

Written submission by INTERPOL (MUO0032)

1. INTERPOL is grateful to the Foreign Affairs Committee for the opportunity to contribute to the inquiry into 'The UK's role in strengthening multilateral organisations'. INTERPOL's Notices and Diffusions play an important role in the arrest of numerous fugitives and terrorists each year. Therefore, protecting the integrity of this system is of paramount importance to INTERPOL and our member countries. Crime and terrorism are global challenges requiring a global response which INTERPOL is uniquely positioned to provide.
2. It is noted that the call for evidence to the inquiry identified INTERPOL as an organization in relation to which the Committee particularly welcomed views. This submission will provide brief background about INTERPOL and will focus on one particular area of INTERPOL's work, the Notices and Diffusions system, specifically:
 - The process of review for all Notices and Diffusions for wanted persons;
 - INTERPOL's data protection framework;
 - The work of the Commission for the Control of INTERPOL's Files.
3. In addition, INTERPOL will set out opportunities for the UK to assist with efforts aimed at ensuring data in the INTERPOL Information System is compliant with INTERPOL's Constitution and Rules.

About INTERPOL

4. The International Criminal Police Organization – INTERPOL – is an inter-governmental organization with 194 member countries. INTERPOL aims to ensure and promote the widest possible mutual assistance between all criminal police authorities within the limits of the domestic laws of its member countries, and in the spirit of the "Universal Declaration of Human Rights"¹.
5. This aim is achieved by connecting member countries via a secure communication system called I-24/7 that allows contact between countries, and with INTERPOL's General Secretariat, and provides access to the INTERPOL Information System, including Red Notices and Diffusions, in real time, from both central and remote locations. In addition, INTERPOL's global policing capabilities support national efforts in combatting crimes across three areas considered the most pressing today; terrorism, cybercrime, and organized crime. Through these capabilities and systems INTERPOL helps police globally protect their communities 24 hours a day, seven days a week. The average response time for a query against the databases in INTERPOL Information System, from anywhere in the world, is half a second.
6. Each member country of INTERPOL is required to appoint a body to serve as the National Central Bureau (NCB) that will be responsible for liaison with the various national departments in the country, with NCBs of other countries, and with INTERPOL's General Secretariat.² The UK's NCB is located in Manchester and is part of the National Crime Agency (NCA).
7. The use by NCBs of I-24/7 and INTERPOL's policing capabilities has resulted in many notable successes, including the arrest and extradition of a convicted rapist and murderer after 26 years on the run, the rescue of thousands of women and children from sexual exploitation and forced labour, the seizure of millions of fake and potentially life-threatening pharmaceuticals, and the

¹ Constitution of the International Criminal Police Organization – INTERPOL, Article 2

² Constitution of the International Criminal Police Organization – INTERPOL, Article 32

coordination of Disaster Victim Identification operations such as the one deployed to Ethiopia in 2019 following the crash of Ethiopian Airlines flight ET 302, in which British citizens perished. Sadly, this remarkable work is not always seen as newsworthy.

Red Notices and Diffusions for wanted persons

8. INTERPOL has established a series of colour-coded Notices that enable countries to share critical crime-related alerts and requests for cooperation worldwide. Notices are published by INTERPOL's General Secretariat at the request of a member country through its NCB. Notices are only published if they comply with INTERPOL's Constitution and Rules on the Processing of Data (the RPD). Once published, Notices are available to all 194 member countries. In some cases, at the request of the requesting country, INTERPOL will consider making an extract of a Red Notice available to the public through INTERPOL's website. Relevant considerations include the seriousness of the offence and whether publication is sought to warn or request help from the public.
9. NCBs may also send alerts and requests for cooperation by way of a Diffusion. Diffusions must also comply with INTERPOL's Constitution and the RPD. Diffusions differ from Notices primarily in that circulation of Diffusions can be limited directly by the requesting NCB so that they are not received by all member countries.
10. Both Notices and Diffusions have led to numerous arrests of criminals, followed by extradition to the requesting countries. Some recent examples of individuals arrested in the UK following the publication of a Red Notice and their subsequent extradition include; an individual sought by Peruvian authorities on illicit drug trafficking charges, an individual sought by US authorities on charges related to the sexual abuse of children, and an individual sought by Czech Republic authorities on charges related to trafficking in human beings. In addition, the UK has successfully sought the extradition of individuals to the UK on many occasions following the publication of Red Notices and Diffusions, including an individual extradited from Norway on charges of rape, an individual extradited from Hungary on charges of tax fraud, an individual extradited from the UAE on fraud charges, and an individual extradited from Spain for drug related offences.

