Application for revision concerning [...]
(Ref. CCF/R[...])

DECISION OF THE COMMISSION
(101st session, 26 to 29 June 2017)

[...], withdrawing based on Article 2.1(d) of the Operating rules of the Commission,
The Commission for the Control of INTERPOL's Files (the Commission), sitting as the Requests Chamber, composed of:

[...], Members,

Having deliberated in camera during its 101st session, on [...], delivered the following Decision.

I. PROCEDURE

1. The Commission considered the Applicant's complaint during its [...] session and concluded, in light of the information provided by the Applicant and by the National Central Bureau of INTERPOL (NCB) of [...] that the data recorded in INTERPOL's files concerning the Applicant complied with INTERPOL's rules. The Commission also held that it was not opposed to the unblocking of the access to the data provided by the NCB of [...] concerning the Applicant, subject to the below recommendations:

   - the following information is added to the Applicant's file: *"This case was studied by the Commission for the Control of INTERPOL's Files in [...]. The Commission considered that there are political elements surrounding the case, but was not able to establish that they are predominant over the common law crime elements of the case."*

   - should the authorities of the [...] deny extradition, it is reported in INTERPOL's files.

2. On [...], the Commission informed the Applicant thereof.

3. On [...], the Applicant submitted a request for revision to the Commission, requesting the deletion of the data concerning him recorded in INTERPOL's files. He was informed that the Commission would study this request for revision during its 101st session, after which he provided additional information and documents on [...].

4. The NCB of [...] was consulted on the arguments set forth in the request for revision.

II. FACTS

5. The Applicant is a national of […].

6. He was the Chairman of […]. As such, he was a business associate of […].

7. He is wanted by […] for *"abuse of authority"*, on the basis of an arrest warrant issued on […] by […].

8. The summary of the facts, as recorded in the red notice from […], states the following: […].

III. THE APPLICANT'S REQUEST

9. The Applicant applied for the revision of his case and the deletion of the data concerning him.

IV. APPLICABLE LEGAL FRAMEWORK

10. Application for revision:

   ▪ Article 42 of the Statute of the Commission for the Control of INTERPOL's Files states that *"Applications for the revision of decisions of the Requests Chamber may be made only when they are based on the discovery of facts which could have led the Requests Chamber to a different conclusion if that fact had been known at the time at which the request was being processed"*.

V.   FINDINGS

Application for revision

11. In his most recent filing, the Applicant first reiterates previous arguments already considered by the Commission, in particular that:

   a) The [...] is wholly owned by the [...] government and is run by them,
   b) The proceedings against the Applicant are politically motivated, as proven by [...],
   c) The large number of co-Defendants who have asylum or have had their cases declared politically motivated,
   d) On [...], the [...] Court denied the extradition of the Applicant, and he provides a copy of the decision of the Court.

12. To determine whether an application for revision may be examined under Article 42 of the Statute of the Commission, the party seeking revision must establish the discovery of a fact that was not known at the time the request was processed.

13. Regarding the political character of the suits, the Commission found that concerning the data provided by [...], even though there may be some political elements surrounding the case, the information provided was not sufficient to conclude that these political elements were predominant over the ordinary criminal law elements of the case.

14. Concerning the extradition denial, the Commission established this fact was known at the time it concluded on the original complaint during its [...] session where it found that the request for extradition placed by the authorities of [...] to the authorities of [...] indicated the willingness of the authorities of [...] to respect their obligations under applicable laws and to request the extradition or the surrender of the Applicant from [...], if possible.

15. Nevertheless, the Commission consulted the NCB of [...], which confirmed that the [...] had denied the extradition of the Applicant and, that it was however possible for [...] authorities to re-issue an extradition request if they are able to provide elements to establish an extradition offence. The NCB also confirmed that the Applicant and his lawyer were present at the hearing and knew of the reasons for extradition denial.

16. The Commission recalled that INTERPOL General Assembly resolution AGN/53/RES/7 of 1984 states that *"if certain countries refuse extradition, this is reported to the other NCBs in an addendum to the original notice"*. The Commission held that this resolution applies to the present case and that [...] extradition denial of the Applicant should be reported in INTERPOL's files.

17. Therefore, the Commission finds that its recommendation to report in INTERPOL's files the extradition denial from the authorities of the [...] should be implemented and that the arguments mentioned in paragraph 11 above do not meet the standard provided for in Article 42 of the Statute of the Commission.

18. In his application for revision, in addition to the previous arguments, the Applicant also claims that the same elements considered by the Commission in the case of [...], should be applied to the Applicant, to decide on the deletion of the data concerned, in particular the following documents:

   a) A letter dated [...] urging the persecution to stop.
   b) A letter dated [...].
   c) A letter dated [...].

19. Concerning the claim above, the Commission established that it is based on letters that were not known at the time the Commission concluded on the original complaint, during its [...] session.

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20. However, to determine whether an application for revision may be examined under Article 42 of the CCF Statute, the Commission must also establish whether the discovered fact "*could have led the Requests Chamber to a different conclusion if that fact had been known at the time the request was being processed*".

21. Even though there are similarities to the cases of the Applicant and [...], the elements on which the Commission based its decision in the case of [...] cannot be directly applied to the case of Mr [...]. As provided in the Commission's decision concerning [...] of which the Applicant provided a copy in his request for revision, the indicia that enabled the Commission to recommend the deletion of the data concerning her in INTERPOL's files were not only based on her link with [...], but on elements which were specific to her request.

22. Here, the letters provided by the Applicant, describe a general context of a case that was already known to the Commission at the time it took its decision, but does not provide a new fact that was not already known to the Commission concerning the Applicant.

23. In view of the information available, the Commission established that revision of the case may not lead to a different conclusion. Therefore, the Commission finds that these arguments do not meet the required criteria for revision established in Article 42 of its Statute.

FOR THESE REASONS, THE COMMISSION

1. <u>Concludes</u> that the conditions for revision are not met.

2. <u>Confirms</u> that, the following update shall be made to the Applicant's file with regard to the extradition denial of the Applicant by [...]:

"*In application of INTERPOL General Assembly resolution AGN/53/RES/7 (1984), please note that on [...], the [...] Court denied the request for extradition of [...] issued by the authorities of [...] as the particulars to establish an extradition offence on the papers were not sufficient.*"