implica-

tions for peacebuilding in practice. First, researchers and practitioners of peacebuilding alike tend to assign great importance to peacebuilding. A greater focus on domestic power structures within the intervened states, however, might reveal that much of the developments in those post-war societies are not the result of peacebuilding, after all. Second, there are other concerns that are often of vital importance to the political elites, that is, the concerns of their electorate(s). Due to the focus on peacebuilding negotiations as they happen 'in practice', the interests of the Bosnian population have not played a major role in this thesis. None of the three cases (with the exception of police reform, in part, where the Bosnian Serb population clearly was not in favor of a centralized police force) was directly related to the immediate concerns of the population. In this respect, these cases are not an exception but the rule, owing to the emphasis on peacebuilding as statebuilding:

"the tendency to conflate peace with state-building often results in the construction of 'empty shells' of states – a virtual peace – that have little impact on the daily lives of the vast majority of citizens and instead become the seat of power for an international service and (sometimes predatory) local elites." (Richmond and Mitchell 2012, p. 5)

The discussion in Chapter 10.2 above showed that in cases that directly concerned the daily lives of Bosnia's citizens, like common license plates, a common currency, or visa liberalization with the EU for example, agreements were struck although they were, initially, not in the interest of at least some of the Bosnian political elites. They were, however, important to the citizens of Bosnia who demanded changes. This thesis has taken the first step in studying peacebuilding in practice by focusing on those negotiations that most commonly occur in peacebuilding (and that often are of little concern to the population of the intervened state). Further research might focus on those few cases that do relate directly to the interests of the citizens of intervened states. Practitioners may be well advised to take into account whether or not their initiatives matter to those who are meant to benefit from them.

11.5 PEACEBUILDING IS POLITICAL

To conclude, this thesis suggests that researchers and practitioners of peacebuilding are well advised to acknowledge that peacebuilding is inherently political, and as such is a process of negotiating diverging interests. Accordingly, the outcome of any negotiations on aspects of peacebuilding is open, and it is very unlikely to resemble the plans devised in international headquarters or suggested by researchers, think tanks and 'lessons learned units'. Because peacebuilding is about negotiation, those involved in the practice of peacebuilding might fruit-

fully draw on the advice of those concerned with 'teaching' negotiation. Fisher, Ury and Patton (1991), for example, offer several suggestions that fit well with the findings of my research. They recommend focusing on interests, rather than negotiating positions, for instance. In police reform, the interveners early on identified one single negotiating position (in the form of three EU principles) and stuck to it for a very long time. This prevented them from looking out for other models of reforming the police which might have equally satisfied their interest in a police force that cooperated well and reliably across the IEBL, and, furthermore, which might have been more acceptable to Bosnian Serbs.

Another recommendation is to actively search for options for mutual gain. This was done in defense reform, and indeed, this proved to be a case where interests turned out to be compatible. Furthermore, it is useful to anticipate what happens when agreement is not possible. Peacebuilders need to acknowledge that for the intervened no agreement often is a good option, which, in itself, makes negotiations difficult. The interveners should, however, also anticipate what failure to reach agreement can mean for them. By so doing, traps of conditionality might more easily be avoided.

In sum, this research demonstrated that peacebuilding is not a technical process but one that is inherently political. It involves people with diverging backgrounds and interests who go about negotiating those interests with great creativity. This thesis made these processes of negotiation the core subject of analysis. It found that they contribute a great deal to understanding what peacebuilding is 'in practice', how it works, and why it often works very differently than anticipated and hoped for by the interveners.

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Part IV

APPENDIX

LIST OF INTERVIEWS

This annex provides a list of all interviews that were conducted as part of this research in 2010 and 2011 (plus one interview in 2012). I conducted a total of 73 semi-structured interviews and 10 background talks. The list starts with representatives of the interveners and then turns to representatives of the intervened. For both, I differentiate between participants of peacebuilding negotiations, and observers. Names and, in most cases, positions, are provided only for those interview partners who agreed to be cited by name. All other interview partners are cited the way they indicated was fine for them. As this leads to multiple interviews with 'OHR Officials', for example, the table includes information on how those interviews are cited in the text. A list with names and positions is available to the supervisors of this thesis.

INTERVIEWS WITH REPRESENTATIVES OF INTERVENING ORGANIZATIONS

NAME	ORGANIZATION	POSITION	PLACE	DATE	TYPE	CITATION
Caroline Ravaud	Council of Europe	Special Representative of the Secretary General	Sarajevo	5/10/2010	interview	as is
Jurgis Vilcinskis	EU Delegation in Sarajevo	Head of Political and Economic Section	Sarajevo	6/3/2010	interview	(not cited)
Elisabeth Tomasinec	EU Delegation in Sarajevo	Political Advisor	Sarajevo	6/1/2011	interview	as is
Fabien Limonier	EUFOR	Political Advisor	Sarajevo	6/4/2010	interview	(not cited)
EUPM Official	EUPM		Sarajevo	5/17/2011	interview	EUPM Representative 2011b
EUPM Official	EUPM		Sarajevo	5/30/2011	interview	EUPM Representative 2011a
Tobias Flessenkemper	EUPM	Political Advisor	Sarajevo	4/26/2010	background conversation	(not cited)
Tobias Flessenkemper	EUPM	Political Advisor	Sarajevo	5/4/2011	background conversation	(not cited)
Tobias Flessenkemper	EUPM	Political Advisor	Sarajevo	5/10/2011	interview	as is
EUSR Official	EUSR	Political Advisor	Sarajevo	4/30/2010	interview	as is
Stefan Simosas	OHR/EUSR	Head of Political Department	Sarajevo	5/4/2010	interview	as is
Stefan Simosas	OHR/EUSR	Head of Political Department	Sarajevo	5/5/2011	interview	as is

