

14/15 NOVEMBER 2016 QUESTIONING AT THE ECUADORIAN EMBASSY LEGALLY PRIVILEGED

You have subjected me to six years of unlawful, politicized detention without charge in prison, under house arrest and four and a half years at this embassy. You should have asked me this question six years ago. Your actions in refusing to take my statement for the last six years have been found to be unlawful by the UN Working Group on Arbitrary Detention and by the Swedish Court of Appeal. You have been found to have subjected me to cruel, inhuman and degrading treatment. You have denied me effective legal representation in this process. Despite this, I feel compelled to cooperate even though you are not safeguarding my rights.

I. THE SWEDISH PRELIMINARY INVESTIGATION

I, Julian Assange, an Australian citizen, have had my passport taken by British authorities and so cannot provide formal identification, am in a situation of arbitrary detention according to the decision of the United Nations Working Group of Arbitrary Detention (UNWGAD) of 4 December 2015; a political refugee since 19 June 2012 at the Embassy of Ecuador with asylum which was granted by Ecuador on 16 August 2012, and hereby appear before the authorities of Sweden and Ecuador in the framework of a rogatory commission that has been entered between these two states, requested by the Swedish prosecutor Marianne Ny, and declare that:

1. I ratify what has been expressed by my Ecuadorian lawyer, both in relation to this procedure today and the concerns about the procedure pursued against me in Sweden, including the failure to allow my Swedish lawyer to be present and the failure to provide me with exculpatory and other discovery material, which I have, to date, not been given proper access to, including in the preparation for this statement today.
2. Today, 14 November 2016, after having made myself available to the Swedish authorities since the start of this outrageous process six years ago, I am finally given the opportunity to give my statement to the Swedish preliminary investigation. I am grateful to Ecuador for attempting to facilitate this process in the circumstances where the Swedish prosecutor has declined, since 2010, to accept this, my first statement on the allegation against me.
3. I went to Sweden on 11 August 2010. During my stay, I met a woman (hereinafter called "SW"). On the evening of 16 August, 2010 she invited me to her home. During the night and in the morning we had consensual sexual intercourse on several occasions.
4. I therefore could not believe my eyes when five days later I saw a headline in a Swedish tabloid that I was suspected of a crime and arrested in my absence. I immediately made myself available to the Swedish authorities to clarify any questions that might exist, although I had no obligation to do so.
5. That same day (21 August 2010), the Chief Prosecutor of Stockholm, Eva Finné, dropped the arrest warrant against me and within days would close the preliminary investigation with the finding that no crime whatsoever had been committed against the woman "SW" (who is the subject of this procedure). I drew the conclusion that, other than the worldwide damage to my reputation caused by millions of web pages saying that I was "wanted for rape", my life, in this respect, would return to normal.

6. On 23 August 2010, the Chief Prosecutor of Stockholm, Eva Finné stated she "made the assessment that the evidence did not disclose any offence of rape".
7. On 25 August, the Chief Prosecutor found that "**The conduct alleged disclosed no crime at all and that file (K246314-10) would be closed**".
8. A week later, I learned to my surprise that a different prosecutor by the name of "Marianne Ny" had reopened the preliminary investigation without any consultation or opportunity for me to be heard – after I had already been cleared and the case had been closed.
9. That prosecutor eventually issued an extradition warrant against me, supposedly to take my statement, even though I left Sweden with her permission and in good faith, and had repeatedly tried to see if the prosecutor was ready to accept my statement. I had not and have still not been charged with a crime.
10. It has taken more than six years for the prosecutor to now obtain my statement. The delay is entirely caused by the prosecutor who re-opened the closed preliminary investigation. A prosecutor is, according to Swedish law (Chapter 23, Section 4 of the Procedural Code), obligated to conduct the preliminary investigation as expeditiously as possible and when there is no longer reason for pursuing the investigation, it shall be discontinued. At the preliminary investigation phase, the prosecutor is obligated to take into account all the circumstances: those against the suspect as well as those circumstances in favour of the suspect, and any evidence favourable to the suspect shall be preserved. The investigation shall be conducted so that no person is unnecessarily exposed to suspicion, or put to unnecessary cost or inconvenience.
11. Instead of following the law, prosecutor Marianne Ny has kept the preliminary investigation open without justification for over six years. She deliberately suspended her work to progress and bring to a conclusion the preliminary investigation. She has for more than six years refused to take my statement during which time she has done nothing to pursue the preliminary investigation. The preliminary investigation entered into a stasis more than six years ago. I have always demonstrated my willingness to cooperate in order to speed up the process – although there is no obligation whatsoever for me to do so. All the obligation is on the prosecutor to progress the preliminary investigation. This attitude of the prosecutor has clearly breached mandatory rules in Swedish law.
12. I reiterate that over the past six years, I have continued to call for this prosecutor to accept my statement, including by:
 - Willingly attending a questioning on 30 August 2010 in Stockholm, where no questions were asked about the allegation, as I had already been cleared.
 - Staying in Sweden for more than five weeks longer than planned, repeatedly asking if or when I could give a statement, despite pressing commitments elsewhere.
 - Gaining the prosecutor's consent to leave Sweden before doing so on 27 September 2010 in good faith, understanding that I was not required to provide a further statement for the time being. On the day I left the country three of my encrypted laptops were seized from me at Stockholm's Arlanda airport. The laptops contained evidence of war crimes pending publication and protected legal correspondence.
 - Offering to return to Sweden to give a statement in October 2010.

- Offering to give my statement from London via numerous methods including telephone or videolink or in writing from London between October 2010 and up to and through the prosecutor unnecessarily issuing a European Arrest Warrant. The European Arrest Warrant attempted to extradite me, without charge, from the UK to Sweden, to take my statement. I was actively offering the testimony she claimed she wanted when she sought my arrest.
 - Providing a DNA sample six years ago in December 2010 when I was first arrested at Sweden's request and which has been available to the prosecutor for the last six years. She has never bothered to even attempt to use it.
 - Offering to give a statement in London via Mutual Legal Assistance, among other suggestions, during my time of house arrest (7 December 2010 – 19 June 2012).
 - Offering to give a statement in the Ecuadorian embassy in London as from 19 June 2012, for instance via email from my Swedish lawyers on 24 July 2012 and during a meeting between my lawyers and the prosecutors in Stockholm 7 May 2013 – over four years ago and over three years ago respectively.
 - Offering to come to Sweden provided Sweden would give a guarantee that I am not extradited to another state over my publishing work. This offer was also requested by Ecuador through diplomatic channels and publicly in 2012, as I am a refugee in its jurisdiction.
13. As this demonstrates, although I have no obligation to do so, I have done everything within my power to offer my testimony to the prosecutor while protecting my right to asylum and protecting myself against the risk of extradition to the United States, where there is an open national security case against me. According to the UN Special Rapporteur on Torture, WikiLeaks' alleged source in that matter, Chelsea Manning, has been subjected to cruel, inhuman and degrading treatment in US detention, and has since been convicted and sentenced to 35 years in prison.
14. The state of Sweden has refused to provide me the necessary assurances against extradition or other transport to the United States since 2010 when such was asked by my lawyers and since 2012 when requested to do so by the state of Ecuador. Sweden has also refused to accept that the asylum Ecuador has granted me requires it to protect me from onwards extradition to the United States, despite this being the recognized norm in asylum cases, thus making it impossible for me to go to Sweden without giving up my fundamental right as a political refugee. This refusal to recognize my rights as a political refugee has been the sole impediment to my presence in Sweden. I explicitly offered to accept extradition to Sweden provided it simply guarantee that it will not transfer me to another state. This was declined.
15. Nevertheless, I have continued to offer the prosecutor my statement through mechanisms which can be employed to achieve her stated purpose without putting at risk my fundamental rights, which she has, until recently, rejected.
16. Two years ago the Svea Court of Appeal on 20 November 2014 severely criticized the prosecutor for her negligence:

