

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



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INTRODUCTION

1. The purpose of the present report is to provide a summary of the work of the Commission for the Control of INTERPOL's Files in 2014.

1. COMPOSITION OF THE COMMISSION

2. In 2014, the Commission was composed of five members, as follows:
 - Mr Hawkes (Ireland), Chairperson until August 2014
 - Ms Vajic (Croatia), Chairperson, from September 2014
 - Ms Madhub (Mauritius), Data-protection expert
 - Mr Frayssinet (France), Data-protection expert
 - Mr Yavuz (Turkey), Expert in international police cooperation, until November 2014
 - Mr Patrick (Canada), Information-technology expert.

2. OPERATING METHODS OF THE COMMISSION

3. As provided under Article 35 of the Commission's Operating Rules, the Commission has appointed two of its Members to facilitate the processing of files examined at its sessions:
 - a Rapporteur, Mr Frayssinet, who carries out a preliminary study of individual requests which are then discussed in session; and
 - an Information-Technology Expert (IT Expert), Mr Patrick, who meets with General Secretariat departments responsible for technical, operational and legal matters relating to the processing of personal data in INTERPOL's files.
4. The Rapporteur met with the Commission's Secretariat at least once between each session. The IT Expert spent at least one day and began to extend his visits to up to two days, consulting various departments of the General Secretariat prior to the Commission's sessions.
5. In 2014, the Commission held three two-day meetings at the Organization's Headquarters in Lyon.
6. The General Secretariat was invited to each of the Commission's sessions to contribute further information on the projects under way.
7. A continuing increase in the workload of the Commission was again apparent in 2014. In response to this situation, the Commission decided to double the number of days it spends in session, meaning that instead of meeting for 6 days as in 2014, the Commission will now meet for 12 days in 2015.
8. As this increase was particularly evident in relation to the number of requests received from individuals, the Commission adapted its methods of work to deal with this increasing workload and to improve its efficiency.
9. In order to facilitate this additional workload the Secretariat to the Commission gained two additional lawyers and one additional administrative staff member.

3. ROLE AND PRIORITIES OF THE COMMISSION

10. In 2014, the Commission continued to carry out its three functions of monitoring, advising and processing individual requests, which are all compulsory and equally important.
11. The Commission considered the importance of its role and tasks in light of the Working Group on INTERPOL's control mechanisms concerning the processing of data via INTERPOL's channels. In this context it attached particular importance to:
 - The opportunity for the General Secretariat as a whole to review its processing of personal data, in order to strengthen the Organization.
 - What changes would most aid individuals whose personal data is processed by INTERPOL.
12. The Commission emphasized that the proposed working group on INTERPOL's supervisory mechanisms concerning the processing of data (see point 7.6 below), offered an opportunity for the re-evaluation of data protection awareness and the improvement of the processing of personal information by the Organization.
13. It was noted by the Commission that unfortunately the position of INTERPOL Data Protection Officer has not yet been filled. Due to the importance of this position, the Commission insisted it was imperative to appoint a suitable candidate to this role as soon as possible.
14. In order to conduct its work effectively, the Commission was required to consult the General Secretariat on the implementation of certain rules and procedures.

4. INDEPENDENCE OF THE COMMISSION

15. The Commission drew attention to the protection of its role and independence as provided by the rules and internal procedures of the Organization.
16. The Commission reminded that it had the right to free and unlimited access to INTERPOL's Files and the right to undertake supervision over any projects involving the processing of personal information.

5. APPLICABLE RULES

17. The following texts provide the primary legal basis for the work of the Commission and for the processing of information through INTERPOL's channels:
 - Rules on the Control of Information and Access to INTERPOL's Files;
 - The Operating Rules of the Commission, adopted in 2008;
 - The ICPO-INTERPOL Constitution, particularly Articles 2 and 3;
 - INTERPOL Rules on the Processing of Data (the "RPD").
18. In the context of its advisory role, representatives of the Commission attended and participated in the working group for the Amendment of the Rules on the Processing of Data (RPD). These amendments were presented and adopted at the 2014 General Assembly.
19. In carrying out its three functions, the Commission also took into consideration the texts aimed at the implementation of the documents mentioned above.

6. SPOT CHECKS

20. Spot checks, conducted by the Commission at each of its sessions, remain an essential function which guarantees its independence and the effectiveness of its supervisory function. They facilitate the identification of risk sources, and 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.
21. The Commission generally determines the subject of these spot checks in light of problems it has faced or questions it has raised when processing individual requests.

6.1 The scope of spot checks

22. In order to assess the implementation of the new rules, the Commission's spot checks focused on the following data-processing aspects:
 - updates by the NCBs to data recorded in INTERPOL's databases;
 - compliance with the criteria for publishing red notices and diffusions.