NAME	ORGANIZATION	POSITION	PLACE	DATE	TYPE	CITATION
Amela Božić	OHR/EUSR	Mostar Office	Mostar	5/13/2010	interview	(not cited)
OHR Official	OHR/EUSR	Political Department	Sarajevo	5/17/2010	interview	OHR Official 2010a
OHR Official	OHR/EUSR	Political Department	Sarajevo	5/20/2010	interview	OHR Official 2010b
OHR Official	OHR/EUSR			5/25/2010	interview	(not cited)
OHR Official	OHR/EUSR			5/24/2011	interview	OHR Official 2011a
Barkin Kayaoglu	OHR/EUSR	Head of International Community Liaison Section	Sarajevo	5/31/2010	interview	as is
OHR Official	OHR/EUSR		Sarajevo	5/6/2011	interview	OHR Official 2011d
OHR Official	OHR/EUSR		Sarajevo	5/12/2011	interview	OHR Official 2011b
OHR Official	OHR/EUSR		Sarajevo	5/16/2011	interview	(not cited)
OHR Official	OHR/EUSR		Sarajevo	5/17/2011	interview	OHR Official 2011c
OHR Official	OHR/EUSR		Sarajevo	5/17/2011	interview	OHR Official 2011e
OHR Official	OHR/EUSR		Sarajevo	6/2/2011	background conversation	(not cited)
Christian Schwarz-Schilling	OHR/EUSR	High Representative (2005/2006)	Berlin	11/23/2012	interview	as is
Heinz Vetschera	OSCE		Sarajevo	5/18/2010	interview	as is
Heinz Vetschera	OSCE		Sarajevo	5/2/2011	interview	as is
Heinz Vetschera	OSCE		Sarajevo	5/27/2010	interview	(not cited)
Valery Perry	OSCE	Head of Education Department	Sarajevo	6/3/2010	interview	(not cited)

NAME	ORGANIZATION	POSITION	PLACE	DATE	TYPE	CITATION
Representative of a Western Embassy			Sarajevo	6/4/2010	interview	as is
Representative of a Western Embassy			Sarajevo	5/11/2011	interview	Representative of a Western Embassy 2011a
Representative of a Western Embassy			Sarajevo	5/19/2011	interview	Representative of a Western Embassy 2011b
Representative of a Western Embassy			Sarajevo	6/4/2010	interview	(not cited)
Representative of a Foreign Embassy			Sarajevo	6/2/2010	interview	(not cited)
International Official			Sarajevo	6/3/2010	interview	as is
International Official			Sarajevo	5/9/2011	interview	as is
International Official			Sarajevo	5/30/2011	interview	(not cited)
International Official involved in defense reform	OSCE/NATO		Sarajevo	5/11/2011	interview	as is
Bosnian Civil Society Activist	prev. Dayton Project	The US-based NGO organized the negotiations on April Package, constitutional reform	Sarajevo	5/19/2011	interview	

Table 5: Interviews with Representatives of Intervening Organizations

INTERVIEWS WITH REPRESENTATIVES OF BOSNIAN STATE INSTITUTIONS AND POLITICAL PARTIES

NAME	ORGANIZATION	POSITION	PLACE	DATE	TYPE	CITATION
Bosnian Official	BiH State Institutions		Sarajevo	5/14/2010	interview	(not cited)
Advisor to the RS Ministry of Interior	RS Ministry of Interior		Banja Luka	5/24/2010	interview	as is
RS EU Integration Unit	RS EU Integration Unit		Banja Luka	5/24/2010	interview	as is
Bosnian Official involved in Defense Reform	BiH State Institutions		Sarajevo	5/26/2010	interview	as is
Valida Repovac	BiH EU Integration Unit		Sarajevo	5/31/2010	interview	(not cited)
Bosnian Official involved in Defense Reform	BiH Ministry of Defense		Sarajevo	5/19/2011	interview	(not cited)
Bosnian Official involved in Defense Reform	BiH Ministry of Defense		Sarajevo	6/1/2011	interview	(not cited)
Bosnian Official involved in Defense Reform	BiH State Institutions		Sarajevo	5/20/2011	interview	as is
Uroš Pena	Directorate for Coordination of Police Bodies in BiH	Deputy Director	Sarajevo	5/30/2011	interview	as is
Bosnian Official at the State Attorney's Office	State Attorney's Office		Sarajevo	6/2/2011	interview	as is

NAME	ORGANIZATION	POSITION	PLACE	DATE	TYPE	CITATION
Bosnian Official involved in Police Reform	Directorate for Coordination of Police Bodies in BiH		Sarajevo	6/3/2011	interview	as is
SDP representative	SDP		Sarajevo	5/5/2010	interview	SDP Representative 2010b
SDP representative	SDP		Sarajevo	5/17/2011	interview	as is
SDP representative	SDP		Sarajevo	5/6/2010	interview	SPD Representative 2010a
SDP representative	SDP		Sarajevo	5/27/2011	interview	(not cited)
SBiH Representative	SBiH		Sarajevo	5/28/2010	interview	as is
Beriz Belkić	SBiH	former member of the BiH Presidency, former Chairman of the House of Representatives, Vice-President of SBiH	Sarajevo	6/1/2011	interview	as is
SBiH Representative	SBiH		Sarajevo	6/2/2011	interview	as is
Asim Sarajlić	SDA	Mayor of Vogošća, Member of the Presidency of SDA	Sarajevo	6/2/2011	interview	as is
Šefik Džaferović	SDA	former Vice-President and former Secretary General of SDA, Member of Parliament	Sarajevo	6/2/2011	interview	(not cited)

NAME	ORGANIZATION	POSITION	PLACE	DATE	TYPE	CITATION
Zvonimir Kutleša	HDZ	Secretary General of the Council of Ministers	Sarajevo	5/30/2011	interview	as is
Bariša Čolak	HDZ	BiH Minister of Justice, Deputy Head of HDZ	Sarajevo	6/1/2011	interview	as is
Gordan Milošević	SNSD	Foreign Policy Advisor to the Prime Minister	Banja Luka	5/24/2010	interview	as is
Nina Sajić	SNSD	Foreign Policy Advisor to the Serb Member of the Presidency	Banja Luka	5/24/2010	interview	as is
Mladen Ivanić	PDP	Former RS Prime Minister, former BiH Minister of Foreign Affairs, Head of PDP	Banja Luka	5/23/2011	interview	as is
Stanislav Čado	SNSD	RS Minister of Interior	Banja Luka	5/23/2011	interview	as is
Ognjen Tadić	SDS	Vice-President of SDS	Banja Luka	5/25/2011	interview	(not cited)
Srđan Mažalica	SNSD	Member of RSNA	Banja Luka	5/25/2011	interview	(not cited)
Dragan Čavić	former SDS	Former RS Prime Minister, Former President of SDS	Banja Luka	5/26/2011	interview	as is

