

## **Editorial Comment**

### **Mostar: Three Lessons for the European Union**

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The European Union administration of the city of Mostar (EUAM) officially ended after two years on 22 July 1996. So far it has been the most ambitious and, in terms of resources used, also by far the biggest 'joint action' carried out in the framework of the Union's Common Foreign and Security Policy (CFSP). It has as well been a test case for close cooperation with the Western European Union (WEU) which provided the police force element of the operation. By committing itself to create the administrative and material conditions to overcome the division of Mostar the Union took considerable risks. In 1994 the city was nearly totally divided, shelled by the Bosnian Serbs and surrounded by all the hazards and uncertainties of the raging civil war. For having taken these risks and for having achieved at least partial success where failure was more likely the Union clearly deserves credit, and certainly more credit than it has won so far from the international community and from the opposing sides on the ground. Yet the EUAM also revealed a number of weaknesses in the Union's handling of the operation. At least three major lessons can be drawn from these which – if accepted as such – could prove to be among the few long-term benefits the EUAM brought to the Union.

One lesson is that for major 'joint actions' like the EUAM the Union needs more effective planning in the initial phase. It is true that before the Council formally decided to set up the EUAM a three-person Advance Party had been sent out to Mostar in April 1994 to assess the situation on the ground. Yet the no fewer than twenty-eight reports submitted by the Advance Party seem to have had little impact on the Council Decision of 16 May 1994<sup>1</sup> setting up the EUAM. The Advance Party requested in vain more guidance from Presidency and Council on

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<sup>1</sup> Council Decision 94/308/CFSP, following on from the earlier Council Decision 93/603/CFSP of 8 November 1993 on the conveying of humanitarian aid in Bosnia and Herzegovina.

how to prepare the ground for the start of the operation. Similar problems existed in the WEU framework where the Member States had failed, for instance, to reach previous agreement on the important question of whether or not the WEU police force should be armed. The situation became hardly any better when EU administrator Hans Koschnick arrived in Mostar on 23 July 1994 to start the operation. There was no comprehensive plan on how the EUAM should work and guidance from the Council on major questions came forward slowly, if at all. Even where there was some guidance it was not necessarily helpful: the organizational structure of the EUAM could not be set up entirely on functional lines because the breakdown of responsibilities within the EUAM had to be based partly on the need to provide acceptable portfolios for the persons nominated by the Member States.

These shortcomings can largely be explained by weaknesses within the Council structure. The Ad Hoc Group on Former Yugoslavia, which was formally in charge of the Mostar operation, had a much wider political agenda and discussed only more general aspects of the EUAM. Important practical details were dealt with by the Ad Hoc Group's Advisory Working Party on the Bosnia-Herzegovinian Joint Action. Yet decisions at this level were often seriously delayed as further consultations with the capitals were needed to secure the unanimous agreement of all the Member States on all aspects of the operation. This could have been largely avoided if from the outset a clearer and more autonomous planning and decision-making mandate had been given to the responsible Council Group and if the Council would have agreed on making use of Article J.3(2) of the Union Treaty which allows for majority decisions on matters of the implementation of 'joint actions'. In future major operations this should become normal practice. A central CFSP planning unit – whose creation is under consideration in the current IGC – could help with the drawing up of some framework rules on initial planning of CFSP operations.

A second lesson is that major CFSP operations need more continuity and a clearer assignment of responsibilities during implementation. According to the Council Decision of 16 May 1994 and the relevant EU Treaty provisions it was up to the Presidency of the Council, assisted by an advisory working party of Member States Permanent Representatives, to decide upon the practical orientations of the Mostar operation. Yet in practice, decision-making authority was with the Member States' representatives in the Ad Hoc Group on Former Yugoslavia, whose unanimous agreement was needed before the Presidency could make any steps. This delayed the adoption of essential decisions and reduced the Presidency's capacity to provide effective guidance. A further problem was the six-monthly rotation of the Presidency, which

meant that every six months new personnel became responsible for the execution of decisions; they often lacked enough operational capacity and expertise. Additional delays were caused by the inevitable friction caused by shifting overall responsibility from one capital to the other. This lack of continuous leadership from the centre could not be compensated for by the EU administrator on the ground. He had to content himself with the instructions agreed within the Working Party. On some matters of importance, such as the appointment of the EUAM staff, Mr Koschnick was not even consulted. The EU administrator's task was not made easier by the fact that most of the instructions given to the WEU police force needed a separate decision-making process within the WEU structure which often lagged behind decisions adopted within the EU framework.

