
15 January, 2016, Brussels

**UN High Commissioner for Refugees Filippo Grandi,
Case Postale 2500, CH-1211 Genève 2 Dépôt, Suisse**

Dear Commissioner Grandi,

On behalf of the Open Dialog Foundation, non-governmental human rights organisation, we would like to congratulate you on your election as the new UN High Commissioner for Refugees. We highly appreciate your experience and important work you have carried out to date and we wish you all the best in your new role. We remain at your disposal, should our expertise be regarded of use in your work, and hope for a positive collaboration.

Furthermore, we would like to use this occasion to renew our call on the UNHCR's office to focus on a serious problem of politically motivated persecution of those who had found safety abroad and hold a refugee status, as recognised under the 1951 Refugee Convention, including through the misuse of Interpol's Red Notices. Hereby, we send you, therefore, an updated version of our letter from early 2015, addressed at the time to your predecessor, Commissioner Guterres, which to date remained without answer.

Back in 2008, the Deputy Director of the Division of International Protection Services at the UN High Commissioner for Refugees office, Mr Vincent Cochetel pointed to the problem of arrests of refugees: *"UNHCR is also confronted by situations whereby refugees recognised under the 1951 Refugee Convention, when travelling outside their country of asylum, holding travel documents issued under the terms of the Refugee Convention, are apprehended or detained, due to politically-motivated requests made by their countries of origin which are abusing Interpol's red notice system".*¹

Unfortunately, this problem not only remains unresolved, but has also worsened in the recent years.

In February 2015, the Open Dialog Foundation prepared a report, which details 44 high-profile cases of political refugees or asylum-seekers that have been victims of abuse of the Interpol system by authoritarian states.² In July 2015, we presented a written submission to Interpol's General Secretariat within the framework of contribution to the work of the Working Group on the Processing of Information in Lyon, France³. We are pleased to furnish you with our materials, which form the attachments to this letter. Of the analysed 44 cases, 18 cases of political persecution involved Russia, 10 - Kazakhstan, 5 - Belarus, 2 – Iran and 2 - Turkey. When analysing the issue of misuse of the Interpol system, it should be noted that, based on the Freedom House ranking, most of the members of Interpol are recognised as undemocratic⁴.

¹ <http://www.unhcr.org/cgi-bin/texis/vtx/home/opendocPDFViewer.html?docid=478e03702&query=Interpol>

² <http://en.odfoundation.eu/a/5947,the-report-the-interpol-system-is-in-need-of-reform> (February 2015)

³ <http://en.odfoundation.eu/a/6690,odf-drafted-recommendations-on-the-reform-of-interpol> (July 2015)

⁴ Of the 187 Interpol member states (excluding the Vatican, the overseas territories of the Netherlands and the UK), 104 states, according to Freedom House, are 'not free' or are only 'partially free'. - <https://freedomhouse.org/report/freedom-world/freedom-world-2015#.VPRMT3ysU2g>



CRIMINAL PROSECUTION OF REFUGEES THROUGH THE MECHANISMS OF INTERPOL

Decisions of the United Nations and individual states on the granting of international refugee status do not always guarantee protection from political persecution.

The appeal procedure regarding the 'red notice', considered by the Interpol's Commission for the Control of Files, is complex and lengthy. In its resolution of 31 January, 2014, the PACE criticised the work of the Commission for the Control of Files, as its procedures are not adversarial, and its decisions are often unjustified.

Political refugees are often forced to remain behind bars for months or even years, while lengthy procedures for the consideration of extradition requests and the challenging of Interpol's notices are on-going. Throughout all this time, individuals are forced to face serious restrictions, such as lengthy incarcerations, being listed as 'undesired-aliens' in the Schengen Information System, being refused a residence permit etc. As a rule, the bodies of Interpol take a very long time to respond to letters from persecuted refugees. In some cases, follow-up letters with additional questions are left unanswered at all. Thus, through the mechanisms of Interpol, authoritarian regimes constrain social activity of their opponents. Political refugees face the risk of arrest at the border and they are forced to spend a lot of effort and money to prove their innocence.

