

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 الم د ش ج - انتربول



ANNUAL ACTIVITY REPORT OF THE CCF – 2008 and January-February 2009

Original language: French
Available in: Arabic, English, French, Spanish
Reference: CCF/74/12/d232

ENGLISH

C.C.F. - BP 6041 - 69411 Lyon Cedex 06 - France - e-mail : CCF@interpol.int

A l'usage exclusif de la Commission de Contrôle

CONFIDENTIEL

TABLE OF CONTENTS

	<u>Page</u>
INTRODUCTION	1
1. COMPOSITION OF THE COMMISSION	1
2. THE COMMISSION'S ROLE AND PRIORITIES.....	2
3. THE COMMISSION'S INDEPENDENCE AND THE STRENGTHENING OF ITS STATUS	2
4. OPERATING RULES OF THE COMMISSION AND ROLE OF ITS MEMBERS	2
5. ONGOING PROJECTS CONCERNING THE PROCESSING OF PERSONAL INFORMATION	3
5.1 Technical projects.....	3
5.2 Draft Implementing Rules for the Rules on the Processing of Information	4
5.3 Co-operation Agreements: ATC-CIS and CARICOM.....	5
6. INDIVIDUAL REQUESTS AND SPOT CHECKS	5
6.1 General points.....	5
6.2 Deadlines for examining the need to retain an item of information.....	5
6.3 Cancellation of searches	5
6.4 Management of files linked to projects	6
6.5 Publication of information on the INTERPOL website.....	6
6.6 Purpose of blue notices	6
6.7 Witnesses	6
6.8 Co-operation by the National Central Bureaus	6
7. THE COMMISSION'S REFERENCE TEXTS.....	6

INTRODUCTION

The aim of the present report is to provide a summary of the work of the Commission for the Control of INTERPOL's Files in 2008 and January-February 2009.

1. COMPOSITION OF THE COMMISSION

The five members of the Commission are of different nationalities. Their terms of office began in March 2008. The composition of the Commission during the period covered by the present report was as follows:

POSITION	MEMBER	ALTERNATE
Chairman	Mr Peter Hustinx (Netherlands) European Data Protection Supervisor	Mr Kevin O'Connor (Australia) President, Administrative Decisions Tribunal
Member appointed by the French Government	Mr Pierre Leclercq (France) Honorary Adviser to the Court of Cassation	Mr De Givry (France) Adviser to the Court of Cassation
Data-protection expert	Mr Claudio Grossman (Chile) Dean, American University Washington College of Law	Ms Slettemark (Norway) Senior legal adviser The Data Inspectorate
Executive Committee member	<p>Until October 2008: Mr Mouzouni (Morocco) Contrôleur Général (Asst. Chief Constable) - Préfet de Police de la Ville de Casablanca (Police Commissioner for the City of Casablanca)</p> <p>Since October 2008 Mr Magdy Elshafey (Egypt) Head of Egyptian NCB</p>	<p>Until October 2008 Mr Ki-Ryun Park (Korea) Director General of the Bureau of Foreign Affairs, Korean National Police Agency</p> <p>Since October 2008 Mr Eduardo Fernandez Cerqueira (Angola) Comisario (Commissioner) - Director Nacional (National Director) Dirección Nacional Investigaciones Central (National Central Criminal Investigation Directorate)</p>
Information Technology Expert	<p>Until March 2008: Mr Iacovos Themistocleous (Cyprus) Head of the Information Technology Department of the Central Information Service (Cyprus Police)</p> <p>Since March 2008 Ms Snježana Grgic (Croatia) Information Technology Adviser Croatian Personal Data Protection Agency</p>	<p>Until March 2008: Captain Sameh Fasha (Jordan)</p> <p>Since March 2008 Mr José Luis Díez Aguado (Spain) Director del Área de Informática de la Dirección general de la Policía y la Guardia Civil (Director of Information Technology at the General Directorate of Police and the Civil Guard)</p>

2. THE COMMISSION'S ROLE AND PRIORITIES

The Commission assured its three functions of supervision, advice and processing of individual requests. However, it pointed out that individual requests for access to INTERPOL's files remained the priority. Requests submitted by the General Secretariat for the Commission's advice will continue to be dealt with as and when they are made. The Commission carries out spot checks at each session (see point 6.1).

