

The Detention of Julian Assange & Its Chilling Effects on Human Rights

ECBA CONFERENCE - 25 April 2026

Overview: The Case at a Glance

7 Years

Confined in the Ecuadorian Embassy in London (2012–2019)

5+ Years

Remanded in HMP Belmarsh during US extradition proceedings

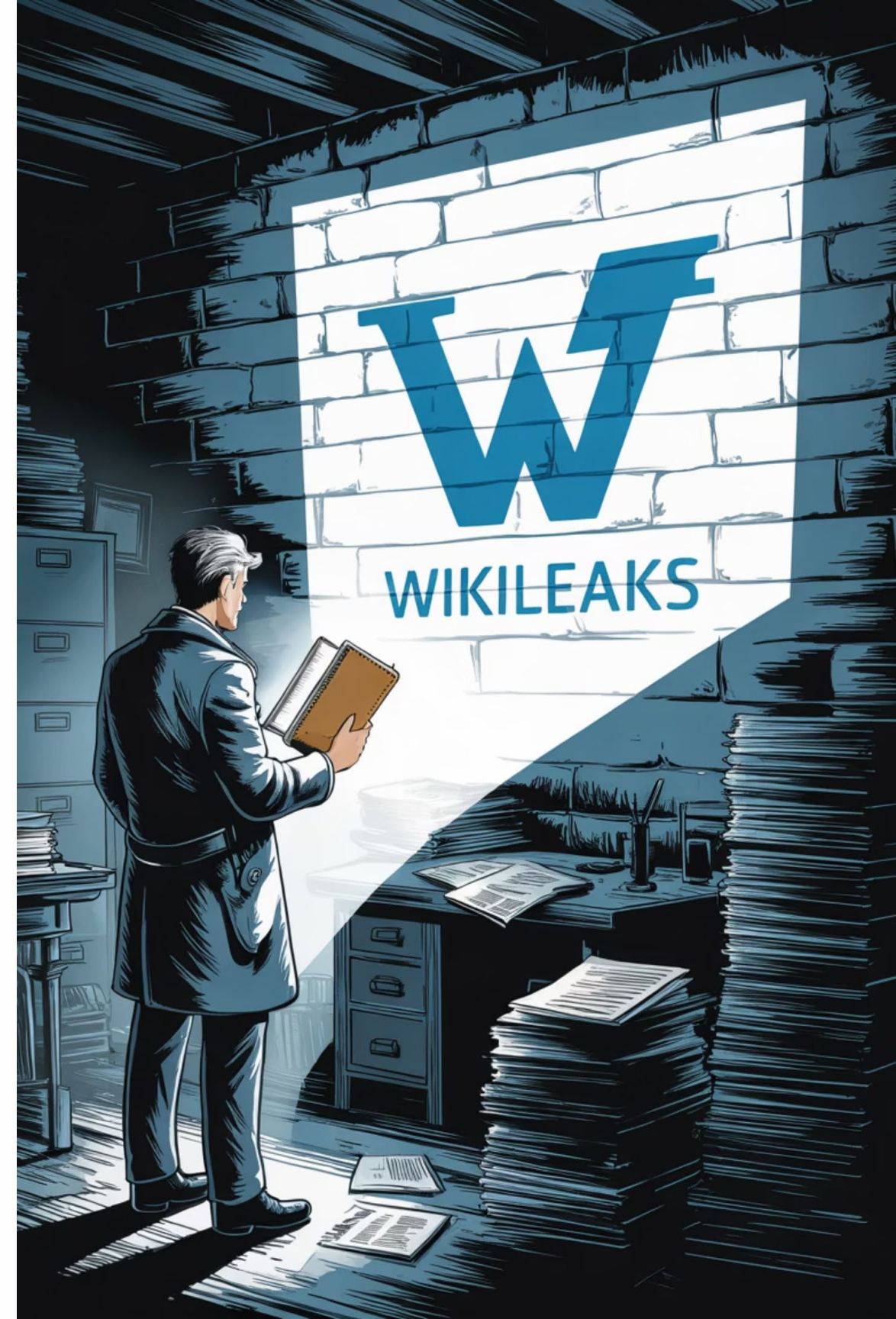
175 Years

Maximum sentence threatened under 17 Espionage Act charges

June 2024

Plea agreement: guilty to single espionage conspiracy count; sentenced to time served

"Working as a journalist, I encouraged my source to provide information that was said to be classified in order to publish that information. I believed that the 1st Amendment protected that activity." — Julian Assange, June 2024



Facts : WikiLeaks, Publications & Their Impact



Era-Defining Disclosures

- **Collateral Murder** video & Iraq Rules of Engagement (2010)

 YouTube



Collateral Murder - Wikileaks - Ira

Wikileaks has obtained and decrypted this previously unreleased video footage from a US

- **Afghan War Diary** & Iraq War Logs (2010)
- **Diplomatic Cables** (2010) & Gitmo Files (2011)
- **Vault 7** – CIA surveillance capabilities (2017)

Daniel Ellsberg (US Whistleblower - Pentagon Papers 1971 - Watergate 1972) called these *"the most important truthful revelations of hidden criminal state behaviour in US history."* They triggered parliamentary inquiries, ECtHR cases, ICC and investigations across Europe.

