



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 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 Bureaus (NCB) of CCC (country source), the DDD (third country), and EEE (third country) and the INTERPOL General Secretariat (IPSG) in accordance with Article 34(1) and (2) of the Statute of the Commission, on the arguments set forth in the request.
3. The Commission informed the Applicant on [date] he is wanted through INTERPOL's channels by CCC, for the charges of [...] and provided the information described in paragraph 6 below.
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.

II. DATA RECORDED IN INTERPOL'S FILES

5. The Applicant, a national of CCC, is the subject of a Red Notice issued on [date], at the request of the NCB of CCC for [...] on the basis of an arrest warrant issued on [date] by [...] CCC.
6. The facts of the case state the following: "[...]"

III. THE APPLICANT'S SUBMISSIONS

7. The Applicant requested the deletion of the data concerning him, contending, in essence, that:
 - a) the proceedings are no longer valid;
 - b) the purpose of the Notice cannot be achieved; and
 - c) the data lack a clear description of criminal involvement.

IV. APPLICABLE LEGAL FRAMEWORK

8. The Commission considers the following applicable legal framework.
 - 8.1. 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.
 - 8.2. NCB cooperation:
 - Article 5(2) of the Statute of the Commission,
 - Articles 10(3), 11(2), 12(2), and 17 of INTERPOL's Rules for the Processing of Data (RPD).

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- 8.3. Validity of the proceedings:
- Articles 11(2), 12, and 83(2)(b)(v) of the RPD.

V. ANALYSIS OF THE CASE

9. The Commission assessed the Applicant's most relevant contentions described in Section III above.

Validity of the data

a) Submissions of the Applicant

10. The Applicant submitted that he was acquitted by the CCC Courts, on [date]. He claimed that this acquittal was based on a lack of evidence, and the decision is final. He submitted a copy of the [date] decision. According to this decision, the Applicant is named as a defendant along with 18 other individuals, and it lists 46 plaintiffs, and involves [...].

b) Submissions of the NCB of CCC (NCB source of the data)

11. The NCB of CCC submitted that no acquittal was issued by the CCC Courts so far, but this judicial authority has issued an indictment and the case was relayed to the CCC Criminal Court for the proceeding. In this regard his claim on issuance of acquittal is baseless and the arrest warrant is still valid and still forms the basis of the Red Notice. The NCB explained that the acquittal decision provided to it by the Commission with the Applicant's authorization, was sent to its relevant judicial authority for assessment and that the Commission would be provided with the result accordingly.

c) Findings of the Commission

12. The Commission recalls that Article 83(2)(b)(v) of the RPD requires that Red Notices may be published only when sufficient judicial data has been provided, which includes reference to a valid arrest warrant or judicial decision having the same effect. It recalls that under Articles 3(1)(a) and 33(3) of the Statute of the Commission, the function of the Commission is to review whether the processing of data in INTERPOL's files meets INTERPOL's applicable legal requirements in accordance with Article 36 of its Constitution as mentioned in paragraph 8.1 above.
13. The Commission considers that according to the Applicant, the proceedings forming the basis of the Red Notice are no longer valid, because he was acquitted (as seen in paragraph 10 above). It also takes into account that, according to the information provided by the NCB of CCC, the arrest warrant and proceedings against the Applicant remain valid.
14. As a general practice, the Commission highlights that it does not enter into an inquiry designed to take decision on the application of national procedural law, and it is not its role to assess a country's law enforcement or judicial system *in abstracto*. Instead, it must make its determinations based on specific information that sheds light on whether or not INTERPOL's legal framework has been complied with in a particular case.
15. The Commission also emphasizes that further to Article 5(2) of its Statute, INTERPOL's member countries shall "*respond diligently to requests from the Commission in accordance with their national laws.*" It considers that the NCB of CCC was provided with a copy of the [date] decision on [date], and on [date] although the NCB indicated that the Applicant was not acquitted, it informed the Commission that it would share the acquittal decision with its judicial authority for assessment and provide the Commission with the results (see paragraph 11 above). However, although it was reminded to provide this information, and informed that the data would be blocked or deleted if it did not respond to the Commission's queries, no further information was provided by the NCB.

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16. In view of the information provided, the Commission considers that the NCB of CCC has not demonstrated sufficient cooperation with it in the context of the study of this case, and has not provided a concrete counterbalance, verified by its judicial authorities, to the Applicant's acquittal claims. The Commission holds that this lack of cooperation prevents it from ensuring that the retention of the data in INTERPOL's files is compliant with Article 83(2)(b)(v) of the RPD.
17. As the Commission can conclusively dispose of the matter in favor of the Applicant on the above basis, it determines that it is not necessary to further examine his other claims.

FOR THESE REASONS, THE COMMISSION

Decides that the data concerning the Applicant are not compliant with INTERPOL's rules applicable to the processing of personal data, and that they shall be deleted from INTERPOL's files.

Commission for the Control
of INTERPOL's Files

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

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