“The Court of Appeal notes, however, that the investigation into the suspected crimes has come to a halt and considers that the failure of the prosecutors to examine alternative avenues is not in line with their obligation – in the interests of everyone concerned – to move the preliminary investigation forward.”

17. It was not until March 2015 that Marianne Ny finally – after she had been found in breach of her duties by Sweden's Court of Appeal and my case was before the Supreme Court and it became apparent that she might lose – claimed that she would, under certain restrictive conditions, accept my statement after all.
18. Since that time, the United Nations Working Group on Arbitrary Detention (UNWGAD) released its ruling on 5 February 2016 that my situation in the embassy amounts to an unlawful and arbitrary detention, in breach of Sweden's binding legal obligations under international law. UNWGAD found that Sweden and the UK have disregarded the asylum that I have been granted by Ecuador, forcing me to choose between deprivation of liberty and the risk of losing Ecuador's protection and being extradited to the United States.
19. It then took Marianne Ny more than 18 months after her claimed change of position at the Supreme Court to arrange this meeting. I have not been responsible for a single day of delay in this process. All the delay has been caused by prosecutor Marianne Ny and the state authorities. Again note that all the obligation is on the prosecutor.
20. Furthermore, the UNWGAD concluded that the Swedish prosecutor has breached my due process rights in the conduct of this preliminary investigation and that seeking my extradition to Sweden as the only option in these circumstances was "excessive and unnecessary" [para 97]. In particular, it found:

"...after more than five years' time lapse, he is still left at the stage of preliminary investigation with no predictability as to whether and when a formal process of any judicial dealing would commence..." [para. 97] *"...Mr Assange has been denied the opportunity to provide a statement, which is a fundamental aspect of the audi alteram partem principle, the access to exculpatory evidence, and thus the opportunity to defend himself against the allegations..."* [para. 98] *"...the duration of such detention is ipso facto incompatible with the presumption of innocence."* [para. 98]

21. As a result of the Swedish prosecutor's actions, UNWGAD found my circumstances to be of an increasingly serious deprivation of liberty which is of an indefinite nature and is already far longer than the maximum penalty I could ever theoretically face in Sweden. For these reasons UNWGAD found that the severe and indefinite nature of these deprivations amounts to cruel, inhuman and degrading treatment in breach of Sweden's obligation under the International Covenant on Civil and Political Rights (ICCPR) Article 7. The severity of this treatment is further confirmed by the expert opinion of Fernando Mariño, the former President of the UN Committee Against Torture, which is entered into the official record of this proceeding.
22. Ten months after the UNWGAD determination the harshness of the situation continues to affect my physical and psychological health. My lawyers have informed the Swedish authorities of the ongoing deterioration of my health through the medical certificates and expert opinions of Dr. Michael Korzinski and Dr. Fluxman, from 11 November 2015; of Dr. Ladbroke from 8 December 2015; of Dr. Michael Korzinski from 15 June 2016; and of Dr. Ladbroke from 9 November 2016.
23. And so, finally, here we are today, under the jurisdiction of Ecuador, with my rights ever increasingly limited, as my Ecuadorian defence counsel has expressed. After more than six

years, I am finally being given the “opportunity” to give my statement but with my Swedish counsel having been excluded and under a clear situation of legal defencelessness, resulting from years of negligence and intentional and unlawful delays by the Swedish authorities.

24. All the irregularities that have occurred through the acts or omissions of the prosecution authority and the six-year delay to date of this disproportionate, inhumane and unlawful preliminary investigation have permanently destroyed all possibilities for me to properly defend myself – which is no doubt their intention.
25. Following the above, I wish to express in the strongest terms, that, in addition to the breaches of my due process rights in the investigation to date, the procedure to be adopted today in taking my statement further breaches those rights:
 - My Swedish defence lawyer was not permitted to be present today, despite the fact that these proceedings concern a Swedish criminal preliminary investigation.
 - In the opinion of my general practitioner, I am unfit to prepare and participate in these proceedings (after having been denied hospital treatment and sunlight for 4.5 years).
 - My Ecuadorian defence counsel has had no access to the case file, let alone in Spanish, the language he understands, nor has he had adequate time to prepare my defence.
 - My lawyers and I have not been permitted access to the case file.
 - I have been denied my request to read the text messages that my Swedish defence lawyers have read, which are a key element to my defence because they clearly show that I am innocent.
26. Due to all the shortcomings stated above, prosecutor Marianne Ny should have drawn the obvious conclusion that she discontinue the preliminary investigation.
27. In this context I once again remind you that I have already been cleared and that the preliminary investigation was closed by Chief Prosecutor Eva Finné in August 2010.
28. Given this history I have good reason to have concern about whether this “preliminary investigation” is being conducted in good faith and whether honest and impartial consideration will be given to my statement. I suspect that the real purpose of the Swedish prosecutor coming here today is not to obtain my statement but is simply a ruse to tick a box to ensure the technical possibility to indict me, irrespective of how I answer any questions.
29. I do not believe that prosecutor Marianne Ny is acting in good faith or with the objectivity and impartiality required of her office. For example, after circumventing the Chief Prosecutor of Stockholm's decision to close this case, prosecutor Ny has made at least 40 press releases and press conferences about me where my name has been published, even though there is no charge against me and I have been previously cleared, subjecting me to endless needless suspicion, in clear violation of her duty to not do so under Chapter 23, Section 4 of the Swedish Procedural Code.
30. My overall conclusion is that the prosecutor's conduct of the preliminary investigation, for all the reasons above has continued to deprive me of the right to defend myself.

