

REVIEW OF THE CCF STATUTE

The CCF plays a vital role in protecting INTERPOL's systems from misuse and safeguarding its immunity. The European Criminal Bar Association and Lawyers Against Transnational Repression make these submissions jointly. We welcome the opportunity to contribute to the consultation on the review of the Statute of the Commission for the Control of INTERPOL's Files (CCF).

1 Topic 1: Experts (Article 22 of the CCF Statute)

Article 22 of the CCF Statute gives the possibility for the CCF to entrust any individual or body with recognized expertise with the task of providing expert advice on specific topics or questions relevant to its work. Within this framework, the CPD will discuss a proposal to have a pool or list of experts whom the CCF could approach to provide specialized expertise on a specific technical or legal topic or question.

- 1.1 We are grateful for the invitation to comment on the proposal concerning the role of external experts, and we appreciate that this initiative may be motivated by a desire to enhance the CCF's effectiveness in handling increasingly complex legal and technical issues.
- 1.2 The proposal, however, does not explain clearly what role these external experts would have. It could, for example, involve preparing targeted reports on legal or human rights issues, providing technical input in specialised areas such as data protection, artificial intelligence, or regional legal standards, advising on systemic or procedural matters, or even reviewing the merits of individual complaints. Each of these models would carry very different implications for the CCF's independence and functioning. As set out in further detail below, only expert input directed at general or systemic issues, within the Advisory Chamber's remit, would be appropriate. Article 22 of the current Statute already permits the CCF to consult experts on a case-by-case basis where needed. This existing mechanism is sufficient to address occasional needs for technical or legal input without compromising the Commission's autonomy or introducing new procedural risks.
- 1.3 To help clarify our position, we divide our comments into two parts:
 - Expert input to support systemic or normative work of the Advisory Chamber; and
 - Expert involvement in the adjudication of individual complaints before the Requests Chamber.

1.3.1 Expert input to support systemic or normative work of the Advisory Chamber

- 1.3.1.1 Limited and strictly non-binding expert input to assist the Advisory Chamber in its normative or systemic work could be helpful. This might include advice on technical developments, international standards, or procedural innovations that could support the CCF's broader objectives. We would support the Advisory Chamber's use of such input, provided that it is done transparently and with appropriate

safeguards. Experts could help to identify patterns of concern or inform procedural improvements.

1.3.1.2 Any such use of experts must also be governed by clear procedural safeguards. These should include:

- transparency in the way in which experts are selected, including objective criteria for appointment and rotation;
- diversity of expertise and representation, to avoid a narrow or uniform pool of voices;
- a clear distinction between binding decisions (reserved to the CCF) and non-binding advice (provided by experts);
- any expert input used by the Advisory Chamber should be documented, and parties should be informed where generic expert advice to the Advisory Chamber is to be applied in an individual case being considered by the Requests Chamber, with opportunities to raise concerns if systemic findings may impact ongoing or future cases;
- clear rules to avoid conflicts of interest or political influence, particularly where experts have current or former affiliations (direct or indirect) with member state authorities whose practices may be the subject of systemic review, or other member states closely affiliated with such member state authorities.

1.3.1.3 Without these safeguards, the use of experts by the Advisory Chamber could give rise to legitimate concerns about impartiality and due process. It could also compound existing concerns around disclosure and transparency in relation to the CCF.

1.3.2 Expert involvement in the adjudication of individual complaints before the Requests Chamber

1.3.2.1 We understand that the use of external experts under this category may appear, at first glance, to offer a practical solution to the growing volume and complexity of individual complaints before the CCF. However, any move to involve external experts in the adjudication of individual cases, whether through formal advice, informal influence, or parallel review raises serious concerns in terms of institutional integrity, procedural clarity, and fairness.

1.3.2.2 The CCF's legitimacy rests on the independence of its Requests Chamber. That independence is not only formal; it underpins the trust that individuals, member countries, and international observers place in the process. Introducing external experts into the determination of

individual requests risks blurring the boundaries of responsibility and weakening confidence in the impartiality of outcomes. It would also threaten INTERPOL's immunity as the CCF would no longer provide effective judicial protection for applicants' rights in accordance with guarantees of procedural fairness¹ and would not be providing a mechanism for applicants effectively to protect their human rights.²

