Safeguarding INTERPOL's Systems:

Recommendations for Reform

13.02.2026

ECBA
EUROPEAN CRIMINAL BAR ASSOCIATION

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The ECBA

The European Criminal Bar Association ("ECBA" or the "Association") was founded in 1997 and is an association of independent specialist defence lawyers across Europe, representing the views of defence lawyers and promoting the administration of justice and human rights under the rule of law in Europe and among the peoples of the world. The ECBA also includes a large cohort of members from around the world.

The ECBA is one of the main interlocutors of the European institutions on issues of criminal justice and the protection of the right of defence and fundamental rights, representing thousands of legal practitioners all around Europe through their direct affiliation to the Association as individual members, or through the collective members that participate to the life of the Association.

The ECBA welcomes the important reforms of INTERPOL that have been implemented over the past decade and ECBA members were pleased to have had an opportunity to inform those reforms. It is, however, clear that further reform is needed to address pressing issues that are still impacting many people who are personally affected by INTERPOL's work and that continue to generate significant public concern about abuses of INTERPOL. We echo the views of the Secretary General of INTERPOL (Mr Valdecy Urquiza) that "for INTERPOL to thrive, it must hold itself to the highest standards of integrity and accountability" and that INTERPOL therefore requires "robust systems to ensure that INTERPOL's channels are never misused".[1]

This report is addressed to INTERPOL generally, for the particular attention of the Secretary-General whose office has always played a crucial role in leading reform efforts, the Committee on the Processing of Data ("CPD"), the Commission for the Control of INTERPOL's Files ("CCF") and INTERPOL's member countries.

In 2025 the CPD announced its review of the Statute of the CCF. The ECBA responded to the two calls for input by CPD during 2025,[2] in order to contribute to the introduction of reforms that will strengthen the CCF, which is a crucial institution in protecting INTERPOL's systems against misuse and in protecting INTERPOL's immunity. We have included our general observations on the CPD-led process for reform of the CCF Statute process and on the reforms to the Statute agreed at the INTERPOL General Assembly on 27 November 2025 and published in late December 2025. This report also includes proposals in relation to a range of other important issues which we invite INTERPOL to consider.

This report draws on ECBA members' extensive experience of acting for individuals affected by INTERPOL alerts. We are also grateful to the Commission for the Control of INTERPOL's Files and the INTERPOL General Secretariat for their constructive engagement with the ECBA during its work on this report.

We are an association of independent specialist defence lawyers across Europe

1. DELAYS

1.1. Delays in the decision-making process of the CCF can cause significant difficulties for individuals.

1.2. Under Article 40 of the Statute of the CCF (the "Statute"), the Requests Chamber is required to make decisions within specific timeframes depending on the nature of the request. For requests for access to data, a decision must be reached within four months from the date the request was declared admissible. For requests for correction or deletion of data, the timeframe is nine months. In exceptional cases, these deadlines may be extended if warranted by the circumstances, provided the extension is reasonable, promptly communicated to the relevant parties, and explained in the final decision.

1.3. In practice, however, these timeframes are very frequently not met and the CCF has recognised this, stating in its Activity Report for 2023:
"The limited resources of the CCF as compared to the increase in requests made by applicants, as well as the need in many cases to obtain further information from NCBs, applicants, and the General Secretariat before resolving requests, resulted in significantly increased delays in the time period within which the CCF resolved access requests and requests for correction and/or deletion".[3]

1.4. Delays, and any meaningful explanation for them, are rarely communicated to the applicant either during the course of the CCF's investigation or in the final decision. The effect of this is that applicants are left in a state of uncertainty as to their plans for travel, to conduct business and to manage their personal matters. This lack of adherence to the timeframes set out in the statute creates uncertainty for applicants, undermines transparency, and erodes trust in the process.

1.5. In relation to requests for access to data, Article 40(1) of the Statute sets a timeframe of four months from the date on which the request was declared admissible. Article 32(1) of the Statute states that admissibility will be determined within one month. In practice, such decisions may be made swiftly, but they can also take several months. Given the relatively straightforward nature of determining admissibility, and indeed the nature of a request for access, it would be reasonable to expect greater consistency and predictability in the time frame for the initial decision on admissibility.

1.6. Regarding requests for deletion, it is common for the nine-month time limit not to be met in practice. We recognise that timeframes must account for the requesting state's opportunity to respond; however, there is a lack of clarity regarding the deadlines for such responses and the procedures in place if the requesting state fails to reply. Greater transparency on this issue would be beneficial, including clarity on whether specific deadlines exist and what measures are taken in cases of non-compliance. Whilst we are aware from experience and from published extracts of CCF decisions[4] that the CCF does sometimes take a robust approach to a failure to respond, the absence of clear guidelines creates a risk of misuse, as it allows requesting states to delay responding deliberately in order to prolong the validity of red notices that may not comply with INTERPOL's rules or to delay receipt of an adverse CCF decision. The delays caused by the CCF's current approach to disclosure and our recommendations for increasing efficiency are set out in Part 2 below.

1.7. The recent announcement on INTERPOL's website regarding CCF sessions and decisions has been a helpful step in increasing transparency and providing clarity to applicants.

1.8. It is common for the CCF to inform applicants that their case will be reviewed at the next session; however, this does not always occur, and instead, a decision letter may arrive unexpectedly.

1.9. WE RECOMMEND:

1.9.1. More regular and consistent updates on case progress or enhanced communication channels would assist in managing expectations and maintaining trust in the process.

1.9.2. Further investment in resources must be made. Additional support could enable more frequent meetings, a larger casework team, and improved procedural efficiency.

1.9.3. Increased efficiency in the disclosure process (discussed in Part 2 below).

1.10. With these enhancements, the CCF's ability to provide timely, effective oversight could be significantly strengthened, ultimately reinforcing confidence in INTERPOL's systems.

2. DISCLOSURE

2.1. The issue of disclosure is crucial to the question of whether the CCF provides an adequate alternative remedy to applicants which is necessary to justify INTERPOL's immunity. It is clear that challenges relating to disclosure also make a significant contribution to the problem of delays (Part 1). For example, the CCF has reported on the high number of requests it receives for extensions to the timeframes it gives to provide information or to allow the disclosure of information to the other party, sometimes without justifications being provided.[5] It appears from CCF decisions that the CCF often has to make repeated requests for justifications for non-disclosure from National Central Bureaus ("NCBs") and for agreement to provide redacted summaries.[6] Non-disclosure in advance of the receipt of a final decision also contributes to the significant number of revision applications (Part 9).

2.2. The CCF has repeatedly acknowledged that it is there to provide an effective remedy as guaranteed by international fair trial standards. At the heart of that right is the principle of equality of arms, which requires that "each side be given the opportunity to contest all the arguments and evidence adduced by the other party".[7] The applicant in a CCF case may suffer a denial of justice if s/he is not afforded that. Given Article 2 of the Constitution, the CCF must avoid that.

2.3. Procedural fairness in CCF proceedings also matters because it is a key parameter by which to judge the sufficiency of the CCF as an adequate alternative remedy to other national (or arbitral) jurisdiction. Well-known case-law holds that individuals are not deprived of rights if the international organisation offers "reasonable alternative means to protect effectively their rights".[8] The Kadi case emphasised the issue of 'guarantees of judicial protection' and access to material evidence in that type of legal analysis. The former Chair of the CCF explained at the 2016 General Assembly, at which the Statute was adopted: "If an applicant is not provided with an effective remedy, INTERPOL might be exposed to challenges to its immunity from potential lawsuits brought before national jurisdictions."[9]

2.4. The provisions of Article 35 of the Statute, appeared to mark a significant new dawn. However, in our collective experience, the practical implementation of this provision has not lived up to this.

Unrestricted information

2.5. At the outset, it is important to note that NCBs currently allow unrestricted information to be seen by the applicant (albeit only at the point when the CCF issues its decision). The below thus involves no major change from the perspective of confidentiality. What is required is a simple but critical improvement whereby this information is seen before the CCF's decision, rather within it.

2.6. Article 35(1) provides that "information connected with a request shall be accessible to the applicant". The basic problem in current practice is that this is not happening in a manner which achieves equality of arms. This is an illustration of the process:

2.6.1. The applicant submits a request to the CCF, requesting access and deletion.

2.6.2. The CCF will consult the NCB as to disclosure of the notice or diffusion under challenge. In effect, it processes the access request in relation to the data on file.

2.6.3. The applicant's observations in support of deletion are not themselves disclosed to the requesting state. However, the CCF invites the NCB (or INTERPOL General Secretariat ("IPSG")) to comment on certain issues. The applicant is not informed when this communication is sent by the CCF to the NCB or IPSG and is not informed of the content of the communication. Our impression is that the issuing state thereby has at least an understanding of what is alleged against it.

2.6.4. The CCF will, at some stage, usually provide basic disclosure pertaining the notice or diffusion, in the form of the summary of facts, detail of any warrant etc.

2.6.5. The CCF receives the NCB's (or IPSG's) replies to its questions in relation to the deletion issues. How-

ever, the CCF does not convey those replies to the applicant, including the content which is not subject to any restrictions.

2.6.6. The CCF may receive further submissions from the applicant, often when the CCF invites final comment within 30 days once the case is listed to be considered at a session. When making those observations, the applicant cannot, however, respond to the NCB's (or IPSG's) observations as they have not been disclosed.

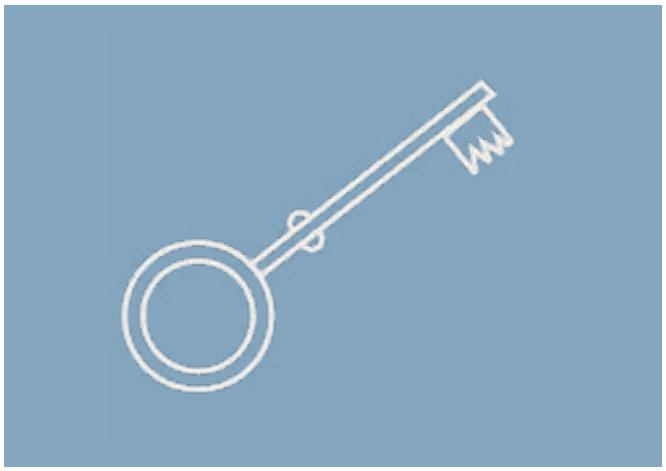
2.6.7. The CCF then issues a decision. The decision will include a summary of the NCB's (or IPSG's) observations, in so far as they are not covered by restrictions. This is the first time the applicant knows what has been said, and it is too late to comment on it (except by means of a Revision application, discussed in Part 9 below).

2.7. This process is not compatible with Article 35(1) of the Statute, and by the same token with Article 2 of the Constitution. 'Information connected with a request' is not simply the information on file ab initio, which would normally be dealt with by way of a discrete access request. 'Information connected with a request' includes the NCB's (or IPSG's) observations. 'Accessible' must – in the context of the Statute, which was enacted to establish the CCF as an effective remedy – mean accessible in due time to permit the exercise of defence rights, i.e. before a decision is taken, not after.

2.8. Bearing in mind that this is unrestricted information, which even the NCB does not object to the applicant knowing, and which will appear in the eventual decision anyway, we do not understand why this practice is maintained. It is concerning because the applicant is not only unsighted, which is unfair per se, but also at a disadvantage relative to the NCB which will often have a good sense of what the applicant is alleging.

2.9. This issue applies as much for fact-specific assertions or evidence presented by NCBs / IPSG as for their positions on the interpretation of INTERPOL's rules. The applicant may broadly define the initial factual and legal context of the request by their initial request but cannot speculatively guess what new facts, or interpretations of the facts or of INTERPOL's rules or national law may be advanced by the NCB. It would improve the quality of CCF decision-making, and contribute to the consistent and transparent interpretation and application of INTEPOL's rules, if applicants had the opportunity to address the CCF on such matters during the course of the procedure and in advance of the CCF issuing its decision. Equality of arms dictates that the applicant be given the opportunity to know and respond to them.

2.10. The CCF, when pressed repeatedly for disclosure of unrestricted information, has occasionally referred to the fact of the applicant having access to the papers in the domestic criminal proceedings as a reason for not providing disclosure. We suggest that this misses the point. As the CCF has repeatedly pointed out, the function of CCF proceedings (reviewing the compatibility of data processing with INTERPOL's rules) is distinct from the function of the national courts and prosecuting authorities. What the applicant is entitled to know and respond to is the evidence and/or observations advanced by an NCB in the CCF proceedings, which typically will not appear in the domestic criminal file.



2.11. On the current model, if an applicant considers that the NCB / IPSG position was wrong or misleading, their only recourse is Article 42 of the Statute (discussed in Part 9).

2.12. The current process can be contrasted with, for example, the process before the UN Human Rights Committee ("HRC"). Whilst that process is not held up as a model generally (given that it itself features significant delays) the disclosure position is much simpler:

2.12.1. Applicant submits a communication.

2.12.2. The HRC, if it registers the communication, forwards it to the State Party.

2.12.3. The State Party responds, and its response is forwarded to the applicant.

2.12.4. The applicant is entitled to submit a reply, which is forwarded to the State Party.

2.12.5. The State Party is entitled to submit a rejoinder, which is forwarded to the applicant.

2.12.6. The HRC then (subject to any further exchanges) issues its decision or views.

2.13. The above process is comparatively straightforward, and achieves equality of arms: each party knows what the other is saying, and can comment on it, in order to influence the outcome. The decision reached is then one which gives rise to finality.

