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Mr Vitalie Pîrlog, Chairman of the Commission for the Control of
INTERPOL's Files

President,
Secretary General,
Members of the Executive Committee,
Delegates,
Ladies and Gentlemen,

As Chairman of the Commission for the Control of INTERPOL's Files, I am once again honoured to present the Commission's Activity Report to the General Assembly, which, following the postponement of the 89th General Assembly session, covers the years 2019 and 2020.

As you know, both years were marked by unprecedented challenges to do with the global pandemic, whether in terms of organizing the work or having international travel restrictions.

In that regard, I would first like to highlight how the flexibility of the members of the Commission, as well as the hard work of its Secretariat staff and the support provided by the General Secretariat enabled the Commission to continue carrying out its mission and duties in a complex and changing environment. After holding four sessions in Lyon in 2019, the Commission managed to hold four hybrid sessions (partly in person) in 2020, in accordance with the changing health situation, the national regulations applicable to each Commission member and the arrangements for holding those meetings authorized by INTERPOL, while ensuring that the Commission's written and oral communications were kept completely secure.

The Commission is a data protection authority, and as such, it was absolutely vital that it exercise particular vigilance and caution. Consequently, it paid special attention to maintaining the highest degree of security to avoid any risks of personal data leakage, which, as you can imagine, increased the workload of the Commission.

Thanks to the constant involvement of the members and Secretariat of the Commission, the deadlines for processing requests (laid down in the Statute of the Commission) were only marginally affected by the exceptional situation caused by the pandemic. Similarly, the opinions and recommendations provided by the Commission on new projects and cooperation agreements at the General Secretariat's request, were able to be adopted and sent without delay to the departments concerned.

The Commission's advisory role includes advising the Organization on any project, operation, set of rules, or other matter involving the processing of personal data in the INTERPOL Information System, which it carries out at its own initiative or at the General Secretariat's request.

During 2019 and 2020, in the context of this role, the Commission participated as an observer in the work of the Committee on the Processing of Data, and in particular, gave an opinion and issued recommendations regarding the ongoing reform of INTERPOL's Rules on the Processing of Data (RPD). The Commission's recommendations were largely endorsed by the Committee and were subsequently reflected in the draft amendments to the RPD, which you adopted at the last General Assembly session.

While other reforms are currently being discussed by the Committee on the Processing of Data, the Commission welcomed the initiative of having periodic reviews of the RPD and underlined the importance of doing so, so that the rules on data processing keep up with the latest technological developments. Such reforms should obviously be conducted in such a way as to maintain the effectiveness of police cooperation between States, while taking into account the need to protect personal data and respect human rights. The Commission is always ready to contribute its expertise on the matter, as it has already demonstrated.

Furthermore, and still in the context of its advisory role, the Commission was consulted several times by the Working Group on Governance which had been set up by the Organization to deal with matters of ethics. This was because the Commission had included specific measures in its Operating Rules, as early as 2017 on the independence and impartiality of its members, and then in 2019, a definition of conflicts of interest that could arise from its activities. Although the situation of the members of the Commission - who are appointed for their expertise and serve in an individual capacity, and not as representatives of their countries - is quite different from the situation of the members of INTERPOL's other governing bodies, some general principles and guidelines were shared with the Working Group to enhance its discussions with member countries.

Having focused on improving information for applicants during 2019 and 2020, the Commission also strengthened its communications policy targeting National Central Bureaus (NCBs).

Explanations were regularly provided to NCBs to help them express their position to the Commission. Information on specific topics was also provided - for example by publishing extracts of case law - which were intended not only for applicants but also for NCBs, so that they might be better informed.

Lastly, with the General Secretariat's assistance, we envisage seeking the means and resources required to develop training activities for NCBs or national judicial authorities, all of which is aimed at further improving the processing of requests.

I would like to emphasize here that member countries have strengthened their cooperation with the Commission over the past two years, in particular by diligently responding to its questions, providing more substantial information to uphold their positions, and by being more attentive to meeting the procedural deadlines set by the Commission. It is therefore worth highlighting this positive development, which was achieved despite a period marked by the pandemic and which often had heavy repercussions on the work of national police services.

