

4 March 2015, Brussels

UN High Commissioner for Refugees António Guterres,
Case Postale 2500, CH-1211 Genève 2 Dépôt, Suisse

Dear Sir,

Dear Commissioner Guterres,

We, the non-governmental human rights organisation Open Dialog Foundation, hereby express our deep respect and would like to draw your attention to the current challenges faced by the international institution of refugee status as well as the importance of further improvement of the institution.

Back in 2008, the Deputy Director of the Division of International Protection Services at the UN High Commissioner for Refugees office, Mr Vincent Cochetel pointed to the problem of arrests of refugees: *"UNHCR is also confronted by situations whereby refugees recognised under the 1951 Refugee Convention, when travelling outside their country of asylum, holding travel documents issued under the terms of the Refugee Convention, are apprehended or detained, due to politically-motivated requests made by their countries' of origin which are abusing Interpol's' red notice system".¹*

Unfortunately, this problem is not only unresolved, but has also worsened in recent years.

The Open Dialog Foundation has prepared a report which details 44 high-profile cases in which political refugees or asylum-seekers have been the victims of abuse of the Interpol system by authoritarian states.² We are pleased to furnish you with the report, which forms the attachment to this letter. Of the analysed 44 cases, 18 cases of political persecution involved Russia, 10 - Kazakhstan, 5 - Belarus, 2 – Iran and 2 - Turkey. It should be noted that, based on the Freedom House ranking, most of the members of Interpol are undemocratic states³. ***Decisions of the United Nations and individual states on the granting of international refugee status are not taken into account by Interpol.*** Therefore, refugee status no longer guarantees protection from political persecution.

Political refugees are forced to remain behind bars for months or even years, while lengthy procedures for the consideration of extradition requests and the challenging of Interpol notices are on-going. ***Refugees remain on lists of internationally wanted persons even after courts have refused to render them to authoritarian states.*** Due to this situation, refugees often have to limit their public activities, as they risk being detained at borders. In most cases, Interpol removes 'red notices' only after the state closes the criminal case or declares amnesty. However, situations in which the states themselves close politically motivated cases are uncommon.

¹ <http://www.unhcr.org/cgi-bin/texis/vtx/home/opendocPDFViewer.html?docid=478e03702&query=Interpol>

² <http://en.odfoundation.eu/a/5947,the-report-the-interpol-system-is-in-need-of-reform>

³ Of the 187 Interpol member States (excluding the Vatican, the overseas territories of the Netherlands and the UK), 104 States, according to Freedom House, are 'not free' or are only 'partially free'. - <https://freedomhouse.org/report/freedom-world/freedom-world-2015#.VPRMT3ysU2g>



Following arrests based on Interpol Red Notices, political refugees or asylum holders risk being extradited to an authoritarian state, which can subsequently lead to tragic consequences. For example, **Rasoul Mazrae**, an Iranian opposition activist, was rendered from Syria to Iran, despite the fact that the UN had recognised him as a political refugee. In Iran, Mazrae was tortured and sentenced to death. Human rights activists claim they have no information regarding his execution⁴.

We consider it appropriate to give a few examples of how authoritarian regimes continue to pursue persons who have been granted refugee status, through the misuse of Interpol:

- **Andrey Borodin** - a major Russian businessman, who has been charged with fraud and embezzlement on a grand scale. In 2013, he was granted political asylum in Great Britain.
- **Ilya Katsnelson** - a Russian businessman, who is accused of fraud, money laundering and abuse of power.
- **Pavel Zabelin** – a Russian entrepreneur, charged with fraud. He enjoys political asylum in Estonia, which, similarly to Germany, refused to extradite him to Russia.
- **Arbi Bugaev** - a native of Chechnya who was accused of terrorism by Russia. He has been granted political asylum in Germany.
- **Natallia Sudliankova** - a Belarusian oppositionist, who is accused of misappropriating funds. She was granted political asylum in the Czech Republic in 1999.
- **Mukhtar Ablyazov** – a Kazakh opposition politician who is included in the Interpol wanted list in relation to charges of fraud and abuse of power. In 2011, he was granted political asylum in Great Britain. Dozens of human rights organisations and representatives of the European Parliament have issued statements in his defence.⁵ Since his detention on 31 July, 2013, on the basis of a 'red notice', Ablyazov has been held in different places of detention in France for one and a half years now due to lengthy trials, carried out in connection with extradition requests, filed by Russia and Ukraine. In 2014, news about the documents which, once again, confirmed the political nature of Ablyazov's prosecution, reverberated in the media. The published documents contain evidence that Kazakhstan fabricated the charges against Ablyazov and the request for his extradition in collusion with Ukrainian and Russian investigative authorities.⁶
- Through Interpol channels, Kazakh authorities also oppressed Mukhtar Ablyazov's wife, **Alma Shalabayeva** and their 6-year-old daughter Alua, who were illegally deported to Kazakhstan. Thanks

