

Commission de Contrôle des Fichiers de l'O.I.P.C. - INTERPOL
Commission for the Control of INTERPOL's Files
Comisión de Control de los Ficheros de la OIPC-INTERPOL
لجنة الرقابة على محفوظات المنظمة الدولية للشرطة الجنائية (الإنتربول)



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INTRODUCTION

1. The aim of the present report is to provide a summary of the work of the Commission for the Control of INTERPOL's Files in 2011.

1. COMPOSITION AND INDEPENDENCE OF THE COMMISSION

2. In 2011, the Commission had five members, as follows:
 - Chairman: Mr Hawkes (Ireland)
 - Data-protection expert: Ms Madhub (Mauritius)
 - Data-protection expert: Mr Frayssinet (France)
 - Expert in international police cooperation matters: Mr Al-Omari (Jordan)
 - Information-technology expert: Mr Patrick (Canada).

2. SESSIONS OF THE COMMISSION

3. In 2011, the Commission held three two-day meetings at the Organization's Headquarters in Lyon.

3. ROLE AND PRIORITIES OF THE COMMISSION

4. In 2011, the Commission continued to carry out its three functions of supervision, advice and processing of individual requests, as defined by the Organization's rules, while ensuring that the processing of personal data by INTERPOL is carried out with due respect for individuals' rights.
5. The processing of individual requests (requests for simple access to INTERPOL's files and complaints) continued to be a priority because of the increase in their number and the complex issues they raised.
6. As part of its advisory role, the Commission attached particular importance to the development by the INTERPOL General Secretariat of legal, technical and practical tools to ensure the quality of the personal data processed through INTERPOL's channels and due respect for the fundamental rights of individuals.
7. The Commission's spot checks focused on the retention of files after searches had been cancelled and on recent files recorded directly by the INTERPOL National Central Bureaus using the new functions of INTERPOL's Information System, I-link, which had been made available to them.

4. RULES APPLICABLE TO THE WORK OF THE COMMISSION

8. The following texts provide the primary legal basis for the work of the Commission and for the processing of information through INTERPOL channels:
 - The Operating Rules of the Commission, adopted in 2008
 - Rules on the Processing of Information for the Purposes of International Police Cooperation
 - Implementing Rules for the Rules on the Processing of Information for the Purposes of International Police Cooperation
 - Rules on the Control of Information and Access to INTERPOL's Files
 - The ICPO-INTERPOL Constitution.
9. In carrying out its three functions, the Commission also took into consideration the texts relating to the implementation of the documents mentioned above.

5. ADVISING THE ORGANIZATION ON MATTERS RELATING TO THE PROCESSING OF PERSONAL INFORMATION

10. It should be recalled that the Commission fulfils its role of adviser to the Organization, both when dealing with requests for opinions sent to it by the General Secretariat, and when carrying out spot checks and processing individual requests.

5.1 General policy: developing a systematic, comprehensive approach to data protection within INTERPOL

11. The Commission continued the extensive work undertaken in previous years to develop a systematic, comprehensive approach to data protection within INTERPOL.

12. As part of a complaint-prevention policy, the Commission continued its work of checking the information processed in INTERPOL's files. The Commission conducts preventive checks based on sources of identified risks concerning the processing of data through INTERPOL channels and the various challenges the Organization must confront.

Prior to each session of the Commission, its Rapporteur and its electronic-data processing expert are asked to meet a number of General Secretariat departments involved at various levels in the processing of personal information, to obtain a better understanding of data processing by INTERPOL.

13. In 2011, the Commission paid special attention to a two-part work plan:

- First part: setting up a process for quality control and for checking the compliance of processing of data recorded directly by their sources in INTERPOL's files.

In 2009, the Commission had stressed the importance of the ambitious I-link project designed to make INTERPOL an even more effective instrument of international police cooperation.

On a number of occasions, the Commission had insisted on the need to pay special attention to the management of risks associated with this project. Therefore, it strongly emphasized the importance of putting in place proper supervision mechanisms as soon as possible to ensure that the rules on the processing of personal information were complied with, and to protect the Organization's image.