Table 6: Interviews with Representatives of Bosnian State Institutions and Political Parties

INTERVIEWS WITH REPRESENTATIVES OF INTERNATIONAL ORGANIZATIONS AND INTERNATIONAL NGOS

NAME	ORGANIZATION	POSITION	PLACE	DATE	TYPE	CITATION
Paul Pasch	Friedrich-Ebert-Foundation Sarajevo	Head of Office	Sarajevo	5/18/2011	background conversation	(not cited)
Christian Jennings		independent journalist		5/2/2011	background conversation	(not cited)
Kurt Bassuener	Democratization Policy Council			5/3/2010	interview	as is
Kurt Bassuener	Democratization Policy Council			4/30/2011	interview	as is
Kristof Bender	European Stability Initiative	Researcher	Vienna		background conversation	(not cited)
Mirela Decevic-Grünther	Heinrich-Boell-Foundation Sarajevo	Head of Office	Sarajevo		interview	(not cited)
Predrag Jurekovic	Institute for Peacekeeping and Conflict Management, Austrian Defense Academy	Researcher	Vienna		background conversation	(not cited)
Sabine Woelkner	Konrad-Adenauer-Foundation Sarajevo	Head of Office	Sarajevo		interview	(not cited)

Table 7: Interviews with Representatives of International Organizations and International NGOs

INTERVIEWS WITH REPRESENTATIVES OF BOSNIAN STATE INSTITUTIONS AND NGOS

NAME	ORGANIZATION	POSITION	PLACE	DATE	TYPE	CITATION
Political analyst			Sarajevo	5/5/2010	interview	as is
Political analyst			Sarajevo	5/6/2011	interview	as is
Nedim Ademović	Constitutional Court of BiH	Head of Office of the President of the Court	Sarajevo	5/9/2011	interview	(not cited)
Aleksandar Trifunović	Centar za informativnu dekontaminaciju mladih [Center for the informational decontamination of youth]		Banja Luka	5/24/2011	interview	as is
Dino Abazović	University of Sarajevo	Assistant Professor of Sociology	Sarajevo	5/3/2011	background conversation	(not cited)
Bosnian political analyst			Sarajevo	5/5/2010	interview	as is

Table 8: Interviews with Representatives of Bosnian state institutions and NGOs

INTERVIEW GUIDE

INTRO

Thank you for taking the time to talk to me! Let me introduce myself:

I am a PhD researcher from Berlin. I have also worked for a small German NGO in Bosnia from 1999-2001 and sporadically afterwards.

My research interest is in how the international organizations in Bosnia interact with Bosnian political elites, on the very concrete, day-to-day working level. This may seem obvious to someone who is directly involved, but to me, it is not. I thus want to learn from your experiences and perspectives. I am interested in a few particular issues in that respect. The one I would like to talk about with you is ISSUE.

I'll ask a few questions and would like to ask you to tell me freely what comes to your mind – there is no irrelevant information. I will ask a few follow-up questions in between for clarification. The interview will last for about an hour, if that is fine with you. To be sure that none of the information will be lost, I would like to tape the interview, if that is fine with you. If at a certain point during the interview you feel uncomfortable with being recorded, please tell me and we can just switch the microphone off and turn it back on later. Also, if you would like your answers to be depersonalized, please let me know.

Do you have any questions up until now, or shall we just start?

OPENING QUESTION

My understanding of your job as [INCLUDE] is [INCLUDE]. For me to get a more concrete understanding, could you tell me with a little more detail what precisely it is that you personally do in your job as [INCLUDE]? How for example does a standard working day look like for you?

PERSONAL BACKGROUND

- Since when are you involved in Bosnia/politics/X? (*experience, time frame of expertise*)
- What inspired/motivated you to do this job?
- Which were in your eyes the most important projects that you followed closely/ involved in?
- For international: compare to different posts elsewhere
- Changes in your organization over time?

- Between whom did conflicts arise? In the process, which individuals and groups would you say were important?
- How would you describe the different discernible groups involved?
- How would you describe their role and influence?
- Are there particular issues that usually are more conflictual than others?

RESOURCES AND STRATEGIES

GENERAL ON IMPLEMENTATION

- What were the individual steps in implementing [project]
- Who was involved?
- What was your role in that process?
- Why was the project important?
- Who thought it was important?
- Did the implementation of [project] go as planned beforehand? Where did it diverge, and did this influence overall success?

- Please describe a situation of conflict: What did you do to solve the issue? What did the other groups/individuals involved do?
- In those projects you consider to be a success, why do you think this was the case?
- In those cases where you were not successful, why was this the case?

OUTCOMES

ISSUES AND INTERESTS

- Of those projects that you were involved in, which were especially conflictual?
- Why were they conflictual? (Differences in opinion, misunderstandings, different aims,...)

- In those projects that were conflictual, were there compromises, or did one position prevail?
- If compromises, could you describe these compromises?
- If one side prevailed, what do you think why this was the case?
- Do you think that there is a certain group or actor that usually succeeds in having things turn out their way?

