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Interpol Red Notices and Diffusions: Powerful — And Dangerous — Tools of Global Law Enforcement

A client, who has been under investigation in a foreign country, asks counsel if it is safe to travel internationally, or if there is a risk of arrest and detention even in countries that are not involved in the matter under investigation. That question implicates a powerful tool of global law enforcement known as a “Red Notice,” and an even more powerful tool called a “Diffusion.” These devices are issued and circulated by and through Interpol, the International Criminal Police Organization. A Red Notice, issued by Interpol at the request of a member country, seeks the arrest of an individual in any of Interpol’s 190 member countries. A Diffusion is a unilateral notice from an Interpol member country, often requesting the arrest of an individual. It is disseminated through Interpol, but lacks the screening that Interpol’s rules require before a Red Notice is issued. Most commonly, Red Notices and Diffusions are enforced at points of entry, although in principle they may be enforced any-

where in a member country. While Red Notices and Diffusions can serve a legitimate law enforcement purpose, they are susceptible to abuse by regimes that use them to oppress political dissenters, as well as by countries that treat civil disputes as criminal matters.

This article sets out the basic principles of Interpol Red Notices and Diffusions, and addresses the practical questions of how to ascertain whether a client is the subject of a Red Notice or Diffusion, and, if so, how to request its cancellation.

I. Interpol

a. Interpol Generally

With 190 member nations, Interpol is the largest international law enforcement agency in the world.¹ Its stated mission is “[p]reventing and fighting crime through enhanced cooperation on police matters.”² It does not employ its own police force.³ Interpol assists national law enforcement agencies in combating transnational crime and terrorism by providing “targeted training, expert investigative support, relevant data and secure communications channels.”⁴ These tools help local police understand international trends in criminal activity, and conduct multinational investigations and operations.⁵

b. Interpol’s Constitution

Interpol’s Constitution sets out Interpol’s objectives and general structure.⁶ Articles 2 and 3 are key provisions. Article 2 states that Interpol aims “[t]o ensure and promote the widest possible mutual assistance between all criminal police authorities within the limits of the laws existing in the different countries and in the spirit of the Universal

BY JACQUES SEMMELMAN AND EMILY SPENCER MUNSON

Declaration of Human Rights[.]”⁷ Article 3 sets forth Interpol’s principle of neutrality, stating that “[i]t is strictly forbidden for the Organization to undertake any intervention or activities of a political, military, religious or racial character.”⁸

c. Structure of Interpol

Interpol’s supreme governing body is the General Assembly, comprised of delegates appointed by each member nation.⁹ The General Assembly meets annually to make decisions relating to policy, resources, finances, working methods and programs.¹⁰ Interpol’s Executive Committee oversees the implementation of decisions made by the General Assembly.¹¹ The Executive Committee is composed of the President, three Vice Presidents and nine Delegates, each from a different member country.¹² The day-to-day operations of Interpol are carried out by the General Secretariat, which is headquartered in Lyon, France, and which operates 24 hours a day, 365 days a year.¹³ The Secretariat also has seven regional offices, and maintains liaison offices at the United Nations in New York and the European Union in Brussels.¹⁴ Former U.S. Treasury Department official Ronald K. Noble, the current Secretary General, is charged with running the General Secretariat.¹⁵

d. National Central Bureaus

Each member nation of Interpol maintains a National Central Bureau (NCB) that acts as a liaison between the nation’s law enforcement agencies and Interpol.¹⁶ NCBs are the “lifeblood” of Interpol, contributing to its criminal databases, and cooperating in cross-border investigations and operations.¹⁷ The NCB for the United States is “INTERPOL Washington,” a joint venture of the Department of Justice and the Department of Homeland Security.¹⁸ Any U.S. law enforcement agency, from the Federal Bureau of Investigation to a local police department, seeking to interact with Interpol must do so through INTERPOL Washington.¹⁹

e. The Commission for the Control of Interpol’s Files

The Commission for the Control of Interpol’s Files (CCF) is an independent monitoring body within Interpol that oversees Interpol’s activities.²⁰ The CCF is composed of five members, each serving a three-year term.²¹ The CCF’s primary functions are (1) monitoring compliance with Interpol’s rules governing the collection and use of personal information; (2)

advising Interpol on projects that involve the processing of personal information; and (3) handling requests for access to Interpol’s files.²² Red Notices and Diffusions fall within the CCF’s purview, as they involve the collection and use of personal information.²³

Interpol is not subject to national legislation aimed at protecting personal privacy, and is generally immune from suit in national courts (including those of the United States).²⁴ Instead, Interpol has a set of rules designed to protect individual rights, and the CCF oversees adherence to those rules.²⁵

NCBs are responsible for ensuring that any information they provide to Interpol’s databases is accurate, relevant and up to date, and that its processing conforms with the Organization’s Constitution, the NCBs’ respective national laws, and international treaties.²⁶ Additionally, the General Secretariat oversees the NCBs to confirm compliance with Interpol’s rules and Constitution.²⁷ The CCF serves as an additional level of compliance oversight, monitoring the General Secretariat’s actions and handling requests from individuals who seek access to the information in Interpol’s databases or who challenge the use or accuracy of that information.²⁸

f. Collection and Use of Personal Information

Interpol has two sets of rules with respect to obtaining and using personal information. The goal of the Rules on the Processing of Data (RPD) is to “exchange a maximum of information of interest for the purposes of international police cooperation,” while maintaining “due observance of the Organization’s political neutrality, independence and mandate, and of th[e] [members’] respective national legislations and international conventions.”²⁹ The Rules on the Control of Information and Access to Interpol’s Files (RCI) establish the authority of the CCF, and allow individuals access to personal data contained in Interpol’s databases.³⁰

II. Red Notices and Diffusions

a. Notices Generally

As an international police organization with a declared vision of “connecting police for a safer world,” Interpol’s primary role is informational.³¹ Interpol Notices facilitate information-sharing and cooperation among police forces of member nations.³² Notices are issued by Interpol’s General Secretariat at the request of a member nation, and are

color-coded based on their purpose.³³ Some notices serve a purely informational function, such as Orange Notices, which “warn of an event, a person, an object or a process representing a serious and imminent threat to public safety.”³⁴ Green Notices “provide warnings and intelligence about persons who have committed criminal offences and are likely to repeat these crimes in other countries.”³⁵ Purple Notices provide (and also seek) information regarding “modi operandi, objects, devices and concealment methods used by criminals.”³⁶ Yellow Notices “help locate missing persons or ... identify persons who are unable to identify themselves.”³⁷

The remaining varieties of notices request information or action from the network of police forces connected by Interpol.³⁸ Blue Notices are issued to “collect additional information about a person’s identity, location or activities in relation to a crime,” while Black Notices request “information on unidentified bodies.”³⁹ Red Notices “seek the location and arrest of wanted persons with a view to extradition or similar lawful action.”⁴⁰

