

Resolution 2315 (2019)¹

Interpol reform and extradition proceedings: building trust by fighting abuse

Parliamentary Assembly

1. The Parliamentary Assembly stresses the fundamental importance of international co-operation in the field of criminal law. When criminals take advantage of reduced border controls in Europe to escape justice in their own countries and transfer criminal assets abroad, States must react by co-operating with each other efficiently to uphold the rule of law. Given the frequent violations in this regard, States must remain vigilant and prepared to deal with misuse of the co-operation mechanisms by authoritarian States for political and corrupt purposes.
2. The Council of Europe's main legal instrument in this field is the 1957 European Convention on Extradition (ETS No. 24), updated by additional protocols in 1975, 1978, 2010 and 2012 (ETS Nos. 86 and 98, and CETS Nos. 209 and 212). Its practical functioning is aided by the Committee of Experts on the Operation of European Conventions on Co-operation in Criminal Matters (PC-OC). The main objective of the parties to the convention is to facilitate extradition as much as possible to prevent impunity of criminals who abscond across boundaries.
3. A reasonable balance must be struck between the legitimate interest in preventing impunity for serious crimes, which themselves violate human rights, and the rights of the person targeted by an extradition request, who must not be exposed to a serious risk of flagrant denial of justice, cruel and inhuman punishment and/or discriminatory treatment on political, racial, ethnic or religious grounds.
4. International co-operation in the field of criminal law requires a high degree of mutual trust, based on common standards and practices. Trust is built over time and with difficulty, by competent colleagues from different countries getting to know each other, developing mutual respect, based on professionalism and integrity, finally building successes together. But trust can be destroyed quickly and easily, first and foremost when international co-operation mechanisms are misused for political or corrupt purposes.
5. It must also be noted that apart from extradition requests, interstate mutual legal co-operation mechanisms – such as the Schengen information system – are also subject to misuse and may result in violations of privacy, property, professional rights and deprivation of liberty, particularly under the 1990 Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (ETS No. 141) as well as the 2000 United Nations Convention against Transnational Organized Crime.
6. The Assembly further notes that extradition proceedings are often triggered by an Interpol Red Notice or a “wanted person diffusion”. In its [Resolution 2161 \(2017\)](#) “Abusive use of the Interpol system: the need for more stringent legal safeguards”, the Assembly recognised Interpol's vital role in the fight against impunity. At the same time, the Assembly found that Interpol's procedures had been frequently abused for political or corrupt reasons by certain countries. It therefore made concrete proposals for reforms aimed at strengthening the Interpol system.

1. *Text adopted by the Standing Committee, acting on behalf of the Assembly, on 29 November 2019 (see [Doc. 14997](#), report of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Aleksander Pociej).*



7. The Assembly is now satisfied that many of its proposals have already been implemented, or are in the process of being implemented by Interpol, in particular:

7.1. new Red Notices and wanted person diffusions are vetted by a dedicated, multi-disciplinary task force at Interpol's General Secretariat, prior to their becoming visible to national central bureaux (NCBs);

7.2. work has begun on reviewing older Red Notices authorised before the compliance review was implemented in 2016 and still visible on Interpol's databases;

7.3. a data protection officer was appointed within Interpol, reporting directly to the Secretary General;

7.4. the Commission for the Control of Interpol's Files (CCF), to which persons targeted by notices and diffusions can appeal, has been strengthened by its new statute, which entered into force in March 2017. This new statute has had the following effects:

7.4.1. the CCF's reactivity has improved due to the strengthening of its resources;

7.4.2. the CCF's decisions have become binding on Interpol; a finding of non-compliance of a Red Notice with Interpol's constitution or rules will lead to the deletion of the notice by the General Secretariat;

7.4.3. the CCF's decisions are now reasoned and extracts permitting the better understanding of the interpretation given to relevant rules are published;

7.4.4. the CCF's independence has been strengthened by a "firewall" set up between the General Secretariat of Interpol and the Secretariat of the CCF;

7.4.5. the CCF's members must withdraw from cases when they are nationals of the country which is the source of the data challenged by an applicant;

7.5. a "Policy on refugees" was adopted and published by Interpol in September 2017, intended to prevent the publication of Red Notices and wanted person diffusions against persons who have refugee status under the Geneva conventions;

7.6. a "Repository of practice" on Article 3 of its constitution (on political, military, religious and racial neutrality) has been published on Interpol's website.

8. However, the Assembly also notes with regret that a number of recommendations (including the creation of a compensation fund for victims of abuses of Interpol mechanisms) have not yet been implemented, in particular those intended to improve the transparency of Interpol's work and to strengthen accountability for States whose NCBs abuse Interpol's instruments.

