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Commission for the Control of INTERPOL's Files
Comisión de Control de los Ficheros de la OIPC-INTERPOL
لجنة الرقابة على محفوظات المنظمة الدولية للشرطة الجنائية (الإنتربول)



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INTRODUCTION

1. The purpose of the present report is to provide a summary of the work of the Commission for the Control of INTERPOL's Files (CCF) for 2015, and an overview of the last 30 years from its first session in 1986 until 2016.

1. THE COMMISSION'S PROGRESSION: FROM CREATION TO NEW BEGINNINGS

2. It is planned that a new Commission will be established in 2017. As this transition unfolds, it is important to review how its work as originally conceived has evolved and how it has adapted in the face of continuous challenges.
3. The Commission was created for the purpose of carrying out three functions: monitoring, advising, and processing individual requests. It is compulsory to carry out each of these functions and they are all equally important.
4. At the same time, over the years, the Commission has adapted its activities and the way it has operated to changing conditions. Its development has been closely linked to the evolution of INTERPOL's activities, including the evolution of information technologies, the development of new projects, and the development of international legal norms relating to data protection.

1.1 1982-2000: The founding years

5. The Commission was initially called the Supervisory Board for the Control of Interpol's Archives, which had come into being when INTERPOL renegotiated its Headquarters Agreement with France in 1982. The Headquarters Agreement guaranteed the inviolability of INTERPOL's files and provided for internal control of INTERPOL's archives by an independent body rather than by a national supervisory board.
6. The Organization then incorporated the terms of the Headquarters Agreement in its internal rules by adopting, in 1982, the Rules on International Police Co-operation and on the Internal Control of INTERPOL's Archives. The purpose of these Rules, as stated in Article 1(2) was "... to protect police information processed and communicated within the ICPO-INTERPOL international police co-operation system against any misuse, especially in order to avoid any threat to individual rights." The second part of these Rules established the Supervisory Board, whose English name was subsequently changed to the present "Commission for the Control of INTERPOL's Files".
7. The composition of the Supervisory Board for the Control of Interpol's Archives and the scope of its powers were specified in the Exchange of Letters attached to the 1982 Headquarters Agreement.
8. In 1985, INTERPOL adopted its first Rules on the Processing of Information and on the Control of its Files. In this regard, INTERPOL was at the forefront in adopting rules in the field of data protection as an International Police Organization.
9. INTERPOL also adopted two other sets of rules to govern its processing of data: the Rules on the deletion of police information held by the General Secretariat (1986), and the Rules governing the database of selected information at the ICPO INTERPOL General Secretariat and direct access by NCBs to that database (1990).
10. These rules, as well as the INTERPOL Constitution, and the relevant general rules of the Organization, constituted the primary legal basis for the work of the Commission as it held its first session in 1986.
11. With respect to the Commission's independence, initially, this subject was expressly referred to in the Headquarters Agreement between INTERPOL and France, and was subsequently

incorporated in Article 5(a) of the Rules relating to the Control of Information and Access to INTERPOL's Files and the Agreement between the Supervisory Board and the General Secretariat, which stated that the Secretary General "shall take all administrative decisions necessary to ensure the smooth functioning of the Supervisory Board's activities, with scrupulous respect for its independence and its mandate".

12. With regard to the functions of advice, control, and processing of individual requests referred to in paragraph 3 above, the Commission's primary role was to monitor the data registered in INTERPOL's files (See Appendix 1). The Commission also provided the INTERPOL General Secretariat with advice on the creation of new projects and databases. In 1986, it received a total of ten individual requests.
13. The Commission was composed of five members: the chairperson, two data-protection experts, one Information-technology expert, and one member of the INTERPOL Executive Committee. One member was required to be a French national, and all members had deputies (See Appendix 1 for past and present members of the Commission). The Commission's Secretariat had a staff of one person, who worked part-time. The members of the Commission met three times per year over two days.
14. Subsequently, the Commission also played an increasing role in preserving INTERPOL's immunity. For example, various draft Headquarters Agreements between INTERPOL and host countries condition INTERPOL's immunity on the existence of an alternative dispute resolution mechanism.

1.2 2003-2015: Strengthening the status of the Commission

15. Gradually, the Commission's authority and areas of responsibility have increased.
16. Internationally, the Commission was accredited by the 25th International Conference of Data Protection and Privacy Commissioners in 2003. The accreditation recognized the existence of the Commission and its independent status. This was the first time an authority of a supra-national or international body had been accredited, and was therefore a significant event.
17. In INTERPOL, the original Rules (Rules on International Police Co-operation, Rules on the deletion of police information held by the General Secretariat and the Rules governing the database of selected information at the INTERPOL General Secretariat and direct access by NCBs to that database) were replaced by the Rules on the Processing of Information for the Purposes of International Police Co-operation and by the Rules Relating to the Control of Information and Access to INTERPOL's Files, which were adopted in 2003 and 2004 respectively.
18. 2008 was another significant year for the Commission as INTERPOL concluded with the French Government a revised Headquarters Agreement which abrogated the Headquarters Agreement of 1982 and its Exchange of Letters, and which no longer contained specific provisions relating to the supervision of INTERPOL's files. The existence and the organization of such supervision was incorporated in the internal legal structure of the Organization, specifically Articles 5, 36 and 37 of INTERPOL's Constitution. As a result, the Commission became an organ of the Organization in the same way as the General Assembly, Executive Committee, General Secretariat, National Central Bureaus, and Advisers. This amendment to the Constitution, which increased the visibility of the Commission, was in conformity with applicable international practice (in which, in general, commissions, committees, tribunals and international courts are also principal or subsidiary bodies of international organizations). In addition, Articles 36 and 37 of the Constitution confirmed and guaranteed the independence of the Commission for the Control of INTERPOL's Files, which is essential for it to be able to carry out its dual role of supervision and access.

