



Commission de Contrôle des Fichiers de l'O.I.P.C. - INTERPOL

Commission for the Control of INTERPOL's Files

Comisión de Control de los Ficheros de la OIPC-INTERPOL

لجنة الرقابة على محفوظات المنظمة الدولية للشرطة الجنائية (الإنتربول)

INTERPOL's Independent Authority for the Control and Protection of Personal Data

ACTIVITY REPORT OF THE COMMISSION FOR THE CONTROL OF INTERPOL'S FILES FOR 2021

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PRELIMINARY REMARKS

1. The present annual activity report covers the fifth and final year of the first mandate of the Commission for the Control of INTERPOL's Files (CCF) under its new Statute, which entered into force in 2017.
2. This period was marked by a range of challenges addressed by the CCF with a view to implementing quickly its Statute and ensuring that it can efficiently protect the individuals' rights, control and advise INTERPOL on any of its activities involving the processing of personal data.
3. Throughout its ending five-year mandate, the CCF has adopted a pro-active attitude and modernized its own tools in order to perform its duties to the best of its ability and to ensure responsiveness, the respect of general principles of ethics and good conduct (in particular with regard to the CCF's independence, and the security and confidentiality of its work), as well as the improved knowledge of the Commission's work. It was therefore able to secure the continuity and quality of its work.
4. This annual report summarizes the main work of the Commission performed in line with the above and within the same spirit over 2021, another year marked by the COVID-19 pandemic that required the continued application of specific organizational responses to constraints imposed, in order to ensure the continuity of the CCF's work during and between its sessions.

I. GENERAL INFORMATION CONCERNING THE COMMISSION

5. **Legal framework:** The Commission operates within a legal framework defined by its Statute, its Operating Rules, INTERPOL's rules, INTERPOL General Assembly resolutions and various texts relating to the implementation of the legal framework set out in those documents, as well as applicable international legal standards.
6. **Functions, composition and structure of the Commission:** The Commission's three functions laid down in Article 36 of INTERPOL's Constitution and in Article 3 of the Commission's Statute, are performed by two Chambers: (a) the Supervisory and Advisory Chamber, which conducts compliance checks on INTERPOL projects, operations and rules which involve the processing of personal data in the INTERPOL Information System (IIS), and which provides advice to the Organization on all such matters; (b) the Requests Chamber, which is responsible for processing requests for access to data, and/or for the correction or deletion of data processed in the IIS.
7. In 2021, the Commission was composed of the following seven members:
 - (a) For the Supervisory and Advisory Chamber:
 - Mr Pîrlog (Moldova), Chairman, and lawyer with data-protection expertise;
 - Mr Frayssinet (France), Rapporteur for this Chamber, with expertise in data protection;
 - Mr Mira (Algeria), with expertise in electronic data processing.
 - (b) For the Requests Chamber:
 - Mr Pîrlog (Moldova), Chairman, and lawyer with data-protection expertise;
 - Ms Palo (Finland), Vice-Chairwoman and Rapporteur for this Chamber, lawyer who holds or has held a senior judicial or prosecutorial position;
 - Ms McHenry (USA), lawyer with expertise in human rights;
 - Mr Gorodov (Russia), lawyer with international criminal law expertise;
 - Mr Trindade (Angola), lawyer with recognized international experience in police matters, particularly in international police cooperation.
8. **Sessions of the Commission:** In 2021, the members of the Commission met four times. Each session lasted a week.

9. The Commission has continued to be assisted in its work by its Secretariat, which is composed of highly qualified legal experts and administrative staff with experience in the various fields of expertise required for the Commission's work. The Secretariat is able to work in INTERPOL's four working languages, and represents the principal legal systems of the world.

