

## The Future of the Civilian Police within the OSCE Framework

Since the end of the eighties there has been a new player in the game of international peacekeeping - the Civilian Police (CIVPOL). Used at first only under UN aegis, this "newcomer" has in the meantime established a tradition in UN missions and recently had its OSCE debut. At first it was classified as a lowly auxiliary unit which could safely be neglected and the figure it cut in comparison with the super-powerful military units was laughed at. However, CIVPOL has succeeded in a very short time in becoming an important component of international missions.

At the present time the Civilian Police put up about a third of uniformed UN personnel and one fifth of all UN employees are members of the CIVPOL. CIVPOL has thus become a force that can no longer be ignored.

The United Nations has reacted to this trend, not least in an operational sense. It was decided at an international conference in March 1998 to upgrade its responsible unit, the UN Civilian Police Department, in terms of personnel and also hierarchically. For these reasons, it is time to think about the future role of the Civilian Police as a factor in OSCE operations.

The OSCE used its first Civilian Police in Croatia in early 1998, but not as officials with executive authority. The original intention was obviously to send a unified police contingent organized on the UN model whose real job would be to supervise the local police. Until now, however, the OSCE police have not been deployed as a uniformed contingent but, rather, given responsibilities that are atypical for policemen and more appropriate for lawyers or diplomats. This operation cannot, therefore, be regarded as a "genuine" police operation.

But the next and, this time, "genuine" OSCE police mission is just around the corner. On 15 October 1998 the OSCE is scheduled to take over the work of the United Nations Civilian Police Support Group (UNCPSG) in Eastern Slavonia. The plan is for 120 executive officials, working for the OSCE and fitted out with the same competences as the United Nations people before them, to provide this service.

So it is time to ask why the OSCE is setting out on this "new" path. To be more concrete: what can an executive official do in the operational area? What results can be expected? And what are the conditions the OSCE must establish for the use of civilian policemen?

The future operations of the OSCE cannot be viewed in isolation from past experience. In almost twenty CIVPOL missions, the UN has acquired enough

experience so that conclusions can be drawn directly for the OSCE as well. Moreover, the OSCE has enough experienced UN police in its participating States. Thus it would appear appropriate and logical to draw on UN experience to a large extent. For this reason it is unavoidable that we take a fairly close look at the UNCIVPOL.

Even though UNCIVPOL are by now firmly established as a part of peacekeeping operations, a number of false notions remain about their mission. There is the impression, for example, that UNCIVPOL consists of armed units which maintain law and order with the usual methods used by police - i.e. by making arrests, carrying out investigations, etc.

The fact is, however, that in most cases there are "Memoranda of Understanding" and "Standing Operation Procedures" that expressly forbid UNCIVPOL the exercise of executive force. That means that arrests and investigations of the kind carried out by the criminal police are usually not allowed. And in the overwhelming majority of missions the UNCIVPOL are completely unarmed.

The only exceptions to this rule so far were in missions to Haiti (UNMIH II) and Iraq (UNGCI). In Haiti the UN had taken on the responsibility for building a new security system. The UNCIVPOL were therefore not only armed but also empowered, in accordance with prevailing Haitian law, to exercise executive force.

This mission certainly had positive aspects but it also demonstrated some of the limits of CIVPOL. The exercise of executive force by the UNCIVPOL did not function as expected. Co-operation with the local police was not entirely successful owing to language difficulties and weaknesses in training.

The most important point to make, however, is that considerably more personnel would have had to be employed by the UNCIVPOL and the mission would have had to last for a substantially longer time.

Considering Haiti's population of about five million, an international police contingent of about 10,000 men would have been needed if comparable European figures had been used as a guide. But neither logistically nor financially would a mission of this magnitude have been possible. It is questionable, moreover, whether a country would be prepared to give up such important sovereign rights as the exercise of justice and of police authority.

As the WEU mission in Mostar - similar to the UN one in Haiti - showed, substantial difficulties must be anticipated in this regard.

