

Explainer: what charges does Julian Assange face, and what's likely to happen next?

Written by Holly Cullen, Adjunct professor, University of Western Australia

Julian Assange, the Australian cofounder of [Wikileaks](#) , was [arrested on April 11 by British police at the Ecuadorian embassy](#) in London, where he had been claiming political asylum for almost seven years.

He has faced a range of criminal charges and extradition orders, and several crucial aspects of his situation remain to be resolved.

What are the British charges against Assange, and what sentence could be imposed?

Assange moved into the Ecuadorian embassy in London in [June 2012](#) after losing the final appeal against his transfer to Sweden on a [European Arrest Warrant \(EAW\)](#) . He was then charged with failing to surrender to the court.

While in the embassy, Assange could not be arrested because of the international legal protection of diplomatic premises, which meant police could not enter without Ecuador's consent. On April 11, British police were invited into the embassy and made the arrest. On the same day, Assange was found guilty, and awaits sentencing. The charge of [failing to surrender](#) to the court carries a jail term of up to 12 months.

What are the US charges against Assange?

Also on April 11, the United States government unsealed an indictment made in March 2018, [c harging Assange](#) with a conspiracy to help whistleblower [Chelsea Manning](#) crack a password which enabled her to pass on classified documents that were then published by WikiLeaks. The US has requested that the UK extradite Assange to face these charges before a US court.

What were the Swedish charges, and could they be revived?

In 2010, a Swedish prosecutor issued the EAW requesting Assange's transfer to Sweden to face sexual assault allegations, which he denies. In 2016, Assange was questioned by Swedish authorities by video link while he remained in the Ecuadorian embassy. In 2017, they closed their investigation.

After Assange was arrested and removed from the embassy, the lawyer for one of the complainants indicated she would ask the prosecutor to reopen the case, as the statute of limitations on the alleged offence does not expire until 2020. As of April 12, Sweden's Prosecution Authority is formally reviewing the case and could renew its request for extradition.

What are Britain's legal obligations to extradite to Sweden or the US?

The UK, as a member of the European Union (for now!), is obliged to execute an EAW. The law on EAWs is similar to extradition treaties. However, the law also says it is up to the UK to decide whether to act first on the EAW from Sweden or the US extradition request.

Bilateral extradition treaties are usually based on identical reciprocal obligations. But the current [UK-US extradition treaty](#), agreed in 2003, has been criticised for allowing the UK to extradite a person to the US solely on the basis of an allegation and an arrest warrant, without any evidence being produced, despite the fact that "probable cause" is required for extradition the other way.

The relative ease of extradition from the UK to the US has long been one of the concerns of Assange's legal team. The treaty does not include a list of extraditable offences but allows for extradition for any non-political offence for which both states have criminalised the behaviour, which carries a sentence of at least one year in prison.

Espionage and treason are considered core "political offences", which is why the US request is limited to the charge of computer fraud. Conspiracy to commit an extraditable offence is covered in the US-UK treaty, as it is in the EAW (and in the US-Australia extradition treaty).

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Assange may legally challenge his extradition either to the US or to Sweden (as he previously did). Such challenges could take months or even years, particularly if Assange applies to the European Court of Human Rights arguing that an extradition request involved a human rights violation.

Given Assange's previous conduct, and the likelihood that he will be sentenced to prison for failure to surrender to court, he will probably remain in a UK prison until all legal avenues are exhausted.

What are Australia's obligations to Assange?

As an Australian citizen, Assange is entitled to consular protection by the Australian government, which means staff from the Australian High Commission in London will provide support for him in the legal process. The extent of that support is not set in stone, however, and both Foreign Minister Marise Payne and Prime Minister Scott Morrison have declined to provide detail on the basis that the matter is before the courts.

One possibility is that Assange will serve his sentence for failing to surrender to the court, after which the UK will deport him to Australia. At that point, it is possible the US could request extradition from Australia, and the [US-Australian extradition treaty](#) would apply. The US charges would most likely be covered although not specifically mentioned in the treaty.

As with the UK-US treaty, political offences are excluded, and an extradited person can only be tried for the offence in the extradition request or a related offence, and in any event not for an offence not covered by the treaty. In addition, the treaty specifies that neither Australia nor the US is obliged to extradite its own nationals, but may do so. The fact that Australia has the option to refuse extradition purely on the ground of Assange's nationality could lead to intense pressure on the government to do just that.

Holly Cullen does not work for, consult, own shares in or receive funding from any company or organisation that would benefit from this article, and has disclosed no relevant affiliations beyond their academic appointment.

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