



Financial Crimes Watch by Vardar Şanlı and Peters & Peters Solicitors LLP

CROSS-BORDER COOPERATION IN CONTESTING INTERPOL RED NOTICES: STRATEGIC APPROACHES AND PRACTICAL CHALLENGES

An INTERPOL Red Notice is an official alert requesting INTERPOL member states to locate (and, where permitted under national law, provisionally arrest) a wanted individual for the purposes of extradition, surrender or similar judicial proceedings. Although a Red Notice does not constitute an international arrest warrant, it operates within a defined administrative framework established by the INTERPOL Constitution, the Rules on the Processing of Data (the “RPD”), and national extradition laws. The issuance, circulation and supervision of Red Notices all require compliance with core principles such as proportionality, data accuracy, respect for human rights, and the prohibition of political, military, religious or racial motives under Article 3 of the INTERPOL Constitution. Accordingly, the legal assessment of Red Notices and the identification of available remedies to challenge them necessitates an accurate understanding of the interplay between domestic legal systems, cross-border cooperation mechanisms, and INTERPOL’s internal supervisory bodies, particularly the Commission for the Control of INTERPOL’s Files (the “CCF”), an independent administrative body responsible for overseeing compliance with INTERPOL’s rules and data processing framework.

Within this framework, Red Notices issued by INTERPOL play a significant role in cross-border criminal investigations and arrest requests. However, contesting such notices can be complex, insofar as it may involve multiple legal systems, inter-state cooperation mechanisms, and the need to strike a careful balance in protecting individual rights. Therefore, understanding the legal avenues available to challenge Red Notices and the methods of international cooperation has become increasingly important for both international clients and practitioners.

In this context, please find below questions and answers regarding *Cross-Border Cooperation in Contesting INTERPOL Red Notices*.

Q1: When a Red Notice is challenged, why is cross-border coordination often the decisive factor between arrest and freedom?

A1: The impact of an INTERPOL Red Notice is inherently a cross-border matter: once issued, an alert is sent to all member countries, who then decide *whether*, and if so how, to act on the Notice according to their own systems of law and enforcement.¹

The same goes for diffusions. Diffusions are a mechanism by which the National Central Bureau (“**NCB**”) of one member country can directly contact another member country, or countries, requesting various types of co-operation in relation to an individual. One purpose, under Article 97(1)(a) of the RPD, is 'to arrest, detain or restrict the movement of a convicted or accused person', allowing diffusions to be used in a similar way to Red Notices. While diffusions are subject to similar administrative framework to Notices, their ad hoc nature makes them capable of being issued faster than Notices, as INTERPOL's General Secretariat need not review or approve them prior to issuance.²

It is therefore highly important that the individual subject to the Notice or diffusion starts by identifying the jurisdiction(s) in which they may wish to seek legal advice. While in many cases it will be sufficient to instruct a single legal team in one country, it is often necessary, or at least advisable, to find legal representation in multiple countries. The classic example is that the individual is a resident of one country, but is accused of being a fugitive from a second country for crimes committed in that country. In complex cases, the number of relevant jurisdictions could even be more than two.



[1] <https://www.interpol.int/en/How-we-work/Notices/Red-Notices>

[2] <https://www.interpol.int/How-we-work/Notices/About-Notices>



As such, co-ordination between all legal teams, at the earliest possible stage, is vital for the sharing of information, and also for ensuring that any representations sent to INTERPOL are consistent with the evidence, particularly in circumstances where there is often only a single opportunity to make representations to INTERPOL (unless of course after those initial representations, new or additional information comes to light which enables supplementary representations to be made). It may be that there are trade-offs to be made regarding the interests of the individual in one country (e.g. the country issuing the Notice) and their interests in another country (e.g. their country of residence). Any such strategic questions call for specialist advice.

Q2: How do practitioners assess whether a Red Notice or diffusion is subject to challenge, and which legal tools are most effective in challenging such notices?

