

Speech by Mr Jean Frayssinet, CCF Member and Rapporteur
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Madam President,

Mr Secretary General,

Distinguished Delegates,

Ladies and Gentlemen,

As a member of, and rapporteur for, the Commission for the Control of INTERPOL's Files (CCF), and in the absence of Ms Vajic, the new Chairwoman of the CCF, who is Croatian and was until recently a judge at the European Court of Human Rights, it is my honour to present the Commission's Annual Activity Report for 2013.

Let me first outline the CCF's role which is three-fold: it responds to individual requests; advises the Organization on matters involving the processing of personal data; and lastly performs spot-checks to help the Organization identify and remedy the sources of risk of non-compliance.

Over the past few years, the processing of personal and often sensitive data by INTERPOL has greatly increased and modernized, allowing the Organization to meet the needs and challenges of international police cooperation.

Data processing is one way of pursuing the legitimate aims of international police cooperation and is enshrined in INTERPOL's Constitution, but the expansion of INTERPOL's activities increases the risk that certain data-processing operations might infringe upon people's basic rights, notably their freedom of movement, with the potential to damage INTERPOL's image and possibly raising the issue of its liability.

Similarly, data-protection rules are being developed throughout the world, requiring the Organization to take steps to update its own rules in order to have a suitable legal framework.

The CCF's aim is to help INTERPOL to reduce the risks and offer the highest possible standards in protecting basic human rights, particularly by offering genuine recourse without excessively hindering international police cooperation. It seeks to find the right balance.

In June 2014, Mr Hawkes, the previous Chairman of the CCF, again alerted the Executive Committee about the need to guarantee the quality of the data processed through INTERPOL's channels and to conduct prior checks on notices with a view to arrest and extradition. The CCF therefore fully welcomes the recent implementation by the General Secretariat of such early, systematic checks. Such a procedure enables the General Secretariat to contact the source of the data, if necessary, to obtain additional information before member countries are able use these data. This is particularly important when a doubt arises over compliance with Articles 2 and 3 of INTERPOL's Constitution.

It is important for INTERPOL to be able to demonstrate that the data processed in its files are based on clear, specific facts.

When examining individual requests, we have observed a distinct improvement in the quality of data processed in INTERPOL's files.

Nevertheless, the Commission has noted that when a number of people are involved in the same case, the facts concerning each one of them are not always specific or clear enough. But it is necessary to know the specific offences of which each is accused in order to justify the processing of data concerning them.

The Commission has also stressed the fact that the information regarding arrest warrants is not always updated although the warrants themselves remain valid. We are aware that some NCBs do encounter problems obtaining follow-up from the legal authorities in their country, but these arrest warrants provide the legal basis for the proceedings instituted through INTERPOL channels and therefore need to be updated. Not doing so leaves INTERPOL dangerously exposed.

INTERPOL and its member countries must also pay particular attention to monitoring data relating to lost or stolen identity documents. The Commission's checks, particularly in the context of the processing of individual requests, highlight occasional weaknesses in the process of monitoring the updating of such data, which can lead to unwarranted arrests. However, given the scale of the developments in the I-Checkit project and the number of mass searches generated by this initiative, it is absolutely essential to ensure the quality of data recorded in the SLTD database. Otherwise, again, the Organization may be held responsible.

As effective checks, performed in advance, are indispensable to ensure the quality of data and their compliance with the applicable rules, it is important for the Working Group on Data Supervisory Mechanisms – the creation of which should be approved this afternoon – to address all of INTERPOL's supervisory mechanisms. The CCF is only one of those mechanisms.

In its advisory capacity, the Commission must be consulted on new projects which involve the processing of personal data.

As these projects are important tools for international police cooperation, they must be implemented in compliance with INTERPOL's rules which, for that matter, provide for consultation of the CCF. If the CCF does not receive sufficiently specific information at the start of the project to enable it to play its advisory role effectively and entirely independently, it cannot give a favourable opinion.

That is why it has on several occasions stressed the need for an internal procedure for monitoring projects, which includes consultation of the CCF so that it can deliver an appropriate independent opinion.

