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16.1 SUBJECT

16.1.1 The present chapter deals with the Rules relating to the Control of Information and Access to Interpol's Files.

16.2 REFERENCES

16.2.1 Rules relating to the Control of Information and Access to Interpol's Files adopted by the General Assembly during its 73rd session (Cancún, 2004) by Resolution AG-2004-RES-08.

16.3 GENERAL REMARKS

16.3.1 This set of Rules is an Appendix to the ICPO-Interpol General Regulations.

16.3.2 The present Rules replace Part 2 (Articles 15 to 27) of the Rules on International Police Co-operation and on the Internal Control of Interpol's Archives, which were abrogated by Resolution AG-2004-RES-08 adopted by the General Assembly during its 73rd session (Cancún, 2004).

16.3.3. The provisions of the present Rules will come into force from 1 January 2005.

16.3.4 Articles 2(a) and 2(b) modified by Resolution AG-2009-RES-13 adopted by the General Assembly at its 78th session (Singapore, 2009). Entered into force on 1 January 2010.



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PREAMBLE

The aim of the present Rules is to organize the independent control of Interpol's files. It establishes a Commission for the Control of Interpol's Files and governs the composition, role and functions of that Commission. The present Rules also set out the general conditions under which a person may gain access to the Organization's files.

CHAPTER 1**COMMISSION FOR THE CONTROL OF INTERPOL'S FILES****ARTICLE 1: ROLE OF THE COMMISSION**

- (a) The Commission shall ensure that the rules and operations relating to the processing of personal information by the Organization, and particularly its projects to create new files or new methods of circulating personal information, conform to all the relevant rules adopted by the Organization, and that they do not infringe the basic rights of the people concerned, as referred to in Article 2 of the Organization's Constitution, which refers in turn to the Universal Declaration of Human Rights, or the general principles of data protection.
- (b) The Commission shall provide the Organization with advice about any project, operation, set of rules or other matter involving the processing of personal information.
- (c) The Commission shall process requests for access to Interpol's files and shall reply to requesting parties. On request, the Commission shall make the list of Interpol's files available to any national or permanent resident of a Member State of the Organization.



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ARTICLE 2: COMPOSITION OF THE COMMISSION

- (a) The Commission shall comprise five members, appointed because of their expertise and in such a way as to allow the Commission to carry out its mission completely independently:
- A Chairperson, appointed because he* holds or has held senior judicial or data protection posts
 - Two data protection experts, who hold or have held senior positions in this field
 - An electronic data processing expert, who holds or has held a senior position in this field
 - An expert with recognized international experience in police matters, in particular international police co-operation.
- (b) The members shall be appointed as follows:
- The experts referred to in Article 2(a) above shall be appointed by the General Assembly from amongst the candidates¹ put forward by Member States and selected by the Executive Committee.
 - The Chairperson shall be appointed by the other four members.
- (c) The members of the Commission must be nationals of Interpol Member States, and speak at least one of the working languages of the Organization's General Secretariat. The applications sent in by the Member States must therefore give sufficient detail to make it possible to assess the candidates' qualifications.
- (d) As far as possible, the members shall be of different nationalities and represent at least two regions.

* Terms in the masculine gender apply equally to both men and women.

¹ Linguistic modification made only in the English version on 1 October 2009



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ARTICLE 3: COMMISSION MEMBERS' TERMS OF OFFICE

- (a) The terms of office of the members of the Commission shall be three years, commencing on the date on which the Chairperson of the Commission is appointed, it being understood that the Commission shall be considered to have been composed on the date on which the Chairperson was appointed.
- (b) The term of office of a Commission member, may be renewed once, in the same position. However, the term of office may be renewed twice if, in the light of circumstances, the Executive Committee considers it advisable.
- (c) Except in cases of *force majeure*, the terms of office of the Commission members shall not all be renewed at the same time.
- (d) If a member of the Commission is no longer in a position to perform his duties, or has resigned, a new member shall be appointed for the remainder of his term of office. If the member concerned is one of those appointed by the General Assembly, a temporary replacement may be appointed by the Executive Committee pending the next General Assembly session.

ARTICLE 4: MATTERS SUBMITTED TO THE COMMISSION

- (a) The Commission may receive requests from any person wishing to access personal information concerning him or the person he represents, as long as the requests meet the conditions on admissibility laid down by the Commission.
- (b) The General Secretariat must consult the Commission in all the cases referred to in the Rules on the Processing of Information for the purposes of International Police Co-operation.
- (c) The General Secretariat may in addition consult the Commission on any issue or operation concerning the processing of personal information, particularly with regard to the interpretation of an existing rule, the adoption of a new rule or of implementing rules, or the setting up of databases or the conclusion of agreements with third parties involving the processing of personal information.
- (d) The Commission may also decide to carry out controls in the context of its spot checks.



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ARTICLE 5: FUNCTIONING OF THE COMMISSION

- (a) The Commission shall be completely independent in the exercise of its duties.
- (b) The Commission shall determine the venue and number of its annual meetings, on the understanding that it shall meet at least three times a year in order to perform its duties. Meetings shall be convened by the Chairperson of the Commission.
- (c) The sessions of the Commission shall be held *in camera*. Only members of the Commission and the Commission's Secretariat shall be considered as permanent participants in those meetings. However, any other persons whose presence the Commission considers necessary for discussion of an item on the agenda for the session, may also take part in the meetings.
- (d) The Commission shall determine its own operating rules, insofar as they are not laid down in the present Rules.
- (e) The Commission shall take all appropriate steps to exercise its duties and ensure its independence. To that effect, it is agreed that:
 - 1. In the exercise of their duties, the members of the Commission shall neither solicit nor accept instructions from any persons or bodies, and shall be bound by professional secrecy;
 - 2. The Commission shall have free and unlimited access to all personal information processed by Interpol, and to any system for processing such information, irrespective of the place, form or medium involved; as far as possible, the Commission shall exercise its right of access in such a way as not to interfere unnecessarily with the day-to-day work of the General Secretariat;
 - 3. The Commission may consult the General Secretariat and ask to hear its representatives;
 - 4. The Commission may also consult the NCBs concerned or the other information sources concerned, or even the Executive Committee;
 - 5. The Commission may ask the Executive Committee to permit it address the General Assembly, in accordance with the provisions of Article 6 (d) below.