Yellow, Green, Blue and Red Notices are submitted through Interpol’s I-Link system, a data exchange platform that enables NCBs to record and access police information contained in I-24/7, Interpol’s secure global police network.⁴¹

b. Red Notices and Diffusions Generally

Sometimes characterized as an international “wanted poster,”⁴² a Red Notice is a demand by the requesting NCB on all Interpol members to arrest a person wanted for prosecution or to serve a previously imposed sentence.⁴³ A database called Travel Documents Associated With Notices (TDAWN) allows agents at border points to check passport data against Interpol Notices.⁴⁴ If a subject of a Red Notice is located, the country in which the subject has been located shall immediately notify the requesting NCB and the General Secretariat, “subject to limitations deriving from national law and applicable international treaties,” and shall “take all other measures permitted under national law and applicable international treaties, such as provisionally arresting the wanted person or monitoring or restricting his/her movement.”⁴⁵

Due to Fourth Amendment constraints, the United States will not arrest someone solely on the basis of a Red Notice or Diffusion,⁴⁶ although various other countries will do so.⁴⁷ Assuming the requesting country is not hostile to the United States, U.S. agents would notify it

if a subject of a Red Notice was detected entering this country.⁴⁸ This would allow the requesting country to seek provisional arrest with a view to extradition, in accordance with U.S. law.⁴⁹

Red Notices may be “public” or “private.” Public Red Notices are published on Interpol’s website. These notices are accessible to the public under the “Wanted Persons” link on the Interpol homepage.⁵⁰ Private Red Notices are notices that either have not yet been approved by the General Secretariat, or that the requesting nation has asked not be made public on the Interpol website.⁵¹ They are circulated among the police forces of member nations via I-Link.⁵²

Diffusions are a less formal alert mechanism than Red Notices, but can serve a similar function: they can “request the arrest or location of an individual or additional information in relation to a police investigation.”⁵³ Diffusions are published on I-Link by the issuing NCB without any review by the General Secretariat.⁵⁴ Thus, the only entity certifying the accuracy of a Diffusion, and its compliance with Interpol’s Constitution and rules, is the issuing NCB.⁵⁵ Notices (including Red Notices) must be disseminated to the entire Interpol network,⁵⁶ while Diffusions can be selectively distributed to specific NCBs.⁵⁷ Otherwise, Diffusions are treated like Notices — they are included in various databases accessible by local police and border patrol agencies.⁵⁸ In 2012, Interpol issued 8,136 Red Notices and disseminated 20,130 Diffusions.⁵⁹

i. Requirements for Issuance of a Red Notice

The General Secretariat is responsible for “checking the compliance of all notice requests” and “ensuring that published notices continue to comply with the conditions for their publication and are regularly assessed by the National Central Bureau or international entity that requested their publication.”⁶⁰ For issuance of a Red Notice, the offense charged must be a “serious ordinary-law crime,” and cannot raise “controversial issues relating to behavioural or cultural norms,” or “relat[e] to family/private matters.”⁶¹ These phrases are not defined in Interpol’s rules. Offenses “originating from a violation of laws or regulations of an administrative nature or deriving from private disputes” are similarly inadequate to support issuance of a Red Notice “unless the criminal activity is aimed at facilitating a serious crime or is suspected of being connected to organized crime.”⁶² Again, these phrases are not defined in the rules.

In addition, to support the issuance of a Red Notice, a charge must meet a penalty threshold.⁶³ For a Red Notice that seeks a subject for prosecution, the charged conduct must be punishable by “a maximum deprivation of liberty of at least two years or a more serious penalty.”⁶⁴ Where the Red Notice is for a subject being sought to serve an imposed sentence, that sentence must be “at least six months of imprisonment” with “at least six months of the sentence remaining to be served.”⁶⁵

The General Secretariat has the authority to issue a Red Notice in the absence of these requirements, but only if, “following consultation with the requesting National Central Bureau or international entity, it considers that publication of the requested red notice would be of particular importance to international police cooperation.”⁶⁶

A request for issuance of a Red Notice must contain “sufficient identifiers” of the subject, which requires at least one of the following: (1) a photograph and certain additional data (e.g., alias, parent names, further physical description, DNA profile, or fingerprints); or (2) family name, given name, gender, and date of birth (at least year of birth), as well as a physical description, DNA profile, fingerprints, or data contained in identity documents.⁶⁷ Further, a Red Notice may only be issued if the requesting nation has furnished sufficient factual and legal information pertaining to the charges, namely: (1) a summary of the facts of the case, including the time and location of the alleged criminal activity; (2) the criminal charges; (3) the laws covering the offense, including, where possible, the wording of the relevant provision; (4) the maximum penalty, or (in the case of a conviction) the sentence imposed and the portion of the sentence remaining to be served; and (5) reference to a valid arrest warrant or a judicial decision having the same effect, and where possible, a copy of the warrant or decision.⁶⁸

The General Secretariat must “conduct a legal review of all red notices prior to their publication to ensure compliance with INTERPOL’s Constitution and Rules.”⁶⁹ In addition, a Red Notice that no longer meets the required standards of publication must be canceled by the General Secretariat.⁷⁰

ii. The RPD’s Limited Application to Diffusions And Red Notice Requests

The General Secretariat is not

charged with ensuring that Diffusions comply with Interpol’s rules and Constitution.⁷¹ Requests for issuance of Red Notices that are awaiting approval by the General Secretariat are subject in principle to its oversight, but that oversight is severely limited by the operation of I-Link. Because NCBs submit Diffusions and requests for Red Notices directly through I-Link, they are “recorded instantly into the Organization’s central database and immediately accessible to police around the world,”⁷² without authorization or review by the General Secretariat.

c. Ascertaining Whether a Client is the Subject of a Red Notice or Diffusion

i. Public Red Notices

Because public Red Notices are published on Interpol’s website, they are easily accessible.⁷³ If an individual is subject to a public Red Notice, there will be an entry on the “Wanted Persons” list in the individual’s name that includes basic personal information and a photograph.⁷⁴

ii. Private Red Notices And Diffusions

Determining whether an individual is the subject of a private Red Notice or a Diffusion is not as simple. In certain circumstances, a cooperative NCB might be willing to check I-Link on the individual’s behalf. This might be feasible, for example, if the individual has been granted asylum somewhere, in which case that country’s NCB might be willing to assist.⁷⁵ In addition, the domestic law of certain countries might provide a mechanism for seeking such information. INTERPOL Washington has a procedure for submitting requests for records under the Freedom of Information Act.⁷⁶ These requests, however, only extend to INTERPOL Washington’s records, not to records maintained by Interpol.⁷⁷

In unusual cases, the lawyer might ask the potential requesting NCB directly. Of course, if the client is not already the subject of a Red Notice or Diffusion, such an inquiry might trigger an investigation of the client, so this approach requires extreme caution.

