



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 [the Applicant]**

*(Ref. CCF/[xxx]/[xxx])*

**[xxx]<sup>th</sup> session**

**[date]**



## DECISION CONCERNING [THE APPLICANT]

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

Teresa McHENRY, Chairperson  
Susie ALEGRE,  
Mohamed KAMARA,  
Michel FORST,  
Hamza ES-SAID,

Members,

Having deliberated during its [xxx]<sup>th</sup> session, on [date], delivered the following Decision.

### I. PROCEDURE

1. On [date], Mr [the Applicant] (the Applicant) lodged a request for the deletion of the information concerning him registered in INTERPOL's files. 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 Bureau (NCB) of [Country 1], and the INTERPOL General Secretariat (IPSG) in accordance with Article 34(1) of the Statute of the Commission, on the arguments set forth in the request.
3. 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]<sup>th</sup> session.
4. 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

5. The Applicant, a national of [Country 1], is the subject of a Green Notice issued on [date], at the request of the NCB of [Country 1] for "DRUG(S), FORGERY, THEFT" with the status of possible threat and the purpose to warn about an individual who may be a possible threat to public security/safety or may commit a criminal offence in another member country.
6. The facts of the case state the following: "[Country 1]. Del [date] Al [date]. Esta Persona Registra [xxx] Condenas En [Country 1], Las Que A Continuación Se Detallan: [date] Condenado A Una Multa Económica Por El Delito De Consumo De Drogas. [date] Condenado A [xxx] Dias De Prisión Por Infracción A La Ley De Propiedad Intelectual. [date] Condenado A Una Multa Económica Por Infracción A La Ley De Propiedad Intelectual. [date] Condenado A [xxx] Dias De Prisión Por Infracción A La Ley De Propiedad Intelectual. [date] Condenada A Una Multa Económica Por Infracción A La Ley De Propiedad Intelectual. [date] Condenado A [xxx] Dias De Prisión Por El Delito De Hurto. Interpol [Country 2] Con Fecha [date] Informa Que Se Encuentra Detenido Por El Delito De Robo."
7. [RESTRICTED]

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### III. THE APPLICANT'S SUBMISSIONS

8. The Applicant requested the deletion of the data concerning him, contending, in essence that there is a lack of proportionality between the impact of the data processed and the purpose for which they were processed, and that the Green Notice lacks purpose.

### 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,
    - Articles 3(1)(a) and 33(3) of the Statute of the Commission.
  - 9.2. Provisions specific to green notices:
    - Article 89 of INTERPOL's Rules on the Processing of Data (RPD).
  - 9.3. Purposes of international police cooperation:
    - Articles 10(1) of the RPD.
  - 9.4. Quality of the data:
    - Article 12 of the RPD.

### V. ANALYSIS OF THE CASE

10. For an appropriate study of the case, the Commission decided to study together the related issues of proportionality and purpose of the data, in light of their shared factual allegations and interdependent argument concerning.

#### **Lack of purpose and proportionality of the data**

##### *a) Submissions of the Applicant*

11. The Applicant explained that in 2015 he was arrested for robbery. Since then, he has lived a law-abiding life in [Country 1]. Therefore, he represents no current threat to public safety.
12. In addition, the Applicant claimed that the data have been retained for over the five-year period of initial publication. The Green Notice had a disproportionate impact in his life as he is restrained from traveling, which interferes with his family life.

##### *b) Submissions of the NCB of [Country 1] (NCB source of the data)*

13. The NCB indicated that the Applicant was convicted multiple times for "*consumo y porte de drogas en lugares públicos, infracción a la ley de propiedad intelectual, receptación y hurto simple*". In its reply, the NCB pointed out that the Applicant's latest conviction was in 2015. It also reported that the Applicant is considered a public safety risk based on his previous convictions and the criminal records listed by the investigation police.
14. Regarding the Applicant's arguments, the NCB made no comment.

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## DECISION CONCERNING [THE APPLICANT]

### *c) Findings of the Commission*

15. Concerning the Applicant's argument that the Green Notice issued against him lacks a proper purpose, the Commission recalls that according to Article 89 of the RPD, as seen in paragraph 9.2 above, Green Notices may be published to warn about a person's criminal activities and may be published if the person is considered to be a possible threat to public safety. This conclusion must have been drawn from an assessment by a national law enforcement authority or an international entity and based on the person's previous criminal conviction(s) or other reasonable grounds. Furthermore, sufficient data concerning the threat should be provided for the warning to be relevant. Also, according to Article 12 of the RPD, the data must not be excessive in relation to their purpose.
16. Article 10(1) of the RPD states "*that the processing of data in the INTERPOL Information System may only be carried out for a given, explicit purpose which is in conformity with the Organization's aims and activities.*"
17. Here, the Applicant explained he committed no wrongdoing since his detention in 2015, while the NCB of [Country 1] explained that he was convicted 6 times for crimes against property and drug consumption (see para. 13), which were described in the Green Notice. It also reported that in 2018 the Applicant was arrested in [Country 2]. In view of the information available in the summary of facts, the Commission considers that the NCB provided sufficient information to justify that the Applicant represents a possible threat to public safety, which is based on investigative authorities' assessment and his previous criminal conviction.
18. Turning to the Applicant's argument concerning the disproportionate impact on his rights, the Commission recalls that data in INTERPOL's files must be proportionate to their purpose, as set above in paragraph 9.4. Here, the purpose of the Green Notice is to warn other member countries about an individual who may be a possible threat to public safety. It notes that the Applicant was sentenced six times in [Country 1] before he was detained in another member country. Particularly, it stresses that the NCB of [Country 1] registered the data after the Applicant's arrest in [Country 2], for the robbery in 2015. In assessing this under the principle of proportionality, the Commission weighs that the alleged repercussions on the Applicant's rights are counterbalanced by the fact that the NCB demonstrated their relevance and proportionality in the context of his case.
19. Accordingly, the Commission finds that the information provided by the Applicant is not sufficient to establish that the Green Notice lacks purpose under Articles 89 and 10(1) of the RPD, nor proportionality as per Article 12 of the RPD.
20. Nonetheless, the Commission recalls that under Article 11 of the RPD, data in the INTERPOL system must be authorized by the law applicable to the NCB source. Yet, in its reply, the NCB of [Country 1] did not provide an explicit confirmation of the lawfulness of the retention of the Green Notice. On this basis, the Commission resolves that confirmation from the NCB of [Country 1] that the retention of data concerning the Applicant in INTERPOL's files is authorized under its relevant national laws is required for the compliance of data with applicable rules.

### **FOR THESE REASONS, THE COMMISSION**

Decides that the challenged data are compliant with INTERPOL's rules applicable to the processing of personal data, subject to:

- a) the confirmation from the NCB of [Country 1] that the retention of data concerning the Applicant in INTERPOL's files is authorized under its relevant national laws; and
- b) if the abovementioned confirmation is not provided by the NCB of [Country 1] within one month of its notification of this Decision, then the challenged data are not compliant with INTERPOL's rules applicable to the processing of personal data, and they shall be deleted from INTERPOL's files.

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Commission for the Control  
of INTERPOL's Files

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

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