

116TH CONGRESS
1ST SESSION

H. R. 4330

To counter efforts by foreign governments to pursue, harass, or otherwise persecute individuals for political and other unlawful motives overseas, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 13, 2019

Mr. HASTINGS (for himself, Mr. WILSON of South Carolina, Ms. JACKSON LEE, Mr. FITZPATRICK, Mr. COHEN, Ms. MOORE, Mr. CURTIS, Mr. VEASEY, Mr. MALINOWSKI, and Mr. HUDSON) introduced the following bill; which was referred to the Committee on Foreign Affairs, and in addition to the Committees on the Judiciary, and Homeland Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To counter efforts by foreign governments to pursue, harass, or otherwise persecute individuals for political and other unlawful motives overseas, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Transnational Repres-
5 sion Accountability and Prevention Act of 2019” or as the
6 “TRAP Act of 2019”.

1 **SEC. 2. FINDINGS.**

2 Congress makes the following findings:

3 (1) The International Criminal Police Organiza-
4 tion (INTERPOL) works to prevent and fight crime
5 through enhanced cooperation and innovation on po-
6 lice and security matters, including counterter-
7 rorism, cybercrime, counternarcotics, and transna-
8 tional organized crime.

9 (2) United States membership and participation
10 in INTERPOL advances the national security and
11 law enforcement interests of the United States re-
12 lated to combating terrorism, cybercrime, narcotics,
13 and transnational organized crime.

14 (3) Article 2 of INTERPOL's Constitution
15 states that the organization aims "[t]o ensure and
16 promote the widest possible mutual assistance be-
17 tween all criminal police authorities . . . in the spir-
18 it of the 'Universal Declaration of Human Rights'".

19 (4) Article 3 of INTERPOL's Constitution
20 states that "[i]t is strictly forbidden for the Organi-
21 zation to undertake any intervention or activities of
22 a political, military, religious or racial character".

23 (5) Some INTERPOL member countries have
24 used INTERPOL's databases and processes, includ-
25 ing Notice and Diffusion mechanisms and the Stolen
26 and Lost Travel Document Database, for activities

1 of a political or other unlawful character and in vio-
2 lation of international human rights standards, in-
3 cluding making requests to INTERPOL for inter-
4 ventions related to purported charges of ordinary
5 law crimes that are fabricated for political or other
6 unlawful motives.

7 (6) According to the Justice Manual of the
8 United States Department of Justice, “[i]n the
9 United States, national law prohibits the arrest of
10 the subject of a Red Notice issued by another
11 INTERPOL member country, based upon the notice
12 alone” and requires the existence of a valid extra-
13 dition treaty between the requesting country and the
14 United States, a diplomatic request for provisional
15 arrest of the subject individual, and an arrest war-
16 rant from the United States Attorney’s Office of the
17 subject jurisdiction.

18 **SEC. 3. SENSE OF CONGRESS.**

19 It is the sense of Congress that the Russian Federa-
20 tion and other autocratic countries have abused
21 INTERPOL’s databases and processes, including Notice
22 and Diffusion mechanisms and the Stolen and Lost Travel
23 Document Database, for political and other unlawful pur-
24 poses, such as intimidating, harassing, and persecuting

1 political opponents, journalists, members of civil society,
2 and non-pliant members of the business community.

3 **SEC. 4. STATEMENT OF POLICY.**

4 It is the policy of the United States:

5 (1) To use the voice, vote, and influence of the
6 United States within INTERPOL's General Assem-
7 bly and Executive Committee to promote the fol-
8 lowing objectives aimed at improving the trans-
9 parency of INTERPOL and ensuring its operation
10 consistent with its Constitution, particularly articles
11 2 and 3, and Rules on the Processing of Data:

12 (A) Enhance the screening process for No-
13 tices, Diffusions, and other INTERPOL com-
14 munications to ensure they comply with
15 INTERPOL's Constitution and Rules on the
16 Processing of Data.

