The “new” principal task for Europol to support Member States in connection with major international events. The blurring of boundaries between law enforcement and public order?

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Introduction

> PhD in Law
  > Europol, *quo vadis*? Critical analysis and evaluation of the development of the European Police Office
    > European criminal law – European criminal policy

> PhD on papers
  > Deliberate choice (cfr. model for analysis and evaluation)
  > Paper = illustration

> Methodology
  > Legal and social science research methods
Introduction

Europol

- EU law enforcement organisation
  - Transforms Europol from an intergovernmental organisation into an agency of the EU
    - As from 1 January 2010
  - Not merely a copy of the 1995 Europol Convention, including all the amendments already incorporated in the three Protocols...
- Novelties?
Introduction

› A new principal task for Europol is to provide intelligence and analytical support to Member States in connection with major international events (Art. 5 (1) (e) Europol Council Decision)

› Two research questions

  1. Whether this new task, which was not as such provided for by the Europol Convention, qualifies as a true novelty?
  2. Whether this seemingly information-related task would in fact not amount to a task of public order, which would then no longer be compatible with Europol’s objective

› Relevance
A true novelty?

Origins

› Austrian EU Presidency 2006
  › Problem identification

› Commission Proposal 2006
  › “(f) to provide intelligence and analytical support to a Member State in connection with a major international event with a public order policing impact” (Article 5(1)(f))

› German EU Presidency 2007
  › “Since the definition of the term ‘public order’ differs or does not exist in the legal systems of the Member States, this phrase should be deleted”
A true novelty?

› Very little debate within Council structures
› Europol Joint Supervisory Body (JSB)
   › Warning
     › Only within Europol’s competence and data protection framework
› Statewatch
   › Sharp criticism
     › Linking the new “role in controlling public order” to the power to establish new information systems: “so it would be open to Europol, for instance, to create a database of supposed violent demonstrators, in order to exercise its public order tasks” (Peers, 2007, p. 5)
A true novelty?

- Not nearly as new
  - Analysis of Annual Reports, Work Programmes, press releases, other Europol sources
    - UEFA Euro Football Championships 2004 (Portugal)
    - Athens Summer Olympics 2004 (Greece)
    - Turin Winter Olympics 2006 (Italy)
    - FIFA Confederations Cup 2005 – FIFA World Cup 2006 (Germany)
    - Harley-Davidson Super Rally 2006 (Norway)
    - UEFA Euro Football Championships 2008 (Austria – Switzerland)
A true novelty?

- Europol’s support in relation to major international sporting events
  - Member States – Third States
  - Europol’s competence (terrorism, organised crime)
  - Information exchange, monitoring Europol’s databases, analytical support, threat assessments
  - On the spot

- A false need?

- Conclusion
  - Alleged new task could lead to new interpretations in the future
A task of public order?

Emerging EU dimension to public order

- EU police and judicial cooperation in criminal matters “shall not affect the exercise of the responsibilities incumbent upon Member States with regard to the maintenance of law and order and the safeguarding of internal security”.

- Nevertheless, emergence of an EU approach to transnational public order policing
  - In part prompted by football hooliganism
  - Also directed against protests and street demonstrations
    - Gothenburg (June 2001) and Genoa (July 2001)
A task of public order?

- Only marginal involvement of Europol
  - Conclusions on the security at meetings of the European Council and other comparable events (JHA Council July 2001)
    - Responsibility of the host country for maintaining public order and safety
    - Examination of the possibility of increasing the powers of Europol in the area of joint analysis of violent disturbances, offences and groups
    - Europol: information management, threat assessment and risk analysis
A task of public order?

- Proposal to create an EU-wide database of “troublemakers”
  - Flared up at a number of occasions during the past decade (2001, 2003, 2007)
    - Examination of the possibility of using the Schengen Information System (SIS) for the exchange of information
  - Still disagreement among the Member States
A task of public order?

› At Europol?
› Fear of Statewatch (*supra*) unfounded
› Situated within the context of Schengen cooperation
› Schengen Information System (SIS) and Europol Information System (IS) have a different finality
› Nevertheless, Europol access to SIS
› Actual blurring of boundaries between law enforcement and public order
A task of public order?

\> Conclusion
\> The “new” task for Europol in connection with major international events would not exclude Europol from supporting national police action with a public order impact
\> Potential blurring of boundaries between law enforcement and public order not without risk
\> Finality principle is at stake
Thank you for your attention!

Questions?

Read more
