

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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EXECUTIVE SUMMARY

The mission of the CCF is to ensure that INTERPOL, in its processing of personal data, respects the rights of individuals, in accordance with the rules the Organization has given itself – rules inspired by the Universal Declaration of Human Rights and established data-protection principles. It carries out this task by providing pertinent advice to the Organization, by regular inspections of data-processing activities and by adjudicating on complaints addressed to it by aggrieved individuals.

The CCF's advisory activity in 2010 focused in particular on the implications of the commendable efforts of the Organization to become an even more effective instrument of international police cooperation. The I-link project represents a fundamental change in how personal data is processed through INTERPOL, with increased responsibility devolved to National Central Bureaus (NCBs). The Commission highlighted the risks associated with the project and the need to urgently address these through stringent quality control measures and intensive training of NCB personnel. It noted that such measures were also indispensable to the Organization's efforts to enhance the international acceptability of its Red Notices.

The inspections carried out by the CCF on the Organization's databases revealed a number of cases of non-compliance with the Organization's rules. The Commission welcomed the Organization's willingness to consider specific remedial measures to ensure that its personal data processing activities complied with international best practice. As a contribution to this work, it commissioned an external benchmarking study which should be available in 2011. This study should assist INTERPOL in its efforts to develop a comprehensive approach to data protection at all levels of the Organization. Such an approach needs to reflect the responsibilities that the Organization assumes in terms of due process of law when it processes the personal data of wanted individuals.

The Commission continued to carefully investigate complaints from individuals that their personal data were not being processed in accordance with INTERPOL's rules. Such complaints represented only a tiny percentage of cases processed by INTERPOL in 2010. Nevertheless, they frequently raised important issues and, in most cases, resulted in action being taken by the General Secretariat to correct, supplement, block or delete personal data. In its examination of complaints, the Commission attempted to draw general conclusions that could be applied where similar issues arise in other cases. Such issues included the applicability of Article 3 of the Constitution to cases involving terrorism, the treatment of INTERPOL-UN Notices and the extent to which challenges from individuals to information contained in INTERPOL Notices could usefully be addressed through greater use of informational addenda to such Notices.

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 2010.

1. COMPOSITION AND INDEPENDENCE OF THE COMMISSION

2. In 2010, the Commission had five members, as follows:

- Chairman: Mr Hawkes (Ireland), Data Protection Commissioner
- Member appointed by the French Government: Mr Leclercq, Honorary Adviser to the Court of Cassation
- Member appointed by the General Assembly: Ms Ballestrazzi (France), Deputy Central Director of the French Criminal Investigation Police
- Data-protection expert: Mr Grossman (Chile), Dean of the American University Washington College of Law
- Information technology expert: Ms Grgic (Croatia), Information Technology Adviser, Personal Data Protection Agency.

2. SESSIONS OF THE COMMISSION

3. In 2010, the Commission held three two-day meetings at the Organization's Headquarters in Lyon.

3. ROLE AND PRIORITIES OF THE COMMISSION

4. In 2010, the Commission continued to carry out its three functions of supervision, advice and processing of individual requests, as defined by the Organization's rules.
5. Processing requests for access to INTERPOL's files, including complaints, remains a priority. Therefore, the Commission attached special importance to the principle of a fair hearing, a key component of the rights of complainants.
6. It attached particular importance to its role of adviser to the General Secretariat in the development of supervisory tools associated with I-link, the new system for processing information through INTERPOL channels.
7. The Commission's spot checks focused on the retention of old files, which were often linked to projects.
8. The Commission's main purpose in carrying out these functions is to ensure that the processing of personal data by INTERPOL is carried out with due respect for individuals' rights.

4. RULES APPLICABLE TO THE WORK OF THE COMMISSION

9. The following texts provide the 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

- Part Two of the Rules on International Police Co-operation and on the Internal Control of INTERPOL's Files
- Rules Governing Access by an Intergovernmental Organization to the INTERPOL Telecommunications Network and Databases
- The ICPO-INTERPOL Constitution
- Rules of Procedure of the Commission for the Control of INTERPOL's Files.

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

10. 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

5.1.1 Developing a systematic, comprehensive approach to data protection within INTERPOL

11. The Commission and the General Secretariat embarked on an extensive two-part workplan, aimed at developing a systematic, comprehensive approach to data protection within INTERPOL:
- First part: setting up a project-modelling process for projects involving the processing of personal information, which covered their operational, technical and legal aspects, to ensure higher scrutiny, increased vigilance and greater transparency.

This should allow the General Secretariat to systematically carry out a serious, in-depth analysis of projects with regard to data protection at every stage of their development.

Information which was collected and analysed by the General Secretariat as part of that preparatory work was also essential for the Commission, allowing it to give a relevant, independent opinion and play its advisory role to the full.

This procedure should apply not only to all disputes, all attempts to bypass INTERPOL's rules, and all issues relating to the security of INTERPOL's information system, but also to questions the General Secretariat might have concerning compliance with INTERPOL's rules regarding basic human rights.