II. ACTIVITY OF THE SUPERVISORY AND ADVISORY CHAMBER

10. The Supervisory and Advisory Chamber conducts checks on the processing of personal data, when required by the Rules on the Processing of Data (RPD) or on its own initiative in the form of spot checks, in order to ensure that rules, tools and procedures in place can guarantee the respect of INTERPOL's rules, in particular data protection principles. In any case, it regularly holds meetings with the Directorates in charge of developing projects, the Executive Directorate of Legal Affairs, the INTERPOL Data Protection Officer, and/or the Information Systems and Technology Directorate.
11. **In its advisory capacity** under Article 26(2) of its Statute, the Commission gave its opinions on various matters involving the processing of personal data either on its own initiative or at the request of the General Secretariat in accordance with Articles 27(2) of the RPD, after having received all the information necessary to reach informed conclusions.
12. In this context, the Commission studied various IT projects. It paid particular attention to the quality of the data, their accuracy and relevance at the time of their registration and during their retention in INTERPOL's files, to the adequacy of the legal framework, the controlling mechanisms in place, the data security or the proportionality of the retention periods. It also considered with the utmost care the purpose for which data may be processed and the importance of ensuring that authorized entities have sufficient and clear information to take appropriate measures on the basis of the information they access through the INTERPOL Information System. For example, as a result of its recommendation, caveats were added in INTERPOL's files to indicate clearly that no coercive measures shall be taken against the person concerned, at least before necessary compliance checks have been undertaken.
13. The Commission also studied new or updated draft cooperation agreements in accordance with Articles 30(2) of the RPD. When considering these projects, in addition to verifying compliance with the RPD, the Commission carefully examined the elements listed in its previous annual report,¹ namely: the commitment of the signing entity to respect the RPD; the compliance of the project with national and regional laws; the clear definition of the responsibilities of the parties; the access rights to the IIS and the fact that they can only become effective after the expiration of a 45-day notice period given to INTERPOL's National Central Bureaus (NCBs) and other international entities, as required by Articles 27(6) and 109 of the RPD; the existence of adequate measures to safeguard the confidentiality and security of the data transmitted through the IIS and the development of a consistent and effective data breach response policy; and the presence of an adequate review mechanism for data subjects.
14. In the context of its study of any new project, the Commission welcomed the development of comprehensive Data Processing Impact Assessments (DPIA). It also examined the possibility for data subjects to exercise their rights of access and their rights to challenge the data processed in the context of these projects.
15. **In its supervisory capacity**, the Commission usually carries out checks based on selected issues identified in the context of the processing of requests, in order to identify whether such issues were isolated or not, what were the reasons for such situations and to propose solutions to remedy any risk of non-compliance with the rules. It has also welcomed several measures taken by the General Secretariat as a result of the conclusions drawn in the context of the processing of requests and of spot checks, among which the General Secretariat's evolving policy concerning Red Notices or diffusions issued on the basis of unfunded cheques in the context of business activities and the criteria for the publication of Red Notice extracts on INTERPOL's public website.

¹ See §15 of the Activity Report of the CCF 2019-2020: <https://www.interpol.int/en/Who-we-are/Commission-for-the-Control-of-INTERPOL-s-Files-CCF/About-the-CCF>

16. In addition, with a view of ensuring that the processing of personal data by the Organization complies with standards of law, as stipulated in Article 26(1) of the CCF Statute, the Commission has continued working on rules and procedures applicable to the processing of Blue Notices and the implementation of the notions of interest and seriousness of cases for the purposes of international police cooperation.

III. ACTIVITY OF THE REQUESTS CHAMBER

17. The Requests Chamber mainly examines requests for access to and/or correction of and/or deletion of data concerning applicants that are processed in the IIS, as established in Article 29 of the CCF Statute. It subsequently studies applications for revision from a party to a request (the applicant or the NCB source) under the conditions set out in Article 42 of its Statute. Finally, it can also examine new requests for police cooperation from an NCB forwarded to it by the General Secretariat for its consideration in case the Commission had previously studied a request concerning the data subject. In such situations, the Commission would invite the NCB source to authorize it to disclose this new request to the data subject, for the individual to become a party to the case and ensure the respect of the principle of procedural fairness.
18. All requests are examined on a case-by-case basis, with due consideration of the general context of each case, applicable rules, standards of law, and the statutory timeframes as established in Article 40 of the CCF Statute.
19. The processing of requests requires consulting the parties concerned, but also the INTERPOL General Secretariat and any other NCB or entity that may provide useful information for the consideration of requests in accordance with Articles 34(1) and (2) of the CCF Statute. The Commission developed new tools to facilitate and increase its communication with the parties during the processing of requests.
20. The Commission remained particularly committed to ensuring that it fulfils its role fully and effectively, but within the limits of its mandate, and that its decisions are binding on the Organization.
21. Delegation of powers are granted by the Commission to its Secretariat, its Rapporteurs and its Chairperson, are based on strict and clear criteria, and are aimed at facilitating the conduct of the Commission's work. The members of the Commission are systematically informed of actions taken on the basis of these delegations of powers, which are updated whenever necessary to ensure their adequacy to the Commission's needs.
22. The General Secretariat's request for clarification and applications for revision of the CCF Decisions: The Commission ensured that its decisions were quickly implemented by the General Secretariat or by the sources of data. However, 2021 was marked by a new increase in the number of requests for clarification or revision after the Commission communicated its reasoned decisions. It studied each of them carefully in order to ensure the strict respect of applicable rules. As such, when consulted by the General Secretariat, the Commission provided additional information to avoid any misinterpretation regarding its decision, but such requests cannot result in the revision of a CCF decision in the meaning of Article 42 of the Statute. This would be contrary to the principle that the CCF decisions are binding. When it received an application for revision sent by a party to a case, the Commission continued to consider with particular care whether the conditions for revision established in the above-mentioned Article were met. This step often requires consulting both parties to the case.
23. Possible patterns of misuse of procedures before the CCF: The Commission paid particular attention to possible patterns of misuse of procedures before it by the parties. While some applicants make extensive use of access requests and applications for revision, some NCBs request excessive and systematic extensions to deadlines, or send new requests for police cooperation after the deletion of previous similar requests concerning the same individuals but under another spelling of an applicant's name. The Commission closely monitored these situations, with due consideration of the applicants' rights and the NCBs' constraints, and of the fact that no one should take advantage of the provisions of the CCF Statute to perform acts aimed at destroying the rights and guarantees granted by this Statute.
24. Access v/s restrictions: In order to be able to consider requests adequately and to provide the parties with reasoned decisions, the Commission took various actions towards the parties to fight against restrictions to the communication of data that were either not motivated and/or not

