A Network Being Networked:

The Databases of Germany's Federal Criminal Police Office

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Germany's Federal Criminal Police Office (*Bundeskriminalamt* – BKA) is operating more than 200 "files" (which are in fact databases) with more than 18 million entries on persons. This was reported by the Federal Government in response to a parliamentary request of the Left Party on 25 June this year.[1] The listed files fall into three categories: Firstly, the so-called "joint files" (*Verbunddateien*) which are run by the BKA but also automatically fed with data by the 16 German state police forces, the Federal Police, the Customs Service and its criminal investigation branch. Data stored in these databases are widely accessible through the German Police Information System INPOL. Secondly, the so-called "central files" (*Zentraldateien*) which BKA officers feed with data that are provided in conventional ways by the above listed security agencies plus the secret services. However, they might be opened for online retrieval of information for other authorities on an occasional basis. The third category are the so-called "office files" (*Amtsdateien*) which are operated and accessed exclusively by the BKA itself.[2]

Office files make up the majority of the files held by the BKA. The largest number of entries stored in such files is "only" around 30,000. Usually office files are set up for purposes of criminal investigation, and they are deleted when the investigated case is closed – though data might be transferred to other files. In contrast, the major files of the BKA are those used for purposes of identification, search for wanted objects and persons, the indexing of existing electronic and paper records, and the analysis of "areas" of crime such as drugs or human trafficking (see table). Though these are separate files, many of them are cross-referenced by unique identifiers such as the "D-number" which points from Automated Finger Print Identification Systems (AFIS), working simply on pseudonymous hit/no-hit basis, to files of the identification service which hold the individual background information. As such the larger BKA files are cornerstones of the mosaic of the European police information landscape: AFIS-P and the DNA database are networked with their counterparts in other countries through the mechanisms of the Prüm Treaty, the search files for objects and persons are pools from which the BKA'S SIRENE officers feed the Schengen Information System,

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[1] Parliamentary Document BT-Drs. 16/13563, 25 June 2009 (being the source for figures on files, including the attached table, except noted otherwise).
[2] Parliamentary Document BT-Drs. 16/2875, 6 October 2006.

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 to be harvested through its analysis work files.

"Troublemaker" files in trouble?

Currently most controversial are three files on so-called violent offenders which were set up as "joint files" in 2001. The blueprint for these type of files was the database "violent offender sport" (*Gewalttäter Sport*), the so-called "hooligan file", in which data on 11,245 persons were 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 state police Northrhine Westphalia. Though the name of this file suggests that it stores information on violent offenders, many of the entries do not refer to convicted offenders but rather to people who received a ban or who became subject to stop and search procedures in the context of crowd control policing around 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 is targeting "politically motivated crime by foreigners" (154 entries).[3] Those who are stored in one of these databases might experience drastic effects: 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 to leave the country, or when they are visited by the police for so-called "troublemaker addresses" in their private homes or at their jobs. Moreover, their patterns of movement might be profiled by discreet registration at police check points.

Recently the legality of the "hooligan file" was successfully challenged: Courts in the state of Lower Saxony complained that it was only created by order of the Federal Interior Ministry for the Interior without the 16 states being heard despite the fact that is is a joint file concerning also the interests of the state. Before the recent national elections the Liberal Party demanded a waterproof legal basis for the file and clear criteria on whose data to be stored, and the Federal Data Protection Commissioner expected that the final decision will affect all other files on "violent offenders" as well. The case is still pending in appeal proceedings at the Federal Administrative Court but the Conference of German Interior Ministers already declared their will to authorise the file. However, it is doubtful that such a regulation will

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

eventually change the nature of the "violent offender" files. The Federal Government already defended the "prognostic relevance" of the discretionary risk assessments by individual police officers that are the basis for any storage of personal data in the files.[4]

Surveillance of anti-globalisation protest ...

A fourth troublemaker database operated by the BKA is IGAST, the file on "troublemakers prepared for violence who are active internationally" (*international agierende gewaltbereite Störer*) which exists since 2003. In contrast to the other troublemaker files IGAST is a central file which serves the aim to collect and analyse information on "troublemakers" in the context of "Globalisation-issues". In June 2009 data on 2,966 persons were stored in this database. Only ten per cent of these entries are referring to "potential troublemakers", i.e. persons who have been arrested or registered in the context of violent protest against the actual form of globalisation in Germany or abroad. All other entries are on contact persons, witnesses or police informers.[5] Given its nature as central file which is both manually fed with data from various national and international sources and accessed only by the BKA branch for "State Protection" (*BKA-Abteilung ST – Polizeilicher Staatsschutz*), the political police, it is evident that IGAST has similar purposes as Europol's analysis working files, i.e. the harvesting and mining of information to understand networks and unveil social relations.