SAMPLE INTERVIEW

I include a sample of a coded interview as illustration of the working process. The interview included was an interview with an OHR Official, and on defense reform primarily. NVivo unfortunately does not allow printing more than 25 codes. The codes provided hence are a selection only.

personality
selective implementation
no agreement, intervener failure
intervener success
timing - moments of strength and weakness
PR, language
legal arguments
confidence building
coherent arguments
brief proxies, find or create allies, co-opt
conditionality
bribe
trust
legitimacy, legal arguments
expertise, experience
symbolic politics

international needs
Russia
OSCE

NATO
Serb
Croat
Bosniak
job - specialist

Coding Density

OHR

political vs technical

job - chance, from other areas

job - seconded

OHR_20110517_0930

S: "My pen can type."
I: "Your pen can tape?"
S: "Yes"
I: "Wow! It's German intelligence or what?"
S: "No, no no.. it is American but, I think it was invented for students who sit in lectures and take notes or something like this."
I: " Fantastical I am really impressed."
S: "Yeah, it is a lot of fun."
I: "Sorry, is it a good pen?"
S: "Yeah, that as well."
I: "Oh, I think is good. *(Laugh)* I understand that you are .." *(stopped recording?)*
S: "What I would like to start with, as I said, very much interested in the personal perspectives and also in who the people are who are involved in this, is maybe a little bit on your personal background of how you got to Bosnia and how you got to be dealing specifically with that issue?"
I: "Well.. as so often, it's a... many of us, many internationals, they don't have the professional background in what they are helping the Bosnian authorities to deal with and that's not only in Bosnia that's everywhere with the International Community involved.. except I guess on the more technical reforms like the international financial institutions and the EU on it's various technical programs. But I wouldn't be too... I am not too worried about that as long as you.. the person understands that there is a limit to his or her knowledge. Right? And in the office of the High representative we do not claim to be technical experts on anything but what we are in essence is a political organisation. So, I think that's extremely important to bear in mind. We, for instance, on take for instance defence reform, we never claimed to know how a defence establishment should work. What we claimed to know something about was that political desirability of having defence reform. I think there is difference there."

S: "Yeah, it is a big difference."
I: "And that goes with all the other reforms that we have been involved with. I.. it is not a very good word but.. because it has a little bit connotations to some other areas but .. more of a western European debate about outsourcing, but that's basically what we have done. We knew that we needed the political reform, we put the perimeters down for what such reform should entail and then we outsourced it to people who actually knew something about how to get to that goal *(longer break)*. And in that respect we.. that's exactly what we did. We had the High Representative who had the political capital and political tools to put the frame down *(someone comes in to ask I something, tape stopped)* Thank you! But having said that, there was something of preamble that I have to explain in the who I am and where it came from. I'am on leave still from the Danish ministry of defence, leave without pay, and I've been dealing with the Western Balkan for some time since a little after the war ended here. And I was.. in doing that I was dealing quite a lot with the Danish ministry of foreign affairs. And having.. also been ... to Kosovo over the summer 1999. When we just got in and the 1244 mandate and all that, I was with the NATO's headquarters there. In Skopje and later on in Pristina. And again in

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2000. And then they.. the minister of foreign affairs they said listen there is a position in political department in office of the high representative. So you – it's ours if we want it, do you want to be our secondment there. And I said yes. That was way back in 2000 and then I was here until autumn 2003 after the ... nut had been cracked on the defence reform over the summer of 2003 and the Intelligence reform but I was lucky enough to be part of the design team of the high representative's mandate of both reforms, but I've played much more hands on role in the defence reform commission. I was the chief of staff on the defence reform commission secretariat and special advisor to .. to the chairman of the defence reform commission. So that's how I've got involved and it was very much by chance that I've got involved in Pol-Mil affairs, there was this presumption that .. since there I came originally from the Ministry of Defence, I would then know something, but.. I think it was more matter of not being scared of.. and not being confused talking to people in uniforms. Many internationals are actually.. they have this, not suspicions, but they (*longer break*).. it is a different world. So they're a little wary communicating with.. so when people.. when they find people .. or not .. great you do deal with them."

S: " I remember when I worked here from '99 to 2001 for German youth organisation..."

I: "OK."

S: " and we then had a lot of contact with the German SFOR which then for me was really funny because it was such a completely different world from..."

I: " University"

S: " .. I came out from school, all sorts of student movement politics .. "

I: "yes, exactly (*laugh*)"

S: " That was very interesting though..."

I: "Yeah. Also .. many times it happens by chance .. what you.. where you end up and doing. But I will be absolutely honest, it took me.. I mean one thing is to follow Bosnia and Herzegovina from Copenhagen for instance, and another thing is to actually work in an organisation like OHR and dealing with it. It took me quite some time to figure out what the hell I should be doing here?! What is the job that we are doing. Right? It is a mystery from the outside."

S: " Yeah, I mean that's precisely that's the mystery that I am trying to get a little bit of .. But maybe I mean as you say you were here like at OHR from 2000 on... one thing that's also mystery to me is 'cause at that time when I was also still working here, to my understanding why creating the single army was somewhere in Dayton, at that time I had impression that was very clear and no one would even try to touch that issue. And then at some point that changed, right? At some point there came some .. do you remember how that happened?"

I: "That's right. Yea, I remember it very.. I mean.. I think it is important to recall that SFOR and OSCE had been struggling with .. and trying to do what I would call military reform, right? At technical, bottom up approach. And they had so many workshops with these guys that.. you know.. I've lost count and then after a lot of rakija, they all agreed on .. yes they should do much more together. That kind of thing. Militarily. And then these officers from the various entity armies, they went back to the political masters and the political masters said no way. And we done.. we did.. I mean.. I was more or less detached from that because it was clear to me, working here in a political organisation that I won't to.. we would not have the time to reform that way. And then Paddy Ashdown came in late 2002, and he had a very.. a very elaborate plan in his head but also written down with the help of his closest associates that were involved within down here. But the

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Bosniak
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job - seconded
job - chance, from other areas
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brief proxies, find or crea