The only institution which could have provided both continuity and the necessary operational expertise was the European Commission, which had delegated a number of officials to Mostar and was represented in all relevant bodies. Yet under the present rules of Title V of the Union Treaty the Commission's possible role in implementing CFSP joint actions is much more limited than in the EC framework, and throughout the Mostar operation the Member States seem to have taken great care to restrict the Commission's input to mere administrative support. An element of major significance in this respect was that the EU administrator was only required to report regularly to the Council Presidency on progress made and not to the Commission, this in spite of the fact that the latter was responsible for the administration of the considerable EC funds needed for the operation. Practical advice put forward by the Commission's political representative associated with the Ad Hoc Group was often not even commented upon.

In future operations of this size the Union's common foreign policy aims would certainly be better served by establishing a more clearly defined centre of responsibility within the Council and by making the best possible use of the Commission's capacity and expertise. The input of EU representatives in charge of operations should also be increased, not only as regards influence on decision-making in the Council groups but also in terms of more decision-making authority on the ground. Some of these improvements could reduce the influence of individual Member States on CFSP operations and might increase its 'communitarian' elements. Yet the aim of increasing the efficiency of these operations should prevail over Member States' sensitivities which appear to be born out of a rather ideological understanding of intergovernmental decision-making.

A third lesson is that major CFSP operations need an adequate budgetary basis, both in terms of resources and budgetary procedures. A

recent Special Report of the Court of Auditors<sup>2</sup> revealed that the financing of the advance operation was a rather chaotic exercise. The Advance Party was sent out without any formal decision being taken on the funding of its operations. Part of the funds needed had to be borrowed from the European Community Monitoring Mission in former Yugoslavia. These were complemented by a hastily arranged contribution from the German Federal Budget and paid back with the help of a one-off payment from the Council's administrative budget. The latter brought the Council into conflict with the European Parliament which claimed that this was in fact 'operational expenditure' in the sense of Article J.11 of the Union Treaty which should have been charged to the Community budget with full involvement of Parliament and Commission under normal EC budgetary procedures. By classifying the expenditure as 'administrative' the Member States had obviously tried to keep the Parliament totally out of the process since under a gentlemen's agreement Parliament and Council refrain from interfering in each other's administrative appropriations.

Problems did not end with the adoption of formal decisions on the financing of the operation during the summer of 1994. Some Member States regarded the use of the EC budget for CFSP operations as a step towards communitarization of CFSP and were reluctant to do so. Yet being unable to agree on making all the necessary funds available out of national budgets the Member States finally agreed that the major part of the funds – in the end 127 out of 144 million ECUs – should come from the EC budget. Nevertheless in order to maintain full intergovernmental control over the operation it was decided that the Council would release these funds in tranches on the basis of the reports of the EU administrator with the Commission in practice only acting as a mere 'cashier' of the Mostar operation. This went clearly against EC budgetary rules under which the Commission is politically responsible to the European Parliament for the implementation of the Community budget. Both Commission and Council came under heavy fire by the Parliament which added to the difficulties of the operation. In addition to all this some Member States did not come up with their national contributions in time: by the end of 1994 the EUAM's budget showed a deficit of 15.2 per cent because of outstanding contributions from France and the UK. Finally the Court of Auditors also found that there were serious weaknesses in financial procedures on the spot, both in terms of financial control and in the handling of cash, revealing such picturesque details as the WEU Police Paymaster having to transport up to DM500,000 of EU funds on

<sup>2</sup> Special Report No 2/96, OJ C 287/1 of 30 September 1996.

his own, in a camera bag, and mysterious discrepancies between the Commission accounting records and those of the WEU police.

In order to avoid similar friction and confusion in the future any operational activity of CFSP – including preparatory missions – should be based on a Council decision setting out clearly the financial basis. Since it has become obvious that the Member States have difficulties providing substantial funding out of their national budgets Community funding should become the normal procedure. If Community funds are used, however, Community budgetary procedures must be fully applied. This not only means that the European Parliament's approval must be sought on each transfer from reserve lines or other EC budget lines but also that the Commission must be given a role in the implementation of the operation which corresponds to its general responsibility for the implementation of the EC budget. Any other solution can only cause friction within the Union system, reduce the efficiency of operations and undermine the sound administration of the European taxpayer's money.

Some of the weaknesses mentioned are certainly to be regarded as part of the teething problems of the CFSP. One should not forget that this was the first 'joint action' of this size and that it had to struggle with enormous difficulties on the ground. Yet in one way or another all these weaknesses are also related to the particular nature of CFSP as a structure which, although closely linked to the Community system, continues to be based on the intergovernmental method. Since this particular nature of CFSP is unlikely to change fundamentally in the foreseeable future these weaknesses can only be overcome by more efficient planning and implementation according to the lessons provided by the EUAM operation. This requires not only new pragmatic arrangements, but probably also the redrafting of certain Treaty provisions. The IGC has still time to take the Mostar lessons into account.