

Written evidence submitted by William Browder (MUO0011)

I would like to present my own experience with Interpol and how Russia has systematically abused Interpol for political purposes to persecute me in retaliation for my work advocating for the Magnitsky Act in countries around the world. I hope the weaknesses that I have identified below will help the British government shape UK policy towards Interpol in the future.

Background: My Anti-corruption work and Magnitsky Justice Campaign

I am a 56 year old, US-born British citizen. In the mid 1990's I set up Hermitage Capital Management, an investment advisory firm which advised the Hermitage Fund, the largest foreign investor in the Russian stock market.

In the course of my work I discovered massive corruption in many of the companies in which the fund had invested. In order to stop the theft, I researched how the graft was taking place and exposed it through the international media.

In retaliation, the Russian authorities expelled me from the country in November 2005 and declared me 'a threat to national security'. They subsequently raided my Moscow office in June of 2007, arrested my Russian lawyer Sergei Magnitsky in November of 2008, and tortured and killed him in November of 2009.

Following Sergei Magnitsky's murder, the Russian government covered up the crime and gave promotions and state honours to some of the most complicit officials.

With no possibility for justice in Russia, I sought justice in the West and began advocating for a new piece of legislation called the Magnitsky Act, which would impose asset freezes and visa sanctions on the people who killed Sergei Magnitsky and on other human rights violators in Russia.

On December 14, 2012, U.S. President Obama signed the Magnitsky Act into law.

In response, Russian President Putin declared the passage of the Magnitsky Act 'very bad'¹ and made repealing the Magnitsky Act one of his top foreign policy priorities. His law enforcement

¹ <http://en.kremlin.ru/events/president/news/17173>

apparatus has since mounted concerted efforts to arrest and bring me back to Russia. President Putin was so upset with me that at the US-Russia summit in Helsinki in 2018, he asked President Trump to swap me and 11 US officials for the 12 Russian officers accused by US law enforcement of hacking the 2016 elections.

My Experience with Interpol

First Russian Request to Interpol (May 2013)

On May 7, 2013, following the passage of the US Magnitsky Act, the Russian authorities sent an Interpol diffusion notice in order to arrest and extradite me to Russia.

Interpol studied the Russian notice and on May 24, 2013 concluded that it violated Article 3 of Interpol's Constitution because Interpol found the Russian proceedings against me were "predominantly political in nature." Accordingly, Interpol deleted the Russian notice.

Furthermore, given the highly abusive nature of the Russian notice, in an unprecedented move, Interpol published its rejection of the Russian request on its official website². Four days later on May 28, 2013, Interpol's General Secretary Ron Noble published an article in *The Daily Telegraph*, citing Interpol's action in my case as a prime example of why Interpol did not need to be reformed. He argued they had the right systems in place to protect individuals against abuses³.

Second Russian Request to Interpol (July 2013)

Despite the well-reasoned and widely-communicated rejection by Interpol, Russia continued its efforts to arrest me through Interpol.

On July 25, 2013 Russia made its second request to Interpol to have me arrested⁴. On July 26, 2013, Interpol rejected this request, as predominantly political, and again published their decision on their website⁵. In its public statement, Interpol emphasized that Interpol cannot be used to seek my arrest.

² www.interpol.int/en/layout/set/print/News-and-media/News-media-releases/2013/PR063 [link no longer kept on an updated version of the website]

³ <https://www.telegraph.co.uk/news/uknews/law-and-order/10082582/Interpol-makes-the-world-a-safer-place.html>

⁴ <https://www.interfax.ru/world/320551>

Third Russian Request to Interpol (August 2013)

Despite Interpol rejecting Russia's first two requests, on August 14, 2013, the Russian authorities made a third attempt to have me arrested through Interpol. On the same day, Interpol rejected that request.

Fourth Russian Request to Interpol (June 2014)

Despite three rejections by Interpol, the Russian authorities continued lobbying Interpol to seek my arrest.