⁴ http://www.huffingtonpost.com/the-center-for-public-integrity/international-police-agen_b_901385.html

⁵ <http://en.odfoundation.eu/a/5692,international-support-of-mukhtar-ablyazov-as-an-opposition-politician>

⁶ Materials published on the online portal trust.ua: <http://www.trust.ua/news/92332-korupciya-i-partneri-chast-2.html> ; <http://www.trust.ua/news/93202-korupciya-i-partneri-chast-3.html> ; <http://www.trust.ua/news/95807-korupciya-i-partneri-chast-4-novye-detali-v-dele-ablyazova.html> ; <http://hate.trust.ua/korruption/2014/09/17/151/Korupciya-i-partneri-Chast-6/> ; reports produced by the Open Dialog Foundation - <http://en.odfoundation.eu/a/5173,evidence-of-the-fabrication-of-the-extradition-request-with-regard-to-the-opposition-politician> ; <http://en.odfoundation.eu/a/4317,bta-bank-files-false-charges-in-cooperation-with-investigative-authorities-of-ukraine-russia-and-france> ; documents, made public by Kazakh politician Muratbek Ketebayev - <https://www.facebook.com/mur.ketebayev/posts/770726609670347>

to the intervention of human rights organisations, the UN and the European Parliament, Alma Shalabayeva and her daughter were permitted to leave the territory of Kazakhstan. Italy has since granted them refugee status.

- **Muratbek Ketebayev** – a Kazakh opposition politician who on 27 December, 2014, in Spain, was arrested on the basis of Kazakhstan's request which pertained to charges of 'inciting social discord' and 'calling for a violent overthrow of the constitutional order'. Due to the intervention of the UN High Commissioner for Refugees, Ketebayev was released from custody, but is awaiting an extradition trial.
- **Artur Trofimov** – an associate of the Kazakh opposition leader Mukhtar Ablyazov. On 4 December, 2013, Austria granted additional protection to Trofimov in accordance with the Law 'On the Status of Refugees'. On 28 January, 2014, the Land Criminal Court of Vienna, citing Trofimov's additional protection status, rejected Russia's request for his extradition.
- **Chandima Withana** – a journalist from Sri Lanka who was accused of forgery of documents. He was granted asylum in the UK.

Also, in 2008, the Deputy Director of the Division of International Protection Services at the UN High Commissioner for Refugees office pointed to the fact that persons prosecuted for political reasons are often falsely charged with terrorism, which causes a hindrance when making an application for official refugee status. Given the broad international campaign against terrorism, ***authoritarian states often use trumped-up charges of terrorism against political opponents and refugees.***

With regard to charges of terrorism, the Interpol list included, or continues to include, a number of political refugees or persons against whom charges have been recognised as politically motivated: Arbi Bugaev, Akhmed Zakayev, Dolkun Isa, Shahram Humayun, Dododzhon Atovulloyev, Alexander Pavlov, Pinar Selek and Aydin Korkmaz. Against Kazakh opposition leaders Mukhtar Ablyazov and Muratbek Ketebayev, who are on the international wanted list, Kazakhstan brought additional charges of orchestrating a failed terrorist attack. These charges were also brought against Ablyazov's former bodyguard, **Alexander Pavlov**. He has been placed on the international wanted list and accused of terrorism, even though, in fact, it was he himself who became the victim of political terror at the hands of Kazakhstan.

