

## AMNESTY INTERNATIONAL PUBLIC STATEMENT

Date: 3 May 2024

Index No. EUR 45/8020/2024

### **UK: OBSTACLES TO ACCESS FOR JULIAN ASSANGE HEARINGS UNDERMINE OPEN JUSTICE**

Amnesty International is deeply frustrated by the significant hurdles that its staff and other observers have faced in their attempts to monitor the hearings in UK courts in the case of *Julian Assange v USA*. Such impediments have included obstacles to accessing seats in the courtroom or overflow court; exclusion from viewing proceedings online via a livestream; technical difficulties with sound quality throughout proceedings; confused and contradictory assurances and instructions from the court administration; hostile court security staff; abject failure to recognize the distinct role that expert trial observers play, despite information sent to the court about such monitoring as an emerging international norm; and insufficiently sized courtrooms for a case of such international significance. Amnesty International communicated its concerns to the UK court administration in a March 2024 letter with recommendations to remedy such deficiencies; those recommendations appear at the end of this statement as well.

Amnesty International has called on the US government to drop all charges against Julian Assange for his publishing activities and on the UK authorities not to send Assange to the USA or any country where he would be at risk of serious human rights violations. The Assange campaign at Amnesty International involves a range of activities including research, legal analysis, advocacy, and consistent and impartial monitoring of the UK extradition hearings by expert staff and independent international trial monitors to observe and document the proceedings.

**The organization calls on the UK court administration to ensure that trial observers have access in person or online to the High Court proceedings in the Julian Assange case for the upcoming 20-21 May 2024 hearings and to facilitate nongovernmental (NGO) and other expert trial monitors in line with the emerging international norm that recognizes the distinct role of such trial observers in the interest of open justice.**

### **CONCERNS: PROCESS FOR IN-PERSON AND ONLINE TRIAL OBSERVATION**

Prior to Julian Assange's February 2024 hearing, Amnesty International applied in writing to the court administration for permission to access the court room with a designated seat for the organization's observer. A series of U-turns followed in which the organization's trial observer was denied permission, then provided an assurance that he would be granted permission, then denied it again. During the two-day hearing, the ability of Amnesty's observer to access the court room was inconsistent: at times the gallery was too full and at many times it was impossible to hear both from the public gallery and the overflow court room, which was supposed to have an operational audio-visual link. On one occasion, a security officer shouted at the Amnesty observer, who has a disability, as he tried to seek a reasonable adjustment from another member of court staff. Other organizations that were granted access with designated seats kindly came to Amnesty's aid at one point and

assisted with our observer's securing a seat. It remains unclear how the court administration determined who and/or what organizations would be granted such access to the court room.

Access to the audio-visual link has also been a serious problem, not only for expert trial observers but for many journalists as well. On 18 April 2024, the UK High Court issued an order detailing the process for people to access the 20-21 May 2024 appeal hearings via livestream.<sup>1</sup> The order was a repeat of the order issued for prior hearings in February 2024 and was thus disappointing; the court administration had many complaints in February from people, including journalists and trial monitors, trying to access the livestream. Even those who were granted access to the audio-visual link had significant difficulty with hearing the proceedings. Apparently, those complaints were not taken into consideration and the same obstacles to participation online will surely obtain in May if the court administration does not take remedial action now.

The April order requires approval and written permission from His Majesty's Courts and Tribunals Service (HMCTS) to observe the hearings via audio-visual link. Such a "transmission direction request" is due by 10 May 2024 at 14.00 GMT. Only people physically present at all times within the jurisdiction of England and Wales are eligible to view the livestream. Allegedly, a person outside the jurisdiction can ask for exceptional leave to view the proceedings via the audio-visual link if they can argue that it would be "in the interests of justice." However, one Amnesty International staff person – an international lawyer with years of trial observation experience, including at the military commissions at Guantánamo Bay – was denied permission to access the link for the February 2024 hearings. Amnesty International formally and in a timely manner requested reconsideration of this denial, but no reply to that request was ever received. The remote observer was not able to monitor the February hearings at all as a result.

Given the international significance of the Assange case, it is incomprehensible that the UK court administration would make it so difficult for trial observers, journalists and other interested persons beyond England and Wales to access the proceedings via an audio-visual link.

**In summary, obstacles to in-person attendance and observation and to online monitoring have hindered access to the Assange hearings and undermined the principle of open justice.**

## **FAIR TRIAL MONITORING: AN INTERNATIONAL NORM**

Amnesty International has for many years sent expert observers to proceedings and trials all over the world where important human rights principles were at stake. The acceptance of international trial observers (whether sent by foreign governments, intergovernmental organizations or nongovernmental organizations) has become a recognized international legal norm. The practice is well-established and accepted within the international community, and is linked to international fair trial standards, including the right to a public hearing and the principle of open justice. The organization's assessment of a trial or legal proceeding seeks to establish whether the practice in a particular case is consistent with the laws of the country where the trial is held, and whether those laws and the practice in the case conform to international standards, enshrined in treaties to which the state is a party and other non-treaty standards.