17 (B) In cases in which INTERPOL has de-
18 termined that a member country issued a No-
19 tice, Diffusion, or other INTERPOL commu-
20 nication against an individual in violation of Ar-
21 ticles 2 or 3 of the INTERPOL Constitution,
22 require such member country to seek the ap-
23 proval of the Commission for the Control of
24 INTERPOL's Files (CCF) prior to publishing
25 any subsequent Notices, Diffusions, or other

1 INTERPOL communication against the same
2 individual.

3 (C) Impose penalties on countries for reg-
4 ular or egregious violations of INTERPOL's
5 Constitution or Rules on the Processing of
6 Data, including the temporary suspension of
7 member countries' access to INTERPOL sys-
8 tems.

9 (D) Fill vacant positions within
10 INTERPOL's structures, including the Presi-
11 dency, General Secretariat, and CCF, with can-
12 didates who have demonstrated experience re-
13 lating to and respect for the rule of law.

14 (E) Oppose the appointment to senior posi-
15 tions within INTERPOL of candidates from
16 member countries that commit regular viola-
17 tions of the rule of law or INTERPOL's Con-
18 stitution or Rules on the Processing of Data,
19 and disqualify any candidate from a member
20 country that has had its access to INTERPOL
21 systems temporarily suspended at any time in
22 the prior five years.

23 (F) Require INTERPOL in its annual re-
24 port to provide a detailed account of the fol-

1 lowing information, disaggregated by member
2 country or entity:

3 (i) The number of Notice requests,
4 disaggregated by color, that it received.

5 (ii) The number of Notice requests,
6 disaggregated by color, that it rejected.

7 (iii) The category of violation identi-
8 fied in each instance of a rejected Notice.

9 (iv) The number of Diffusions that it
10 cancelled without reference to decisions by
11 the CCF.

12 (v) The sources of all INTERPOL in-
13 come during the reporting period.

14 (vi) Every instance in which
15 INTERPOL suspends or withdraws the
16 access rights or otherwise sanctions a
17 member country and the reason for taking
18 such measures.

19 (G) Require the CCF in its annual report
20 to provide a detailed account of the following
21 information, disaggregated by country:

22 (i) The number of admissible com-
23 plaints received by the CCF regarding
24 issued Notices, Diffusions, and other
25 INTERPOL communications.

1 (ii) The category of violation alleged
2 in each such complaint.

3 (iii) The outcome of the CCF's adju-
4 dication of each complaint, specifying
5 whether a violation was found and, if so,
6 what specific category of violation was
7 identified.

8 (iv) The course of action taken by the
9 CCF in response to its adjudication of
10 each complaint, such as deleting or cor-
11 recting the subject INTERPOL file or
12 files.

13 (v) The number of preventive requests
14 received by the CCF and the outcome of
15 the CCF's adjudication of each such re-
16 quest.

17 (2) To direct relevant U.S. departments and
18 agencies to take appropriate action in response to
19 credible information of likely attempts by member
20 countries to abuse INTERPOL communications for
21 politically motivated or other unlawful purposes, in-
22 cluding by—

23 (A) using bilateral and multilateral en-
24 gagements with INTERPOL member countries,
25 as appropriate, to raise the United States seri-

1 ous concerns about attempts to abuse
2 INTERPOL systems in violation of Articles 2
3 and 3 of INTERPOL’s Constitution;

4 (B) lodging demarches, as appropriate,
5 with the government of the violating member
6 country for such abuses of INTERPOL com-
7 munications;

8 (C) engaging with foreign immigration and
9 security services, as appropriate, to alert such
10 services to the abusive nature of INTERPOL
11 communications against targeted individuals
12 who may enter the jurisdiction of such a service
13 during the course of international travel;

14 (D) engaging with foreign immigration and
15 security services, as appropriate, to secure the
16 freedom of targeted individuals if such individ-
17 uals are detained on the basis of such an
18 INTERPOL communication; and

19 (E) engaging with foreign financial and
20 treasury authorities, as appropriate, to ensure
21 the freedom of targeted individuals to conduct
22 lawful commerce within their jurisdiction.