Two days after the third rejection, on August 16, 2013, the Russian authorities sent an invitation to Interpol's General Secretary to visit Moscow to demand my arrest through Interpol⁶.

In January 2014, a delegation from the Russian General Prosecutor's Office travelled to Lyon to meet with Interpol officials where the main topic of the meeting was securing my arrest through Interpol⁷.

Following this, on June 5-6, 2014, the Interpol's Commission for the Control of Files, the body responsible for ensuring compliant data processing, agreed to consider the fourth Russian request to arrest me. On June 19, 2014, Russian authorities made a public announcement of their fourth request to Interpol⁸. On October 29, 2014, President Putin met Interpol's General Secretary Ron Noble to discuss my arrest⁹.

On January 19, 2015, Interpol rejected the fourth Russian request to have me arrested due to 'the predominance of the political nature' of Russian allegations against me, notwithstanding those allegations being defined by Russian authorities as 'ordinary law crimes'.

Fifth Russian Request to Interpol (April 2017)

⁵ <https://www.interpol.int/en/News-and-Events/News/2013/INTERPOL-cannot-be-used-by-the-Russian-Federation-to-seek-the-arrest-of-Mr-William-Browder>

⁶ <https://www.interfax.ru/world/323832>

⁷ <http://www.genproc.gov.ru/smi/news/genproc/news-202876/>

⁸ http://rapsinews.com/judicial_news/20140619/271559323.html

⁹ <http://en.kremlin.ru/events/president/news/46888>

Despite four rejections, the Russian authorities continued to exert pressure on Interpol to have me arrested.

In April 2016, the Russian General Prosecutor's Office made a public announcement that it had organised talks between the Russian Interior Ministry and the Interpol General Secretariat to have me arrested¹⁰.

A year later, on April 11, 2017, Russian authorities applied to Interpol for the fifth time to have me arrested.

On June 29, 2017, Interpol rejected Russia's fifth attempt to use Interpol to arrest me, stating that the Russian request violated Article 3 of Interpol's Constitution because Russian proceedings against me were predominantly political. Interpol further reminded Russian authorities that Interpol channels were not to be used to transmit notices concerning me.

Sixth Russian Request to Interpol (July 2017)

Despite knowing that their previous requests were deemed to be politically motivated and contrary to Interpol's Constitution, on July 27, 2017, Russia made its sixth request to Interpol to have me arrested.

This notice was sent by Russia to individual Interpol member states using Interpol channels and as a result was registered on multiple national police databases.

On August 18, 2017, Interpol rejected Russia's sixth request to have me arrested because it violated Interpol's Constitution. Interpol deleted the Russian request from its central database. However, due to the separation between the Interpol's central database and national Interpol databases in each member state, the abusive Russian request could not be centrally deleted from the national databases. Consequently, all member states were independently responsible for deleting the abusive request from their own databases. Whilst Interpol's General Secretariat informed all member states of the abusive nature of Russian request and the required deletion, Interpol did not obtain confirmation from each country that the request was in fact deleted.

¹⁰ <https://tass.com/politics/872446>

A week later, on August 24, 2017, the Russian General Prosecutor's Office publicly announced that it was not going to respect Interpol's decision and would continue to seek my arrest¹¹.

Seventh Russian Request to Interpol (October 2017)

On October 17, 2017, the Canadian Parliament unanimously passed the Canadian Magnitsky Act. On the same day, Russia applied to Interpol for the seventh time to have me arrested. This request remained in circulation for ten days and was registered on multiple national police databases.

On October 26, 2017, Interpol rejected Russia's seventh request. Interpol reminded all member states that Russia's requests must be deleted from national databases, but did not obtain confirmation that such action had in fact been taken. Interpol once again notified Russia that Interpol channels cannot be used against me, notwithstanding the fact that Russia had done just that on numerous occasions.