19. In addition, in order to secure independence, the composition of the Commission was changed so that the member of INTERPOL's Executive Committee was replaced by an Expert in international police cooperation. This change was made because, while the presence of the member of the Executive Committee was designed to ensure that the Commission took into consideration the constraints and interests of police cooperation, this structure undermined its independence because there was no strict separation between the controlling and controlled bodies.
20. In 2008, following these changes to the legal basis for the Commission's work, the Commission adopted new Operating Rules.
21. Most recently, in 2012, INTERPOL adopted the Rules on the Processing of Data, which established common processing standards for INTERPOL and its member countries compatible with evolving national and regional standards relating to the processing of personal data.
22. With this legal basis for its work, the Commission balanced its work between its three functions of advice, control, and processing of individual requests in the manner indicated in Appendix 1, meeting for an average of eight days per year.
23. By 2006, there had been a significant increase in the number of individual requests received by the Commission (130 studied in 2006). To address this increase, in addition to having a Chairperson, the Commission appointed a Rapporteur to carry out preliminary studies of individual requests before they were discussed in sessions.
24. At the same time, rapid technological changes and the rapid growth of the Internet led the INTERPOL General Secretariat to invest in new technologies and new projects to connect its member countries. The Commission followed these changes closely, as its advisory role required. In this regard, representatives of the Commission attended and participated in the working group for the Amendment of the Rules on the Processing of Data (RPD). These amendments were submitted to and adopted by the General Assembly at its session in 2014.
25. To ensure oversight of technological developments, the Commission's Information Technology Expert (IT Expert) regularly met with INTERPOL General Secretariat departments responsible for technical, operational, and legal matters relating to the processing of personal data in INTERPOL's files, and reported to the Commission on the technical aspect of the issues linked to the processing of data.
26. As in the past, the General Secretariat was occasionally invited to the Commission's sessions to provide additional information on ongoing projects.

1.3 2015: Towards a new Commission

27. In 2015, the Commission was composed of five members:
 - Ms Vajić (Croatia), Chairperson
 - Ms Madhub (Mauritius), Data-protection expert
 - Mr Frayssinet (France), Data-protection expert
 - Ms Kane (Mali), Expert in international police cooperation (March - November 2015)
 - Mr Harris (United States), Expert in international police cooperation (from November 2015)
 - Mr Patrick (Canada), Information technology expert.
28. The Commission was in session for 12 days at the Organization's Headquarters in Lyon. It took the time to welcome and meet with the newly appointed INTERPOL Data Protection Officer.

29. The balance of the Commission's workload had started to shift in 2010 in favour of the processing of individual requests, a shift that was strongly felt by the Commission in 2014 and even more so in 2015, and to which the Commission had to adapt.
30. Between sessions, the Chairperson of the Commission worked with the Commission's Secretariat to resolve outstanding issues and facilitate the management of cases.
31. The Rapporteur also met with the Commission's Secretariat at least once between each session and the next to facilitate case preparation, and maintained regular contact with the Secretariat by e-mail or telephone, for the purpose of implementing new procedures aimed at streamlining the processing of individual requests.
32. The IT Expert also prolonged his visits to INTERPOL's Headquarters before sessions of the Commission, in order to consult with INTERPOL General Secretariat units where projects requiring the Commission's advice or control were under way.
33. The Commission's Secretariat had a staff of seven.
34. The INTERPOL General Assembly Resolution of 2014 calling for a review of INTERPOL's supervisory mechanisms on the processing of data in the INTERPOL Information System was implemented through the establishment of a Working Group that held its first meeting in 2015. The Commission was invited to participate and contribute in the meetings of the Working Group. The Working Group initially adopted 39 conclusions concerning four levels of supervision and identified issues to be addressed at subsequent meetings. These Conclusions were presented to the General Assembly in 2015.
35. As a first step towards the development of new supervisory mechanisms, including examination of the question of effective remedy, the General Assembly issued a resolution requiring that the General Secretariat continue to implement the findings and recommendations made by the Commission with regard to requests, and that other measures should be adopted in order to allow the review of notices and diffusions to be completed in a timely manner. As a result, decisions of the Commission became effectively binding on the General Secretariat.
36. In 2016, the Commission will have been in existence for 30 years. The work undertaken over the years and new procedures being put in place by the INTERPOL General Secretariat may lead to the adoption by the INTERPOL General Assembly of new Statutes for the Commission which are meant to replace the current Rules on the Control of Information. This would result in a further substantial evolution of the Commission once more in 2017.

2. MONITORING AND SUPERVISION OF INTERPOL'S FILES

37. The Commission continues to perform its role of active supervision of the Organization's databases, in order to identify potential sources of risk and provide advice to limit or remove them. This includes regular spot checks based on issues identified in the course of the processing of individual requests. In conducting these spot checks, the Commission benefits from close cooperation with the relevant departments of the INTERPOL General Secretariat. Although the Commission systematically continued to undertake spot checks until 2015, the time dedicated to this activity was reduced in order to address the increasing number of individual requests.

2.1 Spot checks

38. Spot checks are conducted by the Commission at each of its sessions, generally when problems are discovered while processing individual requests, and have been an essential function when

carrying out its supervisory role effectively because they enable sources of risk to be identified, and allow the Commission to have a better understanding of the issues involved in the processing of information through INTERPOL channels.

2.1.1 *The scope of spot checks*

39. Over the years, the Commission has focused its spot checks on two principal issues:
 - The quality of INTERPOL Notices, in particular of Red Notices, and diffusions for wanted individuals;
 - The retention of data.
40. Based on issues often raised by individual requests, the Commission also has undertaken spot checks on:
 - The status “Help to locate a criminal”;
 - The Fusion Task Force project;
 - Management of the information exchanged in the context of cooperation agreements concluded by INTERPOL;
 - The processing of information on witnesses;
 - The processing of information on minors.

2.1.2 *The quality of INTERPOL Notices, in particular of Red Notices, and the quality of diffusions for wanted individuals*

41. The Commission has often conducted spot checks on summaries of facts contained in notices. It has noted that the summaries of facts were often considered to be sufficiently detailed and clear by the General Secretariat, and that extremely succinct summaries of facts could be acceptable, if the effective participation of the individuals was set forth clearly enough.
42. Nonetheless, such succinct summaries may not be considered sufficient by the Commission when the information is examined more closely in the context of allegations made in a complaint. In view of the information provided by a requesting party in a complaint, summaries of facts previously found to be satisfactory by the General Secretariat often required supplementation in order to address allegations made, and to enable the Commission to determine that, in light of the allegations, the information was in fact compliant with INTERPOL’s rules.
43. To avoid such problems, the Commission has often reminded the General Secretariat of the importance of NCBs providing more detailed and clear summaries of facts before issuing Red Notices.
44. In addition, starting in September 2014, the General Secretariat began to carry out *a priori* rather than *a posteriori* compliance checks of notices and diffusions for wanted persons. As a result, the Commission observed that Red Notices now tended to contain more detailed summaries of facts, and that fulfilment of the requirement of possible effective participation of the individuals was more often fulfilled.
45. In addition, due to compulsory fields in I-Link forms, the minimum criteria for identification and judicial information required by the Rules were met in all the notices considered within the framework of the Commission’s recent spot checks.

