NOTE

from: French delegation

to: Police Cooperation Working Party

No. prev. doc.: 11073/97 ENFOPOL 194

Subject: Electronic surveillance and video surveillance
- Summary of replies to questionnaire 11073/97 ENFOPOL 194

INTRODUCTION

New technologies provide the public with additional security tools, whether used privately or by the police. As a follow-up to the Noordwijk seminar on crime prevention (Netherlands, 11 to 14 May 1998), the French delegation proposed that the Police Cooperation Working Party launch a debate on video and electronic surveillance, on the basis of a survey of legislation and practice in the Member States of the EU.

Fourteen Member States replied to the questionnaire.
ELECTRONIC SURVEILLANCE USE

Electronic surveillance may be defined as a means of remote surveillance where the alarm is given by a sound signal, but may be coupled with camera equipment activated when the alarm goes off.

This technology is in use in thirteen of the fifteen Member States.

Purposes of electronic surveillance

Electronic surveillance is used to protect property and buildings, but also for personal security, except in France and Finland, where it is used solely for the former.

Electronic surveillance users

This technology is widely used in most Member States. However, it is less widely used by Austrian, Danish and Irish nationals.

Banking institutions are the major users, together with any site where major valuables are kept. Electronic surveillance is also used in busy public places (shopping centres, stadiums, etc.) and high-risk locations (service stations, museums, pharmacies, small businesses, etc.).

In addition, in Germany, Ireland, Finland, France and Sweden, local authorities use the technology to protect their property or monitor public places.

Legal framework

In most Member States the installation and operation of surveillance systems is subject to legislative controls.
In some Member States, electronic surveillance is compulsory for the protection of sites at risk; sometimes it is required by insurance companies (Denmark, Ireland); the system is then connected up to a police station (Germany, Spain, France, Portugal).

With the exception of Austria, Denmark, Finland and Greece, the installation and operation of electronic surveillance is subject to prior authorisation in most Member States. Some make a distinction between types of users (private/public), whilst others require authorisation only if the alarm has a radio link-up.

In Germany and Sweden, it is the police which issue the authorisation, whatever the type of user. In Portugal, if the user is a public body, the authorisation is issued by the authorities which supervise the police and telecommunications; if the user is a private individual, it is issued by the local prefect. In Italy, only private users are subject to prior authorisation (licence issued by prefectures).

Lastly, if the alarm signal is transmitted by radio, the licence is issued by the telecommunications authorities (Ireland, Luxembourg) or by the local prefecture, which, in France, authorises issue to the operator of a telephone number linked to the police station switchboard.

The police are seldom required to give an opinion under a prior authorisation procedure, except in Germany and Luxembourg, in cases where the alarm system is linked up to a police station. In 9 Member States (Germany, Austria, Denmark, Spain, France, Greece, Ireland and Luxembourg), the police can recommend the use of electronic surveillance in the light of the crime risk and the nature of the sites to be protected. In Portugal the police are not required to give an opinion, but they may impose a system as they are under a duty to respond if the alarm goes off.

**Conditions in which the police intervene if alerted by an electronic surveillance device**

The police generally intervene if they suspect that an offence has been committed, in cases of flagrante delicto, or if called out by the operator. Double-checking with the operator, either by telephone or by electronic means (in Finland only), is required except in Austria, Italy and Sweden.
All the Member States are annoyed by false alarms, which are sometimes a frequent occurrence. In Ireland and Finland they are sanctioned by the withdrawal of police assistance, or, in most other countries (Germany, Denmark, Spain, Finland, Italy, Ireland, Luxembourg, Portugal and Sweden) by fines.

Apart from in Spain and Greece, the police may enter the protected site on their own in cases of flagrante delicto, when called out by the operator, or where there is a risk to a person or to property or even to the environment (Finland). In most cases the owner or operator are required to attend as soon as possible.

Constraints on the police where they are not themselves operators.

The extra work caused by responding to false alarms is a factor stressed by most Member States, especially as, in addition to attending at sites, there are various other tasks connected with the use of electronic surveillance: issuing authorisations (Denmark and Portugal), supervising and checking on systems. Everyone is annoyed at the resulting waste of manpower.

**Direct police use of electronic surveillance**

In most countries - except for Austria and Portugal, the police carry out electronic surveillance operations themselves when keeping or re-establishing law and order and public security (prevention, surveillance of high-risk public places or road traffic control) or in the course of judicial investigations.

**Number and spread of electronic surveillance operators**

There are no meaningful statistics on the number of private companies engaged in electronic surveillance operations. However, some states quoted highly divergent figures ranging from 4 in Austria to 14 in Denmark, 20 in Luxembourg, 40 in Sweden and 1100 in Ireland. Operators are organised in federations or associations in Germany, Austria, Finland, France, Ireland, Luxembourg and Sweden.
They have no means of taking operational action in Denmark, Ireland or Portugal and are often located near large urban centres.

**VIDEO SURVEILLANCE USE**

Video surveillance may be defined as a form of remote surveillance using one or more cameras linked to a central point.

Use of this technique is legally permissible in all the Member States. It is in widespread use in Spain, Greece, Ireland and the United Kingdom and on the increase in Austria, Finland, France, Italy and the United Kingdom.

In the United Kingdom, a fund to promote video surveillance has been set up at the Home Office itself.

