



Open briefing of the UNSC Counter-Terrorism Committee on “Effective implementation of international obligations to protect refugees and asylum seekers while preventing terrorists from abusing the asylum system”

5 April 2017, 10am
Conference Room 1, UNHQ

INTERPOL Statement

PANEL 2

Mr Chairman,

Ladies and Gentlemen,

Allow me to thank you again for the opportunity to participate in this panel discussion.

The topic of this panel is as timely as ever – bearing in mind the crisis situation in some regions of the world, the influx of immigrants to other regions, the risks posed by foreign fighters, and – indeed – the reports on terrorists and criminals trying to abuse the refugee protection regime. These are matters of great concern to INTERPOL and its member countries, and are currently subject to discussion by INTERPOL’s bodies.

In my short intervention this morning, I will touch upon the governing principles, point to a number of challenges, and suggest some solutions to mitigate the risks. I would welcome any follow up question that can further facilitate the discussion.

I will start by noting that as of today, INTERPOL does not have comprehensive data (statistics, for example) on the overall number of cases where terrorists attempted to misuse the international refugee protection regime.

But we are aware of this risk based on a number of cases that were brought to our attention by our membership or where INTERPOL’s tools assisted in preventing this risk from materializing.

What are the governing principles relevant to our discussion: Similar to other crime areas, I believe we can point to three overarching principles: 1) First, the obligation to exercise **due diligence**; 2) second, the obligation to **forewarn** of a possible threat; and 3) third, the need to adopt a **holistic** approach.

What do I mean by referring to exercising **due diligence**?

To ensure that terrorists and other serious criminals do not abuse the refugee protection regime, I would argue that both national authorities and the UNHCR, upon reviewing refugee or asylum applications,

should check **all** available databases (also referred to as “watchlists” in the concept note prepared by CTED). This should be part of the Standard Operating Procedure in reviewing such applications.

Consider the following real-life case: An individual arrived as part of a large group of migrants in one of our member countries. He had no I.D. and only after his fingerprints were matched against INTERPOL fingerprints database, it turned out that he is wanted for terrorism by another country.

This example illustrates the clear benefit in checking INTERPOL’s databases and exchanging relevant information.

However – and this is the first challenge I would like to share with you today - based on the information available to us, countries do not carry out **systematic checks** against INTERPOL’s databases as an integral part of their examination of refugee/asylum applications.

Consequently, we cannot exclude an undesired situation where refugee protection is granted to an individual known in INTERPOL’s databases as a criminal or suspected criminal, including based on terrorist activity.

On the **duty to forewarn**:

This concerns the obligation of countries to proactively share information on individuals that can pose a risk to society. In the context of INTERPOL’s work, a good example is the use of a tool known as a **Green notice**, which is indeed used as an alert to all member countries of an individual’s criminal activities. Many of these notices have been issued in relation to terrorists.

However – and this is the second challenge I would like to share with you today - based on the information available to us, countries do not **systematically share** with the General Secretariat or with other countries decisions rejecting a refugee or asylum application due to the criminal background of the applicant (based on article 1F of the 1951 Convention or similar reasoning).

Consequently, we cannot exclude an undesired situation where a dangerous terrorist leaves the country where his application for asylum was rejected based on his criminal background, and he settles in a different country where he can pose a threat to society. Moreover, absent the sharing of such information, one cannot exclude a situation where this same individual is granted asylum in his new country of residence, because the authorities of that country were unaware of the fact that a previous application was denied by another country (or by UNHCR) due to the individual’s criminal background.

This why adhering to the **duty to forewarn** is of the utmost importance.

On the need to apply a **holistic approach**:

This includes a number of elements:

First – and in relation to the duty to exercise due diligence: To prevent a situation of a terrorist abusing the refugee protection, **all available tools** should be used and **all databases** should be checked.

All available tools: In the context of INTERPOL’s work I will provide one concrete example: In the past year, one INTERPOL member country has issued a significant number of **yellow notices**, which are requests to locate missing persons. The individuals concerned are not subject to criminal investigation, but in the context of the phenomenon of foreign fighters, it might very well be the case that the missing individual will show up as a foreign fighter in a conflict zone or will commit crimes elsewhere. And indeed, in recent months we have received information confirming this precise risks: Individuals subject to those yellow notices were identified among the immigrants reaching European countries and, as it turned out, some of them already committed serious crimes in those countries.

All available databases: I have mentioned the due diligence obligation to check information against national and international databases. Importantly, this should include not only checks against nominal databases (i.e. to see whether the individual's name is known), but also against other databases such as the fingerprints database or the INTERPOL Stolen and Lost Travel Documents (SLTD) database. A check against the SLTD database can indeed ensure that a travel document presented by an asylum-seeker has not been previously reported as stolen or lost.

On the SLTD database I would like to raise a different concern: Currently, there are over 70 Million stolen/lost travel documents recorded in the database from almost all of INTERPOL's membership.

However, with regard to stolen/lost refugee travel documents – we currently have less than 15,000 entries from less than 20 countries, more than half from one country. The concern here is evident: Without entering to this database information on stolen/lost refugee travel documents, terrorists can easily use them to cross borders.

And, again, similar to the concerns already mentioned: Based on the information we have, not all available tools are systematically used, and not all available databases are systematically checked.

Last element of the holistic approach – engaging all relevant actors: Here we identified a different type of problem: The examination of refugee/asylum application is typically conducted by immigration authorities, not by the police. This entails that even if the police has information on the individual concerned or can easily obtain such information (for example from INTERPOL's databases), the information does not systematically reach the authorities that examine the refugee/asylum application. There is therefore a clear need to **bridge the gap of information** on the national – not only the international – level.

So, after identifying the important principles and pointing to some concerns, here are also some **proposed solutions**:

All countries should be encouraged, including by the Security Council to:

- **Systematically check** – as a **due diligence requirement** - international databases, including INTERPOL's, in the process of examining refugee/asylum applications.
- **Use relevant communication networks** – such as INTERPOL's I-24/7 network – for the purpose of exchanging information in the process of examining refugee/asylum applications.
- **Systematically inform** other countries and relevant international organizations such as INTERPOL and UNHCR of a decision to deny a refugee/asylum application in light of the individual's criminal background. This information should be shared based on countries' **duty to forewarn** other countries of dangerous criminals and terrorists, and one available INTERPOL tool that I have mentioned is the Green Notice.
- Establish on the national level the **relevant protocols** to enable regular communication between the national authorities in charge of reviewing refugee/asylum applications and law enforcement agencies, including the National Central Bureaus established in each country to liaise with INTERPOL.
- **Sensitize** judicial and immigration authorities of available tools that they can use. For example – yellow notices.
- **Expand** to all relevant authorities, including border control and authorities in charge of reviewing refugee/asylum applications, access to INTERPOL databases such as the Stolen and Lost Travel Documents (SLTD) database.
- **Upload** (by both UNHCR and member countries) to the SLTD database stolen/lost refugee travel documents.

Concluding observations: The threat of dangerous criminals and terrorists misusing the international refugee protection is evermore present today. To address this risk, countries should do their utmost to bridge the gap of information, carry-out due diligence checks against all available databases, forewarn other countries of dangerous criminals and terrorists that might attempt to misuse the refugee protection system, and adopt a holistic approach to address the various concerns I have pointed to.

Last but not least, we would also like to take the opportunity to encourage our good colleagues from **UNHCR**, with which we have excellent informal collaboration, to engage in discussions with INTERPOL with a view to enhancing cooperation and ensure a regular exchange of information.

I thank you for your time and, again, will be glad to address any question.