- Second part: making materials available on INTERPOL's website to better inform Internet users about data-protection issues, for instance by publishing an information sheet on "data protection – a tool at the service of international police cooperation", providing a more intuitive access to information about the rights of Internet users, issuing warnings about the confidentiality risks attached to using the "wanted" section of INTERPOL's website to send a request for access to any information processed by INTERPOL, etc.
12. The Commission was pleased to note that this two-part plan would be complemented by a training and educational module for members of the INTERPOL community, now that training had been established as one of INTERPOL's core functions.

The Commission noted with interest the steps taken by the General Secretariat to provide training for the users of INTERPOL's information system.

The Commission was convinced that such steps could help prevent people's basic rights from being infringed, and felt that, in light of the new functions offered by I-link (whereby data processing was no longer carried out by the General Secretariat which had specific experience and expertise, but by National Central Bureaus), it would be necessary to formalize training for users, both within NCBs and the General Secretariat, not only on data-protection issues, but also the challenges to international police cooperation with regard to respect for human rights in general.

13. The Commission also undertook a study to prepare a detailed report on data protection within INTERPOL, the issues at stake, the tools (technical, practical, instructional and legal) developed in-house and in its member countries, and examples testifying to the Organization's "accountability" in the area of data protection.

This study was expected to be ready in 2011, and would be complemented by carrying out 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.

5.1.2 The importance of checks and supervision in general

14. As part of a complaint-prevention policy, the Commission highlighted the importance of developing an overall policy for checking the information processed in INTERPOL's files that was tailored to the new challenges facing the Organization, to prevent any misuse of INTERPOL and its information system.
15. The Commission stressed that such a process should follow a rigorous methodology and that the warning criteria used to decide if an examination was necessary should be determined in advance, in order to:
 - Ensure the legitimacy of the checks carried out by promoting a better understanding and recognition of the applicable legal concepts;
 - Facilitate the implementation of resulting operational measures.
16. The Commission therefore welcomed the checking, monitoring and analysis work undertaken by the General Secretariat. It stressed that those efforts were a great step forward towards reaching a new balance between the requirements of international police cooperation, basic human rights, and the urgent need to prevent any misuse of INTERPOL's channels.
17. The Commission reiterated that it was important for it to be kept regularly informed of any risk detected of INTERPOL's channels being misused, so that it could take it into account as part of its work.

5.1.3 Identifying sources of risk

18. The Commission drew the General Secretariat's attention to a certain number of topics which were genuine sources of risk for INTERPOL, and which ought to be taken into consideration as part of a monitoring policy.
19. For instance, the downloading into national databases of information obtained through INTERPOL channels and retained in a country's national files, although subsequently deleted from INTERPOL's files, could risk causing significant harm to the people concerned, to INTERPOL and to international police cooperation.
20. The same risk applied when NCBs which had requested notices maintained extracts from those notices on their national websites, whereas the notices had been withdrawn from INTERPOL's website.
 - The Commission pointed out that, although an item of information disclosed by a country remained its property, the notices issued on the basis of that information were INTERPOL's property. The General Secretariat therefore had the discretion to refuse to publish an extract of a notice or to retain one already published (Article 10.5(b) of the RPI and Article 38(f) of the IRRPI).

The Commission therefore again stressed that the General Secretariat should take all appropriate measures to ensure that the National Central Bureaus only disclosed notice information on their websites that the General Secretariat had agreed to disclose on INTERPOL's website, and that they withdrew extracts from red notices from their websites as soon as INTERPOL had done so from its website. That would require National Central Bureaus to be duly informed by the General Secretariat about the publication or withdrawal of notice extracts from INTERPOL's website.

- The Commission thus welcomed the steps taken by the General Secretariat to:
 - ~ remind NCBs that they could only publish on their websites items of information from notices that the General Secretariat had agreed to publish on INTERPOL's website;
 - ~ encourage NCBs to update the national databases into which they put information obtained from INTERPOL's files, and to remove from their websites extracts from notices as soon as INTERPOL had removed them from its website.

21. The transformation of offences into "offence codes" when extracts of red notices were published on INTERPOL's website was such that meaning behind these codes became very abstract. Thus, information about people uttering unfunded cheques could be found processed on INTERPOL's website at the same level as information concerning people suspected of being involved in organized crime-related activities; it was a potential source of harm to the people concerned by that information.
22. The risks associated with the development of various methods of processing information at the national or regional level also had to be taken into consideration.

A system of surveillance based on the risks identified could be an effective means of better identifying certain risks, of being able to carry out preventive checks even in the absence of any complaint, and of identifying ways of limiting the impact of such risks.

5.1.4 Registration of INTERPOL's Constitution under Article 102 of the Charter of the United Nations

23. Having been informed of INTERPOL's intention to have its Constitution registered under Article 102 of the United Nations Charter, the Commission expressed its support for the initiative.
24. The Commission considered that although it was in no doubt that INTERPOL was an international organization established and operating under international law, it was important for the effectiveness of police cooperation through INTERPOL channels that the same should apply to all law enforcement agencies in its member countries.
25. The Commission considered that the registration of INTERPOL's Constitution under Article 102 of the United Nations Charter was a decisive step towards removing any ambiguity regarding the nature and status of the Organization's Constitution, and towards making it easier for INTERPOL to effectively exercise its mandate and for its channels to be used, in compliance with the rules it had adopted.
26. Furthermore, recognizing INTERPOL's status as an international organization would subsequently enhance INTERPOL's immunity from legal process vis-à-vis national courts in all of its member countries.