Questions relating to direct exchanges or bilateral transmission between NCBs over the INTERPOL network, and to the recording of information in INTERPOL's databases directly by the authorities permitted to do so, which form the basis of the Organization's new technical projects, will be closely studied as the projects develop (see point 5.1).

The Commission pointed out on several occasions that its three functions are covered by rules which the Organization has adopted (see point 7), not by laws applied in INTERPOL's member countries.

It also stressed the complexity of its functions in an international environment such as the one in which the Organization operates, since all its members do not have the same legal, technical, operational and practical tools.

3. THE COMMISSION'S INDEPENDENCE AND THE STRENGTHENING OF ITS STATUS

2008 was marked by the inclusion of the Commission in the text of the Organization's Constitution, ranking it as a body of the Organization in the same way as the General Assembly, Executive Committee, General Secretariat, National Central Bureaus and the Advisers, in conformity with Article 5 of the Constitution.

This inclusion in the Organization's internal legal system is an essential stage which enhances the Commission's legal status, makes it more visible, and guarantees the independence necessary to carry out all its functions of supervision, advice and management of requests for access to INTERPOL's files, including complaints.

The independence essential to the Commission is also referred to in Article 5 of the Rules relating to the Control of Information and Access to INTERPOL's Files, which also stipulates that the members of the Commission neither accept nor seek any instructions in the exercise of their functions and that the Commission's sessions are held in camera.

In 2008, the Commission held four two-day meetings at the Organization's Headquarters in Lyon. It also met once in January 2009.

4. OPERATING RULES OF THE COMMISSION AND ROLE OF ITS MEMBERS

- On 31 October 2008, the Commission adopted its new **operating rules** which came into force on 1 November and can be consulted on the Commission's website: <http://www.INTERPOL.int/Public/ccf/default.asp>.

They were drafted in such a way as to offer the best guarantees to people requesting access to INTERPOL's files or calling into question the processing of information in INTERPOL's files, and to offer enough flexibility so that operations were not slowed down by useless procedures, file management was optimized, and time taken to process requests was reduced.

They should be regularly reviewed in order to make any adjustments that become necessary to guarantee the Commission's smooth operation.

- At the same time as preparing its operating rules, the Commission redefined the role of its members and its Secretariat, both to contribute to the essential dialogue between the Organization and the Commission, and to enable it to perform its duties fully and efficiently and in complete independence.

So that the Commission is able to understand not only the legal and practical aspects of the information processing carried out through INTERPOL channels, but also the technical aspects of that processing, it agreed that its electronic data processing expert will meet the General Secretariat's departments responsible for information processing in advance of each session.

Furthermore, in conformity with Article 35 of the Commission's Operating Rules, the Commission now appoints a Rapporteur from among its members to facilitate and optimize file-processing and decision-taking when the Commission is in session.

Finally, an exchange of letters took place between the Chairman of the Commission and the INTERPOL Secretary General, setting out the context in which the Commission's Secretariat would operate, and stressing its independence.

5. ONGOING PROJECTS CONCERNING THE PROCESSING OF PERSONAL INFORMATION

In accordance with its mandate, the Commission supervised and advised the Organization on its new projects connected with the processing of personal information.

5.1 Technical projects

- The Commission closely studied the new projects connected with the processing of personal information being developed by the Organization.
- Regarding some of the projects, no specific questions were raised. They are bound by clear, general implementation conditions which take full account of the operational, technical and legal implications of information processing. They will, however, be assessed at the end of their test periods.
- The Commission considered that other, larger-scale projects were innovative tools, capable of meeting the requirements of international police co-operation and making it easier to manage a number of legal issues.

