

Julian Assange is in arbitrary detention, UN panel finds

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WikiLeaks chief, who is avoiding extradition by living in Ecuadorian embassy, has won UN backing



A United Nations panel has decided that Julian Assange's three-and-a-half years in the Ecuadorian embassy amount to "arbitrary detention", leading his lawyers to call for the Swedish extradition request to be dropped immediately.

A Swedish foreign ministry spokeswoman confirmed that the UN panel, due to publish its findings on Friday, had concluded that Assange was "arbitrarily detained".

The WikiLeaks founder sought asylum from Ecuador in June 2012 to avoid extradition to Sweden to face questioning over rape and sexual assault allegations, which he denies.

The panel's findings were disclosed to the Swedish and British governments on 22 January, and will be published on Friday morning. Their judgment is not legally binding but can be used to apply pressure on states in human rights cases.

Anna Ekberg, spokesperson for the Swedish foreign ministry, said: "The UN working group on arbitrary detention has concluded that Mr Assange is arbitrarily detained. The working group's view differs from that of the Swedish authorities. We will forward a reply to the working group tomorrow. It will be more clear tomorrow why we reject the working group's conclusions."

Assange's Swedish lawyer, Per Samuelson, said earlier that if the working group found in his favour, "there is only one solution for Marianne Ny [the Swedish prosecutor seeking Assange's extradition], and that is to immediately release him and drop the case". Samuelson added: "If he is regarded as detained, that means he has served his time, so I see no other option for Sweden but to close the case."

Assange's lawyers demanded assurances from the UK that he would not be arrested and subjected to extradition proceedings to face potential prosecution over WikiLeaks' publishing activities.

The British Foreign Office said it would not pre-empt the panel's findings, but said in a statement: "We have been consistently clear that Mr Assange has never been arbitrarily detained by the UK but is, in fact, voluntarily avoiding lawful arrest by choosing to remain in the Ecuadorian embassy.

"An allegation of rape is still outstanding and a European arrest warrant in place, so the UK continues to have a legal obligation to extradite Mr Assange to Sweden."

In a statement issued by WikiLeaks on Twitter, Assange said that if the UN panel rejected his claim, he would voluntarily walk out of the embassy on Friday and accept arrest "as there is no meaningful prospect of further appeal".

He added: "However, should I prevail and the state parties be found to have acted unlawfully, I expect the immediate return of my passport and the termination of further attempts to arrest me."

Neither Sweden nor the UK will be compelled to take any action, but a source familiar with the working group said that if the governments choose to ignore the decision, it could make it difficult for them in future to bring pressure on other countries over human rights violations.

Assange's lawyers had appealed to the UN panel claiming that his stay in the embassy was arbitrary because he had been unable to exercise his right to asylum, arguing: "The only way for Mr Assange to enjoy his right to asylum is to be in detention. This is not a legally acceptable choice."

They also argued that UK law had changed since 2012, which meant that if arrested today he would no longer be liable to extradition under the European arrest warrant.

Melinda Taylor, an Assange legal spokeswoman, said the Australian had not yet been formally informed by the panel of its findings, but "if it finds that the standard for arbitrary detention is met, we would expect his release and compensation".

In addition to Sweden dropping the extradition request, she called for the UK to return Assange's passport and give him assurances that he would not be subject to arrest for a potential further extradition request by the US.

Assange and WikiLeaks have been the subject of a secret grand jury investigation in Virginia that has been looking into whether to prosecute them over the US cable disclosures, and the Australian fears that he could become immediately subject to a second extradition process even if Sweden drops its inquiry.

“If one of the orders is that he should be released and his liberty should be assured, we would obviously look to the UK to make sure that it is effective and not illusory, that it’s not just liberty for five seconds, but liberty that is meaningful,” Taylor said.

British police ended the costly 24-hour guard of the Knightsbridge embassy last October, but the building remains under covert surveillance. A Metropolitan police spokesman said on Thursday: “The operation to arrest Julian Assange does continue and should he leave the embassy the MPS will make every effort to arrest him.”

Sweden and Ecuador have been locked in lengthy negotiations over arrangements to allow Swedish prosecutors to interview Assange in the embassy. Ecuador’s foreign minister said last month that the country would allow access for questioning, but Sweden later said its request had been rejected “on formal grounds”. It is considering whether to submit a fresh request.

Samuelson said his client still hoped to clear his name. “This does not mean that the question of interrogation will be over. We still want an interrogation to take place so that Mr Assange can clear his name and show everyone that he is innocent.

“The difference is that he will no longer be in custody in absentia and thus be able to use his asylum outside of the embassy. If Assange is regarded as detained he has already served the time so to speak so Marianne Ny should drop the case altogether.”

Last August Sweden dropped part of its investigation into Assange after the statute of limitations on allegations of sexual assault expired. It is still seeking to interview him on one outstanding allegation of rape. The accusations were made by two women in Sweden in 2010, but no charges have been brought.

At the Ecuadorian embassy, the WikiLeaks spokesman Kristinn Hrafnsson said that if Assange’s claim through the UN was successful he planned to appear by videolink at a press conference in west London on Friday. “If he loses, as he says, he’ll just walk out of there,” Hrafnsson told the Guardian, as he left the embassy building after around three hours of discussions with Assange.

“The process has been going on for 18 months, the UK government has made submissions to the working group so it has accepted its authority,” Hrafnsson said. “What signal does it send that the UK and Sweden would ignore this UN body? It would completely destroy its authority. Are they willing to set that precedent? Egypt

has not accepted its findings with regard to the detention of its former president [Mohammed Morsi] - is that the standard the UK wants to hold?"

Assange's health is fragile from the effects of living inside for more than three years but Hrafnsson said he was busily preparing for Friday. "However the decision goes, it is an extremely important moment for him. Hopefully it's the end of the road."