5.2 Examination of projects involving the processing of personal information

27. As provided for in INTERPOL's rules, the Commission is consulted by the General Secretariat about new projects involving the processing of personal information.

5.2.1 *Crime projects*

28. A crime project is an activity of a projected duration subject to periodic review with the objective of preventing or combating transnational crime, which mainly uses personal data within databases of INTERPOL.
29. The Commission had reminded the General Secretariat of the importance of developing an internal procedure which systematically allowed a serious, in-depth analysis of projects with regard to data protection. It welcomed the procedures that the General Secretariat had introduced to improve the management of personal information linked to projects.

The Commission encouraged the General Secretariat to:

- establish a procedure for reviewing information linked to projects and managed by restricted access at least once every five years, as required by the Rules on the Processing of Information for the Purposes of Police Co-operation,
- systematically include the date and the source of the said information, regardless of the medium on which the information appeared.

On the basis of these recommendations, the General Secretariat developed the existing procedure and adapted it to the new tools for international police cooperation through INTERPOL channels. It began reviewing files linked to projects following the new procedure. This action resulted in the deletion or updating of certain dossiers recorded in INTERPOL's files.

5.2.2 *ASEANAPOL (Association of South-East Asian Nations Chiefs of Police)*

30. Project ASEANAPOL aims to facilitate the exchange of information – and, consequently, international police cooperation – among countries in the Asian region.
31. The Commission took note of the plan to set up, as part of the ASEANAPOL project, a third module which would no longer focus on travel documents or stolen motor vehicles, but on information about people. It recommended that the General Secretariat take a certain number of measures to ensure that responsibilities are shared appropriately among the parties concerned. It will monitor implementation of its recommendation throughout 2011.

5.2.3 *Project Maras*

32. 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.
33. The Commission strongly welcomed the various checks that had been developed in the context of the project, and the emphasis that was being put on training the people responsible for processing the information.

5.2.4 *IRMA (INTERPOL Resource Management Application)*

34. The aim of Project IRMA is to unify, simplify and streamline INTERPOL administrative processes in human resources management by replacing current software with an integrated SAP System.
35. In the light of the information provided, the Commission considered that the whole project was reassuring from a data-protection point of view, particularly in terms of data-processing security.

36. As such a system did not prevent the processing of information for discriminatory purposes, it urged the General Secretariat to develop a procedure whereby access to the system and the use of information could be monitored. It underscored the importance of being able to trace operations.
37. The General Secretariat informed the Commission that it would take its recommendations into consideration.

5.2.5 INTERPOL Travel Document

38. The purpose of this project is to make it possible to waive visa requirements for INTERPOL Travel Document holders.
39. The Commission expressed a generally favourable opinion on the project.
40. To ensure that data processed would remain secure and confidential, the Commission stressed the need to ascertain that the practical tools envisaged were properly developed, and that the appropriate legal steps were effectively taken.

5.2.6 Fast-ID

41. The purpose of this project is to assist in the faster identification of multiple victims or missing persons following a natural or man-made disaster.
42. The Commission took note of the initial stages of this ambitious project and would continue to assess it at each stage of its deployment.

5.2.7 I-link

43. This project aims to facilitate, secure and improve the quality of information processing via INTERPOL channels. The main new feature of the I-link project is that 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.
44. The Commission again acknowledged the potential of the I-link project, the success of which was closely linked to the quality of the technical tools available and the fact that it was subject to specific rules and instructions.
45. The Commission recalled that the I-link project placed new responsibilities on the NCBs and the General Secretariat, and that it was necessary to rapidly define the responsibilities of those involved in international police cooperation through INTERPOL channels, bearing in mind:
 - current global developments that tended to increase the liability of international organizations and connected entities, such as NCBs;
 - the likelihood that INTERPOL and the NCBs would both be liable in the event of prejudice caused by the inappropriate processing of an item of information recorded directly in one of the Organization's databases.
46. 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, and temporary, structured checks which would be supplemented by manual checks carried out by the General Secretariat.

The Commission welcomed the work undertaken to:

- develop a policy and mechanisms to check not only the technical, practical and operational compliance of the processing of information via I-link, but also the compliance of the information itself;
 - train I-link users.
47. The Commission also stressed that the quality control and compliance checks had to be rigorous and structured and focus not only on data security or integrity, but also on compliance with INTERPOL's rules, whether they concerned notices or diffusions.

The Commission recommended the introduction of procedures to:

- manage links between files concerning the same person and/or the same case;
 - monitor the over-classification by some countries of certain offences which, combined with ambiguous offence codes, was a source of confusion that could damage international police cooperation and the basic rights of the people concerned.
48. The Commission pointed out that, because information was recorded in INTERPOL's databases before being checked by the General Secretariat, the effectiveness of those checks depended both on the quality of the mechanisms generating them and the speed at which they were made, so that any interim measures that appeared necessary in cases where there was a doubt as to the compliance with INTERPOL's rules could be taken as soon as possible.
49. The General Secretariat took note of the Commission's recommendations, implementation of which would be assessed as part of the module on control mechanisms that was currently being developed.