46. Nevertheless, the Commission continued to have concerns as to the lack of seriousness of the crimes alleged in some of the Red Notices checked.

2.1.3 Retention of data

47. For years now, the Commission has examined compliance with INTERPOL's rules on the retention of data. It has paid a particular attention to the mandatory review of files by NCBs once the five year review date has expired.
48. After the entry into force of the new Rules on the Processing of Data, spot checks were also undertaken concerning the retention of data on the basis of Articles 52 (temporary retention of criminal data after withdrawal of an international alert or cooperation request) and 53 (retention of data for purposes of redirecting enquiries) of the said rules.
49. Based on its spot checks, the Commission observed that data was often being retained when it was not related to serious crimes.
50. The Commission stressed that the wording used in the form made available to NCBs to withdraw an international alert encouraged the NCBs to retain data, and it did not sufficiently highlight the rules in force concerning data retention. The Commission recommended modifying this form to indicate that, when the purpose for which data was recorded had been achieved, the data should normally be deleted, and that NCBs or authorized entities may only choose to temporarily retain information if they could justify a new purpose for recording it.
51. The Commission also recommended that the General Secretariat list the serious offence codes which could justify data retention.

2.2 Monitoring issues involving the processing of personal data

52. In determining what encompasses "personal data," the Commission uses the generally accepted, broad definition of any information relating to an identified or identifiable natural person. Therefore, an identifiable person is one who can be identified, directly or indirectly, in particular by reference to a name or label, an identification number (e.g., travel document), or to one or more factors specific to his/her physical identity (e.g., fingerprints, DNA).

2.2.1 Examination of projects involving the processing of personal data

53. As required by the rules, the Commission has been invited to provide advice on many technical projects and cooperation agreements over the years.
54. In this context, the term "project" covers:
- All draft cooperation agreements;
 - All projects to build databases containing specific data;
 - All projects involving interconnection and downloading of data;
 - All "police" projects, meaning any activity of a projected duration, subject to periodic review, whose objective is to prevent or combat transnational crime;
 - Any other processing matter involving the creation of new files or new methods of circulating personal information.

55. While this consultation has decreased in recent years, it remains important for the necessary safeguards to be built in from the start of a project. Recently, the Commission has either been consulted less by the General Secretariat, or at a later stage of the development of new projects, and this is a source of concern.
56. The Commission has generally delivered favourable opinions overall on the projects presented, provided that the General Secretariat developed control procedures to ensure these projects complied with INTERPOL's rules, with a steering committee able to regularly assess the efficiency and the relevance of the monitoring tools developed.
57. The Commission has also stressed that each new project involving the processing of personal information should be subject to a "data protection impact assessment". This assessment would include practical, technical, and legal aspects linked to the processing of information, and be submitted to the Commission for review.
58. The Commission has continuously emphasized that it could only give an informed opinion when consulted, if it was provided with sufficient information about the project, particularly on data-processing operations. The Commission has recalled the importance of the General Secretariat's effective and timely consultation of it as an adviser in the context of projects involving the processing of information.

2.2.2 Policy on Project Management

59. The Commission welcomed the implementation of INTERPOL's Policy on Project Management, which aimed to establish an official procedure to be followed to determine whether there was a "project" and, if so, what procedures had to be followed.
60. It observed that this policy was supported by a general template and practical guidelines applicable to the management of all projects of the General Secretariat. It also noticed that e-learning modules and training sessions had been established for the General Secretariat staff concerned.
61. However, the Commission observed that, for projects involving the processing of personal data, it was not clearly stated at what stage the Commission should be consulted. It continued to be asked to provide reviews without appropriate information.

2.2.3 Cooperation agreements

62. The Commission was consulted in relation to a number of draft cooperation agreements involving the processing of personal data, such as agreements with EUROPOL, ASEANOPOL, WADA, CARICOM and ATC-CIS. These cooperation agreements aim to facilitate the exchange of information and international police cooperation among countries or Organizations.
63. The Commission usually found that the agreements adhered to the general principles applied to information processing. When necessary, it recommended that the General Secretariat take certain measures to ensure that responsibilities were shared appropriately among the parties concerned. It also monitored implementation of its recommendations.
64. The Commission also regularly drew the General Secretariat's attention to the fact that any form of cooperation regarding the exchange of personal information was an additional area of responsibility which ought to be taken into account, not only in terms of the procedures for the

processing of information exchanged in this context, but also in terms of all of the checks and assessments required by INTERPOL's rules.

65. The Commission remarked that, in order to comply with the RPD, it was not sufficient for cooperation agreements to prohibit the onward transfer of personal data. Rather, it indicated the need for cooperation agreements to include express references to INTERPOL's data protection principles in relation to the exchange of personal data.

2.2.4 Projects involving the use of INTERPOL's databases

66. The Commission has examined many projects involving the processing of personal data in various crime areas, such as:
- ASEANAPOL: aimed at facilitating the exchange of information – and, consequently, international police cooperation – among countries in the Asian region;
 - I-SECOM (INTERPOL Secure Communications for Asset Recovery): Password-protected, encrypted channel which encourages asset recovery practitioners to instantly and securely exchange sensitive data to support transnational investigations;
 - Mobile Facial Recognition Appliance: enabling the Organization to supply a real-time service in the field of facial recognition with specific watch lists;
 - International Disaster Victim Identification: Initiative to draw up a precise roadmap for the official establishment of a DVI platform;
 - Maritime Piracy Project: which implied creating analysis files related to maritime crimes;
 - Baseline: which allows for the digital signatures of child abuse material to be shared with the technology industry to prevent these images from appearing online.
67. The most challenging project over the years was I-link, which entailed a transfer of responsibilities to the NCBs and a huge increase in the amount of information processed. While the Commission understood the strategic importance of the project to improve INTERPOL's efficiency as an organization, it also warned of the need to carefully establish safeguards to ensure that effective checks were made on the processing of information in INTERPOL's databases. The Commission also expressed concerns about the implications of these projects with regard to the responsibility of the different parties involved (e.g. NCBs, General Secretariat).
68. The Commission also paid particular attention to the INTERPOL I-Checkit project, which allows private entities to systematically conduct mass checks of individuals without any prior suspicion of criminal activity. The Commission immediately considered that this project could give rise to new sources of risk with regard to the basic rights of individuals that were to be seriously considered and suggested that the Organization proceed with extreme caution.
69. The Commission also repeatedly highlighted that the fundamental rights of access and challenging compliance must always be respected. It stressed that, for any project involving independent databases containing personal information, access to the data by the Commission was a critical issue in order to uphold individuals' fundamental rights of access.

