



Statewatch

Germany:

A network being networked: the Federal Criminal Police Office databases and the surveillance of “troublemakers”

by Eric Topfer

Introduction

Germany’s Federal Criminal Police Office (*Bundeskriminalamt*, BKA) is holding more than 200 “files” (which are actually databases) with more than 18 million entries on people, according to the Federal Government’s response to a parliamentary question by the Left Party on 25 June. [1] These databases fall into three categories: firstly, so-called “joint files” (*Verbunddateien*) which are run by the BKA but are automatically fed with data from the 16 German state police forces, the Federal Police, the Customs Service and its criminal investigation branch. Data stored in these files is widely accessible through the German Police Information System, INPOL. Secondly, so-called “central files” (*Zentraldateien*) in which BKA officers input data that is provided in conventional ways by the above listed security agencies plus the secret services. They may be accessed for the online retrieval of information for other authorities on an occasional basis. The third category is the so-called “office files” (*Amtsdateien*) which are operated and accessed exclusively by the BKA.[2]

Office files make up the majority of those held by the BKA. The largest number of entries stored in each file is “only” around 30,000. The files are usually set up for the purpose of a criminal investigation and are deleted when the case is closed, although the data may be transferred to other databases. The largest BKA files are those used for identification purposes, searching for wanted objects and persons, the indexing of existing electronic and paper records and the analysis of crime “areas” such as drugs or human trafficking (see table). Although these are separate files, many of them are cross-referenced by unique identifiers, such as the “D-number” system which is linked to Automated Fingerprint Identification Systems (AFIS) and works on a pseudonymous hit/no-hit basis, and to identification service files which hold an individual’s background information. Therefore, the larger BKA files are cornerstones in the mosaic of the European police information landscape; AFIS-P and the DNA database are networked with their counterparts in other

countries under the auspices of the Prüm Treaty, and there are search files for objects and persons and these are sources from which the BKA'S SIRENE officers feed the Schengen Information System. AFIS-A contains, among others, the German contribution to the EURODAC database, and the major files on human trafficking or money laundering are likely to ease Europol's appetite for information being harvested through its analysis work files.

“Troublemaker” files in trouble?

Most controversial are three databases on so-called violent offenders which were set up as “joint files” in 2001. Their blueprint was the “violent offender sport” (*Gewalttäter Sport*) database, the so-called “hooligan file” in which data on 11,245 persons was stored in June 2009. This database has a special status as it is operated on behalf of the BKA by the Central Information Point Sport (*Zentrale Informationsstelle Sport - ZIS*), a special unit of the Northrhine Westphalia state police. Although the file's name suggests that it holds information on violent offenders, many of its entries do not refer to individuals who have been convicted of a crime but rather to people who have received a ban or were subject to stop and search procedures at football matches. A few months after the installation of the “hooligan file” three other databases on “politically motivated violent offenders” were installed: LIMO on “violent offenders left” (1,866 entries in June 2009), REMO on “violent offenders right” (1,328 entries) and AUMO which targets “politically motivated crime by foreigners” (154 entries). [3] Anyone whose data is stored in these databases might experience serious consequences: their freedom of movement might be curbed when they are ordered to register in-person at their local police station on a daily basis (e.g. for the duration of international football competitions), when they are prohibited from leaving the country or when they are visited by police at so-called “troublemaker addresses”, in their homes or at work. Moreover, their patterns of movement might be profiled and discreetly recorded at police checkpoints.

The legality of the “hooligan file” was recently successfully challenged. The Lower Saxony state court argued that it was created by order of the Federal Interior Ministry without hearing the views of the 16 states despite the fact that it is a joint file involving their interests. Before the recent national elections the Liberal Party demanded a watertight legal basis for the database and clear criteria on whose data was to be stored in it. The Federal Data Protection Commissioner predicted that the final outcome will affect other files on “violent offenders” as well. The appeal is still pending at the Federal Administrative Court but the Conference of German Interior Ministers has already declared its intention to authorise the database. However, it is doubtful that this will change the nature of the “violent offender” database. The Federal Government has already defended the “prognostic relevance” of discretionary risk assessments by individual police officers that are the basis for the storage of personal data in the database. [4]

