

INTERPOL Symposium: International Police Co-operation in the context of Public International Law

Lyon, France, 31 January – 1 February 2008

Opening speech by Secretary General Ronald K. Noble

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INTERPOL General Secretariat
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Dear colleagues,
Mister Chairman,
Ladies and gentlemen,

First, I would like to thank you sincerely for your presence here today to attend an event that is particularly significant for our Organization and for its future. This colloquium is a collective endeavour, organised in close cooperation with the *Institut National de Police Scientifique*, the *Police Scientifique and Technique* and the *Ecole Nationale Supérieure de la Police*, as well as the *Universities of Lyon, I, II and III*. We are honoured to have the Presidents and Heads of these great institutions here with us today. We also have with us a dear old friend and highly esteemed colleague, Mr. François Falletti, Avocat general à la *Cour de Cassation*, Représentant de la France à *Eurojust* and Président de l'*Association Internationale des Procureurs*, as well as Mr. Giorgio Gaja of the UN's *International Law Commission* and the Chair of our conference.

I want to thank our own colleague, INTERPOL's General Counsel, Dr. Rutsel Martha, whose legal and academic credentials are of the highest order, as well as INTERPOL's Office of Legal Affairs for proposing this idea and for giving me the distinct privilege of opening this symposium and welcoming you here today.

Our cooperation to organize this conference is underpinned by a broader, shared goal to continue to make Lyon a centre of excellence in both national and international policing expertise and knowledge.

Today's conference will undoubtedly contribute to that body of knowledge, as it provides us with a unique opportunity to step back from the daily work we do and take a closer look at the philosophy of public international law that underlies international police cooperation, and to reflect on the still-to-be-written theory of the international legal principles that drive our efforts to combat transnational crime and terrorism.

Just last summer, Dr. Martha and I taught a summer course in Singapore under the umbrella of a joint international law program of the National University of Singapore and the New York University School of Law - where I remain a tenured Professor of Law and where I hold the record for the longest leave of absence ever while I serve as INTERPOL's Secretary General.



It is a challenge for INTERPOL to strike the right balance between formal legal rules and the practical needs of law enforcement, Secretary General Ronald K. Noble told symposium participants.

INTERPOL is the largest police organization in the world, embracing [186 member countries](#). Our Organization was created by Police Chiefs, with the explicit purpose to promote and facilitate international police cooperation in a practical way that is directly relevant to the work of police officers in the field. Our core mission is to provide operational police support services to police in four key areas (which we call our Core Functions): providing global secure communications services, global police databases, expert investigative and urgent support, and dedicated police training and capacity-building.

But this tells only part of the story: to say that INTERPOL enhances global police cooperation by providing operational police support services to law enforcement worldwide is certainly accurate, but it only describes one aspect of our work. The less visible part of INTERPOL's role is that our much acclaimed international wanted persons notices, or '[Red Notices](#),' are supported by a warrant for arrest issued by a judge at the national level and that they can only be issued if they are in compliance with our [Constitution and Rules and Regulations](#).

It is also not a well-known fact that our Constitution was written in a way to reduce the likelihood of our Organization being misused by forbidding our engaging in matters of a predominantly military, political, racial or religious nature. Our Constitution also explicitly states that all of INTERPOL's activities must be conducted within the limits of national laws and in the spirit of the Universal Declaration for Human Rights. In just a moment, I will make it clear just how important this is to us all.

It is also not well-known that INTERPOL welcomes external oversight to the extent that we have built it into our governance structure. We have a completely independent and distinguished Commission for the Control of INTERPOL's Files to ensure that we satisfy the highest international data protection standards, and our financial affairs are audited by the French [Cours des Comptes](#) and Philippe Seguin, the *Premier* President of this esteemed body to ensure that our financial actions are properly accounted for.

Although these aspects of INTERPOL may be less visible, they are vitally important to the work of our member countries' [National Central Bureaus](#) and to the work of INTERPOL's General Secretariat.