Ordinarily, the best option is to submit a request to the CCF for access to the information contained in Interpol’s files.⁷⁸ If counsel already has reason to believe there is an outstanding Red Notice or Diffusion, he or she can skip the informational step and request its cancellation.⁷⁹

d. **Ascertaining Whether a Red Notice or Diffusion Is in Effect, and Seeking Its Cancellation**

i. **Submitting a CCF Request**

Article 9 of the RCI provides that “[a]ny person who so wishes may, freely and free of charge, exercise the right of access to personal information concerning him which has been recorded in Interpol’s files.”⁸⁰ This seemingly broad “right of access” is actually quite limited.⁸¹ Member countries “remain the owners of information they communicate to INTERPOL and must give permission for its disclosure to requesting parties.”⁸² Thus, a subject of a Red Notice or Diffusion has the right to be informed of that fact upon request *unless* the relevant NCB refuses to allow Interpol to provide the disclosure.⁸³

The Operating Rules of the Commission for the Control of Interpol’s Files (the Operating Rules) set forth the procedures the CCF follows in reviewing an individual request for access.⁸⁴ Individuals can request access to information about themselves in Interpol’s databases by submitting a one-page form and supporting documentation to the CCF.⁸⁵ This includes ascertaining whether a Red Notice has been requested or issued, or a Diffusion disseminated.⁸⁶ Applicants may also ask to modify or delete information in the files.⁸⁷ Requests seeking cancellation of a Notice or Diffusion, also called “challenges,” are made using the same form as a request for access.⁸⁸

The CCF reviews each submission to determine, in the first instance, if the request is “admissible.”⁸⁹ A request is admissible if it (1) includes an original, signed letter explaining the purpose of the request; (2) is written in one of the organization’s four official languages (English, French, Spanish, or Arabic); (3) comes from the person it concerns, or from that person’s duly authorized representative or legal representative; and (4) is accompanied by a copy of an identity document for the person who is the subject of the request.⁹⁰ If the request comes from a duly authorized representative of the subject, it must be accompanied by an original power of attorney authorizing access to the information recorded in Interpol’s files.⁹¹ If the request is submitted by a legal representative, it must include a statement to that effect.⁹²

If the CCF determines the request is inadmissible, it must inform the applicant and provide the reasons for its decision.⁹³

Checklist for Challenging an Interpol Red Notice or Diffusion

❖ **Ascertain Whether the Client Is the Subject of a Red Notice or Diffusion**

- Check the “Wanted Persons” list on Interpol’s website for a public Red Notice.
- If not listed, request assistance from a cooperative NCB (if there is one).
- If necessary, submit a request to the CCF for access to information contained in Interpol’s files (see below).
- In unusual circumstances, ask the NCB suspected to have requested a Red Notice or issued a Diffusion to confirm that it has done so.

❖ **Submit a CCF Request**

- Decide whether to ask the CCF to maintain complete confidentiality with respect to the request.
- Complete the form “Request for Access to Interpol’s Databases” available on the Interpol website.
- Provide the following documentation:
 - an original letter, in one of Interpol’s four working languages, signed by the subject of the requested information;
 - a copy of an identity document for the subject; and
 - if submitted by a representative of the subject, an original power of attorney.
- For requests that challenge information in Interpol’s files, provide:
 - detailed reasons for the request; and
 - supporting documentation.
- For requests concerning a minor, also provide:
 - a copy of an identity document for the adult submitting the request; and
 - documents establishing the relationship between the adult submitting the request and the minor.
- If confirmation of receipt is not received within one month, contact the CCF to ensure the submission arrived.

❖ **Seek Cancellation If Notice Was Requested in Error or Is No Longer Applicable**

- Ask the issuing NCB to seek cancellation.
- If the issuing NCB refuses to seek cancellation, submit a request for cancellation to the CCF.
- If possible, ask a supportive NCB to report the matter to the General Secretariat.

❖ **If a Client’s Request Is Denied by the CCF, Request Re-Examination If Grounds Exist**

- The request for re-examination must be based on a newly discovered fact that probably would have led to a different conclusion.

If the request is admissible, the CCF will perform a “detailed assessment” of the request.⁹⁴ The CCF will evaluate compliance with Interpol’s Constitution and rules, which mandate, inter alia, respect for “the basic rights of individuals in conformity with ... the Universal Declaration of Human Rights,”⁹⁵ avoidance of “any intervention ... of a political, military, religious or racial character,”⁹⁶ and compliance with international conventions and domestic law.⁹⁷ If the request involves a Red Notice, the CCF will also assess compliance with Article 83 of the RPD, which prohibits the issuance of Red Notices that raise “controversial issues relating to behavioural or cultural norms,” that “relat[e] to family/private

matters,”⁹⁸ or that are based on offenses “originating from a violation of laws or regulations of an administrative nature or deriving from private disputes.”⁹⁹

Confidentiality can be an important strategic consideration. Interpol represents that requests by individuals are not recorded in its databases, and are not accessible by NCBs.¹⁰⁰ While performing the assessment, however, the CCF can solicit additional information from the requesting person and from the relevant NCB.¹⁰¹ Interpol assures that the NCB will not be contacted if the applicant explicitly requests complete confidentiality.¹⁰² Likewise, if the CCF is “bound to communicate certain items of information to the INTERPOL General Secretariat or to the entities concerned, in order to be able to process the request” it will do so unless explicitly forbidden from such communication by the applicant in his or her request.¹⁰³ Not surprisingly, such a prohibition “may be detrimental to the requesting party, as it restricts the CCF’s ability to successfully process the request.”¹⁰⁴

In some instances, it will not be a secret that a client has been targeted by a particular member nation. In such cases, the fact of the application will probably not need to be kept confidential, but some of the information the client supplies the CCF might not be known to the member nation, and should be kept confidential. Interpol states that, if so requested, the CCF “never shares personal or confidential information with NCBs that is not already known by the NCBs, such as elements of identification or location of the subject.”¹⁰⁵

In other cases, the client might not be sure if he or she is a target, and would want full confidentiality (including as to the fact of the application) to avoid triggering interest where none may exist. In such a case, the need for complete confidentiality might outweigh the risk that the CCF will be unable to process the request. Each case requires its own evaluation.

The rules do not specify the burden of proof the applicant is required to meet in order to have information modified or deleted, or to have a Red Notice or Diffusion canceled. The CCF does not publish the standards it applies and does not promulgate its decisions or the reasoning in individual cases.¹⁰⁶ If the request is rejected in whole or in part, however, the CCF must explain its reasons to the requesting party.¹⁰⁷

There is no right of appeal from a CCF decision,¹⁰⁸ but if the requesting party has “discover[ed] ... a fact which

would probably have led to a different conclusion if that fact had been known at the time the request was processed,” the party can apply for re-examination.¹⁰⁹

Once the CCF has concluded its assessment, it issues its recommendation to the General Secretariat.¹¹⁰ The General Secretariat is not bound by that recommendation, but will typically follow it.¹¹¹ In the event of a disagreement between the General Secretariat and the CCF, the CCF may bring the dispute before the Executive Committee of Interpol.¹¹² This, however, is highly unusual.¹¹³

1. Required Forms and Documents.

The CCF provides a one-page form on its website for requesting access to and deletion of information contained in Interpol’s files.¹¹⁴ The form is also used for requesting cancellation of a Red Notice or Diffusion.¹¹⁵ In addition to basic information about the applicant, the form requires the applicant to set forth the reasons for the request, and to provide supporting documents.¹¹⁶

2. *Basis for Relief.* A request for cancellation of a Red Notice or Diffusion may be based on Interpol’s Constitution and/or the RPD.¹¹⁷ Constitutional arguments can include a violation of Article 2, which identifies Interpol’s goal of promoting police cooperation consistent with the spirit of the Universal Declaration of Human Rights (the Declaration), or of Article 3, which prohibits Interpol’s involvement in matters of a political, military, religious, or racial nature.¹¹⁸