5.2.8 Enhancing the legal value of red notices

50. 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.
51. The Commission took note of the work of the Working Group responsible for examining ways to enhance the international status and effectiveness of red notices.
52. It was pleased to note that the Working Group had expressed its desire to enhance the quality of red notices by tightening up the requirements regarding form and content to allow their publication.
53. The Commission was also concerned with assessing the sensitive notion of the "specific interest" of an item of information for the purposes of international police cooperation, and hoped to be able to discuss the matter further once it had received further details concerning the criteria that were currently used to determine what information was not of sufficient specific interest to justify the publication of a notice. The Commission would continue to examine this subject in 2011.

5.3 Examination of specific issues concerning the processing of personal information

54. Regarding the review of individual requests, the Commission again examined certain general policy issues on which it had expressed its opinion.

5.3.1 Due process of law

55. The Commission discussed the question of “due process of law” and the role it should play within a police cooperation organization in order to offer complainants the best guarantee of an effective remedy.
56. “Due process of law” involved finding a subtle balance between the various issues, responsibilities and constraints, which called for an in-depth discussion with all the stakeholders concerned.
57. The principle of national sovereignty, which underpinned cooperation through INTERPOL channels, was also a major factor. The Commission continued to look into ways of introducing a more balanced procedure when processing complaints. A fair balance had to be achieved between the principle of national sovereignty governing INTERPOL’s rules, the confidentiality inherent in police cooperation, and the need for complainants to be able to respond to claims made against them.
58. The Commission was called on to evaluate the relevance of the specific arguments set before it but did not carry out a legal examination of conflicting items of information. Its role was to check information, not to assess it.
59. Dealing with the important matter of the responsibility of the various stakeholders involved in international police cooperation via INTERPOL, which is the subject of discussions in the Working Group on the Processing of Information (GTI), will also have an impact on issues surrounding the due process of law through INTERPOL channels. The Commission will closely monitor developments with regard to this matter.

5.3.2 Criminal and terrorist organizations

60. When processing complaints, the Commission was increasingly faced with having to decide whether a person belonged to a criminal – even terrorist – organization, and whether it could actually be considered as a “terrorist” organization.
61. To gain a better understanding of this issue, the Commission asked the General Secretariat provide it with more details of the criteria and procedures applied when dealing with such cases. It welcomed the initial replies provided, and stressed 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.

5.3.3 Statuses

62. The Commission again considered the very sensitive issue of processing information about people associated with wanted persons and, more specifically, of reinstating the status “help to locate a criminal”, or creating a new status with the same function, to clearly identify individuals who are neither witnesses nor suspects.
63. It noted with satisfaction that the General Secretariat was exploring the possibility of making it technically unfeasible for files to be created on people who were not suspects but who could help locate a wanted person, without linking those files to the file of the wanted person.

The Commission pointed out that the files on those people should only be retained if they remained connected to the file of a wanted person. It was therefore important for the links between those files to be clearly established.

This matter would have to be addressed by the General Secretariat as part of the module on control mechanisms and updates via I-link (see point 5.2.7 above).

5.3.4 *Green notices*

64. A green notice is a document published by INTERPOL to provide warnings or criminal intelligence about persons who have committed criminal offences and are likely to repeat these crimes in other countries.
65. The Commission took note of the Working Group's moves to extend the validity of green notices beyond five years when they concerned people likely to commit sexual offences against children, or members of transnational gangs who were likely to commit another offence.

It stressed that the period of five years specified in the Rules was not a time limit for keeping an item of information, but the review date for retaining that information. Specifically, it meant that every five years, the information source was asked to determine whether it was still necessary to store the information in INTERPOL's files, and to check that the information was still accurate and relevant. The Commission therefore questioned whether it was relevant to waive the requirement for information sources to conduct a quality-control check once every five years.

66. The Commission asked for further details on the subject to enable it to give an informed opinion. It also stressed the importance for the General Secretariat to check that – prior to issuing a green notice – it was in possession of sufficiently detailed and specific information to proceed.
67. The General Secretariat took note of the Commission's recommendations; the Commission would study the matter in more detail in the light of the initial explanations provided by the General Secretariat.

5.3.5 *INTERPOL-United Nations Special Notices*

68. The Commission took note of the latest developments concerning the renegotiation of all its cooperation agreements with the United Nations, the management of special INTERPOL-United Nations notices, and the improvements under consideration to optimize the quality of notices.
 - The Commission highlighted the challenges involved in processing information supplied by the United Nations, which was a complicated issue. However, INTERPOL was not exempt from any liability in processing such information, which had to be carried out in compliance with INTERPOL's rules.
69. The Commission had therefore 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.
70. The Commission therefore welcomed:
 - the desire to improve the process of sharing information between the two Organizations to optimize the quality of notices and ensure that information was kept up to date;
 - the action taken by the General Secretariat to assert its control over the notices issued at the request of the United Nations, and particularly the fact that INTERPOL was entitled to take the necessary preventive measures (such as removing the notice from the website or adding reservations to the files concerned) in the event of contradictory information, or to limit the risks involved in processing the information.

71. The Commission also closely examined the new procedures introduced by the United Nations – via the Office of the Ombudsperson – to handle requests for delisting. The Commission pointed out that, even if such measures offered complainants a certain number of additional guarantees, it was vital for persons who were the subjects of INTERPOL-United Nations notices to continue to benefit from the access and control procedures provided by INTERPOL via the Commission.