Criteria for publication of Red Notices and Diffusions for wanted persons

11. Red Notices are requests to law enforcement worldwide to locate a wanted person and seek his/her detention, arrest, or restriction of movement for the purpose of extradition, surrender, or similar lawful action.³
12. A Red Notice will only be published if:
 - It complies with INTERPOL's Constitution,⁴ in particular Articles 2 and 3 which require, respectively, that INTERPOL act 'in the spirit of the "Universal Declaration of Human Rights"', and not 'undertake any intervention or activities of a political, military, religious or racial character';
 - It satisfies the specific conditions for publication provided by Article 83 of the RPD, which sets out requirements related to the seriousness of the offence, penalty thresholds, and minimum identity particulars and judicial data;
 - Publication is in the interests of international police cooperation;⁵
 - Publication will not prejudice the interests of INTERPOL or its member countries;⁶ and

³ INTERPOL's Rules on the Processing of Data, Article 82

⁴ INTERPOL's Rules on the Processing of Data, Article 5

⁵ INTERPOL's Rules on the Processing of Data, Article 77

⁶ Ibid

- It otherwise satisfies the requirements of the RPD, for example, data quality requirements set out at Article 12.
13. Diffusions are any request for international cooperation or any international alert from an NCB or international entity, sent directly to one or several NCBs or to one or several international entities, simultaneously recorded in INTERPOL's Information System.⁷
 14. A wanted person Diffusion (WPD) is a request to law enforcement to search for a wanted person with a view to his/her detention, arrest or restriction of movement. Diffusions must satisfy the requirements of the RPD and INTERPOL's Constitution and will be deleted if they do not. The information contained in WPD and recorded in INTERPOL's databases is made visible in INTERPOL's Information System to member countries only after the WPD is reviewed and found to be compliant. Generally, NCBs will issue a WPD rather than a Red Notice where they wish to limit circulation to selected NCBs or international entities.
 15. It is important to emphasize that contrary to frequently seen misreporting, neither a Red Notice nor a WPD is an international arrest warrant. Rather they are requests for cooperation based on an arrest warrant or court order issued by the competent authorities in the member country concerned. It is up to each member country to decide whether to act on a Notice or a Diffusion. INTERPOL cannot demand that action be taken on a Notice, and whether to do so is completely within the discretion of each country.

⁷ INTERPOL's Rules on the Processing of Data, Article 1(14)

Review of Notices and WPDs and the reforms put in place by INTERPOL in recent years

16. In recent years, INTERPOL has undertaken a number of important measures to strengthen the integrity of the Notices and Diffusions system. In 2016, a dedicated multidisciplinary task force was created within INTERPOL's General Secretariat with responsibility for conducting a robust quality and legal compliance review for all incoming Notices and WPD prior to their publication by the General Secretariat. Since 2018, this responsibility has expanded to include a review, currently ongoing, of Red Notices and WPD authorized prior to 2016.
17. This task force reviews Red Notices and WPD against the criteria set out above. Where there are doubts regarding the compliance of a Red Notice or WPD with INTERPOL's Constitution or the RPD, the task force shall consult with the requesting NCB in order to obtain clarifications or supplementary data.⁸ In addition the task force will take appropriate steps to prevent any direct or indirect prejudice the data in the Red Notice or WPD may cause to individuals that the data concerns.⁹ Such steps include blocking access to data by NCBs and international entities whilst consideration of compliance is ongoing. If, following consultation, the task force concludes that the Red Notice or WPD does not comply with INTERPOL's Constitution or the RPD, it will correct or delete the data and inform the NCB, indicating the reasons for its actions.¹⁰
18. In such cases, if data was previously circulated to some or all member countries, all recipient countries are promptly informed of the conclusion of non-compliance; are asked to update their national databases accordingly; and are reminded that INTERPOL's channels may not be used for any communication regarding the case. The same type of communication also follows the deletion of data based on a CCF decision as explained below. In addition, measures are taken to ensure that, in the event a new request in relation to the subject of a non-compliant Red Notice or WPD is submitted by a member country, the request is flagged. This allows the task force to take the previous decision into consideration when reviewing a new request.
19. The quality and legal compliance reviews of the task force are also conducted with reference to INTERPOL's Repository of Practice on the Application of Article 3 of INTERPOL's Constitution (described below), and in accordance with INTERPOL's Refugee Resolution, which calls for the deletion of data of individuals with confirmed refugee status.
20. It is important to make clear that the review of the task force can only be based on the information available at the time of publication. Whenever new and relevant information is brought to INTERPOL's attention, the task force or the CCF (depending on the origin of the new information) will re-examine the case to ensure its continued compliance. INTERPOL welcomes receipt of any information that may impact the continued compliance of a Notice or Diffusion with its Constitution and RPD. Indeed, all member countries are expected to share with the General Secretariat any information that may facilitate the review of Notices and Diffusions.¹¹ If the new information is provided by the individual who is the subject of the data or on his/her behalf, the CCF will review the case as further explained below.

