

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 الم د ش ج - انتربول



PROCEDURAL GUIDELINES FOR APPLICANTS TO THE COMMISSION

PROCESSING OF REQUESTS BY THE COMMISSION FOR THE CONTROL OF INTERPOL'S FILES

NOTICE

This document does not constitute a legal advice or opinion and is provided without prejudice to the Commission. It aims to provide general information about the work of the Commission and to assist applicants in the preparation of their request. The information provided in these guidelines may change at any time without prior notice.

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GUIDELINES FOR APPLICANTS TO THE COMMISSION

1. INTRODUCTION

1.1. Preliminary comments

The Commission for the Control of INTERPOL's files (the Commission, or the CCF) was created in 1982, and further to the implementation of its first legal framework in 1985, held its first session in 1986. From 2003 until 2005, it became governed by a new set of rules adopted by the INTERPOL General Assembly, the New rules on the Processing of Information (RPI) and the New rules on the control of information (RCI). It established its first Operating rules in 2008. On this same year, it was officially recognized as an independent supervisory body of the Organization in an amendment to INTERPOL's Constitution.

A new Statute of the Commission was adopted in 2016 and entered into force on 11 March 2017, strongly reaffirming the independence of the Commission in conjunction with the principle of impartiality, and reinforcing its status as a quasi-judicial decision-making body responsible for ensuring that the processing of personal data by the INTERPOL General Secretariat conforms to the applicable INTERPOL rules. In addition, in February 2019, the Commission updated its Operating rules to strengthen the independence safeguards of its members.

The Commission for the Control of INTERPOL's Files strives to make its inner workings more accessible and transparent to the public, while bearing in mind the possible restrictions applicable to the disclosure of the data¹ held in the INTERPOL Information System (Article 35(3) of the Statute of the Commission). In addition to the following guidelines, the Commission provides detailed information on the Commission's section of the INTERPOL website such as admissibility criteria, legal framework, application forms, anonymized decisions, etc. Moreover, the correspondence with the applicants and with the National Central Bureaus (NCBs)² always include explanations on the procedures and time frames applicable to the particular situation. Finally, as provided for by Article 43 of the Statute of the Commission, the Commission publishes its annual activity report on the Commission's section of the INTERPOL website, in INTERPOL's four working languages.


1.2. The Commission's role

The Commission is an independent, impartial body, officially responsible for ensuring that the processing of personal data³ by INTERPOL complies with the applicable INTERPOL rules. The Commission has a

¹“Personal Data”: any data about an identified natural person or a person who may be identified by means that may reasonably be used (Article 1(3) of the Rules on the Processing of Data of INTERPOL (RPD)).

² “National Central Bureau” means the body designated by each member of INTERPOL to perform the liaison functions provided for under Article 32 of the Organization's Constitution. (Article 1(7) of the RPD)).

³ “Processing”: Any operation or set of operations performed on data, whether or not by automatic means, such as collection, recording, consultation, transmission, use, disclosure and deletion. (Article 1(5) of the RPD).



supervisory and an advisory role, and it is responsible for processing requests for access to, and correction and/or deletion of data processed in the INTERPOL Information System (IIS).

The Commission is composed of two chambers:

- the **Supervisory and Advisory Chamber** provides the Organization with advice about any project, operation, set of rules or other matter involving the processing of personal data in the INTERPOL Information System;
- the **Requests Chamber** has the power to examine and decide on individual requests for access to, or correction and/or deletion of data processed in the INTERPOL Information System. It is also empowered to consider applications for revision of its previous decisions.

For the purpose of effectively carrying out its functions under its Statute, the Commission is assisted by a Secretariat who shall perform administrative operations, prepare files, coordinate activities and carry out other studies of relevance to the Commission's activities.

1.3. The limits of the Commission's role

Articles 3(1)(a) and 33(3) of the Statute of the Commission establish that the powers of the Commission are limited to controlling whether the processing of data in the INTERPOL Information System meets INTERPOL's applicable legal requirements. As such, the Commission is not empowered to act with regard to national files (only the competent national authorities may do so), nor is it empowered to determine whether an applicant might travel abroad without fear of being arrested. It is also not empowered to act with regard to national extradition proceedings, or in relation to bilateral judicial cooperation between sovereign States.