When an individual claims the information contained in Interpol’s files, or a Red Notice issued on the basis of that information, violates Article 3, the CCF applies the “predominance test” to assess the claim.¹¹⁹ Under this test, the CCF evaluates the ordinary criminal law aspects of the case and the Article 3 aspects, determining which predominates.¹²⁰ The CCF will recommend cancellation of a Red Notice, or deletion of information in Interpol’s files, where the Article 3 aspects of the case predominate.¹²¹ In an Article 3 assessment, all relevant information is examined, including the following nonexclusive factors: (1) the nature of the offense, specifically the charges and relevant facts; (2) the status of the individual concerned; (3) the identity of the source of the information; (4) the position taken by a member nation or authorized international entities apart from the source of the information; (5) the obligations under inter-

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the bloodstream must be restricted to psychoactive metabolites in order to avoid absurd results. And in a fourth case, *State v. Whitman*, the court appointed AACJ as *amicus curiae* to argue the case for the defense bar. For more information, contact AACJ’s Executive Director Max Bessler at 480-812-1700 or email defense@aacj.org.

MACDL Creates Advocacy Network

The Massachusetts Association of Criminal Defense Lawyers (MACDL) has created a statewide Witness Advocacy and Representation Network (WARN) designed to provide pro bono legal representation for individuals who are contacted by law enforcement agents for questioning or interrogation. This network, the first of its kind in the United States, will make prompt referral of cases to volunteer local attorneys — an important and crucial step to closing the gap in the provision of legal representation in the criminal justice system. It will address the inherent inequity of the current system wherein only individuals with adequate means are able to protect their rights when confronted by law enforcement agents. WARN has been in operation for less than a month and has already assigned counsel to two witnesses. For more information, contact MACDL’s President Elizabeth A. Lunt at 617-742-6020 or email lunt@zalkindlaw.com. ■

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national law; (6) the implications on Interpol's neutrality; and (7) the general context of the case.¹²²

The General Secretariat maintains a repository of practice on the application of Article 3 that is available to NCBs.¹²³ A cooperative NCB might be willing to provide access to the repository, which could be a useful source of information.

Arguments under the RPD will usually be based on one or more of Articles 5(3), 11, 12, 76 and 83. Article 5(3) provides that information collected by Interpol should be processed with "due observance" of Interpol's political neutrality and relevant national laws and international conventions. Article 11 requires Interpol to use data "with due regard for the law applicable to" the requesting NCB, and to "respect the basic rights" of the subject of the Red Notice or Diffusion, in accordance with Article 2 of Interpol's Constitution and the Declaration. Article 12 provides that data processed by Interpol must be "accurate, relevant, not excessive in relation to their purpose and up to date[.]" Article 76 states that Interpol is not required to issue a Notice if doing so "could prejudice the Organization's image or interests."

Article 83 imposes specific requirements for issuance of a Red Notice, including minimum penalty thresholds for the underlying offense, the provision of personal information sufficient for law enforcement to identify the subject, and restrictions on the use of Red Notices in conjunction with private disputes, family matters, administrative offenses, and violations of cultural or behavioral norms. This Article is frequently ignored, as Red Notices have been issued in connection with mortgage loan defaults and other commercial disputes.¹²⁴ Any such abuses should be contested vigorously before the CCF.

3. *Benny Wenda's Successful Application for Cancellation of a Red Notice.* Although Interpol's website does not provide sample applications, Fair Trials International, a not-for-profit legal organization in the United Kingdom, has submitted a number of CCF requests and has made two of those requests available on its website.¹²⁵ One of these applications, that of Benny Wenda, resulted in the cancellation of a Red Notice.¹²⁶

Wenda is an activist from West Papua, an area of New Guinea that is considered part of Indonesia.¹²⁷ Wenda served as Secretary-General for the tribal assembly representing the West Papuan people, an organization that seeks to

protect the customs and beliefs of native West Papuans legally and peacefully.¹²⁸

In 2002, Wenda was arrested by Indonesian authorities and, after being detained for over two months, was charged with inciting an attack on a police station which resulted in multiple deaths.¹²⁹ Wenda denies culpability, and says he was detained, tortured, and solicited for bribes by the Indonesian judge and prosecutor before escaping and fleeing to the United Kingdom.¹³⁰ The U.K. granted Wenda political asylum.¹³¹

In the U.K., Wenda created the Free West Papua campaign, a nonviolent international movement promoting the independence of West Papua.¹³² His activism required significant international travel, which became nearly impossible when Wenda learned that, at Indonesia's request, Interpol had issued a Red Notice for him in 2011.¹³³ On April 24, 2012, Fair Trials International filed an application on Wenda's behalf with the CCF, seeking to cancel the Red Notice.¹³⁴ In August 2012, Interpol cancelled the Red Notice.¹³⁵ Wenda's application, discussed below, was premised largely on violations of Articles 2 and 3 of Interpol's Constitution.

3a. *Violation of Article 2 — Infringement of The Declaration.* Wenda invoked Article 2 of Interpol's Constitution, which provides that Interpol aims to "ensure and promote the widest possible mutual assistance between all criminal police authorities within the limits of the laws existing in the different countries and in the spirit of the Universal Declaration of Human Rights."¹³⁶ Wenda argued that the Red Notice violated Articles 12 and 19 of the Declaration by causing an "arbitrary interference with [his] privacy, family, home ... [and] correspondence"; by "attack[ing] ... his honour and reputation"; and by violating his "right to freedom of opinion and expression."¹³⁷

Wenda also argued that the Red Notice violated Article 5 of the Declaration by exposing him to the risk of future "torture or ... cruel, inhuman or degrading treatment or punishment" in Indonesia.¹³⁸ Wenda's application detailed the ill-treatment he suffered while detained in Indonesia, and cited reports from Human Rights Watch, Amnesty International and the United Nations, which documented the continuing abuse against West Papuan activists.¹³⁹ Because the Red Notice would assist in returning him to a nation where there was a real risk he would be

subjected to torture or inhuman treatment, Wenda argued that the Red Notice was inconsistent with the "spirit" of the Declaration and thus violated Article 2 of Interpol's Constitution.¹⁴⁰

3b. *Violation of Article 3 — Prohibition on Interventions of a Political, Military, Religious or Racial Character.* Wenda also invoked Article 3 of Interpol's Constitution, which prohibits Interpol from engaging in activities "of a political, military, religious or racial character."¹⁴¹ Wenda argued that the charges against him were politically motivated, citing the abuse he suffered during his pretrial detention; the fact that he was not indicted until two months into his detention; the absence of key witnesses at trial and the admission by the court of written statements without an opportunity for cross-examination; and the solicitation to bribe the judge and prosecutor.¹⁴² Wenda noted that the U.K. would have denied his request for asylum had there been sufficient evidence he was guilty of the crimes charged.¹⁴³

Wenda also argued that the real objective of the Red Notice was to impair his ability to travel, and thereby eliminate his ability to engage in political activism outside the U.K., and that this was a politically motivated abuse of Interpol's notice system.¹⁴⁴

3c. *Compliance With Obligations of Domestic And International Law.* Although the RPD was not yet in effect at the time of Wenda's application, Wenda made an argument that could now be made under Article 5(3), which requires that member nations process information in Interpol's databases "with due observance of ... their respective national legislations and international conventions to which they are parties."¹⁴⁵ Wenda argued that his trial failed to comply with international conventions to which Indonesia was a party.¹⁴⁶

Wenda's application was granted, but the CCF did not reveal which of his arguments it considered most effective. Nevertheless, the Wenda application provides a useful example of a successful challenge to a Red Notice.