Eighth Russian Request to Interpol (December 2018)

On April 3, 2018, the Dutch Parliament passed the Magnitsky Act motion, which required its government to propose the EU Magnitsky Act.

In June 2018, the Russian General Prosecutor made a public statement announcing Russian authorities will continue to "make powerful moves" with the objective that they would not let me "sleep peacefully."¹²

On November 20, 2018, the Russian General Prosecutor's Office discussed the Magnitsky Act at a major press conference in which Russian officials reiterated that they "will continue work" to seek my arrest¹³.

In December 2018, Russia applied to Interpol for the eighth time to have me arrested.

¹¹ <https://www.interfax.ru/russia/576292>

¹² <http://tass.com/society/1009762>

¹³ <https://tass.com/politics/1031646>

On May 3, 2019, Interpol rejected Russia's eighth request because it violated Interpol's Constitution. Interpol stated that the Russian proceedings against me were of "a predominant political character".

Consequences from Russia's Abuse of Interpol

Originally, in 2013, Interpol was quick to reject Russia's abusive requests against me.

However, Russian authorities disregarded Interpol's findings and continued to use Interpol channels to seek my arrest. Because of structural loopholes in how Interpol manages its database, Russian authorities were able to continue circulating notices for me, causing my name to appear in all national police databases multiple times.

Furthermore, despite the deletion of Russian requests from the Interpol's central database, due to the separation of management of the central and national Interpol databases, the deletion of Russian notices from national databases required manual deletion by each national Interpol body each time a new abusive notice was circulated by Russia.

No mechanism was implemented at Interpol to preempt the non-compliant circulation of notices.

As a result, I was twice arrested in European countries on abusive Russian notices.

On February 19, 2018, after speaking at the UN Human Rights conference in Geneva, I was detained at Geneva airport on a Russian Interpol request. While I was ultimately released, Swiss law enforcement authorities have (to this day) refused to confirm that they have deleted the information about me from their database.

On May 30, 2018, I was in Madrid to meet a Spanish public prosecutor to provide evidence on the proceeds of crime traced to Spain connected to the murder of Sergei Magnitsky. Before the meeting, I was arrested by Spanish police on a Russian request circulated via Interpol channels. I was released after Interpol instructed the Spanish authorities that the Russian notice was abusive and contrary to Interpol's Constitution.

Now, whenever I cross an international border, I have to be prepared that I could be arrested at any time on an abusive Russian request sent via Interpol channels. I have to restrict my travel and avoid going to countries that have warm political relations with Russia because if I was arrested and sent to Russia, I would almost certainly suffer the same fate as Sergei Magnitsky.

Furthermore, I have spent thousands of hours and hundreds of thousands of pounds on lawyers to provide evidence to Interpol to make sure that the abusive notices against me are removed. While I may have the resources to deal with these abuses, 99% of victims of politically motivated Interpol notices do not have such resources and their lives are routinely ruined.

British Government's Response to Russian Abuse

I have alerted the Home Office and the UK's National Central Bureau for Interpol (NCA) of Russia's regular abuse of Interpol channels in my case.

In 2018, the response from the Home Office's International Directorate was that Interpol's processes were 'robust enough' to deal with the abuse:

"The NCA's experience to date is that the processes adopted by INTERPOL are robust enough to deal with any concerns of misuse."

The NCA also indicated that it does not have the ability to block or delete abusive notices on Interpol's system. The NCA also refused to pro-actively inform me of any new Russian notices and redirected me to Interpol's General Secretariat.

Is My Case Unique?

The Russian government has issued many abusive Interpol notices against Russian political and human rights activists. Many other dictatorships also issue politically motivated notices against their enemies through Interpol.