The Commission noted with satisfaction that, in renegotiating the agreements with the United Nations, it was not planned to call into question the Commission's remit concerning information supplied by the United Nations and processed by INTERPOL, or concerning complaints from people who were the subjects of such notices.

72. The Commission reassured the General Secretariat that it would endeavour to work alongside it to find acceptable solutions to substantive issues raised by INTERPOL's cooperation with the United Nations.

5.3.6 Issues relating to Article 3 of INTERPOL's Constitution

73. Article 3 of INTERPOL's Constitution strictly forbids the Organization from undertaking any intervention or activities of a political, military, religious or racial character.
74. The Commission took note of the revised guide on best practice relating to Article 3 of INTERPOL's Constitution, and of the new measures adopted to provide greater safeguards against the risk of INTERPOL's neutrality, as laid down in this article, being violated.

The Commission congratulated the General Secretariat on the relevancy of its compilation and analysis work, which would serve as reference material when processing files which gave rise to Article 3 issues; at the same time, it would take care to examine each file on a case-by-case basis.

75. The Commission noted that, ever since INTERPOL had quite rightly agreed to become involved in cases of terrorist activities, it had severely limited the scope of application of Article 3 of its Constitution to only those files where it was absolutely undeniable that their predominant aspects were of a political nature. The practice had led the Commission to recommend widespread use of addenda to allow each requested country to determine, in the light of the information in the file, whether it felt it could cooperate with the requesting country.

The new measures taken by the General Secretariat to ensure that Article 3 of INTERPOL's Constitution was observed could lead towards enhancing basic human rights, provided that they were a part of a constructive global approach adhered to by all those involved in the Organization. Otherwise, the principle of addenda would remain an effective means to ensure both respect for basic human rights and the needs of international police cooperation.

76. The Commission proposed that the guide be supplemented by an examination of issues arising in the context of INTERPOL-United Nations Special Notices.

5.3.7 Relevance of addenda

77. 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 usually concerned files examined in the context of a complaint 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.

78. The existence of doubt systematically resulted in an examination being made, but it was not always possible to determine with certainty whether or not maintaining such information complied with those rules. However, items of information which had given rise to doubt might affect countries' cooperation. They therefore constituted substantive information, concerning a subject which was often sensitive and sometimes controversial.

The Commission had therefore always encouraged the use of addenda to notify countries about items of information that raised doubts that might affect cooperation. The General Secretariat raised concerns about the risks of front-line national players (particularly at border check points) being "contaminated" by information which was likely to be a source of confusion and hinder international police cooperation.

79. The Commission and the General Secretariat agreed that addenda were not meant to be issued to notify INTERPOL Members about general opinions relating to ongoing cases given by bodies such as the European Parliament or Amnesty International. It was nonetheless essential to issue addenda indicating that a person had obtained refugee status, or had had his/her extradition refused by a country (for reasons other than being a national of the country refusing the extradition).
80. However, the question remained as to whether it was advisable to issue addenda in other cases, for example when a person wanted by one country had obtained a favourable ruling from judicial authorities in another country concerning the same case, or when a case presented political aspects, but it had not been possible to prove that those aspects predominated over the ordinary-law aspects.
81. Police cooperation through INTERPOL channels was founded on the principle of national sovereignty and entered into on a voluntary basis by INTERPOL's Members; the Commission therefore stressed that, when the relevance of certain arguments was counterbalanced by other arguments, it was essential for them to have access to all the information held by the General Secretariat so that they could decide, in a responsible manner and in full knowledge of the facts (i.e. within a framework that was not misleading), whether it was advisable or possible for them to cooperate.

Several provisions in the rules applicable to the processing of information through INTERPOL channels made reference to the obligation to exercise due diligence and provide information (e.g. Articles 10(1,c) and 15.2(b) of the RPI, Articles 2 and 9 of the IRRPI).

82. The Commission considered that addenda provided a way of balancing, on the one hand, the factors contributing to upholding the basic rights of individuals, and the requirements of international police cooperation on the other. They were therefore an "appropriate measure" (as referred to in Article 2(a) of the IRRPI) which met the General Secretariat's obligation to act as an information centre (Article 26(c) of INTERPOL's Constitution).
83. The Commission also wondered about the possibility of adding notes to certain case files based on its own conclusions.
84. The Commission stressed that, although it was strongly campaigning for a return to using addenda much more widely in the cases mentioned above, it did not wish to use addenda to replace an acknowledgment that information processing did not conform with INTERPOL's rules. It would therefore continue to recommend the destruction of information each time that it considered that maintaining such information in INTERPOL's files might constitute a violation of the applicable rules.
85. The Commission and the General Secretariat agreed to continue their discussions on the subject in order to find a satisfactory response to all the issues raised.

5.3.8 *Removal of extracts of notices from INTERPOL's website following the issue of substantive addenda*

86. The Commission and the General Secretariat also looked into those cases where it was appropriate to remove a notice from INTERPOL's website, especially when there were addenda which contained substantive information (often linked to the existence of political, military, religious or racial information in the files).
87. The Commission restated its position that when an item of information cast doubt on the conformity of the processing and justified issuing an addendum with substantive information, that INTERPOL did not consider appropriate for public dissemination, it did not appear advisable to publish an extract from a red notice on the Internet.