The surveillance of anti-globalisation protest

A fourth “troublemaker” database operated by the BKA is IGAST, on “violent troublemakers who are active internationally” (*international agierende*

gewaltbereite Störer) which has existed since 2003. In contrast to the other troublemaker files, IGAST is a central database which collects and analyses information in the context of “Globalisation-issues”. In June 2009 information on 2,966 persons was stored in this database. Only ten per cent of the entries refer to “potential troublemakers”, (i.e. those who have been arrested or registered in the context of violent protests against globalisation in Germany or abroad). All other entries are on contacts, witnesses or police informers. [5] Given its nature as a central database which is both manually fed with data from various national and international sources and accessed solely by the BKA branch for “State Protection” (*BKA-Abteilung ST - Polizeilicher Staatsschutz*), the political police, it is evident that IGAST has a similar purpose to Europol’s Analysis Working Files, (i.e. the harvesting and mining of information to understand networks and reveal their social relationships).

However, in exceptional times the IGAST files become a leaky container. During the Strasbourg NATO summit in April 2009 the BKA’s political police submitted information on 232 people whose data was stored in IGAST - the complete list of those deemed “troublemakers” - to their French colleagues, plus additional information on more than 400 people received from foreign sources. Although the French were asked to use the transferred data solely for the purpose of policing the summit and to delete the data by July, the conditions for this cross-border data transfer was based on the mutual trust of police officers - and therefore beyond democratic control. In effect, more than 100 protestors were hindered in crossing the German-French border and attending demonstrations in Strasbourg. [6]

A few days before the start of the next major summit, the G8 in L’Aquila in July 2009, it was revealed that ten people arrested eight years ago at the G8 summit in Genoa still had their data held in BKA files, five of them in IGAST. [7] The Federal Data Protection Commissioner’s 2001/2002 annual report discloses information about the international information-sharing process during the Genoa G8 summit: the BKA’s political police, having transferred data on 191 people to their Italian counterparts in advance of the summit, received information on protestors who were either arrested or recorded at a police check point in the summit’s aftermath.

While data on those arrested was stored in the “internal security” joint file (see table), the latter were put in the “Global” central database, a predecessor of IGAST. After the brutal police raid on Genoa’s Diaz School, where sleeping protestors were beaten and arrested by an out of control Italian police force, the Data Protection Commissioner recommended that data received from foreign sources should only be stored for a short period of time and should only be held for longer after careful consideration. The BKA said that the effort involved in such a procedure would be disproportionate; usually, they responded, reconsideration only takes place when people exercise their right of access and demand the deletion of the data held in police databases. [8] In the case of IGAST, those who do not know their rights or don’t exercise them will have their data reconsidered for the first time ten years after the date of its entry - deletion is not guaranteed. [9]

A model for of Europe?

Despite the serious risk that people who have been victimised by the police can be categorised as “troublemakers”, German officials aim to Europeanise their model of protest surveillance. On 12 October 2007 the Federal Council (*Bundesrat*, the chamber of the 16 German states, represented by their governments) stated that:

the creation of a European database on violent offenders who are active internationally is essential in order to target measures against persons who are prepared for violence in their homelands [travel bans are mentioned explicitly] or at the locations of events.

Moreover, they note that a “general improvement in information sharing on violent offenders who are active internationally is urgent” to support the policing of major events. The Federal Council suggested making use of either Europol’s computer systems or the Schengen Information System, or to network existing or newly created national databases by drawing on the Prüm Treaty to guarantee the cross-border availability of “standardised data”. The Federal Government was asked to work towards the creation of a European database on “violent offenders who are active internationally”.

The background to the initiative was the G8 summit hosted by Germany in June 2007 in Heiligendamm. According to the Federal Council more than 20 per cent of the 646 people arrested at the summit were foreigners. Officials complained of deficits in international information-sharing which was said to be sporadic and non-standardised.

Several countries were accused of not having responded to “official requests” for information on potential “troublemakers”. The Federal Council hopes that the creation of a central database operated by Europol will complement Europol’s computer systems and make such information accessible even to ordinary police officers. However, the officials are aware of legal problems related to this idea because, according to the Europol Convention, its files are only available to Europol officers, national liaison officers in The Hague and EU Member States’ central police agencies. Therefore, the Schengen Information System and the Prüm mechanism were suggested as alternatives, although the original conclusion, dating back to a proposal made by two German states in August, only mentioned Europol.