Similarly, the Commission supervises the processing of data that are processed in the INTERPOL Information System only. It is not empowered to lead an investigation, to weigh evidence, or to make a determination on the merits of a case. Only the competent national or regional authorities may do so.

In this regard, the Commission may receive other complaints beyond requests for access to information, requests for correction/deletion and applications for revisions concerning data held in the INTERPOL Information System. In such cases, the Commission routinely has to recall the limits of its role discussed in the first section. For example, the following are requests fall outside of the Commission's mandate and will therefore not be processed by the Commission:

- Request for access and/or correction or deletion of data processed in national files
- Complaint about national prosecution procedures
- Request for a certificate of good conduct
- Request to search for a missing person
- Assistance to obtain a visa or in immigration procedures.

Furthermore, in light of the limits of its mandate, the Commission **does not**:

- substitute its judgment from that of national judicial authorities by checking or amending charges. Nevertheless, it can ask relevant questions in order to facilitate a decision on whether the suits are still valid, the police data are accurate and up to date and, more generally, whether the data should actually be recorded or retained in the files.

- assess the legal situation in a member country with a view to give an opinion on the validity of an arrest warrant or a legal decision.

1.4. Confidentiality of requests

1.4.1. General rule

The confidentiality and security of the Commission's files and correspondence are of paramount importance in order to allow the Commission to perform its functions, and in order to protect both the interests of international police cooperation and the applicant's fundamental rights. They are guaranteed at Article 20 of the Statute of the Commission and at Rule 13 of the Operating Rules of the Commission.

Anyone may request access or request the correction/deletion of data processed in the INTERPOL Information System concerning him/her, without fearing that the request will be used for the purposes of international police and judicial cooperation. The Commission's files are confidential and requests are therefore not recorded in the INTERPOL Information System.

1.4.2. Consultation of the source of data

In the context of the processing of requests, the Commission may need to communicate certain information to the INTERPOL General Secretariat or the NCBs in order to confirm information which is necessary for the processing of the request, or in order to request the NCB's position relating to arguments raised by applicants. However, any item of information specifically identified by an applicant as confidential will not be communicated. Moreover, the Commission never communicates to the NCBs information concerning the applicant's location, representative, etc.

At the same time, any restriction of the communication of information, whether it be from the NCB concerned or the applicant(s), must be motivated and justified, in accordance with Article 35(3) (c and d) of the Statute of the Commission. Failure to justify a request for a restriction will be taken into consideration by the Commission in assessing and deciding on cases where restrictions are requested.

1.4.3. Additional confidentiality considerations

The files of the Organization (and therefore of the Commission), its archives, and its correspondence are inviolable, pursuant respectively to Articles 4 to 8 of the Headquarters Agreement of 2008 signed with the French authorities. Furthermore, the Commission does not comment on cases that are the subject to media attention and possibly pending before the Commission. Requests for interviews are transferred to the INTERPOL communication team.

2. PROCEDURE FOLLOWED BY THE COMMISSION

2.1. Procedure common to all admissible requests

All access requests presented to the Commission are governed by the procedure set forth in the Statute of the Commission and in its Operating Rules.⁴

2.1.1. Acknowledgement of receipt

⁴ The full text of these documents in the four official languages of INTERPOL are available on the Commission's section of the INTERPOL website: <https://www.interpol.int/Who-we-are/Commission-for-the-Control-of-INTERPOL-s-Files-CCF/About-the-CCF>.

The Commission acknowledges receipt of a request at the earliest opportunity, and informs the applicant(s) of the applicable procedure and timeframe (Article 31.1 of the Statute of the Commission).

2.1.2. Working languages

The working languages of the Commission shall be those of the Organization namely Arabic, English, French and Spanish in accordance with Article 18(1) of the Statute of the Commission and Rule 14 of its Operating Rules. Consequently, the Commission shall only be obliged to take into consideration documents which have been translated into one of INTERPOL's official working languages.