⁸ INTERPOL's Rules on the Processing of Data, Article 128

⁹ INTERPOL's Rules on the Processing of Data, Article 129

¹⁰ INTERPOL's Rules on the Processing of Data, Article 128

¹¹ INTERPOL's Rules on the Processing of Data, Article 80.

Repositories of Practice

21. INTERPOL's Repository of Practice on the Application of Article 3 of INTERPOL's Constitution is publicly available, providing greater transparency regarding INTERPOL's legal analysis. The Repository sets out the principles that guide the interpretation and application of Article 3 in the context of the processing of data, addressing specific topics and including real-life examples from INTERPOL's practice.
22. INTERPOL strongly supports recommendations to update the Repository of Practice on Article 3 and deliver the Repository of Practice on Article 2, and believes that such repositories promote consistency in decision-making and provide transparency to member countries and the international community.

INTERPOL's Refugee Resolution

23. As part of the suite of reforms, in 2017, INTERPOL's General Assembly endorsed the Refugee Resolution, which has been implemented by the General Secretariat since 2014. This resolution attests to the importance INTERPOL attaches to its commitment to act 'within the spirit of the "Universal Declaration of Human Rights"' as required by Article 2 of the Constitution.
24. Under the Refugee Resolution, if a member country confirms an individual's refugee status, and the individual is the subject of a Notice or Diffusion requested by the country where the individual fears persecution, INTERPOL will delete the Notice or Diffusion and inform all member countries of their obligations to update their databases to reflect the deletion. With the appropriate safeguards in place, INTERPOL considers it best practice for member countries to proactively share refugee-related information. Where such information is shared, the RPD requires the protection of the confidentiality of such information and the anonymity of the member country as requested.¹²

Transparency of decision making

25. As set out above, INTERPOL's review of Notices and Diffusions can only be based on the information available at the time of publication. Information provided by member countries comes from law enforcement bodies and is, by its nature, generally confidential. However a considerable amount of information regarding the provisions and policies applied when conducting a review of Notices and Diffusions requested by member countries is made available through INTERPOL's website, including:
 - INTERPOL's Constitution
 - INTERPOL's General Assembly Resolutions
 - INTERPOL's Rules on the Processing of Data
 - INTERPOL's Repository of Practice: Application of Article 3 of INTERPOL's Constitution in the context of the processing of information via INTERPOL's channels
 - Fact Sheets on a range of topics including the International Notices System and INTERPOL's Databases

¹² INTERPOL's Rules on the Processing of Data, Article 14

INTERPOL's General Data Protection Framework

26. Since 1982, to provide safeguards in line with evolving international and European data protection standards, INTERPOL has continuously updated its rules on data protection, on average about every three years. For example, the RPD, introduced in 2011 to replace the previous data processing rules require that each member country designate a Data Protection Officer.¹³ The appointment of an INTERPOL Data Protection Officer, who reports directly to the Secretary General, was added to the RPD in 2016.¹⁴ The INTERPOL Data Protection Officer conducts regular compliance checks to monitor compliance with the RPD, assists business units in the process of data protection impact assessments, advises on data processing through new technologies which are likely to create high risks for individuals, conducts data protection training, strengthens the data protection culture at INTERPOL through awareness raising activities, and ensures the continued development of data protection and privacy by design solutions. The coming years will see a continuation of these activities, including an enhanced focus on monitoring and auditing.

Commission for the Control of INTERPOL's Files

27. The Commission for the Control of INTERPOL's Files (CCF) is an independent body that ensures personal data processed through INTERPOL channels conforms to the rules of the Organization.

28. The role of the CCF is described in Article 36 of INTERPOL's Constitution, and the independence of the Commission is enshrined both in the Constitution and in Article 4 of the CCF Statute.

29. The CCF is composed of two chambers:

- A Supervisory and Advisory Chamber that ensures the processing of personal data by INTERPOL is in compliance with INTERPOL's Rules, and provides INTERPOL with advice about any project, operation, set of rules or other matter involving the processing of personal data in the INTERPOL Information System.¹⁵
- A Requests Chamber that examines and decides on requests for access to data and/or for the correction or deletion of data processed in the INTERPOL Information System.¹⁶

30. It is the Requests Chamber to which individuals can direct concerns regarding information INTERPOL may hold about them. Individuals have the right to submit directly and free of charge to the Requests Chamber, a request for access to, or correction and/or deletion of data concerning them that may have been processed in the INTERPOL Information System.¹⁷ Such requests are treated by the Requests Chamber as confidential and they are not recorded in the INTERPOL Information System.¹⁸

¹³ INTERPOL's Rules on the Processing of Data, Article 121

¹⁴ INTERPOL's Rules on the Processing of Data, Article 121A

¹⁵ Statute of the Commission for the Control of INTERPOL's Files, Articles 3 and 6

