116TH CONGRESS
1ST SESSION

S. 2483

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

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

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) The International Criminal Police Organization (INTERPOL) works to prevent and fight crime through enhanced cooperation and innovation on police and security matters, including counterterrorism, cybercrime, counternarcotics, and transnational organized crime.

(2) United States membership and participation in INTERPOL advances the national security and law enforcement interests of the United States related to combating terrorism, cybercrime, narcotics, and transnational organized crime.

(3) Article 2 of INTERPOL’s Constitution states that the organization aims “[t]o ensure and promote the widest possible mutual assistance between all criminal police authorities . . . in the spirit of the ‘Universal Declaration of Human Rights’”.

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

(5) Some INTERPOL member countries have used INTERPOL’s databases and processes, including Notice and Diffusion mechanisms and the Stolen and Lost Travel Document Database, for activities of a political or other unlawful character and in vio-
lation of international human rights standards, including making requests to INTERPOL for interventions related to purported charges of ordinary law crimes that are fabricated for political or other unlawful motives.

(6) According to the Justice Manual of the United States Department of Justice, “[i]n the United States, national law prohibits the arrest of the subject of a Red Notice issued by another INTERPOL member country, based upon the notice alone” and requires the existence of a valid extradition treaty between the requesting country and the United States, a diplomatic request for provisional arrest of the subject individual, and an arrest warrant from the United States Attorney’s Office of the subject jurisdiction.

SEC. 3. SENSE OF CONGRESS.

It is the sense of Congress that the Russian Federation and other autocratic countries have abused INTERPOL’s databases and processes, including Notice and Diffusion mechanisms and the Stolen and Lost Travel Document Database, for political and other unlawful purposes, such as intimidating, harassing, and persecuting political opponents, journalists, members of civil society, and non-pliant members of the business community.
SEC. 4. STATEMENT OF POLICY.

It is the policy of the United States:

(1) To use the voice, vote, and influence of the United States within INTERPOL’s General Assembly and Executive Committee to promote the following objectives aimed at improving the transparency of INTERPOL and ensuring its operation consistent with its Constitution, particularly Articles 2 and 3, and Rules on the Processing of Data:

(A) Enhance the screening process for Notices, Diffusions, and other INTERPOL communications to ensure they comply with INTERPOL’s Constitution and Rules on the Processing of Data.

(B) In cases in which INTERPOL has determined that a member country issued a Notice, Diffusion, or other INTERPOL communication against an individual in violation of Articles 2 or 3 of the INTERPOL Constitution, require such member country to seek the approval of the Commission for the Control of INTERPOL’s Files (CCF) prior to publishing any subsequent Notices, Diffusions, or other INTERPOL communication against the same individual.
(C) Impose penalties on countries for regular or egregious violations of INTERPOL’s Constitution or Rules on the Processing of Data, including the temporary suspension of member countries’ access to INTERPOL systems.

(D) Fill vacant positions within INTERPOL’s structures, including the Presidency, General Secretariat, and CCF, with candidates who have demonstrated experience relating to and respect for the rule of law.

(E) Oppose the appointment to senior positions within INTERPOL of candidates from member countries that commit regular violations of the rule of law or INTERPOL’s Constitution or Rules on the Processing of Data, and disqualify any candidate from a member country that has had its access to INTERPOL systems temporarily suspended at any time in the prior five years.

(F) Require INTERPOL in its annual report to provide a detailed account of the following information, disaggregated by member country or entity:
(i) The number of Notice requests, disaggregated by color, that it received.
(ii) The number of Notice requests, disaggregated by color, that it rejected.
(iii) The category of violation identified in each instance of a rejected Notice.
(iv) The number of Diffusions that it cancelled without reference to decisions by the CCF.
(v) The sources of all INTERPOL income during the reporting period.
(vi) Every instance in which INTERPOL suspends or withdraws the access rights or otherwise sanctions a member country and the reason for taking such measures.
(G) Require the CCF in its annual report to provide a detailed account of the following information, disaggregated by country:
(i) The number of admissible complaints received by the CCF regarding issued Notices, Diffusions, and other INTERPOL communications.
(ii) The category of violation alleged in each such complaint.
(iii) The outcome of the CCF's adjudication of each complaint, specifying whether a violation was found and, if so, what specific category of violation was identified.

(iv) The course of action taken by the CCF in response to its adjudication of each complaint, such as deleting or correcting the subject INTERPOL file or files.

(v) The number of preventive requests received by the CCF and the outcome of the CCF's adjudication of each such request.