2.2.5 Other issues of interest concerning the processing of personal data

70. In its advisory role, the Commission was consulted to review :
- The Confidentiality Regime: The Commission expressed its satisfaction that the General Secretariat had put in place a confidentiality regime to appropriately classify the data

processed and to apply the appropriate security measures to prevent unauthorized disclosure of data.

- Processing of fingerprints and DNA profiles: Over the years the Commission has raised a number of issues associated with the processing of this potentially sensitive data. Some of the Commission's recommendations have not yet been implemented.
- Special INTERPOL-United Nations notices: The Commission insisted on INTERPOL's obligation to respect the rules it had adopted with respect to the processing of personal information.

71. In 2012, the Commission welcomed the General Secretariat's work on facilitating the introduction of data protection and Security Officers in the NCBs, and the appointment of INTERPOL's Data Protection Officer in late 2015.
72. It stressed that the appointment of a data-protection officer at the General Secretariat was a logical step, in line with the practice of other international organizations which have adopted data-protection policies and with new, emerging international requirements in the field. The Commission indicated that this appointment should facilitate the management and coordination of files requiring the processing of personal data and therefore improve the level of data protection offered by the Organization.

3. INDIVIDUAL REQUESTS

73. An "individual request" is a request received from a private individual seeking access to any data about him/her recorded in INTERPOL's files, whether it involves determining if such information actually exists, or to request that the information in question be updated or deleted.
74. Since its creation, when dealing with individual requests, the Commission has been continuously faced with the need to find the right balance between the respect and protection of an individual's fundamental rights and the legitimacy and effectiveness of international police cooperation.

3.1 Evolution of procedures linked to changing requests

75. The upsurge in the number of individual requests (see Appendix 1) and the greater interest by the general public, which led to more scrutiny by legal practitioners, experts, scholars, non-governmental organizations and journalists, combined with the Commission's continuing efforts to provide an "effective remedy" under international law have led to adjustments in how requests are handled.
76. The profile of the requesting parties has changed over the years. The Commission used to deal directly with individuals wanted for offences of murder, drug trafficking, or other ordinary law crimes. Now, the Commission frequently processes requests from politicians, former Heads of State or Government, or businessmen wanted for fraud offences who are represented by law firms specialized in data protection and/or in requesting deletion of data registered in INTERPOL files based on Articles 2 or 3 of INTERPOL's Constitution.
77. Recent requests tend to be more complex and often involve the submission of extensive legal arguments, and large volumes of documentation, that require more back and forth communication with NCBs.
78. In its communications with requesting parties, the Commission used to only send an acknowledgement of receipt of the request, and inform the individual once his/her request had

been finalized, if appropriate. Today, the Commission addresses numerous interim letters, e-mails, and messages to the parties concerned. Additionally, the Commission has significantly shortened the time limit for the acknowledgment of receipt of individual requests, which are now usually issued within two working days, while the timeframe provided by the Operating Rules is one month.

79. The Commission has enacted procedures to allow its President and the Rapporteur to take certain decisions (such as temporary blocking) on cases in between sessions in order to improve the timely processing of requests.
80. The Commission also adopted a new streamlined approach for simple requests for access. Instead of studying the compliance of corresponding files in detail, as is done with requests for deletion of information, the Commission now performs rapid assessments and provides an answer to the requesting party with a short space of time.
81. The Commission's conclusions used to be very brief and synthetic. Decisions now contain more detailed conclusions, in a manner similar to the practices of other international judicial or quasi-judicial bodies.
82. Finally, in the past, the conclusions of the Commission were rarely challenged while today the Commission regularly receives requests for re-examination, both from requesting parties and NCBs. The Commission dealt with six requests of this type during its sessions in 2015, and more requests are pending for future review.

3.2 Continued focus on substantive issues

83. When receiving an individual request, the Commission reviews certain key data in order to assess compliance with INTERPOL's rules.
84. Because the types and nature of the requests are evolving due to more specialized lawyers assisting individuals, the number and nature of questions asked of NCBs is also changing, and more detailed information is often required from NCBs before the Commission can examine a file.
85. The Commission's checks focus principally on the validity of suits, the accuracy of the data processed, the effective participation of the individual to the acts concerned, and compliance with INTERPOL's Constitution.

3.2.1 Articles 2 and 3 of INTERPOL's Constitution

86. The Commission has always received requests seeking to challenge information recorded in INTERPOL's Files on the basis of Article 3 of INTERPOL's Constitution.
87. In addition to the usual INTERPOL rules, the Commission relies on the INTERPOL Repository of Practice concerning Article 3 and its own set of criteria. It carefully examines each request on a case-by-case basis, applying the predominance test.
88. Requesting parties' lawyers also increasingly focus their arguments on the Commission's ability to provide requesting parties with an effective remedy, based on the application of Article 2 of INTERPOL's Constitution. Focus on the respect of individual's fundamental rights was strengthened by the new guidelines on the processing of data concerning refugees approved by the Executive Committee in 2014, which showed that the overall approach of the Organization was in line with the position of the Commission.

89. The multiplication of requesting parties challenging the retention of data recorded in INTERPOL's Files on the basis of Article 2 of INTERPOL's Constitution has led the Commission to develop its own case law.
90. These requesting parties argue that their fundamental rights have been, will be, or could be jeopardized as a result of information concerning them registered in INTERPOL's files. Such arguments often centre on the right of an individual to due process and a fair trial. The Commission considers all such arguments provided to it, often inviting both NCBs and requesting parties to provide further details and clarifications on the issues raised.
91. The Commission pointed out that it does not rely on general statements concerning the situation in a country or general country reports. It is not the Commission's role to make an assessment on a country's judicial system.
92. However, concerning Article 3, it has created a set of criteria to assess the data in view of Article 2 of the Constitution. It emphasized respect at the national level for due process in case of adversarial proceedings, and people's ability to be provided with effective remedy.
93. It is also in this context that the Commission decided in 2015 to put in place procedures for individuals who had been awarded protective status (i.e., refugees), and gave the Rapporteur the power to take final decisions on these cases.