trust

Russia

Serb

defence and intelligence reform was definitely not .. it was not among, it was not in his plan at this early stage but.. (break) in the autumn of 2002 I received a very long report from a US contact about an RS based company called ORAO which had been allegedly selling spare parts, military spare parts to Saddam Hussein. And of course that was illegal because of the embargo, they also found something with the Burmese authorities, also clearly in breach of... I think they travelled there. You know... I am sure that the climate is very nice, but not the political climate. So, when I got this, I thought this was clearly the political opportunity to bring forward an attempt to shift from this military technical reform things to put the OHR in a lead to make a political reform of the defence establishment, a defence reform. And first, Paddy did not, you know.. (long break) but that was simply the .. you know.. he felt he was overloading his plan and he was afraid that doing too many things at any one time would drown every initiative. So .. it was very much a matter of timing your messages and your reform efforts. And sequencing them. But.. So.. my initial meeting with Paddy back then .. he said I understand where you're getting at but NO, not now. And then I tried a little bit more in house (??), actually a lot more, but what you than also you of course, because.. you're not very nice towards your boss, you start telling your friends down town that listen my boss won't hear how about you mentioning it as well.. so the Americans they are also embraced and started saying maybe there is something to this. At the same time, we started finding out that there was (long break) there was... a connection within we knew that there was the connection between an unreformed defence sector and persons indicted for war crimes. That got.. I think that was really the selling point for Paddy and then we got to work on .. we needed Bosnia Herzegovina to declare that it's foreign policy number one would be to re.. to be a credible candidate for PFP status. And again we formulated, together with some two colleagues over in OSCE, they and I, we formulated this Bosnian foreign policy of, they wanted to become the credible candidate for PFP. (long break) And then we, we had the politicians, all the executives at that point with the lot of fighting of course, you know RS did not just swallow and said 'yes, it sounds great', but eventually they all said yes, that is our goal. And they declared it in January, February 2003 at Peace Implementation Council meeting in Brussels (long break). And then Paddy asked me and another Dane, and a lawyer from here, to design the High Representatives decision on setting up a defence reform commission. But you see the (long break).. the job was .. I think this declaration from the Bosnian authorities with acceptance from all... it is logical and you can than understand it is easier for us to say well 'NATO, you will have a seat around the defence reform commission table. And you then will be able to explain to them how can Bosnia-Herzegovina get to a point where they become a credible candidate for PFP status. (long break) So in the beginning that was.. we needed to have a single army with clear command and control. With a lot of arm twisting from me, from us to NATO because NATO at that point had never done anything like that. You know, they never came across a country with the two or three Armies in one country. So, you can't blame them. So they needed to go into this technical political, technical political manoeuvre. And they were .. it's a handy lady to dance with NATO. But eventually, to be quite honest, we also helped them formulate a bit what it should look like. And you can read what they, what NATO brought to the Bosnian authorities in the DRC [Defense Reform Commission] report from 2003. I.. We.. we, as far as I can remember, I am pretty sure I am correct, we never put down in the High Representative's decision to set up the DRC that there should there should be a Ministry of defence. But we said that there must be clear command and control. (long break) So I would say that one of the major successes in that 2003 is defence reform, was the fact that we created with the the Commission agreed to a Ministry of the defence at the state level. And ... and I think .. and now that you ... the core of your question is how did that come about and I think ... I am telling my side of the.. how I saw it, right? And I had a Russian colleague that I worked with and that I had worked with since I came here in 2000 and by that time, by the spring 2003 I've been telling him, but quite frankly, about you know this things that I've been just telling you about, you know, militarily reform is not going anywhere and you know, these things and my.. my.. the idea from my side was ... first of all you do talk to colleagues no matter what nationality they are form, but also to have you know, an instant feedback from a sceptical audience. Right? I think that's very ... I think it helped me understand how do

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tackle these, you know, and not overlook sceptical resistance and because.. he would be this Russian saying, but you, why do this... and I trained my arguments through him. Secondly was of course also, it was in the name of transparency and confidence building, right? To tell him and through him, you know, believe me also the wider Russian diplomatic community that our aims were no to screw the Bosnian Serbs and deprive them of a seat at the table not only in the defence reform but also in the future defence establishment. That we would make it... our wish was to make it a multiethnic defence establishment, and that took long time you know to convey that because that was .. there was a lot of nervousness from the all sides but especially from the Bosnian Serbs. You know it is all about counting. There are in these I think all other facets of state life here, they are all about.. they are all afraid of being a minority. That's why they.. it is all about geography. The Bosnian Serbs are min..a majority in Republika Srpska. But this, I know, we had a meeting.. we had a Peace Implementation Council meeting in June 2003. Where it was not like it was depending .. the PIC is going to give it's blessing, but it was certainly going to give it's consent to defence reform and Intelligence reform. And I know that the Russian delegation, they went through Banja Luka on their way here and delivered the following message: on the defence reform we are.. we will back you in your persistence [Please! someone else: sorry on the interruption. Tape paused]. Where they said we will back you, we will back your resistance to.. and your insistence to having as large a role in this new establishment. But, you cannot embarrass us and having, insisting on having two armies in one country is not a Russian message. Right? The last thing we want in our own country. So we can not defend too much that idea. I mean they would defend it and say, Bosnia and Herzegovina is very complex society and bla bla bla... and that kind of thing, but going full.. saying absolutely no to the defence reform that would be the embarrassment for Russia, to defend too much. So that's what they said. Please go ahead, persist it as much as you can and grab as much power as you can in that and.. but you will reform. You will make.. a single military establishment. Sorry but when that was .. when that sunk in, the power of the nutcracker had been applied. Do you understand what I am saying? Then I am not saying that it was easy .. from then.. absolutely not, I mean , there was a still long distance to travel but the politics in it had been solved. (long break) At the same time we were also succeeding in getting the RS president mister Cavić to see the light. Paddy had many meetings with him on many issues, but on this and also Intelligence our line, Paddy's line with him would always be listen as far as the Constitution is now is that you, mister President of RS you take all the responsibility but you are not in the chain of the command. And he knew that. The chain of command, the real chain of command went to Belgrade. And that's what mister Cavić said to the RSNA in march 2003. He made a .. very brave very .. forward looking speech to a very sceptical RSNA where he said he said exactly that: 'I, we and I, take all the blame but we get no benefits. And he did mention Belgrade then.. he did mention these parallel structures not within the RS but outside of RS.'

S: "That was brave."

I: "Very brave. And all this things combined, tackled correctly and also lining up the logical arguments .. lining up the arguments so there was a logical momentum behind it, helped a long way to getting a resolve, but what really put all these things together in an neat understandable package was of course our chairman of the defence reform Jim Locher who is a really a master of that sort of thing."

S: "Yeah, I mean.. that.. several people have told me before that his personal role in all of this seems to be very important as a good facilitator of such processes?"