After his arrest, Pavlov spent eighteen months in a Spanish prison until on 31 July, 2014, he was released on bail. On 17 February, 2015, the Spanish Supreme Court overturned the decision on the extradition of Pavlov and granted him political asylum. Previously, a Spanish court considered possible Pavlov's extradition to Kazakhstan, despite evidence of fabrication of the charges, Kazakhstan's dubious assurances regarding a fair trial, numerous appeals of international human rights organisations, the UN Special Rapporteur on Torture, the OSCE and the European Parliament. In addition, the documents

published in the media confirmed that the Kazakh authorities could have influenced the previous decision of the Spanish justice system.⁷

We welcome the fact that, more and more often, discussions regarding the need for a holistic reform of the refugee policy are being raised in the EU. More concrete actions, however, are needed and attention should also be directed towards the cases of dissidents persecuted through politically motivated and often, trumped-up charges.

The report of the Open Dialog Foundation provides numerous examples of violations of the rights of refugees through misuse of the Interpol system. The OSCE, PACE and the European Parliament have repeatedly given clear signals to Member States that their support for the reform of Interpol is necessary. **Taking into account that the mandate of UNHCR provides for the holding and coordination of international actions to protect refugees and resolve refugee problems, the Open Dialog Foundation hereby urges the UN High Commissioner for Refugees to consider the following suggestions:**

- Initiate a process of reform of the international refugee status in order so that the said status shall protect a wanted person from arrest on the request of the State from which he or she has fled. In particular, a person who has been granted international protection in an EU state should not be subjected to arrest in another EU member state.
- Based on the fact that Interpol is working on collaborative projects with various UN agencies, it is recommended to initiate a more detailed project with the Office of the UN High Commissioner for Refugees. The purpose of the project could be to create mechanisms to protect the rights of persons who have been granted refugee status, yet are still listed as wanted in the Interpol database. At the same time, official statements issued by UN agencies, including the UN Agency for Refugees (UNHCR), should constitute the basis for the revision of a 'red notice' or 'diffusion notice'.
- Create institutional conditions for closer cooperation between international UN experts on asylum and extradition issues with the Commission for the Control of Interpol's Files, including the ability to provide expert advice to the Commission on particular cases.
- Since Interpol rules merely define a methodology for the verification of whether requests have an underlying political component, but do not prescribe criteria for evaluation and decision-making, it is advisable to consider the possibility of participation of UN agencies in the development of comments on Article 3 of the Interpol Constitution in order to specify and detail the provisions of this article and prevent its selective or arbitrary interpretation. This document could be adopted in the form of a resolution with reference to the examples of high-profile cases.

⁷ <http://www.respublika-kaz.info/news/politics/40525/>

- Establish effective mechanisms of interaction between the UN High Commissioner for Refugees and the national administrative and judicial authorities for ensuring that persons who are prosecuted for political reasons are granted refugee status.
- While welcoming the statement of the United Nations High Commissioner for Refugees on the case of Muratbek Ketebayev, we hereby call for further efforts to protect him from extradition. Cases where one Member State recognises a person as a refugee and removes him or her from the Interpol list, and another EU country detains the person through Interpol channels and conducts extradition processes on the same charges, should not be repeated in the future.
- Establish a direct dialogue with the European Parliament and the European Commission in order to ensure that a debated revision and reform of the migration policies within the EU include all points and aspects relative to the rights and security of refugees and asylum-holders in the EU member states.
- Issue statements in defence of refugees and asylum seekers, who are accused of terrorism (including Arbi Bugaev, Muratbek Ketebayev, Akhmed Zakayev, Mukhtar Ablyazov), urging Interpol and the UN member states to consider such cases in accordance with the international principles of refugee protection.

I thank you in advance for your attention and hope that our letter, suggested recommendations, along with the attached report can be of interest and use in your work.

Yours Sincerely,



Anna Koj

Head of the EU Office

Open Dialog Foundation

Attachments:

- Open Dialog Foundation report: *The INTERPOL system is in need of reform*, published in February 2015