For the sake of completeness, we should mention one more UNCIVPOL experience here - that of the United Nations Guard Contingent in Iraq. This contingent's task was to provide protection for the transports of humanitarian assistance and relief goods for Kurdish refugees. A further responsibility, which came later, was to advise UN agencies and NGOs on security matters. Its structure was modelled on the UN guard units at the UN's three head-

quarters and UN guards were recruited from New York, Geneva and Vienna along with policemen and soldiers from a number of UN member states. They were armed with pistols. The marginal successes achieved by the guards were not enough to justify their losses (Austria, which had supplied 20 gendarmes and policemen over a period of four years, had four policemen seriously wounded by weapons fire).

The mission in Iraq tried to carry out what was *de facto* a classical military operation in a kind of "light version" in order to avoid a new political and/or military confrontation.

The two types of mission just described did not work out very well; they were tailor-made too much for certain missions. The "role model" - if one can use that term - for all other UNCIVPOL missions was, however, created much earlier in Namibia. The Namibia operation can, indeed, be regarded as a "genuine" CIVPOL mission. The model used there has remained unchanged up to the present day and has served as the prototype for almost all subsequent missions. The task in Namibia was to finish the decolonization of the country and to ensure that democratic elections were held. For that purpose the local police, trained by South Africa, had to be supervised. At the same time, however, the "civilian" SWAPO activities needed to be monitored. In the event of human rights violations or other incorrect behaviour on the part of the local police the UNCIVPOL were not to intervene directly but (in theory at least) only to report. The objective was to create conditions in which free and fair elections could be held. As the elections proceeded, other activities were taken on, especially observing or monitoring the elections.

In the missions that followed, the work of UNCIVPOL was of course adapted and expanded. In El Salvador, for example, the training of local police was in the forefront.

There are, of course, definite disadvantages when UNCIVPOL are unarmed in this kind of mission. It is impossible to implement law and order by force and even UNCIVPOL's own self-defence is for the most part out of the question. It should be added, however, that the largest number of attacks on UNCIVPOL has been seen in missions where carrying weapons was prescribed. There is also the question of just what the light armament of a policeman could accomplish against a heavily armed opponent. It seems to be true that the best self-defence lies in being defenceless.

Of course it is more than self-protection that underlies the refusal of UNCIVPOL to carry weapons. Apart from such exceptions as Bosnia and Herzegovina, UN missions are limited to a very short period of time. Once a mission is over, the host country is again completely dependent on its own capabilities and capacities. Ideally, a UN mission should leave behind an emerging firmly established and functioning democracy. One essential part of a functioning democracy, however, is a police force that acts in conformity

with democratic principles and in such a way as to uphold human rights. If they are to be able to meet these conditions at a later time the local police must learn while the CIVPOL are still there how to carry out their responsibilities independently and in a proper fashion. Hence the local police should neither allow CIVPOL to treat them as incompetent nor expect CIVPOL simply to take over their work.

So much for the UN experience. Now we shall move on to answering the questions posed at the beginning of this article.

#### *What Can CIVPOL Accomplish for the OSCE?*

Until recently peacekeeping operations completely neglected the field of non-military security. On the few occasions when some attention was paid to it, hopelessly overburdened and overtaxed soldiers were given the job of "looking after things".

It should be said right at the start that civilian police cannot replace soldiers or diplomats, nor do they want to - but they carry out responsibilities that these others cannot assume.

It is a fact that in all countries afflicted by conflicts of whatever kind the security system has generally collapsed. One of the main tasks for the international community, when it seeks to provide assistance, must therefore be to rebuild internal security along with the reconstruction of political, military and economic institutions. The most important elements of internal security are unquestionably the police and the system of justice.

Whether an international mission succeeds or fails is decided in part by the local police in the host country. The prospects of success grow if these countries are able to prevent violations of human rights while at the same time using a vigorous and democratic police force to proceed against corruption and organized crime, thus laying the groundwork for economic renewal. To put it another way, even the best conceived economic assistance is doomed to failure if latent insecurity prevails or if economic life is dominated by organized crime. This fact of course has been recognized by international organizations, which for that reason invest a great deal in rebuilding police systems in the places where they are actively involved.

But how can they know where to put their money? What local policemen can one depend on? And - another important question - how can one prevent human rights violations by the local police?