¹⁶ Ibid

¹⁷ Statute of the Commission for the Control of INTERPOL's Files, Article 29

¹⁸ Statute of the Commission for the Control of INTERPOL's Files, Article 20

31. The Requests Chamber is required to consult with an individual who has made a request, prior to disclosing information received from that individual.¹⁹ Further, an individual who has made a request may ask the Requests Chamber to restrict the communication of information.²⁰
32. Clear timeframes are defined by the CCF Statute to ensure a timely review of applications. The decisions of the Requests Chamber are final and binding on INTERPOL and are promptly implemented by the General Secretariat. All member countries that were in receipt of the Notice or Diffusion are immediately notified of the decision to delete by the CCF. Copies of the CCF's written decisions are provided to the individual and the relevant NCB, subject to confidentiality requirements and any requested restrictions.²¹ To enhance transparency and provide the public with a better understanding of the CCF's work and jurisprudence, selected decisions have been made available on the CCF's webpage.²²
33. In 2016, a new CCF Statute was adopted as part of a suite of reforms aimed at protecting the integrity of the Notices and Diffusions system. The main reforms of the CCF implemented through its new Statute include:
- Making decisions of the CCF legally binding on INTERPOL's General Secretariat. This means that if the CCF concludes that a Red Notice, a WPD or any other data recorded in INTERPOL's databases does not comply with INTERPOL's rules, the General Secretariat is obliged to delete such data, and member countries may not use INTERPOL channels with respect to the deleted data;
 - Reinforcing the independence of the CCF and the impartiality of its members, including through new Operating Rules that formalize the conditions for withdrawal, recusal, or dismissal of a particular member;
 - Detailing the remedies that may be awarded by the CCF and the considerations in awarding them;
 - Expanding the composition of the CCF from five to seven members who are experts in the various fields of activities linked to the processing of personal data through INTERPOL's channels;
 - Formally recognizing the authority of the CCF to decide on provisional measures (including blocking access to data), in order to effectively address urgent situations;
 - Requiring CCF decisions to be reasoned, in writing, and to contain a summary of the proceedings including the submissions of the parties, a statement of facts, the application of INTERPOL's Constitution and the RPD, and an analysis of legal arguments.
34. The CCF publishes an annual report that includes a variety of statistical information, including the number of cases subject to complaints that are considered compliant or not compliant with INTERPOL's Constitution and Rules.

Opportunities to Assist

35. INTERPOL focuses on protecting the integrity of its Notices and Diffusions so that law enforcement officials in the 194 member countries may continue to rely on them as vital tools for international police cooperation. INTERPOL therefore takes very seriously suggestions for

¹⁹ Statute of the Commission for the Control of INTERPOL's Files, Article 35

²⁰ Ibid

²¹ Ibid

²² The CCF webpage includes also information about the procedures for the submission of applications, CCF's rules, CCF's annual reports, etc.

ways in which these valuable tools may be improved. This document sets out the variety of processes in place through which INTERPOL seeks to strengthen and maintain the integrity of the Notices and Diffusions system, and INTERPOL takes this opportunity to suggest ways in which member countries, including the UK, can assist in this work:

- a) Dedicated resources, in the form of financial contributions or secondments, to assist INTERPOL's efforts to improve the integrity of the Notices and Diffusions system.
- b) The continued engagement of the UK with other member countries including in the context of INTERPOL's activities (e.g. meetings of governing organs and working groups) with a view to ensuring support for additional reforms proposed to further protect and ensure the integrity of INTERPOL's Notices and Diffusions.
- c) INTERPOL welcomes and encourages - the receipt from member countries of any information that may impact the continued compliance of a Notice or Diffusion with INTERPOL's Constitution and the RPD:
 - i. Confirmation of refugee status granted to an individual who is the subject of a Notice or Diffusion.
 - ii. Notification that an extradition request has been denied, especially when the reason for denial may be relevant to an assessment of the compliance of a Notice or Diffusion with Articles 2 or 3 of INTERPOL's Constitution; and
 - iii. Information confirming the veracity or reliability of information from non-governmental sources.

36. INTERPOL Notices and Diffusions are vital tools for global safety, which is why we are constantly reviewing, assessing and updating our procedures to ensure the greatest level of integrity in the system, and trust in our work.

37. INTERPOL was created from the need to stop criminals fleeing from justice simply by crossing a border. That need has not gone away; in fact, in today's globalized world it is greater than ever.

38. It is precisely our efforts in supporting international police cooperation, especially where diplomatic relations do not exist, which makes INTERPOL an essential part of global security.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'SKavanagh', with a horizontal line underneath.

Stephen Kavanagh QPM, DL.
Executive Director Police Services

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