In 2017 the Parliamentary Assembly of the Council of Europe adopted a Resolution 2161 on *"Abusive use of the Interpol system: the need for more stringent legal safeguards"*¹⁴ in which it identified a pattern of misuse of the Red Notice system by certain states intent on persecuting

¹⁴ <https://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-EN.asp?fileid=23714&lang=en>

political opponents beyond their borders. Countries that issue abusive requests to Interpol include Russia, China, Iran, Turkey and Azerbaijan, amongst others.

Interpol's Response to Russian Abuse of Its Channels

Lack of remedial action by Interpol's General Secretariat despite powers to do so

Interpol's Rules on the Processing of Data¹⁵ establish that Interpol's General Secretariat shall evaluate adherence by member countries to Interpol's Constitution, and that national entities may only retain access to Interpol's databases if they use them in a compliant manner.

Specifically, part 3 of Article 123 of the Interpol's Rules on the Processing of Data sets out that national law enforcement bodies of Interpol member states must observe Interpol's rules to retain access to Interpol's databases:

“Due observance by a national entity of the obligations set out in the present Rules is an essential condition for the national entity to retain direct access to the INTERPOL Information System.”

In case of repeated abusive requests by national bodies, Interpol's General Secretariat can terminate a country's access to Interpol's databases in accordance with Part 4 of Article 123 of the Interpol's Rules on the Processing of Data, as follows:

“The General Secretariat shall be empowered either to ask the National Central Bureau to apply corrective measures to a national entity, or to terminate access to the INTERPOL Information System if the said entity has repeatedly processed data in a non-compliant manner...”

Article 131 of Interpol's Rules additionally provides for the General Secretariat to supervise, for a period of up to three months, the data processing by national bodies and to suspend their access rights.

Based on available information, Interpol has never in its history invoked Article 123 or 131.

¹⁵ <https://www.interpol.int/en/Who-we-are/Commission-for-the-Control-of-INTERPOL-s-Files-CCF/About-the-CCF>

Inclusion of compromised Russian official on the Interpol's data protection commission

Interpol has a data compliance body, known as Interpol's Commission for the Control of Files. Since 2016, one of the members of this Commission is Petr Gorodov¹⁶. Mr Gorodov is a Russian Prosecutor who was personally responsible for multiple abusive and politically motivated Interpol requests, including in my case.

Despite Interpol's awareness of Mr Gorodov's involvement in politically motivated cases, in which repeated abusive requests have been sent via Interpol, he remains a member of Interpol's Commission which exists to prevent exactly these types of abuses.

Recommendations

The UK contributes 5.8% of Interpol's budget. It should use this leverage to demand the enforcement of Interpol's rules in relation to abusive notices issued against British citizens, and call for Interpol to suspend access of serial abusers like Russia to Interpol's databases.

The UK should require that in cases such as mine, where Interpol's Commission for the Control of Interpol's Files has made a clear determination of political motivation, then Interpol should introduce keyword filters on all its incoming and outgoing servers to pre-emptively preclude abusing countries from sending repetitive abusive notices using Interpol channels.

The UK should require that in cases of non-compliant diffusions concerning British citizens, Interpol obtains confirmation from all member countries, within 72 hours, that they have deleted non-compliant personal data from national police databases, ensuring that non-compliant data originating from an abusive source is not stored in national and local Interpol databases and thus directly jeopardising these individuals' human rights.

The NCA should block and delete abusive notices independently of Interpol, and notify any UK citizen, within 24 hours, when they are the subject of an abusive notice or diffusion.

The UK should openly advocate for its citizens like myself so they could travel safely to other countries.

¹⁶ <https://www.interpol.int/en/Who-we-are/Commission-for-the-Control-of-INTERPOL-s-Files-CCF/About-the-CCF>;
<https://genproc.gov.ru/special/smi/news/news-1135630/>

Britain should work with its allies – the US, Canada, Australia, the European Union, and others – on withholding funds if Interpol refuses to reform.

The UK Government must within 60 days of the publication of the Select Committee report set out how it intends to take forward proposals to reform Interpol.

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