

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 2013.

1. COMPOSITION AND INDEPENDENCE OF THE COMMISSION

2. In 2013, the Commission had five members, as follows:
 - Mr Hawkes (Ireland), Chairman
 - Ms Madhub (Mauritius), Data-protection expert
 - Mr Frayssinet (France), Data-protection expert
 - Mr Al Omari (Jordan), Expert in international police cooperation matters (until November 2013)
 - Mr Yavuz (Turkey), Expert in international police cooperation (since November 2013)
 - Mr Patrick (Canada), Information-technology expert.

2. SESSIONS 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 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 information-technology expert spent at least one day consulting various departments of the General Secretariat prior to the Commission's sessions.
5. In 2013, 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.

3. ROLE AND PRIORITIES OF THE COMMISSION

7. In 2013, the Commission continued to carry out its three functions of supervision, advice and processing of individual requests. It granted particular attention to the measures taken to ensure that INTERPOL channels were being used in accordance with the applicable rules.
8. The processing of individual requests continues to grow in volume and raises increasingly precise issues. The Commission has nevertheless been careful to fully play its role of adviser to the Organization in the context of INTERPOL's projects involving the processing of personal data, as well as part of its spot checks.
9. The Commission was required to consult the General Secretariat on the implementation of certain rules and procedures to conduct its work effectively.

10. It attached particular importance to:

- Management and control procedures to protect the data recorded in INTERPOL's files, to ensure that INTERPOL's rules are observed and the basic rights of individuals are respected;
- The processing of notice requests and diffusions for individuals who are wanted with a view to their arrest.

4. RULES APPLICABLE TO THE WORK OF THE COMMISSION

11. The following texts provide the primary legal basis for the work of the Commission and for the processing of information through INTERPOL's channels:

- The Operating Rules of the Commission, adopted in 2008;
- INTERPOL Rules on the Processing of Data (the "RPD");
- Rules on the Control of Information and Access to INTERPOL's Files;
- The ICPO-INTERPOL Constitution, particularly Articles 2 and 3.

12. In carrying out its three functions, the Commission also took into consideration the texts aimed at the implementation of the documents mentioned above.

5. MONITORING ISSUES INVOLVING THE PROCESSING OF PERSONAL DATA

13. As part of its work, the Commission examined various issues regarding how the rules adopted by INTERPOL were applied and upheld.

5.1 Examination of projects involving the processing of personal data

14. 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.

5.1.1 *Need for a uniform and effective project-management procedure*

15. INTERPOL's rules provide that the General Secretariat should consult the Commission on projects involving the processing of personal data. 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.

16. The Commission welcomed the launch of a project-management procedure, but noted that the procedure still did not allow all the stakeholders involved to be consulted so as to allow the technical and legal issues to be fully analysed. Furthermore, the procedure had not yet been uniformly or effectively implemented.

17. The Commission considered that the lack of such a procedure had made it more difficult for the General Secretariat to play its role in ensuring compliance with INTERPOL's applicable rules, in conformity with the provisions in Article 22.5 of the RPD, and for the Commission to fully play its role as adviser to the Organization.

18. Any such procedure must allow the differences and the similarities between projects to be identified in more detail, thereby improving the management of the risks and resources. The Commission has therefore agreed to meet the various stakeholders involved in setting up projects, to determine the specific impacts on the processing of personal data and to propose a uniform and global procedure for managing such projects.

5.1.2 Databases and other projects

19. The Commission has examined several new projects involving the processing of personal data in various crime areas.
20. It drew the General Secretariat's attention to the fact that some projects were disrupting the data-processing models currently in place at INTERPOL. They raised questions about general policy, which called for greater reflection on the issues at stake, particularly with regard to data protection, INTERPOL's overall role and that of the various stakeholders.
21. The main projects examined by the Commission in 2013 are presented below.

(a) DVI

22. The purpose of the International Disaster Victim Identification Initiative (DVI) project is to draw up a precise roadmap for the official establishment of a DVI platform.
23. The Commission once more recommended that a parallel be drawn between this project – with regard to the processing of data – and the FAST-ID project (which speeds up the identification of multiple victims or missing persons following a man-made or natural disaster, and includes similar risks). It therefore constitutes a useful model for incorporating data-protection principles.