Since the establishment of the Commission, and particularly since the adoption of its Statute, one issue remains of deep concern, namely, restricting applicants' rights to access data that concern them and that have been processed in the INTERPOL Information System, and the repercussions that these restrictions have on procedural fairness and on the effectiveness of the remedy provided by the Commission. I have already stressed this point at previous General Assembly sessions, but I would now like to reiterate several key points.

Firstly, I would like to say that the Commission fully recognizes the need for certain restrictions requested by NCBs with regard to applicants, particularly to protect ongoing investigations. However, the applicable rules require the source of the data to provide the Commission with case-specific justifications, to illustrate the reasonable and proportional nature of the restrictions, which directly affect a basic right. The Commission does not disclose data concerning an applicant if an NCB objects, but in the absence of specific reasons for the restrictions, the Commission takes into account in its examination of the substance of the case, any potential imbalance that would be detrimental for the applicant. In so doing, the Commission is careful to apply standards similar to those found in national and international case law.

Moreover, under the Statute of the Commission, which was adopted by member countries, the Commission must be able to give reasoned decisions to provide an effective remedy to the subjects of data processed in INTERPOL's files. For that reason, the absolute restrictions systematically requested by some NCBs, which deny the Commission the possibility of even mentioning the existence of data, can directly affect its ability to finish processing a request and can cause delays. We understand that such absolute restrictions requested by NCBs may not reflect their stance, but come from instructions issued by their competent national authorities.

In terms of processing requests, I would like to give you an idea of the number of new requests received by the Requests Chamber over the last two years: for the period 2019-2020, the Commission received 2,740 requests concerning more than 3,000 people, to say nothing of all the requests forwarded to the Commission by the General Secretariat. During the same period, the Commission managed to finish processing 3,165 requests, of which nearly 2,500 led to the adoption of conclusions that the data were compliant with INTERPOL's rules.

For the sake of comparison and to put it into perspective, in September 2017, during my first speech as Chairman of the Commission, I already highlighted the constant increase in the number of requests, which amounted to 847 in 2016. In just a few years, that number has therefore more than doubled.

The main legal issues remain the same as in previous years, namely that to support their complaints, applicants often use arguments based on the application of Articles 2 and 3 of INTERPOL's Constitution.

Before concluding, I would like to remind you that 2021 marks the fifth anniversary of the Statute of the Commission. At INTERPOL's 85th General Assembly session, held in Bali in November 2016, you decided to adopt the Statute of the Commission in order to strengthen its structure, independence, powers and effectiveness.

President, Secretary General, ladies and gentlemen, Executive Committee members and delegates, as you can see, since the Statute of the Commission came into force, the Commission's work has steadily risen in line with the consistent rise in the amount of data processed through INTERPOL channels. The development of new large-scale police projects by the Organization, coupled with the ongoing reform of the Rules on the Processing of Data (RPD), will also certainly have a significant impact on the Commission's workload.

The Commission is ready to fully assume its role and to continue ensuring the implementation of its Statute, and that can only be done with your support and that of the General Secretariat.

If the Commission is an independent body that ensures that the processing of personal data through INTERPOL channels is compliant with the Organization's rules; checking the compliance of data must first and foremost be carried out by the NCBs that are the sources of the data. In fact, according to the RPD, in particular Article 76, NCBs which are the sources of the data represent the first level of checks: it therefore falls to them to ensure the quality of the data provided and their interest for the purposes of international police cooperation. We would therefore urge member countries to take all necessary measures to apply this Article and hopefully, that will lead to a drop in the number of complaints brought before the Commission. We also note that as the administrator of the INTERPOL Information System, the General Secretariat has a key role in monitoring compliance and is required to play its part in full.

That is why I insist on the fact that the Organization can only guarantee the quality and relevance of the data exchanged through it with your full cooperation and that of the General Secretariat, and in that way, protect itself against litigation risks.

Ladies and gentlemen, on behalf of all the members of the Commission, may I reassure you that the Commission is doing all it can to ensure compliance with INTERPOL's rules and to protect the Organization, by striking the right balance between the needs of international police cooperation and individuals' rights.

As you know, the Commission's work is confidential and the General Assembly is not the appropriate forum to discuss individual cases. However, within the scope of the Statute and according to the principle of equity between parties, I am available should delegations wish to discuss general matters relating to the Commission's work.

On behalf of the whole Commission, thank you for your attention.