2.1.3. Admissibility (Rule 30 of the Operating Rules of the Commission)

a) Pre-requirements for all requests and timeframe

The Commission first checks the admissibility of a request and informs the applicant(s) of its decision no later than one month from receiving the request. If necessary, it can invite the applicant to provide additional information or documents in support of his/her request.

Each request must meet the following conditions (Rule 30 of the Operating Rules of the Commission):

- 1) the request includes an original letter sent by post and signed by the applicant, explaining the purpose of the request;
- 2) it is written in one of the Organization's working language (Arabic, English, French and Spanish);
- 3) the request comes from the person whom it concerns, or from that person's duly authorized representative(s);
- 4) the request shall be accompanied by a copy of a readable and non-redacted identity document belonging to the applicant in order to prove his/her identity. Where the applicant is an entity, the full name, date of incorporation or registration, the official registration number (if any), and the official address shall be provided.

b) Additional requirements

- Where the applicant is represented by a legal representative:

- The request shall be accompanied by the corresponding written declaration, or certificate confirming that the applicant is represented by a duly authorized representative;
- The request shall be accompanied by an original power of attorney signed by the applicant authorizing his/her representative to access any information about him/her recorded in INTERPOL's files.

- Where the request is for deletion or correction or an application for revision

Requests for deletion or correction and applications for revision must also be accompanied by the following, additionally to the pre-requirements set forth in section a):

- a summary of arguments in support of the request, making specific reference to any relevant attached document in the form provided for by the Secretariat;

- applicants are also invited to provide any additional relevant annexes to their summary of arguments, as indicated in the “Application Form” available on the Commission’s section of the INTERPOL website.⁵

- ***Where the applicant is an entity:***

The request shall be accompanied by documents showing that the individual who lodged the application on behalf of the entity has standing or authority to represent the entity, along with an extract from the Chamber of Commerce register or minutes of the governing body.

c) Inadmissible requests

The Commission cannot conclude that a request is inadmissible in the following cases:

- the party fails to provide any of the information required within the deadline indicated by the Commission, unless it recognizes that exceptional circumstances require flexibility⁶;
- the request is outside the scope of its powers, as defined by the Statute;
- the request is clearly unreasonable⁷ or is essentially the same as another request previously examined by the Commission and does not contain any new elements (Rule 30(4.b) of the Operating Rules).

2.1.4. Identification of data in INTERPOL

The Commission consults the INTERPOL General Secretariat (IPSG) to determine whether there are any data in the INTERPOL Information System concerning the applicant. For the purpose of a request for access, the Commission shall then consult the owner of the information in the INTERPOL Information System, namely the source of data⁸ (Article 35(2) of the Statute of the Commission), prior to disclosing the existence or absence of information in the INTERPOL Information System.

Additionally, as part of requests for deletion and correction and applications for revisions, the Commission may consult the INTERPOL General Secretariat and any other appropriate entities on to seek information or clarification.⁹

2.1.5. Provisional measures

In principle, requests are processed in order of arrival and admissibility. However, in certain cases, the Commission may need to address emergency situations requiring an urgent decision. In such cases the

⁵ The form is available on the Commission’s section of the INTERPOL website:


<https://www.interpol.int/Who-we-are/Commission-for-the-Control-of-INTERPOL-s-Files-CCF/Data-and-your-rights>.

⁶ If required elements cannot be provided, the applicant is invited to provide sufficient explanations to allow the Commission to determine whether exceptional circumstances require flexibility.

⁷ The notion of “clearly unreasonable” is determined by the Commission taking into account, inter alia, the number or repetitive nature of requests previously submitted to it by the same applicant.

⁸ “Source” means any National Central Bureau which processes data in the INTERPOL Information System, and which is ultimately responsible for those data, or any international entity or private entity whose data are processed in the INTERPOL Information System, or on behalf of which data are recorded in the System, and which is ultimately responsible for them. (Article 1(6) of the RPD)

⁹ Articles 21(2) and 34 of the Statute of the Commission.



Commission may adopt provisional measures¹⁰ on the basis of Article 37 of the Statute of the Commission. Such can be the case where an applicant's extradition is clearly imminent, where the applicant is in detention due to data held in INTERPOL's files or where the applicant has been issued a protective status. However, even in these situations, the Commission may deem that it needs to conduct further checks prior to taking provisional measures.