It therefore welcomes the work carried out by the General Secretariat to introduce an effective project-monitoring procedure. However, this procedure still does not satisfactorily address the need for proper consultation of the CCF, although the Commission does give every new project due consideration. In this regard, I would like to emphasize that the CCF is made up not only of lawyers, but also includes an electronic data-processing expert and an expert in international police cooperation. This composition enables it to make informed opinions, which have helped the Organization to develop its projects as shown by past experience.

This year the Commission has been consulted in the context of specific requests to download INTERPOL's files. Unfortunately, the information sent by requesting parties was often inaccurate or reflected a lack of compliance with the Rules on the Processing of Data. To remedy this situation, we have drawn up a list of information that countries must send when they make a request to download data, and the conditions to be met so that their requests can be approved.

Lastly, the CCF applauds the decision to create a post of Data Protection Officer within the General Secretariat, but the officer must coordinate his or her work closely with that of the CCF, and the General Secretariat must now begin to adapt its procedures to ensure proper consultation of the CCF.

The processing of individual requests, which are constantly increasing in volume and complexity, remains a priority for the Commission. More and more requests are raising the issue of the application not only of Article 3 but also of Article 2 of INTERPOL's Constitution. Many requesting parties claim that they have been denied their basic right to a fair trial, which is enshrined in international standards. They refer to the impossibility of arranging their defence, often because they are denied access to the information on which the legal proceedings are based and cannot take advantage of the appropriate procedures.

The CCF examines each request extremely carefully in the light of the information provided by the requesting party, INTERPOL and the NCBs. It frequently receives requests from people involved in different fraud cases who claim the legal proceedings against them are politically motivated.

Therefore, in all such cases, we invite the NCBs to confirm the validity of the proceedings and, when necessary, to reply to the arguments of requesting parties.

The CCF has noted a marked improvement in the level of cooperation by the NCBs. As the requests are specific in nature and often well-argued and documented, the Commission requires information that is equally specific from the NCBs, attesting to the person's actual participation in the crime for which charges are being brought, to fulfil certain strict points of procedure.

We are aware that certain NCBs are encountering problems obtaining the information they need from their legal authorities, but without an adequate, unequivocal reply, the CCF cannot conclude that maintaining such data in INTERPOL's files complies with the rules. Consequently, it may recommend that the information concerned be blocked or even, in certain cases, destroyed.

As you know, although the Commission's conclusions are in theory only recommendations, maintaining this principle could affect INTERPOL's immunity from legal process and the CCF's independence. In practice, these recommendations have in fact been recognized as being obligatory. It is therefore essential for that fact to be taken into consideration by the group being set up to address INTERPOL's supervisory mechanisms.

Moreover, international jurisprudence regarding the right of access is continually developing and becoming universal. The same applies to the right to know whether or not information exists in INTERPOL's files. For this reason we regularly request authorization from the NCBs to disclose, at the minimum, a certain amount of information. The CCF could inform the requesting party either that he or she is not the subject of information in INTERPOL's files, or that information does exist about him/her from a country without stating that the competent authorities have not authorized it to do so.

We would like to draw your attention to the fact that the "right to know" and the "right of access" are becoming increasingly widespread, even if they can be adjusted in the police sector. Not respecting those rights exposes the Organization.

It should be stressed that the Organization's activities are increasingly being examined, analysed and challenged by lawyers and international bodies. All this is then relayed by the media, using different channels, and in different parts of the world. INTERPOL must be able to meet the

requirements laid down in all the applicable rules. The CCF of course remains available to work with the General Secretariat and member countries on these issues.

Lastly, on behalf of the CCF, I would like to pay tribute to Mr Noble, Secretary General, and Mr Louboutin, Executive Director, Police Services, for having allowed the Commission to carry out its duties while entirely respecting its independence. This does not mean tensions have not arisen from time to time, but their personal qualities have always permitted frank, rich and useful exchanges.

Rest assured that the CCF, like you, is driven by the desire to help the Organization fight international crime while upholding people's basic rights and the Commission's independence, as provided for in INTERPOL's Constitution.

Thank you for your attention.