

Julian Assange legal team makes devastating critique of Swedish extradition attempt

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The attempt to extradite WikiLeaks founder and editor Julian Assange to Sweden on trumped-up sex charges was stepped up yesterday in the Belmarsh Magistrates' Court in London.

Assange was appearing at the court on the first day of a two-day extradition hearing. Swedish Director of Prosecutions Marianne Ny is demanding Assange's extradition on a European Arrest Warrant (EAW). Two women in Sweden allege rape, molestation and unlawful coercion in August of last year. Assange denies the claims.

On the morning of the hearing, Assange's legal team published their "Skeleton Argument on behalf of Mr. Assange" online, as one of 42 documents outlining the arguments and testimony they intend to present in court.

The argument, authored by Geoffrey Robertson QC and John RWD Jones, states that Swedish prosecutor Marianne Ny is "not eligible" or an appropriate "judicial authority" to issue a European Arrest Warrant. A previous case established that the Swedish National Police Board was the country's sole issuing authority.

The Swedish legal authorities are accused of an "abuse of process because the warrant is being sought for a collateral purpose, namely so as forcibly to bring Mr. Assange to Sweden for questioning, without any fixed intention at the time of its issue to charge or arrest or prosecute him."

The warrant to extradite Assange to Sweden is "disproportionate," as he has offered to cooperate and be interviewed "by telephone, Skype, videolink, etc., from London, to attend at the Swedish Embassy or Scotland Yard's interview suite or pursuant to a request for mutual legal assistance".

The defence rejects the validity of the arrest warrant paperwork, as it does not "unequivocally" state that Assange is wanted for prosecution. The first three offences cited by the Swedish authorities "do not

constitute extradition offences because the conduct alleged would not amount to an offence under English law.... Offence 4 is not an extradition offence because the conduct does not fall within the European Framework offence of rape."

Assange's extradition "would involve the real risk of a flagrant denial of his human rights, especially because the trial would be held in secret". Such action would breach Article 47 of the Charter of Fundamental Rights of the European Union and Article 6 of the European Convention on Human Rights.

"There is a real risk that, if extradited to Sweden, the US will seek his extradition and/or illegal rendition to the USA, where there will be a real risk of him being detained at Guantanamo Bay or elsewhere.... [T]here is a real risk that he could be made subject to the death penalty".

Under European law, it is illegal for suspects to be extradited to jurisdictions where they may face execution.

UK Crown Prosecution Service legal representative Clare Montgomery defended Ny's right to act as an issuing authority for the European warrant. Most importantly, she insisted that the case was "extraditable" because the EAW issued by Ny "clearly denotes a sufficient intention to prosecute".

This is a volte-face on earlier assertions that Assange merely faced questioning. Aware that Assange's argument that questioning did not warrant extradition is correct, the prosecution now claim that the Swedish authorities intend to indict Assange on a charge of rape. They have put forward no further evidence to justify this assertion—either in the form of a statement by the Swedish authorities, or by producing any new substantive evidence that would make such a prosecution likely.

Robertson told the hearing that in no way was a prosecuting warrant issued, as Assange had been interrogated already by the Swedish police with no charges brought.

He feared an extradition of Assange would result in a trial by media. He said, “There’s a danger this kind of media campaign, media vilification, will prejudice this secret trial”.

Robertson reiterated that none of the three sexual assault allegations state there was no consent, and that what occurred was within the context of consensual sex. What Swedish law called “minor rape” was not regarded as rape in other jurisdictions, since it did not involve coercion, force or a lack of consent. The term “minor rape” was “a contradiction in terms”, he said.

Retired Swedish appeal court judge Brita Sundberg-Weitman gave evidence as an expert in Swedish law for the defence. Of the attempt by the Swedish authorities to bring Assange to Sweden she said, “I think it has from the very beginning ...been extremely peculiar”.

The resort to the issuing of an EAW was not proportionate, she said. “An authority must never use more harsh means than what is necessary for the objective.... It is obvious this principle has not been respected here at all.

“I can hardly imagine how, on suspicion of a sexual offence, you can do more harm to a person than has been done in this case. He is famous all over the world as a rapist and he has not even been charged.”

Swedish Director of Prosecution Ny, Sundberg-Weitman said, is “involved in sexual politics” in Sweden and “has a rather biased view against men in the treatment of sexual offence cases. They seem to take it for granted that everyone under prosecution is guilty.”

She refuted the Swedish prosecution’s statement that it was necessary for Assange to be questioned in Sweden and nowhere else. “I honestly cannot understand her attitude here, it looks malicious. It would have been so simple to have him heard while he was in Sweden,” she said. “After he left Sweden it would also have been very easy to have him questioned by telephone, video link or at an embassy.”

Robertson also detailed the role of Claes Borgström, the lawyer for the two women. He is a prominent right-wing Social Democratic politician, who served in the Swedish government as equal opportunities ombudsman from 2000 to 2007. He operates a law firm in partnership with Social Democratic politician and former Minister for Justice Thomas Bodström. One of the two women making the allegations is associated with the Christian wing of Swedish Social Democracy.

Robertson said Borgström was “a politician who has been retained by these women”. His public vilification of

Assange would mean he “would be behind bars for contempt [of court] in this country”.

Sundberg-Weitman said in her written testimony to the court [also included in the 42 online documents] that “Mr. Borgström can be described as an ultra radical feminist. He is also a politician whose platform is associated with radical feminist activism and has developed a legal practise around acting for complainants in rape cases. Mr. Borgström has appeared on numerous occasions in the Swedish and international media condemning Mr. Assange.”

Sven-Erik Ahlem, a former Swedish prosecutor and an expert on Swedish criminal law and prosecutorial practise, has also provided written testimony to Assange’s counsel. Point 14 of the argument document states of Erik Ahlem, “He gives evidence as to Swedish law and procedure, namely that rape and sex offence trials are heard in secret; persons accused of rape can be kept in prison without bail for months before their trial; the duty is on prosecutors to take suspects’ statements promptly. He gives his expert opinion that applying for an EAW rather than taking advantage of mutual assistance mechanisms was disproportionate.”

Commenting outside the court on the hearing, Assange said, “Five-and-a-half months we have been in a condition where a black box has been applied to my life.

“On the outside of that black box has been written the word ‘rape’. That box is now, thanks to an open court process, being opened and I hope that over the next day that we will see that box is in fact empty and has nothing to do with the words that are on the outside of it.”



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