(b) Umbra

24. Project Umbra – to develop an information-exchange platform for national anti-corruption entities and a Technical and Strategic Anti-Corruption Information Database – aims to promote and increase the exchange of corruption information and anti-corruption methodologies worldwide between law-enforcement agencies and all national anti-corruption entities responsible for the fight against corruption.
25. The additional information about the project sent by the General Secretariat to the Commission confirmed the need to meticulously study the legal implications of phases 2 and 3 of this project to ensure that the data processed in this context were of a high quality, and that the processing complied with the applicable rules. The Commission stressed the need to take into account the issue of data access.

(c) Financial analysis project on the monitoring of Tunisian assets

26. The Commission took note of the financial analysis project on the monitoring of Tunisian assets, involving the establishment of a platform for the exchange of data between the various stakeholders involved.
27. It recommended that a certain number of key fields be added, such as the date the file was created, the data source, and the status of each person recorded in the database. It also insisted on the need to take utmost care to ensure that the various types of processing, including the exchange of personal data within the scope of the project, were carried out in conformity with the rules in force.

(d) Maritime Piracy Project

28. In light of all the information in its possession, and after having met the people responsible for developing and implementing the project, the Commission concluded the following:
- The objectives of the project were clearly established. The various stages of the project and their legal implications were clearly identified. The technical aspects had also been taken into consideration.
 - The Commission did not identify any discrepancies that would, at present, raise doubts about the compliance of the project's development with the applicable rules on the processing of personal data.
 - Since the project implied creating analysis files, the Commission drew the General Secretariat's attention to the need to ensure the provisions under Articles 68 to 71 of the Rules on the Processing of Data were observed.

(e) Requests to download data

29. Given the scarcity of information provided on the projects envisaged to download data, the Commission was unable to give a favourable opinion on the projects presented. It agreed to work on the information which it believes it needs to give the General Secretariat an informed opinion on the compliance of projects to download data in conformity with INTERPOL's rules. It will submit a proposal to the General Secretariat.

(f) I-Checkit and SLIDE

30. I-Checkit is a programme designed to identify the criminals using fraudulent travel documents to open a bank account, when booking an air ticket or checking in at a hotel.
31. SLIDE is the new Stolen Luxury Items Database.
32. The Commission noted the general presentations made about the projects, and the fact that the various phases and implementation arrangements had still not been entirely defined. More specific information will be necessary to assess the project's compliance with the applicable rules. It nevertheless wished to draw the General Secretariat's attention to the need for emphasis to be put on compliance with the rules regarding the retention of data and analysis files.

(g) DNA and fingerprints databases

33. The Commission carried out an in-depth analysis of these databases in order to identify the issues at stake when processing sensitive data, stressing the importance of:
- Establishing a procedure which does not allow fingerprints or DNA profiles supplied in order to identify a person to be recorded in the database, unless a file in that person's name has been created in ICIS;
 - Developing tools which allow:
 - ✓ NCBs to enter a time limit for keeping fingerprints or DNA profiles in INTERPOL's databases which is under five years, as provided for in INTERPOL's rules;
 - ✓ The General Secretariat to automatically delete a set of fingerprints or a DNA profile from the stand-alone databases, when the data have been copied from information initially recorded in ICIS that have been subsequently deleted.

(h) SLARM

34. The Commission noted that, although there were no plans to record personal data in this database, it nevertheless appears that the data it contains could be analysed in combination with those in the INTERPOL Ballistics Information Network (IBIN). The Commission drew the General Secretariat's attention to the need to ensure, in this context, compliance with the applicable rules on the processing of personal data and, if necessary, on criminal analyses.

(i) Air Passenger Database

35. The Commission took note of the Air Passenger Database project, by which airlines could provide INTERPOL with its Passenger Name Record (PNR) to carry out searches, particularly using FIND with a link to the Stolen and Lost Travel Documents database (SLTD).
36. Concerned about the processing of PNR data, the Commission underlined that:
- Only certain PNR data could be used to search the SLTD database in view of the project's purpose;
 - Items of data may only be retained for as long as they were being used;
 - Only the PNR data on people which are already the subject of information in INTERPOL's files should be recorded.
37. The Commission is of the opinion that if the Organization wishes to process PNR data, it needs to proceed with the greatest care, bearing in mind the importance of providing adequate protection for data in compliance with European requirements.

(j) AIRCOP

38. The Commission took note of Project AIRCOP which is jointly run by UNODC, INTERPOL and WCO. This project involves access to the SLTD database and the nominal e-ASF database but does not involve setting up a specific database. The Commission considers that it is a standard extension of INTERPOL's Information System, which does not raise particular issues at this point.

