



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)

INTERPOL's Independent Authority for the Control and Protection of Personal Data

DECISION OF THE COMMISSION

REQUESTS CHAMBER

Request concerning Aaa BBB

(Ref. CCF/xxx)

xxx session

[date]



DECISION CONCERNING AAA BBB

The Commission for the Control of INTERPOL's Files (the Commission), sitting as the Requests Chamber, composed of:

xxx

Members,

Having deliberated during its xxx session, on [date], delivered the following Decision.

I. PROCEDURE

1. On [date], Mr Aaa BBB (the Applicant), lodged a request for access to the information concerning his vehicle registered in INTERPOL's files, and its subsequent deletion. Following the submission of all the required documents in accordance with Rule 30 of the Operating Rules of the Commission, the request was found admissible, and the Commission informed the Applicant thereof on [date].
2. During the study of the Applicant's case, the Commission consulted the INTERPOL National Central Bureaus (NCB) of CCC (country source) and DDD (third country), and the INTERPOL General Secretariat (IPSG) in accordance with Article 34(1)(2) of the Statute of the Commission, on the arguments set forth in the request.
3. The Commission informed the Applicant on [date] that the NCB of CCC has restricted the communication of any information including the existence or the absence of data concerning the vehicle in the INTERPOL Information System.
4. Both the Applicant and the NCB source of the challenged data were informed of the fact that the Commission would study the case during its xxx session.
5. Further to Article 35(3) of the Statute of the Commission, restrictions were applied to certain information in the Decision.

II. DATA RECORDED IN INTERPOL'S FILES

6. The Applicant is a national of DDD. He presented a request regarding a vehicle, make [...] model [...] with Vehicle Identification Number (VIN) [...] (the Vehicle).
7. The Vehicle was recorded in the INTERPOL Stolen Motor Vehicles (SMV) database by the NCB CCC [...] since [date].

III. THE APPLICANT'S SUBMISSIONS

8. The Applicant requested the deletion of the data concerning the Vehicle, contending, in essence that it was legally purchased.

IV. APPLICABLE LEGAL FRAMEWORK

9. The Commission considers the following applicable legal framework.
 - 9.1. Field of competence of the Commission:
 - Article 36 of INTERPOL's Constitution,

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- Articles 3(1)(a) and 33(3) of the Statute of the Commission.

9.2. Communication of information:

- Article 35 of the Statute of the Commission.

9.3. Accuracy of the data and purpose of international police cooperation:

- Articles 11(1) and 35 of the INTERPOL's Rules on the Processing of Data (RPD).

V. ANALYSIS OF THE CASE

10. The Commission first assessed the restrictions on the communication of information to the Applicant under point A below. For an appropriate study of the case, the Commission decided to then study, under point B, the Applicant's interlinked contentions described in Section III above.

A. Restrictions to communication of information

11. Article 35(1) of the Statute affirms the principle that “the *information connected with a request shall be accessible to the Applicant and the source of the data, subject to the restrictions, conditions and procedures set out in this article*”. Such restrictions shall be motivated by one of the reasons listed in Article 35(3) and properly justified as required by Article 35(4). This Article also requires that the party requesting the restriction must indicate whether some information such as summaries may be provided instead.

12. Restrictions being an exception to the general principle of communication of information, bearing consequences on the rights of the parties, they must be necessary and proportionate to their stated purpose and interpreted strictly. In analyzing the justification of requested restrictions, the Commission tries on the one hand to protect the interests of the parties, while preserving at the same time the essence of an adversarial procedure in order to provide an effective remedy. In doing so, it takes into account, *inter alia*, the general context of the case, the other avenues available to the Applicant to obtain access to the information at the national level, the potential violation of other rules or international obligations, the possible risks for INTERPOL. It also examines whether counterbalancing measures may compensate, up to the extent possible, the interferences with the rights of the parties.

13. Here, the NCB CCC explained that it had no information in its national investigation regarding the Applicant in the framework of the SMV case. It added that the investigation and exchange of information with the NCB DDD was ongoing which prevents any transfer of information to third parties. Consequently, it could not agree to provide information to a third party regarding the vehicle. These restrictions aim at protecting the confidentiality of the investigation or prosecution. In view of the above, the Commission considers that the NCB CCC has provided a reasonable justification for the restrictions in this case.