Refugees remain on lists of internationally wanted persons even after courts (including the European Court of Human Rights) ***have refused to render them to authoritarian states.*** In most cases, Interpol removes 'Red Notices' only after the state has closed the criminal case or declared amnesty. However, situations in which states themselves close politically motivated cases are uncommon.

Following arrests based on Interpol Red Notices, political refugees or asylum holders risk being extradited to an authoritarian state, which can subsequently lead to tragic consequences. For example, **Rasoul Mazrae**, an Iranian opposition activist, was rendered from Syria to Iran, despite the fact that the UN had recognised him as a political refugee. In Iran, Mazrae was tortured and sentenced to death. Human rights activists claim they have no information regarding his execution⁵.

We consider it appropriate to provide a few examples of how authoritarian regimes continue to pursue persons who have been granted refugee status, through the misuse of Interpol:

- **Andrey Borodin** - a major Russian businessman, who has been charged with fraud and embezzlement on a grand scale. Charges against him are connected with his position in one of the biggest Russian banks "Bank of Moscow". He was granted political asylum in Great Britain.
- **Arbi Bugaev** - a native of Chechnya who was accused of terrorism by Russia. He was granted political asylum in Germany. According to the information from an NGO, the Russian authorities, as well as criminal groups repeatedly exerted pressure, including torture, on Arbi Bugaev's family members in Russia⁶.
- **Ilya Katsnelson** - a businessman, whose business has been associated with Mikhail Khodorkovsky's company. He is a U.S. citizen. Russia accused him of fraud, money laundering and abuse of power. Germany and Belgium refused to extradite Katsnelson to Russia, labelling the charges against him 'politically motivated and baseless'.

⁵ http://www.huffingtonpost.com/the-center-for-public-integrity/international-police-agent_b_901385.html

⁶ <https://groups.yahoo.com/neo/groups/Chechnya-Az/conversations/topics/3506>



- **Natallia Sudliankova** - a Belarusian oppositionist, who has been accused of misappropriating funds. She was granted political asylum in the Czech Republic, where she worked as a journalist in Radio Liberty. She currently occupies a position of the Chief Editor of newspaper “Prague telegraph”.
- **Mukhtar Ablyazov** – a Kazakh opposition politician who is included in the Interpol wanted list in relation to charges of fraud and abuse of power. In 2011, he was granted political asylum in Great Britain. Dozens of human rights organisations and parliamentarians have pointed to the political context of the case of Ablyazov and the inadmissibility of his extradition.⁷ Since his detention on 31 July, 2013, under the "red notice" of Interpol, Ablyazov has been held in custody in France. Ukraine and Russia, sent extradition requests. Kazakhstan has no extradition treaty with France, thus it pursues the case through the above-mentioned proxies. In 2014, documents were published, indicating that Kazakhstan had prepared case documentation for the Ukrainian and Russian investigation. On 17 September, 2015, French Prime Minister signed a decree on extradition to Russia. The decree has not been carried out so far, pending appeal at the Council of State.⁸
- Through Interpol channels, Kazakh authorities also oppressed Mukhtar Ablyazov’s wife, **Alma Shalabayeva**, their 6-year-old daughter Alua, as well as his brother-in-law **Syrym Shalabayev**. Mrs Shalabayeva and her daughter were illegally deported to Kazakhstan from Italy. Thanks to the intervention of human rights organisations, the UN and the European Parliament, Shalabayeva and her daughter were permitted to leave the territory of Kazakhstan. Italy has since granted them refugee status. Mr Shalabayev was arrested in Lithuania in July 2015. In May 2015, Shalabayev asked for political asylum and was granted temporary protection. In December 2015 Shalabayev was released on parole for 3 months pending the final decision on his political asylum⁹.
- **Muratbek Ketebayev** – a Kazakh opposition politician who despite refugee status granted in Poland was arrested in Spain, on the basis of Kazakhstan’s Interpol’s request which pertained to charges of ‘inciting social discord’ and ‘calling for a violent overthrow of the constitutional order’. Due to the intervention of the UNHCR’s office in Spain and international parliamentarians Ketebayev was released from custody and came back to Poland.
- **Artur Trofimov** – an associate of Mukhtar Ablyazov. In December, 2013, Austria granted additional protection to Trofimov in accordance with the Law ‘On the Status of Refugees’. In January, 2014, the Land Criminal Court of Vienna, citing Trofimov’s additional protection status, rejected Russia’s request for his extradition. Human rights organisations and prominent civil society activists have stated that the criminal case against Artur Trofimov has an explicit political context¹⁰.