(2) To direct relevant United States departments and agencies to take appropriate action in response to credible information of likely attempts by member countries to abuse INTERPOL communications for politically motivated or other unlawful purposes, including by—

(A) using bilateral and multilateral engagements with INTERPOL member countries, as appropriate, to raise the United States' serious concerns about attempts to abuse
INTERPOL systems in violation of Articles 2 and 3 of INTERPOL's Constitution;

(B) lodging demarches, as appropriate, with the government of the violating member country for such abuses of INTERPOL communications;

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

(D) engaging with foreign immigration and security services, as appropriate, to secure the freedom of targeted individuals if such individuals are detained on the basis of such an INTERPOL communication; and

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

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

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Attorney General, in coordination with the Secretary of Homeland Secretary,
the Secretary of State, and the heads of other relevant United States Government departments or agencies shall submit to the appropriate congressional committees a report containing an assessment of how INTERPOL member countries abuse INTERPOL Red Notices, Diffusions, and other INTERPOL communications for political motives and other unlawful purposes within the past three years.

(b) ELEMENTS.—The report required under subsection (a) shall include the following elements:

(1) A description of—

(A) the most common tactics employed by member countries in conducting such abuse, including the crimes most commonly alleged and the INTERPOL communications most commonly exploited;

(B) how many INTERPOL communications are blocked by INTERPOL authorities because of suspected politically motivated abuse; and

(C) which countries are responsible for the greatest volume and most frequent abuse of INTERPOL communications and whether INTERPOL has imposed any penalty on these member countries for this abuse.
(2) An assessment of the adequacy of INTERPOL mechanisms for challenging abusive requests, including the Commission for the Control of INTERPOL's Files (CCF), and any shortcoming the United States believes should be addressed.

(3) A description of any incidents in which the Department of Justice assesses that United States courts and executive departments or agencies have relied on INTERPOL communications in contravention of existing law or policy to seek the detention of individuals or render judgments concerning their immigration status or requests for asylum, withholding of removal, or convention against torture claims and any measures the Department of Justice or other executive departments or agencies took in response to these incidents.

(4) A description of how the United States monitors and responds to likely instances of abuse of INTERPOL communications by member countries that could affect the interests of the United States, including citizens and nationals of the United States, employees of the United States Government, aliens lawfully admitted for permanent residence in the United States, aliens who are lawfully present in the United States, or aliens with pending asylum,
withholding of removal, or convention against torture claims, though they may be unlawfully present in the United States.

(5) A description of what actions the United States takes in response to credible information it receives concerning likely abuse of INTERPOL communications targeting employees of the United States Government for activities they undertook in an official capacity.

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

(7) A strategy for improving interagency coordination to identify and address instances of INTERPOL abuse that affect the interests of the United States, including international respect for human rights and fundamental freedoms, citizens and nationals of the United States, employees of the United States Government, aliens lawfully admitted for permanent residence in the United States, aliens who are lawfully present in the United States, or aliens with pending asylum, withholding of removal, or convention against torture claims, though they may be unlawfully present in the United States.

(8) An estimate of the costs involved in establishing such improvements.
(c) FORM OF REPORT.—Each report required by subsection (a) shall be submitted in unclassified form and be published in the Federal Register, but may include a classified annex, as appropriate.

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

SEC. 6. PROHIBITION ON DENIAL OF SERVICES.

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

(1) prior verification of the individual’s eligibility for extradition under a valid bilateral extradition treaty for the specified crime or crimes;
(2) receipt of a diplomatic request for provisional arrest from the requesting country; and
(3) the issuance of an arrest warrant in compliance with section 3184 of title 18, United States Code.

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

SEC. 7. ANNUAL COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES.

The Foreign Assistance Act of 1961 is amended—
(1) in section 116 (22 U.S.C. 2151n), by adding at the end the following new subsection:

“(h) Politically Motivated Reprisal Against Individuals Outside the Country.—The report required by subsection (d) shall include examples from credible reporting of likely attempts by countries to misuse international law enforcement tools, such as INTERPOL communications, for politically motivated reprisal against specific individuals located in other countries.”; and

(2) in section 502B (22 U.S.C. 2304)—

(A) by redesignating the second subsection (i) (relating to child marriage status) as subsection (j); and

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

“(k) Politically Motivated Reprisal Against Individuals Outside the Country.—The report required by subsection (b) shall include examples from credible reporting of likely attempts by countries to misuse international law enforcement tools, such as INTERPOL communications, for politically motivated reprisal against specific individuals located in other countries.”.

SEC. 8. DEFINITIONS.

In this Act:
(1) Appropriate Congressional Committees.—The term "appropriate congressional committees" means—

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

(B) the Committee on Foreign Affairs, the Committee on Appropriations, and the Committee on the Judiciary of the House of Representatives.

(2) Interpol Communications.—The term "INTERPOL communications" means any INTERPOL notice or diffusion or any entry into any INTERPOL database or other communications system maintained by INTERPOL.