3d. *Prejudice to Interpol's Image and Interests.* Interpol has been criticized for its willingness to assist nations that have questionable human rights records or a history of abusing the Red Notice system.¹⁴⁷ In a suitable case, Article 76 of the RPD enables counsel to

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argue that Interpol is prejudicing its image and interests by allowing a member nation with a poor human rights record to maintain a Red Notice or Diffusion against the client.¹⁴⁸

4. Timeline for CCF Challenge.

There is no published timeline for deciding a request for information or a challenge to information contained in Interpol's files. The CCF's Operating Rules state that the CCF processes requests in the order received, reserving the right to "decide to give priority to a particular request."¹⁴⁹ The CCF is required to acknowledge receipt of a request within one month of its submission,¹⁵⁰ and, as a threshold matter, the CCF Secretariat must determine whether the request is admissible.¹⁵¹ If it is, the CCF Secretariat makes a "detailed assessment of the request by reference to the Organization's Rules" and submits a summary of the case to a CCF session for consideration and recommendations.¹⁵² The CCF, however, meets only three times a year.¹⁵³ Thus, depending on the number of requests,¹⁵⁴ it could be months before the CCF Secretariat makes an admissibility decision, and more months before the CCF evaluates the merits of the request.

Within one month of its determination, the CCF is required to send the General Secretariat a report containing its recommendations.¹⁵⁵ The General Secretariat then has one month to reject those recommendations before the report becomes final.¹⁵⁶

Anecdotal evidence, gathered from well-publicized cases involving requests for Red Notice cancellation, provides further insight into the timeline of a CCF request. These cases, however, might not be fully representative, as most applications do not receive the kind of media attention these cases received. It appears that publicity and political support can have an effect on Interpol.

4a. Mohamed Ali Harrath. Mohamed Ali Harrath, a political dissident who endured imprisonment and torture for campaigning against President Ben Ali's regime in Tunisia, became the subject of a Red Notice in 1992.¹⁵⁷ He fled to the United Kingdom, where he lived in exile until his arrest in South Africa in January 2010 based upon the Red Notice.¹⁵⁸ Extradition proceedings were instituted, but after the Tunisian government failed to provide evidence in support of the charges, the South African court dismissed the case.¹⁵⁹ Harrath then

announced that his lawyers would file a request with the CCF to have the Red Notice canceled.¹⁶⁰ About one year later, Interpol canceled the Red Notice.¹⁶¹ In its communication with Harrath, Interpol stated that "after re-examining all the information in the file," it "considered that the proceedings against [him] were primarily political in nature."¹⁶² The Red Notice had been in effect for 20 years.

4b. Petr Silaev. For Russian activist Petr Silaev, the CCF challenge process took about five months, but was unsuccessful. In July 2010, Silaev participated in a demonstration protesting construction of a highway through the Khimki forests near Moscow.¹⁶³ After seeing his fellow protestors arrested by Russian police, Silaev fled in April 2012, and was granted asylum in Finland.¹⁶⁴ Russia circulated a Diffusion requesting Silaev's arrest, and in August 2012 Spain detained Silaev.¹⁶⁵ Spain, however, refused to extradite him, concluding that the Russian charges were politically motivated.¹⁶⁶ Nevertheless, the Diffusion remained in effect.¹⁶⁷ On May 20, 2013, Fair Trials International filed a request with the CCF to have the Diffusion canceled and information in Interpol's files regarding Silaev deleted.¹⁶⁸ On Oct. 25,

2013, Interpol denied the request, stating that “there is no reason to believe that the retention of information [relating to Silaev] in INTERPOL’s files would not be in compliance with INTERPOL’s rules.”¹⁶⁹

4c. William Browder. William Browder, a British investment banker, became the subject of a Blue Notice in May 2013 after campaigning against human rights abuses by the Russian government.¹⁷⁰ Although Blue Notices (which seek information about the identity, location, or activities of an individual in relation to a crime) differ from Red Notices, the procedure for seeking their cancellation is identical.¹⁷¹ Interpol canceled the Blue Notice within one month of Browder’s request.¹⁷²

Browder had become a human rights activist following the death of his accountant, Sergei Magnitsky, in a Russian prison.¹⁷³ Magnitsky had been arrested after exposing a corruption scheme by the Russian government.¹⁷⁴ Browder became a proponent of a bill, the U.S. Magnitsky Law, which imposes

financial and visa-related penalties on Russian citizens who have committed human rights violations.

Browder was already well known before his dispute with Russia. The high-profile nature of the dispute, however, was likely a factor in Interpol’s decision to cancel the Blue Notice within one month of his request for its cancellation.¹⁷⁵ Interpol released a rare public statement about its decision, explaining that the CCF had “concluded ... the case was of a predominantly political nature.”¹⁷⁶ Later, when the Russian Federation sought the issuance of a Red Notice against Browder, Interpol again responded publicly, announcing its refusal to “be used by the Russian Federation to seek the arrest of Mr. William Browder.”¹⁷⁷

ii. Seeking Relief From the NCB That Requested the Red Notice or Diffusion

There are other potential avenues for challenging a Red Notice or Diffusion. If the client has been acquitted, has served his or her sentence, or

believes the Red Notice or Diffusion was simply requested in error, the most direct route for its cancellation is through the NCB that applied for it.¹⁷⁸ The requesting NCB must withdraw its request and ask the General Secretariat to cancel the Notice immediately when: (1) the purpose of the request has been achieved; (2) the alert is linked to and dependent upon another request whose purpose has been achieved; (3) the NCB no longer wishes to maintain the request; or (4) the notice no longer meets the conditions for publication.¹⁷⁹ NCBs can seek cancellation of requested notices at any time, and should do so when the subject of the notice has served his or her sentence or has been acquitted.¹⁸⁰ If the NCB refuses to withdraw its request and ask for cancellation, the attorney should submit a request for cancellation to the CCF, supported by documentation showing that cancellation is required.