US Reaction: Surveillance, Kidnap & Assassination Plot (2017–2018), Issuing Arrest Warrants

CIA Designation

On 13 April 2017, CIA Director Pompeo publicly branded WikiLeaks a "**non-state hostile intelligence service**" – designed to place actions against Assange beyond legal accountability.

Embassy Surveillance

Security firm UC Global conducted intrusive surveillance of Assange and his lawyers. One witness was asked to steal his son's nappy to establish paternity for "the Americans."

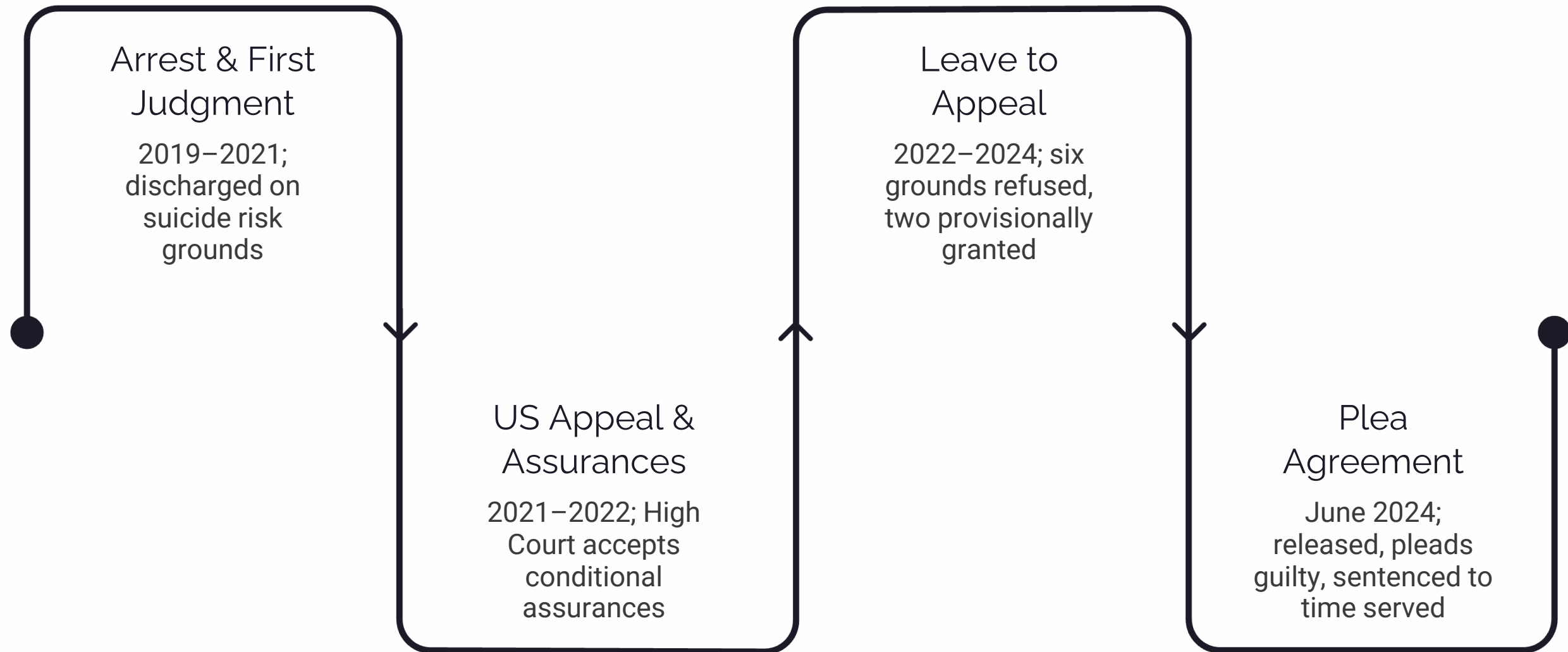
Kidnap & Murder Plans

Reporting based on 30 CIA officials confirms Pompeo discussed kidnapping Assange; Trump requested "options" for his assassination. "Sketches" of killing plans were produced.