- 1.3.2.3 Responsibility for deciding individual complaints must remain solely with the Requests Chamber. That is a structural safeguard designed to ensure consistency, legal rigour, and equal treatment. Even limited involvement by external actors (particularly those not subject to the same accountability mechanisms) could create uncertainty for applicants and NCBs alike about how decisions are reached and by whom. The institutional robustness and independence of the CCF has been one of the principal reasons why INTERPOL has recently been able to withstand efforts to improperly influence or circumvent its safeguards.
- 1.3.2.4 Furthermore, any parallel structure involving external experts would introduce procedural complexity. It would be difficult to justify, both practically and legally, how such a system would interact with existing protections, disclosure obligations, or appeal rights. Rather than simplifying or accelerating the process, it may in fact lead to greater delays, disputes over procedural rights, and diminished clarity in decision-making.
- 1.3.2.5 We recognise that concerns around efficiency and backlogs are well founded. But the solution lies in strengthening the CCF itself - an institution that already possesses the necessary mandate, legal framework, and institutional knowledge to perform this role effectively, if properly supported. This means sustained investment in its internal capacity, that is: more caseworkers, better training, dedicated technical support, and sufficient funding to ensure that Commissioners can meet more frequently and review a greater volume of cases. At present, the CCF operates with extremely limited resources relative to the scale and seriousness of its responsibilities. This is the primary obstacle to timely decision-making and the area where meaningful reform would have the greatest impact.
- 1.3.2.6 The CCF performs a crucial role in ensuring that INTERPOL's systems are protected from misuse and operate in line with international legal standards. Its value depends entirely on its independence and perceived fairness. Any reform that puts those qualities at risk would carry long-term consequences for the credibility of the system as a whole and also for INTERPOL's immunity.

¹ EU, Joined Cases C-584/10 P, C-593/10 P and C-595/10 P, European Commission v Kadi [2013] EU:C:2013:518, [2014] 1 CMLR 24. See also ECtHR, H v Belgium (Application no. 8950/80), para 53

² ECtHR, Waite and Kennedy v Germany (App no. 26083/94)

1.4 **Conclusion**

- 1.4.1 In conclusion, while we appreciate the CCF's interest in strengthening its capacity, we urge caution in relation to any proposed use of experts in relation to the crucial functions performed by the Requests Chamber of the CCF. Narrowly framed, transparently applied, and non-binding in effect, expert input could play a limited but helpful role in the Advisory Chamber's work. However, any mechanism that alters the balance of responsibility in individual casework, undermines the Requests Chamber's independence, or creates a dual-track system of justice, would be a serious step backwards.
- 1.4.2 We would welcome further dialogue on how best to support the CCF's essential role, including through reforms that reinforce its independence, accessibility, and resourcing.

2 **Topic 2: Selection of candidates for CCF membership (Articles 8 and 9 of the CCF Statute)**

The next elections for the members of the CCF are scheduled to take place during the 2026 General Assembly session. Articles 8 and 9 of the CCF Statute outline the eligibility criteria and the nomination and selection procedure for candidates, respectively. While at its upcoming session in December 2025, the CPD does not intend to engage in discussion on proposed amendments of these articles, the CPD is interested in gathering input from civil society on the broader themes and issues related to the CCF elections. In this context, contributors are invited to share suggestions on how to promote transparency, accountability, and effectiveness in the CCF selection process, which can be reviewed and considered by the CPD as part of its ongoing efforts to support the work of the CCF.

2.1 **CCF: Impartiality and Public Confidence**

- 2.1.1 The CCF plays a vital role within INTERPOL, advising on data protection and addressing requests from individuals whose rights are affected by data processing. Its members must therefore exercise their powers independently and impartially.
- 2.1.2 From the perspective of Article 6 ECHR and Article 14 ICCPR, the independence and impartiality of the CCF are essential to ensuring it provides an effective review mechanism consistent with fair-trial and effective-remedy principles. Without such a system, the pre-conditions to INTERPOL's immunity will not be met.
- 2.1.3 Independence concerns how members are appointed and protected from political and executive influence, requiring clear procedures for appointment, remuneration, tenure, and discipline.
- 2.1.4 Impartiality has both subjective and objective aspects: members must not show personal bias, and the CCF must appear impartial to a reasonable observer: justice must be seen to be done.

2.1.5 Public confidence is critical, particularly in light of recent events.

2.2 Ensuring Independence and Impartiality

2.2.1 Article 11 of the CCF Statute provides that members act in their personal capacity, remain free from external influence, and avoid conflicts of interest. Article 12 requires members to withdraw where their impartiality might reasonably be doubted.

2.2.2 Beyond the text of the rules, certain matters are important to securing independence and impartiality:

- Selection should prioritise candidates without privileged relationships with governments or diplomatic backgrounds, given the CCF's quasi-judicial role. Individuals from independent, regulated legal professions (lawyers, prosecutors, or judges) are more likely to embody traditions of independence than those drawn from governmental or diplomatic service.
- During their mandate, members should be bound by a practical code of conduct beyond the generality of Article 11 etc of the CCF Statute. Operating Rules 1-5 provide the foundation, including recusal where a member is a national of the country whose data are challenged. A public register of members' interests would strengthen transparency and confidence.
- The powers of the CCF must be clearly articulated and sufficiently broad, i.e. they should be regulated in order to allow the CCF to act in a prompt, thorough, and effective manner, by reviewing requests, imposing provisional measures when required and issuing final decisions, both with a binding character for the executive bodies of the Organisation. Its decisions should have precedential value for the executive bodies of the Organisation when interpreting the Organisation's relevant regulatory framework.