31. I have no obligation to cooperate with this abuse, but I find myself in a coercive situation. I am meant to be protected by the decision of the UNWGAD which makes it clear that this “preliminary investigation” has violated my human rights and that its attempts to arrest me should be discontinued immediately. That decision was issued almost a year ago, but my situation remains unchanged. Despite the many violations already described I feel compelled to give my statement today so that there can be no more excuses for the Swedish prosecutor Marianne Ny to continue my indefinite unlawful detention, which is a threat to my health and even to my life. I have been pushing and indeed litigating for this prosecutor to take my statement for more than six years. The prosecutor has made excuse after excuse to not take my statement. I will not grant this prosecutor any excuse to continue to avoid taking my statement as I fear she would use it as a means to indefinitely prolong my cruel, inhuman and degrading treatment.

II. REASONS WHY I TRAVELLED TO STOCKHOLM IN AUGUST 2010

32. I am the editor-in-chief and publisher of WikiLeaks, a publishing organisation specializing in the analysis of records under risk of censorship that are of political, diplomatic, historical or ethical importance. Among other countries, WikiLeaks publishes and analyses documents that concern the United States, Sweden and the United Kingdom, including millions of documents relating to actions of military, intelligence and foreign services. I have received numerous awards in relation to my publishing work, including the 2008 Index on Censorship Freedom of Expression Award, The Economist New Media Award (USA) 2008, the 2009 Amnesty International UK Media Award (New Media), the 2010 Sam Adams Associates for Integrity in Intelligence (USA) award, the 2011 Sydney Peace Foundation Gold Medal (Australia), the 2011 Martha Gellhorn Prize for Journalism (UK), the 2011 Walkley Award for Most Outstanding Contribution to Journalism (Australia), the 2011 Blanquerna Award for Best Communicator (Spain), the 2011 International Piero Passetti Journalism Prize of the National Union of Italian Journalists, the 2011 Jose Couso Press Freedom Award (Spain), the 2012 Privacy International Award, the 2013 Yoko Ono Lennon Courage Award, and the 2013 Global Exchange Human Rights Awards, as well as formal nominations for the United Nations' Mandela Prize (2014) and for the past six consecutive years for the Nobel Peace Prize.
33. The US launched an investigation against me in early 2010 under the Obama administration, while Hillary Clinton was the US Secretary of State. This administration has expended very substantial resources on attempting to prosecute me and attempting to spy on my publishing work despite its constitutionally protected status. The US government's WikiLeaks investigation is described in official diplomatic correspondence as being “unprecedented in scale and nature”.
34. All the citations I mention are in my affidavit from 2 September 2013, which I am entering into the official record of this proceeding.
35. The US government has periodically confirmed in public that the national security case against WikiLeaks remains open and ongoing, including in proceedings from this year. Numerous human rights and freedom of speech organizations such as Human Rights Watch have criticized the Obama administration for pursuing a criminal case against WikiLeaks and me.

36. The investigation against Wikileaks is led by the FBI and has involved a dozen other agencies, including the CIA, the NSA, and the Defence Intelligence Agency. The US government has described the investigation as a "whole of government" investigation. In Alexandria, Virginia, a Grand Jury has been meeting behind closed doors for the past six years under case number 10GJ3793 to explore ways to imprison me and seven others who they have identified as "founders, owners or managers of WikiLeaks". The prosecution in the Chelsea Manning case attempted to establish that Private Manning acted as an agent under my control rather than as a journalistic source of mine, even though in Private Manning's own statement to the court, she said this was not the case. The US military charged Private Manning with twenty-two counts in connection with the release of more than 700,000 classified or confidential documents to WikiLeaks. On 30 July 2013 private Manning was convicted of twenty of these counts and sentenced to thirty-five years in prison on 20 August 2013.
37. Private Manning was detained for more than 1,000 days before the trial commenced. During this time she remained for 258 days in solitary confinement. The UN Special Rapporteur on Torture found that the conditions and length of private Private Manning's confinement at Quantico, Virginia, amounted to "inhuman and degrading treatment". Private Manning's lawyer, David Coombs, said that the treatment of Private Manning was an attempt at breaking her so that Manning would implicate me. The US military court system eventually found that Private Manning was unlawfully punished as a result of this treatment while in US custody. Private Manning was convicted of espionage; the first whistleblower ever so convicted. Private Manning was acquitted of the "aiding the enemy" charge, but the US government could still seek to employ this charge against me. Private Manning is serving a 35 year prison sentence.
38. According to the respected UK newspaper *The Independent*, the US and Sweden entered informal talks regarding my extradition from Sweden to the United States in early December 2010. These talks of my extradition concerned the US Grand Jury and FBI investigation against WikiLeaks, which is also the reason that Ecuador granted me asylum.
39. The aggressive calls to stop WikiLeaks from publishing were the reason for my travel to Stockholm. US officials' rhetoric grew increasingly aggressive in the period immediately prior to my visit to Sweden on 11 August 2010. In June, a *Daily Beast* news report entitled 'The State Department's Worst Nightmare' revealed that the Pentagon was "conducting an aggressive investigation" into whether WikiLeaks had 260,000 US diplomatic cables and the material's whereabouts.
40. Two days later, an article titled 'Pentagon Manhunt' appeared, describing Pentagon investigators desperately trying to track me down in relation to the impending publication of Cablegate:

"Anxious that Wikileaks may be on the verge of publishing a batch of secret State Department cables, **investigators are desperately searching for founder Julian Assange**".

41. On 17 June 2010 US Department of Defense spokesman Geoff Morrell stated there was an

"ongoing criminal investigation [concerning WikiLeaks], involving the Army Criminal Investigation Division, as well as, I believe, some other law enforcement agencies."

42. The Pentagon officials “would not discuss the methods being used to find Assange, nor would they say if they had information to suggest where he is now.” On reading this, I realised WikiLeaks' continued ability to publish effectively and my own personal safety were at serious risk.
43. During the month of July I worked with a team of journalists in the United Kingdom to publish the Afghan War Diaries: 75,000 secret Pentagon documents about the war in Afghanistan, which included the detailed records about the deaths of nearly 20,000 people. The day after WikiLeaks published the Afghan War Diaries, White House Press Secretary Robert Gibbs stated that WikiLeaks “poses a very real and potential threat”.
44. I published the Afghan War Diaries approximately two weeks before I travelled to Sweden. In the aftermath of the publication, US government officials made efforts to influence the way in which the media reported on our publications. The purpose was to delegitimise WikiLeaks protections as a publisher under the US First Amendment. For example, it attempted to falsely cast WikiLeaks as an adversary, opposed to US national interests, a false claim that I would later see echoed in Swedish media.
45. The New York Times reported that the White House had emailed its reporters with suggested “reporting tacks to take” on WikiLeaks and WikiLeaks' disclosures, in an attempt to induce news outlets into referring to WikiLeaks in these terms.
46. The White House sent an e-mail with the subject heading “Thoughts on Wikileaks” containing a memo in which the White House