6.2 Quality of red notices and diffusions on wanted persons

23. The Commission has previously raised concerns in light of I-link system which allowed INTERPOL Members direct and immediate access to request the issuance of Red Notices and diffusions, before the General Secretariat had conducted the compliance checks.
24. In the past the Commission has greatly emphasized the necessity for the Organization to review its control policies, highlighting the fact that it considered it important to deliver access to data relating to wanted persons provided by INTERPOL's member countries, only after proper compliance checks are conducted by the General Secretariat.
25. As a result, the General Secretariat informed all the NCBs that as of 1st September 2014 when a request for a person's arrest, whether through a Red Notice or a diffusion, is submitted via I-link, the file will no longer be automatically visible in e-ASF, pending compliance checks by the General Secretariat. NCBs were informed that the file's e-ASF visibility will only be activated, with respect to possible restrictions, once a compliance check has been conducted by the General Secretariat and no compliance issues are identified.
26. The Commission greatly welcomed the implementation of this procedure. Further it confirmed the effective implementation of this new procedure, through spot checks conducted.

6.3 Summaries of facts

27. The Commission continued to conduct spot checks on summaries of facts contained in notices. It noted that in many of the notices checked, the summaries of facts were considered detailed and clear enough. Succinct summaries of facts can be considered acceptable, if the effective participation of the subjects in the facts are clear enough, which is not always the case.
28. However, such succinct summaries would often not be considered sufficient by the Commission if they were to be examined within the framework of a complaint. In view of the information provided by a requesting party in the context of a complaint, summaries of facts which are satisfactory for the General Secretariat are not always sufficient for the Commission to determine if the information is compliant with INTERPOL's rules.
29. The Commission reminded the General Secretariat of the importance of continuing to require NCBs to provide detailed and clear summaries of facts before issuing Red Notices.

6.4 Retention of information

30. On the basis of information obtained by the Commission during the processing of individual requests, it noted an instance where the personal file of the requesting party had been destroyed in ICIS, however data concerning them was still available in ICIS. Accordingly, it conducted further spot checks.
31. It reminded the General Secretariat that where data was kept for any other legitimate purpose (in the meaning of article 132 of the RPD), such data “must not appear in the Organization’s police databases”.
32. It was further noted that this issue would be addressed by new technical developments. In light of this, the Commission requested additional information from the General Secretariat on this matter to allow it to continue to follow up and examine this issue.

6.5 Cancellation forms

33. The Commission has previously voiced its concerns over the form used by NCBs to cancel searches, as it is of the opinion that this form encourages NCBs to retain information after the cancellation of a search, which would be contrary to Article 51.3 of the RPD.
34. The Commission reminded the General Secretariat that the retention of information in cases where searches are cancelled should be an exception with clear specifications. With this in mind, it has worked with the General Secretariat to develop new phrasing to be used on the form for the cancellation of searches by NCBs.

6.6 Red notices not issued

35. Before the implementation by the General Secretariat in September 2014 of the new compliance checks, the Commission conducted spot checks on red notices which had been requested but not issued. It favourably welcomed the statement of the General Secretariat that guidelines were being prepared on the possibility to block the issuance of a red notice, in instances where doubts existed on the compliance of the information with INTERPOL’s rules.
36. When conducting its spot checks on red notices not issued, the Commission encountered the issue of files where the maximum penalty indicated by the NCB was “death penalty”. It noted that in such instances messages were addressed to the NCB concerned, explaining that according to the RPD, assurances were required that the person is facing another penalty other than the death penalty in order to publish the Red Notice.
37. The Commission welcomed the General Secretariat’s actions in seeking these additional clarifications, and sought further details on the guidelines used to conduct these quality controls. It decided to continue to address this question.

7. MONITORING ISSUES INVOLVING THE PROCESSING OF PERSONAL DATA

38. As part of its work, and as provided for in INTERPOL’s rules the Commission examined various projects involving the processing of personal data, with the aim of ensuring that the rules adopted by INTERPOL continued to be applied and upheld.

7.1 Examination of projects involving the processing of personal data

39. In this context, the term “project” covers:
 - all draft cooperation agreements;
 - all projects to build databases containing specific data;
 - all “police” projects, meaning any activity of a projected duration, subject to periodic review, whose objective is to prevent or combat transnational crime.

7.2 Need for appropriate consultation on projects

40. The Commission continued to highlight the need for appropriate internal procedures to facilitate the identification and assessment of the impacts of projects on the data protection principles laid down in INTERPOL's rules. Accordingly, it continued to monitor to ensure that appropriate procedures were adopted by the General Secretariat.
41. It was again emphasized that the Commission can only give an informed opinion when consulted, if it is provided with sufficient information about the project, particularly on data-processing operations. The Commission recalled the importance of the General Secretariat's effective and timely consultation of it as an adviser in the context of projects involving the processing of information. In light of the above it also highlighted the significance of the role to be played by the, as yet to be recruited, Data Protection Officer.