In order to ensure that these situations can be promptly handled, the Commission may also delegate powers to one or several members (Chairperson, Rapporteur) to take decisions in between sessions¹¹, in application of Article 17 of its Statute and Rule 19(3) of its Operating Rules.

2.1.6. Timeframe for decision and notification

The Commission strives to adopt decisions within a reasonable timeframe, by adopting streamlined procedures for certain types of requests, adapting its working methods, and by holding more frequent and longer sessions every year. At the same time, the requests presented to the Commission routinely involve the study of extensive legal arguments and large volumes of documentation provided by the applicants.

According to Article 40 of the Statute of the Commission, the Commission has to decide on requests for access within **four months**, while it has to decide on requests for deletion within **nine months**, starting from the date these requests have been declared admissible. In accordance with this same article, the Commission may decide that the circumstances of a particular request warrant an extension of the time limit.

The Commission addresses its written decisions to the INTERPOL General Secretariat within one month from the date on which it was made. In case the Commission decided that the information connected with a request shall be updated, corrected or deleted, the INTERPOL General Secretariat shall implement the decision within one month from the date on which it was received, unless further clarifications are needed. Upon receipt of clarifications, the INTERPOL General Secretariat shall promptly implement the decision concerned.

Upon implementation, the Commission then has **one month** to send the final decision to the parties to the case.

2.2. Request for access

The whole procedure applicable to requests for access to INTERPOL's files is summed up in the diagram for access requests in the diagram at Appendix I.

At this point, various types of responses may follow, depending on the existence or not of data registered in the INTERPOL Information System, and on possible restrictions imposed by countries consulted:

- The applicant may be informed whether or not there are any data concerning him/her processed in the INTERPOL Information System;

¹⁰ Provisional measures are presented by the party to a case determined as necessary by the Commission in light of particular circumstances arising from a request. Various provisional measures are possible in these exceptional or urgent cases, such as the blocking of the data, the removal of the data from the INTERPOL public website, priority processing, etc.

¹¹ Sessions are periodic meetings of the Commission to discuss and decide on issues, projects, requests and other topics in relation with the work of the Commission. Sessions are held by the Commission at least three times a year, according to Article 16 of the Statute of the Commission.

- In case there are data, the applicant may be provided with disclosure of such data;
- He/she may also be invited to contact competent authorities in a particular country for any appropriate actions at national level.

In addition to the request for access, the Commission will proceed to the steps outlined in [Section 2.3](#), where an applicant has filed a request for correction only or in addition to the request for access,

2.3. Request for correction or deletion of the data

During or after conducting the steps outlined in [Section 2.1](#), the Commission will proceed with the legal assessment of a request for correction or the deletion of the data. The applicable procedure to these requests is summed up in the diagram at [Appendix II](#).

2.3.1. Procedure

The nature and extent of the checks undertaken by the Commission for requests for deletion/correction of data registered in the INTERPOL Information System depend on the nature of the individual request and of the data challenged.

The assessment usually begins with analyzing the main arguments of the party in light of INTERPOL's rules on the basis of the information available to the Commission. As a result, the Commission will consider the elements and documents provided by the applicant in support of his/her request, along with any other elements registered in the INTERPOL Information System and the responses of any other NCB or third party cited in the request or directly concerned by the arguments presented by the applicant. Where applicable, the Commission may also take note and control certain issues found as part of its analysis on its own initiative.

In that context, the Commission may consult the INTERPOL General Secretariat, the source of the data and any other country concerned with the elements outlined in the request. It may also invite the applicant once again, to provide additional information if need be.

The Commission strives to answer to the parties asking for updates on the status of a case, and to keep them informed about the progress of proceedings. When possible and/or applicable, the applicant will be informed of the key data concerning him/her contained in the INTERPOL Information System in the course of the request and invited to provide any additional information considered necessary.

2.3.2. Decision


When the case raises strong issues of compliance before a final decision can be made, the Commission may decide on any appropriate precautionary action.

When a final decision is made, if the Commission finds that data have not been processed in compliance with applicable rules, it will also decide on appropriate corrective actions.