2.14. We refer above to global International Covenant on Civil and Political Rights standards, and the adversarial process of the HRC itself, as an appropriate yardstick given INTERPOL's global nature. However, it may be noted that equality of arms is also a feature of Article 6 of the European Convention on Human Rights ("ECHR"). As the European Court of Human Rights ("ECtHR") has put it: "it is inadmissible for one party to make submissions to a court without the knowledge of the other and on which the latter has no opportunity to comment".[10] Linked to that, ECtHR proceedings themselves also provide for an adversarial dialogue in which each party knows what the other is arguing. If the ECtHR were ever to review any national court's refusal of jurisdiction over INTERPOL due to the availability of an alternative remedy, the presence (or not) of equality of arms in CCF proceedings would be an important consideration.

2.15. We therefore recommend that the CCF revise its Operating Rules and practices to give effect to the true intention of Article 35(1) of the Statute by ensuring that there is a true adversarial exchange, comprising [A] applicant's submission [B] NCB response [C] applicant's reply, accompanied by any further observations. For example, a 'final call' letter sent ahead of the relevant session should provide the NCB / IPSG submissions, and any materials they rely upon, so that the applicant will normally have a period of 30 days to consider and respond to them. Whether to allow for a rejoinder from the NCB / IPSG should be a matter for the CCF's discretion.

Restricted information

2.16. Article 35(3) of the Statute provides that communication of information "may be restricted at the decision of the Requests Chamber, on its own initiative or at the request of" either party for one or more of several reasons. Under Article 35(4), first sentence, any restriction "must be justified and must specify whether some information, such as summaries, may be provided". Article 35(4), second sentence, provides that the absence of justification "will not lead to the disclosure of the content … but may be taken into consideration by the Requests Chamber in assessing and deciding on a request".

2.17. The Requests Chamber's decisions have stated that it "tries on the one hand to protect the interests of the parties, while preserving at the same time the essence of an adversarial procedure"; restrictions under Article 35(3) are "an exception to the general principle of communication … which must therefore be interpreted strictly"; restrictions must be 'proportionate'; the Chamber must itself have 'unlimited access' to the information; and there must be 'counter-balancing measures'.[11] We welcome the CCF's recognition that where the source of the data does not "provide appropriate answers to the questions raised by the CCF" and does not permit disclosure this may result in data being deleted on the basis that it hinders the "adversarial nature of the proceedings by preventing the Applicant from being able to present specific counter-arguments" thereby creating "imbalance between the parties".[12] We do, however, have several observations about the CCF's current approach.

2.18. First, in relation to the reasons provided for the proposed restriction, we note that (as in Decision 2018/18 itself) these may be unrestricted (so that they will appear in the decision in any case), e.g. because they are based on national law rather than sensitive information. If so, those reasons should be disclosed together with any submissions which are not restricted, so that the applicant may make observations upon them.

2.19. Secondly, if the NCB requests restriction of the reasons advanced for a restriction, the CCF should scrutinise those reasons very carefully itself. Our experience is that restrictions arise routinely in decisions and that it appears to be the default practice of certain countries to apply restrictions, even where the criminal case file is itself accessible (and the investigation is thus

no secret), and even where the notice or diffusion is having significant impact on the individual. The CCF needs to guard against any situation where an NCB uses pretexts to shield its submissions from scrutiny.

2.20. Thirdly, collectively our experience is that 'summaries' as envisaged by Article 35(4) are not working in reality. The only summaries we are familiar with are the summaries of submissions which appear in decisions, and those pertain to unrestricted information which (as above) should be disclosed in full during the proceedings. We suggest that summaries of restricted information should be used more, as a pragmatic way of preserving the essence of equality of arms. NCBs should be required to provide very convincing reasons why summaries cannot be provided, over and above the reasons for restricting access to the primary information itself. If they are unable to do so, the weight placed on the information should be very little, because the NCB is in reality choosing not to expose its case to scrutiny from the affected person.

2.21. Many applicants, who are concerned about the disclosure of information by the CCF to the NCB, are also concerned about the provision of a summary of their application to the NCB where they have no insight into the level of information that will be provided. We would therefore suggest that applicants (and NCBs) are invited to provide a suggested summary themselves when they refuse to consent to full disclosure or that the CCF introduces a process to consult the party on the content of the summary.

2.22. Fourthly, in rare cases in which an NCB / IPSG can satisfy the CCF that both (i) the information concerned; and (ii) even a summary of it cannot be disclosed, the CCF still needs to proceed carefully. We underline that even where this is the case, the CCF must have in mind that the applicant is at a disadvantage and should be cautious about placing significant reliance on this type of material. The 'counter-balancing factors' are important but do not remove that basic point.

2.23. Fifthly, in terms of those 'counter-balancing factors', we disagree with Decision 2018/18 where it says that access to the national criminal file offers much of a 'counter-balancing factor' when it comes to non-disclosure of submissions made by an NCB to the CCF. The applicant remains in the dark as to what the Requests Chamber is being told and cannot respond to it. In our view, on the contrary, if the national file is open there is little basis to insist on secrecy of what is said at the international level. Further, as another 'counter-balancing factor', the CCF might wish to examine the idea of assigning a highly qualified Secretariat member, or recruiting someone, to play the role of a third-party advocate who could see and comment upon the restricted materials, the reasons and submissions advanced by the NCB (or IPSG), even where their restriction is legitimately justified.

2.24. WE RECOMMEND:

that the CCF revise its Operating Rules and/or practices so as to (a) afford an applicant the ability to comment on an NCB's reasons for restrictions; (b) achieve greater use of summaries in lieu of outright restriction; and (c) afford very careful treatment to fully restricted information where not even a summary can be provided.

2.25. We acknowledge that the interpretation of Article 35 should hold good, to some extent, for confidentiality required by the applicant. See the dedicated section on confidentiality. The applicant too cannot expect to advance all contentions while insisting on their confidentiality for no good reason. It is however likely that an individual, in conflict with a state, will be more likely to be able to justify the protection of information, due to the risks posed to them. Furthermore, it is the applicant whose rights are affected by data processing and the CCF process is designed to offer an effective alternative remedy where those rights are breached. The NCB also does not suffer personal impact of a notice or diffusion and does not require the same degree of protection. However, the applicant's restrictions can equally be built into the operating model we propose below.

OVERALL OPERATION OF DISCLOSURE

2.26. We suggest that having regard to both sections above, the process should look like this:

2.26.1. Applicant makes their request [A]. If the applicant wishes to restrict content, this should be made clear, together with reasons. If the applicant does not consent to a summary being provided, they must explain why.

2.26.2. Applicant's request is provided to the NCB, subject to restrictions specified by the applicant. If permitted, reasons for any restrictions can be provided to the NCB.

2.26.3. NCB provides its response [B]. If it proposes to restrict part of its response, it must provide (i) reasons why the primary information cannot be disclosed; and (ii) either (a) a summary, or (b) additional reasons why a summary could not be disclosed.

2.26.4. CCF forwards the NCB response to the applicant, who thus becomes sighted on the NCB's unrestricted content, the reasons for restricting other parts and any summary.

2.26.5. Applicant in due course provides their reply to the NCB's response [C].

2.26.6. CCF assesses the case:

2.26.6.1.Equality of arms is achieved in relation to the unrestricted content.

2.26.6.2.If a party's reasons fail to justify a restriction, the material should be ignored or given less or very little weight, per the terms of Article 35(4).

2.26.6.3.If the restriction is justified and a summary is provided, the CCF can place an appropriate degree of reliance on the restricted material, making an allowance for the fact that the opponent (likely the applicant) only has a summary and is not able to comment on it in any detail.

2.26.6.4.If the restriction is justified, no summary is provided, but if there is no good justification for not providing a summary, the material should be given little weight, as fairness is being disproportionately limited by the party's choice.

2.26.6.5.If the restriction is justified, and the non-provision of a summary is also exceptionally justified, the CCF should then consider whether there are sufficient counter-balancing features to be able to place any reliance on the material. Even if there are, the CCF should approach very carefully evidence relied on by an NCB against an applicant, on which the latter is unable to comment.

2.27. We note that the above would not in principle involve significant to and fro between an applicant and the NCB. It still involves simply [A] applicant submission; [B] NCB response; and [C] applicant reply, achieving equality of arms for unrestricted content and a reasonable balance with regard to unrestricted content.

The level of access to data

2.28. As we note above, where disclosure is not refused by the NCB, under the current procedure the CCF will, at some stage, usually provide basic disclosure pertaining to a notice or diffusion, in the form of the summary of facts, detail of any warrant etc. It is often, however, the case that the history of the data that INTERPOL is processing in relation to an individual is complex and changes over time – for example, NCBs may issue various notices/diffusion (or other types of data) over several years.

2.29. In some contexts, the level of disclosure that is currently provided by the CCF is insufficient to enable applicants to exercise their right to challenge data processing by INTERPOL. For example, in cases where the CCF has already rendered a decision refusing the applicant's application to delete data, it is necessary to determine whether data that is currently being processed by INTERPOL precedes or supersedes the CCF decision. Without this information, an applicant will not know whether a new request for deletion should be made or whether an application should be made for revision of the CCF's decision.

2.30. We appreciate that NCBs have the right to ask for confidentiality of information that would prejudice ongoing criminal investigations and/or prosecutions. Where the individual has been informed of the substance of data processing by INTERPOL, we do not, however, understand why such issues of confidentiality would justify restricting access to disclosure of the history of the data in the INTERPOL INFORMATION SYSTEM ("IIS").

2.31. We would encourage the CCF to consider providing increased access to data to applicants which should, where requested, include the history of the data published in the IIS.

3. PRE-EMPTIVE REQUESTS

3.1. Many people will not know whether data is being processed by INTERPOL and will approach the CCF because they are concerned that data could be being processed or that it may be requested in future. Many applications for access or deletion/correction are therefore made which, in practice, turn out to be "pre-emptive" because there is no data being processed when the application is received. A practice has emerged where people write to the CCF pre-emptively to explain why data relating to them should not be processed in future, where they know there is no current data processing but are concerned that they may in future become subject to a request for INTERPOL data processing. INTERPOL treats both types of request as "pre-emptive" and the CCF's statistics show that these pre-emptive requests had been very common.

3.2. INTERPOL's approach to such pre-emptive requests had proceeded on the basis of an uncertain legal framework as they were not provided for within the rules. The ECBA had identified this as an issue requiring the attention of INTERPOL, calling for a clear and consistent process to be spelled out.[13] We recognised that, given its importance, this topic should be dealt with by something more than convention and should be articulated with the foreseeability of written rules. During 2025 the ECBA provided its comments to the CPD's consultation on proposed reforms to rules which were designed to clarify the approach to pre-emptive requests by the CCF and IPSG.[14]

3.3. In this section we consider the reforms that were introduced in 2025, their likely impact on pre-emptive applications and we make proposals to how these reforms should be applied in practice to prevent them causing avoidable human rights violations and unnecessary work.

The revised system for pre-emptive requests

3.4. The CCF's current description of the process for pre-emptive applications on its website states:[15] "The requester may provide information that

the requester believes supports the contention that processing such data would violate INTERPOL's rules. Upon receipt of such requests, the Commission submits them, and any information provided, to the INTERPOL General Secretariat for its information and appropriate action, so that the information may be considered during future compliance reviews conducted by the INTERPOL General Secretariat if a request for police cooperation is received. The Commission informs the requester that the submission has been provided to the General Secretariat. However, the Commission will take no further steps in relation to reviewing the data received after the date of the pre-emptive request unless the requester submits a separate application for access to and/or correction or deletion of data, in which case the Commission will review the application in accordance with its rules and procedures."

3.5. Although it is too early to assess how the revised rules relating to pre-emptive requests will apply in practice, according to the CCF's explanation (and the amended text of the CCF Statute), the new approach would appear to be as follows:

3.5.1. Pre-emptive requests should still be made to the CCF and not to the IPSG.[16]

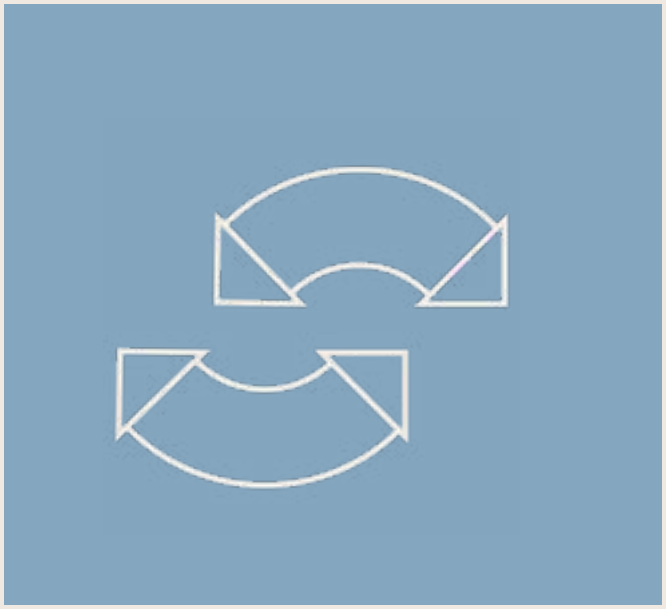
3.5.2. If the request is admissible, the CCF is required to notify the IPSG "and make the information contained [in the request] available to the General Secretariat" (Article 33(1)).

3.5.3. The CCF must ask the IPSG whether data is being processed by INTERPOL and the IPSG is required to notify the CCF within 45 days (Article 33(2)).