⁷ <http://en.odfoundation.eu/a/6264,international-community-calls-on-france-to-prevent-extradition-of-opposition-politician-mukhtar-ablyazov> (April 2015)

⁸ Reports and statement produced by the Open Dialog Foundation - <http://en.odfoundation.eu/a/6935,in-a-shocking-decision-french-government-decrees-extradition-of-kazakh-dissident-mukhtar-ablyazov-to-russia> (October 2015); <http://en.odfoundation.eu/a/6869,report-analysis-of-documents-in-the-case-of-ablyazov> (September 2015); <http://en.odfoundation.eu/a/6460,report-france-should-not-allow-the-deadly-rendering-of-the-kazakh-oppositionist> (May 2015); <http://en.odfoundation.eu/a/6139,report-the-case-of-mukhtar-ablyazov-in-ukraine> (March 2015);

⁹ <http://en.odfoundation.eu/a/7039,human-rights-defenders-write-to-lithuanian-authorities-in-support-of-syrym-shalabayev> (November 2015); <http://en.odfoundation.eu/a/6857,report-political-persecution-of-syrym-shalabayev> (September 2015)

¹⁰ <http://en.odfoundation.eu/a/5648,the-case-of-artur-trofimov-political-persecution-of-an-ally-of-the-kazakh-opposition> (February 2015)



- **Chandima Withana** – a journalist from Sri Lanka who was accused of forgery of documents. He was granted asylum in Great Britain. Sri Lankan government has not submitted a request for his extradition.
- **Halis Aydogan** – Turkish citizen, persecuted because of his participation in the Marxist Leninist Communist Party, 'participation in modification or annulation of the Turkish constitution' and throwing Molotov's cocktails on 23 July, 1996 at the Direction of Taxes in Kagithane Istanbul. Aydogan was forced to sign all accusatory documents under torture. He escaped to France where in 1998 he was granted refugee status. In 2009 he became a French citizen.
- **Andrey Nekrasov** – Russian journalist accused of extortion. Nekrasov states that his persecution is connected with investigations of corruption in Udmurtia. In September 2015 he was granted political asylum in Lithuania¹¹.
- **Mohammad Solih** - Uzbek dissident, who was sentenced to 15,5 years imprisonment in absentia for Islamic extremism and participation in terrorist acts. Mohammad Solih opposed Islam Karimov on presidential elections in 1991¹². Currently he is a head of Erk (Freedom) party banned in Uzbekistan. Mohammad Solih was granted political asylum in Norway¹³.

Many individuals with international refugee status may be included in the non-public part of Interpol's wanted list.

FIRST RESULTS OF THE INTERNATIONAL CAMPAIGN TO SUPPORT REFORM OF INTERPOL

Over the past year, due to a broad discussion on the issue of criminal prosecution of refugees through the mechanisms of international investigation, Interpol has become more open, and first steps have already been taken towards the reform of its mechanisms. Interpol has expressed its willingness for a constructive dialogue with representatives of civil society.

As a result of the long-term civil society lead advocacy and informational campaign, the General Assembly of Interpol provided a mandate for the Interpol Working Group on the Processing of Information for the implementation of a comprehensive review of Interpol's supervisory mechanisms in the area of data processing.

In 2015, Interpol increased the number of sessions of the Commission for the Control of Interpol's Files, which had previously met only 2-3 times a year and, therefore, could not respond promptly to all appeals. However, it remains to be seen whether the number of sessions for this year will be increased.

Recently, Interpol has announced the development of a new Asylum Policy, designed to ensure that Red Notices are not being issued against refugees recognised as such under the 1951 Convention. Still, this policy remains far from being fully effective, as States often fail to respond promptly to confirm or deny one's refugee status.