2.3 Public Confidence and the Appointment Process

2.3.1 The forthcoming 2026 CCF elections provide an opportunity to reinforce the institution's independence and credibility. Under Article 37 of the Constitution, members must possess the expertise required to fulfil the CCF's functions. Articles 8(1)/(4) specify that Requests Chamber members must have high moral character, impartiality, integrity, and relevant qualifications, covering data protection, policing, international criminal law, human rights, and judicial or prosecutorial experience.

2.3.2 These provisions broadly align with eligibility criteria for international judicial bodies (e.g. the UN Human Rights Committee and the European Court of Human Rights). However, two refinements would improve their effectiveness:

- Asylum and extradition expertise should be explicitly recognised, given the CCF's role in reviewing data related to international cooperation and refugee matters.
- The qualifier "recognised" competence should apply to all fields, not solely to police cooperation, reflecting the CCF's quasi-judicial nature and the need for recognised authority across all profiles.

2.3.3 The appointment process itself remains opaque. A 2021 INTERPOL guidance note outlined desirable expertise, including adjudicative experience, but the authorship and intended application of the guidance are unclear. Transparent and convincing appointments in 2026 will be essential to restore confidence.

2.3.4 Staggered mandates should be adopted to prevent wholesale turnover, preserve institutional memory, and maintain consistency. Article 10(1) allows five-year terms, renewable once for three years, providing scope for staggering if renewals are managed strategically.

2.3.5 Reflecting the world's principal legal systems is appropriate for a global organisation. However, nominees linked to human-rights abuses or the misuse of INTERPOL mechanisms should be excluded through clear, objective screening criteria.

2.4 Transparency and Accountability

2.4.1 Transparency in the process for selecting CCF members is crucial to rebuild trust in this important institution, which has been damaged by recent media coverage relating to former members. It is also crucial to provide an opportunity for input from a wider section of civil society to help inform the Executive Committee's decision as regards which candidates to put forward to the General Assembly as well as the General Assembly's decisions.

2.4.2 The best way to achieve this would be to publish the names of candidates that are proposed to the Executive Committee by INTERPOL's member countries and to ensure sufficient time and an effective mechanism for input on these proposals. The Executive Committee's decisions as to which candidates to put forward to the General Assembly could also benefit from the opinion of a panel of independent experts regarding the candidates which could, for example, include judges, civil society representatives and former CCF members.

2.4.3 More broadly, with respect to transparency, although Operating Rule 5 permits member-initiated removal for misconduct, broader compliance mechanisms (e.g. whistleblowing channels) should be publicly acknowledged to demonstrate integrity safeguards across INTERPOL.

2.4.4 A measure of external review (whether institutional or procedural) would further promote quality and accountability by subjecting reasoning to scrutiny and correction where appropriate.

2.4.5 We also note that publication of the CCF's decisions allows the general public to review and scrutinize the decisions taken. Transparency is key to the CCF's legitimacy. Publication of only 64 excerpts of CCF decisions is inadequate. Expanding publication - through a searchable database of anonymised decisions - would enhance transparency and allow public and professional scrutiny of reasoning.

2.5 Recommendations on Selection

2.5.1 Clarify and Publicise the Appointment Framework

- Publish an overview of the 2026 election process: which mandates are expiring, whether renewals are possible, and which body determines nominations.
- Identify timelines and eligibility profiles early to allow meaningful engagement by civil society and professional bodies, including in advance of the Executive Committee's decision as to the candidates to put forward to the General Assembly.

2.5.2 Guidance for Nominations

- Issue updated guidance for 2026, ideally drafted with input from the current members of the CCF, to ensure consistency and institutional insight.
- The guidance should specify that candidates must demonstrate independence, integrity, adjudicative experience, and recognised competence in at least one relevant field.

2.5.3 Nomination Documentation

Each nomination should include:

- a criminal-record certificate and, where applicable, confirmation from the relevant professional regulator that there are no adverse disciplinary findings (e.g. certificate of good conduct);
- at least two independent references verifying internationally recognised competence, ideally from outside the nominee's national legal system;
- a statement disclosing whether cases handled by the nominee have been criticised by international courts or bodies for human-rights violations;
- emphasis on candidates from independent regulated professions rather than from governmental or prosecutorial institutions;

- publication of candidate lists ahead of the General Assembly to permit informed comment including by civil society and encourage transparency in voting.