adequately justified. It paid particular attention to the possible gaps between restrictions imposed by some NCBs and rules in place in some regions, that may create an increased risk for litigations. It also assessed on a case-by-case basis the impact of restrictions on the assessment of compliance of a case and the possible counter-balancing measures to mitigate associated risks.

IV. OTHER KEY ACTIVITIES OF THE COMMISSION

25. Topics that impact the work of both Chambers are addressed jointly by all members.
26. Efficiency, quality, ethics: The Commission remained committed to ensuring that its rules, procedures (in particular its decision-making process) contribute to guaranteeing efficiency, accountability and integrity, and that they correspond to the highest ethical standards required at least equal to that of any other INTERPOL governing body. As such, it has continued working on the strengths and on the identification of possible areas of improvement. In this respect, the challenges it identified in its annual activity report for 2019-2020² were closely considered.
27. Participation of the CCF in key INTERPOL conferences and working groups: While the Commission is and shall remain an independent body of INTERPOL, it is important that it regularly exchanges with other bodies of INTERPOL in order to understand and take into account their work, but also to ensure that they adequately take into consideration the CCF's work, its requirements and constraints. As such, the Commission regularly met with various Directorates of the INTERPOL General Secretariat and with the INTERPOL Data Protection Officer. It also participated in the INTERPOL General Assembly session, the Heads of NCBs Conference, the Working Group on Governance (tasked with reviewing the legal provisions relating to INTERPOL's governance bodies and entrusted with examining ways to enhance the Organization's governance), and the Committee on the Processing of Data.
28. Further details about the Commission can be found on the website:

<https://www.interpol.int/en/Who-we-are/Commission-for-the-Control-of-INTERPOL-s-Files-CCF>

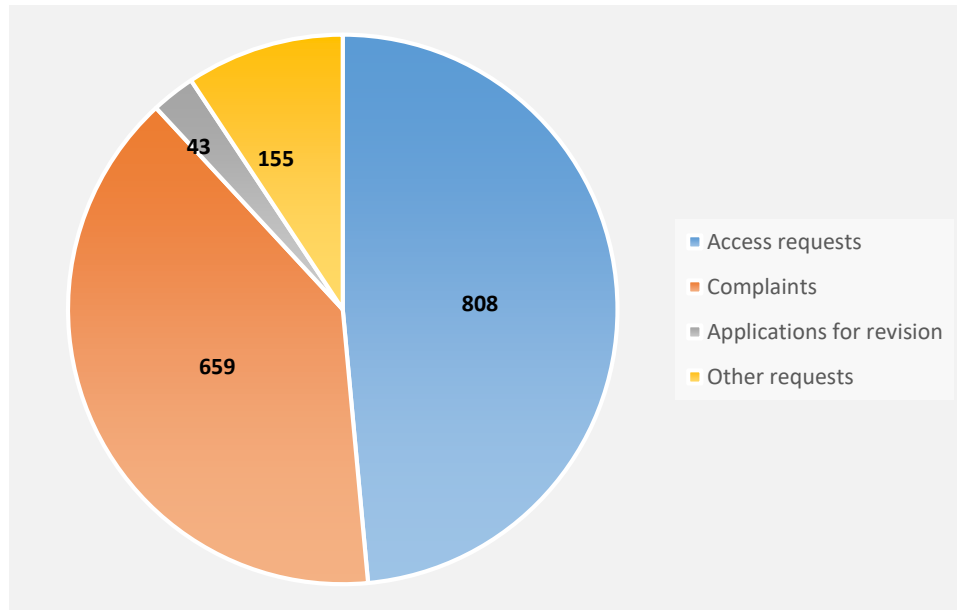
² See point 46 of the report available on the CCF webpages: <https://www.interpol.int/en/Who-we-are/Commission-for-the-Control-of-INTERPOL-s-Files-CCF/About-the-CCF>