Video surveillance is used for protecting property, buildings and public amenities (in particular hospitals in Belgium, stadiums in Portugal and public transport), for monitoring sensitive sites (borders in Germany and airports), road traffic control, keeping law and order and crime prevention (United Kingdom and Finland). The level of risk at the protected site is not material, except in Germany, Finland, Ireland and Belgium (for use for public safety purposes); in France, it is compulsory for banking institutions with public access and jewellers with stocks worth FF 700 000 F (approx. 108 190 euro) or more.

Video surveillance is also used to protect persons, except in Denmark, Finland, Ireland and Portugal.

It may be used in evidence gathering in Spain and the United Kingdom.

Lastly, local authorities make little use of video systems, except in the United Kingdom and Finland.
Legal framework

In most Member States the installation or operation of video surveillance systems is subject to legislation on privacy, protection of civil liberties and data protection. In Ireland there is a code of conduct for operators.

In general, there is a system of prior authorisation for the installation and operation of video surveillance in public places. A distinction is again made between public/private bodies.

Prior authorisation is required, whatever the type of user, in Spain, France, Portugal and Sweden and in Italy for private individuals only. In Germany it is required for the public services, which cannot use video surveillance except for averting danger or prosecuting crime. No prior authorisation is required in Finland or Belgium, although there is a law regulating the use of video surveillance by the Finnish police, whilst in Belgium it is compulsory to notify the Committee on Liberties.

In most Member States the prior authorisation file has to describe the system used, the site where it is to be installed and the purpose of the surveillance. In Ireland the applicant has to submit a police recommendation.

In Spain and Sweden the authorisation is issued by the local authorities, in France and Italy by prefectures, and in Ireland by the Department of Justice following consultation of the CCTV (Closed Circuit Television) group.

In most cases police opinion is not requested when applying for prior authorisation. However, the police may recommend its use. In some countries (France, Greece and Portugal) it may even require its use in banking institutions (in France, subject to certain conditions, on jewellers as well).
Data storage

The rules for storing video data generally vary according to the type of user. Some states have laid down special arrangements where the recording has been made on behalf of the police: the data are stored by a state body in Germany, by the police themselves in Austria and Ireland (in the latter country, provided that the recording was made in a public place) and by the Ministry of Justice in Greece. In Belgium and France, the data is stored by the system user. Lastly, in Sweden, the storage conditions have to be shown in the application for prior authorisation.

The length of time for which data may be kept varies according to country and user type: in Germany there are no limitations for private users, while public users have to destroy data when it has served its purpose. Except in cases of flagrante delicto, the limit is one month in France and Sweden, whilst in the United Kingdom, recordings are kept for a fortnight. Conversely, there are no limits laid down in Belgium or Luxembourg, although the Grand Duchy does have a ministerial directive recommending destruction if the data is not being kept for any purpose. There is no access to data in Sweden. Access is allowed, subject to certain conditions only, in Germany, Spain, France, Greece, Ireland and the United Kingdom.

Constraints on the police where they are not themselves operators.

Most Member States agree that these systems do not create extra work. In France, where CCTV has recently been introduced, it is noted that checking on compliance with the regulations could, in the long term, be a source of constraints on the police force.

Direct police use of video surveillance

In most Member States, video surveillance is used by the police for prevention, keeping law and order and public security (monitoring government premises, public places, road traffic and demonstrations) and for criminal investigations.

In the United Kingdom, police-operated systems are associated mainly with road traffic control.
Effectiveness of video surveillance

The advantages of CCTV were unanimously felt to be that it could be a substitute for police presence on the ground and a deterrent to acts such as vandalism, and that it could help to identify suspects and be used in evidence.

Video recordings are accepted as evidence in all countries, with due regard for individual liberties.

Video surveillance increases the number of arrests and decreases the incidence of attacks on persons and property.

The main disadvantage is the displacement of crime from places under surveillance to sites which are not so covered.

Belgium and Finland emphasised the increased manpower requirements for maintaining the systems, and the risk of human rights violations.

CONCLUSIONS

Electronic surveillance and video surveillance are used in almost all Member States of the EU.

Electronic surveillance is used chiefly in guarding property and buildings, and, with a few exceptions, for personal security purposes; more rarely, it is used for ecological purposes.

Video surveillance is used for guarding sensitive sites, public amenities, road traffic control, public transport and personal security.
On the whole, use and operation of these technologies are subject to prior authorisation, but the police are not consulted as to whether systems should be installed.

The storage of video data is duly regulated.

Police do not normally attend when an alarm goes off until they have gone through a double-checking procedure. However, false alarms still occur and are deplored by all concerned, as they are a burden on the police; this does not apply to video surveillance, which is not felt to disrupt police work.

All the Member States which use these technologies stressed their effectiveness in terms of deterrence and prevention.

It appears from analysis of the questionnaires that most countries have recently regulated the use of electronic surveillance and video surveillance. As this is a rapidly changing area, particularly as regards the technology, the following proposals could be made:

- the Police Cooperation Working Party could promote the development of such systems;
- Member States might consider, if necessary, the conditions placed on the exercise of the profession of surveillance operator in order to tighten up the requirements imposed on these service providers as regards morality, and the systematic use of double-checking to avoid wasting human resources.