3.5.4. If no data are being processed when the request is examined, the CCF has the power to "decide on appropriate measures, taking into consideration confidentiality requirements" (Article 33(3)). As discussed below, it appears from the INTERPOL website that the CCF has adopted a blanket approach in such cases meaning it "will take no further steps in relation to reviewing the data received after the date of the pre-emptive request unless the requester submits a separate application for access to and/or correction or deletion of data, in which case the Commission will review the application in accordance with its rules and procedures."

3.5.5. If data is being processed and there is no review ongoing by the IPSG (i.e. it is not in fact a pre-emptive application), the CCF is able to proceed to consider it as a correction / deletion application (Article 33(4)).

3.5.6. According to the new Article 33(5) if the IPSG is "examining the compliance of the data concerned with INTERPOL's rules" the CCF is only permitted to consider whether the data is compliant "after the General Secretariat has decided on such compliance". The IPSG must "promptly notify" the CCF once it has "decided on the compliance of the data concerned and implemented its decision".



The sharing of information with the IPSG

3.6. The CCF is now required to provide the information that it receives with its requests from applicants to the IPSG.[17] The rules make no explicit reference to confidentiality limitations upon what the CCF should provide to the IPSG. We understand that the reason for this is to (a) ensure the IPSG is furnished with information to enable it to undertake its own compliance review; and (b) to enable the IPSG to assess whether relevant data is being processed and to inform the CCF.

3.7. We have warned that the lack of clear confidentiality requirements will create unintended consequences. Although it seems that the general rules on confidentiality are likely to qualify these disclosure obligations, this is unclear.[18] Those most at risk of abuse of INTERPOL, may be deterred from making requests to the CCF if they know that the information they provide will be automatically provided to the IPSG. The lack of clarity is

also likely generate complex correspondence adding to the CCF workload and complicating the CCF's work.

3.8. WE RECOMMEND

that the CCF make it clear in its published guidance that its provision of information to the IPSG will be 'subject to confidentiality requirements'.

3.9. We welcome the amendment to the CCF Statute which requires the IPSG to "ensure that access to information received from the Commission is limited to authorized members of its staff".[19] This recognises the considerable concern that many applicants have about information (for example regarding the fact that they have been recognised as a refugee) being shared with the IPSG. Unfortunately, it will not achieve a great deal in allaying those concerns until more information is provided.

3.10. We recommend that information is published regarding: (a) the number and nature of these authorised IPSG staff; (b) the practical mechanisms that are in place to ensure that information provided by the CCF cannot be disclosed beyond that group; and (c) an explanation of confidentiality obligations applicable to these IPSG staff and of how these are policed.

3.11. Finally, the reforms appear on their face to require the CCF to provide to the IPSG all of the information contained in requests received by the CCF from applicants. It would also appear to apply to information received by the CCF even where an applicant knows that data is being processed and where the applicant is asking the CCF to review compliance. We cannot see any justification for this. The CCF should not routinely disclose sensitive information to the IPSG where there is no operational justification, particularly where confidentiality has been requested.

3.12. WE RECOMMEND

that the CCF should limit the provision of information to the IPSG to: (a) information needed by the IPSG to enable it to assess whether data is being processed; and (b) the provision of information where no data is being processed to enable the IPSG to take that into account in the context of any further compliance review (subject to confidentiality requirements).

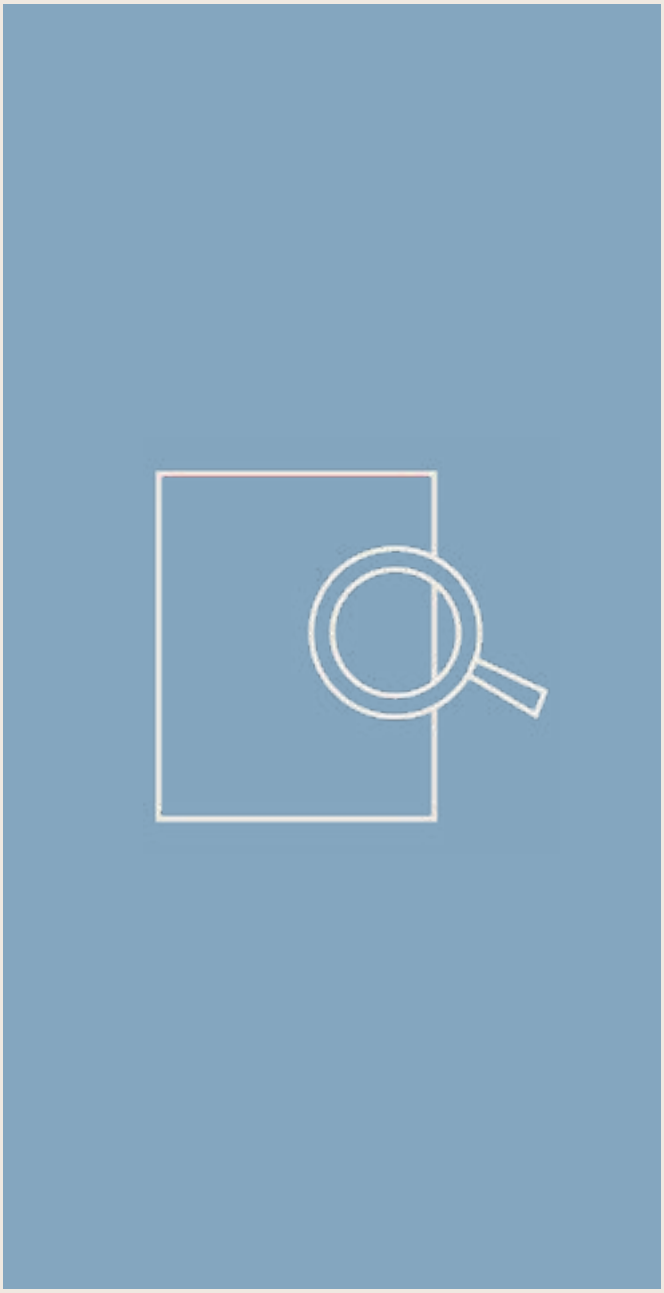
Should the review by the IPSG take precedence over the CCF's review?

3.13. The aim of sequencing compliance decisions (first compliance review by the IPSG, as the executive body, with independent CCF review thereafter) is not inherently problematic. However, the current proposals do not reflect the CCF's constitutional role. The CCF exists to " ensure that the processing of personal information by the Organization is in compliance with the regulations".[20] The CCF is competent to deal with requests where there is data processed in INTERPOL's information system,[21] and data is processed from the moment a red notice request is received by IPSG.[22] The CCF has exclusive authority to decide whether a matter is within its competence – as defined by the Constitution.[23] This reflects the UN Basic Principles on the Independence of the Judiciary (§3), relevant by analogy. We are concerned that the CCF Statute has been amended to seek to qualify powers that are constitutionally conferred.

3.14. This is not a theoretical issue. There may be exceptional cases, e.g. where an individual urgently requires travel for medical reasons, in which the CCF should be empowered to intervene independently and in parallel to IPSG's compliance review. Although the CCF is able to order provisional measures in such situations,[24] it is of significant concern that the Statute appears to prevent the CCF from undertaking any substantive compliance exercise.

3.15. More broadly, the revisions to the CCF Statute could be read as allowing the IPSG's review to take precedence over the CCF's constitutional role, including in context of cases that are not pre-emptive. For example, there appears to be no requirement for the CCF's review to take precedence over a further IPSG review (prompted by the provision of information by the CCF to the IPSG) where a deletion/correction application is made to the CCF regarding published data. In such circumstances, given its crucial constitutional role, the CCF must not defer to the IPSG and must, instead, proceed with its own review of the compliance of the data.

3.16. It appears possible that in some cases, the CCF's provision of information to the IPSG will result in the IPSG engaging with the NCB to either (i) assist them in improving the data processed to withstand challenge



before the CCF or (ii) encourage them to withdraw data which are non-compliant (and which the IPSG should not have published or permitted).

3.17. That possibility has to be considered together with the fact (discussed at §10.9-11 below) that on current practice the CCF considers that (i) it does not have the competence to review the compliance of data once they have been removed from INTERPOL's files, yet (ii) it can still consider the question of the IPSG's responsibility in publishing those data. This is not, however, something featured in published CCF decisions and practice may be developing.

3.18. The effect is that a person may be deprived of the benefit of a favourable CCF decision. Such decisions bring significant remedial value by establishing the fact of an abuse of INTERPOL, its nature, and setting the record straight. It may be an important response for an individual dealing with the impact of INTERPOL data processing, e.g. if INTERPOL's involvement has become known publicly.

3.19. We consider that, particularly in this new legal context, the CCF should reserve to itself the competence to issue a decision as to the compliance of data even where those data have been withdrawn (i.e. adjust aspect (i) in paragraph 3.17 above). Indeed, logically, it cannot consider aspect (ii) (IPSG's responsibility) without first establishing if there was non-compliance. This requires no rule change, it is the CCF's prerogative under Article 39 of the Statute, and the effective remedy principles implied therein.

Provisional measures in pre-emptive requests

3.20. We do not generally object to the principle that the IPSG should in most cases do its compliance review first, subject to subsequent CCF review. But, for its oversight to be effective, the CCF must be able to order provisional measures before publication. INTERPOL data processing may cause serious harm. If an applicant only turns to the CCF post-publication, this may be unavoidable. But it is not an acceptable outcome where IPSG knows the CCF is already seized prior to publication and may wish to issue provisional measures – the very purpose of which is to prevent harm accruing pending its final decision.

3.21. Our understanding is that historically the practice, where a person had made a pre-emptive request, had frequently been for the incoming data to be blocked until the CCF's final decision.[25] That system avoided harm being created prior to the CCF's final decision. This precautionary practice made sense because the fact that a pre-emptive application has been made demonstrates that swift publication cannot be justified on the basis of a need to take the applicant by surprise. Furthermore, where INTERPOL is on notice of a potential breach of its rules and of an applicant's intention to challenge data processing it would be unreasonable for INTERPOL to process that data as this action causes irreparable harm to individuals even if they ultimately succeed in persuading the CCF that the data processing violates INTERPOL's rules.

3.22. During the 2025 consultation on the reform of the rules relating to pre-emptive applications, we raised our concerns about the possible impact on the power of the CCF to order provisional measures in the context of pre-emptive requests. It had been proposed that the CCF Statute would be amended to restrict the power of the CCF to issue provisional measures to the period "during the CCF's examination of a request", which it could not commence until the IPSG's compliance review was complete. It was also unclear whether the proposed revisions would entail the publication of data by the IPSG (with the permanent and severe human rights implications that would entail) before the CCF had been given an opportunity to consider whether to impose provisional measures.

3.23. We welcome INTERPOL's decision not to restrict the power of the CCF to order provisional measures.[26] Accordingly, the CCF is able to order data to be blocked during the IPSG's review and following the implementation of the IPSG's decision on compliance to allow a CCF review to be undertaken before data is published. It is, however, a concern that this is not reflected in the wording on the INTERPOL website (cited above) regarding the "pre-emptive process".

WE RECOMMEND

that the wording of INTERPOL's website is amended to make it clear that, although the CCF cannot examine a request on its merits before the IPSG's review is complete, in appropriate cases, it does have the power to require INTERPOL to apply provisional measures.

Clarification of the workflow in a pre-emptive context

3.24. Our final concern is as to the lack of clarity in the detailed practice that will be followed.

3.25. The CCF webpage states: "The Statute of the Commission for the Control of INTERPOL's Files does not use the term "pre-emptive requests", but the term has generally been understood to refer to those requests addressed to the Commission in which the requester asks INTERPOL not to process any future data in its files even when there are no data currently in INTERPOL's files, arguing that doing so would violate the Organization's rules. The requester may provide information that the requester believes supports the contention that processing such data would violate INTERPOL's rules. The Commission informs the requester that the submission has been provided to the General Secretariat. However, the Commission will take no further steps in relation to reviewing the data received after the date of the pre-emptive request unless the requester submits a separate application for access to and/or correction or deletion of data, in which case the Commission will review the application in accordance with its rules and procedures."

3.26. As we understand it, the above indicates that (1) the CCF can be used only as a conduit to merely forward information to IPSG for it to use in its compliance review (second sentence); (2) if however the CCF is also asked to process an access / deletion request, it will do that (third / fourth sentences). Unfortunately, this leaves it very unclear how the processing of such access / deletion requests will proceed, if a police cooperation request does not arrive until a significant time after the individual's initial outreach.

3.27. Specifically, it is unclear:

3.27.1. Whether the CCF will provide an answer as to there being no information on file, as at the date the access request is first received and processed;

3.27.2. Whether the CCF will treat the access request as continuing, so as to inform the person when a police cooperation request is made;

3.27.3. Whether the CCF will inform the person of the outcome of IPSG's compliance review;

3.27.4. Whether the CCF will process the deletion request and associated submissions to the incoming police cooperation request once it is made and found to be in compliance by IPSG.

3.28. We note that the above paragraph has not been modified since the Statute was revised. We believe that it is unsatisfactorily drafted (the first sentence uses the term 'request' in a general way which is confusing vis à vis what follows). We regret that, despite a CCF

Statute review largely aimed at pre-emptive requests, the detailed process is not significantly clearer than it was before.