However, in exceptional times the IGAST file becomes a leaky container. During the Strasbourg NATO summit in April 2009 the political police within the BKA submitted information on 232 persons stored in IGAST – the complete list of those persons deemed to be "troublemakers" – to their French colleagues, plus additional information on more than 400 persons received from foreign sources. Though the French were requested to use the transferred data only for the purpose of policing the summit and to delete them until July the conditions for the cross-border data transfer based on an agreement sealed by the mutual trust of police officers – and beyond any democratic control. In effect, more than 100 protestors were hindered to cross the German-French border and to attend the demonstrations in Strasbourg.[6]

A few days before the start of the next major summit after Strasbourg, G8 in L'Aquila in July 2009, it became public that still ten persons arrested eight years ago at the G8 summit in Genoa were held on BKA files, five of them in IGAST.[7] The Federal Data Protection

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[4] Eric Töpfer: Illegale „Hooligan"-Datei?, in: *Bürgerrechte & Polizei/CILIP*, pp. 79-80.
[5] Answer of 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] Parliementary Document BT-Drs. 16/13559, 26 June 2009.

Commissioner reported in his annual report 2001/2002 about the process of international information sharing around the Genoa G8 summit: The political police within the BKA, after transferring data on 191 persons to their Italian counterparts in advance of the summit, received information on protestors who were either arrested or registered at a police check point in the aftermath of Genoa. While the data of the former were stored in the joint file "internal security" (see table), the latter were put in the central file "Global", a predecessor of IGAST. Reminding of the brutal police raid of the Genoan Diaz School, where sleeping protestors were beaten up and arrested by an Italian police force out of control, the Data Protection Commissioners recommended to store data received from foreign sources only for a short period of time and to carefully reconsider whether to keep them stored beyond this period. The BKA proclaimed that the efforts for such a procedure would be disproportionate; usually, they responded, reconsideration only takes place when people exercise their access rights and demand deletion after learning that they are hold on police files.[8] In the case of IGAST, those who do not know their rights or miss to exercise them will find the storage of their data reconsidered for the first time only ten years after the date of entry – deletion not guaranteed.[9]

… as a model for the rest of Europe?

Despite the serious risk that people who have been victimised by the police are filed as "troublemakers" German officials aim to Europeanise their model of protest surveillance. On 12 October 2007 the Federal Council (*Bundesrat*, i.e. the chamber of the 16 German states, represented by their governments) concluded that "the creation of a European database on violent offenders who are active internationally is essential in order to realise targeted 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 the "general improvement of 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 Prüm Treaty to guarantee the cross-border availability of "standardised data". The Federal Government was requested to work towards the creation of a European database on "violent offenders who are active internationally".

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[8] Bundesdatensschutzbeauftragter: *19. Tätigkeitsbericht 2001-2002*, BT-Drs. 15/888, 7. May 2003, S. 98ff.
[9] BKA Data Protection Commissioner: *IGAST installation order*, 16 March 2004.

Background of 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 those 646 persons who were arrested around the summit were foreigners. Officials complained the deficits in international information sharing which was said to be only occasional and non-standardised. Several countries were charged not having responded to "official requests" for information on potential "troublemakers". The creation of a central file operated by Europol, the Federal Council hopes, would complement Europol's computer systems and make such information accessible even for ordinary police officers. However, the officials were aware of the legal problems related with this idea as, according to the Europol Convention, Europol's files are so far only available for Europol officers themselves, national liaison officers present in the Hague and central police agencies in the EU Member States. Hence, the Schengen Information System and the Prüm mechanism are suggested as likewise suitable alternatives, though the origins of the conclusion, dating back to a proposal made by two German states in August, only mentioned Europol. How the decision-making process eventually worked remains unknown as the outcomes of key meetings of the Conference of German Interior Ministers and their subcommittees on policing who assessed the Heiligendamm experience are kept 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 to the European level. However, the Federal Council took the opportunity to widen the scope of their proposal. In addition to political summit meetings they also included "international sport and cultural events" to be protected by filing "troublemakers".[10]

Meanwhile, the issue was discussed several times by the JHA Council and some of its working parties, and it is apparent that, if at all, the Schengen Information System rather than Europol's files 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 already evident that BKA files will play a crucial role in feeding a new database.

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[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.

Top 15 BKA Databases

(except the largest BKA database 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