3.2.2 Elements of effective participation

94. In 2015, the Commission often reminded requesting parties that its checks are limited to monitoring whether the processing of data in INTERPOL's files meets INTERPOL's applicable legal requirements in accordance with Article 36 of its Constitution. Indeed, it is not the Commission's purpose to conduct an investigation, to weigh evidence, or to determine the merits of a case; this is the responsibility of the competent national authorities.
95. Nevertheless, information provided by NCBs outlining the effective participation of individuals in the crimes of which they are accused was always a major item to be reviewed.
96. In the context of the processing of individual requests, and in view of arguments provided by requesting parties, the Commission often had to ask source NCBs to provide additional details of effective participation.
97. On several occasions it pointed out that the diffusion sent out by the General Secretariat to all NCBs on 5 April 2012 states: *"all member countries that for a red notice request and a diffusion seeking the arrest of a person, it is important to provide sufficient facts that link the wanted individual to the charges against him", and article 83.2(b,i) of the RPD which require that the summary of facts "shall provide succinct and clear description of the criminal activities of the wanted person (...)"*.

3.2.3 Access to data and notification of the conclusions of the Commission

98. In light of the principles of national sovereignty and indirect access to INTERPOL's files, the Commission continued to inform NCBs of the need to authorize the disclosure of data to requesting parties to the greatest extent possible.
99. The Commission indicated that, in order to provide an effective remedy, requesting parties should be able to enjoy equal procedural rights in view of the principle of adversarial proceedings. This right of equality before the law is a condition of fundamental human rights

under Article 7 of the Universal Declaration of Human Rights, and is reflected in Article 2 of INTERPOL's Constitution.

100. In practice, this means that the Commission should be able to inform the Requesting Party that information exists in INTERPOL's files, if this is not already known, unless there are extenuating circumstances related to police activities. The Commission should then specify what information exists concerning the requesting party and, as the Commission wishes to provide more reasoned and detailed decisions, it should be able to provide the Requesting Party with elements provided by the NCB that resulted in the Commission concluding that the file is compliant with INTERPOL's rules.
101. NCBs were informed that when they do not authorize the disclosure of certain data to requesting parties, fundamental rights could be infringed and the entire Organization could face greater risk in light of the need to provide an effective remedy. A balance must therefore be struck between the principles of national sovereignty, the specific needs of police cooperation, and the right of access which is a delicate exercise carried out by the Commission.
102. At a minimum, the Commission asks the source NCB for authorization to disclose that the data exists. This can include the legal basis for the suits, for example an arrest warrant or court decision, the nature of the offence concerned, the existence of any notice, the summary of facts of the case, and actions taken on the file concerned, such as updates or additional information.
103. If an NCB does not respond to a request for authorization from the Commission, this may result in the communication of a minimum amount of data.
104. If an NCB refuses to disclose data to a requesting party, the Commission provides NCBs with further explanations on the consequences of a refusal, and encourages the NCB to authorize access to at least a minimum amount of information. It reminds NCBs that: *“in order to uphold the principles of due process and fair hearings, to preserve INTERPOL's judicial immunity and to avoid any successful action of the subject regarding the violation by INTERPOL of his fundamental rights, it is indispensable to provide him with a minimum set of information.”*
105. The constraints resulting from the confidentiality of information due to the national sovereignty of Member States can limit the Commission's ability to disclose its full reasoning to the requesting parties, and can consequently affect the equality of procedural rights.
106. While the Commission understands the importance of the presumption of the confidentiality of the data processed by INTERPOL for the purposes of international police cooperation, if the Organization is to succeed in providing an effective remedy to individuals seeking to safeguard their rights, there definitely needs to be some flexibility on this issue.
107. The protection of INTERPOL is closely tied in with the protection of the rights of the requesting parties. If the requesting party is not provided with an effective remedy, INTERPOL exposes itself to challenges to its immunity from potential lawsuits.
108. NCBs were therefore made aware of the consequences that a refusal to disclose data could have for the entire Organization, and should be continually reminded of the role they, as member countries, play in protecting INTERPOL.

3.2.4 Relations with the INTERPOL General Secretariat

109. The distribution of tasks concerning individual requests between the Commission and the Organization went through various phases.

110. At first, the General Secretariat was a party in the review of cases. As such, it provided the Commission with a detailed analysis of the compliance of the data registered in its files. It was also the point of contact for NCBs and informed them of the Commission's conclusions and recommendations, and of their implementation by the General Secretariat.
111. The tasks described above are now undertaken by the Commission alone. In addition, when an INTERPOL member country sends a new request for cooperation (i.e. a notice or diffusion), if the Commission has previously received a request concerning that individual, the request is forwarded to the Commission without any preliminary analysis.
112. The Commission has always attempted to ensure that its conclusions and recommendations are implemented by the INTERPOL General Secretariat. Although there is currently no specific legal basis for requiring the Organization to implement the Commission's recommendations, this practice was codified in the Resolution adopted by the General Assembly in 2015.
113. The General Secretariat has usually implemented the Commission's conclusions. Nevertheless, when new information emerges after a given session, the General Secretariat can ask the Commission whether it wishes to re-examine certain files.
114. When the criteria provided for in Article 19 of the CCF's Operating Rules have been met, the Commission has agreed to re-examine certain files, although the re-examination has not necessarily resulted in the revision of its initial conclusions.

3.2.5 Increasing number of requests for reexamination of the Commission's decisions

115. In addition to the increasing number of new request received by the Commission, the number of parties seeking a reexamination of a decision by the Commission also appears to be increasing. These requests for reconsideration are received from both requesting parties and NCBs.
116. Requesting parties often write again to the Commission after it has been determined that information concerning them is compliant with the Organization's rules and can be retained in INTERPOL's files. In these instances, in line with Article 19(1) of its Operating Rules, the Commission requires the submission of any new elements which may have led the Commission to reach a different conclusion had these elements been known when the request was being processed.
117. NCBs seeking to challenge the recommendations of the Commission often request reconsideration in instances where the Commission has found that the information concerned was not in compliance with the Organization's rules, and recommended its deletion. In such cases the NCB is also asked to provide new elements in line with Article 19 of the Commission's Operating Rules.
118. It is stressed to both requesting parties and NCBs that, when the Commission decides sufficient elements exist and it agrees to reconsider a file, this does not guarantee that the Commission will reach a different conclusion to the one it originally provided.

3.3 Statistics

119. With the aim of increasing transparency, the Commission has provided updated statistics on its work, along with publications on its website.