23 **SEC. 5. REPORT ON THE ABUSE OF INTERPOL SYSTEMS.**

24 (a) IN GENERAL.—Not later than 180 days after the
25 date of the enactment of this Act, the Attorney General,

1 in coordination with the Secretary of Homeland Secretary,
2 the Secretary of State, and the heads of other relevant
3 United States Government departments or agencies shall
4 submit to the appropriate congressional committees a re-
5 port containing an assessment of how INTERPOL mem-
6 ber countries abuse INTERPOL Red Notices, Diffusions,
7 and other INTERPOL communications for political mo-
8 tives and other unlawful purposes within the past three
9 years.

10 (b) ELEMENTS.—The report required under sub-
11 section (a) shall include the following elements:

12 (1) A description of—

13 (A) the most common tactics employed by
14 member countries in conducting such abuse, in-
15 cluding the crimes most commonly alleged and
16 the INTERPOL communications most com-
17 monly exploited;

18 (B) how many INTERPOL communica-
19 tions are blocked by INTERPOL authorities
20 because of suspected politically motivated
21 abuse; and

22 (C) which countries are responsible for the
23 greatest volume and most frequent abuse of
24 INTERPOL communications and whether

1 INTERPOL has imposed any penalty on these
2 member countries for this abuse.

3 (2) An assessment of the adequacy of
4 INTERPOL mechanisms for challenging abusive re-
5 quests, including the Commission for the Control of
6 INTERPOL's Files (CCF), and any shortcoming
7 the United States believes should be addressed.

8 (3) A description of any incidents in which the
9 Department of Justice assesses that United States
10 courts and executive departments or agencies have
11 relied on INTERPOL communications in contraven-
12 tion of existing law or policy to seek the detention
13 of individuals or render judgments concerning their
14 immigration status or requests for asylum, with-
15 holding of removal, or convention against torture
16 claims and any measures the Department of Justice
17 or other executive departments or agencies took in
18 response to these incidents.

19 (4) A description of how the United States
20 monitors and responds to likely instances of abuse of
21 INTERPOL communications by member countries
22 that could affect the interests of the United States,
23 including citizens and nationals of the United
24 States, employees of the United States Government,
25 aliens lawfully admitted for permanent residence in

1 the United States, aliens who are lawfully present in
2 the United States, or aliens with pending asylum,
3 withholding of removal, or convention against tor-
4 ture claims, though they may be unlawfully present
5 in the United States.

6 (5) A description of what actions the United
7 States takes in response to credible information it
8 receives concerning likely abuse of INTERPOL com-
9 munications targeting employees of the United
10 States Government for activities they undertook in
11 an official capacity.

12 (6) A description of United States advocacy for
13 reform and good governance within INTERPOL.

14 (7) A strategy for improving interagency coordi-
15 nation to identify and address instances of
16 INTERPOL abuse that affect the interests of the
17 United States, including international respect for
18 human rights and fundamental freedoms, citizens
19 and nationals of the United States, employees of the
20 United States Government, aliens lawfully admitted
21 for permanent residence in the United States, aliens
22 who are lawfully present in the United States, or
23 aliens with pending asylum, withholding of removal,
24 or convention against torture claims, though they
25 may be unlawfully present in the United States.

1 (8) An estimate of the costs involved in estab-
2 lishing such improvements.

3 (c) FORM OF REPORT.—Each report required by sub-
4 section (a) shall be submitted in unclassified form and be
5 published in the Federal Register, but may include a clas-
6 sified annex, as appropriate.

