

## AMNESTY INTERNATIONAL PUBLIC STATEMENT

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# US/UK: US “ASSURANCES” LEAVE JULIAN ASSANGE AT RISK OF ILL-TREATMENT IF EXTRADITED FROM UK

Diplomatic assurances offered by the US authorities to the UK government in Julian Assange’s ongoing extradition process will leave him at risk of ill-treatment if extradited and should be rejected, according to Amnesty International. In court documents made public in July 2021, the US offered written assurances to the UK that Julian Assange would not be detained in a maximum-security prison facility (ADX) and not be subjected to “special administrative measures (SAMs)”, which can include prolonged solitary confinement, if he is extradited to the US. These alleged “guarantees” are an implicit acknowledgement that conditions for persons incarcerated in US federal prisons can amount to torture and other cruel, inhuman or degrading treatment or punishment in violation of international human rights law, which absolutely prohibits transfers of persons to countries where they would be at risk of torture and other ill-treatment.

Notably, the assurances also give the US discretion to place Assange in a maximum-security facility and impose SAMs should he “do something subsequent to the offering of these assurances that meets the tests for the imposition of SAMs or designation to ADX”. Such latitude to alter the terms of the core assurances after Assange’s transfer to the US renders them irrelevant from the start since he would remain *at risk* of ill-treatment in US detention at the point of transfer and afterward. The prohibition on torture and other ill-treatment – including prolonged solitary confinement – is absolute and cannot be conditioned on a person’s conduct. Should the UK extradite Julian Assange in reliance on such an agreement with the USA it would violate a peremptory norm of international law (the absolute ban on torture), its international human rights treaty obligations and its own domestic law.

**Amnesty International reiterates its calls on the US government to drop the charges against Julian Assange and on the UK authorities to halt his extradition and release him immediately.<sup>1</sup>**

## BACKGROUND

On 7 July 2021, the High Court of England and Wales granted the US government limited leave to appeal the 4 January 2021 decision<sup>2</sup> of a Magistrate’s Court that held that Julian Assange should not be extradited to the US. The magistrate refused the extradition on humanitarian grounds having concluded that Julian Assange’s mental and psychological status would put him at risk of self-harm, including suicide, if he were to be detained in a US federal maximum-security prison and/or subjected to SAMs. Such special measures can be applied to people both in pretrial detention and those convicted and incarcerated,<sup>3</sup> and can include prolonged solitary confinement, infringements on attorney-client privilege and other restrictions on international fair trial standards.

In its grounds for appeal submitted to the High Court on 11 February 2021, the US government offered the UK a set of “diplomatic assurances” intended to mitigate the risk of ill-treatment should Julian Assange be detained in the federal prison system. The assurances included a statement that Assange would not be placed in a maximum-security facility (e.g. US Penitentiary Administrative Maximum Facility in Florence, Colorado) or subjected to SAMs, but left open the possibility that Assange could suffer those fates should he do something after the assurances were accepted to require the US to impose SAMs or transfer him to a maximum-security prison. This loophole leaves Julian Assange at risk of treatment contrary to the absolute prohibition on torture and other ill-treatment.

<sup>1</sup> Amnesty International, US/UK: Drop charges and halt extradition of Julian Assange, Press release, 21 February 2020, <https://www.amnesty.org/en/latest/news/2020/02/usuk-drop-charges-and-halt-extradition-of-julian-assange/>

<sup>2</sup> Amnesty International, UK: Assange extradition decision welcome but exposes “politically motivated process”, Press release, 4 January 2021, <https://www.amnesty.org/en/latest/news/2021/01/uk-assange-extradition-decision-welcome-but-exposes-politically-motivated-process/>

<sup>3</sup> Amnesty International, Solitary confinement in the USA, November 2013, <https://www.amnesty.org/download/Documents/12000/amr510762013en.pdf>

Another assurance stated that at any time Julian Assange were to be held in US custody, he would receive “any such clinical and psychological treatment recommended by a qualified treating clinician employed or retained by the prison where he is in custody”. The provision of healthcare services in US federal prisons has been widely criticized as substandard, especially in maximum-security prisons. The US has given itself the prerogative to place Julian Assange in an ADX facility post-return. Amnesty International opposes the placement of any person with serious mental health conditions in maximum-security prisons<sup>4</sup> and urges states to care for mentally ill people who are incarcerated in appropriate therapeutic settings.

The US also provided an assurance that the authorities will consent to transfer Julian Assange to Australia, his country of nationality, to serve any custodial sentence imposed on him. This option was already available to Julian Assange per a bilateral agreement<sup>5</sup> between the US and Australia regarding prison transfers for nationals of each country held by the other.

There is currently no date set for an appeal hearing in the High Court.

## FURTHER READING

Amnesty International has conducted extensive research and analysis on the use of diplomatic assurances. The organization opposes the use of such assurances where there is a real risk of torture and other ill-treatment in the country of return.

Amnesty International, Diplomatic Assurances against Torture – Inherently Wrong, Inherently Unreliable, April 2017, <https://www.amnesty.org/en/documents/ior40/6145/2017/en/>

Amnesty International, Dangerous Deals: Europe’s Reliance on ‘Diplomatic Assurances’ against Torture, April 2010, <https://www.amnesty.org/en/documents/EUR01/012/2010/en/>

For more on solitary confinement in US prisons, see:

Amnesty International, Entombed: Isolation in the US Federal Prison System, July 2014, <https://www.amnesty.org/en/documents/AMR51/040/2014/en/>

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<sup>4</sup> Amnesty International, Entombed: Isolation in the US Federal Prison System, July 2014, <https://www.amnesty.org/en/documents/AMR51/040/2014/en/>

<sup>5</sup> See US Department of Justice, International Prisoner Transfer Program, <https://www.justice.gov/criminal-oia/list-participating-countriesgovernments>