3.29. Clearly, it would be highly prejudicial to an applicant if the CCF (1) processed an access request at the time received (answering that there is no data), and considered that request finally discharged thereby and (2) set aside any deletion request on the basis that there is no data to challenge. This would leave open the possibility of IPSG later receiving and publishing information, despite the person making clear their wish to challenge any incoming cooperation request. The person would be compelled to make fresh access and deletion requests repeatedly in order to catch the police cooperation request as it arrives. This would, inevitably, result in repeat requests to the CCF which would exacerbate its workload problems.

3.30. We note that the Statute expressly and rightly reserves the right for the CCF to adopt a sensible approach to such situations:[27]
"If no data concerning the applicant are being processed at the time the request is examined, the Requests Chamber may decide on appropriate measures, taking into consideration confidentiality requirements."

Provided it takes confidentiality requirements into consideration, the CCF is therefore able to take the far more sensible step of (having first confirmed there is currently no data on file at the time) maintaining a record that an access and/or deletion request has been made; requiring the IPSG to notify it if the publication of data is requested in future or if data is published in future; applying the deletion request (and associated provisional measures request) to that data once it arrives; and re-engaging with the applicant at that stage.

3.31. WE RECOMMEND

that the CCF applies the existing rules as follows:

3.31.1. Applicants should be invited, when making a 'pre-emptive request', to specify whether the request is limited to informing the IPSG of issues or is also seeking action by the CCF – whether access to information or deletion / non-publication. In the latter case, the following approach should apply.

3.31.2. If INTERPOL has not received a request for data processing when the pre-emptive request is made, subject to confidentiality requirements, the applicant should be notified of this. Again subject to confidentiality requirements, the applicant should also be notified if this changes to enable applicants to provide updated information to the CCF so that this can be provided to the IPSG to inform its compliance review. Where an applicant has been notified that the IPSG is reviewing the compliance of a request, the CCF should notify the applicant of the outcome of the IPSG's compliance review. The access request generally made by an applicant as part of their pre-emptive request provides a basis for disclosure of data processed in the IIS. It should also serve as the basis for disclosure of IPSG's decision on compliance.

3.31.3. If the IPSG decides that the data is compliant, the CCF should, at this point, invite the applicant to make any further observations before it considers the merits of the deletion request. An applicant would be free at this point to indicate that they do not wish to pursue a challenge to the information.[28]

3.31.4. Assuming the IPSG does propose to publish the notice, if the CCF has responded to the access request earlier by disclosing the red notice request as originally processed, the notification provided at this stage should comprise (a) any additions to the data previously disclosed, e.g. additions to the summary of facts resulting from IPSG compliance review, (b) confirmation that IPSG proposes to publish and (c) whether disclosure to the public has been authorised, and on what basis.
3.31.5. If IPSG declines to publish following its compliance review, then the CCF should (on the basis of the original access request) confirm that data processing has ceased because publication has been refused.

4. WANTED PERSON DIFFUSION NOTICES ("DIFFUSIONS")

4.1. Unlike red notices, which undergo a review process before publication,[29] wanted person diffusions, albeit not searchable in the IIS before they have been reviewed by the IPSG, are circulated per e-mail without prior scrutiny by the IPSG. This means that an NCB can distribute data through INTERPOL's channels with immediate effect, without the safeguards that apply to red notices.

4.2. The absence of a pre-circulation review mechanism creates challenges, particularly when individuals are subject to diffusions that may not comply with INTERPOL's rules. Even when the CCF rules in favour of deleting a diffusion (or where the IPSG itself determined the wanted person diffusion to be non-compliant), individuals may still experience the consequences of its prior circulation, including travel restrictions and possible detention on the basis of the diffusion. In this respect, the note on the NCB's e-mail containing the wanted person diffusion that it is subject to legal review and has not been authorized by the General Secretariat is not an effective safeguard. In practice, it also appears to be impossible (by means of a pre-emptive application) to prevent circulation of diffusions which violate INTERPOL's rules.

4.3. WE RECOMMEND

that INTERPOL consider implementing a review mechanism for wanted person diffusions similar to that applied to Red Notices, preventing such diffusions being accessible to member countries by e-mail pending legal review. At a minimum, INTERPOL should introduce additional scrutiny for wanted person diffusions issued by states with a documented history of compliance concerns (such as was instituted by the IPSG on 10 March 2022 in relation to diffusions issued by Russia).[30] INTERPOL should also create an effective mechanism to prevent circulation of a wanted person diffusion where the IPSG has reason to believe that this would breach INTERPOL's rules, perhaps as a result of a pre-emptive request.

5. THE RECOGNITION OF EXTRADITION DECISIONS

The individual perspective

5.1. An individual facing a red notice or diffusion may obtain a favourable extradition decision in one or more states. The reasons why extradition was refused may vary significantly from formal aspects to material law considerations but may also include serious fears of severe human rights violations.

The legal perspective

International and EU law

5.2. While the reasons for the successful challenge to extradition may differ, it is currently commonly understood that such extradition decisions have no binding effect upon other states. Most recently, the Court of Justice of the European Union ("CJEU") regrettably denied the binding effect of extradition decisions even within the area of mutual trust and recognition between member states of the European Union. At the same time, it refused to accept that a decision by the CCF could have a binding effect on the courts of member states. Consequently, neither the decision of a court nor of the CCF will prevent the judicial authorities of another country from arresting and/or extraditing the individual. But decisions by the CCF "may be taken into account by that judicial authority in order to decide whether it is appropriate to refuse to execute that arrest warrant."[31]

5.3. In the same decision, the CJEU also accepted that the judicial authorities of the issuing member state have to be vigilant and can even be under an obligation to withdraw an arrest warrant, where there is "a real risk of infringement of the fundamental right to a fair trial enshrined in the second paragraph of Article 47 of the Charter".[32]

5.4. In addition to this potential obligation to withdraw a an arrest warrant, the CJEU has accepted the binding effect of rulings on ne bis in idem and on asylum decisions:

5.4.1. An exception has been accepted only with respect to the principle of ne bis in idem and only for EU-countries[33] – however, to our knowledge, the procedure required by the CJEU has not been introduced by any member state of the EU.

5.4.2. Where one member state has granted refugee status, another Member State, on whose territory he or she resides, cannot authorise extradition to his or her country of origin unless that status has been revoked.[34]

5.5. Despite these first steps towards accepting the binding effects of certain national decisions, in the vast majority of cases, an individual is still likely to face multiple extradition proceedings in any other state he/she enters. That applies both within the EU and even more so with respect to countries outside the EU and outside areas of mutual trust and recognition.

5.6. As a consequence, an individual may be limited in his or her freedom of movement on the basis of a red notice or diffusion even if one – or even multiple – courts have thoroughly assessed the case and concluded that serious human rights must bar extradition.

INTERPOL's rules

5.7. INTERPOL's current rules do not provide for extradition decisions to have a binding effect on the CCF. In our experience, the only reaction to a refusal of extradition in one Member State is to set a "flag" or enter an "addendum",[35] which is not binding on INTERPOL's member states and therefore creates no legal certainty for the individual concerned.

5.8. In practice, it appears that the impact of the extradition refusal varies depending on a range of factors. The CCF has recognised that "[t]he grounds for extradition refusals can … be very diverse, depending on the particular bilateral extradition situations. They can be either related to procedural or to substantive elements, connected to a specific criminal case or rather linked to the requested person's individual situation."[36] Extradition refusals are more likely to result in non-compliance where the grounds for refusal are connected to issues linked with analogous principles in INTERPOL's rules. The refusal of extradition on internationally applied human rights grounds (applied to the specific facts of the case) may for example demonstrate non-compliance with Article 2, resulting in a red notice being deleted.[37] By contrast, the CCF has found that a red notice does not violate INTERPOL's rules where one country refused extradition due to the absence of an extradition treaty, because the red notice may legitimately seek extradition from other countries.[38] It has taken the same approach in the context of extradition refused on the basis of dual criminality,[39] where an extradition refusal was "procedurally based due to statutes of limitation"[40] and where extradition is refused because a country does not extradite its own citizens.[41]

5.9. As respects ne bis in idem, from the cases published, we understand that the CCF considers the red notice to be "an international instrument that is not linked to the applicability of the principle of non bis in idem by one country or by a group of countries" and that the CCF decided that "the determination on the application of the principle of non bis in idem should be left to the competent national courts to be decided at trial or during extradition proceedings."[42] In a more recent decision, however, the CCF indicated that the principle of non bis in idem, albeit recognised in respect of dual prosecution within the same country, "is not equally recognised at international level, except when explicitly accepted by States under bilateral or multilateral treaties". Therefore, it will only consider data processing to be in violation of Article 2 where there were (a) successive prosecutions for the same facts; (b) a final decision of guilt or innocence by a court; (c) there is an international treaty under which the country issuing the red notice is obliged to recognise the preclusive effect of the decision of the authorities that issued the first decision.[43]

Proposed amendments/solutions

5.10. In a statement from June 2022 (the "Statement"), the ECBA[44] made suggestions on the mutual recognition of extradition decisions. While the statement accepts that not all decisions can have a binding effect, it found that the current legal approach results in a severe lack of an effective legal remedy. At the same time, proposals were made to create certain categories of grounds of refusal with different degrees of a binding effect.

5.10.1. Permanent Reasons for Refusal as set in Category 1 of the Statement include ne bis in idem, prosecution based on the grounds of sex, race, religion, ethnic

origin, nationality, language, political opinions or sexual orientation and proportionality. In our view, these are universal principles and should therefore create a permanent ground for refusal of a red notice or diffusion.

5.10.2. The Non-Permanent but Fundamental Reasons for Refusal of extradition are set out in Category 2 of the Statement and include cases of risk of ill-treatment, prison conditions and a risk of flagrant denial of justice and the right to a fair trial. We accept that the circumstances in a requesting state may change to the better leading to a decrease of the aforementioned risks. Nevertheless, these reasons are fundamental and universal in nature and must serve as a (non-permanent) bar to extradition also on an INTERPOL level if a court has established such a risk.

5.10.3. Having regard to the above, we suggest as follows:

5.10.3.1.Since the processing of data in Category 1 and 2-cases would be in violation of the principles set out in INTERPOL's constitution, Art. 2 and 3, and since a red notice in such cases cannot serve the purpose of legitimate police co-operation, such notice should be deleted if a final and binding judgment is presented to INTERPOL describing such category.

5.10.3.2.With regard to Category 2-cases, this should apply unless the NCB of the requesting state can demonstrate that there is a realistic prospect that the circumstances giving rise to the deletion have changed.

5.10.3.3.In case of a finding of ne bis in idem by a judicial authority of an EU-member state, prosecution and extradition within the EU and the Schengen Area are no longer admissible. In order to avoid illegal processing of data within its member states, where INTERPOL becomes aware of or is notified of such a decision, we suggest transforming the red notice into a diffusion and limiting its application so as to exclude it from application for EU and Schengen Member States.

5.10.3.4.To the same extent, we encourage INTERPOL to interact with the competent NCBs to ensure that notices deleted within the Schengen Information System for the reasons set out above are likewise no longer processed within INTERPOL's systems.

6. ASYLUM/ REFUGEE POLICY

6.1. We welcome INTERPOL's refugee policy and the motivation behind it. This has had a considerable impact on many vulnerable people and has been crucial in ensuring that INTERPOL's data processing does not violate the rights of refugees, as guaranteed under the 1951 Convention relating to the Status of Refugees and other applicable conventions. We want to highlight that INTERPOL's refugee policy has a similar effect and appears to be based on the principles and the same obligations under international law that the CJEU referred to in its recent decision confirming that – absent revocation – a person granted asylum in one EU-Member State cannot be extradited by another EU Member State.[45] INTERPOL's previous failure to routinely and swiftly delete red notices and diffusions in relation to refugees meant that INTERPOL's work facilitated violations of international law by contributing to refoulement in violation of Article 33 of the 1951 Convention.

6.2. Practical implementation of this crucial policy does, however, present some difficulties.

6.3. First, the policy states that red notice requests or diffusions sought in relation to refugees will be assessed by the the IPSG's Notices and Diffusions Task Force ("NDTF") or the CCF on a case by case basis. Whilst the Statute creates a set of rules which applicants can understand, there is no equivalent for the NDTF. In relation to both the CCF and the NDTF, there is a lack of transparency about the way in which the refugee policy is applied. Greater clarity on the rules applied by the NDTF, in particular, would be welcomed, along with an indication of when cases will be dealt with by the NDTF and when they will be dealt with by the CCF.

6.4. A further issue is that red notices and diffusions are often issued before an applicant is granted refugee status but after an asylum claim has been made. While INTERPOL's policy allows for the removal of such notices once refugee status is confirmed, this process is not automatic and can take considerable time. During this period, applicants may face travel restrictions, difficulties in securing residency or citizenship in their host country, or indeed the risk of extradition and refoulement. Because some states treat an active red notice as suffi-

cient grounds for arrest and extradition, asylum seekers may find themselves detained and subject to removal proceedings before their claim has been fully assessed. This risk is particularly acute in countries where extradition requests are processed summarily. It is therefore vital that the refugee policy is explicitly extended to provisionally block red notices pending the determination of an application for asylum. Such an approach is consistent with the fact that a grant by a state to an individual of refugee status is declaratory, rather than constitutive of that status:[46]

"A person is a refugee within the meaning of the 1951 Convention as soon as he fulfils the criteria contained in the definition. This would necessarily occur prior to the time at which his refugee status is formally determined. Recognition of his refugee status does not therefore make him a refugee but declares him to be one. He does not become a refugee because of recognition, but is recognised because he is a refugee".