9. Regarding the improvement of extradition and other proceedings in the field of international criminal law co-operation in general, the Assembly calls on the member States of the Council of Europe and the member States of its Group of States against Corruption (GRECO, enlarged partial agreement) to participate actively in the Council of Europe's co-operation activities in the criminal law field, in particular the PC-OC, with the aim of implementing good practices and avoiding problems identified by the PC-OC, in particular:

9.1. as requested parties, by dealing with extradition requests in a timely, co-operative and results-oriented manner, and by swiftly requesting additional information or clarification where needed;

9.2. as requesting parties, by providing sufficiently detailed information on the person whose extradition is requested, the suspected crime and the elements of proof linking the targeted person to the alleged crime; and by swiftly providing informative, well-documented answers to any requests for further information or clarification by the requested party;

9.3. by keeping up-to date with relevant case law of the European Court of Human Rights, in particular by using the tools made available by the PC-OC;

9.4. by refusing any extraditions and other interstate legal assistance, particularly in the field of criminal law co-operation by which the targeted person would be exposed to a serious risk of flagrant denial of justice, cruel and inhuman punishment or discriminatory treatment on political, racial, ethnic or religious grounds, as well as violation of privacy, property, professional rights and deprivation of liberty by searches, seizures, transmission of private, sensitive or confidential information to the requesting State, and arrest;

- 9.5. by relying on diplomatic assurances by the requesting State only when they are specific, given by an authority having the power to enforce them, credible in view of the length and strength of bilateral relations between the requested and the requesting States and of the requesting State's track record of abiding by similar assurances; when the requesting State has an effective system of protection against torture and when compliance with the assurances can be objectively verified through diplomatic or other monitoring channels;
- 9.6. by remaining particularly vigilant to any form of Red Notice, wanted person diffusion, extradition and other forms of interstate legal assistance, particularly in the field of criminal law co-operation when the requesting State notoriously lacks independent prosecution and courts and has a track record of frequently misusing Interpol mechanisms and violating diplomatic assurances;
- 9.7. by refraining from making extradition requests, including European Arrest Warrants (EAWs), when extradition would be disproportionate in relation to the gravity of the alleged crime and the penalty incurred; this would normally be the case when pre-trial detention would be considered inappropriate in similar circumstances in either one of the States involved in the extradition proceedings.
10. Regarding the reform process at Interpol, the Assembly calls on:
- 10.1. Interpol to:
- 10.1.1. further improve transparency by disclosing data that would help to assess how effective its review mechanisms are, including yearly statistics on Red Notice requests received and refused, appeals to the CCF introduced and decided in favour or against the applicants, with a breakdown by country; and by publishing a "repository of practice" on the interpretation of Article 2 of Interpol's constitution;
- 10.1.2. further improve preventive and subsequent scrutiny of Red Notices and wanted person diffusions, by examining with particular care any repetitive requests, those that have not given rise to extraditions or extradition requests within a reasonable period of time and those submitted by NCBs which have previously submitted a high number of abusive requests; and by charging the countries responsible for the extra cost involved;
- 10.1.3. ensure more effective control over the information which flows through its communication system by requiring NCBs to delete data from national databases following a CCF or General Secretariat decision to delete a notice or wanted person diffusion and to provide confirmation of the deletion within a prescribed time limit;
- 10.1.4. further strengthen the appeals procedure before the CCF by making it speedier, more interactive and more transparent;
- 10.1.5. consider setting up an independent appeals body against the decisions of the CCF, such as an ombudsperson, who could also make recommendations for any further improvements of Interpol's working methods;
- 10.1.6. set up a compensation fund for victims of unjustified Red Notices and wanted person diffusions financed by member States in proportion to the number of such notices and diffusions emanating from their NCBs;
- 10.2. all member States of the Council of Europe to set an example of good co-operation by:
- 10.2.1. making available to Interpol the human and financial resources necessary to improve the quality and timeliness of both preventive compliance checks and the subsequent review by the CCF; in particular, to provide increased, ring-fenced, dedicated funding to the Notices and Diffusions Task Force and the CCF;
- 10.2.2. ensuring that the Red Notice requests and wanted person diffusions they submit to Interpol fulfil high standards of clarity in terms of the identification of the targeted person, the description of the facts and their legal qualification, and the elements of proof linking the targeted person to the alleged crime;
- 10.2.3. swiftly informing Interpol of any relevant facts concerning a targeted person, such as the granting of refugee status, provided the person concerned agrees;
- 10.2.4. following up Red Notices by extradition requests in due course and withdrawing Red Notices when extradition is not possible within a reasonable time;

10.2.5. respecting the decisions by the CCF by ensuring that all copies of Red Notices or wanted person diffusions found unjustified by the CCF are also deleted in their national databases;

10.2.6. facilitating, in co-operation with the European Union, the development of a collection of best practices between member States on how to act on Red Notices and diffusions, including practical steps to conduct risk assessments and to apply consistent human rights standards;

10.2.7. making use of their influence within Interpol to support the implementation of further improvements so that Interpol fully respects human rights and the rule of law whilst remaining an effective tool for international police co-operation;

10.2.8. taking into account conclusions and recommendations provided by civil society watchdogs dealing with the matter of misuse of Interpol, extraditions and other forms of interstate legal assistance;

10.2.9. duly probing all instances of misuse of Interpol, extraditions and other forms of interstate legal assistance by the requesting States for political or corrupt purposes.