Only recently, Interpol has begun to respond more promptly to the cases of political prosecution of refugees. **In 2015, thanks to great efforts of the international community, Interpol removed the names of several persons from the wanted list, citing political motivations behind their prosecution.**

¹¹ <http://www.svoboda.org/content/article/27260518.html>

¹² <http://www.rferl.org/content/article/1098155.html>

¹³ <https://www.hrw.org/news/2006/05/17/sweden-uzbek-dissidents-arrest-sign-failed-eu-policy>



In 2015, Interpol removed from the wanted list **Pavel Zabelin** and **Pavel Ivlev**, businessmen, charged with fraud and embezzlement in the case of YUKOS (the oil company, which used to be headed by Mikhail Khodorkovsky). Both men pointed to the fact that Russian authorities had been pursuing them as retaliation for their refusal to give false testimony in the case of Khodorkovsky. Zabelin has been granted political asylum in Estonia.¹⁴ It has also become known that the name of **Leonid Nevzlin**, former vice president of YUKOS, whom Russia accused of organising murders and attempted murders, has been removed from the public wanted list of Interpol.

Interpol ceased to pursue several other persons, accused in the case of Khodorkovsky. It should be noted that the defendants in the case of YUKOS had repeatedly filed appeals with Interpol for the last 5 to 10 years, and it was only in 2015 that Interpol granted the appeals.

Also, in 2015, Interpol removed from the wanted list **Nikolay Koblyakov**, a Russian businessman and opposition activist, charged with corruption, whom Bulgaria refused to extradite to Russia.¹⁵

The Open Dialog Foundation provided consultations and/or carried out international advocacy campaigns with regard to the aforementioned cases.

Moreover, Interpol denied Malaysia's request to issue a Red Notice against independent British journalist **Clare Rewcastle Brown**, who had been charged with 'spreading false information' and 'committing activities detrimental to parliamentary democracy'.¹⁶ **Len Homeniuk**, a citizen of the USA and Canada, was held in custody in Bulgaria for approx. 2 months in connection with a Red Notice, issued by Kyrgyzstan on charges of corruption. In October 2015, Bulgaria refused to extradite Len Homeniuk. Currently, he is awaiting Interpol's response to his appeal.

AUTHORITARIAN STATES PLACE THE STIGMA OF TERRORISM ON REFUGEES

In 2008, the Deputy Director of the Division of International Protection Services at the UN High Commissioner for Refugees office pointed to the fact that persons prosecuted for political reasons are often falsely charged with terrorism, which causes a hindrance when making an application for official refugee status. Given the broad international campaign against terrorism, ***authoritarian states often use trumped-up charges of terrorism against political opponents and refugees.***

With regard to charges of terrorism, the Interpol list included, or continues to include, a number of political refugees or persons against whom charges have been recognised as politically motivated: Dododzhon Atovulloyev, Arbi Bugaev, Shahram Humayun, Dolkun Isa, Aydin Korkmaz, Alexander Pavlov, Pinar Selek and Akhmed Zakayev. Against Kazakh opposition politicians Mukhtar Ablyazov and Muratbek Ketebayev, who have been on the international wanted list, Kazakhstan brought additional charges of orchestrating a failed terrorist attack. These charges were also brought against Ablyazov's former bodyguard, **Alexander Pavlov**. He has been placed on the international wanted list and accused of terrorism, even though, in fact, it was he himself who became the victim of political terror at the hands of Kazakhstan.

¹⁴ <http://en.odfoundation.eu/a/6642,interpol-used-by-russia-in-the-case-of-yukos-and-khodorkovsky-the-oppression-of-pavel-zabelin>

¹⁵ <http://en.odfoundation.eu/a/5286,french-activist-nikolay-koblyakov-is-returning-home>

¹⁶ <http://www.sarawakreport.org/2015/08/refused-interpol-rejects-najibs-red-notice-request-against-sarawak-report/>