In that context, the Commission had welcomed the General Secretariat's decision both to develop a "compliance check mechanism" (CCM) and to recreate a unit to control the quality of police information processed in INTERPOL's databases.

The Commission had expressed a generally favourable initial opinion of the CCM, provided that:

- this automatic checking mechanism was combined with manual procedures to check the compliance of the data with INTERPOL's rules; and
 - suitable manual compliance-check procedures were planned, pending the introduction of the CCM.
- Second part: preparing a report on data protection within INTERPOL and on the developments that would prove to be necessary.

As stated in its activity report for 2010, the Commission had a study conducted to provide a comprehensive report on data protection and the issues at stake within INTERPOL.

This study was complemented with a comparative analysis of the rules and procedures applicable in other international systems, by identifying new challenges raised by the processing of personal information through INTERPOL channels for the purpose of international police cooperation, and by identifying potential leads for development or future prospects concerning the Commission, its functioning, its position vis-à-vis INTERPOL, and its role.

This is a tool for analysis and reflection and is intended to support the deployment of a common culture on data protection among those involved in international police cooperation through INTERPOL channels and the implementation of a policy of accountability.

The study concluded that INTERPOL has a sound data-protection system. It emphasized the challenges that had arisen when the Organization introduced new data-processing tools, and offered several suggestions on the way in which the data-protection system within INTERPOL could be improved.

Some of these suggestions are already reflected in the new Rules on the Processing of Data approved by the Commission. Others require further examination to ensure a proper balance between both the fundamental rights of individuals and the needs of international police cooperation.

14. With regard to limiting risk sources and preventing complaints, the Commission stressed that training and education for members of the INTERPOL community on the criteria for processing data through its channels must continue to be developed very extensively to enable this common culture of data protection within INTERPOL to be spread.

While efforts have already been made to that end, much work still remains to be done. The Commission is available to provide the Organization with any assistance on the matter.

5.2 Basic technical and legal tools for processing data

5.2.1 *INTERPOL's new Rules on the Processing of data*

15. The Commission studied the draft of INTERPOL's Rules on the Processing of Data. It stressed the need to bear in mind both the central role played by the General Secretariat in ensuring compliance with the applicable rules, as well as the responsibilities that must be borne by the information sources. The implementation of the rules and the use of the new functions of INTERPOL's Information System will inevitably result in a certain joint accountability between the parties concerned.

The Commission thus considered that the launch of these new rules should be accompanied by an in-depth study of the risks, by the parties concerned, in order to distinguish those cases in which the Organization would be held to an obligation of results from those in which it could only be held to an obligation of best effort. This would make it possible to best define the responsibilities of everybody concerned as well as the cases of co-accountability, and to anticipate the management of situations that may prove to be complex.

16. The Commission also considered that globally established data-protection principles were reflected in the text. It stressed the relevance of the provisions concerning issues of security, confidentiality and the management of restrictions. It welcomed the limits henceforth imposed on downloading operations, since the loss of control - on the national level - of information obtained through INTERPOL channels constituting a major source of risks.
17. The Commission therefore concluded that the new draft rules had the potential to strengthen this essential balance between the needs of international police cooperation and the need to respect the fundamental rights of individuals that INTERPOL has been ensuring for many years.

It nevertheless considered it essential not only to train users at all levels, but also to plan a permanent global education programme for all concerned parties, to ensure that these rules are effectively understood and applied in a consistent manner. The steps already taken by INTERPOL on the matter seemed to be a move in the right direction.

5.2.2 Enhancing the legal value of red notices

18. A red notice is a document published by INTERPOL at the request of one of its member countries in order to seek the provisional arrest of a person wanted on the basis of an arrest warrant or a judicial decision with a view to his/her extradition.
19. The Commission welcomed the attempts to enhance the quality of red notices by tightening up the conditions regarding form and content to allow their publication.
20. In this context, the Commission had stressed the need to pursue the matter of the criteria required to qualify an item of information or a red notice as being of specific interest for international police cooperation.
21. The Commission took note of the latest developments in the matter and expressed a favourable opinion on the latest recommendations of the Working Group on Red Notices.