---

<sup>1</sup> High Court of Justice, King's Bench Division, Julian Paul Assange v United States of America, AC-2022-LON-001745, 18 April 2024, <https://www.judiciary.uk/wp-content/uploads/2024/04/Assange-Order-8.pdf>

International expert trial monitoring achieves three important goals:

- Evaluate the fairness of a trial or legal proceeding by providing an impartial and independent record of what transpired.
- Advance internationally recognized fair trial standards by putting the trial participants, including in particular the judge and prosecutor, on notice that they are under scrutiny.
- Identify needed reforms in the legal systems of the country.

The role of an international trial monitor is *distinct* from the general public, press or other media. International trial monitors not only report on legal proceedings, but also analyse the proceedings for adherence by the state to its international human rights obligations, including the right to a fair trial. The presence of trial monitors signals to the presiding judge that independent and impartial experts in procedural and substantive areas of international human rights law are observing the proceedings and will hold the state to account for violations of fair trial guarantees. The press provides people with information in the public interest thus upholding the public's right to access information about what their government is up to. Trial monitors serve open justice by documenting legal proceedings with the aim of holding the state accountable for complying with its human rights commitments. International trial monitors are the independent eyes and ears of the world when it comes to fair trial standards.

Amnesty International regularly sends trial monitors all over the world to observe and document proceedings. Our monitors have observed trials and other legal proceedings in US federal courts and at the Guantanamo Bay Naval base in Cuba; and in Bahrain, Honduras, Ecuador, Hungary, Israel/Occupied Palestinian Territories, Spain, Turkey and United Arab Emirates, among others.

A range of authoritative sources support the presence of international trial monitors in proceedings and trials like the Assange hearings, including the Office of the UN High Commissioner for Human Rights' Manual on Trial Monitoring.<sup>2</sup> The UN Special Rapporteur on the situation of human rights defenders, in an address to the UN Human Rights Council in February 2016, has stated that "By observing court proceedings, gathering information on the trial of human rights defenders and analysing legal practices, trial monitors demonstrate support for defenders and contribute more broadly to the strengthening of judicial systems."<sup>3</sup> Likewise, the Organisation for Security and Cooperation in Europe (OSCE) has stated, "At its most basic level, the act of monitoring a trial is an expression of the right to a public trial and increases the transparency of the judicial process. In individual cases, trial monitoring may serve to improve the effective and fair administration of justice or bring attention to serious deficiencies."<sup>4</sup>

## RECOMMENDATIONS

In light of the significant difficulties that trial observers, partner organizations, journalists and others have faced in monitoring the Assange hearings, Amnesty International respectfully requests that in advance of the 20-21 May 2024 hearings and any subsequent court proceedings in the

---

<sup>2</sup> UN Office of the High Commissioner for Human Rights, Manual on Human Rights Monitoring, "Chapter 22: Trial Observation and Monitoring the Administration of Justice," 2011 (revised), <https://www.ohchr.org/Documents/Publications/MonitoringChapter22.pdf>

<sup>3</sup> UN Special Rapporteur on the situation of human rights defenders, A/ HRC/31/55, 1 February 2016, para 69.

<sup>4</sup> OSCE, Trial Monitoring: A Reference manual for Practitioners, Revised Edition 2012, <https://www.osce.org/odihr/94216>, pg. 16.

Assange matter, the court administration consider the following measures to ensure that the UK courts' stated commitment to open justice is realized:

- A commitment from the court administration to acknowledge that expert trial monitors from international media freedom and human rights organizations must be able to observe court proceedings in person with a designated seat in the court room or overflow court room;
- An immediate audit of court arrangements; appropriate staffing levels and professionalism of court staff; and the technology required to ensure that all persons monitoring the proceedings can see and hear what is happening in the court room including:
  - Use of a court room that is big enough to accommodate parties, observers, media and interested others (MPs, MEPs, et al.);
  - Review of the functioning of audio-visual equipment to ensure that those in court and those accessing the audio-visual link can actually hear and see the proceedings in order to document them in an accurate and timely manner;
  - Access for all persons with a legitimate interest in the case – including in jurisdictions beyond England and Wales -- to the audio-visual link as has been the case for previous proceedings in the Assange matter; in the event that there are concerns about possible violations of court rules, each person granted access could sign a simple declaration that they will abide by the court's rules regarding access to the link;
  - Accommodation for all persons requiring reasonable adjustments, including seating arrangements and access to a fully functioning audio-visual link;
  - Respectful, timely and effective responses from court staff responsible for the technology/audio-visual link in case of problems encountered by observers, media and others during the proceedings;
  - Respectful treatment by court staff to all persons attending court proceedings.

**Finally, we strongly encourage the court to draft, in consultation with relevant stakeholders, formal guidance for the facilitation of NGO and other expert trial observers in line with the international norm that recognizes the distinct role of such observers in the interest of open justice.**

**End.**