



## Resolution 2571 (2024)<sup>1</sup>

Provisional version

# The detention and conviction of Julian Assange and their chilling effects on human rights

Parliamentary Assembly

1. The Parliamentary Assembly recalls the importance of a free press, whose role of a “public watchdog” ensures the proper functioning of a democratic State governed by the rule of law. This role is particularly relevant in light of the seriousness of ongoing armed conflicts and the increasing number and gravity of acts of transnational repression. In this context, the harsh treatment of Julian Assange, who was recently released from custody after more than a decade of prosecution for his journalistic work, merits particular attention.
2. Julian Assange and WikiLeaks rose to international prominence after the release of the “Collateral Murder” video in 2010 – a classified recording depicting the killing of civilians, including journalists, by United States (US) military forces in Iraq. In the following months, WikiLeaks published scores of other classified US material, disclosed by a whistle-blower, Chelsea Manning. Much of the leaked material, including the “Collateral Murder” video, provided credible evidence of war crimes, human rights violations, and governmental misconduct.
3. WikiLeaks’ publications also confirmed the existence of secret detention sites, abductions and illegal transfer of prisoners conducted by the United States of America within Europe, which were first reported by the Assembly in 2006 and 2007. In [Resolution 1838 \(2011\)](#) “Abuse of state secrecy and national security: obstacles to parliamentary and judicial scrutiny of human rights violations”, the Assembly welcomed WikiLeaks’ release of numerous diplomatic reports confirming the Assembly’s findings while noting that “in some countries, in particular the United States, the notion of State secrecy is used to shield agents of the executive from prosecution for crimes such as abduction and torture, or to stop victims from suing for compensation”.
4. Shortly after WikiLeaks’ initial publications of classified material, Julian Assange became a person of interest in a criminal investigation in Sweden, concerning alleged sexual misconduct. Following his lawful departure from Sweden, he was arrested in London under a European Arrest Warrant issued by the Swedish judicial authorities. He was released shortly after that to house arrest, having been granted bail pending the outcome of his surrender proceedings. The house arrest continued for some 550 days. Eventually, the United Kingdom Supreme Court refused Mr Assange’s appeal against an extradition order granted by the United Kingdom Home Secretary. In fear of being extradited from Sweden onwards to the United States, where he could have faced a *de facto* life sentence, Mr Assange violated bail conditions and sought diplomatic asylum in the Ecuadorian Embassy in London. He has never been charged with any crime in Sweden, and the investigation into his alleged transgressions was finally discontinued in 2019. In its 2015 opinion on the detention of Julian Assange, the United Nations Working Group on Arbitrary Detention criticised the Swedish prosecuting authorities for their lack of diligence and respect for Mr Assange’s procedural rights.

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1. *Assembly debate* on 2 October 2024 (28th sitting) (see [Doc. 16040](#), report of the Committee on Legal Affairs and Human Rights, rapporteur: Ms Thórhildur Sunna Ævarsdóttir). *Text adopted by the Assembly* on 2 October 2024 (28th sitting).



5. Mr Assange was expelled from the Ecuadorian Embassy in April 2019, arrested and remanded in the high-security Belmarsh prison in London, where he initially served a sentence for violating bail conditions and then awaited the decision on his possible extradition to the United States. In the course of the judicial proceedings, Mr Assange consistently argued that his extradition would risk violating Articles 3 and 10 of the European Convention on Human Rights (ETS No. 5).

6. Even though there is no denying that Julian Assange and WikiLeaks helped uncover matters of utmost public interest, Julian Assange has faced immense backlash in the United States. Nevertheless, under the Obama administration, the US Department of Justice decided against prosecuting him, believing that indicting Mr Assange could not be reconciled with freedom of expression, protected under the First Amendment and could negatively affect media freedom by establishing a dangerous precedent. Chelsea Manning was sentenced to 35 years' imprisonment for revealing classified documents to WikiLeaks, serving several years in prison before her sentence was commuted by President Obama.

7. Following the election of Donald Trump and the release of further classified materials by WikiLeaks, including the so-called "Vault 7" revelations, disclosing the Central Intelligence Agency's (CIA) software exploitation capabilities, the Department of Justice reversed its previous decision and decided to prosecute Julian Assange. Initial proceedings against him focused on charges of computer hacking. In 2019, he was also indicted under the US Espionage Act of 1917, making him the first ever publisher to be prosecuted under this legislation for disclosing classified information obtained from a whistle-blower. In total, he was indicted on 17 counts under the US Espionage Act. Had he been convicted on all of them, Mr Assange would have faced up to 175 years' imprisonment.