5.2.3 I-link

22. This project aims to facilitate, secure and improve the quality of information processing via INTERPOL channels. It allows INTERPOL member countries to record information directly in the Organization's files, without having to send it via the General Secretariat for recording. This project therefore places new responsibilities on those involved in international police cooperation through INTERPOL channels.
23. The Commission had emphasized the need to develop and rapidly put into effect mechanisms for checking the substance of information processed directly by countries in INTERPOL's databases, as well as temporary, structured checks which would be supplemented by manual checks carried out by the General Secretariat. It had also stressed that the quality control and compliance checks had to be rigorous and structured and concern both notices and diffusions.
24. The Commission welcomed the new developments concerning checking mechanisms. It stressed the importance and the quality of the work done in carrying out automatic checks to ensure that the processing of information via I-link complied with the applicable rules.
25. The Commission nevertheless observed that the processing of information via I-link still raised some problems.

It regretted the slow deployment of the mechanisms to control the quality and check the compliance of the information provided, which is a vital condition for processing an item of information and a decisive factor in the Organization's credibility.

It stressed that, since information is recorded in the Organization's databases before being checked by the General Secretariat, it is important to make sure that files generating alerts are analysed as soon as possible, to ensure that the essential balance between respect for human rights and international police cooperation in the interests of public safety was maintained in a fair manner. This precaution is particularly important for arrest requests for which the purpose is to impose restrictive measures on the individuals they concerned.

The Commission also regretted the lack of specific, practical information about the content and the manual checking procedures made necessary by the alerts. It pointed out that while automatic checking mechanisms are increasingly advanced, they are not intended to replace human checks. In this context, the training of all users remains crucial.

26. The Commission drew the General Secretariat's attention to the challenges of searching information in full text mode.
27. It again recommended the introduction of procedures to manage links between files concerning the same person and/or the same case.
28. The Commission emphasized that special attention must be paid to the procedures for processing data in the compliance management database, accessing this base and using the data it contains, as these procedures are closely linked to the quality of the data processing and its compliance with the applicable rules and procedures associated with the operation and use of this database.

5.2.4 HTTPS protocol

29. In certain situations, the Organization must use the https protocol to allow certain authorized national entities to access certain predetermined items of information.

The Commission considered that given the level of security provided by the https protocol which, by nature, offers limited guarantees on confidentiality, the use of this protocol was not appropriate for processing sensitive information.

30. The Commission therefore asked to the General Secretariat to:
 - perform an audit on the information processed through the https protocol, and on the relevance or effective quality of the management of rights of access to information processed in this manner;
 - define an official policy on the type of information that may be processed through this protocol, as well as on the conditions and procedures for accessing this information;
 - develop a program to warn and train NCBs on security issues when the https protocol is used.

5.2.5 Confidentiality Desk

31. The Commission welcomed the presentation of the new Confidentiality Desk. It considers that the functioning of this unit, as intended, should be able to guarantee the security of data and their processing through INTERPOL channels.
32. The Commission noted that the following points should still be further examined:
 - The difficult challenges of classifying the abused children database;
 - Effects of classifying data on the Commissions access to classified documents;
 - The traceability of the use of the INTERPOL Information System by the Organization's staff;
 - Checks to ensure that NCBs respect the classification of information they access.
33. The Commission will closely follow the developments of the Confidentiality Desk.

5.3 Examination of projects involving the processing of personal information

34. As provided for in INTERPOL's rules, the Commission is consulted by the General Secretariat about new projects involving the processing of personal information.
35. Under this point, the notion of "project" covers:
 - all draft cooperation agreements;
 - all specific database projects; and
 - all "crime" projects, meaning any activity of a projected duration subject to periodic review with the objective of preventing or combating transnational crime.

36. All these projects involve personal data-processing operations that may have not been addressed elsewhere.

5.3.1 New draft cooperation agreements

37. The Commission was informed of several new draft cooperation agreements involving the exchange of personal information.
38. It recommended that the standard INTERPOL agreements be supplemented with express provisions relating to data-protection principles that must be applied, in conformity with the standards set forth in INTERPOL's rules.