A2: The starting point for making an assessment is the factual background of the Notice or diffusion: *Who is the individual? What does the Notice allege they have done? Which country issued the Notice, and how might their reasons for doing so be susceptible to challenge?*

The priority for the subject of any Red Notice or diffusion is to make enquiries as quickly as possible in response to those questions, and to make representations to INTERPOL accompanied by some combination of the following categories of material:

- Often, **open source material** from reliable sources (reputable media sources, NGOs, or public bodies) forms the backbone of an answer. It is sometimes sufficient in its own right. However, if a view is taken that other material is required, then evidence may be obtained from relevant factual or expert witnesses.
- **Factual witness evidence** may be brought to contradict assertions in the Notice or diffusion, or to provide a basis for arguments the individual wishes to make regarding its broader context.³
- **Expert evidence**, on the other hand, can be provided by those with relevant credentials in relation to live issues. For example, expert evidence could be sought in appropriate circumstances on the prevalence of prosecutorial misconduct by a particular government, or a state's history of abusing INTERPOL's procedures.

[3] See *Khrapunov v JSC BTA Bank* [2018] EWCA Civ 819 and *Mueen-Uddin v Secretary of State for the Home Department* [2024] UKSC 21

Arguments which may be made to INTERPOL to make the case that their rules have been violated include that the case is:

1. Motivated by **political, religious, or racial considerations**, such that the case is a pretext for persecution breaching Article 3 of INTERPOL's Constitution.
2. **Incompatible with human rights standards**, in breach of Article 2 of INTERPOL's Constitution.
3. Properly to be considered a **private civil law dispute**, rather than a criminal matter.
4. Improper and/or contrary to the interests of justice due to **the passage of time** which has elapsed since the alleged commission of the offence(s) set out in the Notice, or indeed since the issuance of the Notice itself.
5. Contrary to INTERPOL's **ordinary law crime** requirement.

One example is that, in certain jurisdictions in the Gulf, there have historically been offences relating to the 'bouncing' of cheques which reflects the criminalisation of a private debt, which would not be capable of amounting to a crime in the vast majority of other INTERPOL member states.

6. Not properly to be considered as meeting the **penalty threshold** (nor also to INTERPOL's broader proportionality assessment regarding penalties), pursuant to Article 83(1)(a)(ii) RPD:

- if the person is sought for prosecution, the conduct constituting an offence is punishable by a maximum deprivation of liberty of at least two years or a more serious penalty;
- if the person is sought to serve a sentence, he/she is sentenced to at least six months of imprisonment and/or there is at least six months of the sentence remaining to be served.

7. **Not clearly described** pursuant to the requirements of Article 83 RPD, namely that the information is precise, detailed and demonstrates, where relevant, a benefit or the intention to commit the offence.⁴

[4] For example, Decision 2024-02, published in the INTERPOL Repository of Practice that year, held that found a Red Notice to be non-compliant for lack of clear description of the alleged criminality.

Q3: What are the key risks when parallel proceedings arise in multiple jurisdictions, and how can lawyers prevent conflicting outcomes across borders? How should practitioners balance applications before the CCF with parallel proceedings before national authorities, and what strategic considerations drive this choice?

A3: Once again, the two priorities should be: (i) co-ordination between legal teams in relevant jurisdictions; and (ii) acting early.

It is crucial that correspondence with the CCF accounts for the individual's legal position in relation to any extant (or even potential) proceedings across jurisdictions. The individual's prospects, not to mention their credibility, will depend on their capacity to ensure that statements given on the record, to national legal authorities, courts, and the CCF, are both internally coherent and founded on clear and compelling evidence.

This will require close liaison between legal teams where the preparation and submission of representations for the CCF is concerned. For example, a common scenario resulting in potential prejudice to an individual's interests involves a legal team in one jurisdiction writing to the CCF without having consulted legal representatives elsewhere. This can compromise the accuracy of the representations, and it can create broader strategic issues in respect of other proceedings, too. For example, there might be admissions it would be helpful for the individual to make to the CCF, but harmful to make in other proceedings, or vice versa.