I am always amazed when I think about INTERPOL's origins. We were created back in 1923, when police chiefs and police representatives from 19 countries met in Vienna, Austria, to look for practical solutions for the growing problem of transnational crime. They did not begin their dream for a better way to cooperate by devising legal or international instruments to facilitate their cooperation. Instead, they were searching for practical ways for police to share information and to cooperate on a day-to-day basis internationally like they did nationally.

The formal legal instruments that the Organization had at its disposal were minimal. In 1926, the principle of national contact points – forerunners to our National Central Bureaus – was introduced, but, generally speaking, the Organization's focus remained practically-oriented.

However, world events caught up with us and in 1938, it became painfully clear that a global police organization, using state-of-the-art technology (at that time, its international radio network) needed to have clear and formal rules in place to safeguard the integrity of its work and its independence. These safeguards were not in place: when the Nazi Regime invaded Austria in March 1938, they had to simply remove and arrest the Head of the Austrian Police, who under the statutes of the Organization at the time was automatically the President of the Organization. Heinrich Himmler, who controlled both the SS and the Gestapo, personally appointed an ex-convict and member of the Austrian Nazi Party as the Head of the Austrian police and, consequently, as the President of INTERPOL.

At that point, the Organization ceased to exist as an independent and professional international police organization and – even worse – its know-how, technology, records on wanted persons, patiently developed over more than a decade, fell into the hands of a totalitarian regime, whose destructive ideology was at odds with everything INTERPOL stood for: professional policing in the service of citizens.

Fortunately, immediately after the Second World War, the notion of an international police organization

was revived. And at the very first meeting in 1946, INTERPOL began adopting more democratic processes for electing its President and Executive Committee. We had learned as an organization that we needed a Constitution; we learned that we needed formal rules and regulations; we learned that we needed external oversight; and we learned that we needed to do all in our power to ensure that the Organization's work was of the highest quality possible. And ten years later, in 1956, the Organization adopted its current Constitution, which for over 50 years has guided us well.

However, the continuing challenge for us as an organization is to strike the right balance between formal legal rules and the practical needs of police and law enforcement around the world.

Let me give you a practical example:

I want to compare the European Arrest Warrant to the INTERPOL Red '[Wanted Persons](#)' Notice.

Both have the same purpose in that they alert police that the person for whom the European Arrest Warrant or Red Notice has been issued is wanted for a specific crime and by a specific country and that a judge from that country has signed an arrest warrant.

Now, let me highlight striking differences. The European Arrest Warrant can be issued only for a specific set of crimes and the European Union countries who issue and receive this arrest warrant know exactly what is required and expected of one another. Put another way, it has legally binding requirements and benefits in the European Union. Outside of the European Union it has no legally binding requirements or benefits.

Let's turn to the INTERPOL Red Notice. It can be issued for any crime that the issuing country deems serious enough to warrant international attention. It is not legally binding for the country that receives it. Any sovereign country that receives it is free to decide what, if any, legal value to give it. Some countries give it the same legal value as a request for provisional arrest, while others give it no special legal value whatsoever.

At first glance, one might conclude that the European Arrest Warrant is more powerful in the European Union than the Red Notice and of little or no value outside the European Union. Similarly, one might conclude that INTERPOL Red Notices are of little or no value inside the European Union and also of little or no value outside the European Union in those countries which have given it no particular legal status.

Both views miss the deeper value of the European Arrest Warrant and the INTERPOL Red Notice. Seeing this deeper value in both is one of the things that make INTERPOL special. Our perspective is global, and when we look at or evaluate police information, police tools or legal instruments related to crime and used by the police at the local, national or regional level, we ask ourselves whether there are broader benefits to be made of these items.

Returning to the European Arrest Warrant, INTERPOL asks why is the European Arrest Warrant only circulated in the European Union? Why isn't it circulated to all countries inside and outside of Europe in the ordinary course of business?