5.3.2 New databases and development of existing databases

39. The Commission was informed of several new database projects to facilitate the processing – in one central point – of personal information relating to specific international crime areas.
40. In order to be able to give an informed opinion on these projects, the Commission asked for more detailed information about the procedures for processing this information and the steps that will be taken to guarantee that the data-protection principles laid out in INTERPOL's rules are respected.

It will also closely follow the major changes planned on the existing databases, to ensure compliance with the applicable rules.

5.3.3 "INTERPOL Global E-Waste Crime"

41. The "INTERPOL Global E-Waste Crime" was set up to establish and implement a worldwide strategy to combat the illegal traffic of electronic waste (e-waste).
42. The Commission took note of this project which will involve the processing of personal information. It stressed the relevance of the procedure adopted for its establishment and follow-up. It nevertheless wondered about the criteria for examining the need or the relevance of maintaining or revising the project. It agreed to subsequently carry out spot checks on the information processed in connection with the project.

5.3.4 MARAS

43. Project Maras concerns the creation of a regional database to facilitate the gathering, sharing and retrieval of intelligence information on gang members in the Central American region.
44. The Commission had warmly welcomed the various checks that had been developed for the project, and the emphasis that was being put on training the people responsible for processing the information.
45. The Commission was pleased to note that this project continued to develop along lines that clearly took into consideration the data-protection issues raised by the processing of personal information. It stressed the educational aspect of its user guide.

The Commission considered that the experience gained in Project Maras could be useful for introducing educational measures to ensure that the new rules on the processing of data were understood, respected and properly applied.

5.3.5 Pink Panthers

46. This project aims to assist police to identify, locate and arrest the perpetrators of armed robberies targeting luxury jewellery stores in Europe, the Middle East, Asia and the United States.
47. The Commission highlighted the importance and the quality of the data-processing work in contributing added value to the data provided by the countries and in ensuring due respect of the rules in force.
48. It also stressed the relevance of the General Secretariat's willingness to develop, as soon as possible, a procedure for reviewing projects that was based on criteria for assessing the need to retain an item of information, adapted to the needs of the project.

5.3.6 Fast-ID

49. The purpose of this project is to speed up the identification of multiple victims or missing persons following a natural or man-made disaster.
50. The Commission had taken note of the initial stages of this ambitious project and would continue to assess it at each stage of its deployment.
51. The Commission considered that the information obtained showed that the development of the FAST-ID project followed data-protection principles, including security principles, required by INTERPOL's rules.

It will continue to stay abreast of the development of this ambitious project which involves many combinations of personal-data processing.

5.3.7 INTERPOL Travel Document

52. The purpose of this project is to make it possible to waive visa requirements for INTERPOL Travel Document holders.
53. The Commission had expressed a generally favourable opinion on the project, but stressed the need to ascertain that the practical tools envisaged were properly developed, and that the appropriate legal steps were effectively taken.
54. The Commission continued to follow the development of this project. It noted that its recommendations had generally been followed, although certain points still needed improvements or further details.

5.4 Examination of specific issues concerning the processing of personal information

55. Regarding the review of individual requests, the Commission again examined certain general policy issues on which it had expressed its opinion.
56. It continued to monitor respect for the due process of law, and to consult the parties concerned by the subtle balance required.

5.4.1 Criminal organizations and terrorism

57. As it is increasingly faced, when processing complaints, with having to decide whether a person belonged to a criminal – even terrorist – organization, and whether it could actually be considered to be a criminal or “terrorist” organization, the Commission had asked the General Secretariat to provide it with more details about the criteria and procedures applied in these cases.

58. It had welcomed the initial replies provided, and reiterated the importance of:
- INTERPOL's files being sufficiently detailed to justify the recording of such information;
 - drawing attention to specific elements of information which led to the conclusion that an organization was either criminal or terrorist, when that was the case.
59. After closely examining the studies carried out and the procedures established in the matter, the Commission applauded the work done and the efforts to deal attentively with the issues at stake. It also stressed the relevance of the criteria determined.
60. The Commission urged the General Secretariat to follow a rigorous approach when processing information on such organizations.