Equally, if the individual has already written to the CCF, it may be that there is not anything meaningfully new to say. They can be advised that it would be wiser to pursue other avenues pending a response from the CCF.

Q4: When a client first learns of a diffusion or Red Notice, what are the most critical actions within the first 30 days, particularly in a multi-jurisdictional context?

A4: Even before the issuance of a diffusion or Red Notice, some individuals become aware that one may be on its way. In those circumstances, pre-emptive representations may be sent to the CCF.

Whilst requests for access and advance representations cannot guarantee prevention of a diffusion or Notice, or the processing of other data, it sometimes can be a very useful measure, as receiving confirmation that data are being processed (or even being in the position where one is awaiting confirmation) is likely to be a basis for advising the client of the risks associated with travelling abroad.

In some cases, that advice might be to warn against any international travel at all; in others, a cost/benefit analysis may be given in respect of travel under specific conditions.

Q5: What remedies are available in the event of a successful application to the CCF? What limitations may those remedies have and how might legal representatives respond to those limitations?

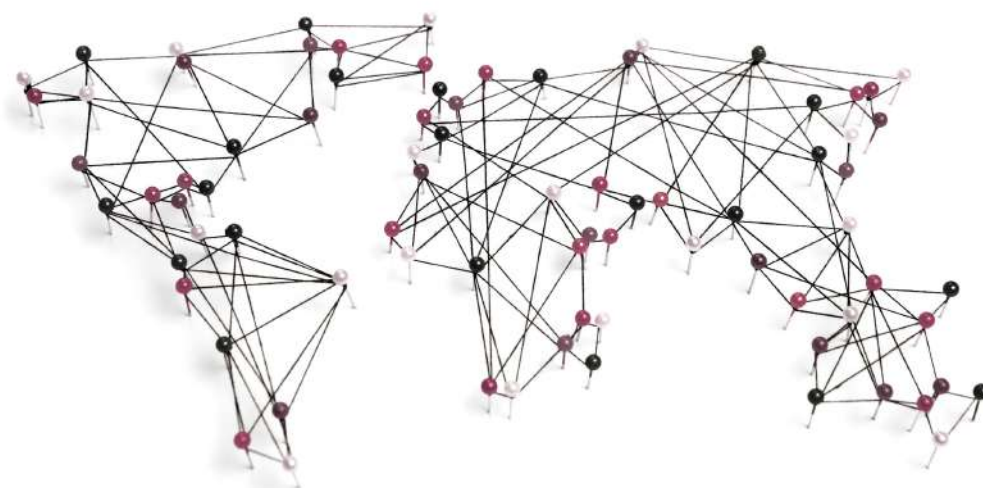
A5: The primary remedies where a Red Notice is concerned are deletion or correction of the data held by the CCF in relation to the individual. Remedies do not extend to measures of a broader legal (e.g. exoneration from underlying criminal allegations) or compensatory (e.g. an award of financial redress) nature, as those are outside of INTERPOL's framework.

Further, even if deletion or correction is successfully obtained, the individual in question may still experience issues with crossing borders, as, for example, ad hoc diffusions or other requests may still have been made by relevant countries.

