

Note

Re: **Case Management Hearing Westminster Magistrates' Court**
21st October 2019

The hearing is to review pre-trial progress. The Defence raises an issue not factored in to the timetable previously proposed by the Court.

This concerns an application to argue a preliminary point of fundamental importance.

The 2003 UK/US Extradition Treaty, a reciprocal agreement under which extradition in either direction would take place, was at the time contentious, reducing the number of safeguards that might prevent extradition, in particular safeguards from the UK to the US.

One key provision however which was not altered at all from preceding treaties, was the provision in accordance with long and well established Anglo US Practice, Article 4(1) of the 2003 Treaty (ratified in 2007), which expressly provides that "*Extradition shall not be granted if the offence for which extradition is requested is a political offence*".

The offences with which Julian Assange is charged, for which his extradition is sought, are on the face of the extradition request "*Political offences*".

The US indictment contains a series of offences, cumulatively punishable with 170 years imprisonment under the US Espionage Act 1917. There is also an offence (punishable with five years imprisonment) of "Conspiracy to commit computer intrusion in order to facilitate Manning's acquisition and transmission of classified information related to the national defence of the United States" (Count 18). The legal characteristic claimed by the US prosecution in its wording in the indictment, of each of the 18 charges is an alleged intention to obtain or disclose US state secrets in a manner that was damaging to the security of the US state.

These are "*Political offences*" and extradition is prohibited and unlawful in respect of all such offences under the 2003 Anglo US Extradition Treaty.

The Defence of Mr Assange have asked the Court on the 21st October to list this matter for urgent resolution of the following:

1. That the Court has jurisdiction to determine whether the offences are "*political offences*".
2. That the Court rule the offences are political offences for the purposes of Article 4 of the Treaty.
3. To rule that for that reason alone, extradition should be refused in the case.

Separately, the Court's attention is being drawn to evidence in the course of current investigation by the courts in Spain – of a sustained series of actions by a Spanish security company in conjunction with US intelligence services to obtain information by unlawful acts, theft and clandestine surveillance within the Ecuadorian Embassy whilst Julian Assange was present there. These actions took place over a number of years - with increasing intensity from early 2017 onwards. They included amongst the deliberate targeting and theft of information from the phones and electronic devices of lawyers advising and doctors treating Julian Assange, and the recording of their meetings to which the principle, internationally recognised, of confidentiality must apply, which information was shipped directly to the United States. Further, the private telephones of distinguished journalists visiting the Embassy, were photographed with data taken sufficient to hack into their telephones thereafter.

These criminal acts have caused a Spanish court to make arrests and conduct seizures of further relevant evidence.

The implications for the rule of law and the preservation of fundamental time honoured legal principles, of importance to the entire international community, are being shown on the basis of hard evidence, to have been deliberately violated over a period of years.

These two issues – the agreements presumed to be honoured by the parties to an important treaty, and the ability to rely upon internationally sustained principles between states (in this case the intrusions into including the US spying upon the sovereign entity of Ecuador including its ambassadors, visiting ministers and internal Embassy personnel) are flagged up as key issues in the forthcoming challenges to extradition for which Julian Assange faces, if extradited and convicted, 175 years in prison. The implications for publishers of information whose publication concerns practices of the United States for which national security is claimed, have implications far beyond the case of Julian Assange.

The issue of the significant impediments to Mr Assange's ability to engage in essential preparatory work in his case is the subject of separate proceedings which raise the principle of the right of access to the courts, frustrated when the defendant cannot have access to the means to see and prepare his own case. These also include the free standing urgent demand – for adequate care for an individual about whom there are substantial and significant concerns for his health.