*"advised journalists on possible reporting tacks to take on the [Afghan War Diaries] documents [...] As you report on this issue, it's worth noting that wikileaks is **not an objective news outlet but rather an organization that opposes US policy in Afghanistan.**"*

47. I also learned from news reports that security authorities from my home country Australia were assisting the US intelligence investigation into WikiLeaks and me:

*"Australian security authorities are assisting a United States intelligence probe into the whistleblower website Wikileaks and its Australian founder and editor, Julian Assange. The **US request for support in what Australian national security sources described as 'a counter-espionage investigation' preceded Wikileaks' dramatic publication yesterday** of a leaked US military operations log, described as an "extraordinary compendium" of 91,000 reports by United States and allied soldiers fighting in Afghanistan."*

48. On July 28th, just three days after publishing the Afghan War Diaries and two weeks before I travelled to Sweden, US Department of Defense Secretary Gates “called FBI Director Robert Mueller and asked for the FBI's assistance in [the WikiLeaks] investigation as a partner.” The US Defence Department declared:

*"Calling on the FBI to aid the investigation ensures that the department will have all the resources needed to investigate... noting that use of the bureau ensures **the investigation can go wherever it needs to go.**"*

49. The New York Times reported that US Defense Secretary Robert Gates

*"declined to comment about the investigation beyond noting that he had enlisted the **Federal Bureau of Investigation to assist Army investigators, a move that is seen as a precursor to potentially charging people who are not uniformed service members** [...] A person familiar with the investigation has said that Justice Department lawyers are exploring whether **Mr. Assange and WikiLeaks could be charged with inducing, or conspiring in, violations of the Espionage Act, a 1917 law** that prohibits the unauthorized disclosure of national security information."*

50. On 1 August 2010, the press reported that the FBI and British police were carrying out searches and interrogations in the UK, where I found myself at the time, in connection with WikiLeaks' publications.

51. Over the next days, US rhetoric and actions against WikiLeaks intensified. Prominent commentators and former White House officials championed extraterritorial measures and the violation of international law "if necessary".

52. One of these commentators was former presidential speech writer Marc Thiessen, who published a Washington Post article entitled 'WikiLeaks Must be Stopped':

*"...**the government has a wide range of options for dealing with him. It can employ not only law enforcement but also intelligence and military assets to bring Assange to justice.**"*

53. Thiessen argued that the US should put pressure on any state in which I was located and that the US should, if necessary, arrest me even without the consent of that state. He cited legal advice from the Department of Justice regarding FBI operations abroad:

*"The United States should make clear that it will not tolerate any country -- and particularly NATO allies such as Belgium and Iceland -- providing safe haven for criminals who put the lives of NATO forces at risk. **With appropriate diplomatic pressure, these governments may cooperate in bringing Assange to justice. But if they refuse, the United States can arrest Assange on their territory without their knowledge or approval.**"*

54. Thiessen further asserted that the FBI could violate international law in order to stop me and apprehend other people associated with WikiLeaks' publishing activities. Thiessen cited a Department of Justice memo:

*"the FBI may use its statutory authority to investigate and arrest individuals for violating United States law, **even if the FBI's actions contravene customary international law**" and that an "arrest that is inconsistent with international or foreign law does not violate the Fourth Amendment." In other words, **we do not need permission to apprehend Assange or his co-conspirators anywhere in the world.***

*Arresting Assange would be a major blow to his organization. But taking him off the streets is not enough; **we must also recover the documents he unlawfully possesses***

and disable the system he has built to illegally disseminate classified information.

This should be done, ideally, through international law enforcement cooperation. But if such cooperation is not forthcoming, the United States can and should act alone.

55. Seven days before I travelled to Sweden I was acutely aware that my personal safety was at risk. Scott Horton, legal affairs and national security contributor at Harper's, wrote the article 'WikiLeaks: The National-Security State Strikes Back':

*"[Assange] will certainly be targeted for petty harassment and subject to steady surveillance, and **efforts to kidnap him are almost certainly being spun at this very moment.**"*

56. Pentagon Press Secretary Geoff Morrell announced an anti-WikiLeaks task force comprised of 80 people was operating 24 hours a day. One month later, it had grown to 120 people. The "distinct responsibility" of the Information Review Task Force – dubbed by some occupants as the "WikiLeaks War Room" – was

"...to gather evidence about the workings of WikiLeaks that might someday be used by the Justice Department to prosecute Assange and others on espionage charges."

57. The article "The General Gunning for WikiLeaks" described the task force:

*"In a nondescript suite of government offices not far from the Pentagon, **nearly 120 intelligence analysts, FBI agents, and others are at work—24 hours a day, seven days a week—on the frontlines of the government's secret war against WikiLeaks.** Dubbed the WikiLeaks War Room by some of its occupants, **the round-the-clock operation is on high alert this month ...**"*

58. The same article states that Brig. General Robert A. Carr, who runs "the Pentagon's equivalent to the CIA", the Defense Counterintelligence and Human Intelligence Center of the Defense Intelligence Agency (DIA), was "handpicked" by Defense Secretary Robert Gates to head the team because he "is highly respected ...and **a fitting adversary to Assange**".

59. General Carr's "central assignment" was reportedly "to try to determine exactly what classified information might have been leaked to WikiLeaks". General Carr testified at the Chelsea Manning sentencing hearing on 31 July 2013.

60. I followed closely how pressure mounted on US allies to track my movements and to stop our publications. Official sources within the administration revealed to the press that the US was not only considering how to prosecute me in relation to WikiLeaks' publications in the US, but was also requesting their allies to prosecute me under their own national security laws:

"American officials confirmed last month that the Justice Department was weighing a range of criminal charges against Assange and others [...]"

Now, the officials say, they want other foreign governments to consider the same sorts of criminal charges."

An article published the day before I went to Sweden stated that "The Obama administration is pressing Britain, Germany, Australia, and other allied Western governments to consider opening criminal investigations of WikiLeaks founder Julian Assange and to severely limit his nomadic travels across international borders, American officials say."

61. In addition to the stated intention to restrict my freedom of movement, the US government attempted to convince its allies not to allow me entry into their territory as a warning to me, to those working with me and WikiLeaks, and to our supporters:

*"Through diplomatic and military channels, the Obama administration is hoping to convince **Britain, Germany, and Australia, among other allied governments, that Assange should not be welcome on their shores either, given the danger that his group poses to their troops stationed in Afghanistan**, American officials say. They say **severe limitations on Assange's travels might serve as a useful warning to his followers that their own freedom is now at risk.**"*

62. The Australian government publicly entertained the possibility of canceling my passport, reportedly as a result of pressure placed on Australia by the United States. Australian Attorney General Robert McClelland assured the United States that the Australian government would "provide every assistance to United States law-enforcement authorities", including by exploring the possibility of canceling my passport.