I: "Yeah, yeah.. facilitator.. yes.. he knew his job other-, it is like hearing cats. But it's one thing to.. 'cause his task was to forge something meaningful out of all these signals. So what we.. the first thing he did was to call me once he ha .. once we agreed for him to be .. chairman he called me and said we need a concept paper, we need to describe what the end result of our work will look like. That's of course how you do it. Where the hell do you want to end up, describe it, right? And as simple as possible. So he wanted, because

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PR, language

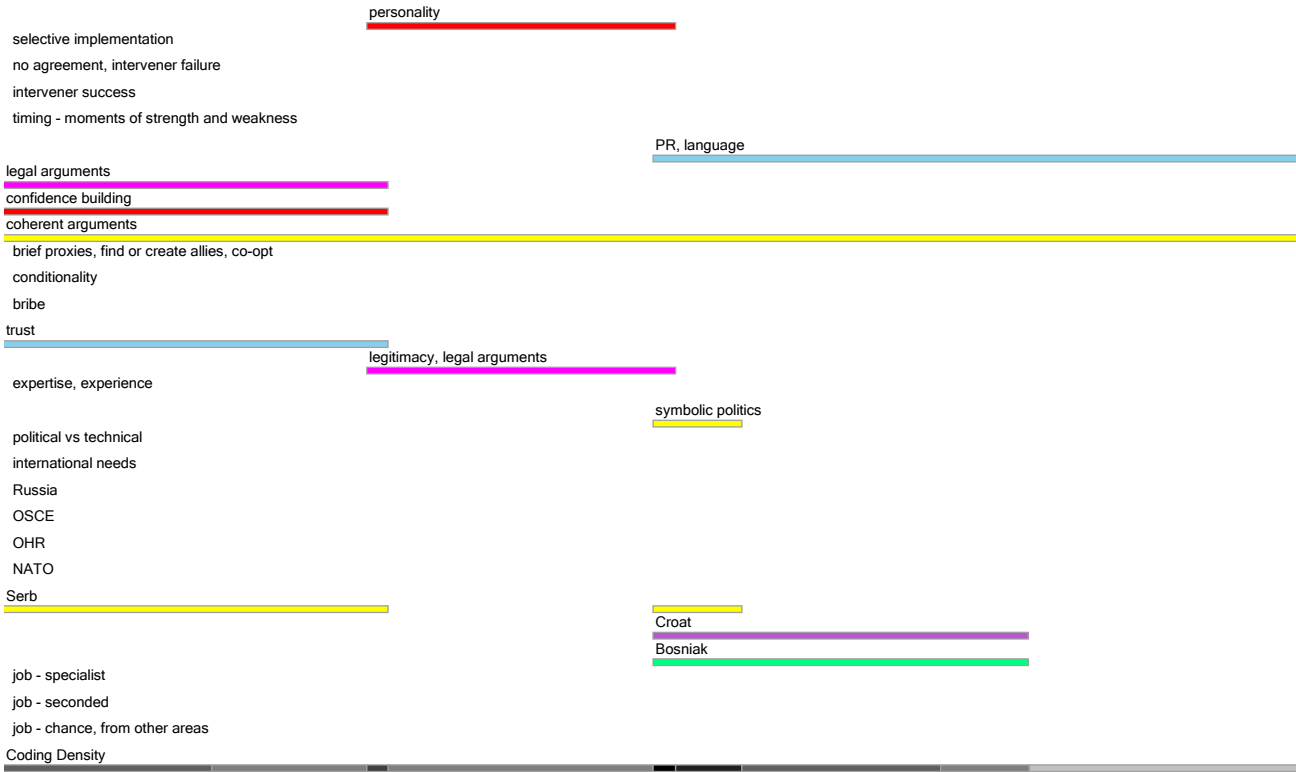
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job - chance, from other areas
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we were under the lot of time pressure, Paddy wanted this done by end of August or something and this was May.. so he said before I come down I want .. somebody to write down, okay where is it that we are going and I am not going to mention any names, but he said to somebody who he felt from a distance must be able to put that together and then 'after week or something, I sent that over to him, and he came back, he phoned me immediately and said, 'we are nowhere'. This is not a concept paper. He.. you know.. get with the program (??). I did not draft this but I had sent it to him and that's when I understood this guy means, he means business and he is actually been right so .. we can't turn it around, I think it is important that you come here and we get a thorough discussion here on what you envision should be in the and that's what we did. So he came down and .. and then the commission started and then we had some few three four meetings here and then NATO was kind enough to invite us to what it is called not Garmisch-Patenkirchen but this, a place, Oberammergau. For a whole week. And that was the only thing we should do there, was to agree on the concept. God! It was painful! Oh! So Jim tabled the concept and then they all have... no no no .. they were all trying to tear it apart. And our job was to basically saying, you can have a little bit of your sentiments, and your... not change the concept. We did that for five days and .. it was.. It was.. some of the longest five days that I have .. but it was a great result we agreed on the concept and that concept you can also read that's one of the first, it's the first chapter in DRC report. Quite frankly once that was done the rest is.. I don't want to diminish or.. not say that anyone after that did not, did not need to work very hard.. but you see the principle of a single armed forces and the single defence establishment at the state level was hatched (*long break*)."

S: "Just for me to understand correctly so that week in Oberammergau, this was already the whole commission like .. including all the Bosnian?"

I: "Yeah, yeah. I am sorry, yes. We had these, I don't know three four five preceding meetings. The first one I think .. I am sorry but it is a while ago, it was in May just to touch base and for Jim to say here I am, this is our task, please keep focused and putting down the ground rules regarding press communication and all these other very sensible things that you need to get down right away. And they all agreed that no press communication except for the Jim Locher. They all bought into his argument that we need as much peace and quite as possible. All that people around, in the commission they were all represented. There were entity representatives, the entity ministers of defence and there was an entity president representative. There were of course representatives of the presidency and there were the representatives from the Parliament, state parliament. And then we had observers, we had the Russians, we had the Turks, we had the EU, we had OSCE and the Americans, as observers, no voting right and.. and of course also NATO, representatives of NATO. So we, all were all supposed to have a saying in this, right? Either, domestically politically, they were there and those could give positive meaningful logical input to those politicians or representatives of politicians they were also there. And also to keep it as transparent as possible without it drowning .. we still needed to do a lot of work, right? And we could not have this long debates about life on earth, .. so you needed to keep it tight. So, many people understood that because Jim put down the ground work, and then of course he created these working groups, because there was a lot of different issues related to defence reform, that need to be look in great detail. So we created nine working groups which I was managing, these, the output of these nine working groups. Everything from pay and personnel to military intelligence to you know procurement... you know, all these things. And they were also manned by domestic and international experts. And we had to come up with agreed versions. And then those versions were debated by the DCR in formal session."