7.3 Policy on Project Management

42. The Commission welcomed the implementation of INTERPOL's Policy on Project Management, which aims to establish an official procedure to be followed to determine whether there is a "project" and if so which procedure has to be followed.
 - This policy is supported by a general template and practical guidelines applicable to the management of all projects of the General Secretariat.
 - E-learning modules and training sessions have also been established for General Secretariat staff concerned.
43. The Commission remarked that this procedure was very comprehensive. However it observed that on a systematic basis it was not clearly outlined, for projects involving the processing of personal data, at what stage the Commission should be consulted.
44. As the General Secretariat envisaged the evolution of these new procedures, the Commission decided to provide its feedback on an ongoing basis, in light of its interactions with various projects. Additionally, the implementation of these procedures in no way affects the Commission's right to request any additional information it requires from project managers in order to be able to provide its advice.

7.4 Cooperation agreements

45. The Commission was consulted in relation to a number of draft cooperation agreements involving the processing of personal data.
46. It held that in order to comply with the RPD it was not sufficient for draft cooperation agreements to fail to provide for the exclusion of the exchange of personal data. Instead, it highlighted the need for draft cooperation agreements to include express references to INTERPOL's data protection principles in relation to the exchange of personal data.

7.5 Projects involving the use of INTERPOL's database

47. The Commission decided to ask the General Secretariat for a list of all the projects presented at the GA which involved the processing of personal information.
48. The Commission has examined several new projects involving the processing of personal data in various crime areas, including the following:
 - **e-Extradition:** The aim of this initiative is to develop technical and legal tools to significantly speed up and facilitate the transmission of extradition requests through INTERPOL's secure communications channels.

- **Baseline:** This project allows for the digital signatures of child abuse material to be shared with the technology industry to prevent these images from appearing online. It further seeks to empower industry and network administrators to recognize, report and remove child abuse material from their networks.
 - **I-SECOM (INTERPOL Secure Communications for Asset Recovery):** This password-protected, encrypted channel encourages asset recovery practitioners to instantly and securely exchange sensitive data to support transnational investigations.
 - **I-Checkit:** This initiative is aimed at helping to detect criminals who use travel documents that have been reported as lost or stolen in order to access commercial services, such as booking an airline ticket, opening a bank account or registering at a hotel.
49. It delivered detailed analysis and advice on the I-Checkit project, which had moved into the test phase.
 50. It was again communicated by the Commission to the General Secretariat that even though it is not “nominal data”, the information contained in the SLTD (Stolen and lost travel documents database) still qualifies as “personal data”.
 51. The Commission noted the extension of the original purpose of this project from a project facilitating identification of counterfeit goods to a project aimed at making the SLTD database available more widely, eventually to private entities as well, that may rely on government-issued travel documents. It observed that this extended purpose could reasonably be considered to be within INTERPOL's core function of facilitating international police cooperation to combat crime.
 52. However, the Commission highlighted for the General Secretariat a number of issues which could cause concerns and provided recommendations for the adoption of certain measures which would limit these concerns.
 53. It was stated that the Commission considered it essential that INTERPOL obtain certain guarantees on the following:
 - (i) that users are obliged to establish a person's identity through the verification of a government-issued identity document;
 - (ii) of the projects compliance with domestic laws and international standards for human rights protection; and
 - (iii) that the participation of any entity to the I-Checkit initiative has been approved by a national or local data protection authority, when applicable.
 54. It was outlined that a comprehensive project assessment would be presented at the 2015 General Assembly.
 55. In the lead up to this presentation the Commission highlighted certain areas to which it insisted attention needed to be paid.
 56. These areas included:
 - (i) the identification and management of risks;
 - (ii) the identification and delimitation of the responsibilities of each actor;
 - (iii) the establishment of clear written procedures applicable to the use of the I-Checkit initiative and to the management of hits, including on disclosure of results of hits to the appropriate entities and on retention of data in case of positive hits;
 - (iv) the definition and implementation of appropriate controlling mechanisms at each stage of the I-Checkit initiative.

57. The Commission provided its opinion that in view of its conclusions and recommendations a standard agreement should be established with the relevant NCBs and eventually the private entities wishing to use this initiative.
58. It further insisted on the need to establish a clear retention policy, which adequately provides for the different types of data generated and processed during the operation of this initiative.
59. The Commission invited the General Secretariat to continue to provide feedback on this initiative, particularly on any opinions provided by national or local data protection authorities what may be concerned and on the results of the ongoing test phases. Upon receipt such information the Commission outlined that it would continue to provide its advice and analysis of this project.