63. US pressure even resulted in public attempts to influence decisions based on human rights considerations where I and WikiLeaks were concerned. Through US ambassador to Switzerland Donald Beyer, the Obama administration pressured Switzerland not to grant me political asylum while I participated at the UN Human Rights Council's Universal Periodic Review of the United States. US ambassador Beyer gave an interview to Swiss newspaper Sonntag:

*"The United States ambassador to Switzerland, Donald Beyer, has also entered the Wikileaks debate. He has warned the Swiss government against granting Assange asylum, which the Australian founder of Wikileaks has said he was considering requesting. **"Switzerland should very carefully consider whether to provide shelter to someone who is on the run from the law"**.*

64. The Daily Beast reported that Washington was prepared to review its diplomatic relations with Iceland because parts of WikiLeaks operations had been conducted in that country:

*"An American military official tells The Daily Beast that **Washington may also want to closely review its relations with Iceland in the wake of the release of the Afghan war logs.**"*

65. In the context of my heightened concerns about US activities in the United Kingdom in relation to the WikiLeaks investigation, I decided to leave the country. When I travelled to Sweden on 11 August 2010, the aggressive rhetoric against me had reached new heights.

Former CIA general counsel Jeffrey Smith told National Public Radio:

“I think it is entirely appropriate for us to be very aggressive [...] If I were the US government, I would be trying to make it as difficult as possible for the WikiLeaks founder to continue to do business... To the extent we can persuade our allies to consider prosecution, I think that's all to the good.”

66. On the same day I arrived in Sweden, 11 August 2010, I received information from an Australian intelligence source that extra-legal actions might be taken against me by the US or its allies. This was later reported in the Australian newspaper The Age:

“An Australian intelligence official privately warned Wikileaks on August 11 last year that Assange was the subject of inquiries by the Australian Security Intelligence Organisation, and that information relating to him and others associated with Wikileaks had been provided to the US in response to requests through intelligence liaison channels. The Australian intelligence official is also claimed to have specifically warned that Assange could be at risk of 'dirty tricks' from the US intelligence community.”

67. Friends and associates of mine and volunteers for WikiLeaks were regularly targeted at borders from this moment on. Border searches and interrogations have affected security researcher Jacob Appelbaum, who had given the keynote speech in my place at the HOPE conference on 16 July 2010. In an interview for Democracy Now, Appelbaum described the targeting he experiences at airports:

In the period of time since [the HOPE conference on 16 July 2010] they've started detaining me, around a dozen-plus times... I was put into a special room, where they frisked me, put me up against the wall... they took my laptop... then they interrogated me, denied me access to a lawyer. And when they did the interrogation, they have a member of the U.S. Army, on American soil. And they refused to let me go. They ... implied that if I didn't make a deal with them, that I'd be sexually assaulted in prison.

68. Within days of arriving in Sweden I became concerned about my safety and security there, in particular because of the pressure being brought to bear on US allies, including Sweden.
69. I was aware of the publicly stated attempts to track my movements. I used a number of risk minimisation procedures, including relying on the goodwill of friends and their circles for my safety and to protect the confidentiality of my whereabouts and communications.
70. My contacts in Sweden had arranged for me to stay in two safe houses during the few days I had intended to stay in Sweden. One of the safe houses belonged to a journalist who I knew and another to a Social Democrat party figure unknown to me who had lent her apartment while she was away, or so I had been told. However, because these two original safe houses arranged prior to my arrival became known very soon, I stayed in three additional safe houses between 11 and 20 August 2010.
71. I travelled to Sweden to put in place a legal strategy to try to protect our publishing servers, some of which were in Sweden. I believed these assets were at risk as a result of the intense

political pressure from the US described above. I met with the Swedish Pirate Party, which was represented at the European Parliament at the time, who agreed to host copies of WikiLeaks servers under their party name in order to further protect our publishing work. I also felt it was best to leave the United Kingdom at that time because the FBI was known to be carrying out operations in connection with the investigation into our publications. I intended to stay in Sweden for less than a week.

72. My dependency on other people while in Sweden was aggravated when, shortly after my arrival in Stockholm, my personal bank cards were blocked. On 13 August 2010, the WikiLeaks organization's Moneybookers account could no longer be accessed. That same day, I contacted the company, who replied: “following recent publicity and the subsequently (sic) addition of the Wikileaks entity to blacklists in Australia and watch lists in the USA, we have terminated the business relationship”. I requested further information from MoneyBookers on 13 August and 16 August regarding the closure, including which blacklists and watchlists my accounts and/or WikiLeaks' account had been added to, but I was refused this information.
73. The freezing of WikiLeaks' Moneybookers account was an early example of what in December 2010 would become a concerted extra-judicial global economic blockade against WikiLeaks by US financial service companies, including VISA, MasterCard, PayPal, Bank of America, Western Union and American Express. The blockade was the subject of several court actions, a European Commission investigation, a resolution by the European Parliament, and condemnation by the United Nations Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression and the Inter-American Commission on Human Rights Special Rapporteur for Freedom of Expression. On 24 April 2013 the Supreme Court of Iceland found the blockade against WikiLeaks to be unlawful.
74. As a result of being suddenly cut off from personal and organizational funds upon arriving in Sweden, I had to rely on others not only for shelter, but also for food, safety and telephone credit. Unfortunately, I knew very few people in Sweden and those I did were only sporadically in the country.
75. On 13 August 2010 one of the main Swedish newspapers, *Svenska Dagbladet*, published an article entitled 'Defence ministry prepared for the next leak', which reported that the Swedish Ministry of Defence had a dedicated group 'preparing for WikiLeaks next publication' and had analysed 76,000 previous publications from WikiLeaks in relation to Swedish troops in Afghanistan.
76. Five days later, Swedish state television (SVT) published a segment entitled '**We risk United States relationship deteriorating**', which argued that the presence of WikiLeaks in Sweden would negatively affect the strategic relationship between Sweden and the United States.

III. THE PERIOD 14-20 AUGUST 2010

77. I met “SW” during my visit to Stockholm. The first time I met her was on the morning of 14 August 2010 when she came to a speech I gave on what my work revealed about the war in Afghanistan, in which Sweden has troops under US command. She sat in the front row and

photographed me. She came to the small private lunch after my talk where one of the organizers stated that she was a volunteer for their organization although they would later claim that this was not true. Due to the security threats against me as a result of my work, I was in a precarious situation. I relied on the kindness of strangers and the safety and discretion they were willing to offer me. I was in a foreign northern country, where I did not speak the language. I had no access to cash because the bank cards I was travelling with had been frozen due to the extra-judicial political measures taken by financial service companies against my organization and me (which are well-documented and the subject of extensive litigation).