Criminal Complaint

Pressure was exerted to accelerate charges. The original criminal complaint was filed on 21 December 2017 – two days after Ecuador reportedly planned to post Assange as a diplomat to Moscow.

The Extradition Proceedings (2019–2024)



Throughout proceedings, the UN Special Rapporteur on Torture found Assange showed "all symptoms typical for prolonged exposure to psychological torture." Conditional US assurances – which reserved the right to impose isolating prison regimes on future conduct – were widely criticised as incompatible with the absolute nature of Article 3 ECHR.

The Chilling Effect on Journalism

What the Indictments Criminalised

Every major media freedom organisation agreed: the charges targeted **core journalistic activity** – eliciting leaks, using secure file transfer systems, and publishing information in the public interest.

⚠️ UN Special Rapporteur Irene Khan (2024): "Gathering and disseminating national security information when in the public interest is a legitimate exercise of journalism and should not be treated as a crime."

Secure drop systems pioneered by WikiLeaks are now used by the *New York Times*, *Guardian*, *Washington Post* and 70+ outlets worldwide. Prosecuting their use sets a dangerous precedent.





Chilling Effect: The Broader Consequences

→ Process as Punishment

Prof. Ní Aoláin (UNSR protection HR countering terrorism): *"Process functioned collectively as punishment, signalling to others what the cost of human rights work is."* Five years' detention sent the signal regardless of outcome.

→ Stories Never Published

Ms Rebecca Vincent (Director of Campaigns, Reporters Without Borders) (June 2024): *"We don't know what stories have never been published in these intervening years."* Fear of legal consequences is already the most cited cause of non-reporting on corruption.

→ Impunity Multiplied

Zero accountability for the war crimes revealed. Per Mr Crowther (Legal Adviser, Amnesty International): *"There has been a shocking accountability deficit for the alleged war crimes shown in those revelations."* Impunity compounds the chilling effect.

European Convention on Human Rights Arguments to avoid extradition

Art 3 (harsh sentencing)	Art 10	Art 6
Art 3 (prison conditions in US)	Art 5	Art 8 (family)
Art 8 (work)	Art 2	Art 18 Misuse of restrictions of rights for other purposes (i.e. for silencing journalist)

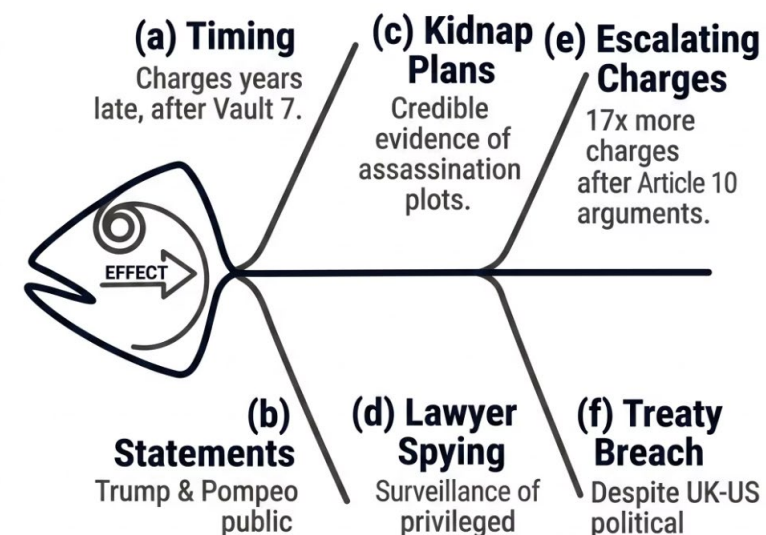
Open question 1 :Was Assange a Political Prisoner ? The Case for Criterion

Open question 2: Is there a Vulnerable Group of Journalists / Whistleblowers / Publishers that Reveal State Secrets that would need a better ECHR Protection

Resolution 1900 (2012) — Criterion

Applies "where detention has been imposed in violation of one of the fundamental guarantees set out in the ECHR, in particular freedom of expression."

The conduct in the Plea Agreement — eliciting and publishing classified information of overwhelming public interest — constitutes journalistic activity under Article 10. No individual came to actual harm. A five-year custodial sentence is **far beyond anything the ECtHR has considered proportionate** in comparable cases.



The Significance of Article 10 ECHR (Protection of Opinions even that "Offend, Shock or Disturb") in Extradition Cases



Freedom of Expression as a Pillar of Democracy

"Freedom of expression constitutes one of the **essential foundations** of [a democratic] society, one of the **basic conditions for its progress** and for the development of every man. Without [pluralism and tolerance] there is no 'democratic society'."