Although it is convinced of the strategic importance of the projects to improve the efficiency of information processing through INTERPOL channels, the Commission nonetheless feels that the possible implications of these projects must be assessed in greater depth than has been the case in several respects.

Consequently, after the current experimental phase, before going ahead with any further stages of implementation, a more thorough analysis must be carried out into the effects of extending the new system, a list of standards – which should be as specific as possible – must be drawn up to be followed by all operators, and new practical, technical and legal tools must be developed for supervising - a priori and a posteriori - the information processed using these new systems.

To help the Organization to manage all the issues at stake in these projects as well as possible, the Commission also encouraged it to develop a guide for systematically assessing the issues at every stage of the projects, and a user's guide on the new information-processing methods resulting from these technical projects.

Lastly, the Commission stressed that the projects need to be balanced in both an operational and a legal sense, which implies rigorous management of processing time from all points of view. The Commission therefore recommends putting in place the necessary resources and management charts to reduce the time between a country recording a notice request in INTERPOL's database and its validation by the General Secretariat.

- The Commission agreed to continue to closely monitor the development of the technical, legal and practical aspects of the projects in the light of the obligations incumbent upon the General Secretariat, the Organization itself, and any other entity authorized to use the INTERPOL information systems.

5.2 Draft Implementing Rules for the Rules on the Processing of Information

- The Commission examined the new draft Implementing Rules for the Rules on the Processing of Information, and came to the following conclusions.

It approved the general approach to security matters and stressed the crucial importance of implementing the information-processing security systems.

The Commission was pleased to note that red notices could not be issued at the request of authorized national institutions, and that new classification levels had been defined, provided that they cannot be interpreted as restricting the principle of free access by the Commission to INTERPOL's files, the extent of which depends mainly on the agreement of the information sources concerned.

The Commission considered that the provisions relating to the processing of information which give rise to Article 3 issues offered a judicious, pragmatic approach to the files concerned, and allowed each file to be examined on a case-by-case basis according to guidelines applicable to all files.

The Commission nonetheless asked for the questions it had raised about downloading, co-operation between private entities, bilateral communication between National Central Bureaus through INTERPOL channels, and the methods for exercising the option of retaining information in INTERPOL's database to be taken into consideration and discussed at the upcoming meetings of the Ad Hoc Working Group on the Processing of Police Information responsible for regularly assessing the rules relating to information processing and the procedures developed by the General Secretariat.

- The Commission also asked the General Secretariat to keep it regularly informed of implementation of the Rules, the problems encountered and the accompanying measures taken.

5.3 Co-operation Agreements: ATC-CIS and CARICOM

The Commission studied the main features of the draft co-operation agreements with WADA, CARICOM and ATC-CIS. In the light of the information provided, the Commission considered that the projects seemed to adhere to the general principles applied to information processing.

6. INDIVIDUAL REQUESTS AND SPOT CHECKS

6.1 General points

- **Individual requests** are requests received from private individuals seeking access to any information about them processed in INTERPOL's files or calling into question the recording of information about them in those files.

During 2008, the Commission received 177 new individual requests, 84 of which concerned people who were the subject of information in INTERPOL's files.

- The Commission's **spot checks** are intended to help the Organization maintain an information-processing system which guarantees compliance with data-protection principles, in order to protect the Organization against possible complaints concerning the violation of basic human rights as a result of the processing of information about the individuals concerned.

The electronic data processing expert's visits to General Secretariat departments responsible for technical or practical aspects of information processing were carried out with this in mind. From her visits, the expert gained a general impression that the INTERPOL network and its databases were managed in a very professional and secure manner, although certain processing operations raised questions (back-up system, distinction between archiving and deletion of information) which were still being examined. The Commission asked that its EDP expert be able to continue meeting General Secretariat departments regularly during the coming year.

The Commission's spot checks focused on cases and methods of retaining information in the General Secretariat's files.

- In the context of processing individual requests and its spot checks, the Commission studied a number of recurring questions as follows.