78. Prominent “pro-war” personalities were calling for my assassination and capture, and the US administration had stated publicly that my movements were being tracked. "SW" appeared to be sympathetic to my plight and also appeared to be romantically interested in me. She was not close to people I was close to, so it seemed that those who meant me harm would be unlikely to try to find me by monitoring her movements. She said she worked at the National Museum so I asked her to show me, to try to establish her bonafides. At the Museum an IMAX film was playing, where she kissed me and placed my hands on her breasts. She asked whether I was staying with woman “AA”, a Swedish politician, and seemed concerned by it in a manner which I found strange.
79. At her initiative we met again on the evening of 16 August 2010 and she suggested we go to a hotel in Stockholm. For security reasons, I said I would prefer to go to her house even though it was outside of Stockholm. She then invited me to her home. We went by train and she paid for my ticket since my bank cards had been frozen.
80. "SW" made it very clear that she wanted to have sexual intercourse with me. I felt concerned about the intensity of “SW”'s interest and I also deeply loved another woman, which played on my mind and left me emotionally distracted. "SW" knew an unusual amount of detail about me, and appeared annoyed with me when I was on my phone searching for news related to the US official government statements against me. I perceived she was irritated when I wasn't giving her my full attention.
81. I felt there was a risk my location would be revealed and that she might act unpredictably if she believed I was rejecting her. During that night and again in the morning we had consensual sexual intercourse on four or five occasions. Her words, her expressions and her physical reactions made it clear to me that she encouraged and enjoyed our interactions.
82. I would later discover that she had collected dozens of photos of me in the weeks before we even met. Her recent FLIKR photo account was filled with pages and pages of photos of me and no other person.
83. In the morning she went out to pick up breakfast for us. After enjoying breakfast together, I left her home on good terms. At no stage when I was with her did she express that I had disrespected her in any way or acted contrary to her wishes other than to not be interested in her enough to pay her attention above my security situation or attempts to sleep. She accompanied me to the train station on her bicycle and we kissed each other goodbye. She asked that I call her so we could see each other again and I said I would. She called the next day or the day after. We made friendly small talk but we were quickly disconnected due to a failing mobile connection. I did not call her back due to problems obtaining telephone credit (as a result of my bank cards being blocked) and the pressing security situation.

84. I spoke to her next on Friday 20 August, after a Swedish friend said that he had heard that "SW" was at the hospital and that she wanted to talk to me. As I had not called her back, and she had previously gone through considerable effort to attract my attention, I was initially concerned that she may have attempted self-harm in order to force me to pay attention to her. So I called her. She said she was at a hospital and asked me to come down to meet her to test myself for sexually transmitted diseases so she would not have to worry while she was waiting for her own test results (HIV, for instance, needs months to show up).
85. But I was busy that day attempting to deal with the escalating political and legal threats against me from the Pentagon. I said I couldn't do anything until the next day (a Saturday). She said that it was normal in Sweden to go to the police to get advice about STDs and that if I didn't come down to the hospital she would go to the police to ask whether I could be forced to get tested. I told her I found her mention of police strange and threatening. She stated that she was only concerned about the tests and that it had no concealed meaning. I agreed to take the test out of goodwill and to reassure her, although I told her I could not do it until the following day, Saturday.
86. We were in agreement and arranged to meet the following day in the nearby park around lunchtime when I would have time to get tested. She said she was fine and seemed at ease.
87. You can imagine my disbelief when I woke the next morning to the news that I had been arrested in my absence for "rape" and that police were "hunting" all over Stockholm for me.
88. Her behaviour towards me on the night in question and in the morning made it clear that she actively and enthusiastically wanted me to have sex with her. This is also shown by text messages "SW" sent to her friends during the course of the evening I was at her home and during that week, which the Swedish police collected from her phone. Although the prosecutor has fought for years to prevent me, the public and the courts from seeing them, my lawyers were permitted to see them at the police station and were able to note down a number of them, including:
 - On 14 August 2010 "SW" sent the following text to a friend: *I want him. I want him.* Followed by several more of similar content (all referring to me) in the lead-up to the events in question (13:05);
 - On 17 August "SW" wrote that we had long foreplay, but nothing happened (01:14); then it got better (05:15);
 - On 17 August, after all sex had occurred, "SW" wrote to a friend that it "turned out all right" other than STD/pregnancy risk (10:29);
 - On 20 August "SW", while at the police station, wrote that she "did not want to put any charges on Julian Assange" but that "the police were keen on getting their hands on him" (14:26); and that she was "choked (sic *shocked*) when they arrested him" because she "only wanted him to take a test" (17:06);
 - On 21 August "SW" wrote that she "did not want to accuse" Julian Assange "for anything", (07:27); and that it was the "police who made up the charges (sic)" (22:25);
 - On 23 August "AA" (the other woman whose case was dropped in August 2015) wrote to "SW" that it was important that she went public with her story so that they could form public opinion for their case (06:43);

- On 23 August "SW" wrote that it was the police, not herself, who started the whole thing (16:02);
 - On 26 August "AA" wrote to "SW" that they ought to sell their stories for money to a newspaper (13:38);
 - On 28 August "AA" wrote that they had a contact on the biggest Swedish tabloid (12:53); and "SW" wrote that their lawyer negotiated with the tabloid (15:59);
89. These text messages clearly show what really happened between "SW" and me. It is clearly consensual sex between adults. The communication between "AA" and "SW" later sadly speaks for itself.
90. The prosecutor's allegation in the extradition proceeding was reported to be that one of these sexual interactions started the next morning while "SW" was asleep (in the same bed after a night of consensual intercourse) and that when she woke up she consented to the intercourse in question, but for the first few moments was not theoretically capable of consent due to sleep.
91. This is false. I was certain "SW" was not asleep. I was also certain she expressly consented to unprotected sex before such intercourse started. This is also evidenced by "SW"'s own text messages. For example, my lawyers refer me to the following text message to her friend:
- 17 August, 08:42 am: JA did not want to use a condom.
92. Then a day later she explicitly texts her friend that she had not, in fact, been asleep.
- 18 August, 06:59 am: I was half asleep.