120. The statistics on individual requests received and processed in 2015 are appended to this Report (Appendix 2). The Commission has also prepared a document to show its evolution since 1986 (Appendix 1).

4. LIST OF APPENDICES

- **Appendix 1: THE COMMISSION FROM 1986 TO 2015**
- **Appendix 2: 2015 STATISTICS**

APPENDIX 1

THE COMMISSION FROM 1986 TO 2015

A. KEY DATES

1982: Creation of the requirement to have a CCF Headquarters agreement with France

1985: First rules on the processing of information and on the control Adopted by the GA

1986: First session of the CCF

2003: Accreditation of the CCF by International Conference of Data Protection Commissioners

2003: New rules on the Processing of Information (RPI) Adopted by the GA

2005: New rules on the Control of Information (RCI) Adopted by the GA

2007: Implementing Rules of the RPI Adopted by the GA

2008: Operating rules of the CCF Adopted by the CCF (and approved by the GS)

2008: Amendment of INTERPOL’s Constitution Adopted by the GA

(CCF added to the bodies composing INTERPOL, to strengthen the status of the CCF as an independent remedial body of the Organization)

2009: Amendment to the RCI (on composition of the CCF) Adopted by the GA

2012: Rules on the Processing of Data (RPD) Adopted by the GA

2012: Compliance Check Mechanism (CCM) Adopted by the GS

2013: Creation of the Quality Assurance and Notices Branchby the GS

2014: Amendments to the RPD Adopted by the GA

2014: Working group on INTERPOL controlling mechanisms (GTI) Adopted by the GA

B. MEMBERS

Mandate		Name	Country	Function	Incumbent	Deputy	In Office
No.	Date						
1	86 - 89	Mr BIEVER	Luxembourg	Chairperson	x		86 - 89
		Mr HUSTINX	Netherlands	Chairperson		x	86 - 89
		Mr PETER	Switzerland	Data protection Expert	x		86 - 89
		Mr DELGADO LOPEZ	Spain	Data protection Expert		x	86 - 89
		Mr FAUVET	France	France	x		86 - 89
		Ms CHANET	France	France		x	86 - 89
		Mr VAN HOVE	Belgium	Executive Committee	x		86 - 89
		Mr AKELE	Benin	Executive Committee		x	86 - 10/86
					x		10/86 - 89
		Mr BABOVIC	Former Yugoslavia	Executive Committee		x	10/86 - 89
		Mr WIESEL	R.F.A.	IT Expert	x		86 - 89
Mr TAWFIR GALAL	Egypt	IT Expert		x	86 - 89		
2	89 - 91	Mr BIEVER	Luxembourg	Chairperson	x		89 - 91
		Mr HUSTINX	Netherlands	Chairperson		x	89 - 91
		Mr PETER	Switzerland	Data protection Expert	x		89 - 91
		Mr DELGADO LOPEZ	Spain	Data protection Expert		x	89 - 91
		Mr FAUVET	France	France	x		89 - 91
		Ms CHANET	France	France		x	89 - 91
		Mr AKELE	Benin	Executive Committee	x		89 - 09/90
		Mr BABOVIC	Former Yugoslavia	Executive Committee		x	89 - 09/90
		Mr ALVAREZ	Argentina	Executive Committee	x		09/90 - 11/91
		Mr PORTACCIO	Italy	Executive Committee		x	09/90 - 11/91
					x		11/91
Mr NARA UTAMA THAIB	Indonesia	IT Expert	x		89 - 91		
Mr HAUKAAS	Norway	IT Expert		x	89 - 91		
3	92 - 95	Mr BIEVER	Luxembourg	Chairperson	x		92 - 95
		Mr HUSTINX	Netherlands	Chairperson		x	92 - 95
		Mr PETER	Switzerland	Data protection Expert	x		92 - 95
		Mr DELGADO LOPEZ	Spain	Data protection Expert		x	92 - 95
		Mr FAUVET	France	France	x		92 - 95
		Ms CHANET	France	France		x	92 - 95
		Mr PORTACCIO	Italy	Executive Committee	x		92 - 93
		Mr ERIKSSON	Sweden	Executive Committee		x	92 - 93
		Mr LATIF	Pakistan	Executive	x		93 - 95

Mandate		Name	Country	Function	Incumbent	Deputy	In Office
No.	Date						
				Committee			
		Mr MAHUNDI	Tanzania	Executive Committee		x	93 - 95
		Mr GAYE	Senegal	IT Expert	x		92 - 95
		Mr CRANE AVILA	Colombia	IT Expert		x	92 - 95
4	95 - 98	Mr THOMAS	Belgium	Chairperson	x		95 - 98
		Mr SCHWEIZER	Switzerland	Chairperson		x	95 - 98
		Mr JACOB	Germany	Data protection Expert	x		95 - 98
		Mr AMARNATHAN	India	Data protection Expert		x	95 - 98
		Mr BERNARD	France	France	x		95 - 98
		Mr QUASTANA	France	France		x	95 - 98
		Mr LATIF	Pakistan	Executive Committee	x		95 - 98
		Mr MAHUNDI	Tanzania	Executive Committee		x	95 - 98
		Ms RESHEF	Israel	IT Expert	x		95 - 98
		Mr LOPEZ DE JUANA	Spain	IT Expert		x	95 - 98
5	98 - 01	Mr THOMAS	Belgium	Chairperson	x		98 - 01
		Mr SCHWEIZER	Switzerland	Chairperson		x	98 - 01
		Mr JACOB	Germany	Data protection Expert	x		98 - 01
		Mr AMARNATHAN	India	Data protection Expert		x	98
		Ms FRANCE	United Kingdom	Data protection Expert		x	99 - 01
		Mr RICHARDOT	France	Executive Committee	x		98 - 99
		Mr ABBOT	United Kingdom	Executive Committee	x		2000 - 01
		Mr CHIHURI	Zimbabwe	Executive Committee		x	98 - 01
		Mr BERNARD	France	France	x		98 - 01
		Mr QUASTANA	France	France		x	98 - 01
		Ms RESHEF	Israel	IT Expert	x		98 - 01
		Mr LOPEZ DE JUANA	Spain	IT Expert		x	98 - 99 - 2000
Mr BEN MOHAMED	Tunisia	IT Expert		x	01		
6	02 - 05	Mr HUSTINX	Netherlands	Chairperson	x		02 - 05
		Mr RAKOVSKY	Czech Republic	Chairperson		x	02 - 05
		Ms FRANCE	United Kingdom	Data protection Expert	x		02 - 05
		Ms SZURDAY	Hungary	Data protection Expert		x	02 - 05
		Mr GENTOT	France	France	x		02 - 05
		Mr GIRAULT	France	France		x	02 - 05
		Mr PARKER	Canada	Executive Committee	x		02 - 05
		Mr MOLINA FERRARO	Uruguay	Executive		x	02 - 05