5.4.2 Processing of data received from the United Nations

61. The Commission continued to stay informed of developments in areas of and procedures for cooperation between INTERPOL and the United Nations.
62. The Commission had highlighted the challenges involved in processing information supplied by the United Nations, and stressed that any type of agreement between the Organizations should ensure that it did not restrict INTERPOL's ability to guarantee the quality of the information that it processed in its files.

It thus welcomed the provisions laying down the steps that the General Secretariat was allowed to take – as being responsible for the processing – to ensure that INTERPOL's rules were observed when it processed data received from the United Nations.

The Commission nonetheless drew the attention of the General Secretariat to the implications of special INTERPOL- United Nations notices and to the fact that the risk of complaints being made by people who were the subject of these notices would increase if sensitive data (e.g. genetic profiles) were added to the notices.

63. The Commission had reiterated its concern to ensure that any individual would be entitled to appeal against the processing of information exchanged in this context.

It therefore welcomed the fact that, although the draft agreement made it possible for INTERPOL to invite persons questioning the accuracy of the information in the special notices issued for them, to use the procedures introduced by the United Nations Sanctions Committee, that did not rule out the Commission's competence in the event of a complaint about information supplied by the United Nations and recorded in INTERPOL's files.

64. The recent changes in the political situation of certain countries have revealed the fragile nature of processing information supplied by the United Nations. The Commission will continue to work alongside the General Secretariat to find acceptable solutions to substantive issues raised in this context.

5.4.3 Processing of fingerprints and DNA profiles

65. As the procedures for processing fingerprints and DNA profiles in INTERPOL's files have recently changed, the Commission drew the General Secretariat's attention to the urgent need to ensure that this processing complied with the rules in force.
66. It raised a number of issues on which it will continue to work to identify any likely sources of risk associated with the processing of this potentially sensitive data.

5.4.4 Relevance of additional notes to personal files

67. In the context of processing complaints, the Commission and the General Secretariat looked into the advisability of issuing addenda to notify INTERPOL Members about information, often received after the data in question had been recorded, which had given rise to uncertainty over whether its processing was in accordance with INTERPOL's rules.

This could concern files where it was concluded – in the light of the information provided by the data source and by the complainant – that although the files included information of a political, military, religious or racial character, it had not been possible to determine whether that information was predominant in relation to the ordinary-law aspects of the case, as required by INTERPOL's General Assembly since 1951.

68. The Commission and the General Secretariat continued their discussions on the subject in order to find a satisfactory response to all the issues raised. At the end of these discussions, the Commission was favourable to the principle of an additional note to those files of requesting parties which could usefully be supplemented with information obtained during the study of their complaints.
69. The Commission nevertheless suggested that the General Secretariat explain to users how these additional notes worked.

5.4.5 Arrest warrants issued by police authorities

70. When a person who is the subject of a file monitored by the Commission was wanted on the basis of an arrest warrant issued by police authorities, the Commission was particularly attentive to the quality of the elements characterizing his/her active involvement in the acts of which he/she is accused.

5.4.6 Cooperation by NCBs and obtaining copies of arrest warrants

71. The Commission continued to monitor the cooperation of NCBs that it consults for its spot checks (point 6 below) or when processing requests (point 7 below), to be able to provide a serious, independent and informed opinion on a file.
72. The Commission had to explain that receiving a copy of an arrest warrant was an essential condition for it to be able to independently assess whether information concerning the legal basis of searches for people recorded in INTERPOL's files was accurate and up-to-date.
73. Aware that it was difficult for some police authorities to obtain copies of arrest warrants, the Commission can grant additional time, provide explanations, or agree to receive only an extract of an arrest warrant containing the information necessary to carry out the required checks (identity particulars of the requesting party, date and place of birth, name of the authority that issued the arrest warrant, name of signatory, charges, applicable law, reference, expiry date if mentioned, etc.). This extract can also be replaced with a document signed by the authority that issued the arrest warrant, indicating the required information as mentioned above.

