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S. 1591

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

MAY 12, 2021

Mr. WICKER (for himself, Mr. CARDIN, Mr. TILLIS, Mr. WHITEHOUSE, Mr. RUBIO, Mr. MARKEY, Mr. ROUNDS, and Mr. VAN HOLLEN) 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 2021” or as the
6 “TRAP Act of 2021”.

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 kleptocracy,
5 counterterrorism, cybercrime, counternarcotics, and
6 transnational 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 kleptocracy, terrorism,
11 cybercrime, narcotics, and transnational organized
12 crime.

13 (3) Article 2 of INTERPOL’s Constitution
14 states that the organization aims “[to] ensure and
15 promote the widest possible mutual assistance be-
16 tween all criminal police authorities . . . in the spir-
17 it of the ‘Universal Declaration of Human Rights’”.

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

22 (5) These principles provide INTERPOL with a
23 foundation based on respect for human rights and
24 avoidance of politically motivated actions by the or-
25 ganization and its members.

1 (6) Some INTERPOL member countries have
2 used INTERPOL’s databases and processes, includ-
3 ing Notice and Diffusion mechanisms and the Stolen
4 and Lost Travel Document Database, for activities
5 of a political or other unlawful character and in vio-
6 lation of international human rights standards, in-
7 cluding making requests to INTERPOL for inter-
8 ventions related to purported charges of ordinary
9 law crimes that are fabricated for political or other
10 unlawful motives.

11 (7) According to the Justice Manual of the
12 United States Department of Justice, “[i]n the
13 United States, national law prohibits the arrest of
14 the subject of a Red Notice issued by another
15 INTERPOL member country, based upon the notice
16 alone” and requires the existence of a valid extra-
17 dition treaty between the requesting country and the
18 United States, a valid request for provisional arrest
19 of the subject individual, and an arrest warrant
20 issued by a United States District Court based on
21 a complaint filed by the United States Attorney’s
22 Office of the subject jurisdiction.

23 **SEC. 3. STATEMENT OF POLICY.**

24 It is the policy of the United States:

1 (1) To use the voice, vote, and influence of the
2 United States, as appropriate, within INTERPOL's
3 General Assembly and Executive Committee to pro-
4 mote the following objectives aimed at improving the
5 transparency of INTERPOL and ensuring its oper-
6 ation consistent with its Constitution, particularly
7 articles 2 and 3, and Rules on the Processing of
8 Data:

9 (A) Support INTERPOL's reforms en-
10 hancing the screening process for Notices, Dif-
11 fusions, and other INTERPOL communications
12 to ensure they comply with INTERPOL's Con-
13 stitution and Rules on the Processing of Data
14 (RPD).

15 (B) Support and strengthen INTERPOL's
16 coordination with the Commission for Control
17 of INTERPOL's Files (CCF) in cases in which
18 INTERPOL or the CCF has determined that a
19 member country issued a Notice, Diffusion, or
20 other INTERPOL communication against an
21 individual in violation of articles 2 or 3 of the
22 INTERPOL Constitution, or the RPD, to pro-
23 hibit such member country from seeking the
24 publication or issuance of any subsequent No-
25 tices, Diffusions, or other INTERPOL commu-

1 nication against the same individual based on
2 the same set of claims or facts.

3 (C) Support candidates for positions within
4 INTERPOL's structures, including the Presi-
5 dency, Executive Committee, General Secre-
6 tariat, and CCF who have demonstrated experi-
7 ence relating to and respect for the rule of law.

8 (D) Seek to require INTERPOL in its an-
9 nual report to provide a detailed account of the
10 following information, disaggregated by member
11 country or entity:

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

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

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

18 (iv) The number of Diffusions that it
19 cancelled without reference to decisions by
20 the CCF.

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

23 (E) Support greater transparency by the
24 CCF in its annual report by providing a de-

1 tailed account of the following information,
2 disaggregated by country:

3 (i) The number of admissible requests
4 for correction or deletion of data received
5 by the CCF regarding issued Notices, Dif-
6 fusions, and other INTERPOL commu-
7 nications.

8 (ii) The category of violation alleged
9 in each such complaint.

10 (2) Put in place procedures, as appropriate, for
11 sharing with relevant departments and agencies
12 credible information of likely attempts by member
13 countries to abuse INTERPOL communications for
14 politically motivated or other unlawful purposes so
15 that, as appropriate, action can be taken in accord-
16 ance with their respective institutional mandates.

17 **SEC. 4. REPORT ON THE ABUSE OF INTERPOL SYSTEMS.**

18 (a) IN GENERAL.—Not later than 180 days after the
19 date of the enactment of this Act, the Attorney General,
20 in coordination with the Secretary of Homeland Secretary,
21 the Secretary of State, and the heads of other relevant
22 United States Government departments or agencies shall
23 submit to the appropriate congressional committees a re-
24 port containing an assessment of how INTERPOL mem-
25 ber countries abuse INTERPOL Red Notices, Diffusions,

1 and other INTERPOL communications for political mo-
2 tives and other unlawful purposes within the past three
3 years.

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

6 (1) A description of the most common tactics
7 employed by member countries in conducting such
8 abuse, including the crimes most commonly alleged
9 and the INTERPOL communications most com-
10 monly exploited.