Past observers have not been able to answer these questions or to solve the problems. Only professional policemen have the capacity to see police organizations clearly and to analyse them - to draw conclusions and propose improvements. They are also in a position to discern police hierarchies which

are not immediately obvious and they can perceive the important informal processes in the activities of the local police. It is important, especially in police organizations that have gone to ruin, to eliminate "grey eminences" that usually owe their legitimacy to undemocratic structures or to connections.

Moreover, they are in a position, as a result of their own investigative experience, to comprehend police actions in other countries. Even more important is that they are able, referring to their own experience, to suggest alternatives to the procedures of the local police.

This brings us to one of the main reasons for the successes of CIVPOL: members of CIVPOL and local policemen can meet on a professional level. They have had approximately the same kind of training and the criminal cases they have dealt with have left their mark on all of them. As a consequence, policemen are much more readily accepted as partners, or even mentors, than are members of other professional groups.

#### *What Results can be Expected from a CIVPOL Mission?*

It would certainly be wrong to arouse unfulfillable hopes by suggesting that a CIVPOL mission could leave behind a fully functioning security system. In fact, considering the size of the task, one can be happy if rudimentary standards are achieved.

A lot depends on conditions in the host country. In a country which had something approaching a tradition of the rule of law before falling into conflict, success is more likely than in one that lacks any such tradition.

One successful result that can in any event be guaranteed by CIVPOL is that the number of excesses committed by the local police - i.e. violations of human or civil rights - will be reduced. Through close observation and investigation, every mission to date has succeeded in making itself so "burdensome" to the local police that the incidence of such behaviour has gone down.

What is less easy, because it requires the active co-operation of the local police, is to ensure that *all* police work is accomplished, i.e. that the local police do not just support those who are agreeable to them but treat all persons equally, regardless of their ethnic origin or their political and religious convictions. But some successes are possible here too, even if more difficult. It is too easy for the local police to accept reports while letting the investigation come to nothing, or to practice bureaucratic obstructionism.

It is a big success for CIVPOL if they are able to rid the local police completely of policemen who are undependable or may even have been associated with crime, and to replace them with new personnel trained in democracy and in the rule of law. In that case one can assume that the local police,

even after the withdrawal of CIVPOL, are almost certain to go on functioning as intended. This is the ideal case, but a rare one. That is why more and more emphasis has recently been put on the schooling and training by CIVPOL.

*What are the Necessary Conditions for a CIVPOL Mission?*

*We should never forget that CIVPOL can only function under certain conditions. If they are absent, then failure is pre-programmed.*

The first essential point is that all parties to a conflict must have agreed to the CIVPOL mission. CIVPOL cannot accomplish its work by force. *Durable Memoranda of Understanding in which CIVPOL's role is set forth and its responsibilities clearly defined* are an absolute necessity. CIVPOL can never make peace in an area torn by war or crisis. For this purpose, and for the military support that is sometimes required, troops must be provided. And the terms of co-operation between military and civilian components must be worked out at the same time.

It is no less important to establish the needed organizational structures before the beginning of a civilian police mission. This calls, on the one hand, for an independent logistical component and, on the other, for an office to deal with strategy and tactics of a police operation. One cannot rely on existing structures; new ones must be set up, even if it costs more. Above all, these new structures must be in the hands of professional police officers. Police work is a completely independent field and must be carried out by people with appropriate experience. It cannot be done by people outside the profession.

Even before these structures are established the standards for future OSCE policemen must be laid out. There should be no compromises. Professional executive officials must have good training, adequate police experience and the necessary knowledge of languages. The moment exceptions are made to these standards - so as not to annoy certain participating States, perhaps - there will be dissatisfaction amongst all members of the mission and its effectiveness will be substantially lessened.

If these conditions are met, however, there is nothing to prevent a successful police mission. Of course there are no guaranties of success. Too much depends on political imponderables.

As already mentioned, the first "genuine" OSCE CIVPOL mission is about to take place. It is certain that other missions will follow. Although this is new territory for the OSCE, the learning experience ought not to be too costly. The experience of the UN should be sufficient to avoid repetition of earlier mistakes.