

THE MODERNIZATION OF POLICE CO-OPERATION THROUGH INTERPOL – DATA-PROTECTION ASPECTS

To understand the interaction between international police co-operation and data protection, we must consider two questions:

- * How can the strong point of international co-operation through Interpol – i.e. strict observance of member countries' national sovereignty – also be its weak point, for reasons connected with data protection?
- * What measures is Interpol trying to introduce to take advantage of this principle of national sovereignty in order to strengthen data protection through international co-operation, and vice versa?

A. THE PROBLEM

1. If we ask ourselves briefly what data protection represents for international police co-operation – and vice versa – the answers are likely to be as follows:

- * The key players involved in police co-operation will probably consider that data protection requirements limit their possibilities.
- * Conversely, the main players involved in data protection will stress that international police co-operation – probably because of a natural desire to handle as much information as possible – represents, on the face of it, a risk for data protection.

We could leave the matter there. The question would then be one of how to reconcile the two mutually opposing concerns of data protection and international police co-operation.

2. That, however, would amount to overlooking the fact that the concerns of data protection and international police co-operation through Interpol are not always mutually opposed.

- * International police co-operation through Interpol, and the basic data-protection principles which are enshrined in the Organization's rules and regulations, are focused on the same goal, namely guaranteeing the basic rights of individuals to live in peace.
- * Above all, however, in both police co-operation and data protection considerable importance is attached to the quality of the personal data processed. Data which are accurate, up-to-date and regularly assessed can provide international police co-operation with a high-quality service.

In this context it is therefore possible to uphold the view that data protection is an integral part of international police co-operation.

3. Again in this context, data protection offers an additional guarantee for international police co-operation, namely respect for national sovereignty.

In application of this principle, the source of an item of information exchanged through Interpol channels remains "master" of the rights attached to the use of that information. Not only may the source decide who can do what, and under what conditions, with the information it has supplied, but it can also revise at any time the authorizations and conditions of use it has granted.

National sovereignty is a key principle underlying international police co-operation, and one which forms the basis of Interpol's rules and regulations.

In this way, data protection – as enshrined and set out in Interpol's rules and regulations – becomes a reliable instrument at the service of international co-operation.

4. This principle nonetheless poses a major problem for an organization such as Interpol with 181 member countries which do not have the same level of technological development, the same culture and, therefore, the same experience or the same requirements with regard to data protection.

Interpol's rules and regulations include numerous guarantees for data protection. But although the rules are binding on the Organization itself, they do not have the same mandatory force on its member countries. Legally speaking, in fact, Interpol has virtually no power to impose its rules and regulations within countries since they are subject to their own national legal systems.

This means that certain countries, under the terms of their national or regional laws, are obliged to place restrictions on the forwarding of information (which they supplied) to other countries which do not have an adequate or equivalent level of data protection.

These national restrictions represent a veritable stumbling block for international police co-operation, and this obviously has adverse consequences on public security and the basic rights of individuals to live in peace.

5. The question currently facing Interpol and its 181 member countries is how to take into consideration and reduce the disparities that exist between the data-protection measures in all those countries, so as to allow effective police co-operation, i.e. truly international and based on high-quality information.

This question is far from new, but with the development of new technology and the globalization of data protection, it has become essential to find an answer.

B. INTERPOL'S PROPOSED MEASURES

6. There is an ideal legal solution: this would consist of adopting and ratifying an international convention in which countries would undertake to observe an international data-protection standard.

Interpol continues to study this possibility actively, but it is a long-term project.

7. The Organization is therefore continuing to develop up-to-date technical tools, policies, practical and legal instruments, to offset the risk of basic individual rights being jeopardized by restrictions imposed by entities which send information to Interpol.

- * The Organization is in the process of modernizing its police information system and installing new equipment, interconnected by modern technology, in all its member countries. The technical solutions applied are capable of providing the highest level of data security to avoid any intrusion, or tampering with information, and to detect any such intrusion or tampering, making it possible to identify the problem, its source or its cause, and to solve it.

- * Alongside the introduction of this new international police-information system, new rules are being drafted which govern the use of the system and the processing of the information it carries. These rules are due to be adopted by Interpol's General Assembly at the end of September 2003.

- * In support of its modernization policy, the Organization has already begun to develop a full-scale information and training programme for its member countries; the programme is aimed particularly at those using the police-information system.

8. These new rules firmly lay down – and, in certain cases, reinforce – the data-protection principles that the Organization has adopted and has defended for many years now. Furthermore, by introducing a system of contractual obligations, the rules also go some way towards making up for the lack of an international convention.

In this way, by imposing binding rules upon itself the Organization has compelled its member countries and those using its police-information system to enter into a series of contractual undertakings.

In practice, this means that those using the police-information system must undertake to observe a certain number of data-protection rules which are binding on Interpol.

By adopting such obligations, Interpol hopes, firstly, to reduce the disparities in terms of data protection which exist among its member countries. It also hopes to alert member countries to the fact that successful, effective police co-operation through Interpol channels can only be achieved if member countries and users alike observe the data-protection principles with which these member countries have provided Interpol.

9. It should be stressed that the new rules Interpol has introduced were drafted with the co-operation of a working group. This group, mandated by the Organization's General Assembly, was composed of representatives from five different continents, and met regularly on several occasions during this past year.

The different versions were submitted at each stage of the drafting process to an independent body – the Commission for the Control of Interpol's Files – which gave its general approval.

10. It is worth mentioning, in this respect, that the new rules endorse the advisory role that this Commission plays vis-à-vis the Organization.

In application of these rules, every new project involving the processing of personal data (e.g. databases, regulations or co-operation agreements) must be submitted to the Commission, which will thus be able to play its role as adviser to the Organization to the full.

As stated above, the fact that the Commission exists, that it is independent, and that its supervisory and advisory powers have been reinforced in Interpol's rules, all help to make the notion of data protection an integral part of international police co-operation and, consequently, an instrument for ensuring the quality of this co-operation.