5.1.3 Cooperation agreements

39. The Commission was consulted about certain draft cooperation agreements. However, it was not able to give a final opinion on these drafts because of a lack of information making it possible to determine, given the progress of each of the agreements, whether the exchange of personal data was envisaged, or what specific arrangements would be made to process personal data in the context of these cooperation agreements.
40. The Commission will examine these draft agreements again on the basis of additional information that it expects to receive.
41. The Commission, however, welcomed the Standard Operating Procedures on the conditions and procedures for direct access to and use of the INTERPOL Information System by the authorized people from CARICC (Coordination Centre for Combating Illicit Trafficking of Narcotic Drugs, Psychotropic Substances and their Precursors).

5.2 Examination of specific issues concerning the processing of personal data

42. The Commission was asked to address various issues related to the processing of personal data in the context of each of its three functions.

5.2.1 *The retention of information in the event of the cancellation of a search request*

43. The Commission drew the General Secretariat's attention to the importance of observing the conditions laid down in Article 50(5) of the RPD, which stated that when the purpose for which information was recorded had been achieved, but the information continued to be of interest, its source could determine a new purpose which it should justify.
44. The Commission noted the improvements made to the cancellation request form and the planned manual and automatic checks to ensure due respect for INTERPOL's Rules.
45. It nevertheless noted that NCBs were still encouraged to retain data after the cancellation of search requests, which distorted the principle laid down in Article 51(3) of the RPD on deleting data when the purpose for which information was recorded had been achieved. The Commission was of the opinion that maintaining the data after the cancellation of a search request should remain a carefully monitored exception.
46. The Commission also stressed that the purpose and nature of the data retained and the processing procedures, including user access, were not necessarily the same, depending on whether data were retained in application of Article 52 or Article 53 of the RPD. It wanted this nuance to be taken into consideration when an item of data was retained.

5.2.2 *Identity theft*

47. In files concerning people whose names were unknown but who had stolen other people's identity documents, the Commission approved the procedure established by the General Secretariat of clearly indicating that the victim of the identity theft was not the wanted person. It nevertheless recommended that "Unknown" be marked in the place of the name of the wanted person.

6. SPOT CHECKS

48. 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.
49. 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*

50. In order to assess the implementation details of the new rules, the Commission's spot checks focused on the following data-processing aspects:
 - Periodic assessment of data on expiry of the deadlines for retaining the data;
 - Updates by the NCBs to data recorded in INTERPOL's databases;
 - Compliance with the criteria for publishing red notices and diffusions.

6.2 *Deadline for examining the need to retain an item of information in INTERPOL's files*

51. The Commission conducted further checks on a number of files for which the deadline for examining the need to retain the information had expired.

52. It stressed that the system of automatically informing the NCBs six months, then three months before the deadline for examining the advisability of retaining a file, followed by automatically destroying the file if no response was sent by the NCB before the deadline, appeared to be functioning well.
53. The Commission noted however that about 1,000 files were still recorded in INTERPOL's databases, even though the deadlines for examining the need to retain them had already passed. It urged the General Secretariat to rapidly examine these files and review the advisability of retaining these files as soon as possible.

6.3 Updates to data by the National Central Bureaus

54. The Commission identified a number of files where updates to data made directly by the NCBs raised certain issues, particularly following the cancellation of a search request. The Commission therefore invited the General Secretariat to set up a system to check the updates made by NCBs.

6.4 Processing of red notices and diffusions

55. The Commission had observed an overall improvement in the quality of the red notices and diffusions that were checked. Some aspects of processing deserved further review to ensure compliance with the applicable rules in all the possible situations that could arise.
56. Summaries of the facts: In 2012, the Commission had noted that the summaries of the facts of Red Notices and the diffusions were often still too brief, sometimes difficult to understand or even failed to establish a clear link to the person who was the subject of the notice. In 2013, it considered the summaries of the facts in notices to be generally satisfactory, although they are still sometimes rather brief. This frequently happens in cases of fraud, where it is not clearly established that the wanted person(s) were actually involved in the offences for which charges are being brought against them.
57. It encouraged the General Secretariat to carefully check the summaries of the facts in Red Notices, and to remind the NCBs that they need to submit summaries that are sufficiently explicit to allow a clear link to be established between the wanted persons and the charges brought against them, particularly in Red Notices.
58. Deadlines for the checks: In 2012, the Commission said it was concerned about the number of "valid" ("*en cours*") notices and particularly about the possibility of continued access to data during that period. In 2013, the Commission observed that the notice and diffusion requests recorded directly by the NCBs, including messages arriving at the weekend, were checked in a timely manner by the General Secretariat.
59. Choice of offence codes: The Commission considered that the offence codes which appeared in the files examined were generally appropriate, even though in some cases the NCBs still appeared to be finding it difficult to choose the appropriate codes. The Commission encouraged the General Secretariat to quickly finalize the work under way in order to improve the entry of such data by the NCBs.
60. Uniform processing of files that raise issues: The Commission encouraged the General Secretariat to continue its efforts to ensure that all files under review were processed in a uniform manner. It noted with satisfaction that, in some cases, the General Secretariat had prevented NCBs from accessing data whose compliance with the rules was being assessed. But it observed that, in other cases, access to data was maintained even though the sources had not provided the information required after a long time.