S: "And if you remember, as you said that it seems like there was agreement on the general principles probably faster than in another areas for .. what you talked about but there was obviously I mean there was I guess not easy.. do you remember also what the initial reactions of the Bosnian representatives were and how did this working process .."



I: "I remember it vividly .. 'cause of course you had the RS minister of defence saying 'I can not do this, I can not agree to that, I have no political backing for this, you are going to far, we disagree with the Constitutional basis of this.. so we, of course we knew this would be coming so we had the second DRC meeting was in Banja Luka at the Presidency office, the old one not the new flashy one where we made a legal argument for why this could come about and this was .. the Bosnian constitution article three five where.. when the entities agree within themselves they can lift the sovereignty of any given area up to state level that was the argument."

S: " And than he just said, oh, OK or.."

I: "No, no, no... You know, I am not buying into this and bla bla bla.. but it was all about ... yes we hear you and we understand your concerns and that would happen and you know slowly .. or actually very quickly if you look at it in a brought perspective but those arguments were welded in to a usable argument and outcome right?"

S: "I mean and how, this is very interesting to me because in basically all other cases that I am looking at it did not worked even half as well as .. if I see that correctly. Do you remember how .. how this process of somehow transferring this argument into something usable, how that.."

I: "First of all there are extremely talented people involved in this. (laugh) No, I think you .. what we were good at was to make clear for ourselves, why? Why reform? And don't make some Habermas... you know where you get seasick kind of argument or you, you know, you get sleepy. It needs to be.. if the why isn't obvious, you have... an even steeper hill to climb. And you can exemplify, I mean you need to... make a logical exemplification of why. I mean, and in that sense, let's be honest is not you know.. space science. To know that it's not .. not healthy for any society to have that (laugh) and then I think .. I think there was also very strong driver from the Bosnian Serb side on economics. They were dirt poor, and they saw the RS as an.. as a political luxury that they could hardly to afford. I mean, the symbol of it is all very fine but the checks they were writing up for getting that symbol, they were too big. But I think it's understanding then, all these different elements, and then putting again into you know, something, a brief argument. You know, you also talk differently to the different actors, right? You have this economics argument with the Bosnian Serbs and saying well you will maintain, at that point, 2003, you will maintain the heritage of your armed forces. Right? So you see you can actually save money and still have this political symbolism that you so much (??) .. and to the Bosniaks 'well this is what you need to do, not that they had any political problems with that, but we needed to downsize right? We needed to go away from that passive reserve monster to something much more manageable and economically sensible so we said you do this and you get rid of all this passive reserve and you get closer to real security. Passive reserves is not what real security, it's something that scare people have. We will try and bridge that fear. And the Croats, for them we promised, you know, because there were no .. they were certainly not against these reforms but we promised them a 1991 census share of whatever."

S: "At some point, someone I talked to told me that the RS representatives I don't know at the what point in the process that came about, where then in favour of actually getting completely get rid of the army .. or almost completely, something.. do you remember?"

I: "Demilitarization. Yeah, absolutely, that's what they wanted to do. And I think back in 2003 mister Dodik, of course in opposition then .. was still banging on demilitarisation but then agreed that defence reform is a long process where the, for him .. he would still work for demilitarisation, over time. Which, still today, suits him very well because I mean of what he calls peaceful dissolution can't have that with you know too many.. too many people learning how to shoot and .. and kill. (long break) But, all parties voted for this constitutional and entity constitutional changes and they are members here in parliament, unanimously voted for all the law. So if anyone tell you differently .. defence

reform was forced down on our throats .. no, it is not true. I mean, yes we hearded those cats (??) but we certainly did not force them to push that green button in the parliaments."

S: "And one more thing that I was wondering about because there were these two commissions, right? And as the first one already was a quite success as you said like created a ministry of defence, do you know what then brought about the decision to do .. second"

I: "The second? Well it is not a second commission, it is a second report. It is the same defence reform commission, more or less the same participants, but yeah I mean I left in autumn 2003 and got a deal with the middle East , and Iraq and stuff and .. but then both Jim Locher and I were called by Paddy in late November 2004. By that time it had transpired that the VRS element which had been surviving under that defence reform from 2003, and I can very briefly tell you why we allowed that: First of all, it was too far distance to walk to eliminate the entity element and second of all and more important they need to pay for that whole thing. We could not put that cost at the state in the middle of the tax year .. we can not do that, there's no budget yet. So they needed to pay for all these god damn useless soldiers sitting there drinking coffee and smoking cigarettes. So in that sense we.. I had no political worries over the entity elements remaining, because as you probably gathered political argument had been one. And then it transpired that the VRS had up until autumn 2003 or something still being paying a pension to Mladić."

S: "Wow. (Long break)"

I: "And that was the pretext for Paddy to speed up what would otherwise come anyway. You have to remember that in the 2003 .. report we made three organigrams. One for 2003, one for 05 and one for 07. And the seven was no entity armed forces, only BiH Arm forces. But Cavić had asked us not to publish those two organigrams, for 05 and 07, but the only 03. He knew we all agreed, in the DRC all knew, we had discussed this. There was no secret amongst us. It is not something that we sneaked in there, but he said please don't publish it in the report because the political resistance in RS would be needlessly too high. But yes, in 2007 and afterwards we will do that. We actually sped up in December 2004. We.. Jim and I were invited down here to .. than formulate the High Rep's new mandate for 2005 DRC, and we basically just took 2007 diagram, organigram and then we formulated that in his .. in his decision or task to the DRC."

S: "Maybe one last question because then I'll actually need to .. not to keep .. What time is it, my pen."

I: "It is 10:30"

S: "OK. One thing that I am also a little bit struggling to figure out is .. the decisions that were made where actually this was a major change, right? The implementation process afterwards as far as I gathered was a little bit slower. Or was it.. I mean how much of those things are actually now implemented and what's a..."