These steps made it possible in the end to obtain copies of the documents required.

74. It is interesting to note that after having insisted on obtaining copies of arrest warrants from certain NCBs, they ultimately had to request the cancellation of proceedings against the requesting parties on the grounds that they were no longer wanted on the national level. This information had not been forwarded by the relevant authorities to their respective NCBs.

The Commission therefore recommended that the General Secretariat draw the NCBs' attention to the need to effectively verify with the relevant national authorities that the information sent through INTERPOL channels was up to date, all the more so in the event of a complaint.

5.4.7 Profile of files which give rise to Article 3 issues

75. Article 3 of INTERPOL's Constitution strictly forbids the Organization from undertaking any intervention or activities of a political, military, religious or racial character.
76. The Commission examined a number of files which raised the question of Article 3 of INTERPOL's Constitution. It is rarely in a position to consider that the political aspects predominate over the ordinary-law aspects.
77. For certain particularly sensitive files, the Commission recommended that the information be blocked while they were examined. In one case, the Commission recommended notifying countries that, despite the political aspects of the file, it was unable to conclude that they predominated over the ordinary-law aspects. The Commission considers that it is an important piece of information for the requesting countries in determining if they must act on a request for extradition.

5.4.8 Indexing of INTERPOL web pages by search engines

78. When processing complaints, the Commission had been faced with the problem of INTERPOL web pages being indexed by search engines. It had begun discussions with the General Secretariat to find the most suitable means of remedying this problem.
79. The Commission's electronic data-processing expert had met the General Secretariat staff responsible for managing the improper indexing of INTERPOL web pages by the Google search engine.
80. The Commission considered that all of the steps taken by the General Secretariat to deal with the problem, both within the Organization and in respect of search engines, were satisfactory.

6. SPOT CHECKS

81. The Commission continued to carry out spot checks, *ex officio*, independently of its other functions at each of its sessions.
82. This essential function remains an indispensable guarantee of the Commission's independence and of the effectiveness of its supervisory function. Spot checks facilitate the identification of risk sources. They allow the Commission to have a better understanding of the issues involved in the processing of information through INTERPOL channels and provide useful advice to the Organization.
83. The Commission generally sets the subject of these spot checks in light of problems it has faced or questions it has raised when processing individual requests.
84. In 2011, the Commission conducted spot checks essentially on the points developed below. The opinions given during its spot checks on other substantive issues are covered in point 5 above.

6.1 Monitoring deadlines for examining the need to retain an item of information

85. At each of its sessions, the Commission continued to check that the General Secretariat observed the deadlines for examining the need to retain items of information in its files.
86. The Commission noticed that the backlog of files to be processed had clearly improved. Cases where there was a delay in examining the need to retain an item of information mainly concerned files that had expired in 2010, and those connected to certain projects concerning organized crime and terrorism. The Commission acknowledged that it was particularly difficult to assess expired files on a case-by-case basis because of the number of files linked to them.

It therefore welcomed the steps taken by the General Secretariat to re-establish the Working Group on the management of police projects, update its list of current projects and establish procedures to examine the need to retain files for which the deadlines for review had expired.

87. The Commission will continue to conduct some of its spot checks on the management of projects.

6.2 Monitoring data recorded in INTERPOL's files directly by the data sources

88. The Commission carried out in-depth checks on a sample of recent files recorded directly in INTERPOL's files by the data sources, which enabled them to detect a number of processing errors.
89. Concerned by the delay in implementing appropriate tools and procedures to check the information recorded directly by INTERPOL's National Central Bureaus – a source of further risk to the Organization – the Commission alerted the General Secretariat and stressed the urgent need to develop, as soon as possible, tools to monitor compliance with INTERPOL's rules on personal data processing that are adapted to the risks to be managed.
90. The General Secretariat immediately took certain steps to rapidly put in place various measures to monitor compliance and to train users. The Commission took note of these developments and agreed to continue to closely monitor the implementation of appropriate tools to ensure compliance with INTERPOL's rules.