– *Handyside v. UK* (1976)

Press freedom assumes **even greater importance** when State activities escape democratic scrutiny due to their secret nature. Conviction of a journalist for disclosing confidential information may prevent the press from playing its **vital role as "public watchdog."**

– *Stoll v. Switzerland* (2007)

Articles 3 & 6 ECHR: Established Bars to Extradition

Under settled ECtHR case law, a contracting State **violates the Convention by extraditing** a person where substantial grounds show a real risk of violations in the requesting State – even if that State is not a signatory.

Article 3 ECHR


Prohibition of torture and inhuman or degrading treatment. **Absolute** – no exceptions, no derogation. First established in *Soering v. UK* (1989).

Article 6 ECHR

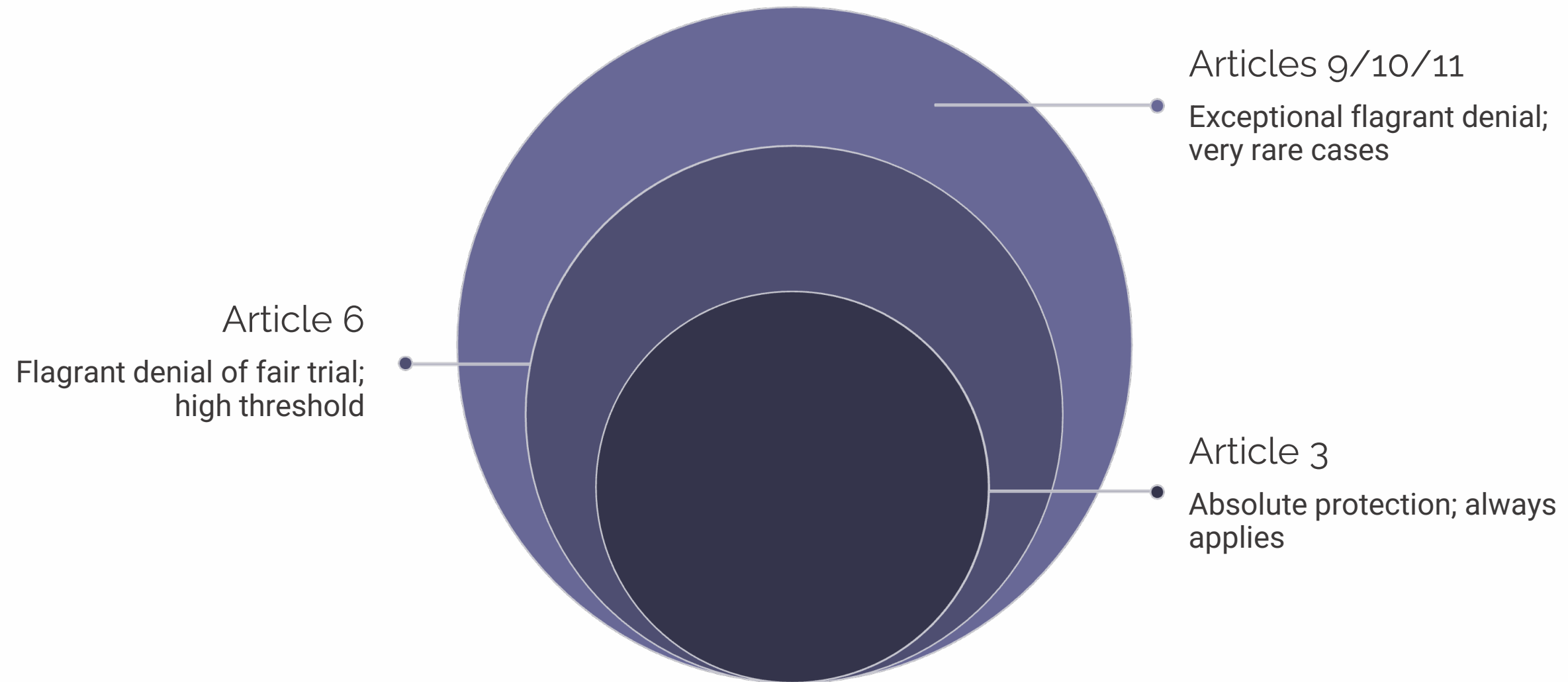
Right to a fair trial. Extradition barred where the fugitive risks a **flagrant denial of justice** in the requesting country. Stringent test – confirmed only once.

