

MEMORANDUM OF UNDERSTANDING

BETWEEN THE

INTERNATIONAL CRIMINAL POLICE ORGANIZATION-INTERPOL

AND THE

UNITED NATIONS INTERIM ADMINISTRATION MISSION IN

KOSOVO

ON

CO-OPERATION IN CRIME PREVENTION AND CRIMINAL JUSTICE

Whereas the International Criminal Police Organization-Interpol (“Interpol”) and the United Nations Interim Administration Mission in Kosovo (“UNMIK”), collectively referred to as the “Parties”, seek to co-operate in the field of crime prevention and criminal justice,

Considering the Co-operation Agreement between the United Nations and the International Criminal Police Organization (Interpol) of 1997 which provides for co-operation between the United Nations and Interpol in respect of carrying out investigations and any other police-related matters in the context of peace-keeping and similar operations,

Recalling Interpol Resolution AGN/66/RES/5 on the Co-operation Agreement with the United Nations,

Taking into account Interpol Resolution AG-2001-RES-08 on Co-operation with UNCIVPOL and rules governing access by an intergovernmental organization to the Interpol telecommunications network and databases,

Now therefore, the Parties agree as follows:

ARTICLE 1

PURPOSE

The purpose of the present Memorandum of Understanding is to establish a framework for co-operation between the Parties in the field of crime prevention and criminal justice, including the exchange of police information, the publication and circulation of Interpol notices, the transmission of diffusions, and access to the Interpol telecommunications network and databases.

ARTICLE 2

EXCHANGE OF INFORMATION

- 2.1 The Parties agree to exchange information, including police information as defined in Interpol’s applicable rules and regulations, in accordance with established Interpol procedures.
- 2.2 Interpol shall facilitate access by UNMIK to the Interpol telecommunications network and databases.
- 2.3 UNMIK’s access to Interpol’s telecommunications network and databases shall be in accordance with the Appendix to the present Memorandum of Understanding.

ARTICLE 3

MODALITIES OF COOPERATION

- 3.1 UNMIK shall designate a point of contact within UNMIK Police to perform functions normally assigned to a National Central Bureau of a Member State. Communications between UNMIK, the Interpol General Secretariat and the National Central Bureaus of Member States shall as a general rule be sent through UNMIK's designated point of contact.
- 3.2 UNMIK agrees to accept, *mutatis mutandis*, the obligations concerning data protection that are applicable to Member States and National Central Bureaus and shall endeavor to implement the Interpol Service Standards for National Central Bureaus as soon as practicable.
- 3.3 The Parties shall maintain contact on a regular basis and exchange information on matters of mutual interest.

ARTICLE 4

STATUS OF UNMIK AND THE DESIGNATED POINT OF CONTACT

- 4.1 In respect of the exchange of information and other cooperation arrangements in the present Memorandum of Understanding, UNMIK shall be accorded the same rights, *mutatis mutandis*, as are accorded to a Member State and a National Central Bureau.
- 4.2 UNMIK shall have the right to attend Interpol's annual General Assembly and to participate in European regional conferences organized by Interpol, in an observer capacity.

ARTICLE 5

PUBLICATION AND CIRCULATION OF INTERPOL NOTICES

- 5.1 UNMIK shall have the right to request the Interpol General Secretariat to publish and circulate Interpol notices of all types, including red notices, subject to the requirements in Article 5.2, below.
- 5.2 Applications from UNMIK for Interpol red notices naming persons who are charged with or convicted of crimes within the jurisdiction of the International Criminal Tribunal for the Former Yugoslavia (ICTY) shall comply with procedures in force at the time of the application between Interpol and the ICTY.

- 5.3 Notices issued by the General Secretariat at the request of Interpol's Member States shall be provided to or may be accessed by UNMIK.

ARTICLE 6

REQUESTS FOR POLICE INFORMATION, CIRCULATION OF DIFFUSIONS

- 6.1 UNMIK shall have the right to send requests for police information and to circulate diffusions directly to the Interpol General Secretariat and/or to one or more National Central Bureaus of Interpol.
- 6.2 Requests for police information or diffusions relating to Kosovo should be sent by the Interpol General Secretariat and/or the National Central Bureaus directly to UNMIK through its designated point of contact.

ARTICLE 7

AMENDMENT

The present Memorandum of Understanding may only be amended by written agreement of the Parties.

ARTICLE 8

SETTLEMENT OF DISPUTES

Any disputes or disagreements between the Parties with respect to the interpretation or implementation of the present Memorandum of Understanding shall be resolved amicably by good faith negotiations between the Parties.

ARTICLE 9

ENTRY INTO FORCE

The present Memorandum of Understanding shall enter into force upon signature by the duly authorized representatives of the Parties and shall remain in force for the duration of UNMIK's mandate as interim administration in Kosovo under the authority of the United Nations, unless terminated in accordance with Article 10.

ARTICLE 10

TERMINATION

10.1 Either Party may terminate the present Memorandum of Understanding by delivering a written request for termination to the other Party. The termination shall be effective 30 days after it is delivered to the receiving Party, unless otherwise agreed to by the Parties in writing.

10.2 UNMIK's access to Interpol's database and communications system shall terminate once the Memorandum of Understanding ceases to be in force or under the conditions set forth in the Appendix, whichever occurs sooner.

IN WITNESS WHEREOF, the undersigned, being fully authorized thereto, have on behalf of the Parties signed the present Memorandum of Understanding.