This underlines the importance of blocking red notices pending asylum determination: to do otherwise lends assistance to a requesting state that is in fact a state persecutor of an (albeit undetermined) 'refugee'.

6.5. The CCF has explained that, in practice, when it is able to establish that the subject of a red notice or diffusion is protected from refoulement to the requesting country, the data will be deleted because the purpose for which data were registered cannot be achieved.[47] INTERPOL's refugee policy should be expanded to make it clear that it includes both former refugees and individuals with subsidiary protection.

6.6. The cessation of formal refugee status does not equate to the cessation of vulnerability and does not preclude the application of other legal bars on refoulement. In the UK, for example, a person will lose their refugee status upon being granted permanent settlement or citizenship. Former refugees, while no longer holding an active refugee status, often continue to face the long-term impacts of persecution including continued threats from their countries of origin many years after the original grant of asylum.

6.7. We recognise that some CCF decisions have found that the principle of non-refoulement may still be taken into account where there are other international law protections against refoulement, for example where they have become a naturalised citizen:[48]

"In such situation, … the most important factor is to assess whether the situation which had put the individual at risk and initially justified the protective status has substantially changed. If there is no indication that the situation has changed, the processing of data provided by the NCB of the country of origin in order to request extradition, would still generally be found not compliant with INTERPOL's rules as the purpose for the registration of data would not be achievable while respecting the principle of non-refoulement."

6.8. A non-binding published extract of a CCF decision does not, however, provide sufficient certainty. Aware that only refugee status affords adequate protection from abusive INTERPOL red notices, many refugees choose to forgo applying for a permanent status. Extending INTERPOL's refugee policy to former refugees would ensure that INTERPOL mechanisms are not used to expose them to renewed persecution, or unwarranted travel restrictions.

6.9. Individuals may be granted subsidiary protection because their circumstances, while not fully qualifying them for refugee status, still expose them to a risk that their human rights will be breached. Such individuals would face significant risks upon extradition, even though they do not meet the strict criteria of the 1951 Refugee Convention, and for this reason many jurisdictions

do not extradite those with subsidiary protection. Subsidiary protection, moreover, is conferred only after a determination has been made that there is a real risk of human rights breaches, thereby bringing the individual within the ambit of Article 2 of INTERPOL's Constitution. In light of these dynamics, INTERPOL's refugee policy should be extended to include those with subsidiary protection.

6.10. Another concern arises from INTERPOL's approach to information-sharing. If a red notice is refused due to an individual's refugee status, INTERPOL may inform the asylum-granting country and share the information provided by the requesting state. While this is intended to assist national authorities in reviewing asylum decisions, it creates a risk that states may feel pressured to reassess or revoke refugee status based on information that has not been independently verified. This could inadvertently undermine the protection framework established by the 1951 Refugee Convention.

6.11. The uncertainty surrounding confidentiality and information sharing (discussed further in Part 7) means that many asylum seekers, fearing that requesting states could access information provided to INTERPOL, may decide not to seek the removal of a red notice until their asylum claim is fully resolved. The risk of inadvertent disclosure or interference with INTERPOL's systems by malign state actors can deter applicants from challenging red notices even when they believe they are improperly issued.

6.12. To improve the effectiveness and fairness of its policy, INTERPOL could consider strengthening procedural safeguards. Greater transparency in the review process, including clearer timelines and access to information for affected individuals and prioritisation of such cases would help ensure that those granted international protection are not left in legal uncertainty.

6.13. Clarity over INTERPOL's approach to information-sharing would be welcomed. In particular, those with refugee status would be given confidence if they were assured that any data provided to asylum-granting states is subject to independent assessment.

7. CONFIDENTIALITY AND COMMUNICATION

7.1 Many people who are (or may be) affected by INTERPOL alerts have grave concerns about the information they provide in an application to the CCF being shared (directly or indirectly) with the requesting NCB. This can, for example, include concerns that the prosecuting state will take retaliatory action (perhaps against family members) or exert diplomatic pressure on a third country to deny the person asylum or revoke a visa. For some people, the categories of information they would not want to be shared with the NCB may be narrow; others, however, will be unwilling to make an application to the CCF even if the only information that will be disclosed to the NCB is the fact that an application has been made.

7.2. Given the number of seconded staff at the IPSG, people are often concerned about information being shared with the General Secretariat in case this is leaked to the prosecuting country.[49] This is of particular concern in the context of pre-emptive applications (Part 3) where information provided to the CCF is passed on to the IPSG.[50] Many people also have concerns about the risk of information that is provided to the CCF being leaked to the NCB notwithstanding assurances given in correspondence and the CCF brief, published response to the question "How confidential is my request?" and explanation of Rules 1 and 2 of the CCF Operating Rules in its FAQs.[51]

7.3. Some individuals who are considering exercising their right to request access to data or to make a pre-emptive request are deterred from doing so because, even where no data is being processed by INTERPOL, it is currently unclear whether the applicant's communication to the CCF will result in disclosure to the NCB. There is currently no clarity provided by INTERPOL's rules as to whether in these contexts: (a) information about a pre-emptive or access request is given to the NCB; or (b) the NCB's authorization is sought to the disclosure to an applicant of the fact that no data is being processed. We submit that, where no data is being processed, INTERPOL's rules relating to the ownership of data cannot apply given that no data exists.[52]

7.4. The result of this is that some people (often those with very strong reasons to fear retaliatory action) are unwilling to exercise their right to make a request

for access to, or correction and/or deletion of, data.[53] Another result is extensive correspondence with the CCF seeking clarification about what information the CCF is required to share, with whom and under what conditions.

WE RECOMMEND:

7.5. More detail to be published regarding what information is shared by the CCF with the IPSG and NCBs – it may, for example, be possible to publish redacted extracts of correspondence which deals with general questions of policy and procedure in this (and other) areas.

7.5.2. Clear rules which apply to the IPSG regarding who within the Secretariat receives pre-emptive applications, how they may use this information, and prohibitions on onward disclosure of confidential information.

7.5.3. Review the guidelines on making an application (and application forms) to assist applicants in identifying information that should not be disclosed and providing reasons for this.

7.5.4. Clarify that, where no data is being processed by INTERPOL, the CCF is not required to disclose information to an NCB where an access or pre-emptive request is made to the CCF.

8. PUBLICITY

8.1. For many individuals, the publication of an extract of an INTERPOL red notice on the INTERPOL website is the most significant impact. Disclosure of the extract makes the red notice public knowledge and creates immediate reputational impact, potentially affecting business standing etc. This section addresses two issues with regard to public disclosure: the legal regime itself; and the need for a dedicated CCF challenge.

The Legal Regime

8.2. Disclosure of data to the public is regulated by Article 61 RPD. The key provisions are those of Article 61(2) which sets cumulative conditions, which are not repeated here.

8.3. We are aware of an IPSG 'policy' document which provides (or provided) as follows:
"Publication of an extract of a notice on INTERPOL's public website should be based on a public-interest criterion, and limited to the most serious cases. The seriousness of the case will be assessed, inter alia, in light of the criminal history of the individual and the danger he/she may pose to the public; the nature of the crime; the maximum penalty or the sentence imposed; the importance of seeking the public's assistance in locating the individual concerned; and potential impact on the individual's rights".
We are unaware of the current status of this policy.

8.4. We express concern that this policy is not publicly available on INTERPOL's website. An applicant may be unable to make appropriate submissions if unaware of it. We are only aware of it because it appeared in CCF decisions (without prior disclosure). We recommend that the policy, if it is being applied by IPSG, should be published.

8.5. We also express a reservation about the 'constitutionality' of this policy which appears to involve significant discretion for IPSG as to when publicity can be authorised. This may be in tension with the fairly strict provisions of Article 61 RPD. That is another reason the policy should be public, in order for the affected person to address the relationship between the documents when making submissions to the CCF.

8.6. Setting aside the policy, we also take the opportunity to mention the legal concerns which may arise specifically in connection with publicity of a notice: politicised uses for public relations purposes contrary to Article 3 of the Constitution; use of the public extract within state media campaigns which undermine the presumption of innocence, contrary to Article 2 of the Constitution; and what may be termed 'purpose diversion', whereby the public extract becomes essentially a tool to warn the public about a person's criminal activity, divorced from any function of the public in locating the person. On this last issue we underline that this warning function falls within the remit of a green notice, which are not subject to publication on the website. In our view, publication of the extract of a red notice should be ancillary to the purpose of such a notice, i.e. it should be to elicit public assistance in locating someone, or alerting them in connection with that purpose. It is not a tool for labelling someone a criminal.

8.7. We further suggest amending the current rules to provide an opportunity for the wanted person to make representations regarding the question of publication prior to the disclosure of data to the public. Where the person is aware of the request for the red notice, allowing the person to make representations before publication would not jeopardise the efficiency of police cooperation. Cases such as those described in paragraph 8.6 could be prevented by allowing the wanted person to make representations, avoiding INTERPOL advancing purposes that run contrary to Articles 2 and 3 of the Constitution as a result of publishing data on its website.

8.8. There may well be instances in which a person considers it inopportune to make a deletion request. This may be for instance where they anticipate extradition proceedings and prefer to seize the CCF of a deletion request once in possession of a favourable extradition decision, or where they have pending requests to compromise the arrest warrant and have the notice removed. However, it may still be quite unsatisfactory to have to endure the adverse public impact of a red notice during this time.

Dedicated Challenges to Red Notice Publicity

8.9. In practice, there may often be good reasons why a person does not wish to pursue a full challenge to the red notice. They may anticipate extradition proceedings, and intend to approach the CCF once they have a favourable decision. They may be taking action in relation to the underlying arrest warrant and expect the notice to be removed in time.

8.10. However, a person in that position may well have reason to complain of the publication of the extract of the red notice on INTERPOL's website. For example, they may be able to show that the NCB knows where they are, that neither alerting nor enlisting the assistance of the public is necessary, and that publication interferes disproportionately with their rights because of the impact it causes and the absence of any real law enforcement purpose.

8.11. Equally, a person who challenges a red notice may wish to make a concurrent but discrete challenge to its publicity. On such a two-fold request, the CCF's remedy under Article 39 of the Statute could well involve an order for the cessation of publicity even if it considers the maintenance of the red notice itself to be compliant with the rules.

8.12. We believe that, even in current practice, the CCF is able to deal with the issue of publicity on a discrete basis. However, this course does not naturally fall within the concept of 'correction' or 'deletion' within the terms of Article 18 of the Statute. It appears quite possible that the possibility may not be appreciated by interested parties.

8.13. It would be helpful to make it clear that this discrete request can be made, either (a) together with a deletion request; or (b) alone, leaving intact the ability to make a deletion request in relation to the underlying red notice later on (as an original request under Article 18 of the Statute not as a revision request under Article 42 of the Statute).

8.14. We appreciate that a dedicated request would have to be circumscribed to the narrow issues under Article 61 RPD. To the extent that these refer to the 'basic rights' of the individual concerned, we appreciate

that these would have to focus on rights affected directly by publicity itself.

8.15. The presumption of innocence may give rise to specific issues in this regard. It should be recalled that this can be breached independently, irrespective of its impact on a future trial.[54] INTERPOL must not become the vehicle for such breaches, e.g. by publishing a red notice on INTERPOL's website where this could be used to provide additional force to public assertions of guilt by domestic officials. That issue could be dealt with discretely under the 'basic rights' criterion of Article 61 RPD, leaving the consideration of the fairness of a future criminal trial to a deletion request.

8.16. WE RECOMMEND

that either Article 18 of the Statute be amended, or that the CCF amend its Operating Rules or guidance on its website, to spell out that an applicant can bring a discrete challenge to publicity of a red notice applying (and circumscribed to) the Article 61 RPD criteria.

9. REVISION APPLICATIONS

9.1. In 2022, 15% of the applications received by the CCF were for revision.[55] The large number of revision applications is undoubtedly caused in part by the current absence of any right of appeal against a decision of the CCF (see paragraphs 10.5 and 10.6) and by the fact that there is often limited disclosure of information to applicants during the course of CCF proceedings, making it impossible to correct factual inaccuracies in advance of receiving the CCF's decision (see Part 2). These issues would be better resolved through other reforms to the CCF's procedures than through individual revision applications.

9.2. As regards the use of revision applications to respond to information that is only disclosed to an applicant in the CCF's decision, this is by no means a satisfactory approach:

9.2.1. First, it simply cannot have been what the Statute intended. Article 35 and 42 looked at together clearly imply that the main decision is taken on the facts (implicitly intended to be subject to adversarial exchange), and any revision based on newly discovered matters that were not part of the original case.

9.2.2. Secondly, it does not cover the issue of NCBs / IPSG advancing questionable interpretations of the rules, which are not facts.

9.2.3. Thirdly, establishing that an individual discovered fact would have tipped the balance of an overall analysis is a substantially different exercise to making properly informed arguments while the case is still pending.

9.2.4. Fourthly, this approach (a) diminishes the finality of CCF decisions, which are all potentially likely to give rise to revision requests under Article 42; and (b) by the same token, likely creates more work for the CCF as applicants will make revision requests more often.

9.2.5. Fifthly, an applicant should not have to experience additional (often lengthy) delays involved in applications for revision just to exercise their right to have a fair opportunity to challenge data processing, which should have been guaranteed in the original process.