7 (d) BRIEFING.—Not later than 180 days after the
8 submission of the report in subsection (a), and every 180
9 days after for two years, the Department of Justice, in
10 coordination with the Department of Homeland Secretary,
11 the Department of State, and the heads of other relevant
12 United States Government departments and agencies shall
13 brief the appropriate congressional committees on recent
14 instances of INTERPOL abuse by member countries and
15 United States efforts to identify and challenge such abuse,
16 including efforts to promote reform and good governance
17 within INTERPOL.

18 **SEC. 6. PROHIBITION ON DENIAL OF SERVICES.**

19 (a) ARRESTS.—No United States Government de-
20 partment or agency may arrest an individual who is the
21 subject of an INTERPOL Red Notice or Diffusion issued
22 by another INTERPOL member country, based solely
23 upon the INTERPOL communication without—

1 (1) prior verification of the individual's eligi-
2 bility for extradition under a valid bilateral extra-
3 dition treaty for the specified crime or crimes;

4 (2) receipt of a diplomatic request for provi-
5 sional arrest from the requesting country; and

6 (3) the issuance of an arrest warrant in compli-
7 ance with section 3184 of title 18, United States
8 Code.

9 (b) REMOVAL AND TRAVEL RESTRICTIONS.—No
10 United States Government department or agency may
11 make use of any INTERPOL Notice, Diffusion, or other
12 INTERPOL communication, or the information contained
13 therein, published on behalf of another INTERPOL mem-
14 ber country with which the United States Government is
15 not a party to a valid bilateral extradition treaty as the
16 sole basis to detain or otherwise deprive an individual of
17 freedom, to remove an individual from the United States,
18 or to deny a visa, asylum, citizenship, other immigration
19 status, or participation in any trusted traveler program
20 of the Transportation Security Administration, without
21 first verifying through the NCB, in coordination with the
22 Department of State and other relevant United States
23 government departments or agencies, that the subject
24 INTERPOL communication likely comports with articles
25 2 and 3 of INTERPOL's Constitution.

1 **SEC. 7. ANNUAL COUNTRY REPORTS ON HUMAN RIGHTS**
2 **PRACTICES.**

3 The Foreign Assistance Act of 1961 is amended—

4 (1) in section 116 (22 U.S.C. 2151n), by add-
5 ing at the end the following new subsection:

6 “(h) **POLITICALLY MOTIVATED REPRISAL AGAINST**
7 **INDIVIDUALS OUTSIDE THE COUNTRY.**—The report re-
8 quired by subsection (d) shall include examples from cred-
9 ible reporting of likely attempts by countries to misuse
10 international law enforcement tools, such as INTERPOL
11 communications, for politically motivated reprisal against
12 specific individuals located in other countries”; and

13 (2) in section 502B (22 U.S.C. 2304)—

14 (A) by redesignating the second subsection
15 (i) (relating to child marriage status) as sub-
16 section (j); and

17 (B) by adding at the end the following new
18 subsection:

19 “(k) **POLITICALLY MOTIVATED REPRISAL AGAINST**
20 **INDIVIDUALS OUTSIDE THE COUNTRY.**—The report re-
21 quired by subsection (b) shall include examples from cred-
22 ible reporting of likely attempts by countries to misuse
23 international law enforcement tools, such as INTERPOL
24 communications, for politically motivated reprisal against
25 specific individuals located in other countries.”.

1 **SEC. 8. DEFINITIONS.**

2 In this Act:

3 (1) APPROPRIATE CONGRESSIONAL COMMIT-
4 TEES.—The term “appropriate congressional com-
5 mittees” means—

6 (A) the Committee on Foreign Relations,
7 the Committee on Appropriations, and the
8 Committee on the Judiciary of the Senate; and

9 (B) the Committee on Foreign Affairs, the
10 Committee on Appropriations, and the Com-
11 mittee on the Judiciary of the House of Rep-
12 resentatives.

13 (2) INTERPOL COMMUNICATIONS.—The term
14 “INTERPOL communications” means any
15 INTERPOL Notice or Diffusion or any entry into
16 any INTERPOL database or other communications
17 system maintained by INTERPOL.

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