If the underlying arrest warrant is based on inaccurate information, or is otherwise susceptible to challenge in the issuing country, counsel should work

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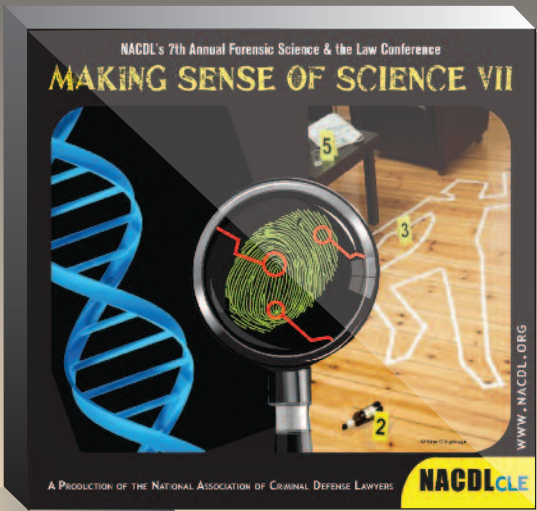
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with local counsel to challenge the arrest warrant in order to have it withdrawn or vacated. In turn, this would require cancellation of the Red Notice or Diffusion based on the arrest warrant.¹⁸¹

iii. Working With a Supportive NCB to Cancel a Red Notice Or Diffusion

Under certain circumstances, the client's most powerful ally might be a supportive NCB. For example, if the client has been granted asylum, counsel might ask the asylum country's NCB to help challenge the Red Notice or Diffusion.

Pursuant to Articles 24, 25 and 135 of the RPD, the General Secretariat may delete information in its databases, including cancelling Red Notices or Diffusions, based on data obtained from another NCB.¹⁸² A supportive NCB can report a defect in the information used to support the Red Notice or Diffusion, identify any impropriety in the charges or the prosecution, or otherwise question compliance with Interpol's Constitution and rules.¹⁸³ The General Secretariat is charged with ensuring that disputes between NCBs are solved by "concerted consultation."¹⁸⁴ If that fails, the matter is referred to the Executive Committee.¹⁸⁵ If the Executive

Committee cannot resolve the issue, it is submitted to the General Assembly.¹⁸⁶ While the dispute is pending, the supportive NCB can request that the General Secretariat apply interim measures to prevent the Red Notice or Diffusion from being circulated among member nations or published on Interpol's website.¹⁸⁷

Conclusion

A client might have good reason to be concerned about international travel, as many countries will arrest and detain the subject of a Red Notice or Diffusion. There are steps that can be taken to try to ascertain whether the client is the subject of a Red Notice or Diffusion, and, if so, to try to have it canceled. Nevertheless, the challenges are substantial.

Notes

1. *Overview*, INTERPOL, <http://www.interpol.int/About-INTERPOL/Overview> (last visited May 1, 2014).
2. *Vision and mission*, INTERPOL, <http://www.interpol.int/About-INTERPOL/Vision-and-mission> (last visited May 1, 2014).
3. *See INTERPOL FAQs*, INTERPOL, <http://www.interpol.int/FAQs> (last visited May 1, 2014).
4. *See Overview*, *supra* note 1.
5. *Id.*
6. *The Constitution*, INTERPOL, <http://www.interpol.int/About-INTERPOL/Legal-materials/The-Constitution> (last visited May 1, 2014).
7. *Interpol Constitution and General Regulations*, INTERPOL (Oct. 15, 2008), art. 2, *available at* <http://www.interpol.int/Media/Files/Legal-material/Reference-Documents/Constitution-and-General-Regulations> (internal quotation marks omitted).
8. *Id.* at art. 3.
9. *Structure and governance*, INTERPOL, <http://www.interpol.int/About-INTERPOL/Structure-and-governance> (last visited May 1, 2014).
10. *Id.*
11. *Id.*
12. *Executive Committee*, INTERPOL, <http://www.interpol.int/About-INTERPOL/Structure-and-governance/Executive-Committee> (last visited May 1, 2014).
13. *Id.*
14. *General Secretariat*, INTERPOL, <http://www.interpol.int/About-INTERPOL/Structure-and-governance/General-Secretariat> (last visited May 1, 2014).
15. *Id.*
16. *National Central Bureaus*, INTERPOL,

<http://www.interpol.int/About-INTERPOL/Structure-and-governance/National-Central-Bureaus> (last visited May 1, 2014).

17. *Id.*

18. *About INTERPOL Washington*, THE UNITED STATES DEPARTMENT OF JUSTICE, <http://www.justice.gov/interpol-washington/about.html> (last visited May 1, 2014).

19. *See id.*

20. *Commission for the Control of INTERPOL's Files*, INTERPOL, <http://www.interpol.int/About-INTERPOL/Structure-and-governance/Commission-for-the-Control-of-INTERPOL's-Files> (last visited May 1, 2014).

21. *See INTERPOL's Rules on the Control of Information and Access to INTERPOL's Files*, INTERPOL (Feb. 15, 2010), at arts. 2–3, *available at* <http://www.interpol.int/Media/Files/Legal-material/Reference-Documents/Rules-on-the-Control-of-Information-and-access-to-INTERPOL's-Files-RCI>.

22. *Id.* at art. 1.

23. *See INTERPOL's Rules on the Processing of Data*, INTERPOL (Mar. 14, 2013), art. 18, *available at* <http://www.interpol.int/Media/Files/Legal-material/Reference-Documents/INTERPOL's-Rules-on-the-Processing-of-Data>.

24. *See Compliance with the rules*, INTERPOL, <http://www.interpol.int/About-INTERPOL/Legal-materials/Compliance-with-the-rules> (last visited May 1, 2014); *see also* Mario Savino, *Global Administrative Law Meets 'Soft' Powers: The Uncomfortable Case of Interpol Red Notices*, 43 N.Y.U. J. INT'L L. & POL. 263, 272 & n.22 (2011); Catherine Heard & Alex Tinsley, *The Power of the Interpol Red Notice*, 28 No. 8 INT'L ENFORCEMENT L. REV. 299 (2012). By Executive Order dated June 16, 1983, President Ronald Reagan granted Interpol immunity from suit in the United States. *See* Exec. Order No. 12425, 48 Fed. Reg. 28069 (June 16, 1983).

25. *See Compliance with the rules*, *supra* note 24.

26. *See INTERPOL's Rules on the Processing of Data*, *supra* note 23, at arts. 11–12.

27. *Id.* at arts. 10(4), 12(3).

28. *See Compliance with the rules*, *supra* note 24.

29. *INTERPOL's Rules on the Processing of Data*, *supra* note 23, at art. 5(3).

30. *See INTERPOL's Rules on the Control of Information and Access to INTERPOL's Files*, *supra* note 21.

31. *See Overview*, *supra* note 1.

32. *Notices*, INTERPOL, <http://www.interpol.int/INTERPOL-expertise/Notices> (last visited May 1, 2014).

33. *Id.*

34. *Id.*

35. *Id.*

36. *Id.*



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37. *Id.*

38. *Id.*

39. *Id.*

40. *Id.*

41. See *Data exchange*, INTERPOL, <http://www.interpol.int/INTERPOL-expertise/Data-exchange/l-link> (last visited May 1, 2014).

42. See *Interpol: Julian Assange 'Red Notice' Issued*, THE HUFFINGTON POST (Nov. 30, 2010), available at http://www.huffingtonpost.com/2010/11/30/interpol-julian-assange-r_n_790157.html.

43. See *INTERPOL's Rules on the Processing of Data*, *supra* note 23, at art. 82.

44. *Annual Report 2012*, INTERPOL, at 13, available at http://www.interpol.int/content/download/20552/185413/version/5/file/Annual%20Report%202012_EN_i.pdf.

45. See *INTERPOL's Rules on the Processing of Data*, *supra* note 23, at art. 87(a).

46. See *Interpol Washington Frequently Asked Questions*, UNITED STATES DEPARTMENT OF JUSTICE, <http://www.justice.gov/interpol-washington/faqs.html> (last visited May 1, 2014).