**APPENDIX
THE COMMISSION'S STATISTICS FOR 2021**

I. New requests received in 2021

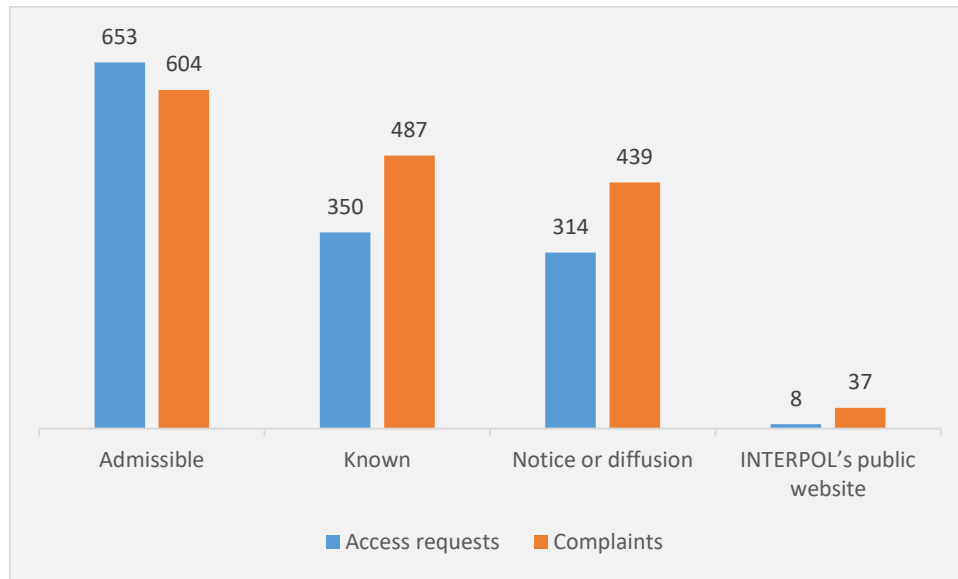
1. In 2021, the Commission received 1,417 new requests or applications for revision, concerning 1,665 new applicants. These statistics neither take into consideration the new requests for police cooperation from INTERPOL National Central Bureaus concerning applicants forwarded by the INTERPOL General Secretariat to the Commission, nor include the requests for clarifications of the conclusions of the Commission.

(a) Nature of the requests relating to the 1,665 new applicants



2. **Access requests** are requests to find out whether there are data recorded in INTERPOL's files and to obtain the communication of such data.
3. **Complaints** are requests for correction and/or deletion of data (if any) recorded in INTERPOL's files.
4. **Applications for revision** of the Commission's decisions are addressed either by the applicants or by the sources of the data that were deleted following a decision taken by the Commission.
5. **Other requests** are requests generally presented as "complaints" but addressed by the applicants to the Commission for other purposes that may go beyond its mandate (e.g. requests for cancellation of proceedings involving an applicant at national level).
6. **Several requests** from the same applicant can be addressed to the Commission during the same year.