Would doing so not benefit other countries considering whether or not to allow a person so wanted to enter the border, board a plane or purchase a firearm? Would the knowledge that someone is subject to a European Arrest Warrant not benefit any police officer, including those outside the European Union? Wouldn't it therefore also be of interest to the European Union investigating judge, prosecutor or police who are trying to apprehend the person? What about in a non-European Union country where a wanted person is undergoing extradition and raises political motivations for the accusation as a defence? Wouldn't the fact that a European Arrest Warrant underpins the request help prove that the case is not political in nature?

Of course it would for all of the above! So, why isn't it being done? Because the people responsible for

creating it and for using it have a scope that is only national or at best regional! Because the people responsible for creating it and using it see its value only where it has a legally-enforceable value as a European Arrest Warrant. This is not a criticism, but simply a reality we must take into account.

And, while the value of the European Arrest Warrant is undisputable, INTERPOL believes that any effective and realistic approach to policing in the 21st century should be based not only on regional, national or bi-lateral cooperation, but also global cooperation. But, at the same time, we are also conscious of the fact that, although a global security framework is necessary to fight today's transnational crime and terrorism, not all countries are ready or willing to be bound by a legal framework for law enforcement cooperation. Security is indeed one of the traditional attributes of sovereignty and the process leading to the establishment of a global security framework that would rest on legal grounds can only be considered a long-term endeavour. But both national security and national sovereignty can be enhanced by the global circulation of police information and enhanced use of global policing instruments.

That is why, as I mentioned earlier, the challenge for us as an organization is to strike the right balance between formal legal rules and the practical needs of police and law enforcement around the world.

Take INTERPOL's Stolen and Lost Travel Documents database. Since we know that many of the worst terrorist attacks in the past years involved in one way or another the use of fraudulent travel documents, a global database of stolen and lost travel documents appears as a crucial tool in fighting terrorism, but also organized crime and many other forms of transnational crime.

But when INTERPOL created its global stolen and lost travel documents database in 2002, we knew that a database that included all of the personal identity information linked to a document would not be accepted by all our member countries, although this information could prove useful for any of our member countries. So, we devised a system that was actually useful to police, yet would raise few or no privacy concerns in our member countries.

We came up with, I believe, a pragmatic compromise that today has proven to be the right decision. We decided that we would request from our member countries only the number of the document and its date and place of issuance. With that information alone, it is possible to identify a stolen or lost document that has been used fraudulently, for example, by substituting the legitimate bearer's photograph.

Yet, there is still much more to do and it is clear that you, distinguished legal scholars, can help us further in devising instruments and mechanisms that are at the same time legally robust and relevant to modern-day police needs.

And while all regions in the world face similar crime challenges, our response to them in terms of global policing cannot be based on a one-size-fits-all approach. To ensure compliance with national sovereignty and the rule of national law – one of the essential principles of our Constitution – our approach at the global level must be flexible and aim at defining global and broad principles that set basic and sound standards for member countries for international law enforcement cooperation.

At INTERPOL, we are convinced that the basic principle of due diligence — and how it applies to international policing — can serve as the cornerstone for such an effort.

What we cannot do, because our efforts would then fail, is to deny each country the opportunity and the sovereign right to adapt such basic and sound global policing standards as they see fit within their national and regional legal framework and structure.

This is indeed a daunting legal challenge!

And, today, we are the ones with the opportunity to start this debate in earnest. And the summer course that we will be launching at this symposium will begin to pave the way for a new way of thinking about

global security; a way of thinking that focuses on practical measures at the international level to enhance the safety and security of citizens, while recognizing and respecting the rule of law, human rights and individual liberties; a way of thinking that breaks with today's minimal expectations of international policing and will pioneer a new era for global policing.

The essence of INTERPOL's vision for 21st century policing is that policing at the global level requires the same level of commitment, energy, structures, resources and accountability on the part of world leaders as national or regional policing does.

Thank you