6.3 Monitoring data retained after the initial purpose for its processing has been achieved

91. The Commission found that some data sources always seemed to ask for their data to be retained in INTERPOL's files after having requested the cancellation of the search through INTERPOL's channels, without specifying the reasons for their requests.
92. The Commission welcomed the work currently under way on the case-by-case assessment of the need to retain an item of information for which the initial purpose has been achieved, particularly when a search is cancelled, and on the review of the files concerned that may have been retained prior to the implementation of that procedure. In this context, it stressed the General Secretariat's project whereby the cancellation request forms that would be made available to NCBs via I-link would include a mandatory field to be completed whenever an NCB wished to retain an item of information after the proceedings against a person had been cancelled.
93. It drew the General Secretariat's attention to the fact that, when the General Secretariat considered that the information remained necessary for international police cooperation and should therefore be retained in INTERPOL's files, it had to contact the source, if only to ensure that that reason did not, with respect to the rules in force, result in the immediate destruction of the information (in the event of acquittal, for example).
94. The Commission nevertheless considered that, in light of the information available to it, it did not appear advisable to systematically retain information on a person for whom a search had been cancelled – because he/she had been judged and imprisoned – for the period of imprisonment, to which another five-year period would be added. Experience showed that NCBs generally did not follow up such information and only rarely informed the General Secretariat that the person had served his or her sentence.
95. The Commission will continue to follow this issue closely.

6.4 Monitoring information concerning suspects and their families

96. The Commission continued its work on the very sensitive issue of processing information about people associated with wanted persons.
97. It conducted spot checks on the files of persons with “suspect” status to better understand the nature of the information provided by NCBs in that respect. It noted in a number of files that the information sources had not indicated whether there was an ongoing judicial investigation of the case in question.
98. The Commission recommended that the General Secretariat:
 - carry out checks on those files to ensure that the conditions it had established were met, particularly the files that were not connected to any other cases;
 - rigorously examine the need to retain information relating to individuals with “suspect” status.
99. The Commission took note of the General Secretariat’s decision to replace the status “help to locate a criminal”, attributed to members of a suspect’s family who might be able to help locate him/her, with “associate”. It considered that in the context of international police cooperation, this notion was easily likened to that of “accomplice”, even if the person qualified as “associate” may only be connected with the suspect and not with the criminal activity in question.
100. The Commission was of the opinion that such information should be processed with the utmost care in order to limit any *prejudice* which may be caused to the people concerned and to INTERPOL’s image by misuse of the information. It recommended that:
 - the *definition of associate* be revised to exclude people who were only connected with the suspect and had no link to the criminal activity in question;
 - an *additional concept* be created for processing information about a suspect’s close acquaintances who had no link to the criminal activity in question;
 - it be clearly stated that the family member was not a suspect in the case in question, specifying the exact nature of his/her link with the suspect (friend, family member, etc.) and that he/she must not, therefore, be the subject of any restrictive measures.

7. INDIVIDUAL REQUESTS

101. An “individual request” means a request received from a private individual seeking access to any information about him/her recorded in INTERPOL’s files; an individual request may be submitted merely to determine whether such information actually exists, or to ask for the information concerned to be updated or deleted.
102. The substantive issues on data processing in INTERPOL’s files raised in the context of individual requests are covered in point 5 above.

7.1 Procedure for managing requests

103. When the Commission receives a request, it first checks the admissibility on the basis of criteria set out in its Operating Rules (Article 10) and then establishes whether the name of the person who is the subject of the request appears in INTERPOL’s files.
104. If that is the case, the Commission systematically carries out spot checks to see whether the information concerned has been processed in INTERPOL’s files in conformity with the applicable rules. To do this, it examines all the data available and may also consult all the parties concerned by the request (the General Secretariat, the INTERPOL National Central Bureau concerned and the requesting party) to obtain additional information.

105. These checks also make it possible to identify or anticipate any potential risks and, where necessary, provide the General Secretariat with useful advice by proposing certain measures that should be taken to ensure respect for basic human rights, as guaranteed by the Organization's rules.

7.2 Access to INTERPOL's files

106. Concerned about respecting the principle of national sovereignty that governs INTERPOL's rules, the Commission is also convinced of the importance of being able to at least direct a requesting party towards the authorities capable of providing an appropriate response.