9.3. There is, however, a significant need to retain the revision procedure to deal with material changes which have occurred following a CCF decision. This would, for example, include where a person has been recognised as a refugee, where an extradition request has been refused on the grounds of political motivation or human rights,[56] or where there have been significant developments in the criminal proceedings to which the INTERPOL data processing relates.[57] We also welcome the CCF's recognition that the start of the six-month time period for the purposes of Article 42(2) must be the date on which the new fact becomes known to the applicant and not the date on which the relevant event occurred.

9.4. We have dealt elsewhere with the delays in CCF decision making (Part 1) and note that delays in the processing of revision applications appears to be a particularly acute problem. ECBA members have also reported cases where the CCF has not explicitly confirmed when a revision application has been deemed admissible.

9.5. Related to this is the question of the role of the CCF in cases where new requests for cooperation are received by the IPSG concerning a person in respect of whom data-processing had previously been found by the CCF to be non-compliant. We understand that the IPSG will review whether the request is compliant with INTERPOL's rules and that it will sometimes forward the request to the CCF. The question of when a referral to the CCF will be made and the process for engaging the CCF in such cases is, however, unclear.[58] The CCF has reported that, when such a case is referred to it, it will consider whether this should be treated as an application for revision of its previous decision and that it will encourage the source of the data to allow it to share that data with the data subject for them to become a party to the case.[59]

WE RECOMMEND:

9.6. Reducing the overall number of revision applications by improving disclosure during the course of proceedings and introducing a right of appeal against CCF decisions.

9.6.2. Compliance with the existing timeframes applicable to revision applications,[60] and improved communication with applicants about the status and progress of revision applications.

9.6.3. A requirement for the IPSG to block all requests for data processing concerning a person in respect of whom data-processing had previously been found not to be compliant by the CCF, a requirement for the General Secretariat to refer all such cases to the CCF, and a requirement for the CCF to review all such applications and to consult the affected individual.

10. APPEAL/ REMEDIES/REDRESS

10.1. Under Article 5 of the Headquarters Agreement between INTERPOL and the French government, INTERPOL enjoys immunity from legal processes. When the Agreement was first signed in 1972, both parties had settled on arbitration as forum for disputes arising between them, as enshrined in Article 24. A second and third paragraph was later added, the latter specifying that arbitration was not open to disputes with regard to INTERPOL's Constitution and appendices. In 2016, Article 24 was amended again, to clarify that exclusion of arbitration concerned disputes relating to employment conditions within the Organisation and "the processing of data in INTERPOL's Information System". INTERPOL's intent to protect itself from all judicial challenges, including regarding the recording and maintaining of notices and diffusions targeting natural persons in the IIS, was thereby explicitly displayed.

10.2. This change has been effective since all attempted challenges that have been reviewed by na-

tional courts, including in France and the US, have failed. That legal debate however remains open since at least two actions are currently pending before French courts concerning INTERPOL's immunity.

10.3. These applications will be reviewed by the French judges on the basis of their consistent case-law according to which immunity of international organisations must be waived when there is a risk of denial of justice, due to the absence of legal remedy available to the claimant.[61] That jurisprudence is in line with the ECtHR caselaw[62] as well as the one of several other states' courts.[63]

10.4. The question to be answered by the French courts will therefore be whether sufficient remedies are available to persons against whom data, including red notices and diffusions, exist or have existed within INTERPOL. In light of the caselaw recalled above, the risk that INTERPOL's immunity will be waived is therefore high.

The lack of a proper appeal procedure

10.5. In line with its constitutional obligation to comply with the spirit of the Universal Declaration of Human Rights, it is of significant concern that there is currently no mechanism to appeal against decisions of the CCF. The review mechanism under Article 42 does not provide this mechanism given the restrictions on its availability and also the fact that it is the same body and the same chamber, within the CCF (which previously examined the case) which is reviewing the decision.

10.6. The position at INTERPOL stands in contrast to, for example, that for Europol: data processing can be reviewed by the European Data Protection Supervisor,[64] whose decisions are in turn subject to review by the Court of Justice of the European Union.[65] A further point of comparison is the Schengen Information System (SIS), where individuals have the right to seek correction or deletion of alerts and may pursue judicial remedies before the national courts of the Member State responsible for the alert.[66]

10.7. Moreover, the absence of any consequences for NCBs that issue data later found to be non-compliant creates a structural disincentive to act with restraint or rigour at the outset. This encourages an "issue first, assess later" approach, placing the burden and risk of premature publication entirely on the individual concerned, rather than on the issuing authority.

10.8. We would encourage INTERPOL to commission a feasibility study on the creation of an appeal mechanism in relation to CCF decisions to be presented to the General Assembly, taking into account factors such as: (a) the requirements under international human rights law; (b) the approach adopted by similar bodies; (c) the resource implications; (d) the impact on legal certainty; and (e) whether there are certain categories of case to which the right to appeal should be restricted.

The lack of a formal recourse when a notice is withdrawn by the issuing NCB before the CCF's review

10.9. In situations where an NCB has been prompted to withdraw data published in the IIS pursuant to its obligations in application of Article 81 of the RPD, either because it has been acted upon in another member state (and the individual has been extradited), or simply because the issuing country has decided to do so for reasons of its own (for example to avoid an adverse CCF decision), the CCF's refusal to review compliance of data formerly recorded and now deleted deprives affected people of any and all recourse against the publication of data, despite the damage caused.

10.10. In light of the serious consequences that the publication of a notice/diffusion can have on a person's life, including risks to their safety, private and family life, businesses, and reputation, this absence of recourse against the potentially unlawful publication of data is disproportionate. This is especially true when such detriment continues even after removal. Lack of recourse deprives the applicant of any effective remedy.

10.11. We suggest that the approach should involve both (a) a retroactive review of compliance of data previously recorded – which may be important in terms of establishing an objective record of abuse of INTERPOL's tools; and (b) where necessary, consideration of IPSG's responsibility with a view to the granting of any additional remedies.

The lack of effective compensation mechanisms and funds

10.12. Although under Article 39 of the Statute, the CCF can, when it "finds that data have not been processed in accordance with those rules, in addition to any decision on the corrective actions to be taken with regard to such data, (…) decide on other appropriate remedies to be granted by the Organization to the applicant", the CCF has consistently held that the withdrawal of the non-compliant data is a sufficient remedy. We understand that IPSG's responsibility has been considered on occasion, but that this practice has not yet been developed.

10.13. The current limited approach to remedies fails to recognise the persisting damage caused by the initial publication. A more stringent application of the remedy mechanisms provided under Article 39, particularly compensation, would help address this issue, encourage good practice by IPSG, and reduce the misuse of IIS by NCBs. Additionally, public acknowledgment of violations could serve as an alternative remedy, promoting transparency and accountability while deterring future misuse.

10.14. We recognise INTERPOL's limited resources. One way to address the challenge of compensation would be to establish a compensation fund for individuals harmed by the unlawful publication of their data. Member states could contribute annually, with contributions proportionate to their resources. This amount could be increased as a penalty when a certain percentage of data published by a country's NCB is found to be incompatible with INTERPOL's rules. Such a system would both safeguard INTERPOL's resources and serve as a strong deterrent against the misuse of its mechanisms. Additionally, introducing a short statute of limitations for claims could help manage demand.

10.15. All these elements are brought to the attention of INTERPOL as matters existing since its creation, but particularly ahead of the establishment of a General Agreement on the Privileges and Immunities of INTERPOL by an appointed drafting committee as announced at its last General Assembly in Glasgow in November 2024.

11. IMPACT OF CCF DECISIONS AND REPEATED REQUESTS

The effective implementation of CCF decisions

11.1. A recurring issue is the extent to which NCBs implement CCF decisions requiring the deletion or correction of data. Read together, Article 41 of the Statute and Article 81(3)(c) RPD create an implicit obligation for deletion or correction of notices by NCBs. Neither provision, however, explicitly states that a notice should be deleted by NCBs as a result of a CCF decision. Furthermore, there is currently no systematic verification process to ensure compliance. In some cases, individuals find that data removed from INTERPOL's systems remains live in national databases, affecting their ability to travel and in the worst cases, leading to their unnecessary detention.

11.2. To strengthen adherence to CCF rulings, INTERPOL should consider:

11.2.1. Including a specific provision within the RPDs mandating the deletion or correction of records of notices by NCBs, where the CCF has decided on deletion.

11.2.2. Establishing a formal monitoring mechanism to track whether NCBs implement deletion and correction decisions.

11.2.3. Mandating NCBs to provide confirmation of compliance within a set timeframe.

11.2.4. Exploring measures to address repeated non-compliance, including technical restrictions or additional oversight.

Repeated requests and variations of alerts

11.3. A further issue concerns instances where new requests for cooperation are submitted following a CCF decision, sometimes based on different allegations, targeting relatives, or using variations of names and identity details. Greater clarity on how such cases are handled would be beneficial.

11.4 WE SUGGEST THAT INTERPOL CONSIDER:

11.4.1. Strengthening internal systems (potentially leveraging AI) to identify and assess new requests that may be linked to previously challenged alerts.

11.4.2. Establishing a structured process for automatic referral of such cases to the CCF before dissemination.

11.4.3. Developing clearer guidelines for NCBs on disclosing links between new requests and prior CCF rulings.

12. CCF: IMPARTIALITY AND PUBLIC CONFIDENCE

12.1. Given the role the CCF plays within INTERPOL – advising INTERPOL on the protection of personal data and dealing with requests from individuals whose rights are affected by data processing – it matters greatly who is entrusted with these powers. It is also crucial that they can discharge these powers independently and impartially.

12.2. From the perspective of Article 6 ECHR and Article 14 ICCPR, the independence and impartiality of the CCF's members, from states and relevant individuals, is a primary necessity to ensure that the CCF represents an effective review mechanism from the perspective of fair trial and effective remedy norms, as guaranteed by e.g. Article 14 ICCPR and Article 6 ECHR. See also the UN Basic Principles on the Independence of the Judiciary (the 'Basic Principles').

12.3. Independence refers to the procedure and qualifications for the appointment of judges and their independence of the judiciary from political interference by the executive. It requires that specific measures be taken to guarantee the independence of the judiciary, protecting judges from any form of political influence in their decision-making through the constitution or adoption of laws establishing clear procedures and objective criteria for the appointment, remuneration, tenure, promotion, suspension and dismissal of the members of the judiciary and disciplinary sanctions taken against them.[67]

12.4. Impartiality has two aspects. First, judges must must not allow their judgement to be influenced by personal bias or prejudice, nor harbour preconceptions about the particular case before them, nor act in ways that improperly promote the interests of one of the parties to the detriment of the other (subjective test); second, the tribunal must also appear to a reasonable observer to be impartial (objective test) ('justice must not only be done; it must also be seen to be done').[68]

12.5. More generally, it is important that there be public confidence in the process of the Requests Chamber.

12.6. The recent arrest of the former Chair of the CCF (and of its Requests Chamber) for alleged corruption offences in relation to abuse of the INTERPOL refugee policy has brought this question into focus. The ECBA stands firmly in support of the presumption of innocence but nevertheless acknowledges the focus that this news has placed on trust in the membership and personnel of the CCF.

12.7. These developments naturally raise a number of questions as to the credibility of the CCF, given the powers entrusted to it. It is also known that some applicants whose cases were decided adversely by the CCF under that Chairmanship have sought revision querying whether the CCF was duly constituted, given the requirement for 'high moral character' of its members, and whether its decisions remain valid.

Ensuring independence and impartiality

12.8. With regard to independence, Article 11 of the CCF Statute provides that members shall serve in their personal capacity (i.e. not on behalf of the countries that appoint them); shall be independent and remain free from external influence, whether direct or indirect; shall abstain from activities that will interfere with the exercise of their functions; and that the Organization and its Members shall abstain from any action which might influence the CCF or be prejudicial to the discharge of their functions. With regard to impartiality, Article 12 of the CCF Statute requires that a member of the CCF shall not participate in any case in which his/her impartiality might reasonably be doubted. These rules are then supplemented by provisions of the Operating Rules (notably Rules 1, 2, 3, 3A, 4 and 5).

12.9. Beyond the text of the rules, we draw attention to certain matters which appear important to securing independence in general, and impartiality in all cases.

12.10. At the point of selection, selection of the CCF's members should prioritize persons with no privileged relationships with any government or of diplomatic nature, to avoid undue pressure or favouritism. Candidates with a background in government relations, diplomacy, international relations as well as public relations should therefore be avoided, as NCBs are from this constituency. Given the tasks of the Requests Chamber and potential consequences of its decisions, its role resembles that of a judicial court, and experience in making judicial decisions may be the most obvious guarantor of an independent mindset. In any case, we also believe 'lawyers' (per Article 8(4)) who have evolved within independent regulated legal professions (legal, prosecutorial or judicial) are likely to be more fully steeped in traditions of independence than, for instance, those previously employed in legal roles within government ministries or diplomatic corps. This, too, should be reflected in the guidelines for the next call. In late 2025, the CPD consulted on the selection of candidates for CCF membership and the ECBA provided a detailed response to this.[69]

12.11. During their mandate, it is of course important that members be bound by a code of conduct beyond the generality of Article 11 etc. of the CCF Statute, to ensure practical and consistent application of the core norms. The Operating Rules (in particular Rules 1 to 5) provide the core elements of this. These include, notably, the requirement for a member to withdraw where s/he is a national of the country source of the data challenged by an applicant (Rule 2(1)(d)) and more generally for conflict of interest.

