

## **Decision regarding the reopening of preliminary investigation**

On 11 April 2019, EMF, acting as legal representative to the injured party, filed a petition that the preliminary investigation in case O201-K246314-10 regarding allegations of a rape on 17 August 2010 should be reopened.

### **Background**

On 20 August 2010, a police report was made regarding a suspected rape in Enköping, Sweden on 17 August 2010. The alleged offender was reported as being the Australian citizen, JA, born 3 July 1971.

A preliminary investigation was initiated on 20 August 2010 and some investigative measures were carried out.

On 25 August 2010, the prosecutor decided to discontinue the preliminary investigation.

The injured party's legal representative, at that time, then requested a review of the decision to discontinue the investigation.

On 1 September 2010, Director of Public Prosecution, MN decided to reopen the preliminary investigation with the reasoning that there were insufficient grounds for such a decision to discontinue the investigation. It was decided that further interviews and evidence-gathering measures could be performed.

The preliminary investigation was then conducted under the guidance of MN until 19 May 2017, when the preliminary investigation was then discontinued.

During the investigation, several investigative measures were taken such as obtaining medical evidence, and interviews with witnesses. Upon the prosecutor's request, the court decided to detain JA in his absence on 18 November 2010. As JA had left the country, a European Arrest Warrant was issued.

JA was arrested in London, United Kingdom on 7 December 2010. After being detained from 7 to 16 December 2010, he was released on bail with a number of restrictions in place such as a duty to make himself available to the authorities. The British handling of the Swedish European Arrest Warrant was concluded with a decision from The Supreme Court on 14 June 2012. The decision meant that JA would be surrendered to Sweden.

On 19 June 2012, JA entered the Ecuadorian Embassy in the UK. He was granted political asylum by the Republic of Ecuador. Since then, and until 11 April 2019, JA - as far as is known - stayed within the embassy's premises. The decision to surrender him was not possible to execute.

As Sweden and the Republic of Ecuador reached an agreement on mutual legal assistance in criminal cases (SÖ 2015: 30) on 22 December 2015, an interview was held with JA at the

Republic of Ecuador's Embassy in London under the direction of an Ecuadorian Prosecutor and with prosecutors and police from Sweden in attendance on 14-15 November 2016.

On 19 May 2017, MN decided to discontinue the preliminary investigation. In the decision it is stated that JA has left Sweden and, with regard to the circumstances, it was not expected that he would be surrendered to Sweden in the foreseeable future, that at the present time there were no possible measures that could be taken to pursue the investigation, that it was not - in the light of this - proportionate to uphold the European Arrest Warrant, and that a prosecution requires JA's personal presence in court.

The current offence is subject to statute of limitations on 17 August 2020.

### **New circumstances**

The Republic of Ecuador suspended the decision to grant JA political asylum. British authorities then arrested JA at the embassy on 11 April 2019 and removed him from there.

In light of the above, the injured party's legal representative requested that the preliminary investigation regarding allegations of rape be reopened, and that the investigation should be continued further.

JA has, since then, been sentenced to 50 weeks in prison for crimes in the UK.

The UK has since received an extradition request from the United States for JA to be extradited as a suspect for US crimes. By 14 June 2019, a formal extradition request will be submitted to the UK.

## **DECISION**

The preliminary investigation is reopened.

### **Reason for the decision**

The courts in Sweden have, on several occasions during the preliminary investigation, considered the decision to detain JA in his absence, and on each occasion found there exists probable cause for JA to be suspected of rape, less serious crime, on 17 August 2010.

After reviewing the preliminary investigation carried out so far, I find that there still exist grounds for JA to be suspected on probable cause of the charge of rape similar to Chapter 6, Section 1, paragraph 3, of the Penal Code in its wording before 1 July 2013.

Since JA is now detained in the UK, there exists the conditions, in line with Regulation (2003: 1178), to surrender JA to Sweden via a European Arrest Warrant.

Since entry into force on 1 December 2017 of the law (2017: 1000) on a European Investigation Order, there is now a possibility - if necessary and with JA's consent - to hold interviews with JA in the UK using a video link from Sweden.

The prerequisites for continuing and completing the investigation are now considered to exist.

### **Other circumstances**

In the event of a conflict between a European Arrest Warrant and a request for extradition from the US, UK authorities will decide on the order of priority.