

116TH CONGRESS  
1ST SESSION

# H. R. 4330

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 HOUSE OF REPRESENTATIVES

SEPTEMBER 13, 2019

Mr. HASTINGS (for himself, Mr. WILSON of South Carolina, Ms. JACKSON LEE, Mr. FITZPATRICK, Mr. COHEN, Ms. MOORE, Mr. CURTIS, Mr. VEASEY, Mr. MALINOWSKI, and Mr. HUDSON) introduced the following bill; which was referred to the Committee on Foreign Affairs, and in addition to the Committees on the Judiciary, and Homeland Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

---

## 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 as the  
6 “TRAP Act of 2019”.

1 **SEC. 2. FINDINGS.**

2 Congress makes the following findings:

3 (1) The International Criminal Police Organiza-  
4 tion (INTERPOL) works to prevent and fight crime  
5 through enhanced cooperation and innovation on po-  
6 lice and security matters, including counterter-  
7 rorism, cybercrime, counternarcotics, and transna-  
8 tional organized crime.

9 (2) United States membership and participation  
10 in INTERPOL advances the national security and  
11 law enforcement interests of the United States re-  
12 lated to combating terrorism, cybercrime, narcotics,  
13 and transnational organized crime.

14 (3) Article 2 of INTERPOL's Constitution  
15 states that the organization aims "[t]o ensure and  
16 promote the widest possible mutual assistance be-  
17 tween all criminal police authorities . . . in the spir-  
18 it of the 'Universal Declaration of Human Rights'".

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

23 (5) Some INTERPOL member countries have  
24 used INTERPOL's databases and processes, includ-  
25 ing Notice and Diffusion mechanisms and the Stolen  
26 and Lost Travel Document Database, for activities

1 of a political or other unlawful character and in vio-  
2 lation of international human rights standards, in-  
3 cluding making requests to INTERPOL for inter-  
4 ventions related to purported charges of ordinary  
5 law crimes that are fabricated for political or other  
6 unlawful motives.

7 (6) According to the Justice Manual of the  
8 United States Department of Justice, “[i]n the  
9 United States, national law prohibits the arrest of  
10 the subject of a Red Notice issued by another  
11 INTERPOL member country, based upon the notice  
12 alone” and requires the existence of a valid extra-  
13 dition treaty between the requesting country and the  
14 United States, a diplomatic request for provisional  
15 arrest of the subject individual, and an arrest war-  
16 rant from the United States Attorney’s Office of the  
17 subject jurisdiction.

18 **SEC. 3. SENSE OF CONGRESS.**

19 It is the sense of Congress that the Russian Federa-  
20 tion and other autocratic countries have abused  
21 INTERPOL’s databases and processes, including Notice  
22 and Diffusion mechanisms and the Stolen and Lost Travel  
23 Document Database, for political and other unlawful pur-  
24 poses, such as intimidating, harassing, and persecuting

1 political opponents, journalists, members of civil society,  
2 and non-pliant members of the business community.

3 **SEC. 4. STATEMENT OF POLICY.**

4 It is the policy of the United States:

5 (1) To use the voice, vote, and influence of the  
6 United States within INTERPOL's General Assem-  
7 bly and Executive Committee to promote the fol-  
8 lowing objectives aimed at improving the trans-  
9 parency of INTERPOL and ensuring its operation  
10 consistent with its Constitution, particularly articles  
11 2 and 3, and Rules on the Processing of Data:

12 (A) Enhance the screening process for No-  
13 tices, Diffusions, and other INTERPOL com-  
14 munications to ensure they comply with  
15 INTERPOL's Constitution and Rules on the  
16 Processing of Data.

17 (B) In cases in which INTERPOL has de-  
18 termined that a member country issued a No-  
19 tice, Diffusion, or other INTERPOL commu-  
20 nication against an individual in violation of Ar-  
21 ticles 2 or 3 of the INTERPOL Constitution,  
22 require such member country to seek the ap-  
23 proval of the Commission for the Control of  
24 INTERPOL's Files (CCF) prior to publishing  
25 any subsequent Notices, Diffusions, or other

1 INTERPOL communication against the same  
2 individual.

3 (C) Impose penalties on countries for reg-  
4 ular or egregious violations of INTERPOL's  
5 Constitution or Rules on the Processing of  
6 Data, including the temporary suspension of  
7 member countries' access to INTERPOL sys-  
8 tems.