11 (2) An assessment of the adequacy of
12 INTERPOL mechanisms for challenging abusive re-
13 quests, including the Commission for the Control of
14 INTERPOL's Files (CCF), and any shortcoming
15 the United States believes should be addressed.

16 (3) A description of any incidents in which the
17 Department of Justice assesses that United States
18 courts and executive departments or agencies have
19 relied on INTERPOL communications in contraven-
20 tion of existing law or policy to seek the detention
21 of individuals or render judgments concerning their
22 immigration status or requests for asylum, with
23 holding of removal, or convention against torture
24 claims and any measures the Department of Justice

1 or other executive departments or agencies took in
2 response to these incidents.

3 (4) A description of how the United States
4 monitors and responds to likely instances of abuse of
5 INTERPOL communications by member countries
6 that could affect the interests of the United States,
7 including citizens and nationals of the United
8 States, employees of the United States Government,
9 aliens lawfully admitted for permanent residence in
10 the United States, aliens who are lawfully present in
11 the United States, or aliens with pending asylum,
12 withholding of removal, or convention against tor-
13 ture claims, though they may be unlawfully present
14 in the United States.

15 (5) A description of what actions the United
16 States takes in response to credible information it
17 receives concerning likely abuse of INTERPOL com-
18 munications targeting employees of the United
19 States Government for activities they undertook in
20 an official capacity.

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

23 (7) A strategy for improving interagency coordi-
24 nation to identify and address instances of
25 INTERPOL abuse that affect the interests of the

1 United States, including international respect for
2 human rights and fundamental freedoms, citizens
3 and nationals of the United States, employees of the
4 United States Government, aliens lawfully admitted
5 for permanent residence in the United States, aliens
6 who are lawfully present in the United States, or
7 aliens with pending asylum, withholding of removal,
8 or convention against torture claims, though they
9 may be unlawfully present in the United States.

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

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

16 (d) BRIEFING.—Not later than 180 days after the
17 submission of the report in subsection (a), and every 180
18 days after for two years, the Department of Justice, in
19 coordination with the Department of Homeland Secretary,
20 the Department of State, and the heads of other relevant
21 United States Government departments and agencies shall
22 brief the appropriate congressional committees on recent
23 instances of INTERPOL abuse by member countries and
24 United States efforts to identify and challenge such abuse,

1 including efforts to promote reform and good governance
2 within INTERPOL.

3 **SEC. 5. PROHIBITION ON DENIAL OF SERVICES.**

4 (a) ARRESTS.—No United States Government de-
5 partment or agency may arrest an individual for the pur-
6 pose of extradition who is the subject of an INTERPOL
7 Red Notice or Diffusion issued by another INTERPOL
8 member country, based solely upon the INTERPOL com-
9 munication without—

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

13 (2) receipt of a valid request for provisional ar-
14 rest from the requesting country; and

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

18 (b) REMOVAL AND TRAVEL RESTRICTIONS.—No
19 United States Government department or agency may
20 make use of any INTERPOL Notice, Diffusion, or other
21 INTERPOL communication, or the information contained
22 therein, published on behalf of another INTERPOL mem-
23 ber country as the sole basis to detain or otherwise deprive
24 an individual of freedom, to remove an individual from the
25 United States, or to deny a visa, asylum, citizenship, other

1 immigration status, or participation in any trusted trav-
 2 eler program of the Transportation Security Administra-
 3 tion, without independent credible evidence supporting
 4 such a determination.

5 **SEC. 6. ANNUAL COUNTRY REPORTS ON HUMAN RIGHTS**
 6 **PRACTICES.**

7 The Foreign Assistance Act of 1961 is amended—

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

10 “(h) **POLITICALLY MOTIVATED REPRISAL AGAINST**
 11 **INDIVIDUALS OUTSIDE THE COUNTRY.**—The report re-
 12 quired by subsection (d) shall include examples from cred-
 13 ible reporting of likely attempts by countries to misuse
 14 international law enforcement tools, such as INTERPOL
 15 communications, for politically-motivated reprisal against
 16 specific individuals located in other countries.”; and

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

18 (A) by redesignating the second subsection

19 (i) (relating to child marriage status) as sub-
 20 section (j); and

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

23 “(k) **POLITICALLY MOTIVATED REPRISAL AGAINST**
 24 **INDIVIDUALS OUTSIDE THE COUNTRY.**—The report re-
 25 quired by subsection (b) shall include examples from cred-

1 ible reporting of likely attempts by countries to misuse
 2 international law enforcement tools, such as INTERPOL
 3 communications, for politically motivated reprisal against
 4 specific individuals located in other countries.”.

5 **SEC. 7. DEFINITIONS.**

6 In this Act:

7 (1) APPROPRIATE CONGRESSIONAL COMMIT-
 8 TEES.—The term “appropriate congressional com-
 9 mittees” means—

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

13 (B) the Committee on Foreign Affairs, the
 14 Committee on Appropriations, and the Com-
 15 mittee on the Judiciary of the House of Rep-
 16 resentatives.

17 (2) INTERPOL COMMUNICATIONS.—The term
 18 “INTERPOL communications” means any
 19 INTERPOL Notice or Diffusion or any entry into
 20 any INTERPOL database or other communications
 21 system maintained by INTERPOL.

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