8. Julian Assange was released from Belmarsh Prison on 24 June 2024 pursuant to a plea agreement with the US Department of Justice, after five years' and two months' imprisonment. On 26 June 2024, he appeared before a US federal court in Saipan. He pleaded guilty to a single conspiracy charge to obtain documents, writings, and notes connected with national defence and wilfully communicating documents relating to the national defence from a person having both lawful and unauthorised possession of same, violating the US Espionage Act. He was sentenced to time served and allowed to return to his native Australia.

9. The Assembly notes that the plea agreement states that "[a]s of the date of the Plea Agreement, the United States has not identified any victim qualifying for individual restitution and, thus, is not requesting an order of restitution". This essential factor must be considered when assessing the proportionality of measures employed against Mr Assange in response to his (and WikiLeaks') publications.

10. The Assembly warmly welcomes the release of Mr Assange and his being reunited with his family. Nevertheless, it is deeply concerned that the disproportionately harsh treatment of Julian Assange, in particular his unprecedented conviction under the Espionage Act, creates a dangerous chilling effect and a climate of self-censorship affecting all journalists, publishers and others reporting matters essential for the functioning of a democratic society. Moreover, it severely undermines the role of the press and the protection of journalists and whistle-blowers around the world.

11. The Assembly is equally alarmed by reports that the CIA was covertly surveying Mr Assange in the Ecuadorian Embassy in London and was allegedly developing plans to poison or even assassinate him on United Kingdom soil. It reiterates its condemnation of all forms and practices of transnational repression.

12. The Assembly is deeply concerned by the fact that despite many documents and recordings revealed by Mr Assange and WikiLeaks, providing credible evidence of war crimes and human rights violations committed by US State agents, there is no publicly available information on anyone being held to account for these atrocities. The failure of the competent US authorities to prosecute the alleged perpetrators, combined with the harsh treatment of Mr Assange and Ms Manning, creates a perception that the United States Government's purpose in prosecuting Mr Assange was to hide wrongdoings of State agents rather than to protect national security.

13. The Assembly recognises the legitimacy of measures aimed at ensuring the adequate protection of secrets affecting national security. It reiterates its position, however, that information concerning the responsibility of State agents who have committed war crimes or serious human rights violations, such as murder, enforced disappearance, torture, or abduction, does not deserve to be protected as secret. Such information should not be shielded from public scrutiny or judicial accountability under the guise of "State secrecy".

14. The Assembly notes that State security and intelligence services, which unquestionably perform an important task, cannot be exempted from accountability for any unlawful actions. Creating a culture of impunity undermines the foundations of democratic institutions and risks provoking further abuses.

15. One of the arguments used to justify the disproportionately harsh treatment of Julian Assange and WikiLeaks was that the release of unredacted materials put the lives and safety of individuals at risk. While the Assembly agrees that any disclosures of classified information should be made in such a way as to respect the personal safety of informers, intelligence sources, and secret service personnel, the case of Mr Assange should not be assessed *in abstracto*. Over 13 years since the publications, no evidence has been produced showing that WikiLeaks' publications have harmed anyone, as recently confirmed by the Plea Agreement. The Assembly regrets that, although Mr Assange revealed thousands of confirmed and previously unreported deaths at the hands of US and coalition forces in Iraq and Afghanistan, he was the one to be accused of putting lives at risk.

16. Democratic societies can not thrive without the free flow of information and their citizens' ability to hold their governments accountable. The Assembly reiterates its strong support for freedom of expression and information as a fundamental right guaranteed by Article 10 of the European Convention on Human Rights and Article 19 of the International Covenant on Civil and Political Rights and encourages the Council of Europe member States to work tirelessly to strengthen their protection of free speech and a free press.

17. The Assembly considers the length of detention of Julian Assange in Belmarsh prison and his conviction under the Espionage Act to be out of proportion in relation to his alleged offence. The Assembly recalls that news gathering is an essential preparatory step in journalism, and is protected by the right to freedom of expression as recognised by the European Court of Human Rights. It observes that Mr Assange was punished for engaging in activities that journalists perform on a daily basis: they **elicit and** receive leaked information from their sources and publish it where it provides credible evidence of wrongdoing.