When the Commission finds that data challenged are non-compliant with INTERPOL's rules, the INTERPOL General Secretariat shall implement the corrective measures decided by the Commission, as its decisions are **binding on the Organization** (Art. 26.1 of the Statute).

2.4. Applications for revision

2.4.1. Application process



The parties to a case may apply for the revision of a decision rendered by the Commission concerning them. Applicants are invited to use the form specific to revisions available on the Commission's section of the INTERPOL website. Upon reception of a new application, the Commission will prepare an acknowledgement of receipt for the applicant or the source of data, in which it will remind the applicant or the source of data of the conditions set forth in Article 42 of the Statute of the Commission, and provide him/her/it with the opportunity to adjust his/her/its representations accordingly.

2.4.2. Determination under Article 42 of the Statute of the Commission

a) Application for revision meeting Article 42 of the Statute of the Commission

Under Article 42 of the Statute of the Commission, applications for the revision of decisions of the Commission will only be considered when the following cumulative criteria are met:

- 1) they are based on the discovery of facts;
- 2) which could have led the Commission to a different conclusion if that fact had been known at the time at which the request was being processed and;
- 3) the new elements are presented within six months after the discovery of the fact.

b) Application for revision not meeting Article 42 of the Statute of the Commission

In the following situations, the Commission will generally consider that an application for revision does not meet the statutory requirements of Article 42 of the Statute of the Commission:

- The Commission established that the elements presented by the applicant/NCB to support his/her/its application for revision were known at that time the Commission examined the case.
- While an element may be presented by the applicant/NCB and qualify as newly discovered circumstance, the Commission may not find that it is likely to change the outcome of its Decision.
- The “new” elements are presented outside the six-month deadline since they were known to the applicant without an appropriate explanation.
- The applicant/NCB indicates that he simply disagrees with the decision taken in his case.

3. APPENDICES

APPENDIX I: Procedure - Access to information request

APPENDIX II: Procedure - Request for correction/deletion

APPENDIX I: ACCESS TO INFORMATION REQUEST

STEP 1

Reception of the Request at the CCF

STEP 2

Determination on the admissibility
(within 30 days from the Reception)

If the request is not admissible yet, the Applicant has 30 days from the date of the notification of the inadmissibility to update his application, otherwise the application is closed without further actions

STEP 3

If the request for access is admissible, the CCF first verifies if any data concerns the Applicant in the INTERPOL Information system

The Applicant is strongly encouraged to mention a specific source of data (i.e. specific country or other entity) which possibly seeks him through INTERPOL's channels.

STEP 4

In accordance with Article 35 of its Statute, prior to disclosing information connected with a request, the Commission shall consult the source of the data

STEP 5

A final answer on the request is given to the Applicant (within four months from the date at which the request is admissible (STEP 2)), which will be adapted in view of any applicable restrictions requested by the source of data, further to Article 35 of the Statute of the Commission

APPENDIX II: REQUEST FOR CORRECTION/DELETION

STEP 1

Reception of the Request at the CCF

STEP 2

Determination on the admissibility
(within 30 days from the Reception)

STEP 3

If the request is admissible, the CCF contacts the relevant source(s) of data and, if needed or relevant, may contact third party sources of data directly concerned by the request

STEP 4

The Applicant may or may not be asked further information. If his request is studied in session, he will be informed as such and invited to provide additional information as requested or if desired (and so will the source of data)

STEP 5

The CCF renders a Decision on the complaint (within nine months from the date where the complaint is admissible (STEP 2), unless it decides that an extension is needed (Article 40(3) of the Statute of the Commission)

STEP 7

After implementation, the CCF prepares the final answer on the complaint to the Applicant (within 30-60 days from STEP 5, or more if there is an intervention from the INTERPOL General Secretariat). The source of data will also receive a final answer on the request. Both answers may be subjected to restrictions under Article 35 of the Statute of the Commission

If no data exists on an Applicant in the INTERPOL's database, a final answer is given to the applicant, subjected to any applicable restrictions from the source of data in accordance with Article 35 of the Statute of the Commission and the complaint is considered archived