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- (f) To enable the Commission to perform its duties, the General Secretariat shall:
1. Forward to the Commission any request it receives, as soon as it receives it, it being understood that requests forwarded by the Organization to the Commission and the correspondence between the Organization and the Commission shall not be recorded in the Organization's files, unless the Commission so recommends, in order to update an item of information already contained in Interpol's files;
 2. Communicate to the Commission any information which the Commission requires or requests, and in particular the list of the computerized and other files containing personal information, as well as their structure and the access rights attached to them;
 3. Provide the Commission with the necessary assistance, particularly in order to facilitate its meetings and to guarantee its independence;
 4. Inform the Commission of any new measures taken concerning the processing of personal information;
 5. May also ask to be heard by the Commission to present or defend its position, particularly in the event of a recognized disagreement with a recommendation made by the Commission.

ARTICLE 6: FINDINGS OF THE COMMISSION

- (a) The Commission, through its Secretariat if appropriate, shall:
1. Inform the General Secretariat of its investigations and recommendations so that its decisions and opinions may be notified to the entities and persons concerned, and indeed implemented;
 2. If it considers it appropriate, communicate to the General Secretariat certain items of information taken from requests or certain documents prepared at its request by the Commission's own Secretariat, either before or after a session, in order to understand and review the processing of personal information by the Organization.
- (b) If the General Secretariat considers that it is unable to follow one of the Commission's recommendations:



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1. It shall take any appropriate steps to ensure that Interpol's processing of the personal information concerned complies with the provisions of Interpol's information-processing rules;
 2. It shall submit a report explaining its decision at the Commission's next meeting.
- (c) If the Commission disagrees with the General Secretariat about an operation or project to process personal information, it may inform the Executive Committee, so that the Committee may, if necessary, take any appropriate measures.
- (d) The Commission shall produce an annual report on its activities for the information of the Executive Committee and for submission to the General Assembly along with any comments made by the Executive Committee. With the authorization of the Executive Committee, the Commission itself may present the report to the General Assembly.
- (e) The Commission shall decide how to reply to requesting parties, and shall send those replies.
- (f) The Commission shall be empowered to make public statements, and in particular to disclose its annual report.

ARTICLE 7: SECRETARIAT OF THE COMMISSION

- (a) The General Secretariat shall act as the Commission's Secretariat. It shall appoint a Secretary, who shall be completely independent of the General Secretariat in the exercise of the assigned duties. If the Secretary is unable to perform his duties, the General Secretariat shall appoint a replacement.
- (b) The Secretariat of the Commission shall take all appropriate steps to:
1. Carry out any administrative operations for the Commission, or arrange for them to be carried out;
 2. Act as interface and co-ordinator between the Commission and Interpol's permanent departments;
 3. Examine requests, carry out studies and other work as requested by the Commission;
 4. Carry out any other task as instructed by the Commission or its Chairperson.



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- (c) The Commission's Secretariat shall assist the General Secretariat in order to ensure that the Commission is composed in conformity with the present Rules.

ARTICLE 8: BUDGET OF THE COMMISSION

The General Secretariat shall make available to the Commission the necessary budget to enable it to perform its duties.

CHAPTER 2**ACCESS BY REQUESTING PARTIES TO PERSONAL INFORMATION
PROCESSED BY INTERPOL****ARTICLE 9: ACCESS CONDITIONS AND PROCEDURES**

- (a) Any person who so wishes may, freely and free of charge, exercise the right of access to personal information concerning him which has been recorded in Interpol's files.
- (b) The Commission shall acknowledge receipt of any request and process the request at the earliest opportunity.
- (c) Requests for access to personal information shall only be admissible if they emanate from persons who may actually be the subject of such information or from the duly authorized or legal representatives of such persons.
- (d) When the requests submitted to the Commission are clearly unreasonable, for instance because of their number or because of their repetitive or systematic nature, the Commission may refrain from carrying out the verifications and shall not be obliged to reply to the person requesting them.

ARTICLE 10: CONTROL CARRIED OUT BY THE COMMISSION

- (a) When the Commission receives a request, it shall check that any personal information about a requesting party, or about the person he represents, that may be stored by the Organization complies with the information processing conditions which must be respected by the Organization.



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- (b) In accordance with the provisions of Article 6 above, the Commission shall also send any recommendations it may have to the General Secretariat if it feels that action is required of the General Secretariat.

ARTICLE 11: RESULTS OF THE COMMISSION'S PROCESSING OF A REQUEST

- (a) Subject to the agreement of the source, if any, of the information requested, the Commission may communicate to the requesting party the information which Interpol may have about him and which has been supplied by the said source.
- (b) Irrespective of its decisions, but **subject to the provisions of Article 9(d)** above, the Commission shall notify requesting parties that it has carried out the checks requested.

ARTICLE 12: FINAL PROVISIONS AND INTERIM MEASURES

- (a) The present Rules, which constitute an appendix to the Organization's General Regulations, shall enter into force on 1 January 2005.
- (b) The definitions given in Article 1 of the Rules on the Processing of Information for the purposes of International Police Co-operation shall apply to the present Rules.
