

Solution to Assange case? Not interested.

Swedish authorities decline to meet with distinguished visitor offering way out of legal impasse

The Swedish officials who are most directly responsible for the ongoing effort to have Julian Assange extradited from England have declined to hear the proposals of Eva Joly, the well-known French magistrate and member of the European Parliament, who recently visited Sweden to suggest a way out of the legal impasse.

"I have asked to meet with the minister of justice [Beatrice Ask], the chief prosecutor [Anders Perklev] and with Marianne Ny, the prosecutor handling the case. None of them wants to meet with me, and I am wondering why," said Ms. Joly at a press conference in Stockholm on March 27. Anders Perklev and Marianne Ny flatly declined, while Beatrice Ask cited lack of time.

"Of course, they have no obligation to meet with me," acknowledged Ms. Joly. "But in my experience, that is very unusual. In fact, I cannot recall any similar occasion." She also found it "unusual" that Anders Perklev and Marianne Ny offered no explanation for their refusal to meet, and that none of the three officials indicated any willingness to welcome her on some later occasion.

"This is clearly a difficult question which Swedish officials are very reluctant to discuss," concludes Eva Joly.

"That is unfortunate, because the case involves important issues of legal and human rights that concern everyone, not only Julian Assange."

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similar occasion."*

She emphasized that, "I do not have an opinion on the question of guilt — who is guilty and who is not guilty. That is not my purpose." However, "I am concerned that the circumstances of the case have led to disproportionate and unusually harsh restrictions on Julian Assange's human rights and personal freedom."

While granting that the Swedish prosecution's pursuit of the investigation is wholly legitimate, she noted that, "The Swedish investigators have not presented clear and indisputable reasons for their unwillingness to move the case forward by travelling to London in order to question Mr. Assange."

The prosecution's refusal to do so has led to a lengthy stalemate, since Assange has not dared to leave the security of Ecuador's London embassy, where he has been confined since the South American country granted him asylum in June of 2012. The basis of Assange's asylum is fear of persecution by the U.S. government (see "[A Year of Living Productively](#)").

Swedish officials have stated that Assange would be at no risk of further extradition to the United States if he returns to Sweden as demanded by the prosecution. But Eva Joly rejects such assurances. “The case of Chelsea Manning, and now Edward Snowden’s exile in Russia, are proof that Julian Assange has credible reason to fear extradition to the U.S. if he goes back to Sweden. If, as we have seen, countries like France and Germany are unable or unwilling to withstand pressure from the United States,” asks Ms. Joly, “why should we expect that a much smaller country like Sweden would be able to do so — or that its government would even want to?”

Eva Joly: Corruption Hunter

Having spent her early years in her native Norway, Eva Joly moved to France at the age of 20 and today holds both French and Norwegian citizenship. She studied law and became an investigating magistrate at the High Court in Paris, where she became known for her tenacity and courage in the fight against corruption. Her most high-profile case was that involving the state oil company, Elf Aquitaine, regarded as the worst financial scandal in Europe since World War II.



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In 2002 she returned to Norway where she served as special adviser to the police and the Ministry of Justice, and later to the Norwegian Minister of International Development where she headed a campaign against corruption and money laundering.

In 2009 she was commissioned by the government of Iceland to investigate possible white-collar crime in connection that country’s financial crisis. Since 2012 she has been an anti-corruption expert with the Independent Joint Anti-Corruption Monitoring and Evaluation Committee in Afghanistan.

Also in 2009, she was elected to represent the Green Party of France in the European Parliament, where her current duties include the chairmanship of the Development Committee.

Her published books include *Justice under Siege*, *Corruption Hunter* (autobiography), *Plan for a Better World* and *Ordinary Heroes*. Her numerous awards include the prestigious Sophie Prize for her “tireless and reckless” work against economic crime and corruption, and for her vision of a sustainable and just society.

Ms. Joly emphasizes that asylum is a basic human right which, she believes, has not been taken seriously by Swedish authorities in this case. “Julian Assange has the right to apply for asylum, and it has been granted by the government of Ecuador,” she pointed out. “That is a serious decision. The Swedish prosecution cannot simply say, ‘Well we do not care about that; he should come here’.

“I do not understand why Julian Assange should give up his human right to asylum in order to answer the questions of prosecutors here in Sweden.” There is nothing to prevent them from interviewing him in London, noted Ms. Joly, echoing the opinion of Swedish legal experts, including a justice of the Supreme Court.

The human rights of the alleged victims are also at issue, said Ms. Joly. “They also need to move on with their lives. They have been waiting for nearly four years.”