The Commission recommended that in the event of persistent doubts over compliance with the criteria for publishing certain notices, the General Secretariat should ask the NCBs to convert their notices into diffusions, and to block access to the data under review if the source consulted does not send a satisfactory response within five days.

61. Data of interest and particularly serious ordinary-law crimes: The Commission monitored the application of the criteria of “*interest of data for the purposes of international police cooperation*”, and the “*seriousness of offences*”, referred to in Articles 35 and 83 respectively of the RPD which entered into force in 2012. Under Article 99(2,c) of the RPD, the NCBs are obliged to guarantee the “*data are of interest for the purposes of international police cooperation*”. These criteria reflect the notion of “*specific interest of an item of information for international police cooperation*” which appears in the Rules on the Processing of Information previously in force.

The Commission observed that although the General Secretariat had refused to publish some Red Notices because of a lack of sufficient identifiers, some files (notices and diffusions) were still being processed in INTERPOL’s files for events which did not meet the criteria above.

The Commission therefore invited the General Secretariat to supply more details on the application of these criteria, if possible for each type of crime.

7. INDIVIDUAL REQUESTS

62. 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 whether such information actually exists, or to ask for the information in question to be updated or deleted.

7.1 General procedure for managing requests

63. The procedure for managing requests and the role of those involved in processing a request, as described in the Annual Activity Report of the CCF for 2012, remain unchanged: (See <http://www.interpol.int/About-INTERPOL/Structure-and-governance/CCF/Publications>, Annual Report, 2012, point 8.1)
64. Faced with an ever-increasing number of individual requests, the Commission continued to adapt its internal management procedures to optimize the processing of these requests. A certain number of measures were also taken to improve cooperation with the General Secretariat and the NCBs concerned.
65. Lastly, at request of those involved and in the interests of transparency, the Commission, on a number of occasions, provided more detailed information about its conclusions.

7.2 Access to INTERPOL’s Files

66. In an effort to respect the principle of national sovereignty that governs INTERPOL’s rules, and convinced of the importance of at least being able to direct a requesting party towards the authorities capable of providing an appropriate response, the Commission continues to ask NCBs to authorize it to take such action.
67. This authorization is increasingly being granted to the Commission by the NCBs concerned.

7.3 Substantive issues examined in the context of processing individual requests

68. When examining individual requests, the Commission regularly looks into the application of certain provisions of the Rules on the Processing of Data, including:
- Compliance with the provisions of Articles 2 and 3 of INTERPOL's Constitution (the Commission noticed a significant increase in the number of files raising issues relating to the basic rights of individuals, and particularly the basic right to a fair trial);
 - The issue of whether an offence is serious or whether data are of interest for international police cooperation;
 - The possibility of processing requests for arrest linked to private disputes which develop into legal proceedings;
 - Risks linked to the downloading, at the national level, of data obtained from INTERPOL's files.

7.4 Follow-up to the Commission's conclusions

69. In general, the General Secretariat immediately implemented the Commission's conclusions. Nevertheless, in the light of new information which emerged after a given session, the General Secretariat asked the Commission to re-examine certain files. 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.
70. There was no recognized disagreement between the Commission and the General Secretariat in 2013.

7.4.1 Statistics

71. Statistics on individual requests received and processed in 2013 are appended to this Report.

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STATISTICS 2013

A. REQUESTS RECEIVED IN 2013

1. General profile of requests

The statistics below show the profile of each of the 493 people who exercised their right to access INTERPOL's files in 2013. The Commission did not finish processing all 493 requests in 2013.