Although by publishing an extract from a red notice on its website, the Organization made it possible for a person to be aware that he or she was wanted by a given country, it was also exposing that person on the international public stage, thereby increasing the risks that the person's rights would be violated.

88. The Commission remained convinced that the Organization should not be needlessly exposed and that files should be examined on a case-by-case basis. It therefore asked the General Secretariat to adopt a flexible, pragmatic approach on the subject.

5.3.9 *Indexing by search engines*

89. When processing complaints, the Commission had been faced with the problem of INTERPOL web pages being indexed by search engines.
90. The Commission had begun discussions with the General Secretariat to find the most suitable means of remedying this problem.

6. SPOT CHECKS

91. The Commission continued to carry out spot checks, ex officio, independently of its other functions at each of its sessions.
92. This essential function helped the Commission to gain accreditation in 2003 during the International Conference of Data Protection and Privacy Commissioners in Sydney. It was an indispensable guarantee of the Commission's independence and of the effectiveness of its supervisory function.
93. In practice, spot checks 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.
94. The opinions given by the Commission in 2010 on substantive issues arising out of its spot checks are covered in point 5 above. The type of checks it carried out on the retention of information in INTERPOL's files, and the results of those checks, are given below.

6.1 Conditions for retaining information in INTERPOL's files

95. At each of its sessions, the Commission checked that the General Secretariat observed the deadlines for examining the need to retain items of information in its files.
96. The Commission took note of the latest progress made by the General Secretariat in managing files for which the *deadline for examining* the need to retain the information had expired.

It again stressed the importance of ensuring that any item of information retained at the end of the five-year period provided for in the rules was always justified in the files after a case-by-case assessment of the advisability of doing so.

97. Similarly, it stressed that, in conformity with the Rules on the Processing of Information for the purposes of International Police Co-operation:
- once the initial purpose for recording information on a wanted person or the subject of an international request for information had been achieved, the General Secretariat could not retain that information unless it deemed, under exceptional circumstances, that it was still relevant and of specific international interest to the police;
 - once the General Secretariat was able to apply this provision, it had to indicate the facts or reasons justifying the postponement of the deadline for examining the need to retain an item of information.
98. The Commission pointed out that, except in exceptional cases, the General Secretariat could not make amends for a lack of response from National Central Bureaus by keeping information which had not undergone the required quality-control check by its source. Consequently, if no reply was received from the information source by the deadline set, the said information should be deleted from INTERPOL's files.

The Commission nonetheless suggested that, generally speaking, the General Secretariat should simply block access to the information if it considered that the information was still of specific interest for international police cooperation, and that it could obtain a response from the source on retaining the information within a reasonable time.

6.2 Retaining information linked to projects

99. The Commission noted with satisfaction the efforts made by the General Secretariat to review project-related files whose deadlines for review had expired, and to improve the management of individual files linked to police projects.

7. INDIVIDUAL REQUESTS

100. 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.
101. The substantive issues raised in the context of individual requests are covered in point 5 above.

7.1 Procedure for managing requests

102. 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.
103. 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.

104. 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 Monitoring the Commission's conclusions and recommendations

7.2.1 Practice

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

106. 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.

107. 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 2010.

7.2.2 Statistics

108. The profile of the 201 requests received by the Commission in 2010 was as follows:

- Complaints* (requests for the destruction or correction of information) 61%
- Requests from persons who are the subject of information in INTERPOL's files 66%
- Requests from persons whose names appeared on INTERPOL's public website 29%
- Requests raising the question of the application of Article 3** of INTERPOL's Constitution 16%

(*) *i.e. 0.15% of the number of persons wanted via INTERPOL on the basis of an arrest warrant or judicial decision*

