



*Unpaid Debt Newsletter July 2021*

## Prosecutor Ready to File Charges after the Court Rejects a Last Request from Lundin

Swedish Prosecutor Henrik Attorp has informed the District Court of Stockholm that he planned to finish his last remaining task in the last week of June, but could give a date for the indictment.

The Prosecutor's letter a response to the Court's request to be informed about the date of a decision. It followed the Court's denial of a last injunction by one of the suspects, Alex Schneiter, in which he had claimed that the entire investigation should be closed. The injunction tallied with his and Ian Lundin's legal strategy to portray themselves as victims of human rights violations. The two suspects have been making a series of legal requests and complaints without apparent legal merit that have caused substantial delays in the war crimes investigation. Consequently, they have been denying the victims of war crimes the right to access to justice and prompt redress, something they are waiting for over twenty years.

Schneiter claims that Article 6(3) European Convention on Human Rights has been infringed as the prosecutor has not provided the defence with enough information about the crimes he is suspected of having aided and abetted. He seeks to be informed when and where the crimes took place, who the witnesses are and what crime their testimonies relate to. A closer look at the injunction and at earlier requests to close the case shows that the defence confuses the requirements for a "Description of Suspicions" with the stricter one which is the "Decision to Prosecute".

Article 6(3) states that everyone charged with a criminal offence has the minimum right to be informed promptly about 'the nature and cause of the accusation'. One is also to be given 'adequate time and the facilities for the preparation of his or her defence'. The suspects claim that the Description of Suspicions is insufficient in meeting these demands. However, the requirements for a Description are less strict than those for a 'Decision to Prosecute', which will be presented in the indictment. In that Decision, more detailed information, such as who the witnesses are and what crime their testimonies relate to, will be presented. What is required in a Decision of Suspicion, depends on each case. If it concerns a single criminal act, characteristics of that criminal act, the time and place of the crime and the provisions that apply should be presented. However, under Swedish case law, not every crime needs to be specified when offenders are being prosecuted for multiple crimes within a certain timespan, as clarified by the Swedish Supreme Court in the case NJA 1991 p. 83. In this case, the suspect was charged for having assaulted and raped his partner on multiple occasions. The Description of the Suspicions in this case reads: "the suspect has on a very large number of occasions during the period summer 1987 to July 26, 1990, abused the plaintiff, and "on a large number of occasions during the period forced the plaintiff to have intercourse. This was deemed satisfactory. The court went even further stating that, "if it can be proven that a certain criminal act has been committed, it should not be seen as an absolute obstacle to a conviction that the time and place of the act could not be established with exact precision but rather to have taken place within a certain timespan." Clearly, Swedish criminal law does not require that a Description of Suspicions for multiple crimes is as specific as Alex Schneider argues as long as there is sufficient evidence that the crimes have taken place.

Schneider's latest complaint mainly focuses on lack of information about the principal crimes committed in Sudan, such as indiscriminate attacks of civilians, the use of hunger as a weapon of war, forced displacement, and the use of child soldiers. The time, place and characteristics of these crimes are of less importance to the defence since Lundin and Schneider are not prosecuted for committing these crimes, but for having promoted them through "words or deed". This could have occurred at a different time and different place than when and where the principal crimes took place.

Commenting on the defence's request, Prosecutor Henrik Attorp highlights that when Alex Schneider was notified in 2016 that he was under suspicion of aiding and abetting a violation of international law. He was also provided with a comprehensive and detailed description of the suspicions regarding both the alleged main crimes and the alleged aiding and abetting of these crimes. After that, there was a ten-day break before the interrogation with him began to allow him and his lawyers ample time to study the Description of the Suspicion.

As the preliminary investigation progressed, and the Description was revised, Alex Schneider was informed in order to be able to prepare his defence. The Code of Judicial Procedure only requires this when the suspicion changes so that it refers to a more serious crime, which was not the case here. Knowing this, it appears the Prosecution has not only followed protocol, but even gone beyond what is required to ensure that Alex Schneider can properly prepare his defence.

The European Court of Human Rights has ruled that information about the charges should be given before the trial, either in the bill of indictment or at least in the course of the trial by other means such as formal or implicit extension of the charges (I.H. and Others v. Austria, § 34). This explicitly does not concern the present stage of preliminary investigation of the Lundin case. Article 6(3)

even allows the prosecutor to serve Alex Schneider with revisions of the charges during the course of the trial.

In conclusion. The suspect's latest request in the Lundin case lacks legal merit, suggesting that it is primarily another attempt to escape accountability and suppress the victims access to justice. The defence counsels have delayed the investigation but failed to derail it. The decision to take them to court is now at the top of the agenda of the prosecution.

Karolina Bonde

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