7.6 Working Group on supervisory mechanisms

60. The Commission welcomed the proposed working group on INTERPOL's supervisory mechanisms concerning the processing of data in the INTERPOL Information System.
61. It had previously highlighted that this group should look at all the measures of controls available to the General Secretariat in relation to the processing of personal data. The Commission noted that this working group should not solely focus on its role in the processing of individual requests, but also in monitoring the processing of information and providing advice.
62. The Commission considered the possible benefits it could see as a result of this working group, noting the opportunity for the current recommendation based function of its conclusions to evolve into binding decisions.
63. It also emphasized the benefits which could be gained from ensuring the participation of external experts in this working group, pointing to the reports previously prepared by CRIDS (*Centre de Recherche Information, Droit et Société*) and FTI (Fair Trials International), which were written with the Commission's cooperation.

7.7 Examination of specific issues concerning the processing of personal data

64. The Commission continued to highlight the effective implementation of the new rules (RPD). In its work, particularly in its advisory role, the Commission focussed on the importance of effective and efficient internal quality controls conducted by the General Secretariat. It reminded the General Secretariat that the proper implementation of data protection rules would result in better quality data being stored and processed by the Organization. This in turn could provide benefits for both the subjects of this data and the uses being made of this data.
65. The notion of "interest of the data for the international police cooperation" was again raised by the Commission, which stated that this was a general principle which applies to any information processed through INTERPOL's channels. It reminded the General Secretariat that the application of this principle was to be determined based on the purposes of the information; specific to international police cooperation and to the international character of the data.
66. The Commission again emphasised that in order to ensure the effective implementation of the RPD there was a necessity that NCB staff who process personal information are properly trained. In this capacity the Commission welcomed the General Secretariat's move towards the appointment of data protection officers within NCBs, and the training of these officers by the Organization. As part of its work, the Commission has also participated in the training of these data protection officers.

8. INDIVIDUAL REQUESTS

67. An "individual request" means a request received from a private individual seeking access to any data about him/her recorded in INTERPOL's files, whether it involves determining if such information actually exists, or to request that the information in question to be updated or deleted.

8.1 General procedure for managing requests

68. The procedure for managing requests and the role of those involved in processing a request, as described in the Annual Activity Reports of the CCF for 2012 and 2013, remain unchanged: (See <http://www.interpol.int/About-INTERPOL/Structure-and-governance/CCF/Publications>, Annual Reports, 2012, point 8.1 and 2013, point 7.1)
69. The Commission once again took note of the increasing number of individual requests, both for access to and deletion of information in INTERPOL's files, which it continued to receive. It has continued to evaluate and adapt its procedures on the processing of individual request to meet this increasing workload.
70. An increase in the number of requests from journalists and NGOs seeking to examine the activity of INTERPOL and of the Commission has also been noted. Articles on the Commission and on INTERPOL are now regularly published in the press, and INTERPOL regularly receives requests concerning both the processing of diffusions and notices by INTERPOL and the role and conclusions of the Commission. In response to these requests the Commission tried to provide additional explanations on its role within the Organization, and its work in the processing of individual requests. It also sought to provide clarifications on the limitations and procedures within which it must carry out its work.
71. The Commission noted increased challenges in protecting the Organization in relation to its responsibilities. It emphasised that where a request has been received by the Commission, this should not prevent or deter the General Secretariat from continuing to carry out its own controls and apply its own rules.
72. Lastly, requests were received from a number of NCBs asking the Commission to provide more detailed information about its conclusions. In the interests of transparency, and where appropriate, the Commission has on a number of occasions, provided this additional information to the NCBs concerned.

8.2 Continued focus on substantive issues

8.2.1 *Increasing number of appeals of Commission's decisions*

73. In addition to the increasing number of new request received by the Commission, there appears also to be an increase in the number of parties seeking to appeal a decision of the Commission. These requests for reconsideration are received from both requesting parties and NCBs.
74. Often requesting parties write again to the Commission after it has determined that information concerning them is compliant with the Organization's rules and can be retained in INTERPOL's files. In these instances the Commission in line with Article 19(1) of its Operating Rules, seeks the provision of any new elements which may have led the Commission to reach a different conclusion had these elements been known when the request was being processed.
75. NCB's who seek to challenge the recommendations of the Commission, often request reconsideration in instances where the Commission found that the information concerned was not in compliance with the Organization's rules, and recommended its deletion. In such a case the NCB is also asked to provide new elements in line with Article 19 of the Operating Rules of the Commission.
76. It is stressed to both requesting parties and NCB's that when the Commission decides sufficient elements exist and it agrees to reconsider a file, this does not guarantee that the Commission will reach a different conclusion than that it originally provided.

8.2.2 *Elements of effective participation*

77. As shown at paragraph 29 while conducting spot checks, the Commission noted that there was still room for improvement in the information provided by NCBs outlining the effective participation of individuals in the accused crimes.