After his arrest, Pavlov spent eighteen months in a Spanish prison until his release on bail in July, 2014. In February, 2015, the Spanish Supreme Court overturned the decision on the extradition of Pavlov and granted him political asylum. Previously, a Spanish court had considered possible Pavlov's extradition to Kazakhstan, despite evidence of fabrication of the charges, Kazakhstan's dubious assurances of a fair trial, numerous appeals and statements of international human rights organisations, the UN Special Rapporteur on Torture, the OSCE PA and the European Parliament. In addition, the documents published in the media confirmed that the Kazakh authorities could have influenced the previous decision of the Spanish justice system.¹⁷

RECOMMENDATIONS OF THE OPEN DIALOG FOUNDATION

We welcome the fact that, more and more often, discussions regarding the need for a holistic reform of the refugee policy are being raised in the EU. More concrete actions, however, are needed globally and attention should also be directed towards the cases of dissidents persecuted through politically motivated and often, trumped-up charges.

The materials of the Open Dialog Foundation provide numerous examples of violations of the rights of refugees through misuse of the Interpol system. The OSCE PA, PACE and the European Parliament have repeatedly given clear signals to Member States that their support for the reform of Interpol is necessary. **Taking into account that the mandate of the UNHCR provides for the holding and coordination of international actions to protect refugees and resolve refugee problems, the Open Dialog Foundation hereby urges the UN High Commissioner for Refugees to consider our suggestions.**

- Initiate a process of reform of the international refugee status in order so that the said status shall protect a wanted person from arrest on the request of the State from which he or she has fled. In particular, a person who has been granted international protection in an EU state should not be subjected to arrest in another EU member state.
- Based on the fact that Interpol is working on collaborative projects with various UN agencies, it is recommended to initiate a more detailed project with the Office of the UN High Commissioner for Refugees. The purpose of the project could be to create mechanisms to protect the rights of persons who have been granted refugee status, yet are still listed as wanted in the Interpol database. At the same time, official statements issued by UN agencies, including the UN Agency for Refugees (UNHCR), should constitute the basis for the revision of a 'red notice' or 'diffusion notice'.
- Create institutional conditions for closer cooperation between international UN experts on asylum and extradition issues with the Commission for the Control of Interpol's Files, including the ability to provide expert advice to the Commission on particular cases. It would be expedient to involve UN experts in consultations on ensuring greater independence and transparency in the work of the Commission for the Control of Interpol's Files. Also, we hereby urge the UN High Commissioner for Refugees to support the proposal to establish reasonable time limits for the Commission's adoption of decisions on incoming complaints.

¹⁷ <http://www.respublika-kaz.info/news/politics/40525/>



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- Procedures for the restriction of freedom on the basis of Interpol requests must be clearly resolved at the legislative level. For many refugees, it takes years to achieve the removal of their names from the Interpol wanted list. Therefore, it is necessary to launch a debate about the possibility of compensation for their prolonged groundless incarcerations and restrictions, associated with their presence in the lists of Interpol based on politically motivated requests.
 - Since Interpol rules merely define a methodology for the verification of whether requests have an underlying political component, but do not prescribe criteria for evaluation and decision-making, it is advisable to consider the possibility of participation of UN agencies in the development of comments on Article 3 of the Interpol Constitution in order to specify and detail the provisions of this article and prevent its selective or arbitrary interpretation. This document could be adopted in the form of a resolution with reference to the examples of high-profile cases.
 - Establish effective mechanisms of interaction between the UN High Commissioner for Refugees and the national administrative and judicial authorities for ensuring that persons who are prosecuted for political reasons are granted refugee status.
 - Establish a direct dialogue with the European Parliament and the European Commission in order to ensure that a debated revision and reform of the migration policies within the EU include all points and aspects relative to the rights and security of refugees and asylum-holders in the EU member states.

I thank you in advance for your attention and hope that our letter, along with the attached materials can be of interest and use in your work.

Yours Sincerely,

Anna Koj

Head of the EU Office

Open Dialog Foundation

Attachments:

- Open Dialog Foundation report: *The INTERPOL system is in need of reform*, published in February 2015
- Open Dialog Foundation written submission to Interpol's General Secretariat, published in July 2015
- Open Dialog Foundation legal analysis of the directions of recommended Interpol reform aimed at preventing the abuse of Red Notice mechanisms, published in March 2015