9 (D) Fill vacant positions within  
10 INTERPOL's structures, including the Presi-  
11 dency, General Secretariat, and CCF, with can-  
12 didates who have demonstrated experience re-  
13 lating to and respect for the rule of law.

14 (E) Oppose the appointment to senior posi-  
15 tions within INTERPOL of candidates from  
16 member countries that commit regular viola-  
17 tions of the rule of law or INTERPOL's Con-  
18 stitution or Rules on the Processing of Data,  
19 and disqualify any candidate from a member  
20 country that has had its access to INTERPOL  
21 systems temporarily suspended at any time in  
22 the prior five years.

23 (F) Require INTERPOL in its annual re-  
24 port to provide a detailed account of the fol-

1           lowing information, disaggregated by member  
2           country or entity:

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

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

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

9                   (iv) The number of Diffusions that it  
10                  cancelled without reference to decisions by  
11                  the CCF.

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

14                  (vi) Every instance in which  
15                  INTERPOL suspends or withdraws the  
16                  access rights or otherwise sanctions a  
17                  member country and the reason for taking  
18                  such measures.

19                  (G) Require the CCF in its annual report  
20                  to provide a detailed account of the following  
21                  information, disaggregated by country:

22                   (i) The number of admissible com-  
23                   plaints received by the CCF regarding  
24                   issued Notices, Diffusions, and other  
25                   INTERPOL communications.

1           (ii) The category of violation alleged  
2           in each such complaint.

3           (iii) The outcome of the CCF's adju-  
4           dication of each complaint, specifying  
5           whether a violation was found and, if so,  
6           what specific category of violation was  
7           identified.

8           (iv) The course of action taken by the  
9           CCF in response to its adjudication of  
10          each complaint, such as deleting or cor-  
11          recting the subject INTERPOL file or  
12          files.

13          (v) The number of preventive requests  
14          received by the CCF and the outcome of  
15          the CCF's adjudication of each such re-  
16          quest.

17          (2) To direct relevant U.S. departments and  
18          agencies to take appropriate action in response to  
19          credible information of likely attempts by member  
20          countries to abuse INTERPOL communications for  
21          politically motivated or other unlawful purposes, in-  
22          cluding by—

23                (A) using bilateral and multilateral en-  
24                gagements with INTERPOL member countries,  
25                as appropriate, to raise the United States seri-

1           ous concerns about attempts to abuse  
2 INTERPOL systems in violation of Articles 2  
3 and 3 of INTERPOL’s Constitution;

4           (B) lodging demarches, as appropriate,  
5 with the government of the violating member  
6 country for such abuses of INTERPOL com-  
7 munications;

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

14           (D) engaging with foreign immigration and  
15 security services, as appropriate, to secure the  
16 freedom of targeted individuals if such individ-  
17 uals are detained on the basis of such an  
18 INTERPOL communication; and

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

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

24           (a) IN GENERAL.—Not later than 180 days after the  
25 date of the enactment of this Act, the Attorney General,



1 in coordination with the Secretary of Homeland Secretary,  
2 the Secretary of State, and the heads of other relevant  
3 United States Government departments or agencies shall  
4 submit to the appropriate congressional committees a re-  
5 port containing an assessment of how INTERPOL mem-  
6 ber countries abuse INTERPOL Red Notices, Diffusions,  
7 and other INTERPOL communications for political mo-  
8 tives and other unlawful purposes within the past three  
9 years.

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

12 (1) A description of—

13 (A) the most common tactics employed by  
14 member countries in conducting such abuse, in-  
15 cluding the crimes most commonly alleged and  
16 the INTERPOL communications most com-  
17 monly exploited;

18 (B) how many INTERPOL communica-  
19 tions are blocked by INTERPOL authorities  
20 because of suspected politically motivated  
21 abuse; and

22 (C) which countries are responsible for the  
23 greatest volume and most frequent abuse of  
24 INTERPOL communications and whether

1 INTERPOL has imposed any penalty on these  
2 member countries for this abuse.

3 (2) An assessment of the adequacy of  
4 INTERPOL mechanisms for challenging abusive re-  
5 quests, including the Commission for the Control of  
6 INTERPOL's Files (CCF), and any shortcoming  
7 the United States believes should be addressed.