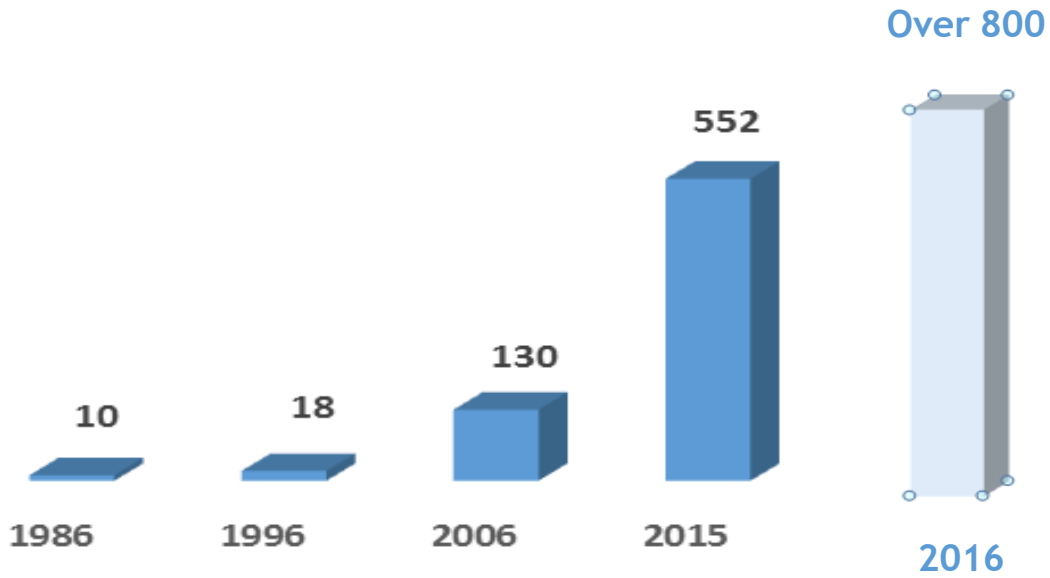
Mandate		Name	Country	Function	Incumbent	Deputy	In Office
No.	Date						
				Committee			
		Mr JASINKEVICS	Latvia	Executive Committee		x	04
		Mr THEMISTOCLEOUS	Cyprus	IT Expert	x		02 - 05
		Mr BLUDOV	Russia	IT Expert		x	02 - 05
7	05 - 08	Mr HUSTINX	Netherlands	Chairperson	x		05 - 08
		Mr O'CONNOR	Australia	Chairperson		x	05 - 08
		Mr GROSSMAN	Chile	Data protection Expert	x		05 - 08
		Mr De SCHUTTER	Belgium	Data protection Expert		x	05 - 08
		Mr LECLERCQ	France	France	x		05 - 08
		Ms COMPAGNIE	France	France		x	05 - 08
		Mr JASINKEVICS	Latvia	Executive Committee	x		04
		Ms LÉLÉ	Cameroon	Executive Committee	x		05 - 06
		Mr BOUSTANI	Lebanon	Executive Committee		x	05 - 06
		Mr MAHMOUD	Algeria	Executive Committee	x		06 - 07
		Mr MOUZOUNI	Morocco	Executive Committee	x		07 - 08
		Mr PARK	Korea	Executive Committee		x	06 - 08
		Mr THEMISTOCLEOUS	Cyprus	IT Expert	x		05 - 08
		Mr FASHA	Jordan	IT Expert		x	05 - 08
8	08 - 11	Mr HUSTINX	Netherlands	Chairperson	x		08 - 03/09
		Mr HAWKES	Ireland	Chairperson	x		18/03/09 - 10/03/11
		Mr O'CONNOR	Australia	Chairperson		x	11/03/08 - 10/03/11
		Mr GROSSMAN	Chile	Data protection Expert	x		11/03/08 - 10/03/11
		Ms SLETTEMARK	Norway	Data protection Expert		x	11/03/08 - 10/03/11
		Mr LECLERCQ	France	France	x		11/03/08 - 10/03/11
		Mr De GIVRY	France	France		x	11/03/08 - 10/03/11
		Ms GRGIC	Croatia	IT Expert	x		11/03/08 - 10/03/11
		Mr DIAZ AGUADO	Spain	IT Expert		x	11/03/08 - 10/03/11
		Mr ELSHAFFEY	Egypt	CE	x		09/10/08 - 31/12/09
		Mr CERQUEIRA	Angola	CE		x	10/10/08 - 09
		Ms BALLESTRAZZI	France	Police Expert	x		01/01/10 - 11/11/10
Mr AL OMARI	Jordan	Police Expert	x		11/11/10 - 31/12/12		
9	11 - 14	Mr HAWKES	Ireland	Chairperson	x		11/03/11 - 10/03/14
		Mr MADHUB	Mauritius	Data protection Expert	x		11/03/11 - 10/03/14
		Mr FRAYSSINET	France	Data protection Expert	x		11/03/11 - 10/03/14
		Mr PATRICK	Canada	IT Expert	x		11/03/11 - 10/03/14
		Mr Al OMARI	Jordan	Police Expert	x		11/11/10 - 10/11/13

Mandate		Name	Country	Function	Incumbent	Deputy	In Office
No.	Date						
		Mr YAVUZ	Turkey	Police Expert	x		11/11/13 - 10/11/16
10	14 - 17	Mr HAWKES	Ireland	Chairperson	x		10/03/14 - 06/08/14
		Ms VAJIC	Croatia	Chairperson	x		02/09/14 - 10/03/17
		Ms MADHUB	Mauritius	Data protection Expert	x		11/03/14 - 10/03/17
		Mr FRAYSSINET	France	Data protection Expert	x		11/03/14 - 10/03/17
		Mr PATRICK	Canada	IT Expert	x		11/03/14 - 10/03/17
		Mr YAVUZ	Turkey	Police Expert	x		11/11/13 - 26/11/14
		Ms KANE	Mali	Police Expert	x		05/03/15 - 04/11/14
		Mr HARRIS	United States of America	Police Expert	x		04/11/15 - 10/11/16

C. COMMISSION'S ROLES

Initially the Commission's time was mostly dedicated to its monitoring role, second came its advisory role and finally the processing of individual requests. Starting around 1995, the Commission's work was well balanced between its three functions. 2010 saw the beginning of the shift in the Commission's work in favour of individual requests, with the roles of advice and monitoring coming in very last.