Key Principle

Liability falls on the **extraditing State** – not the receiving State. The act of extradition itself is the violation, regardless of what occurs after.

 Confirmed in: *Soering v. UK* (1989), *Saadi v. Italy* (2008), *Trabelsi v. Belgium* (2014) – the latter finding extradition to the US a violation of Art. 3.

Flagrant Denial of Conventional Rights



The threshold rises for derogable rights. A flagrant denial of Article 9 or 10 is theoretically possible but the Court doubts any such case would *not* also involve an Article 3 violation.

JA as Journalist & WikiLeaks as Press



IFJ Press Card Holder

JA holds the world's most reputable journalist identification, recognised in 130+ countries.



RSF & Major Outlets

Reporters Without Borders and editors of the NYT, Guardian, Le Monde, Der Spiegel and El País publicly declared: "**Publishing is not a crime.**"



WikiLeaks as Publisher

WikiLeaks specialises in analysis and publication of restricted official materials. The ECtHR explicitly extends Art. 10 protection to internet publications (*Times Newspapers v. UK*, 2009).

"We fully believe that Assange has been targeted for his contributions to journalism, as WikiLeaks' publication of thousands of leaked classified documents informed extensive public interest reporting by media around the world, exposing war crimes and human rights violations."

— Rebecca Vincent, RSF Director of International Campaigns

i The ECtHR grants press freedom protection broadly — based on **journalistic conduct**, not professional title. JA qualifies under the Council of Europe's own definition (Recommendation No. R(00)7).

The Publications: Overwhelming Public Interest

Afghanistan & Iraq SigActs

~75,000 Afghanistan and ~400,000 Iraq significant activity reports revealing civilian deaths, secret kill units, and drone warfare. Editors of Der Spiegel, NYT and the Guardian declared them of clear public interest.

Collateral Murder Video

Iraq Rules of Engagement files included footage classified by legal experts as a potential war crime. Published by thousands of news organisations; sparked global condemnation of US military tactics.

Guantanamo DABs

~800 detainee assessment briefs exposing conditions at a facility widely classified as arbitrary detention. No harm to sources was alleged by the prosecution for these documents.

State Department Cables

250,000+ diplomatic cables revealing a global infrastructure list, civilian killings in Iraq, and information that triggered the Arab Spring. New revelations continue to be published by journalists today.

- ❑ The District Judge applied *Shayler* to deny any public interest defence – a direct violation of ECtHR case law, which requires a balancing of interests in **every** Art. 10 case, including matters of national security.

Conclusion (1): Political Persecution can amount to a Violation of Article 3

The ECtHR consistently treats "persecution" as equivalent to inhuman or degrading treatment under Article 3. Key examples:

JK and Others v. Sweden

Risk of **continued persecution by non-State actors** equated to an Article 3 real risk upon return.

FG v. Sweden

Risk of **religious persecution** (Iranian Christian convert) treated as equivalent to violation of Articles 2 or 3.

NA v. UK

Individual acts of harassment, **cumulatively**, may amount to serious human rights violations and constitute persecution.

CJEU — X, Y, Z

Prison sentences punishing homosexual acts are **capable in themselves** of constituting persecution where actually applied.

Conclusion (2): A Flagrant Violation of Article 10 ECHR

Public Interest Prevails

The publications exposed war crimes, civilian deaths, and state illegality.

The public interest **clearly outweighs** the abstract risk of harm — no concrete endangerment was ever evidenced by the prosecution.

Responsible Journalism

Soliciting sources, using drop boxes, and protecting source identity are **standard journalistic practice** — never prosecuted in 200 years. JA acted in good faith within the boundaries of Art. 10.

Grossly Disproportionate Sentence

175 years in prison for publishing. The only time the ECtHR upheld a criminal penalty for publishing state secrets was a **€900 fine** (*Stoll v. Switzerland*). A life sentence is disproportionate under any legal standard.

"No penalty — but especially not a life sentence — can be considered proportionate from any point of view whatsoever."

Conclusion (3): This Must Not Be a Precedent

"We still need to look back and draw the right conclusions, so that no other journalist, whistleblower or human rights defender has to go through the same ordeal." – PACE Rapporteur Ævarsdottir, June 2024

The Signal Has Been Sent

Five years' detention and a criminal conviction for journalism creates a chilling effect that the plea agreement does not undo. This "will hang over national security reporters for years to come." - Public Policy Forum, 2024

ECBA Could Act

As one of Europe's guardian of human rights, ECBA should enter in the current legal conversations regarding Freedom of Speech, recognising the journalists as a vulnerable group that needs specific protection, and demanding accountability for the crimes revealed, not the messenger who revealed them.