8 (3) A description of any incidents in which the  
9 Department of Justice assesses that United States  
10 courts and executive departments or agencies have  
11 relied on INTERPOL communications in contraven-  
12 tion of existing law or policy to seek the detention  
13 of individuals or render judgments concerning their  
14 immigration status or requests for asylum, with-  
15 holding of removal, or convention against torture  
16 claims and any measures the Department of Justice  
17 or other executive departments or agencies took in  
18 response to these incidents.

19 (4) A description of how the United States  
20 monitors and responds to likely instances of abuse of  
21 INTERPOL communications by member countries  
22 that could affect the interests of the United States,  
23 including citizens and nationals of the United  
24 States, employees of the United States Government,  
25 aliens lawfully admitted for permanent residence in

1 the United States, aliens who are lawfully present in  
2 the United States, or aliens with pending asylum,  
3 withholding of removal, or convention against tor-  
4 ture claims, though they may be unlawfully present  
5 in the United States.

6 (5) A description of what actions the United  
7 States takes in response to credible information it  
8 receives concerning likely abuse of INTERPOL com-  
9 munications targeting employees of the United  
10 States Government for activities they undertook in  
11 an official capacity.

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

14 (7) A strategy for improving interagency coordi-  
15 nation to identify and address instances of  
16 INTERPOL abuse that affect the interests of the  
17 United States, including international respect for  
18 human rights and fundamental freedoms, citizens  
19 and nationals of the United States, employees of the  
20 United States Government, aliens lawfully admitted  
21 for permanent residence in the United States, aliens  
22 who are lawfully present in the United States, or  
23 aliens with pending asylum, withholding of removal,  
24 or convention against torture claims, though they  
25 may be unlawfully present in the United States.

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

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

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

18       **SEC. 6. PROHIBITION ON DENIAL OF SERVICES.**

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

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

4           (2) receipt of a diplomatic request for provi-  
5           sional arrest from the requesting country; and

6           (3) the issuance of an arrest warrant in compli-  
7           ance with section 3184 of title 18, United States  
8           Code.

9           (b) REMOVAL AND TRAVEL RESTRICTIONS.—No  
10          United States Government department or agency may  
11          make use of any INTERPOL Notice, Diffusion, or other  
12          INTERPOL communication, or the information contained  
13          therein, published on behalf of another INTERPOL mem-  
14          ber country with which the United States Government is  
15          not a party to a valid bilateral extradition treaty as the  
16          sole basis to detain or otherwise deprive an individual of  
17          freedom, to remove an individual from the United States,  
18          or to deny a visa, asylum, citizenship, other immigration  
19          status, or participation in any trusted traveler program  
20          of the Transportation Security Administration, without  
21          first verifying through the NCB, in coordination with the  
22          Department of State and other relevant United States  
23          government departments or agencies, that the subject  
24          INTERPOL communication likely comports with articles  
25          2 and 3 of INTERPOL's Constitution.

1 **SEC. 7. ANNUAL COUNTRY REPORTS ON HUMAN RIGHTS**  
2 **PRACTICES.**

3 The Foreign Assistance Act of 1961 is amended—

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

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

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

14 (A) by redesignating the second subsection  
15 (i) (relating to child marriage status) as sub-  
16 section (j); and

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

19 “(k) **POLITICALLY MOTIVATED REPRISAL AGAINST**  
20 **INDIVIDUALS OUTSIDE THE COUNTRY.**—The report re-  
21 quired by subsection (b) shall include examples from cred-  
22 ible reporting of likely attempts by countries to misuse  
23 international law enforcement tools, such as INTERPOL  
24 communications, for politically motivated reprisal against  
25 specific individuals located in other countries.”.

1 **SEC. 8. DEFINITIONS.**

2 In this Act:

3 (1) APPROPRIATE CONGRESSIONAL COMMIT-  
4 TEES.—The term “appropriate congressional com-  
5 mittees” means—

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

9 (B) the Committee on Foreign Affairs, the  
10 Committee on Appropriations, and the Com-  
11 mittee on the Judiciary of the House of Rep-  
12 resentatives.

13 (2) INTERPOL COMMUNICATIONS.—The term  
14 “INTERPOL communications” means any  
15 INTERPOL Notice or Diffusion or any entry into  
16 any INTERPOL database or other communications  
17 system maintained by INTERPOL.

○