18. The Assembly recalls that the United Nations Working Group on Arbitrary Detention considered that Mr Assange was arbitrarily detained by the governments of Sweden and the United Kingdom. It further recalls that the United Nations Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Mr Nils Melzer, concluded that Mr Assange had been exposed to "progressively severe forms of cruel, inhuman or degrading treatment or punishment, the cumulative effects of which can only be described as psychological torture". The Assembly finds it concerning that the authorities of the United Kingdom appear to have ignored these opinions, further aggravating Mr Assange's situation.

19. The Assembly considers that the disproportionately severe charges brought by the United States of America against Julian Assange under the Espionage Act, exposing him to a risk of *de facto* life imprisonment, combined with his conviction and sentencing under the Espionage Act for – what was in essence – news-gathering and publishing, fulfil the criteria set out in Resolution 1900 (2012) "The definition of political prisoner" and warrant the designation of Mr Assange as a political prisoner.

20. The Assembly also regrets that the authorities of the United Kingdom failed to effectively protect Mr Assange's freedom of expression and right to liberty, exposing him to lengthy detention in a high-security prison despite the political nature of the most severe charges against him. His detention with a view to extradition far exceeded the reasonable length acceptable for that purpose. The Assembly regrets that the Extradition Act of 2003 removed the political offence exemption from United Kingdom extradition law, exposing dissidents and opposition members to the risk of being extradited to States prosecuting them on political grounds.

21. The Assembly considers that the misuse of the 1917 Espionage Act by the United States to prosecute Julian Assange has caused a dangerous chilling effect, dissuading publishers, journalists and whistle-blowers from reporting on governmental misconduct, thus severely undermining freedom of expression and opening room for further abuse by State authorities. To this end, the Assembly calls on the United States of America – a State having the observer status with the Council of Europe – to:

21.1. urgently reform the 1917 Espionage Act and make its application conditional on the presence of a malicious intent to harm the national security of the United States or to aid a foreign power;

21.2. exclude the application of the Espionage Act to publishers, journalists and whistle-blowers who disclose classified information with the intent to raise public awareness and inform on serious crimes, such as murder, torture, corruption, or illegal surveillance.

22. The Assembly further calls on the United States of America to:
  - 22.1. conduct thorough, impartial, and transparent investigations into alleged war crimes and human rights violations disclosed by WikiLeaks and Mr Assange, holding those responsible to account and tackling a culture of impunity towards State agents or those acting at their behest;
  - 22.2. co-operate in good faith with the Spanish judicial authorities to clarify all facts of the alleged unlawful surveillance of Mr Assange and his interlocutors in the Ecuadorian Embassy in London.
23. The Assembly calls on the United Kingdom to:
  - 23.1. urgently review its extradition laws in order to prevent the possibility of extraditing individuals wanted for offences of political nature;
  - 23.2. conduct, having regard to the conclusions of the United Nations Special Rapporteur Nils Melzer, an independent review of the treatment of Julian Assange by the relevant authorities with a view to establishing whether he has been exposed to torture or inhuman or degrading treatment or punishment, pursuant to their international obligations.
24. The Assembly calls on the Council of Europe member and observer States to:
  - 24.1. provide adequate protection, including asylum, to whistle-blowers who expose unlawful activities of their governments and, for those reasons, are threatened with retaliation in their home States, provided their disclosures qualify for protection under the principles advocated by the Assembly, in particular, the defence of the public interest;
  - 24.2. refrain from extraditing individuals for charges related to journalistic activities, in particular when these charges appear grossly disproportionate to the alleged offence;
  - 24.3. continue to improve the protection of whistle-blowers and effectiveness of whistle-blowing procedures;
  - 24.4. review their shield laws and ensure that journalists are effectively protected from being forced to reveal their sources;
  - 24.5. increase government transparency by reducing the scope of information that can be classified as secret and encourage the spontaneous release of information not critical to national security;
  - 24.6. implement strict guidelines and relevant oversight mechanisms to prevent the overclassification of government documents as secret, where their contents do not warrant this.
25. The Assembly also urges media organisations to establish robust protocols for handling and verifying classified information to ensure responsible reporting, thus avoiding any risk for national security and the safety of informers and sources.