I: "Everything is implemented. Everything I mean from the concept paper of 2003. That is all implement and more, we don't have any entity armed forces any more."

S: " Yeah I mean that's clear."

I: "So the basics of it has been implemented. But, of course article 73 of the defence law has not been implemented which is the ownership of the defence property because there is disagreement over the interpretation of that article. But now it is a condition for by NATO for BiH to get to start its annual national programme. But I think I omitted .. but I think it is very important also to understand yes there is resistance from here but we

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massaged that, but there certainly was also the resistance in the International community. Many of the people who had done that military technical stuff, they were very .. very sceptical. But moreover, especially France and Germany, they were shit scared and they said.. this was over the ambitious and unnecessarily rock the boat. And this would create insecurity instead of security and stability and we of course said that's just the reverse."

S: " That's interesting because I .. I mean we expect to many of the things that I've talked about with the people, kind of came here looking for conflicts between Internationals and domestic actors and then tend to find that there are conflicts between International actors and conflicts between domestic actors then all of that somehow meets..."

I: "yes, that's right."

S: " so maybe I hope this is... if we can wait for another five minutes because maybe if you remember .. maybe also if you remember of some examples of how .. like when these more technical people and Germany and France .. maybe this is too much how.. how did they deal with that and who was..."

I: "The first of all it requires that, we dealt with it because we had the High representative who was very good at formulating and asserting his own arguments. I mean, you had to .. basically if you are against something that Paddy Aschown did you had to get up very early. And this people didn't get up very early, and they did not stay up very late at night to work at least. So, it was this, somehow, lean back and just criticise from the backseat, right? And that, Paddy.. we all got very annoying with, right? Because there was no construction, constructive debate. It was just, no, don't do it .. and we especially found out this when Jim Locher and I, we went to an EU h?? meeting. Were we wanted to brief about what our plans were. And.. let me put it this way, there was.. the Brits of course said 'that's a good idea .. tell us how we can help. France, Germany, Italy said as I said, you are rocking the boat unnecessarily, why now.. and did not offer any help. Which is I guess a logical conclusion when you are against something. But why I am mentioning this? It is because once we succeeded, they came out and they said - this is so much an American designed reform. Everything that these armed forces will do will be so American. Why can't they have a French, you know, walkie-talkies and radio equipment, but excuse me have you offered them that? And where were you to support the reform? And by the way would you rather have an obscure Serbian designed military reform rather than a NATO kind of thing. These reforms that we were.. on a lower technical level .. they are not from Mars, you know? It was NATO standard operating procedures. They were only out to .. they did not carry themselves very well. It was a shame. Germany got over that much quicker than the French. The French .. have never really gotten into it."

S: "One more thing though I ..not to talk about people individually, but my impression with the... because I've talked to several people who were involved in this, you mentioned SFOR, NATO, OSCE, and as you just said that the people who did this, this technical stuff before were sceptical about it. But anyone I talk to now seems to be a very very big fan of this process. Everybody is..."

I: "To get a little bit about themselves how they were.. we"

S: " I mean .. it might be a very positive thing in terms of maybe you have managed in one way or another to not only convince this sceptical people on the Bosnian side but also those people that maybe you remember how .. how that happened?"

I: "How we turned the scepticism into a positive drive?"

S: "Or did you.. I mean."

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I: "Yes I know. I can show you what I did first was.. this is Bosnian version of it *[shows DRC report]*. Here are the working groups and I got them into the working groups. All these international *(points to the report)* that you see there they were sceptical. They were not sceptical after this. Look at this guy and NAME he played much more important role, he is not here I can't remember, but he played much more important role in something else. Just sucked them in. You smear them with flatter and jobs. Importance .. NAME, you are an expert, we need your input. That's when they got a little bit more relaxed about the whole thing. They were of course as usual shit scared about losing their relevance. That's why people are afraid of change. So it was just as much a political management .. it was just a personal management and psychological operation as it was the political operation *(long break)*."

S: "OK. One very last question. *(laugh)* and come back at your work. Because As, I means .. as I .. one other thing that I am also looking at is the police reform that started afterwards and I've heard people saying that the very big success of this kind of was the .. OK than now we can do police as well.. is that correct or was that on Paddy's list anyhow?"

I: "I.. know justice was on Paddy's list. That was number one. So, he concentrated first on the Court and then came to the practical policing thing. He has admitted himself that this was a bridge too far, he took exactly, you look at it .. he took that template and he got a little drunk on the success.. but one thing .. you should really speak with the guy called Michael Haner."

S: "Yeah, I did."

I: "I don't know what he said to you. But, this is as an outsider I hesitate to have any too strong convictions about it. But I think that central question that we did with the defence reform and intelligence reform was -why? It was a little bit more forced, that, the answer to the why of police reform.. a little bit too much.. and I mean, why? And still you can.. well because .. do you understand what I am saying? The debate or, the answer is too long. It is a little bit too complex. Whenever it becomes a little bit too long and too complex .. you have all kinds of people shooting and successfully shooting into.. that argument. And it needs to be very tight. One liner. .. and.. I think that's.. in my experience .. that's the essence of any reform. Why?"

S: "Yeah, that's a good point."

I: "And the question.. the answer is never .. because that's the way we have it in Denmark. You know? I want to make a little Denmark here. It is so nice and you should see how it is out in Denmark and it really works. That's not the answer, never the answer. I think there was, what's missing in the beginning of the police reform."

S: " yeah, that's seems to me exactly.."

I: "In very simplified of course .. it is very complex but that's exactly.. because the answer is very.. the answer to why it failed is a very long one, is exactly why it failed."

S: "Yeah I mean unless you have something else that you think that's really missing, this would be it for myself. This was really very interesting and helpful."

I: "OK. Good."

S: "Thank you. One more very small thing was .. what's your educational background?"

I: "None. No, I've done Danish military national service for a couple of years and then I did my bachelor of arts at University of Re.. and then I took my Masters at LC and then I

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done some extra courses in public administration and Constitutional law in University of Copenhagen.”
S: “And BA and MA that’s in law or?”
I: “NO, that’s in politics, philosophy and international relations and then in international relations, LSE.
S: “Ok. Thank you.”
I: “You’re welcomed.”