

6 March 2015, Brussels

Secretary General
Jürgen Stock
INTERPOL
General Secretariat
200, Quai Charles de Gaulle
69006 Lyon
France

Dear Secretary General,

We are grateful to the leadership of Interpol for the statement, which was issued on 23 February 2015 in connection with the Open Dialog Foundation's event held in the Bundestag. We fully support your position that Interpol is an absolutely indispensable tool enabling police cooperation in the pursuit and arrest of dangerous criminals. It is, therefore, very important that an organisation designed to fight against criminality is not used by authoritarian states as a tool for selective political prosecution. We appreciate the opportunity to conduct a dialogue with you and to furnish you with our new report on violations of the rights of refugees through the misuse of the Interpol system by authoritarian states.

You have claimed that only a few cases that have passed through Interpol have been politically motivated and have been widely publicised. However, in our report we detail as many as 44 such cases. And these are only the high-profile ones. Many of the cases are not publicised in the media, due to i.a. the lack of openness of Interpol's policy. In 2011, a representative of Interpol stated that 'approximately 3 percent' of all requests are being sent for review to the Office of Legal Affairs.¹ However, we kindly ask you to provide comprehensive data in absolute numbers, including the number of requests that have passed through the Interpol system, but were removed only following the issuance of court decisions refusing extradition on the basis of refugee status or due to charges having an underlying political nature.

We agree with your statement that every system is vulnerable to errors. In a letter to us, as in many official statements, Interpol speaks about the continuous improvement of its regulations and practices aimed at maintaining the highest standards of international police cooperation. Interpol representatives noted improvements in terms of the speed of data processing and with regard to data protection. However, the changes must not only be technical, but must also be of a systemic nature.

¹ <http://www.icij.org/project/interpols-red-flag/interpol-reacts-icij-story>



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Some States have systematically taken advantage of the vulnerability of Interpol mechanisms in pursuit of their political goals. For example, the Open Dialog Foundation report revealed 18 cases of political persecution on the part of Russia, 10 – of Kazakhstan and 5 - of Belarus. Such repeated violations contravene Interpol's principle of neutrality, distort the role of the organisation and lead to the ineffective performance of its basic tasks. It is vital that Interpol eliminates dysfunctionality in the operation of its bodies and thereby minimises the possibility of misuse by authoritarian states.

Following a comprehensive reform that took place in the second half of the 20th century, Interpol is currently facing new challenges. The issue of the abuse of Interpol for political purposes has reached such a level that it can no longer be ignored. The effectiveness of the organisation as well as its compliance with the universal values of human rights depends on the very introduction of systemic changes. Support of Interpol reform has been repeatedly voiced by the OSCE², PACE³ and the European Parliament.⁴ Moreover, the problem of the functioning of Interpol is being monitored closely by numerous researchers.⁵ Against this backdrop, we reluctantly accepted the position of the former head of Interpol, Mr Ronald Noble who enunciated that the organisation "does not need any major reforms".⁶

While welcoming the readiness, expressed in your statement, for constructive dialogue with non-governmental organisations and civil society, we recommend that you consider the major problems in the functioning of Interpol and the possible means by which it can be reformed.

1. Improvement of verification of wanted notices

In your statement, you claim that the verification process of 'red notices' is in line with Interpol rules, the Universal Declaration of Human Rights and other human rights treaties. Nevertheless, the results of such verifications are not always effective, which highlights the need for changes in Interpol procedures.

