

Understanding INTERPOL's Evolving Jurisprudence: Key Insights & Takeaways from the Most Recent CCF Decisions

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The Commission for the Control of INTERPOL's Files ("CCF" or the "Commission") recently published five decision excerpts. Though they are heavily redacted, the decisions offer much needed and valuable insight into the Commission's approach to resolving a range of critical issues in INTERPOL cases, including due process, misuse of INTERPOL's channels, family-related cases, and the handling of stolen vehicles.¹ For targets of Red Notices and other requests for police cooperation, the decisions re-emphasize the need for well-developed legal arguments and evidence in order to increase the possibility of success in deletion of an illegitimate request for cooperation. These individuals are well served by hiring competent and specialized legal counsel to assist with their submissions before the CCF.

Below is a summary of these five new decisions and their key takeaways.²

¹ The Commission meets at least three times per year, but its meetings are closed to the public. The CCF issues written decisions which are provided to INTERPOL's General Secretariat. Nevertheless, all decisions are confidential. The CCF publishes certain anonymized decisions on its website. The decisions can be found [here](#).

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Decision N°2024-01: Purpose, Family Matter, International Interest and Seriousness, Due Process

Case Summary:

The applicant requested deletion of a Blue Notice³ issued against her for the “crime of family abduction,” and deletion of a Yellow Notice⁴ concerning her child, who was deemed to be “missing.” She argued that the notices lacked purpose as she remained in constant contact with law enforcement agencies, and the child’s location was known to authorities. She also argued that the notices did not meet the requirements for international police cooperation as they were related to a family matter, and the issue involved a custody dispute rather than criminal behavior. Additionally, she claimed that her due process rights were violated throughout the legal proceedings.

Commission’s Finding:

The Commission rejected the applicant’s claims, ruling that both notices still served a valid purpose. The Yellow Notice remained relevant because although the country in which the child was located was known, the child’s exact location *within* that country was not confirmed, and a risk of international travel remained. Additionally, the Blue Notice was necessary to locate the applicant herself for ongoing investigations. The CCF did not find sufficient evidence of a due process violation, concluding that the notices were aimed at locating, not arresting, the applicant.

Key Takeaway:

The CCF reaffirmed its jurisprudence on Yellow Notices in cases of international parental child abduction, confirming that a Yellow Notice remains valid when the **child’s exact location** is not established and there remains even a mere **risk of cross-border travel**. The Commission also highlighted the different standards applied to Red Notices versus Blue Notices. While both require that the National Central Bureau (NCB) provide accurate and clear descriptions of criminal activity, the standard is lower for a Blue Notice, which requires only that “[s]ufficient data relating to the criminal investigation or the person are provided to allow the cooperation requested to be effective.”⁵ Practitioners contending

³ A Blue Notice is used to collect additional information about a person’s identity, location, or activities in relation to a criminal investigation. See INTERPOL, About Notices, <https://www.interpol.int/en/How-we-work/Notices/About-Notices> (last visited Oct. 2, 2024).

⁴ A Yellow Notice is used to help locate missing persons, often minors, or to help identify persons who are unable to identify themselves. See *id.*

⁵ See CCF, Decision No. 2024-01, ¶ 31, <https://www.interpol.int/en/Who-we-are/Commission-for-the-Control-of-INTERPOL-s-Files-CCF/CCF-sessions-and-decisions#:~:text=Dates%20of%20upcoming%20CCF%20sessions%20and%20examples%20of> (last visited Oct. 6, 2024).



with Blue Notice requests should be aware of the different rules and standards related to INTERPOL's notice and diffusions system.

Decision N°2024-02: Due Process, Human Rights, Description of Criminal Activities, Article 3

Case Summary:

The applicant requested the deletion of a Red Notice issued against her for allegedly issuing false value-added tax invoices. She argued that the proceedings violated her due process and human rights, highlighting the risk of torture if extradited, and cited a European Court of Human Rights (ECHR) ruling on similar cases. Additionally, she claimed the charges were politically motivated due to her business ties to a political figure. The applicant further contended that the case lacked a clear description of criminal involvement and that the charges were of an administrative, not criminal, nature. While the corresponding NCB did confirm the validity of the underlying proceedings and arrest warrant, it failed to provide any responses to the Commission's requests for additional information regarding claims related to due process of law and respect for human rights.