2.5.4 Tenure and Continuity

- Adopt a staggered appointments policy under Article 10(1), renewing some mandates while rotating others to preserve institutional knowledge and ensure continuity.

2.5.5 Ethical and Transparency Requirements

- Require all members to declare and publicly register their professional and financial interests at the start of their mandate; maintain the register on the CCF website with appropriate redactions.

2.6 Conclusion

- 2.6.1 The 2026 CCF elections represent a key moment to reinforce independence, impartiality and transparency in the Organisation's oversight mechanism.
- 2.6.2 A credible selection process, characterised by clear eligibility criteria, transparent nomination procedures, staggered terms, disclosure of interests, and meaningful public scrutiny, will enhance the CCF's legitimacy and effectiveness as a quasi-judicial body.
- 2.6.3 By embedding these measures in the Articles 8-9 framework, INTERPOL can ensure that the CCF continues to operate as an impartial and respected safeguard for individuals whose rights are affected by international police cooperation.

3 Topic 3: The CCF Secretariat (Article 15(3) of the CCF Statute)

The functions of the Secretariat of the CCF are currently described under Article 15(3) of the CCF Statute. According to this article, the Secretariat shall assist the Commission in effectively carrying out its functions under the CCF Statute. As part of this role, the Secretariat is customarily tasked by the CCF to address communications to the parties to the case (NCBs and applicants) when examining requests. The purpose of this item is to discuss whether this task shall be incorporated in the CCF Statute.

- 3.1 As recalled by Article (1) of the CCF Statute, "The aim of the present Statute is to define the work of the Commission for the Control of INTERPOL's Files." This provision does not distinguish between the different components of the CCF, specifically the Chambers and its Secretariat.
- 3.2 As of now, the only provision concerning the CCF's Secretariat in the Statute is Article 15, which establishes the position and selection criteria of the Secretary, the selection process

and requirements of the other members of the Secretariat, its mission, the independence of its members and their obligations. It does not, however, list the Secretariat's specific tasks. This is appropriate given that it is properly the role of the CCF to decide how it delivers its functions, including how it manages its Secretariat.

- 3.3 The Operating Rules of the CCF (adopted by the CCF) contain a provision dedicated to the CCF's Secretariat, namely Rule 12, entitled "Functions of the Secretariat", which sets out in broad terms its purpose and role, notably to "*ensure the smooth operation of the Commission's work*", without giving more details as to its specific tasks. The choice of broad wording that does not restrict the Secretariat's functions allows it to adapt to the Commission's needs, depending notably on its workload. The fact that these provisions are set out in the Operating Rules of the CCF (and not in the Statute) accords with the fact that defining the functions of its independent secretariat is properly the role of the CCF.
- 3.4 The establishment of a separate and independent Secretariat is an important element of the CCF's institutional autonomy, ensuring that it can support the Commission effectively and impartially. Any changes to the Secretariat's functions should preserve this independence and remain consistent with the Statute and Rules, under which the CCF itself determines how its Secretariat assists in fulfilling its mandate.
- 3.5 This approach accords with the practice of other independent judicial or quasi-judicial bodies. For example, the Registry of the European Court of Human Rights operates entirely under the authority of the Court, and its functions are defined in the Court's own Rules (Rules 15 ff), which are made by the Court. Similarly, under the Rules of Procedure of the Court of Justice of the European Union, the Registrar—appointed by the Court (Article 18(1))—assists the Court in the performance of its functions (Article 20). Although those Rules are formally approved by the Council, they remain high-level in nature and make clear that the Registrar operates under the authority of the Court. The same principle should apply to the CCF and its Secretariat.
- 3.6 Adding a provision in the Statute stating that the Secretariat has the task of addressing communications to the parties to the case (NCBs and applicants) when examining requests is, with respect, tautological. Further, instead of adding clarity, it could be highly detrimental to the CCF's role. In fact, including a provision that would confine the Secretariat's tasks within a narrowly defined framework could create material difficulties for both the Secretariat and the Chambers, and ultimately result in delays in responses to NCBs and applicants – an issue already of concern, particularly for persons against whom red notices or diffusion are registered in the INTERPOL's Information System and who have requested their removal or amendment. Such delays should not be exacerbated. Rather than introducing new provisions, transparency could be enhanced by underscoring the central role of the Secretariat and reaffirming that the CCF exercises supervision over its activities. The General Secretariat and the Executive Committee can also contribute to this transparency by promoting understanding among NCBs of the CCF's structure, functions, and the role of its Secretariat, thereby supporting the Commission's independent and effective operation.