78. In the context of the processing of individual requests and in view of arguments provided by requesting parties, the Commission often has to request source NCB's to provide additional details of effective participation supplementing those which are contained in the summary of facts.
79. On several occasions it reminded that the diffusion addressed by the General Secretariat to all NCBs on 05/04/2012 states: *“all member countries that for a red notice request and a diffusion seeking the arrest of a person, it is important to provide sufficient facts that link the wanted individual to the charges against him”, and article 83.2(b,i) of the RPD which require that the summary of facts “shall provide succinct and clear description of the criminal activities of the wanted person (...)”.*

8.2.3 Articles 2 and 3 of INTERPOL's Constitution

80. The Commission continued to receive requests seeking to challenge information recorded in INTERPOL's Files on the basis of Article 3 of INTERPOL's Constitution.
81. These requests often raise complex issues to be considered by the Commission. It carefully examines each request on a case by case basis, applying the predominance test. The Commission again communicated the often complicated nature of the cases it receives raising Article 3 arguments.
82. An increasing number of requests processed by the Commission have provided arguments, seeking to challenge information recorded in INTERPOL's Files, on the basis of Article 2 of Interpol's Constitution.
83. These requesting parties argue that their human rights have been, will be, or could be placed in jeopardy as a result of information concerning them registered in INTERPOL's files. Such arguments often center around the right of an individual to due process and a fair trial. The Commission considers all such arguments provided to it, often inviting both NCBs and requesting parties to provide further details and clarifications on the issues raised. On the basis of Article 2 arguments it received, the Commission during 2014 recommended the blocking or deletion of information in a number of cases.
84. In this context, the Commission decided in 2014, to place an increased emphasis on various statuses awarded to requesting parties to provide protection, noting that these statuses are often granted with the aim of protecting these individuals and their rights. The Commission strongly welcomed the approval by the Executive Committee of new guidelines on the processing of data concerning refugees, which showed that the overall approach of the Organization was in line with the position of the Commission. The Commission further commended this development and the positive effects these guidelines are envisaged to have on the rights of individuals.
85. The Commission also focused on exceptional grounds which resulted in the refusal of a particular country to extradite a wanted individual. As the Commission continued to receive detailed information on these issues, it resolved to further consider and prioritize them in the processing of individual requests.

8.2.4 Right of access

86. The Commission, in light of the principles of national sovereignty and indirect access to INTERPOL's files, continued to consult NCBs to request authorisation to disclose information to requesting parties.
87. The Commission noted increased emphasis being placed on the rights of data subjects, and also the ongoing discussions surrounding EU data protection reforms. In light of this, the Commission continued to remind and explain to NCBs that, for the protection of individual's rights, it is essential to provide requesting parties with at least a certain minimum level of information. It outlined that the purpose of this was to ensure requesting parties are, at minimum, aware of any valid suits or legal proceedings against them, which may require them to travel to a certain country to represent themselves.

88. The procedure for providing information to individuals who are not subject to information recorded in INTERPOL's files was again considered by the Commission. It resolved to maintain its efforts to obtain authorization from NCB's and the General Secretariat, where appropriate, to inform these requesting parties that there is no information concerning them recorded in INTERPOL's Files.
89. In view of the Organization's responsibility to respect individual human rights and to preserve its credibility, the Commission considered that the right of access to INTERPOL's files is of paramount importance to its continued efforts to improve the protection of individual's rights in line with international standards.

8.3 Case studies

90. To provide requesting parties, NCBs and the general public with an insight in to the operation of the Commission and to help inform them of the range and depth of the checks it conducts in the processing of requests, the Commission has proposed to publish case studies.
91. Three case studies offering examples of the types of requests frequently received by the Commission are attached in Appendix 1.

8.4 Follow-up to the Commission's conclusions

92. In general, the General Secretariat immediately implemented the Commission's conclusions. Nevertheless, when new information emerges after a given session, the General Secretariat can ask the Commission whether it wishes to re-examine certain files concerned. When the criteria provided for in Article 19 of the CCF's Operating Rules were met, the Commission agreed to re-examine certain files, although the re-examination did not necessarily result in the revision of its initial conclusions, as mentioned at paragraph 71.
93. In one case, the General Secretariat implemented the Commission's recommendation and deleted data concerning a requesting party. Following this deletion, the country asked for the publication of a red notice concerning this individual based on the same facts and charges. Contrary to the Commission's previous decision, the General Secretariat decided to process the information once more. The notice was finally deleted at the request of the country a few weeks later as the basis for the suits were no longer valid. The Commission strongly disapproved the issuance of this red notice.

8.5 Statistics

94. In the aim of increasing transparency the Commission has provided updated statistics on its work, along with publications on its website. It has also proposed to publish case studies as a means of providing insight into the work of the Commission (see item 8.3 and Appendix 1).
95. Statistics on individual requests received and processed in 2014 are appended to this Report.