(b) Profiles of new complaints and access requests



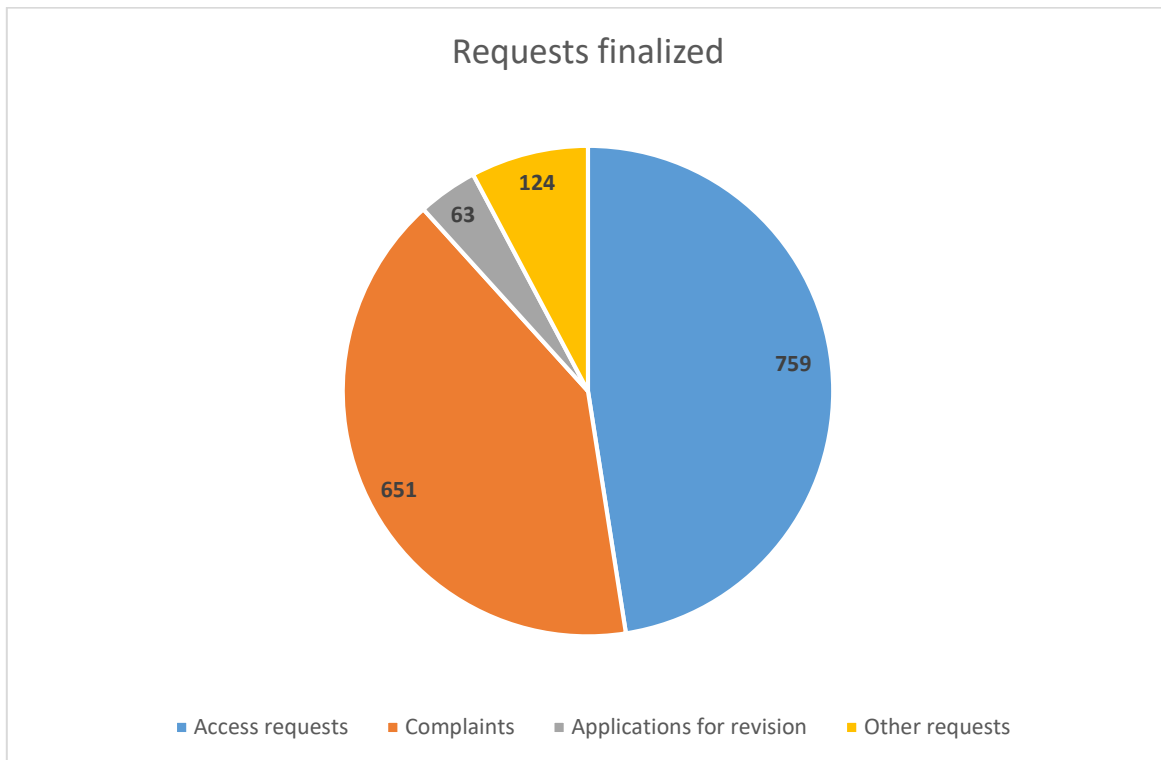
7. **Admissible/Not admissible:** The conditions laid down in Rule 30 of the CCF's Operating Rules are met/not met.
8. **Known/Unknown:** Applicants are/are not the subjects of data recorded in the INTERPOL Information System.
9. **Notice/Diffusion:** Applicants are the subjects of a diffusion or notice recorded in the INTERPOL Information System, in the meaning of Articles 2(f) and (g) of the RPD.
10. **INTERPOL's public website:** An abstract of a notice concerning an applicant was published on INTERPOL's website.

II. The Commission's conclusions in 2021

11. The conclusions reached by the Commission on the compliance of data with INTERPOL's rules concern requests received in 2021, or earlier.

(a) Number of requests completed

12. In 2021, the CCF finalized the processing of 1,597 cases, either after it reached a final conclusion (in 1,396 cases), or because the requests never became admissible (in 112 cases) or after the data concerned were deleted by the General Secretariat or the sources of data before any decision was taken by the CCF (in 89 cases).
13. The 1,597 finalized cases included 651 complaints, 759 access requests, 63 applications for revision, and 124 "other" requests.



(b) Details of the Commission’s conclusions on complaints

14. Among the 651 complaints processed in 2021, 478 concerned admissible requests from applicants who were the subjects of data recorded in INTERPOL’s files.
15. Among these complaints, 133 concerned cases for which the CCF established that the data challenged met the required legal conditions for their retention in INTERPOL’s files, and were therefore considered compliant. Compliance of data challenged with applicable rules was subject to updates (in 20 cases) in INTERPOL’s files in order to ensure the quality (including the accuracy) of data, as required by Article 12 of the RPD.
16. In 296 cases, the Commission established that the challenged data did not meet legal requirements and should therefore be deleted from INTERPOL’s files as they did not comply with INTERPOL’s rules.
17. For 50 per cent of the 478 complaints mentioned above, the Commission concluded that the data were not compliant with INTERPOL’s Rules after consideration of the legal issues raised by the Applicants and of the answers provided by the sources of the data challenged. In 50 cases, data were deleted because their sources did not answer at all to the questions raised by the Commission.
18. In 49 other cases, either the INTERPOL General Secretariat or the National Central Bureau at the source of the challenged data decided to delete them from the INTERPOL Information System before the Commission had taken a decision.

19. Remark:

In 311 of the admissible complaints, access to data recorded in INTERPOL’s files concerning the applicants was blocked as a precautionary measure, pending the finalization of the cases, from the moment serious doubts arose over their compliance with INTERPOL’s rules.