For the United Nations
Interim Administration
Mission in Kosovo (UNMIK)

Jean-Christian Cady
Deputy Special Representative for the
Secretary General for Police and Justice

Date: 20/12/2002

For the International Criminal Police
Organization (Interpol)

Ronald K. Noble
Secretary General



Date: 12/12/02

AGREEMENT CONCERNING ACCESS BY UNMIK TO INTERPOL'S
TELECOMMUNICATIONS SYSTEM AND DATABASES

1. Purpose of the Agreement

The purpose of this agreement is to specify the terms and conditions under which UNMIK and its designated point of contact shall have access to and use of the Interpol communications network and databases. References to UNMIK in this agreement shall be deemed to include UNMIK's designated point of contact.

2. Conditions of Use

UNMIK may use the Interpol telecommunications system to exchange electronic messages with Interpol or any other agency responsible for combating international ordinary law crime and to consult Interpol's criminal databases provided that:

- 2.1. Interpol approves in advance the hardware, software and services used by UNMIK to access Interpol's telecommunications network and databases;
- 2.2. UNMIK uses the network and information obtained from it:
 - 2.2.1. solely for the purposes of prevention and law enforcement with regard to international ordinary law crime, as covered by Article 2 of Interpol's Constitution and within the limits of Article 3 of the Constitution,
 - 2.2.2. in conformity with the limits of Interpol's requirements in terms of confidentiality and security measures as set forth in the rules and regulations listed in paragraph 2.7, below,
 - 2.2.3. and within the limits of the UNMIK's aims as authorized by the United Nations;
- 2.3. UNMIK installs equipment that guarantees secure management and access for police information exchanged or received through Interpol's telecommunications network;
- 2.4. UNMIK bears all the costs involved in accessing and using Interpol's telecommunications network and databases, particularly the costs of acquiring and maintaining the required equipment, the costs of being connected to the Interpol network, and the costs for transmitting and receiving messages;
- 2.5. UNMIK complies with elementary data-protection principles, especially in connection with the accuracy, updating and deletion of police information exchanged or received through Interpol's telecommunications network;

- 2.6. UNMIK complies with the restrictions imposed on forwarding police information, under the conditions laid down in Article 3 below;
- 2.7. UNMIK accepts and agrees to comply with the following rules and regulations, copies of which are attached, it being understood that these rules and regulations will apply *mutatis mutandis* to UNMIK and may be modified by Interpol at any time, and it being further understood that Interpol undertakes to provide UNMIK with new and/or updated rules or regulations as they become available:
 - 2.7.1. the Rules Governing Access by an Intergovernmental Organization to the Interpol Telecommunications Network and Databases,
 - 2.7.2. the Rules on International Police Co-operation and the Internal Control of Interpol's Archives,
 - 2.7.3. the Rules Governing the Database of Selected Information and Direct Access by NCBs to that Database, and
 - 2.7.4. Interpol's Telecommunications Regulations; and
- 2.8. UNMIK provides Interpol with any statistics that the Organization may request concerning the use of the telecommunications network.

3. Forwarding police information

UNMIK may only forward police information obtained through Interpol channels to authorized addressees provided that it complies with all the following conditions:

- 3.1. UNMIK accepts and agrees to comply with any restrictions on forwarding police information that may be required by Interpol, including in particular those specified in the rules and regulations in article 2.7, above, it being understood that these restrictions may be cancelled or modified at any time;
- 3.2. UNMIK will forward information under the same conditions as the original transmission;
- 3.3. UNMIK will systematically specify to the addressee the source of the information being forwarded;
- 3.4. If called upon to reply directly to a legal entity or private individual requesting access to an item of police information received from Interpol, UNMIK will provide Interpol with a copy of its reply.

4. Rights and Obligations of the Parties

4.1. Interpol may take any steps needed to:

- 4.1.1. ensure that UNMIK acquires and installs the equipment enabling it to fulfill its commitments to Interpol, in conformity with Article 2.3 above;
- 4.1.2. ensure that UNMIK not have access to information that is not authorized to consult;
- 4.1.3. inform any entity that supplies information entered in an Interpol database which is likely to be consulted directly by UNMIK that UNMIK has been authorized to consult Interpol databases;
- 4.1.4. ensure that, in the event UNMIK's right to access Interpol's telecommunications network or databases has been waived or withdrawn, UNMIK does indeed no longer have access to them.

4.2. UNMIK is obliged to cooperate fully with Interpol in its exercise of the foregoing rights.

5. Duration of the Agreement

5.1. Interpol may, at any time, cancel UNMIK's authorization to access Interpol's telecommunications network or databases:

- 5.1.1. without notice if UNMIK fails to fulfill an obligation towards Interpol, or
- 5.1.2. with three months' notice in other cases.

5.2. UNMIK may, at any time, waive its right to access Interpol's telecommunications network and databases.

5.3. UNMIK may not transfer any information it has received pursuant to this agreement to a successor organization, including any civilian government that may be established in Kosovo, without the advance, written consent of Interpol, the granting of which is not to be presumed.

5.4. In the event that the parties fail to agree on the terms for transferring information to a successor organization, either of the parties is entitled to require that information that it has provided be deleted.

5.5. UNMIK's data protection obligations continue to be binding on it and its successor organizations even if its access to Interpol's telecommunications network or databases is waived or withdrawn.