Admissibility	Quantity	%
Admissible requests	377	76.5
Non-admissible requests	116	23.5
TOTAL	493	100

Type of request	Quantity	%
Complaints	204	41
Requests for simple access	254	52
Other (Pre-emptive requests)	35	7
TOTAL	493	100

INTERPOL's files	Quantity	%
Recorded in files	259	52.5
Not recorded in files	234	47.5
TOTAL	493	100

Profile of complaints/INTERPOL's files	Quantity	%
Complaints about recorded persons	168	82
Complaints about non-recorded persons	36	18
TOTAL	204	100

2. Processing in INTERPOL's files of data concerning 259 recorded persons

Among the 259 requests from people recorded in INTERPOL's files in 2013, 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	255	98.5
SLTD/SMV	4	1.5
TOTAL	259	100

Status in the central database	Quantity	%
Wanted	225	87
No status (no structured data)	16	6.5
Suspect	6	2
Criminal history	6	2
Disappeared	4	1.5
Possible threat	1	0.5
Victim	1	0.5
TOTAL	259	100

Processing medium	Quantity	%
Red Notices	197	88
<i>Red Notices of which extracts of which are published on the INTERPOL public website</i>	<i>104</i>	<i>53</i>
Diffusions without Red Notices (*)	28	12
TOTAL	225	100

3. Main sources of data concerning 259 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	22
• Libya	19
• United States	17
• India	11
• Pakistan	10
• Turkey	10
• Ukraine	9
• United Arab Emirates	8
• Belarus.....	8
• Egypt.....	8
• Venezuela	8

4. Archiving of files in 2013

• Number of requests archived in 2013	396
• Average time for processing requests.....	4 months

5. Progression in the number of requests from 2007 to 2013

Details	Years		2007		2008		2009		2010		2011		2012		2013	
	2007	%	2008	%	2009	%	2010	%	2011	%	2012	%	2013	%		
Requests received	109	100	177	100	216	100	201	100	258	100	404	100	493	100		
Complaints	47	43.1	82	46.3	114	52.8	123	61.2	172 ⁽¹⁾	66.7	160	39	204	41		
Information recorded on the subject in the General Secretariat's files	61	56.0	93	52.5	119	55.1	133	66.2	189	73.3	191	47	259	52.5		
Requests raising the question of the application of Article 3 of INTERPOL's Constitution	19	17.4	13	7.3	24	11.1	32	15.9	73	29.3	49	12	71	14		
Abstract of red notice available on INTERPOL's website	15	13.8	44	24.9	52	24.1	57	28.4	91	35.3	82	20	104	21		

(1) In 2011, the Commission received a significant number of independent but similar requests concerning the same country.

B. CONCLUSIONS OF THE COMMISSION IN 2013

1. Preliminary remarks

- The statistics below concern requests – an examination of which was completed in 2013. Some were even received before 2013.
- One request may concern several people.

2. Profile of files examined

Files examined by the CCF	Quantity	%
Complaints	87	71
Requests for access	33	27
Others	2	2
TOTAL	122	100

- The category “Others” refers to pre-emptive requests, such as warnings sent to the Commission by requesting parties who think that national authorities will submit a cooperation request through INTERPOL channels.

3. Profile of the Commission’s conclusions

Conclusions of the CCF	Number	%
Compliant	71	58
Non-compliant	51	42
TOTAL	122	100

Conclusions of the CCF on complaints	Number	%
Compliant	46	53
Non-compliant	41	47
TOTAL	87	100

Conclusions of the CCF on requests for access	Number	%
Compliant	25	76
Non-compliant	8	24
TOTAL	33	100

- The category “Compliant” may refer to files for which the Commission nevertheless recommended updates or addenda to be included in the files.
- The category “Non-compliant” includes requests for which the Commission recommended the destruction of the information concerned, or the blocking of such information pending additional information. This “non-compliance” is therefore temporary in a certain number of cases.

4. Profile of recommendations and their implementation

- The recommendations below concern 122 requests examined in session.

Recommendations performed	Number	%
Destruction	49	74
Update/Addendum to the published Notice	17	26
TOTAL	66	100

- These statistics only take into account the Commission's final conclusions. The Commission often makes intermediary recommendations, such as blocking information being challenged. This table, however, only reflects the Commission's final recommendations.
- In 2013, the Commission recommended blocking 26 files, which the General Secretariat duly carried out, except when the Commission received information required from the National Central Bureaus concerned within the time-frame it established.

Implementation of recommendations by INTERPOL	Number	%
Destruction	49	74
Update/Addendum to the published Notice	17	26
TOTAL	66	100