When an NCB refuses to give the Commission authorization to disclose to a requesting party information concerning him/her appearing in INTERPOL's files, the Commission asks that it at least be authorized to direct the requesting party to the relevant national authorities.

107. This authorization is increasingly granted to the Commission by the NCBs concerned.

7.3 Limitations on the role of the CCF in connection with complaints

108. When processing complaints from requesting parties arrested on the basis of red notices published by INTERPOL, the Commission has been faced with the position of national judicial authorities that considered that they could not rule on an extradition request when the person concerned had sent a complaint to INTERPOL.

109. On several occasions, the Commission has had to explain to national authorities via the NCBs the limits of its role which consists of determining whether the information recorded in INTERPOL's files has been processed in compliance with INTERPOL's rules, and that it has no power over proceedings taken against a person at the national level.

It cannot recommend that a national authority cancel an arrest warrant, halt proceedings, or cooperate or not with a requesting authority; only the national judicial or police authorities concerned may do so. It is up to national judges to determine, based on the criteria that are applicable to them, whether they consider that they can act upon a request for extradition. The study on compliance with INTERPOL's rules conducted by the Commission is not meant to affect the process of a judicial procedure on the national level.

7.4 Follow up of the Commission's conclusions and recommendations

7.4.1 *Current practice*

110. The General Secretariat does not call into question the Commission's conclusions regarding the conformity of a processing operation in INTERPOL's files.

111. In most cases, it immediately follows the Commission's recommendations, whether they concern a simple updating operation, the addition of a note to a file for the information of INTERPOL's Members, or the blocking of a file pending further information, or even the deletion of the information. The General Secretariat may however return to the Commission with an alternative proposal to ensure that the processing operation complies with the applicable rules.

112. In the event of a recognized disagreement between the Commission and the General Secretariat, the Commission may bring the disagreement before the INTERPOL Executive Committee. No recourse was made to this exceptional procedure in 2011.

7.4.2 Statistics

113. The profile of the 258 requests received by the Commission in 2011 was as follows:

- Complaints* (requests for the destruction or correction of information) 66%
- Requests from persons who are the subject of information in INTERPOL's files 73%
- Requests from persons whose names appeared on INTERPOL's public website 35%
- Requests raising the question of the application of Article 3** of INTERPOL's Constitution 29%

(*) *0.35% of the number of persons wanted via INTERPOL on the basis of an arrest warrant or judicial decision*

(**) *See point 5.4.7 above*

114. The outcome of the 258 requests processed by the Commission in 2011 was as follows:

- Most of the Commission's recommendations have already been implemented. A few recommendations are still being analysed by the Commission and the General Secretariat.
- The majority of the complaints received resulted in measures taken in INTERPOL's files.
- 67 files had their information blocked (access impossible by NCBs) while being examined.
- 18 had addenda issued.
- 32 of these complaints resulted in the cancellation of a search, or even the destruction of the information concerned in INTERPOL's files.

115. It should be stressed that the number of complaints rose once again.

116. Some additional statistics showing the trends in the profile of individual requests between 2005 and 2011 are appended to this report.

Detail	Year		2005		2006		2007		2008		2009		2010		2011	
	2005	%	2006	%	2007	%	2008	%	2009	%	2010	%	2011	%		
Requests received	115		154		109		177		216		201		258 ⁽¹⁾			
Complaints	24	20.9	61	39.6	47	43.1	82	46.3	114	52.8	123	61.2	172	66.7		
Information recorded on the subject in the General Secretariat's files	42	36.5	77	50.0	61	56.0	93	52.5	119	55.1	133	66.2	189	73.3		
Raising the question of Article 3 of INTERPOL's Constitution	16	13.9	19	12.3	19	17.4	13	7.3	24	11.1	32	15.9	73	29.3		
Abstract of red notice available on INTERPOL's website	11	9.6	27	17.5	15	13.8	44	24.9	52	24.1	57	28.4	91	35.3		

(1) These 258 requests concerned 329 requesting parties.