IV. SUBSEQUENT DEVELOPMENTS

93. Although the police initially opened an investigation into 'rape' in relation to woman AA, there was no allegation in her testimony that she had been raped. She expressed in her statement to the police that she consented to sex and subsequently tweeted on 22 April in 2013 "**I have not been raped**".
94. The press was immediately and unlawfully informed that there was a warrant for my arrest for what was reported as the "rape of two" women. The prosecutor unlawfully, and without any subsequent explanation or remedy, immediately confirmed to the press that there was a live warrant for my arrest. The prosecutor's breach triggered an avalanche of news reports. Within days there were millions of references online which associated my name with the word 'rape'.
95. Immediately the police accusations were used to attack WikiLeaks' work and my reputation as its publisher. US Defense Secretary Robert Gates celebrated the news of my 'rape' arrest warrant with a smile, telling reporters that the arrest "sounds like good news to me". Various twitter accounts officially associated with the Pentagon spread descriptions of me as a "rapist" and a "fugitive". This slander was then used as a means to attack my organization's reputation.

96. I canceled my other appointments and remained in Sweden. I gave an interview to the police on 30 August 2010 in relation to the only remaining allegation. The Agreed Statement of Facts and Issues submitted to the Supreme Court of the UK states:

*“On 30th August 2010, the Appellant, who had voluntarily remained in Sweden to cooperate with the investigation, attended for police interview in respect of the ongoing Preliminary Investigation in respect of AA’s report. **He answered all questions asked of him.**”*

97. I was highly concerned for my personal safety and the safety of WikiLeaks' operations while I remained in Sweden, but I stayed for another five weeks after the 'preliminary investigation' was initiated in order to clear my name and to cooperate with the police investigation. Only after I had obtained an assurance from the prosecutor Marianne Ny that I could leave the jurisdiction did I prepare to leave the country

98. Less than 24 hours after the warrant for my arrest was issued, the chief prosecutor of Stockholm was appointed to take over the investigation and canceled the arrest warrant, stating “**I don't believe there is any reason to suspect that he has committed rape**”.

99. Shortly after prosecutor Marianne Ny had resurrected the “SW” allegation, the head of the Swedish military intelligence service (“MUST”) published an article '**WikiLeaks is a threat to our soldiers**'. I became increasingly concerned about Sweden’s close relationship to the US government in military and intelligence matters.

100. Through the diplomatic cables I also learned of secret, informal arrangements between Sweden and the United States. The cables revealed that Swedish intelligence services have a pattern of lawless conduct where US government interests are concerned. The US diplomatic cables revealed that the Swedish Justice Department had deliberately hidden particular intelligence information exchanges with the United States from the Parliament of Sweden because they believed the exchanges were likely unlawful.

101. The US diplomatic cables, reports by major human rights organizations, and the UN's own findings made me aware that Sweden had been complicit in torture as a result of its participation in secret CIA renditions from 2001 through to at least 2006 (which I would subsequently reveal). The rendition of the Swedish political refugees Agiza and Alzery resulted in strong condemnation by the UN Committee Against Torture, Amnesty International, Human Rights Watch, and others. There is still complete impunity for the officers of the Swedish state involved and their US counterparts. No charges have been laid although the complicity of the Swedish state has been well established in successful civil litigation. I subsequently learned that Sweden was partly implicated in CIA renditions of its own citizens from Djibouti in 2013. My Swedish lawyer Thomas Olsson represents one of the rendered.

102. Through an intelligence source, I became aware that on 19 August 2010, the Swedish Security Service (SÄPO) had requested information about me from an Australian intelligence organization. The Australian intelligence organization (ASIO) responded to the request with information about me on 21 August 2010.

103. On 29 November 2010 WikiLeaks commenced publishing *Cablegate*, 251,287 US State Department diplomatic cables. The classified diplomatic dispatches related to every country

in the world. In terms of content, it was the largest set of classified documents ever to be published.

104. The next day State Department spokesman P.J. Crowley stated that “we are investigating aggressively” into WikiLeaks and that a State Department “War Room”, which is different from the Pentagon “War Room”, had been set up.
105. On 30 November 2010, two days after WikiLeaks started publishing *Cablegate*, Interpol, at the request of Swedish prosecutor Marianne Ny, issued a Red Notice to 188 countries for my arrest in relation to the Swedish “preliminary investigation” (for which no charges or indictment existed). At the request of the Swedish prosecutor Interpol also made the notice public.
106. The Swedish prosecutor issued a European Arrest Warrant on 2 December 2010 to the UK which was processed by the UK Serious Organised Crimes Agency (SOCA).
107. I lost my freedom on 7 December 2010, the day after UK authorities certified the Swedish extradition warrant. I appeared at the police station, having made a prior appointment. I was arrested and placed in solitary confinement in the highest security unit of Wandsworth prison, the CSU.
108. The day after I was imprisoned, the UK newspaper *The Independent* reported that **US and Swedish officials had entered informal talks regarding my extradition from Sweden to the United States** in connection with the US Grand Jury and FBI investigation against WikiLeaks.
109. After ten days, the UK courts found that I should be released on bail. In response the Swedish prosecutor Marianne Ny instructed her representatives in the UK, the Crown Prosecution Service (CPS), to appeal to keep me in prison, but the UK courts found her request to be excessive.
110. I was moved to house arrest after providing UK authorities with £340,000 (nearly half a million dollars) and having an electronic monitoring device fitted to my ankle.
111. On 13 January 2011 the UK's Crown Prosecution Service (CPS) wrote to Marianne Ny, assuring her **“Please do not think that the case is being dealt with as just another extradition request”**.
112. I was forced to meet with police for 551 days in a row. I continued publishing regardless.
113. I applied for asylum at the Ecuadorian embassy on 19 June 2012. The embassy was then surrounded by police at an admitted cost to the UK taxpayer of £12.6 million by October 2015.
114. On 28 October 2014, the UK Minister of State of Hugo Swire, told Parliament that “if she [Marianne Ny] wishes to travel here to question Mr. Assange in the embassy in London, we would do absolutely everything to facilitate that, **indeed, we would actively welcome it.**”
115. On 14 November 2014 I submitted my case to the United Nations Working Group on Arbitrary Detention (UNWGAD).

116. On 20 November 2014 Sweden's Court of Appeal (Svea) found that the Swedish prosecutor had breached her duty by failing to accept my statement.
117. On 12 October 2015 the UK announced that it was removing the overt police around the embassy as it was “no longer proportionate”.
118. On 14 October 2015 London police chief Bernard Hogan-Howe told the *Standard* that the visible police were being removed from the embassy encirclement as “it seems a disproportionate response” and “we think the public are not necessarily supportive of it.”
119. Subsequently (6 Feb 2016) the London *Times* would report that the removal of overt police was also due to “fears that officers of the diplomatic protection group standing guard were thought to resemble jailers” during the UNWGAD determination. However the 12 October statement reveals that the “overt” police had in fact been replaced with a “strengthened” “covert plan”.
120. On 5 February 2016 UNWGAD found that I have been unlawfully deprived of my liberty since 7 December 2010 as a result of the actions of the Swedish prosecutor.