Commission's Finding:

The Commission found that the lack of response from the NCB, combined with the quality, specificity, and details provided by the applicant in her request, raised serious doubts about the compliance of the data with INTERPOL's rules, particularly regarding due process and human rights. Moreover, the Red Notice did not meet the required standards for describing criminal involvement, as the NCB failed to provide sufficient evidence of the applicant's personal role or financial benefit from the alleged fraud. Based on these factors, the CCF ruled that the data was non-compliant and ordered its deletion.

Key Takeaway:

While CCF jurisprudence indicates that the Commission is generally unlikely to delete Red Notices solely based on an individual's arguments about country conditions, the likelihood of blocking or deleting data increases when these arguments are accompanied by a lack of cooperation from the NCB. In this case, the Commission found that the NCB's failure to address the specific issues raised by the applicant led to "serious doubts as to the compliance of the data challenged with Article 2 of INTERPOL's Constitution and Articles 10, 31 and 87(b) of the [Rules on the Processing of Data]."⁶ This decision provides helpful

⁶ CCF, Decision No. 2024-02, ¶ 22, <https://www.interpol.int/en/Who-we-are/Commission-for-the-Control-of-INTERPOL-s-Files-CCF/CCF-sessions-and-decisions#:~:text=Dates%20of%20upcoming%20CCF%20sessions%20and%20examples%20of> (last visited Oct. 6, 2024).

guidance for practitioners on how detailed and specific arguments can strengthen a case, particularly in fraud and financial crime matters.

Decision N°2024-03: Article 3, Misuse of INTERPOL’s Channels

Case Summary:

The applicant requested the deletion of data related to the revocation of his passport, which was recorded in INTERPOL’s Stolen and Lost Travel Documents (SLTD) database. He claimed that the registration of his passport in the SLTD database was politically motivated, as part of his home country’s efforts to persecute political dissidents and prevent him from enjoying his right and freedom to travel. In support of his request, the applicant cited general reports about his home country’s misuse of the SLTD system but did not provide specific evidence related to due process violations or other human rights concerns present in his case. The CCF noted that the applicant “did not support his claims with any specific information or concrete element regarding the alleged political character of actions against him, nor an explanation as to how INTERPOL’s channels would have been misused in his particular case.”⁷

Conversely, the NCB argued that the passport was revoked in accordance with domestic laws due to the applicant’s involvement in criminal proceedings for offenses such as tax violations and document counterfeiting.

Commission’s Finding:

The CCF found that the applicant failed to substantiate his claims of political misuse with concrete evidence. The NCB provided sufficient legal justification for the passport’s revocation, which was carried out following a court decision. The Commission concluded that the SLTD entry was lawful and compliant with INTERPOL’s rules.

Key Takeaway:

Consistent with the CCF’s established jurisprudence, this decision highlights that when assessing the compliance of a passport recorded in the SLTD database, the CCF carefully reviews whether the NCB has provided a **clear legal framework and legitimate reasons** for the entry. In this instance, the CCF found that the passport’s revocation was in accordance with applicable law, following a court decision to ban the applicant from traveling due to criminal charges. The NCB provided sufficient information to support the lawful registration of the passport in INTERPOL’s files. This case also illustrates that to be

⁷ CCF, Decision No. 2024-03, ¶ 14, <https://www.interpol.int/en/Who-we-are/Commission-for-the-Control-of-INTERPOL-s-Files-CCF/CCF-sessions-and-decisions#:~:text=Dates%20of%20upcoming%20CCF%20sessions%20and%20examples%20of> (last visited Oct. 6, 2024).



successful, an applicant's contention of political misuse of INTERPOL's channels must be substantiated with specific, individualized, and concrete evidence.

Decision N°2024-05: Accuracy/Quality, Purpose

Case Summary:

The applicant requested the deletion of data related to a vehicle registered as stolen in INTERPOL's Stolen Motor Vehicles (SMV) database. He claimed that he had legally purchased the vehicle at an auction and had completed all the necessary procedures to register it in his country of residence. However, during the registration process, the vehicle was flagged as stolen by another country's NCB. The applicant argued that the data was inaccurate, as the vehicle had been lawfully acquired before it was reported stolen.

Commission's Finding:

The Commission acknowledged the applicant's claim that the vehicle was legally purchased at auction. However, the NCB that originally reported the vehicle as stolen provided evidence that a criminal case had been opened for its misappropriation. The Commission concluded that the SMV database entry remained valid, as the vehicle was still considered stolen, and the data remained relevant for international police cooperation.⁸

Key Takeaway:

This decision reaffirms the CCF's established practice in handling Stolen Motor Vehicle cases and highlights the **significant difficulties** in challenging data recorded in the SMV database, even when a vehicle has been purchased in good faith and there is **no wrongdoing** by the applicant. The CCF found that data can remain in INTERPOL's files if there is an ongoing investigation or compelling evidence that the vehicle is still considered stolen by the reporting NCB. The decision highlights that INTERPOL is first and foremost an organization concerned with police cooperation, even if that may conflict, in some cases, with individual rights.