Legal toolbox

Given the lengthy delay in resolving the case, Ms. Joly feels that, “We must find a solution, and I think that I know the solution.”

That belief is based on her 25 years as an investigating magistrate with extensive experience of international co-operation on judicial matters (see page 2, “Eva Joly: Corruption Hunter”). “We have a common European toolbox” containing tools that can provide a solution to the Assange case, she maintains.

One such tool is the video interview, which is used by the International Court of Justice when witnesses are in danger, and on a daily basis in all European courts. It is an alternative available to Swedish prosecutors if they do not want to question Julian Assange in London; but they have thus far refused to do so.

In the event that Swedish prosecutors somehow manage to question Assange and decide to press formal charges, he could be tried *in absentia*, according to Ms. Joly. That would permit Assange to remain in the safety of Ecuador’s London embassy while the trial is conducted in Sweden. The only requirements are that he consent to such a procedure and that he is legally represented in court.

That possibility is not currently provided by Swedish law, concedes Eva Joly. Neither was it provided by French law when former president Jacques Chirac was put on trial some years ago. But an exception was made when he voluntarily forfeited his right to be present in court. It should be possible for Swedish courts to do likewise in the Assange case, which is clearly exceptional, argues Ms. Joly.

“We should remember why the rule concerning physical presence in court exists,” says Eva Joly. “It is to protect the rights of the accused. In this case, the rights of Julian Assange would be protected if his lawyers are present in court and he participates by video link. That would be a valid process which would ensure the rights of both the accused and the alleged victims.”

But if that alternative is not acceptable to Swedish prosecutors, says Ms. Joly, “There is another useful tool in the toolbox which I have used myself, and that is to delegate the trial to another jurisdiction. In this case, they could send their files to Ecuador and request that it be handled by that country’s judicial system.”

Finally, if Assange were to be found guilty — by either a Swedish or an Ecuadorean court — any sentence of imprisonment could be served in Ecuador.

“All this is possible”, asserts Eva Joly. “So why shouldn't Swedish prosecutors use the tools that are in the toolbox? It is not a question of special treatment for Julian Assange. These are tools that are, or at least should be, applicable to every case and every individual.”

Revealing contrast

Eva Joly has been both surprised and disappointed by the Swedish prosecution's conduct in the Assange case. “When I first read about the accusations against Julian Assange, I trusted that the Swedish legal system — which is very robust and has a long democratic tradition — would be able to conduct the case within a reasonable time.”

But that was well over three years ago, and Eva Joly has become increasingly concerned about the legal rights of both the accused and his accusers, and for the health of Julian Assange in his current state of semi-imprisonment. “In some ways it is worse than prison,” she says and concludes that, “It is time to break the deadlock and resolve the case in a fashion that is satisfactory to all the parties involved, by applying the framework on European co-operation that is already in place.”

The reluctance of Swedish authorities even to discuss the case with her therefore came as something of a shock. “Normally when I — as an MEP and chair of a committee in charge of 59 billion euros per year — ask for an appointment, I get it.”

Her experience contrasts sharply with the warm reception given two months earlier to Eric Holder, the U.S. Attorney General (minister of justice). On that occasion he met with his Swedish counterpart, Beatrice Ask, and also with Prosecutor-General Anders Perklev — the latter an unusual choice of discussion partner for a U.S. cabinet minister. Government assertions that the Assange case was not on the agenda were greeted with widespread scepticism.

Meanwhile, Julian Assange continues to be a prime target of U.S. hostility. A long prison sentence and other unpleasantness may be expected if he is extradited or otherwise removed to the United States. But U.S. officials have indicated that the current solution, i.e. with Assange trapped in Ecuador's London Embassy, is an acceptable alternative. It may even be preferable to a highly publicized trial, which would involve the risk of further embarrassing disclosures about the superpower's activities.

Given that context, the Swedish prosecution's failure to provide a credible explanation for its handling of the Assange case, or to discuss a possible solution with a prominent international expert in such matters, tends to strengthen suspicions that it is acting on behalf of the U.S. government.

“Hardly anything in this muddled mess is more revealing than the refusal of Marianne Ny, Anders Perklev and Beatrice Ask, even to meet with Eva Joly, who is known all over the world for her integrity,” observes retired Swedish judge Brita Sundberg-Weitman, who has followed the case from the beginning. “Short of openly declaring that they are doing the bidding of the United States, they could hardly be more clear about the underlying reason for their behaviour.”

— Al Burke