12.12. Of course, the operation of such rules rests largely with the CCF members themselves (hence the importance of their being bound by principles of integrity). However, applicants can to some extent contribute. For example, in practice, applicants have requested and obtained confirmation of the recusal of the former Russian member of the Requests Chamber in challenges to data circulated by the NCB for Russia. That is possible because the identity and national provenance of members is known. Beyond that, however, in the globalised context of INTERPOL, knowing what interests CCF members have, and how these might pertain to a case, is more difficult than it would be within a national judicial system. A register of interests would ameliorate that situation.

More generally: ensuring public confidence in the CCF

12.13. Even if adequate systems are put in place to deal with abuse, the recent news has inevitably placed some focus on the appointments system for members of the CCF itself. Given further appointments may be made in 2026, it is appropriate to pause to consider that system. We make some recommendations below but also make one general recommendation for external assessment (see below).

12.14. Article 37 of the Constitution species that members of the CCF 'shall possess the expertise required for it to accomplish its functions'. Article 8(1)/(4) of the CCF Statute then provides further stipulation. The Requests Chamber members must have 'high moral character, impartiality and integrity who possess the qualifications required for appointment to senior positions in their field of expertise' and the members should be lawyers (a) with 'data protection expertise'; (b) with 'recognized international experience in police matters'; (c) with 'international criminal law expertise'; (d) with 'human rights expertise'; and (e) 'who holds or has held a senior judicial or prosecutorial position, preferably with experience in international judicial cooperation'. In accordance with Article 9, candidates are nominated by the member countries, and elected by the General Assembly, by simple majority.

12.15. By and large, we have limited issue with the provisions of Article 8(1)/(4), which are broadly similar to eligibility provisions in treaties or documents relating to judicial or quasi-judicial bodies. See, for example, the criteria for appointment to the UN Human Rights Committee ('high moral character and recognised competence in the field of human rights');[70] the European Court of Human Rights ('high moral character and must either possess the qualifications required for appointment to high judicial office or be jurisconsults of recognised competence')?[71] See also, in terms of bodies with competence in respect of international organisations, the former Human Rights Advisory Panel with competence in respect of the UN Mission in Kosovo ('international jurists of high moral character, impartiality and integrity with a demonstrated expertise in human rights');[72] or the European Data Protection Supervisor ('persons whose independence is beyond doubt and who are acknowledged as having expert knowledge in data protection').[73]

12.16. There are two caveats to this. First, we regret the absence, in Article 8(4), of a provision referring to expertise in asylum and extradition law, given the importance these have in the INTERPOL system. Secondly, we note that the term 'recognized' appears only for the police cooperation expert. It is not clear to us why it is not so for the others. The CCF is intended to be a quasi-judicial body, which should have a degree of recognisable legal authority in all relevant areas, meriting the respect of IPSG, NCBs and applicants.

12.17. Beyond the letter of Articles 8 and 9 of the Statute, the process of appointment is unclear. We note that in 2021, INTERPOL itself issued a document[74] making a series of more specific suggestions as to expertise and credentials of CCF members, to assist with nominations for election at the 2021 General Assembly ahead of the 2022 appointments. We note that this included specification as to experience dealing with transnational criminal cases, extradition etc. and also adjudicative experience. It is unclear which body within INTERPOL authored the document, which has general INTERPOL branding. It can be noted that in section 8, the document calls for a CV; passport; criminal record certificate; and a statement from the applicant. This could be developed (see below).

12.18. It is not clear what model INTERPOL plans to follow for the appointments which will be made at the 2026 General Assembly (which will involve either three-year renewals or new five-year terms). We suggest that – given the recent developments – it will be important to make convincing appointments to preserve confidence in the CCF.

12.19. The ability of the CCF to discharge its functions may be jeopardized by wholesale turnover of mandates at one point. Staggered mandates are better for the preservation of institutional memory and know-how within the CCF membership: the CCF likely differs significantly from positions newly appointed members would have held before, and it would be useful for them to have easy access to persons who have done the job before them. This should also contribute to more consistency in the CCF's approach and ensure some form of continuity in the philosophy of their decisions. Article 10(1) of the CCF Statute, applicable to the current membership, pro-

vides for election to a five-year term, renewable only once for three years. This provides sufficient flexibility to have staggered appointments, provided that not all members' mandates are renewed. It is not clear to what extent the renewability of a mandate is dictated by CCF members volunteering to continue (or withdraw) or the choice of states to propose alternatives.

12.20. The requirement for a reflection of the principal legal systems of the world (see Article 8(2) of the Statute) is of course logical and correct for a global organisation. It is, however, a matter of concern when holders of key positions in INTERPOL are themselves associated with human rights abuses, either individually or by association. Whilst country-wide exclusions are not politically feasible for INTERPOL, we do suggest that there should be some way of excluding those (from any national system) who are associated with human rights breaches and/or abuse of the INTERPOL system. We make some proposals below, with a view to the 2026 nomination and election exercise, but draw attention to the more general recommendation below as to involving external expertise.

12.21. Whilst the availability of a small number of excerpts of Requests Chamber decisions (64 in total) is useful, we believe that it is insufficient. The selective approach means that a vast amount of Requests Chamber reasoning cannot be the subject of legitimate public discussion – itself a form of quality control – as in other international justice systems. We suggest that time has come to expand publication, to ensure greater transparency. If it is necessary to distinguish between decisions which decide a certain point of interpretation of INTERPOL's rules and decisions which apply established principle to a given set of facts, tags could be used to achieve this. In the longer term, the CCF should aim to have a searchable database of anonymised decisions.

12.22. Whilst we note that the CCF has a system whereby a member of the CCF may initiate a procedure for the removal of a member due to inter alia misconduct (Operating Rules, Rule 5(1)/(2)), there is no broader system than this. We assume that INTERPOL (in general terms) must have compliance programmes e.g. provision for whistleblowers to notify concerns about misconduct internally. However, these are not public. We suggest that public acknowledgment of such programmes would be beneficial in demonstrating that there are mechanisms to enable staff to report concerns – a point which applies for the CCF but also, and equally, to IPSG and the Executive Committee.

12.23. Finally, the availability of review by a superior body (discussed in section 10 above) would have the potential to enhance confidence in the CCF process overall, particularly if combined with greater publication of decisions. Put crudely, decisions are more likely to be high quality if they will be (i) subject to public scrutiny and (ii) liable to be overturned if they are insufficiently reasoned, misapply the law etc.

Seeking external assessment

12.24. We make the recommendations set out at the conclusion of this section as a defence lawyers' association deeply committed to the rule of law. We recognise, however, that there are other voices whose contribution could be very important for INTERPOL in meeting the current challenges with regard to the CCF.

12.25. In this regard, we draw attention to the practice of UN Special Rapporteurs visiting other international organisations: see e.g. the 2021 visit of the UN Special Rapporteur on Toxics & Human Rights to the International Maritime Organization.[75] The UN Special Rapporteur on the Independence of Judges & Lawyers is among the most authoritative of the UN Special Procedures, and visits are part of the practice of that mandate.[76]

12.26. We suggest that such a visit would be one way of testing whether the Statute has achieved its purpose of ensuring an effective remedy for individuals (thereby justifying its sole and exclusive competence with respect to data processing affecting individuals and the immunity it has typically enjoyed before national courts).

WE RECOMMEND:

12.27. INTERPOL should immediately make public the position with regard to the current membership of the CCF. Is the renewal of all / some of the mandates in contemplation? Are member countries being invited to propose candidates for some or all of the Article 8(4) profiles? Whose decision is this?

12.27.2. INTERPOL should have a staggered appointments policy, in operation of Article 10(1) of the Statute, whereby some mandates are renewed but other are not, in order to ensure continuity and avoid loss of institutional memory.

12.27.3. As in 2021, there should be a guidance document to assist member countries with nominations in 2026 for any new terms beginning 2027. We suggest that the current CCF Requests Chamber should be a principal author.
Nominations should

12.27.4. Be accompanied not just by a criminal records certificate but (where relevant) by a certificate of the national professional regulator, confirming whether there have been no adverse disciplinary findings.

12.27.4.2.Be accompanied by references from authoritative sources outside the legal system of the originating country, as a means of verification of internationally recognised competence.

12.27.4.3.Be required to state whether cases handled by the individuals nominated have been the subject of findings of human rights breaches by international courts or other bodies.

12.27.4.4.Emphasise adjudicative experience, ideally beyond the one member for which that is mentioned Article 8(4)(e) of the Statute.

12.27.4.5.Emphasise 'lawyers' drawn from independent regulated backgrounds, rather than government employees in legal roles.

12.27.4.6.Be made public ahead of the General Assembly, in order to improve public transparency and enable public comment, which will assist member countries in voting.

12.27.5. Members of the CCF should also have to disclose their interests at the beginning of their mandate. A register of such interests should be publicly accessible, with any justified redactions, on the CCF's web page, for transparency to persons subject to data in the IIS and their lawyers.

12.27.6. INTERPOL should clarify whether it considers itself bound by Requests Chamber practice, and if not, explain the constitutional basis for that.

12.27.7. The CCF should – on its own initiative, in exercise of its independence – issue an invitation to the UN Special Rapporteur on the Independence of Judges & Lawyers to visit the CCF and make recommendations as to the improvement of the standing, independence and functioning of the Requests Chamber.
IPSG and the General Assembly should fully support that initiative.

12.27.8. If possible, such a visit should take place in time for initial recommendations to be issued and made public prior to the 2026 nomination exercise (the deadline for which may be June 2026 if the 2021 timeframes are replicated).

12.27.10.Even if a visit is not possible before the 2026 nomination exercise, such a visit should be organised with a view to obtaining an assessment after 10 years of operation of the CCF Statute, with a view to the longer term.

12.27.11.That visit should also encompass all other issues dealt with in this report in connection with the CCF (provisional measures, equality of arms, revision, the scope for an appeals process etc.).

13. Reform of the CCF and the role of the CPD

13.1. INTERPOL has implemented important reforms over the past 15 years to protect itself from abuse. These reforms were introduced in response to public and political concern regarding high-profile misuses of INTERPOL alerts against human rights defenders, political activists and journalists. They were also a response to the growing vulnerability of INTERPOL's immunity and the questions that were being increasing raised by politicians and policy-makers in jurisdictions providing the bulk of INTERPOL's funding about the reliability of data processed by INTERPOL.

13.2. In the period between 2013 and 2016, INTERPOL made great progress in seeking to address these challenges. Continued high-profile concern regarding abuse of INTERPOL by some of its member countries, however, demonstrates that this process of reform must continue. In January 2026, the BBC World Service and Disclose, for example, published deeply damaging information about the continued abuse of INTERPOL by Russia:[77]

"The mission of the prestigious criminal police institution, to fight organised crime, is being misused on a large scale for the benefit of some of the world's most repressive states, Disclose and the BBC can reveal after thousands of internal Interpol documents were leaked. We expose abuse including persecution, secret manhunts and arbitrary arrests, part of a system where Interpol's red notices have become a powerful weapon for countries like Russia, Turkey and Tajikistan."

13.3. INTERPOL needs to do more to prevent abuse and to earn public trust. Not only does this require stronger review processes within the IPSG; it also demands a CCF that is properly resourced and empowered to provide effective, independent recourse when non-compliant alerts slip through the net. We are therefore deeply concerned that INTERPOL is, instead of bolstering the CCF, focusing on reforming the CCF Statute so soon after it was introduced. We have dealt earlier in this report with the substance of the reforms proposed by the CPD and introduced in 2025. More generally, however, the CPD-led reform process raises questions about whether the principles of judicial independence are fully respected in the INTERPOL system overall.

13.4. There is a disturbing lack of information available about the membership and terms of reference of the CPD. It is crucial to ensure that those countries which are most regularly found by the CCF (and IPSG) to have misused INTERPOL are not responsible for designing reforms to the rules that govern the CCF.

WE RECOMMEND

that a dedicated webpage is published for the CPD including its membership, terms of reference, workplan and the text of the recommendations it submits to the General Assembly.

13.5. WE WELCOME THE INTRODUCTION OF A PUBLIC CONSULTATION PROCESS IN RELATION TO THE CPD'S PROPOSALS FOR REFORM OF THE CCF. THE PROCESS SHOULD, HOWEVER, BE IMPROVED:

13.5.1. Sufficient time should be given to increase the level and quality of responses;

13.5.2. An explanation of the aim of the reform proposals should be provided; and

13.5.3. The text of proposed amendments should be included.

13.6. IT IS ALSO CRUCIAL THAT REFORMS TO THE CCF STATUTE DO NOT PROCEED IN A PIECEMEAL FASHION, SPREAD OUT OVER MANY YEARS. THIS RISKS THE GRADUAL DECLINE OF THE CCF – DEATH BY A THOUSAND CUTS OR THE FROG 'BOILER' APOLOGUE.

There should be a consultation on the overall shape of any process for reform of the CCF.

13.7. There are also concerning indications of a disregard for the important role of the CCF as an independent and impartial oversight body by the CPD. Take, for example, two proposed reforms on which the CPD consulted in 2025:

13.7.1. It was proposed that a "pool of experts whom the CCF could approach" should be created. We expressed our profound concerns that this could be seen as a practical solution to the growing volume and complexity of individual complaints before the CCF. We emphasised that any move to involve external experts in the adjudication of individual cases, whether through formal advice, informal influence, or parallel review raises serious concerns in terms of institutional integrity, procedural clarity, and fairness.

13.7.2. The CPD also consulted on revising the Statute to define the proper functions of the CCF Secretariat. We explained that "a separate and independent Secretariat is an important element of the CCF's institutional autonomy, ensuring that it can support the Commission effectively and impartially". The CCF should itself determine how its Secretariat assists in fulfilling its mandate.