You note that every 'red notice' is reviewed prior to its publication, taking into account not only the data, contained in the request, but also information from other sources. However, there is reason to believe that the bodies of Interpol cannot always manage numerous requests promptly. As a result, political cases pass through Interpol system, and their context is discussed in more detail only after the publication of a 'red notice'. At the same time, human rights activists have difficulties obtaining information on the activities of the Office of Legal Affairs. Also, we must not ignore the problem of 'diffusions', which are not subject to systematic verification by Interpol.⁷

² <http://www.oscepa.org/meetings/annual-sessions/2013-istanbul-annual-session> ; <http://www.oscepa.org/publications/all-documents/annual-sessions/2014-baku/declaration-2>

³ <http://www.assembly.coe.int/nw/xml/XRef/X2H-Xref-ViewPDF.asp?FileID=21096&lang=en> <http://assembly.coe.int/nw/xml/XRef/X2H-Xref-ViewPDF.asp?FileID=20310&Lang=EN>

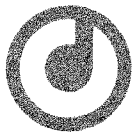
⁴ <http://www.statewatch.org/news/2013/dec/eu-interpol-letter-meps-red-notices.pdf> ;

<http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+WQ+E-2013-013039+0+DOC+XML+V0//EN&language=pl>

⁵ Michelle Bennett, Theodore R. Bromund, Mathieu Deflem, David Kopel, Rutsel Silvestre J. Martha, James Sheptycki and others.

⁶ <http://www.interpol.int/News-and-media/News/2013/N20130528>

⁷ Russia abused 'diffusion' in the cases of Petr Silaev and Givi Targamadze.



Interpol rules define a methodology of request verification from the point of view of a political component, but they do not prescribe evaluation criteria, based on which a decision could be made on a case-by-case basis. Therefore, there is a need to specify, in detail, the provisions of Article 3 of the Constitution and develop specific mechanisms for decision-making in cases where charges, criminal in their form, are essentially political, as well as in cases where criminal offences are committed as a result of political decisions.

We also recommend that Interpol develops a more individualistic approach to the consideration of requests from different Member States. When determining the presence of a political component in requests, it is advisable to take into account international ratings of confidence in law enforcement and judicial systems. In particular, requests from States that repeatedly abuse the Interpol system should be subjected to thorough scrutiny.

2. Changes in the procedure for appealing against Interpol decisions

With reference to your statement regarding the possibility for an individual to appeal against the issuance of a 'red notice' without incurring a charge, we would like to draw attention to the complexity of the procedure. Sessions of the Commission for the Control of Interpol's Files are held only a few times in a given year. In its resolution of 31 January 2014, PACE criticised the work of the Commission for the Control of Files, as its procedures are not adversarial, and its decisions are often unjustified.⁸ PACE members also drew attention to the duration of the appeal procedure.⁹ In most cases, Interpol removes 'red notices' for refugees only after the closure of a criminal case or a declaration of amnesty made by an authoritarian state.¹⁰

Whilst we highly appreciate your efforts to establish a working group to revise the mechanisms of the Commission for the Control of Files, we believe it is necessary to ensure greater transparency of the Commission. This body should issue decisions within a specified time limit, and work more closely with experts on asylum and extradition issues, the United Nations High Commissioner for Refugees (UNHCR) and human rights organisations.

3. Establishment of a mechanism to protect the rights of persons with international refugee status

We are particularly concerned over the fact that the decisions of the UN and individual states on the granting of political asylum do not constitute a convincing argument for Interpol. As a result, persons who have been granted international refugee status in an EU country, the United States or Canada may

⁸ <http://assembly.coe.int/nw/xml/XRef/X2H-Xref-ViewPDF.asp?FileID=20310&Lang=EN>

⁹ For example, the cases of refugees, Patricia Poleo and Tatiana Paraskevich, who sought the withdrawal of politically motivated requests for 18 months and six months, respectively.

¹⁰ The cases of Russian activists and political refugees: Petr Silaev, Denis Solopov, Aleksey Makarov, as well as a Turkish sociologist Pinar Selek.



be arrested at the border and are, therefore, forced to limit their public activities. The UNHCR representative pointed to this issue back in 2008.¹¹

In a statement, you, as before, emphasised that each State independently issues decisions on the arrest or extradition of a person. However, the mediating role of Interpol is important due to the fact that it is, in fact, a wanted request that triggers extradition proceedings. All the more so, states often carry out arrests automatically as they trust Interpol notices.¹²