(**) *See point 5.3.6 above*

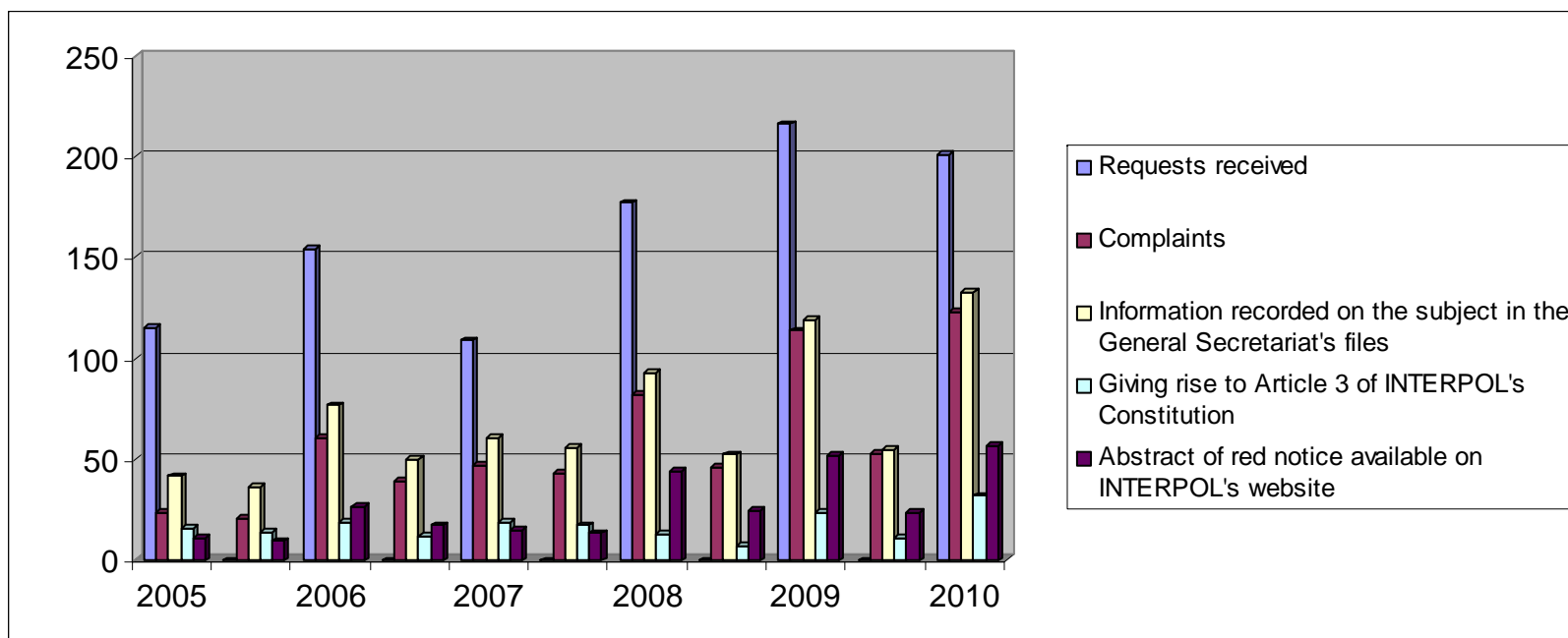
109. The outcome of the 170 requests processed by the Commission in 2010 was as follows:

- Commission's recommendations already being implemented 94%
- Files not giving rise to any measure in INTERPOL's files 34%
- File deleted from INTERPOL's files 26%
- Files for which access was blocked by INTERPOL's members pending the processing of a request 20%
- Files that were updated in INTERPOL's files 10%
- Addenda made to INTERPOL's files 8%
- Extracts of red notices removed from INTERPOL's website 2%

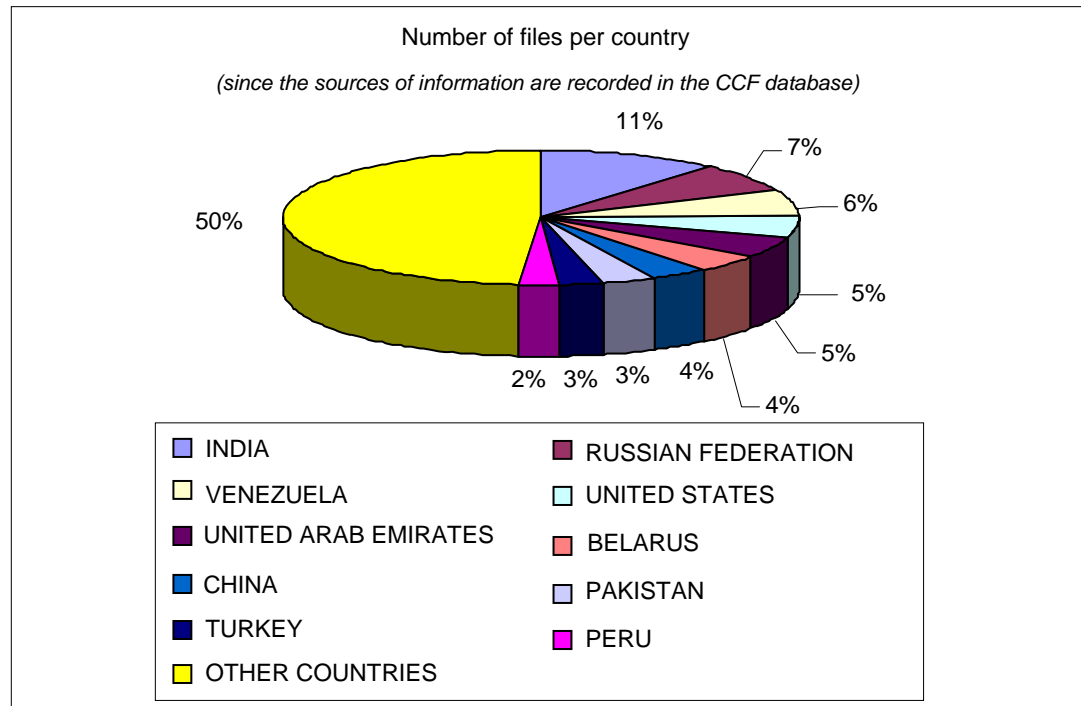
110. Lastly, it should be stressed that the number of complaints rose from 20% of all requests received in 2005 to 61% of requests received in 2010.

111. Some additional statistics showing the trends in the profile of individual requests between 2005 and 2009 are appended to this report.