Answer to subsequent questions:

You have subjected me to six years of unlawful, politicized detention without charge in prison, under house arrest and four and a half years at this embassy. You should have asked me this question six years ago. Your actions in refusing to take my statement for the last six years have been found to be unlawful by the UN Working Group on Arbitrary Detention and by the Swedish Court of Appeal. You have been found to have subjected me to cruel, inhuman and degrading treatment. You have denied me effective legal representation in this process. Despite this, I feel compelled to cooperate even though you are not safeguarding my rights. I refer you to my statement where all these questions were answered.

EDWARD R. ROYCE,
CALIFORNIA
CHAIRMAN

AMY PORTER
CHIEF OF STAFF

THOMAS SHEEHY
STAFF DIRECTOR



ELIOT L. ENGEL, NEW YORK
RANKING DEMOCRATIC MEMBER

JASON STEINBAUM
DEMOCRATIC STAFF DIRECTOR

One Hundred Fifteenth Congress
U.S. House of Representatives
Committee on Foreign Affairs
2170 Rayburn House Office Building
Washington, DC 20515
www.foreignaffairs.house.gov

October 16, 2018

His Excellency Lenín Moreno
President
Carondelet Palace, Quito
Republic of Ecuador

Dear President Moreno:

We write today to acknowledge the significant progress your administration has made since you took office. Many of us in the United States Congress are eager to move forward in collaborating with your government on a wide array of issues, from economic cooperation to counternarcotics assistance to the possible return of a United States Agency for International Development mission to Ecuador. However, in order to advance on these crucial matters, we must first resolve a significant challenge created by your predecessor, Rafael Correa – the status of Julian Assange.

We are very concerned with Julian Assange's continued presence at your embassy in London and his receipt of Ecuadorian citizenship last year. Most recently, we were particularly disturbed to learn that your government restored Mr. Assange's access to the Internet. On numerous occasions, Mr. Assange has compromised the national security of the United States. He has done so by publicly releasing classified government documents along with confidential materials from individuals connected to our country's 2016 presidential election. As you yourself have noted, he has repeatedly used his standing in the international media to meddle in the affairs of foreign governments such as Spain and the United Kingdom. This has frayed Ecuador's relations with like-minded governments. Mr. Assange also remains wanted by British authorities for a bail violation. It is clear that Mr. Assange remains a dangerous criminal and a threat to global security, and he should be brought to justice.

We fully recognize that this is a problem that your administration did not create. We are hopeful about developing warmer relations with your government, but feel that it will be very

His Excellency Lenín Moreno
October 16, 2018
Page Two

difficult for the United States to advance our bilateral relationship until Mr. Assange is handed over to the proper authorities.

Thank you for your attention to this critical issue.

Sincerely,



Eliot L. Engel (D-NY)
Ranking Member
House Committee on Foreign Affairs



Ileana Ros-Lehtinen (R-FL)
Chair Emeritus
House Committee on Foreign Affairs



Svea hovrätt
Box 2290
103 17 STOCKHOLM

Mål Ö 8290-14, rotel 0102, Julian Assange ./ allmän åklagare angående våldtäkt m.m.; nu fråga om häktning

Yttrande

Vi bestrider alltjämt yrkandet att hovrätten ska häva beslutet om häktning av Julian Assange.

Vi har särskilt förelagts att yttra oss i två avseenden. Våra svar utvecklas närmare under grunderna.

1. Vi motsätter oss ett föreläggande att till Julian Assange eller till hovrätten ge in de handlingar som innehåller målsägandenas SMS.
2. Vi ser inget skäl för hovrätten att inhämta förhandsbesked från EU-domstolen rörande tolkning av artikel 7 i Europaparlamentets och rådets direktiv 2012/13/EU av den 22 maj 2012.

Grunder

Målsägandens SMS

Försvaret har vid de tillfällen de begärt, fått tillgång till aktuella SMS. De har gjorts tillgängliga för försvaret på ett sätt som står i direkt överensstämmelse med ordalydelsen i artikel 7 av direktivet 2012/13/EU. Försvaren har fått tillgång till de handlingar som innehåller målsägandenas SMS genom att läsa dem hos polisen. Senaste tillfället detta skedde var den 15 juli 2014 under ca två timmar. För att underlätta för försvaren att återropa de delar man ansåg vara relevanta har de getts tillgång till kopia av handlingarna under de muntliga förhandlingarna. Det stämmer således inte att de endast fått möjlighet att analysera och bearbeta dessa under pågående häktningförhandlingar. De SMS som är relevanta för bedömningen av sannolika skäl har redovisats i tingsrättens bilagor till protokollen. De utgör tillsammans med det skriftliga

material som hovrätten redan har tillgång till, enligt vår mening ett tillräckligt underlag bedömningen av om sannolika skäl föreligger.

Såsom tidigare anförts har försvaret vidare fått tillgång den häktningssammanställningen som sammanställdes inför häktningsförhandlingen den 18 november 2010.

Vi anser alltså (jfr yttrande till tingsrätten daterat den 1 juli 2014) att upplysningsskyldigheten enligt 24 kap 9 a § rättegångsbalken endast avser åklagarens skyldighet att för den misstänkte uppge *omständigheterna* som ligger till grund för ett beslut om frihetsberövande, inte en skyldighet att redovisa samtliga handlingar i avskrift. Vi har genom att överlämna skriftligt material till Julian Assanges försvarare samt genom möjligheten att låta dem hos polisen ta del av SMS:n uppfyllt kravet i artikel 7 i direktivet.

Skälen till att vi motsätter oss att lämna ut kopia av handlingar med målsägandenas SMS framgår av vårt yttrande daterat den 23 september 2014 till hovrätten.

Förhandsbesked från EU-domstolen?

I artikel 7 talas om att handlingar i myndighetens besittning som rör det specifika målet och som är väsentliga för att i enlighet med nationell rätt effektivt angripa anhållandets eller häktningsbeslutets laglighet ska göras tillgängligt för den *frihetsberövade*. I förarbetena till 24 kap 9 a § rättegångsbalken talas om att materialet som ligger till grund för frihetsberövande ska göras *tillgängligt* för den misstänkte. Julian Assange är i och för sig inte frihetsberövad men har såsom redovisats ovan fått tillgång till utredningsmaterial som ger honom möjlighet att angripa häktningsbeslutet. Det saknas därför enligt vår mening skäl att inhämta förhandsbesked från EU-domstolen.

Övriga kommentarer

Vi vitsordar att det för närvarande föreligger ett *temporärt* verkställighets hinder, men att det i sig inte utgör hinder mot ett beslut om fortsatt häktning.

Vi har i övrigt inget att tillägga utan hänvisar till våra yttranden till tingsrätten daterat den 1 juli 2014 och till hovrätten daterat den 23 september 2014.

Marianne Ny

Ingrid Isgren