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APPENDIX 1

CASE STUDY 1

REQUEST:

The Commission from the Control of INTERPOL's Files received a request for access to INTERPOL's Files. This request was received from an individual (Mr X) who suspected that there was information concerning him registered in INTERPOL's Files from Country A.

This request was submitted to the Commission through a lawyer claiming to represent Mr X. The lawyer initially provided an original signed letter and a copy of Mr X's ID document. The Commission wrote to the lawyer concerned explaining that in order for the request to be deemed admissible, he was required to provide an original power of attorney, that is a document signed by Mr X expressly authorizing the lawyer to act on his behalf.

The lawyer responded and provided the Commission with an original power of attorney. Upon receipt of this document the Commission wrote to inform the lawyer that his request was admissible.

CONSIDERATIONS:

Information did exist in INTERPOL's Files concerning Mr X, however that information had not been provided by Country A. Mr X was the subject of a red notice which had been issued at the request of Country B.

Accordingly, the Commission contacted the National Central Bureau (NCB) of Country B. It requested the NCB to confirm whether the suits against Mr X and the arrest warrant on which the red notice was based were still valid. The NCB was also asked to provide a copy of the arrest warrant. The NCB was also asked to provide additional elements specifying the precise role that was played by Mr X in the events which caused charges to be brought against him.

The NCB of country B provided the Commission with the confirmations and the clarifications it had requested.

CONCLUSIONS AND RECOMMENDATIONS:

On the basis of the information provided by the NCB of country B and the basic checks conducted by the Commission a file on this case was compiled. This file was presented to the members of the Commission during its next session.

After considering the information which it had received and in view of the broad checks it conducted, the Commission determined that it had found no reason to believe that the information concerning Mr X had been processed in INTERPOL's Files in a manner not compliant with INTERPOL's Rules.

DISCLOSURE:

Taking into consideration the principle of national sovereignty and indirect access to information, the Commission again contacted the NCB of Country B to request authorization to disclose to the requesting party that information existed in INTERPOL's Files provided by Country B.

The NCB authorized the Commission to disclose that Mr X was subject to information registered in INTERPOL's files provided by Country B, that he was wanted on the basis of the charge "xxx" and a valid arrest warrant issued on xx date, and that he was the subject of a red notice.

As Mr X had originally suspected he was wanted on the basis of information provide by Country A, the Commission contacted Country A to request authorization to disclose to Mr X that no information concerning him existed in INTERPOL's Files provided by Country A. The NCB authorized the Commission to provide this information to Mr X.

The Commission then wrote to Mr X and provided him with the above mentioned information.

CASE STUDY 2

REQUEST:

A request was received from an individual, Ms Y, who sought to challenge information concerning her which was registered in INTERPOL's Files. She was the subject of a red notice issued by Country C, and she had become aware of this fact as an extract from the red notice was published on INTERPOL's public website.

Ms Y provided the Commission with an original signed letter and a copy of an ID. The Commission wrote to her to outline that her request was admissible.

CONSIDERATIONS:

In her submission to the Commission Ms Y had provided a number of arguments as to why she thought the information concerning her was not compliant with INTERPOL's rules. The main argument which she relied upon was that Country D had refused to extradite her to Country C on the basis of the charges against her.

The Commission contacted the National Central Bureau of Country C and it requested confirmation that the suits against Ms Y and the court decision on which the red notice against her were based were both still valid. The Commission also requested that the NCB provide a copy of the court decision, a copy of the legislation under which Ms Y was charged, further elements of her effective participation in the criminal acts she is accused of and to provide answers to other queries raised by the Commission.

A response was received from the NCB of Country C confirming the validity of the suits and the court decision. The NCB provided a copy of the court decision and the legislation under which Ms Y was charged. Additionally further precise details of the facts which led to the charges against Ms Y were provided, and these facts clarified her role in this crime and answered the queries raised by the Commission.

The Commission also contacted the National Central Bureau of Country D. It outlined that Ms Y had informed the Commission that Country C had requested her extradition from Country D on the basis of the charges against her, but that the national authorities in Country D had refused this extradition request.

The NCB was asked to confirm whether this was true, and if so to provide the Commission with the reason its national authorities refused to extradite Ms Y. The NCB was also informed of INTERPOL's General Assembly resolution AGN/53/RES/7 of 1984, which states that: "*if certain countries refuse extradition, this is reported to the other NCBs in an addendum to the original notice*".

The NCB of Country D confirmed that its national authorities had refused to extradite Ms Y, but stated that the reasons could not be provided.

CONCLUSION AND RECOMMENDATIONS:

On the basis of the information provided by Ms Y, the NCB of Country C and the NCB of Country D a file on this case was compiled. This file was presented to the members of the Commission during its next session.

After considering all the information which it had received from both parties, the Commission determined that it had found no reason to believe that the information concerning Ms Y had been processed in INTERPOL's Files in a manner not compliant with INTERPOL's Rules.