14. Nevertheless, the Applicant provided information which demonstrates that he knows there are data concerning the Vehicle in the SMV database, in particular as it was seized in DDD on that basis. Moreover, despite the restrictions, the Applicant was able to present information concerning his case. In view of this, the Commission resolves that the Applicant may be provided a copy of this decision, subject to restrictions.

B. Accuracy of the data and purpose of international police cooperation

a) *Submissions of the Applicant*

15. The Applicant indicated that he purchased the Vehicle on [date] legally and in good faith, from EEE in DDD for [...]. In proof of this, he provided a copy of the purchase and sales agreement of [date], and the registration document Series [...].

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16. He then proceeded with all the legal requirements to register the Vehicle in CCC, his country of residence. After the necessary customs checks, he obtained the legal registration on [...]. He provided a copy of the declaration of [date] to CCC and a letter from the CCC Department of International Police Cooperation dated [date] to support his assertions.
17. However, on [...] he was arrested in CCC, and informed that DDD had registered his Vehicle as stolen in INTERPOL's files on [date]. According to him, that was impossible, as the vehicle was in his legal possession on that day.

b) Submissions of the NCB CCC

18. The NCB of CCC confirmed that the searches against the Vehicle with VIN [...] remained valid and of interest for the purposes of international police cooperation. The NCB reported that the CCC police unit initiated criminal case [...] regarding misappropriation of this Vehicle, whose owner is a CCC national.
19. It advised that the Vehicle was seized in DDD and that the information from the NCB of DDD regarding recovery possibility received on [date] was forwarded to the legal owner of the Vehicle.

c) Information from the NCB of DDD

20. The NCB of DDD confirmed that on [date], the Vehicle was stopped exiting the DDD border. The driver was [...].
21. Considering the Vehicle was registered in SMV, as stolen in CCC on [date], criminal proceedings were opened under Article [...] of the CCC Criminal Code [...].
22. An additional search of national automated information service of CCC showed that the Vehicle was registered on [date] to the Applicant, with registration certificate [...].
23. The NCB of CCC was informed of the discovery of the Vehicle on [date]. Since then, there were several exchanges of information regarding the Vehicle. Most recently, on [date] the NCB of CCC confirmed that the CCC owner of the Vehicle was interested in its recovery. On [date], the NCB of DDD provided all the necessary information regarding recovery and the contact data of the responsible case officer.

d) Findings of the Commission

24. The Commission refers to Article 12 of the RPD, which requires that data processed in INTERPOL's files are "*accurate, relevant, not excessive in relation to its purpose and up to date.*" The Commission furthermore refers to Article 35(1) of the RPD which provides that, prior to any recording of data in a police database, the NCB shall ensure that the data are of interest for the purposes of international police cooperation.
25. The SMV database contains data on vehicles which have been reported stolen or misappropriated.
26. In the present case, based on the information submitted by the NCB CCC the Vehicle was declared as stolen on [date]. A criminal case was consequently opened for misappropriation on [date]. On [date], it was discovered in DDD, where it has remained since, pending an ongoing recovery procedure.
27. The NCB of CCC confirmed that the Vehicle is still considered as stolen and that the searches remain valid. Therefore, it provided concrete elements regarding the possible "*interest of the data for the purposes of international police cooperation*" in the meaning of Article 35 of the RPD.

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28. Considering the above, while the Applicant has presented a narrative of events regarding the Vehicle allegedly legally purchased, and despite the absence of elements highlighting the possible involvement of the Applicant in any wrongdoing, the Commission, finds no reason to challenge the fact that the Vehicle is considered as stolen in CCC.
29. As a result, the Commission holds that the information provided by the Applicant is insufficient to demonstrate that the data challenged would not be accurate, relevant and of interest for the purposes of international police cooperation.

FOR THESE REASONS, THE COMMISSION

Decides that the data challenged are compliant with INTERPOL's rules applicable to the processing of data.

Commission for the Control
of INTERPOL's Files

Secretariat to the Commission
for the Control of INTERPOL's Files

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