6.2 Deadlines for examining the need to retain an item of information

The Commission again highlighted the General Secretariat's efforts to improve the management of individual files in respect of which the deadline for examining the need for their retention had expired. By observing these deadlines, the General Secretariat limits the risks it takes when deciding, on its own initiative, to retain information without giving clear reasons.

6.3 Cancellation of searches

The Commission was pleased to note the procedural measures that had already been taken by the General Secretariat to manage the information concerned following a request to cancel the search for a person. The Commission had recommended not retaining the information in its files unless the Organization is authorized to do so by its source, and unless retaining it in the General Secretariat's files for a duly reasoned specific purpose is justified by specific information. The Commission also stressed the need to systematically obtain the reason for a request to cancel a search, since that essential information could lead to the deletion of the information concerned, in conformity with the applicable rules.

6.4 Management of files linked to projects

The Commission noted, however, that there still remained a number of questions concerning the management of files linked to police projects. After studying the reasons for these difficulties, the Commission suggested a number of leads that the General Secretariat could follow up to standardize the way such requests are processed and ensure respect for the applicable rules and requirements of international police co-operation with regard to managing police projects. The Commission will continue to monitor this subject during the coming year.

6.5 Publication of information on the INTERPOL website

Having studied one request which revealed that personal information published by INTERPOL on its website could remain accessible to Internet users via search engines, even though it had been deleted from INTERPOL's files, the Commission encouraged the General Secretariat to continue its efforts to control the problem and to publish on its website only that information which was strictly necessary for it to perform its functions, and to ensure that the information it published was up to date.

6.6 Purpose of blue notices

The Commission continued to receive requests from people who had been arrested at borders on the basis of blue notices or simply information about them recorded in INTERPOL's files, although no action against them was requested by the source of the information. On the basis of the Commission's recommendations, the General Secretariat has had to remind the Organization's member countries on a number of occasions of the purpose of processing the information in INTERPOL's files, and stressing that they are not expected to take any coercive action.

6.7 Witnesses

The Commission examined a number of files about witnesses, whose status is sensitive. It wished to draw the General Secretariat's attention to the need, firstly, to ensure that there were clear indications as to what action be taken if a witness who had been recorded was traced and, secondly, to have items of specific interest in relation to the aims pursued, before deciding to postpone the deadline for examining the need to retain a file on a witness.

6.8 Co-operation by the National Central Bureaus

The Commission again noted the efforts made by the National Central Bureaus to provide the General Secretariat or the Commission itself with the information requested to assess whether the information had been processed in INTERPOL's files in conformity with the applicable rules, mainly when the processing is questioned by those who are the subject of the information. It also expressed a favourable opinion on the General Secretariat's proposal to inform the information sources that, if they did not answer the questions put by the General Secretariat, the files concerned would be deleted from INTERPOL's files, because it would not be possible to assess whether the information had been processed in INTERPOL's files in conformity with the applicable rules.

7. THE COMMISSION'S REFERENCE TEXTS

The following texts comprised the main regulations applicable in 2008 for the processing of information by INTERPOL and for the monitoring of such processing:

- the Commission's new Operating Rules

- the Exchange of Letters between INTERPOL and the French Government concerning the organization of the internal control of files held by the ICPO-INTERPOL
- the Rules on the Processing of Information for the Purposes of International Police Co-operation
- the Implementing Rules for the Rules on the Processing of Information for the Purposes of International Police Co-operation (since 1 January 2008)
- the Rules on the Control of Information and Access to INTERPOL's Files
- the second part of the Rules on International Police Co-operation and on the Internal Control of INTERPOL's Files
- the Rules Governing Access by an Intergovernmental Organization to the INTERPOL Telecommunications Network and Databases
- the ICPO-INTERPOL Constitution
- the Rules of Procedure for the Commission for the Control of INTERPOL's Files
- the Agreement between the Commission and the ICPO-INTERPOL General Secretariat.

- - - - -