D. INDIVIDUAL REQUESTS



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APPENDIX 2

2015 STATISTICS

A. REQUESTS FROM 2005 UNTIL 2015

Details	Years		2010		2014		2015	
	2005	%	2010	%	2014	%	2015	%
Requests received	115	100	201	100	575	100	643	100
Complaints	24	20.9	123	61,2	226	39	280	44
Information recorded on the subject in the General Secretariat's files	42	36.5	133	66,2	272	47	327	51
Requests raising the question of the application of Article 3 of INTERPOL's Constitution	16	13.9	32	15,9	127	22	133	21
Abstract of red notice available on INTERPOL's website	11	9.6	57	28,4	119	21	132	21

- The figures represent the number of persons having sent a request to the Commission.

B. REQUESTS RECIEVED IN 2015

- A request is a person's petition to the Commission for the Control of 'NTERPOL's Files questioning the processing of data concerning him/her in INTERPOL's file, or exercising his/her right to access this data.

1. General profile of requests

- The Commission received 552 new requests in 2015 concerning 643 persons. The figures are based on the number of people concerned.

Admissibility	Quantity	%
Admissible requests	469	73
Non-admissible requests	174	27
TOTAL PERSONS	643	100

Type of request	Quantity	%
Complaints <i>39% referred to Article 3</i>	280	44
Requests for simple access	310	48
Others ¹	53	8

TOTAL REQUESTS	552	100
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- ¹ The category “Others” refers mainly to pre-emptive requests. They are generally warnings sent to the Commission from people who believe that national authorities will submit a cooperation request for their arrest through INTERPOL channels.

Data in INTERPOL's Files	Quantity	%
Recorded in files <i>77% admissible</i>	327	51
Not recorded in files	316	49
TOTAL PERSONS	643	100

Complaints	Quantity	%
Recorded in files <i>of the 225 requests:</i> - <i>83% admissible</i> - <i>92% wanted person</i> - <i>78% Red notice was issued</i> - <i>45% Red Notices with extract on the INTERPOL public website</i> -	225	80
Not recorded in files	55	20
TOTAL REQUESTS	280	100

Simple access requests	Quantity	%
Recorded in files <i>of the 84 requests:</i> - <i>75% admissible</i> - <i>80% wanted person</i> - <i>70% Red notice issued</i> - <i>30% Red Notices with extracts on the INTERPOL public website</i>	84	27
Not recorded in files	226	73
TOTAL PERSONS	310	100

Other requests	Quantity	%
Recorded in files <i>of the 18 requests:</i> - <i>22% admissible</i>	18	34

- <i>44% notice or request for a notice</i>		
Not recorded in files	35	66
TOTAL PERSONS	53	100

2. Processing in INTERPOL's files of data concerning 643 persons

- Among the 643 requests for access, deletion or for other reasons, 327 people had data related to them registered in INTERPOL's files in 2015, most are the subject of information recorded in INTERPOL's central nominal database (ICIS).
- Some requests concerned people whose travel document numbers were recorded in the Stolen/Lost Travel Documents (SLTD) database. This database is meant to record only numbers of identity documents which were reported as stolen or lost. It does not have nominal information.
- Finally, some individual requests concerned people whose vehicles appear in the Stolen Motor Vehicles (SMV) database. This database is meant only to record numbers linked to vehicles which were reported as stolen, as well as a description (colour, make, etc.). It does not have nominal information.

Database	Quantity	%
Central database (ICIS)	319	97
SLTD / SMV	8	3
TOTAL	327	100

Status in the central database (ICIS)	Quantity	%
Wanted for arrest <i>Including :</i> - <i>85% Red notices</i> - <i>46% Red Notices with extracts on the INTERPOL public website</i> - <i>14% Diffusions</i>	282	88
Criminal history	18	5,6
Wanted to locate or obtain information	8	2,5
Suspect	6	1,8
Possible threat	3	0,9
Missing	2	0,6
TOTAL	319	100

3. Main sources of data concerning 327 requests recorded in INTERPOL’s files

- It should be noted that the number of requests involving a country does not automatically imply a processing problem in INTERPOL’s files regarding information supplied by this country.
- The figures concern pre-emptive requests or admissible complaints from persons whose data is recorded in INTERPOL’s files.
 - Russia45
 - Ukraine24
 - USA23
 - United Arab Emirates19
 - Egypt13
 - Italy13
 - India12
 - Venezuela10
 - Turkey9

4. Files archived in 2015

- The number of files which were archived in 2015 is as follows:
 - Number of requests archived501
Including received in 2015341
 - Average time for processing requests6 months
- It should be noted that some files which were archived in 2015 were reopened in 2016 pending a decision concerning re-examination.

C. CONCLUSIONS OF THE COMMISSION IN 2015

- The conclusions of the Commission are linked to requests received in 2015 or previously and for which the Commission has taken a final decision.
- A total of 198 requests were studied during sessions in 2015, some having been received in previous years. Of these, 170 (86%) were finalized in 2015. The following statistics pertain to these 170 requests.

Conclusions on finalized requests	Quantity	%
Compliant ¹	106	62
Not compliant ²	63	37
TOTAL	170	100

¹ The category “Compliant” may refer to files for which the Commission nevertheless recommended updates or addenda to be included in the files. It also includes the nine files for which the Commission recommended retaining the data but the permanent removal of the extract of the red notice from the INTERPOL public website.

² The category “Non-compliant” includes requests for which the Commission recommended the deletion of the information concerned.

Type of requests	Q	%
Complaints <i>37% deletion</i>	140	82
Requests for access ¹ <i>33% deletion</i>	30	17
TOTAL	170	100

¹ These are only studied during a session if the requests for access present a possible processing issue.

- Interim decisions can also be taken by the Commission. In 2015, the Commission recommended the temporary blocking of access to data concerning 65 files. After a review of the data, 79% of these files were then deleted while 21% were deemed compliant and access to the data was restored.
- All recommendations of the Commission as well as interim and precautionary measures have been implemented by the General secretariat.