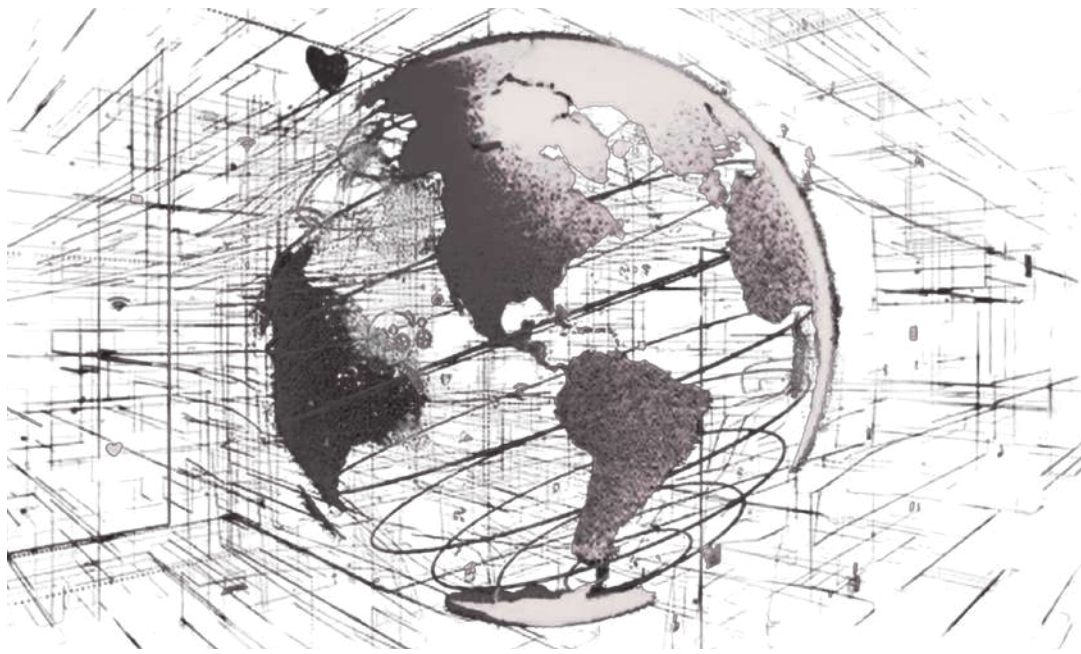
As such, the most comprehensive response to a Red Notice is to challenge the relevant criminal proceedings in the courts of the issuing country. Such a challenge may be unsuccessful, either on its merits or because the country in question has significant human rights abuses and/or uses the justice system in a politically motivated manner. In those circumstances, the only recourse left to the individual may be to use INTERPOL's channels.

Q6: How are evolving human rights standards and technological developments reshaping the contestation of Red Notices and diffusions?

A6: The changing nature of INTERPOL's role in the current geopolitical climate is illustrated by recent press reports⁵ about Russia's use of INTERPOL. An information leak alleges that Russia has abused INTERPOL communication channels to send messages to other police forces seeking information about the whereabouts of an individual even if that individual is not subject to a Red Notice or diffusion.



[5] <https://www.bbc.co.uk/news/articles/c20gg729y1yo>



The leak also revealed that INTERPOL receives more complaints about Russia than any other country (with Türkiye the second-most complained about country). In the past decade, according to the reports, at least 700 people subject to Russian Red Notices or diffusions complained to the CCF and at least 400 of them had their Red Notices or diffusions overturned.

One legal and technological development whose application can raise complex issues for clients is the opportunity to submit a request for access (“**RFA**”) to data held by INTERPOL under the RPD. While clients often find the opportunity to unearth their data to be valuable, it is not uncommon for some clients to wonder if submitting a RFA may ultimately be counterproductive (insofar as it goes back to NCBs and so is liable to ‘put them on INTERPOL’s radar’ in circumstances where they may otherwise not have been). Responding to this will be a context-specific exercise for legal advisors.

One positive point to note is that, in the experience of the authors, the standard of expertise and skill within INTERPOL has increased markedly over the last several years, and the professionals dealing with submissions to the CCF convey a sense of willingness to engage with the substance of submissions and respond competently.

Further, INTERPOL has, as of 26 March this year⁶, introduced a new online system for making requests to the CCF (absent exceptional circumstances, it is now the primary method of doing so). It is hoped that this increases the efficiency of the CCF in responding to, and ultimately resolving, requests. If so, the authors will see this as a welcome development, as the delays which they have experienced in receiving responses from the CCF in recent years are also well-documented by other practitioners in the area.⁷

For additional information or legal assistance regarding the topics covered in this joint publication, you are invited to contact the expert team of Vardar Şanlı and Peters & Peters Solicitors LLP using the contact details provided on the next page.

[6] <https://www.interpol.int/Who-we-are/Commission-for-the-Control-of-INTERPOL-s-Files-CCF/How-to-submit-a-request>

[7] Including [here](#).

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