However, the Commission recommended that a caveat be added to Ms Y's file to reflect the fact that the national authorities in Country D had refused her extradition based on the charges contained in the red notice.

INTERPOL's General Secretariat implemented this recommendation of the Commission.

DISCLOSURE:

Taking into consideration the principle of national sovereignty and indirect access to information, the Commission again contacted the NCB of Country C to request authorization to disclose information to the requesting party.

As an extract from the red notice concerning Ms Y was publicly available, the Commission informed the NCB that unless it explicitly stated otherwise within the timeframe provided, the Commission would inform Ms Y that she was wanted on the basis of a valid court decision issued on xx date, provide her with a copy of this court decision and with the details of the summary of facts contained in the red notice issued against her.

No response was received from the NCB of Country C, within the timeframe provided by the Commission. Accordingly the Commission wrote to Ms Y and provided her with the information outlined above.

The Commission also informed Ms Y that the information concerning her which was recorded in INTERPOL's files had been found to be compliant with the Organization's rules, and that a note had been added to her file stating that the authorities of country D had refused her extradition.

CASE STUDY 3

REQUEST:

A request was received from an individual (Mr Z) who was the previous President of Country E. Mr Z outlined that he had been informed by the authorities in Country F that a red notice had been issued against him by Country E. Mr Z sought to challenge this red notice.

Mr Z provided the Commission with all the documents required for an admissible request; i.e. an original signed letter, a copy of an ID document and an original power of attorney.

CONSIDERATIONS:

In his submissions to the Commission, Mr Z argued that the red notice issued against him on the basis of embezzlement charges, was politically motivated. He claimed that any actions, taken by him in relation to these charges were conducted in his official capacity and as part of his role as President of Country E.

The Commission contacted the NCB of Country E and requested confirmation of the validity of the suits against Mr Z and the validity and a copy of the arrest warrant upon which the red notice was based. The Commission further asked the NCB of Country E to provide responses to the following issues:

- Whether Mr Z had immunity from actions taken while he was President;
- Further details on the precise actions of Mr Z which resulted in the charges against him; and
- Proof that he personally benefitted from his actions.

The NCB of Country E responded to these queries and confirmed the validity of the suits and arrest warrant, and provided a copy of this arrest warrant. The NCB further stated that under national legislation, Mr Z did not have immunity for his actions carried out while President.

However the information provided by the NCB confirmed that the acts which led to the charges against him were official acts conducted in the performance of his duties as President. Additionally, the NCB was not able to provide any elements to show that Mr Z had personally benefitted from his actions.

CONCLUSIONS AND RECOMMENDATIONS:

On the basis of the information provided by Mr Z and the NCB of E, a file on this case was compiled, and presented to the members of the Commission during its next session.

The Commission considered all of the elements available to it, and on the basis of these elements, it conducted a predominance test.

This predominance test is used in the context of cases raising Article 3 concerns, to determine whether any political elements which may exist in a file are pre-dominant over any ordinary criminal law elements, or vice versa.

On the basis of this test, the Commission determined that the information concerning Mr Z was predominantly political in nature and that accordingly, it was not compliant with the Organisation's rules.

The Commission recommended the deletion of the information concerning Mr Z from INTERPOL's files, and INTERPOL's General Secretariat implemented this recommendation.

DISCLOSURE:

As Mr Z had proven that he knew of the existence of information concerning him registered in INTERPOL's Files, the Commission disclosed to him that the information he challenged had been deleted.

Additionally as it is the role of the INTERPOL General Secretariat (IPSG) to implement the recommendations of the Commission, upon the deletion of the information concerning Mr Z, IPSG informed Country E that this red notice had been deleted upon the recommendation of the Commission.

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APPENDIX 2

2014 STATISTICS

A. REQUESTS RECIEVED IN 2014

- A request is a person's petition to the Commission for the Control of INTERPOL Files questioning the processing of data concerning him/her in INTERPOL's file, or exercising his/her right to access this data.

1. General profile of requests

- The Commission has received 575 new individual requests in 2014.

Admissibility	Quantity	%
Admissible requests	472	82
Non-admissible requests	105	18
TOTAL	575	100

Type of request	Quantity	%
Complaints	226	39,3
<i>Including complaints referring to Article 3</i>	<i>85</i>	<i>38</i>
Requests for simple access	325	56,5
Others ¹	24	4,2
TOTAL	575	100

¹ The category « Others » refers to preemptive requests. They are generally warnings sent to the Commission from requesting parties who think that national authorities will submit a cooperation request for their arrest through INTERPOL channels.