How the process concluded is unknown because the outcomes of key meetings of the Conference of German Interior Ministers and its sub-committees on policing, which assessed the Heiligendamm summit, are secret. Interestingly, Peter Altmaier, State Secretary of the Federal Interior Ministry, was already proposing the creation of a European “troublemaker” database at the EU Justice and Home Affairs Council meeting on 18 September 2007 - one month before the Federal Council officially requested the Federal Government to push the issue at the European level. The Federal Council also took the opportunity of widening the scope of their proposal - in addition to political summit meetings they also suggested that “international sport and cultural events” could be protected by filing “troublemaker’s” data. [10]

Meanwhile, the issue of information-sharing was discussed several times by the JHA Council and some of its working parties, and it is apparent that it is the Schengen Information System rather than Europol's databases that will be used for the exchange of information on alleged "troublemakers" through the creation of a new data category. Given the legal, organisational and technical obstacles, the project is not likely to be realised in the near future. However, it is evident that the BKA's files will play a crucial role in feeding a new database.

Top 15 BKA Databases(except for the largest on searched objects with more than 11 million entries)

Name of file	Type of file	Purpose/description	in operation since	Number of entries on persons (June 2009)
Identification service	Joint file	Index of fingerprints, photos, person descriptions and other information on identification	1985	5,859,680
Search for persons	Joint file	Search for persons for purposes of arrest, localisation, observation and surveillance	1993	4,456,968
KAN - Index of criminal investigation records	Joint file	Index of files held by federal and state police forces on suspected offenders in cases of "serious crimes" or crimes with trans-state relevance	1983	4,345,009
AFIS – P	Joint file	Automatic fingerprint identification system for person identification	1993	2,544,434
Database of digitalised fingerprints and palm prints – P	Joint file	Collection of fingerprints and palm prints collected by BKA, Federal Police and Customs Service	2004	2,221,000
Index of BKA records	Central file	Index of criminal investigation records held by the BKA which are not listed in the joint index of criminal investigation records	1985	2,193,815
VISA-KzB Process	Central file	Research and analysis in the area of visa application cross-agency consultations	2009	2,064,550
Counterfeit money	Joint file	Combating counterfeiting of money	2001	1,832,442
DOMESCH	Joint file	Combating human trafficking and document fraud	2001	1,572,656
Internal Security	Joint file	Prevention and investigation of politically motivated crime of trans-state or international relevance	1980	1,571,914
FDR	Joint file	Combating drug crime	2008	1,397,823
Analysis Drugs	Joint file	Combating organised drug crime	2001	1,030,529
AFIS – A	Central file	Automatic Fingerprint Identification System for identification of asylum seekers	2000	672,281
DNA Analysis File	Joint file	DNA database	1998	795,232
Imprisonment File	Joint file	Documentation on persons in prisons	1993	518,630

Footnotes

1. *Parliamentary Document BT-Drs. 16/13563, 25 June 2009 (the source for figures on files, including the attached table, except when otherwise noted).*

2. *Parliamentary Document BT-Drs. 16/2875, 6 October 2006.*

3. *Parliamentary Document BT-Drs. 16/13563, 25 June 2009.*

4. Eric Töpfer: *Illegale "Hooligan"-Datei?*, in: *Bürgerrechte & Polizei/CILIP*, pp. 79-80.
5. *Answer by the Federal Government to written request by MP Ulla Jelpke from 10 July 2009.*
6. *Parliamentary Document BT-Drs. 16/12966, 11 May 2009.*
7. *Parliamentary Document BT-Drs. 16/13559, 26 June 2009.*
8. *Bundesdatenschutzbeauftragter: 19. Tätigkeitsbericht 2001-2002, BT-Drs. 15/888, 7 May 2003, S. 98ff.*
9. *BKA Data Protection Commissioner: IGAST installation order, 16 March 2004.*
10. *Federal Council Documents BR-Drs. 589/07, 24 August 2007; 589/1/07, 1 October 2007; 589/07/B, 12 October 2007. Parliamentary Document BT-Drus. 16/6839, 26 October 2007.*

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