47. See, e.g., Catherine Heard & Alex Tinsley, *supra* note 24, at 299.

48. See *Audit Report 09-35*, UNITED STATES DEPARTMENT OF JUSTICE OFFICE OF THE INSPECTOR GENERAL AUDIT DIVISION (Sep. 2009), at xiii, available at <http://www.justice.gov/oig/>

[reports/plus/a0935/final.pdf](#).

49. See 18 U.S.C. § 3184 (2012).

50. See INTERPOL, <http://www.interpol.int/en> (last visited May 1, 2014).

51. See *FAQs*, INTERPOL, <http://www.interpol.int/FAQs> (last visited May 1, 2014).

52. See *Data exchange*, *supra* note 41.

53. See *Notices*, *supra* note 32.

54. See *Data exchange*, *supra* note 41; see also *Notices*, *supra* note 32.

55. See *INTERPOL's Rules on the Processing of Data*, *supra* note 23, at art. 99(2).

56. See *id.* at art. 99(3).

57. See *id.*; see also *Notices*, *supra* note 32.

58. See *Audit Report 09-35*, *supra* note 48, at xiii, xvi.

59. *Annual Report 2012*, *supra* note 44, at 32.

60. See *INTERPOL's Rules on the Processing of Data*, *supra* note 23, at art. 73.

61. *Id.* at art. 83(1)(a).

62. *Id.*

63. *Id.*

64. *Id.*

65. *Id.*

66. *Id.* at art. 83(1)(b).

67. *Id.* at art. 83(2)(a).

68. *Id.* at art. 83(2)(b).

69. *Id.* at art. 86.

70. *Id.* at art. 81(c).

71. *Id.* at arts. 97-100.

72. See *Data exchange*, *supra* note 41.

73. See INTERPOL, *supra* note 50.

74. See, e.g., *Pashchenko, Denys*, INTERPOL, <http://www.interpol.int/notice/search/wanted/2014-5929> (last visited May 1, 2014).

75. See Catherine Heard & Alex Tinsley, *supra* note 24, at 299.

76. *Make a FOIA Request to DOJ*, UNITED STATES DEPARTMENT OF JUSTICE, <http://www.justice.gov/oip/foia-request.html> (last visited May 1, 2014); see also *Interpol Washington FOIA*, UNITED STATES DEPARTMENT OF JUSTICE, <http://www.justice.gov/interpol-washington/foia.html> (last visited May 1, 2014).

77. *INTERPOL Washington FOIA*, *supra* note 76.

78. The CCF is responsible for guaranteeing the right of individuals to access personal information contained in Interpol's files. See *INTERPOL's Rules on the Processing of Data*, *supra* note 23, at art. 18; see also *Access to INTERPOL's Files*, INTERPOL, <http://www.interpol.int/About-INTERPOL/Structure-and-governance/CCF/Access-to-INTERPOL's-files> (last visited May 1, 2014).

79. *CCIF Application-Benny Wenda*, FAIR TRIALS INTERNATIONAL (Apr. 24, 2010), at 1, available at http://www.fairtrials.org/documents/CCIF_Application_-_Benny_Wenda.pdf ("The Wenda Red Notice was removed from the public website on or around 20 April 2012. However, it is assumed that it remains

a live notice on the restricted network.”).

80. *INTERPOL's Rules on the Control of Information and Access to INTERPOL's Files*, *supra* note 21.

81. See *Access to INTERPOL's files*, *supra* note 78.

82. *Id.* The rule does not apply when the requesting party proves he or she already knows the information exists in Interpol's files or the information has become public. *Id.*

83. See *id.* In his speech at the 82nd Session of Interpol's General Assembly in October 2013, current Chairman of the CCF Billy Hawkes indicated that cooperation by NCBs with individual requests is “forthcoming” in most cases and that “[w]here NCBs do not cooperate, the Commission's approach is to recommend at least blocking, and often deletion, of the information.” Billy Hawkes, Chairman, Commission for the Control of Interpol's Files, Presentation of the Annual Report of the CCF to General Assembly at the 82nd Session (October 2013), at 3, (transcript available at <http://www.interpol.int/content/download/21979/206899/version/1/file/GA2013-Speech%20delivered%20by%20Mr%20Hawkes.pdf>).

84. See *Operating Rules of the Commission for the Control of Interpol's Files*, INTERPOL (Oct. 31, 2008), art. 2, available at <http://www.interpol.int/Media/Files/CCF/Documents/Operating-Rules>.

85. See *Access to INTERPOL's Files*, *supra* note 78.

86. See *Interpol, Red Notices and Diffusions*, FAIR TRIALS INTERNATIONAL, at 8 (September 2013), available at <http://www.fairtrials.org/wp-content/uploads/Fair-Trials-International-INTERPOL-Note-of-Advice.pdf> (providing language from a sample CCF response that states: “The Commission has been authorised by the National Central Bureau of [country] to inform you that you are wanted by virtue of an arrest warrant dated [date] issued by [the relevant court]. This arrest warrant is the basis for a [Diffusion / Red Notice] issued against you.”).

87. See *Request for Access to INTERPOL's Databases*, INTERPOL, available at <http://www.interpol.int/Media/Files/CCF/Documents/Form-for-request-for-access-to-INTERPOL's-databases> (last visited May 1, 2013).

88. See *CCF FAQs*, INTERPOL, <http://www.interpol.int/About-INTERPOL/Structure-and-governance/CCF/FAQs> (last visited May 1, 2014).

89. *Operating Rules of the Commission for the Control of Interpol's Files*, *supra* note 84, at art. 10.

90. See *id.*

91. *Id.*

92. *Id.*

93. *Id.*

94. See *CCF FAQs*, *supra* note 88.

95. *Interpol Constitution and General Regulations*, *supra* note 7, at art. 2.

96. *Id.* at art. 3.

97. See *INTERPOL's Rules on the Processing of Data*, *supra* note 23, at art. 11(1).

98. See *id.* at art. 83(1)(a).

99. *Id.*

100. See *Access to INTERPOL's Files*, *supra* note 78; see also *Operating Rules of the Commission for the Control of Interpol's Files*, *supra* note 84.

101. See *Operating Rules of the Commission for the Control of Interpol's Files*, *supra* note 84, at art. 20.

102. *Id.*

103. *Id.*

104. *CCF FAQs*, *supra* note 88.

105. See *CCF FAQs*, *supra* note 88.

106. *Id.*

107. See *Operating Rules of the Commission for the Control of Interpol's Files*, *supra* note 84, at art. 13(2).

108. See *CCF FAQs*, *supra* note 88.

109. *Operating Rules of the Commission for the Control of Interpol's Files*, *supra* note 84, at art. 19(1).

110. See *id.* at arts. 41(1)–(2).

111. See *id.* at arts. 41(3), 43(1); see also *Rules on the Control of Information and Access to INTERPOL's Files*, *supra* note 21, at art. 6(b).

112. *Id.*

113. See *id.*; see also *Annual Activity Report of the CCF for 2010*, INTERPOL (Nov. 2011), at § 7.2.1, available at <http://www.interpol.int/content/download/13104/91464/version/4/file/ccf2010.pdf>.