Please note that, as of today, the public list of Interpol continues to include a number of persons who have received support from human rights defenders, and have been granted refugee status in the EU countries and in the USA. These persons include: Russian businessmen Ilya Katsnelson and Andrey Borodin; native of Chechnya Arbi Bugaev; Kazakh opposition politicians Muratbek Ketebayev and Mukhtar Ablyazov, as well as Ablyazov's bodyguard, Alexander Pavlov; Belarusian oppositionist Natallia Sudliankova; Sri Lankan journalist Chandima Withana. Our report details these cases, as well as other cases of refugees who may be included in the non-public version of the Interpol wanted list. Refugees remain on international lists of wanted persons even after courts have refused to render them to authoritarian states.¹³

We insist that international refugee status must protect a wanted person from arrest and extradition on the request of the State from which they have previously fled. All the more so that in such cases, international law does not permit extradition, and therefore it makes no sense to subject refugees to prolonged incarceration. We also call on Interpol to consider international refugee status and court decisions refusing extradition due to the granting of this status as a basis for the immediate withdrawal of a request by the State from which the person fled.

4. Compliance with the provisions regarding sanctions for violators of the Interpol rules

The Open Dialog Foundation hereby welcomes your efforts to improve and update Interpol's Rules on the Processing of Data. However, a significant problem is the failure to comply with existing rules. In particular, Articles 130 and 131 of Interpol's Rules on the Processing of Data provide for limitations on the use of databases or the suspension of access to databases for members who do not fulfil their obligations within the organisation. Countries such as Russia, Belarus, Kazakhstan, Turkey, and Iran have repeatedly violated the rules of Interpol, thereby displaying a flagrant disregard for the organisation. Through Interpol's mechanisms, Russia pursues not only its citizens but also EU citizens who oppose the

¹¹ <http://www.unhcr.org/cgi-bin/tehis/vtx/home/opendocPDFViewer.html?docid=478e03702&query=Interpol>

¹² A tragic example is the case of an Iranian activist Rasoul Mazrae, who had been recognised as a refugee by the United Nations. Following his arrest on the request of Interpol, he was rendered from Syria to Iran, where he was subjected to torture and sentenced to death. Human rights activists claim they have no information regarding his execution. - http://www.huffingtonpost.com/the-center-for-public-integrity/international-police-agen_b_901385.html

¹³ The cases of Pavel Zabelin, a Russian businessman, and Alexandr Pavlov, former head of security of the Kazakh oppositionist M. Ablyazov.



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authoritarian regime.¹⁴ We hope that Interpol's leadership will explain why the provisions on sanctions are not observed.

5. The openness of Interpol

In your statement, you assert that, being aware of the serious consequences with regard to wanted persons, Interpol is committed to protecting the independence of the organisation, thereby promoting respect for human rights. However, independence should not be tantamount to a lack of transparency and non-publicity, as, in practice, it propagates the vulnerability of the organisation to abuse and sustains its lack of accountability. We have to conclude that, presently, Interpol wishes to avoid being bound by standards of institutions, such as the institution of refugee status and the institution of UNHCR.

Interpol is one of the biggest international organisations and, contrarily, does not fall under the jurisdiction of any court. We encourage the leadership of Interpol to make the organisation more open, maintain close cooperation with human rights organisations, the OSCE, PACE and the UN, and to develop mechanisms of responsibility for possible violations by Interpol. Given the important functions of Interpol, its work should be regulated not only by internal documents, but also by an international agreement.

We hope that the close cooperation of Interpol's leadership with the international community will enhance the efficiency of the organisation and strengthen human rights guarantees, including those with regard to refugees.

Yours sincerely,

Anna Koj

Head of the EU Office
Open Dialog Foundation

Attachments:

- The Open Dialog Foundation report: The INTERPOL system is in need of reform
- The Open Dialog Foundation statement following the presentation of the report during an event held in the Bundestag on 27 February 2015

¹⁴ The cases of Nikolay Koblyakov, William Browder and Eerik Kross.