INTERPOL's Files	Quantity	%
Recorded in files	272	47
Not recorded in files	303	53
TOTAL	575	100
Profile of complaints / INTERPOL files	Quantity	%
Recorded in files	186	82
<i>Including :</i>		
- <i>Wanted persons</i>	162	87
- <i>person for which a Red notice was issued</i>	143	77
- <i>Red Notices of which extracts of which are published on the INTERPOL public website</i>	97	52
Not recorded in files	40	18
TOTAL	226	100

Profile of access requests / INTERPOL files	Quantity	%
Recorded in files	79	24
<i>Including :</i>		
- <i>Wanted persons</i>	59	75
- <i>person for which a Red notice was issued</i>	43	54
- <i>Red Notices of which extracts of which are published on the INTERPOL public website</i>	19	24
Not recorded in files	246	76
TOTAL	325	100

Profile of other requests	Quantity	%
Recorded in files	7	29
<i>Including</i>		
- <i>Persons for which a notice was issued or there was a request for a notice</i>	5	71
Not recorded in files	17	71
TOTAL	24	100

2. Processing in INTERPOL's files of data concerning 272 recorded persons

- Among the 272 requests from people recorded in INTERPOL's files in 2014, most are the subject of information recorded in INTERPOL's central database (ICIS).
- Some are the subject of information relating to the numbers of their travel documents recorded in the Stolen/Lost Travel Documents (SLTD) database. This database only contains numbers of identity documents that were reported as stolen or lost, and not nominal information on people.

Some individual requests concerned vehicles which appear in the Stolen Motor Vehicles (SMV) database.

- Some people are not recorded in structured files but mentioned in messages sent between INTERPOL's National Central Bureaus. These files are counted among those recorded in the Central database but do not have a particular status.

Database	Quantity	%
Central database	264	97
SLTD / SMV	8	3
TOTAL	272	100

Status in the central database	Quantity	%
Wanted	225	83
<i>Including :</i>		
<i>- Red notices</i>	204	91
<i>- Red Notices of which extracts of which are published on the INTERPOL public website</i>	119	58
<i>- Diffusions without Red notices</i>	21	9
No status (no structured data)	28	10
Suspect	2	0,7
Criminal history	6	2,2
Disappeared	5	1,8
Possible threat	5	1,8
Victim	1	0,5
TOTAL	272	100

3. Main sources of data concerning 272 people recorded in INTERPOL's files

- It should be noted that the number of requests involving a country does not automatically imply a processing problem in INTERPOL's files of information supplied by this country.

· Russia	30
· United Arab Emirates	17
· USA	17
· India	11
· Libya	11
· Ukraine	10
· France	8
· Venezuela	7
· Egypt	6
· Uzbekistan	6

4. Archiving of files in 2014

- Number of requests archived430
- Average time for processing requests.....6 months

5. Progression in the number of requests from 2007 to 2014

Details	Years		2007		2010		2013		2014	
				%		%		%		%
Requests received	109	100	201	100	493	100	575	100		
Complaints	47	43,1	123	61,2	204	41	226	39		
Information recorded on the subject in the General Secretariat's files	61	56,0	133	66,2	259	52,5	272	47		
Requests raising the question of the application of Article 3 of INTERPOL's Constitution	19	17,4	32	15,9	71	14	127	22		
Abstract of red notice available on INTERPOL's website	15	13,8	57	28,4	104	21	119	21		

B. CONCLUSIONS OF THE COMMISSION IN 2014

- 530 requests have been completed in 2014.
- Completed requests have been received in 2014 or previously, however, all requests received in 2014 have not been completed.

1. Profile of the 212 requests studied during sessions

- 212 requests were studied by the Commission during its sessions; are not studied during sessions those requests from individuals for whom there is no data in INTERPOL's files, or for whom there is no longer any data at the date of the Session.

Types of request	Q	%
Complaints	157	74
Requests for access	52	24,5
Others	3	1,5
TOTAL	212	100

2. Profile of the Commission's conclusions

- Among the 212 requests studied during Session, 149 (thus 70%) were completed in 2014. The following statistics concern these 149 requests. Some were received before 2014.
- One request might concern several individuals.

Conclusions of the CCF	Quantity	%
Compliant ¹	92	62
<i>Including where an update or addenda was needed</i>	<i>45</i>	<i>49</i>
Non-compliant ²	57	38
TOTAL	149	100

¹ The category "Compliant" may refer to files for which the Commission nevertheless recommended updates or addenda to be included in the files

² The category "Non-compliant" includes requests for which the Commission recommended the deletion of the information concerned

- Interim decisions can also be taken by the Commission. In 2014, the Commission recommended the blocking of 62 files, some of which were then completed.
- All recommendations of the Commission as well as interim and precautionary measures have been implemented by the General secretariat.
- Note concerning one file: following the Commission's recommendation, data concerning an individual was deleted by the General Secretariat from its files. However, it was processed again by the General Secretariat at the countries' request and against the Commission's previous decision.
