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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 SENATE OF THE UNITED STATES

SEPTEMBER 17, 2019

Mr. WICKER (for himself, Mr. CARDIN, Mr. RUBIO, Mr. WHITEHOUSE, and Mr. GARDNER) introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

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 the
6 “TRAP Act”.

7 **SEC. 2. FINDINGS.**

8 Congress makes the following findings:

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

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

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

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

21 (5) Some INTERPOL member countries have
22 used INTERPOL’s databases and processes, includ-
23 ing Notice and Diffusion mechanisms and the Stolen
24 and Lost Travel Document Database, for activities
25 of a political or other unlawful character and in vio-

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

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

17 **SEC. 3. SENSE OF CONGRESS.**

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

1 **SEC. 4. STATEMENT OF POLICY.**

2 It is the policy of the United States:

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

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

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

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

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

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

21 (F) Require INTERPOL in its annual re-
22 port to provide a detailed account of the fol-
23 lowing information, disaggregated by member
24 country or entity:

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

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

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

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

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

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

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

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

24 (ii) The category of violation alleged
25 in each such complaint.

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

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

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

15 (2) To direct relevant United States depart-
16 ments and agencies to take appropriate action in re-
17 sponse to credible information of likely attempts by
18 member countries to abuse INTERPOL communica-
19 tions for politically motivated or other unlawful pur-
20 poses, including by—

21 (A) using bilateral and multilateral en-
22 gagements with INTERPOL member countries,
23 as appropriate, to raise the United States seri-
24 ous concerns about attempts to abuse

1 INTERPOL systems in violation of Articles 2
2 and 3 of INTERPOL's Constitution;

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

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

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

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

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

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

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

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

11 (1) A description of—

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

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

21 (C) which countries are responsible for the
22 greatest volume and most frequent abuse of
23 INTERPOL communications and whether
24 INTERPOL has imposed any penalty on these
25 member countries for this abuse.

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

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

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

1 withholding of removal, or convention against tor-
2 ture claims, though they may be unlawfully present
3 in the United States.

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

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

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

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

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

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

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

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

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

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

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

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

23 **SEC. 7. ANNUAL COUNTRY REPORTS ON HUMAN RIGHTS**
24 **PRACTICES.**

25 The Foreign Assistance Act of 1961 is amended—

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

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

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

11 (A) by redesignating the second subsection
12 (i) (relating to child marriage status) as sub-
13 section (j); and

14 (B) by adding at the end the following new
15 subsection:

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

23 **SEC. 8. DEFINITIONS.**

24 In this Act:

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

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

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

11 (2) INTERPOL COMMUNICATIONS.—The term
12 “INTERPOL communications” means any
13 INTERPOL notice or diffusion or any entry into
14 any INTERPOL database or other communications
15 system maintained by INTERPOL.

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