⁸ CCF, Decision No. 2024-05, ¶¶ 20-21, <https://www.interpol.int/en/Who-we-are/Commission-for-the-Control-of-INTERPOL-s-Files-CCF/CCF-sessions-and-decisions#:~:text=Dates%20of%20upcoming%20CCF%20sessions%20and%20examples%20of> (last visited Oct. 6, 2024).



Decision N°2024-06: Family Matter, Seriousness, Accuracy/Quality, Article 2

Case Summary:

The applicant, subject to a Red Notice issued for “dilapidation” (misappropriation of funds), requested the deletion of the data, arguing that the case arose from a family dispute related to an inheritance. The applicant contended that the charges were not serious enough to warrant a Red Notice and that the proceedings were inaccurate and lacked respect for fair trial principles. He further argued that the offense should be classified as a misdemeanor rather than a serious crime, and that there were significant inaccuracies in the facts presented in the Red Notice. The NCB confirmed the applicant’s conviction of assets and funds that were entrusted to him as a “guardian of legacy,” and that he had misused a power of attorney that was granted to him. The NCB also provided an expert report concluding that the victims of the alleged crime were owed money.

Commission’s Finding:

The Commission determined that while the applicant was convicted of violating his duties as a legacy guardian, the Red Notice did not meet the standard for a serious ordinary-law crime under Article 83 of the RPD. The Commission found that the case involved a family inheritance dispute, and although the sentence met the minimum six-month threshold, doubts remained about the seriousness of the underlying crime.

The Commission noted that the case against the applicant was referred to a civil court and that the alleged criminal conduct could be punished with a carceral sentence or a fine. Key to the Commission was the fact that that it “remains unclear whether the Applicant is convicted specifically of acting in a fraudulent manner for his personal benefit, or rather of failing to respect his obligations as a legacy guardian...”⁹ The Commission noted a lack of clarity and precision in the facts and criminal charges presented in the notice. The Commission also raised concerns about violations of the applicant’s right to a fair trial, as the proceedings against him were conducted *in absentia* without sufficient notification to the applicant.

Key Takeaway:

This decision emphasizes the CCF’s heightened standard of scrutiny in Red Notice requests in matters involving family disputes. Critically, the case establishes that **even if the minimum threshold for prosecution under Article 83 of the RPD is met**, a case may

⁹ CCF, Decision No. 2024-06, ¶ 25, <https://www.interpol.int/en/Who-we-are/Commission-for-the-Control-of-INTERPOL-s-Files-CCF/CCF-sessions-and-decisions#:~:text=Dates%20of%20upcoming%20CCF%20sessions%20and%20examples%20of> (last visited Oct. 6, 2024).



still fail to qualify as a serious ordinary law crime. Again, the absence of evidence of self-enrichment also played a key role in the Commission's finding as to lack of seriousness of the underlying criminal activity.

The case highlights the need for accurate and clear information in criminal charges, particularly when a Red Notice is issued for crimes with complex or familial origins. The CCF reaffirmed its commitment to **safeguarding the right to a fair trial**, especially in cases where the accused is convicted *in absentia* without proper notification. Practitioners and their clients are well-served by developing their evidence and analysis well-beyond just a simple reading and application of INTERPOL's Rules. In this case, such an approach would have led to maintenance of the Red Notice just because the minimum threshold for detention was met. The CCF has shown that it will take a more nuanced approach and will heed evidence that allows it to look beyond a formalistic application of INTERPOL's Rules.

Conclusion

The CCF's decision excerpts are a valuable tool for practitioners and targets of questionable and unwarranted notices, providing much-needed insight into the thinking behind the Commission's decisions. Though not a court or investigative body, the CCF operates much like other judicial bodies, with a constantly evolving approach. These decisions provide insight into how the CCF applies INTERPOL's rules, offering important guidance for practitioners and applicants alike. The latest cases also remind practitioners of the need to present significant evidence in support of deletion requests. At the same time, the decisions highlight that a NCB's failure to engage with the CCF or provide clear arguments and evidence itself, can lead to the invalidation of the request for cooperation. Other than a limited application for revision, most applicants have "one bite at the apple" when they file a request for deletion before INTERPOL. Given this latest round of precedents, the need for experienced and specialized legal counsel cannot be overstated.