13.8. It also appears that a lack of respect for the crucial role performed by the CCF may extend to the IPSG and NCBs:

13.8.1. In the Repository of Practice on Article 3 (now covering Articles 2 and 3) it is notable that the text makes no reference to principles derived from the Requests Chamber's decisions. This gives the impression that IPSG does not consider the practice of the Requests Chamber as being relevant to its own. Normally, in a system where a 'court' interprets the 'law', the 'executive' would follow the law as interpreted. IPSG is not exemplifying that.

13.8.2. The continued absence of equality of arms in CCF proceedings may well be explainable by the conditions in which the CCF operates. It is, after all, obvious and not seriously debatable that one party to a quasi-judicial proceeding should know the other's arguments before they are relied on by the decision-maker. Yet the CCF appears to be unable to impose such a way of working. One explanation may be that this would meet with too much resistance from NCBs.

13.9. Taken together, these issues threaten to erode the reforms introduced over the past decade and a half, progress driven by the need to restore public trust. Such trust takes time to build but can be lost quickly. It is therefore essential that any further changes reinforce rather than diminish the CCF's independence and its central role in maintaining confidence in INTERPOL's systems.

Endnotes

1 92nd General Assembly, Candidacy speech for the position of Secretary General – Valdecy Urquiza (https://www.interpol.int/content/download/22261/file/Valdecy%20Urquiza%20candidacy%20speech%20for%20Secretary%20General%20at%2092nd%20General%20Assembly.pdf)

2 See ECBA Response to INTERPOL CPD Call for Papers, available at https://www.ecba.org/extdocserv/projects/EAW/20250406_ECBA_ReviewStatuteCCF_TemplateContributions_final%20COM_sign_Annex.pdf. See also Lawyers Against Transnational Repression and ECBA response to the call for contributions concerning draft amendments to Articles 8, 9, 15(3) and 22 of the Statute, available at https://www.ecba.org/content/index.php/working-groups/european-arrest-warrant/954-ecba-response-to-interpol-cpd-call-for-papers-october-2025.

3 Activity Report of the Commission for the Control of INTERPOL's Files for 2023, §5

4 CCF Decision 2023-11, citing CCF Statute, art 5(2)

5 CCF, "Activity Report of the Commission for the Control of Interpol's Files for 2018", §72

6 CCF Decision 2018-12, §50

7 HRC General Comment on Article 14 ICCPR, §13

8 Cf ECtHR, Waite and Kennedy (n 101) paras 68-69 and Joined Cases C-584/10 P, C-593/10 P and C-595/10 P, European Commission v Kadi [2013] EU:C:2013:518, [2014] 1 CMLR 24

9 Nina Vajić, CCF Chair, speech to the 2016 General Assembly, Wednesday 9 November 2016, p. 22

10 See e.g. Apeh Uldozotteinek Szövetsege and Others v. Hungary 32376/96 (05.10.2000), §42.

11 See Decision 2018/18 §§23-24 and Decision 2018/07 §§24-25.

12 CCF Decision 2018-17, para 29; C; and CCF, "Activity Report of the Commission for the Control of Interpol's Files for 2018", Appendix, para 17.

13 ECBA, Renewing the commitment to human rights: ECBA statement on the priorities of the incoming INTERPOL Secretary-General (November 2024) (link).

14 See endnote 2 above.

15 https://www.interpol.int/Who-we-are/Commission-for-the-Control-of-INTERPOL-s-Files-CCF/How-to-submit-a-request

16 Statute, Article 31(2)

17 Article 33(1) of the Statute

18 Article 35(3) of the Statute. It is possible that these could be interpreted restrictively by INTERPOL as only restricting to disclosure to an NCB or applicant.

19 Article 23(2) of the Statute

20 Constitution Art 36

21 Constitution Art 36 and Statute Art 29(1)

22 Art 1(5) RPDs and general data protection principles

23 Statute Art 28

24 Statute Art 37

25 In some cases it appears that the IPSG would seek further information from NCBs and sometimes decline to publish without referring the matter to the CCF for its consideration (most frequently where the person is a refugee). In many other cases, however, the matter would become a CCF deletion request albeit relating to 'pending' data. The block ordered at the outset will continue throughout, until the CCF decision.

26 Statute, Art 37, which (as before) provides that the CCF may decide on provisional measures 'at any time during the proceedings' (The CPD's consultation had proposed an amendment to Article 37 to the effect that the power would exist 'at any time during the examination of a request' – which was problematic because the CCF's examination of the request was to be delayed until after the IPSG's decision was taken. Statute Art 33(3) also makes it clear that, even if not data is being processed, the CCF may decide on appropriate measures which includes provisional measures.

27 Statute, Art 33(3)

28 A notification at this juncture is appropriate because it marks the transition from a process in which the applicant is not involved (IPSG compliance review) to one in which the applicant has standing as a party (CCF proceedings). It would allow an up-to-date assessment of what if anything further needs to be said to the CCF in light of IPSG's proposed course. In some cases, it may result in challenges not being pursued, e.g. if it is confirmed that there will be no public disclosure, extradition proceedings are underway or imminent, and the applicant prefers to challenge thereafter. Such a notification would also accord with core data protection principles, including fairness, transparency and purpose limitation, by ensuring that individuals are appropriately informed of the status and use of their data at a material stage.

29 Art 86, RPD

30 INTERPOL, "Ukraine: INTERPOL General Secretariat statement", 10 March 2022 (https://www.interpol.int/en/News-and-Events/News/2022/Ukraine-INTERPOL-General-Secretariat-statement)

31 CJEU C 318/24 PPU ; P.P.R

32 CJEU C-318/24 PPU ; P.P.R, §§49, 53

33 CJEU C-505/19, WS; C-435/22 PPU, HF

34 CJEU C-352/22, A.

35 With respect to Article 3, see INTERPOL "Repository of Practice", p15, § 41 and INTERPOL, Resolution AGN/53/RES/7. For the application of an addendum in the case of an extradition refusal on human rights grounds see, CCF Decision 2023-7, § 23

36 CCF Decision 2018-3, §48

37 CCF Decision 2019-3, §49

38 CCF Decision 2019-7, §§ 22 and 25

39 CCF Decision 2017-2

40 CCF Decision 2017-3, §43 and CCF Decision 2023-2, §36

41 cf CCF Decisions 2023-2 and 2023-3

42 CCF Decisions 2017/09; 2019/06

43 CCF Decision 2023-2, §§27-28

44 https://ecba.org/extdocserv/publ/ECBA_STATEMENT_Mutualrecognitionextraditiondecisions_21June2022.pdf.

45 CJEU C-352/22, A.

46 UNHCR Handbook at §28

47 CCF, “Activity Report of the Commission for the Control of Interpol’s Files for 2019-2020”, §33, citing RPDs art 10(1) and 12

48 CCF Decision 2018-7, §50

49 23% according to INTERPOL, 2023 Annual Report, p 24

50 How to submit a request

51 Frequently Asked Questions. Media reports of criminal investigations into former CCF Chair (Vitalie Pirlog) have exacerbated these concerns.

52 Notwithstanding this, we understand that the CCF has taken the position that articles 33.2 and 33.5 of Statute require disclosure of some information to the requesting NCB in the context of any access request.

53 Article 29(1) CCF Statute

54 See e.g. Allenet de Ribemont v France 15175/89 (10.02.1995), §§39-41 – there never was a trial at all.

55 CCF, Activity Report of the Commission for the Control of Interpol’s Files for 2022, Appendix, §8

56 CCF Decision 2018-15

57 CCF Decision 2023-8

58 CCF, “Activity Report of the Commission for the Control of Interpol’s Files for 2019-2020”, §28

59 CCF, “Activity Report of the Commission for the Control of Interpol’s Files for 2018”, §50, CCF, “Activity Report of the Commission for the Control of Interpol’s Files for 2019-2020”, §28 and “Activity Report of the Commission for the Control of Interpol’s Files for 2021”, §23.

60 CCF Statute, Art 42(3) and Art 40.

61 Banque Africaine de Développement v MA Degboe, French Cour de cassation, 25 January 2005; Court of Appeal of Paris, Pôle 4 chambre 13, 16 January 2024, n° 20/17725

62 Waite and Kenedy v Germany 1999, Beer and Regan v Germany, 1999

63 Washington Julio Efrain Cabrera v Comisión Técnica Mixta de Salto Grande, Argentina Supreme Court, 5 December 1983; Siedler v Western European Union, Brussels Labour Court of Appeal, 17 September 2003, upheld by the Belgian Cour de cassation on 21 December 2009; Drago v International Plant Genetic Resources Institute, Italian Cour de cassation, 19 February 2007

64 Article 47 of Regulation (EU) 2016/794.

65 Article 48 of Regulation (EU) 2016/794.

66 Articles 53 and 54 of Regulation (EU) 2018/1862

67 General Comment No 32, §19.

68 ECtHR 17January 1970, Delcourt v/ Belgium, n° 2689/65.

69 Lawyers Against Transnational Repression and ECBA response to the call for contributions concerning draft amendments to Articles 8, 9, 15(3) and 22 of the Statute, available at https://www.latrint.org/our-work/lawyers-against-transnational-repression-and-the-european-criminal-bar-association-respond-to-the-call-for-contributions-concerning-draft-amendments-to-articles-8-9-15-3-and-22-of-the-statute-of-the-commission-for-the-control-of-interpols-files

70 Article 28(2) ICCPR.

71 Article 21(1) ECHR.

72 Regulation No. 2006/12 (UNMIK/REG/2006/12) §4.3.

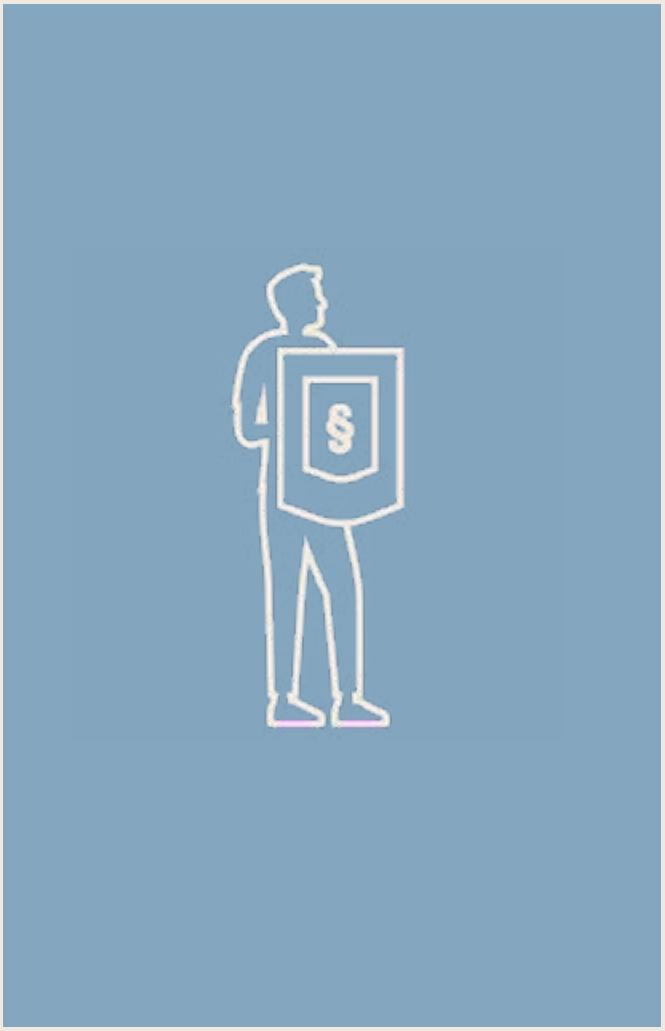
73 Article 53, Regulation (EU) 2018/1725 of 23 October 2018.

74 INTERPOL – Elections For Members Of The Commission For The Control Of Interpol’s Files (link).

75 Human Rights Council – Visit to the International Maritime Organization – Report of the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes, Marcos Orellana (A/HRC/54/25/Add.2), available at https://docs.un.org/en/A/HRC/54/25/Add.2.

76 See here.

77 BBC, “Russia using Interpol’s wanted list to target critics abroad, leak reveals”, 26 January 2026 available at https://www.bbc.co.uk/news/articles/c20gg729y1yo; Disclose, “Revelations o the Misuse of Interpol by the World’s Most Repressive Regimes”, 26 January 2026, available at https://disclose.ngo/en/article/revelations-on-the-misuse-of-interpol-by-the-worlds-most-repressive-regimes INTERPOL has not published a detailed response to these claims but is reported as stating that the “accusations seems to come from a misunderstanding of how Interpol and CCF systems work, or factual errors about data and changes within Interpol’s systems” and that ““It is untrue to say that we prioritise police co-operation over preventing abuse – Interpol follows its constitution that expressly forbids the use of our systems on information that is of a predominantly political, military, religious or racial character.”



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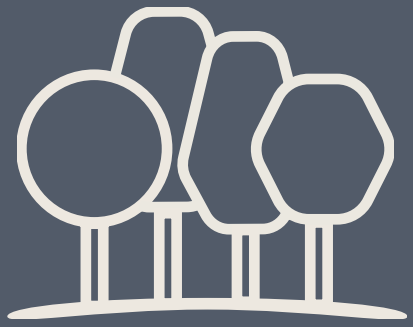

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