114. *Access to INTERPOL's Files*, *supra* note 78.

115. See *CCF FAQs*, *supra* note 88; see also *Request for Access to INTERPOL's Databases*, *supra* note 88; *CCIF Application-Benny Wenda*, *supra* note 79.

116. See *Request for Access to INTERPOL's Databases*, *supra* note 88.

117. See *CCF FAQs*, *supra* note 88.

118. *Id.*; see also *CCIF Application-Benny Wenda*, *supra* note 79.

119. See *CCF FAQs*, *supra* note 88.

120. *Id.*

121. See *id.*; see also, e.g., *INTERPOL statement following decision by independent Commission for the Control of INTERPOL's Files*, INTERPOL (May 24, 2013), available at <http://www.interpol.int/News-and-media/News-media-releases/2013/PR063>.

122. See *INTERPOL's Rules on the Processing of Data*, *supra* note 23, at art. 34(3).

123. See *id.* at art. 34(3).

124. See, e.g., *Rachel Baines*, FAIR TRIALS INTERNATIONAL, <http://www.fairtrials.org/wp-content/uploads/Rachel-Baines.pdf> (last

visited May 1, 2014).

125. *Legal Interventions*, FAIR TRIALS INTERNATIONAL, <http://www.fairtrials.org/publications/legal-interventions/> (last visited May 1, 2014) (follow hyperlinks for “Benny Wenda CCIF application” and “Petr Silaev CCIF application”).

126. See *Benny Wenda Has Abusive Red Notice Removed*, FAIR TRIALS INTERNATIONAL, <http://www.fairtrials.org/press/benny-wenda-has-abusive-red-notice-removed/> (last visited May 1, 2014).

127. *Spotlight Benny Wenda*, FAIR TRIALS INTERNATIONAL, at 1 (2012), http://www.fairtrials.org/documents/Benny_Wenda_spotlight.pdf.

128. *Id.*

129. *CCIF Application-Benny Wenda*, *supra* note 79, at 1; see also Ian Johnston, *Interpol Faces Legal Threat for Helping Oppressive Regimes Hunt Dissidents*, WORLD NEWS NBC (Jan. 23, 2012), available at http://worldnews.nbcnews.com/_news/2012/01/23/10167327-interpol-faces-legal-threat-for-helping-oppressive-regimes-hunt-dissidents?lite.

130. See Ian Johnston, *supra* note 126.

131. See *Spotlight Benny Wenda*, *supra* note 124, at 2.

132. *Id.*

133. *Id.*; see also *CCIF Application-Benny Wenda*, *supra* note 79, at 7.

134. See *CCIF Application-Benny Wenda*, *supra* note 79, at 1.

135. Leah Hyslop, *Benny Wenda Removed From Interpol 'Wanted' List*, THE TELEGRAPH (Aug. 7, 2012), available at <http://www.telegraph.co.uk/expat/expatnews/9458223/Benny-Wenda-removed-from-Interpol-wanted-list.html>.

136. *Interpol Constitution and General Regulations*, *supra* note 7, at art. 2.

137. See *CCIF Application-Benny Wenda*, *supra* note 79, at 6–7; see also *Universal Declaration of Human Rights*, G.A. Res. 217 (III) A, U.N. Doc. A/RES/217(III) (Dec. 10, 1948), arts. 12, 19.

138. See *CCIF Application-Benny Wenda*, *supra* note 79, at 7–8; see also *The Universal Declaration of Human Rights*, *supra* note 134, at art. 5.

139. *CCIF Application-Benny Wenda*, *supra* note 79, at 7, 10.

140. *Id.* at 7.

141. *Interpol Constitution and General Regulations*, *supra* note 7, at art. 3.

142. *CCIF Application-Benny Wenda*, *supra* note 79, at 3.

143. *Id.* at 4–5.

144. *Id.* at 5–6.

145. See *INTERPOL's Rules on the Processing of Data*, *supra* note 23, at art. 5(3).

146. *CCIF Application-Benny Wenda*, *supra* note 79, at 9.

147. See *Rogue States: Cross-Border*



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Policing Can Be Political, THE ECONOMIST (Nov. 16, 2013), available at <http://www.economist.com/news/international/21589901-cross-border-policing-can-be-political-rogue-states>; Owen Bowcott, *Interpol Accused of Failing to Scrutinize Red Notice Requests*, THE GUARDIAN (Nov. 27, 2013), available at <http://www.theguardian.com/uk-news/2013/nov/27/interpol-accused-red-notice-requests>; see also Peter Osborne, *Is Interpol Fighting for Truth and Justice, or Helping the Villains?*, THE TELEGRAPH (May 22, 2013), available at <http://www.telegraph.co.uk/news/uknews/law-and-order/10073483/Is-Interpol-fighting-for-truth-and-justice-or-helping-the-villains.html>; Libby Lewis, *Are Some Nations Abusing Interpol?*, CNN (July 18, 2011), available at <http://www.cnn.com/2011/WORLD/europe>

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149. *Operating Rules of the Commission for the Control of Interpol's Files*, *supra* note 84, at art. 3.

150. *Id.* at art. 6(1).

151. *Id.* at art. 7.

152. *CCF FAQs*, *supra* note 88.

153. *Operating Rules of the Commission for the Control of Interpol's Files*, *supra* note 84, at art. 36(1).

154. According to the CCF Annual Activity Report for 2011, applications have increased by approximately 124 percent (from 115 to 258) since 2005. *Annual Activity Report of the CCF for 2011*, INTERPOL (Nov. 2011), at § 7.4.2, available at <http://www.interpol.int/content/download/19070/169143/version/1/file/ccf2011.pdf>.

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156. *Id.* at art. 41(5).

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158. Peter Osborne, *The Terrorist Who Wasn't*, NEW STATESMAN (Jan. 30, 2012), available at <http://www.newstatesman.com/africa/2012/01/ali-harrath-interpol-tunisian>.

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161. Osborne, *The Terrorist Who Wasn't*, *supra* note 158.

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165. See *Silaev Application to CCIF*, FAIR TRIALS INTERNATIONAL (May 20, 2013), at 7, available at <http://www.fairtrials.org/wp-content/uploads/Silaev-Application-to-CCF.pdf>.

166. *Id.* at 8.

167. *Id.*

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169. *Petr Silaev*, FAIR TRIALS INTERNATIONAL, <http://www.fairtrials.org/cases/pe-tr-silaev/> (last visited May 1, 2014). Fair Trials International has sought a reasoned decision from Interpol regarding its rejection of Silaev's CCF application and disclosure of

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180. See Michelle A. Estlund, *Red Notice Removal by the Requesting Country: The Quickest Resolution of All*, REDNOTICE LAWJOURNAL.COM (Sep. 27, 2012), available at <http://www.rednoticelawjournal.com/red-notice-challenges/red-notice-removal-by-the-requesting-country-the-quickest-resolution-of-all/>.

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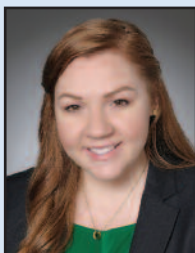
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