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Open Dialog Foundation presentation for the PACE Legal Affairs and Human Rights Committee meeting in Yerevan, 19 May 2015 – hearing on politically motivated misuse of INTERPOL

Presented by: Anna Koj, Head of the EU Office, Open Dialog Foundation

Dear Members of the Committee on Legal Affairs and Human Rights,

Thank you very much for inviting me to speak at today's hearing on behalf of the Open Dialog Foundation and to share the experience and the recommendations of our organization on this very important topic. The Open Dialog Foundation has been actively advocating for an in-depth analysis of the problem of political misuse of the INTERPOL system by non-democratic states. We have been calling for a response of international organizations and Interpol Member States that would be politically strong but most of all, that would provide concrete and substantial contribution to the debate on the changes needed.

As mentioned already, the INTERPOL's importance in fighting transnational crime and helping to bring criminals to justice is indisputable. We, in no case, aim to act against the organization, as such, but rather intend to suggest areas where improvement can be achieved. We understand that, by nature, the work of INTERPOL is often confidential. That said, I must reiterate that, unfortunately, the number of cases in which the Interpol system has been misused to bring about the detention and, subsequently, potential extradition of an individual, prosecuted and persecuted for his or her social or political activities, often critical to undemocratic regimes, or for his or her religious beliefs, speaks for itself. In percentage, with respect to all INTERPOL cases, it may not seem a large number but, as has been mentioned before, peoples' lives are being directly affected in a very serious way. That is why we believe that each and every case of misuse of INTERPOL needs to be addressed properly and we cannot only reason in absolute numbers, here.

INTERPOL Members have quite a lot of freedom when defining the nature of the case, since they have the sovereignty in weighing up the motives behind a given prosecution. Non-democratic states often freely concoct accusations and evidence against the most critical voices deemed uncomfortable. Such states can, therefore, easily place anyone on the INTERPOL wanted list, providing motivation, ranging from criminal to financial accusations.



The provisions of INTERPOL's Constitution and its Rules and Regulations do not envisage heavy sanctions against its Members for abusing their rights. Practice has shown that the provisions of Articles 130 and 131 of its Rules on the Processing of Data foreseeing intervention from central INTERPOL structures against states, which violate its regulations, are often not applied. Furthermore, the sanctions envisaged – suspension or deprivation of a party of the right to access data – are insufficient.

The Open Dialog Foundation would like to suggest the following key recommendations, which we hope can be useful to the Committee Members and, in particular, the Rapporteur, in preparing and drafting the report, and of use and interest to a representative of INTERPOL present here today:

- The provisions regarding sanctions for violators of the Interpol rules must be increased and implemented strictly. As already mentioned, the current foreseen sanctions are not strong enough. We, therefore, suggest that Interpol, in collaboration with Transparency International, the World Economic Forum, Freedom House, and other organizations, create a trust rating in law enforcement and judicial systems of the Member States and take into account the rating when verifying requests to determine whether they are of a political nature. In particular, requests from States that have previously abused the Interpol system repeatedly and which rank low in the said rating, should be subjected to additional thorough screening;

- We appreciate the introduction of the new refugee policy by INTERPOL, as we have long been calling for synchronization of the procedure of application of the Red Notice with asylum and extradition proceedings. The granting of refugee status due to persecution suffered in a state, which initiates the pursuit of an individual via Interpol, as well as a court decision to refuse extradition on the basis of this status, should form the grounds for the immediate removal of a 'red notice' or 'diffusion notice' from all databases of the Interpol Member States and the issuance of a document confirming this fact.

- We recommend facilitating the flow of information between INTERPOL's General Secretariat and its National Central Bureaus. Information about the removal of an entry from the central database should be automatically transmitted to the national databases. It would seem obvious but it is not, due to the autonomous nature of the national databases. Many cases are known of individuals who have been removed from one of the local databases, have been granted refugee status in one Member state but have, subsequently been detained in another Member state because of the lack of cohesion in the procedures. As, for example, in the case of a Kazakh citizen, Muratbek Ketebayev, granted refugee status by Poland in December 2013 and detained again, upon the



INTERPOL Red Notice, in Spain, in December 2014;

- In cases where a person has been excluded from the Interpol list based on the presence of international refugee status or a court decision to refuse extradition on the basis of the status, the State with regard to which he or she has been granted international protection should not have the possibility to renew its request and have the same person placed on the INTERPOL wanted list again;

- It is proposed to ensure greater transparency of the CCF's (Commission for the Control of INTERPOL's Files) work, both as regards requests for information concerning entries, complaints against entries and requests for deletions. The exaggerated amount of time that examining cases and communicating with the requesting party is taking is essential. One example of the inertia of the system can be the record of a wanted Russian businessman, Boris Berezovsky, who died over two years ago in March 2013, and whose name was still in the database this past March;

- We propose to introduce a regular procedure for Members to be able to provide information and comments on persons with regard to whom an application has been filed for initiating the Red Notice procedure;

- Finally, I would like to touch upon the issue of the level of confidentiality. There are special, understandable cases of confidentiality, but there seems to be no consistency in placing particular persons in public and classified databases. For instance, the leading Kazakh dissident, Mukhtar Ablyazov, is on the Red Notice list which is generally accessible via the Internet, and his associate, Tatiana Paraskevich, for obvious reasons, with much more lenient charges, was placed on a classified list. The placing of a name in classified register should be an exception for which detailed rationale is provided.

I thank you for your attention and remain open to any questions or comments. I also invite you to go through our reports and publications for more in-depth analysis and detailed information and data on concrete cases.