Detail	Year		2005		2006		2007		2008		2009		2010		Total	%
	2005	%	2006	%	2007	%	2008	%	2009	%	2010	%	Total	%		
Requests received	115	x	154	x	109	x	177	x	216	x	201	x	972	x		
Complaints	24	20.9	61	39.6	47	43.1	82	46.3	114	52.8	123	61.2	451	46.4		
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	525	54		
Giving rise to Article 3 of INTERPOL's Constitution	16	13.9	19	12.3	19	17.4	13	7.3	24	11.1	32	15.9	123	12.7		
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	206	21.2		

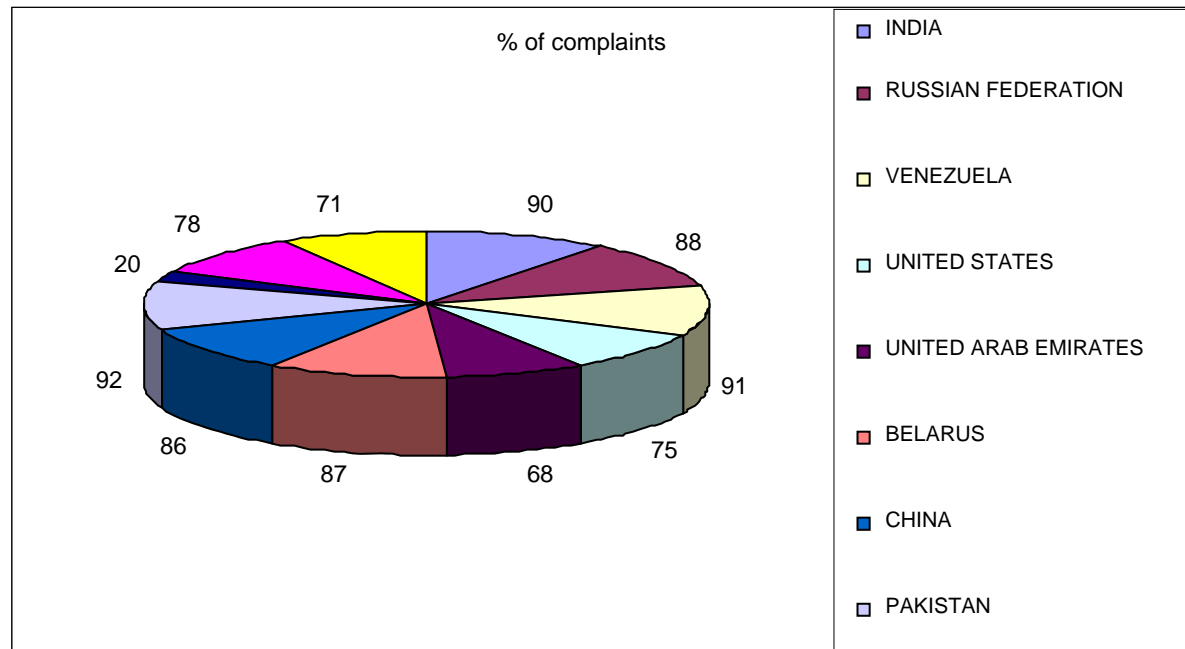


Country	No. of files	%
INDIA	42	11.5
RUSSIAN FEDERATION	24	6.6
VENEZUELA	23	6.3
UNITED STATES	20	5.5
UNITED ARAB EMIRATES	19	5.2
BELARUS	15	4.1
CHINA	14	3.8
PAKISTAN	12	3.3
TURKEY	10	2.7
PERU	9	2.5
OTHER COUNTRIES	178	48.6
TOTAL	366	100



Country	No. of files	No. of complaints	% of complaints
INDIA	42	38	90
RUSSIAN FEDERATION	24	21	88
VENEZUELA	23	21	91
UNITED STATES	20	15	75
UNITED ARAB EMIRATES	19	13	68
BELARUS	15	13	87
CHINA	14	12	86
PAKISTAN	12	11	92
TURKEY	10	2	20
PERU	9	7	78
OTHER COUNTRIES	178	126	71
TOTAL	366	279	76

Country	% of complaints
INDIA	90
RUSSIAN FEDERATION	88
VENEZUELA	91
UNITED STATES	75
UNITED ARAB EMIRATES	68
BELARUS	87
CHINA	86
PAKISTAN	92
TURKEY	20
PERU	78
OTHER COUNTRIES	71



Country ISO	No. of files
IN	42
RU	24
VE	23
US	20
AE	19
BY	15
CN	14
PK	12
TR	10
PE	9
ID	8
TN	7
EG	7
UZ	6
KZ	6
IR	6
FR	6
RW	5
SA	5
GB	5
DK	5
ZA	5
IT	4
CH	4
UA	4
MD	4
AZ	4
AR	4
ES	3
CA	3
IQ	3
BE	3
HN	3
MM	3
MA	3
AL	2
CZ	2
RS	2
GE	2
PH	2
DZ	2

Country ISO	No. of files
HR	2
GT	2
LB	2
CO	2
DE	2
DO	2
PL	2
BR	2
CR	2
NL	2
AF	1
LY	1
NG	1
IS	1
TG	1
MX	1
AM	1
KG	1
OM	1
GR	1
YE	1
TJ	1
TZ	1
SY	1
HU	1
PT	1
GA	1
SE	1
ZW	1
LI	1
BA	1
RO	1
MK	1
CM	1
BD	1
TM	1
EC	1
ET	1
PA	1
BO	1