

Witness: Stefania Maurizi
Statement no: First
Date signed: 4 August 2017
Filed on behalf of: Appellant

**IN THE FIRST TIER TRIBUNAL
INFORMATION RIGHTS**

EA/2017/0041

IN THE MATTER OF AN APPEAL UNDER SECTION 57 FOIA 2000

BETWEEN:

STEFANIA MAURIZI

Appellant

and

- (1) INFORMATION COMMISSIONER**
- (2) CROWN PROSECUTION SERVICE**

Respondents

APPELLANT'S WITNESS STATEMENT

I, Stefania Maurizi of

Italy STATE as follows:

- 1.** I am the Appellant herein.
- 2.** This Witness Statement is prepared following the Case Management Directions issued by the Tribunal on 4 July 2017.
- 3.** Each and every matter stated herein is a fact within my own knowledge or, where so stated, is a statement either of information supplied to me that I believe to be true or of my belief, which belief is based upon facts within my own knowledge, upon information supplied to me which I believe to be true and/or upon my perusing documents related to this appeal the contents of which I believe to be true. I believe that the facts stated in this Witness Statement are true.

My Background

4. I am an investigative journalist currently working for the leading Italian daily newspaper *la Repubblica*, consistently rated among the top two Italian newspapers together with *Il Corriere della Sera* [Open Bundle Tab 7 pgs 190-191]. *La Repubblica* is part of the Gedi Group (formerly "Gruppo Editoriale l'Espresso"), an Italy-based media group with 1,950 employees and operating in national newspapers, local newspapers, periodicals (such as the Italian newsmagazine *l'Espresso*), radio, internet and internet television.

5. I previously worked for 10 years at *l'Espresso*, one of the two most prominent Italian weekly news magazines, characterised by in-depth investigative journalism with a strong focus on corruption and clientelism. I am now working for *la Repubblica*, doing major investigative works. For both *l'Espresso* and *la Repubblica*, I have partnered with WikiLeaks since 2009 to verify and investigate thousands of secret documents. I also worked with US journalist Glenn Greenwald on the Snowden files. In addition to my work on WikiLeaks documents and on the Snowden files, I have conducted investigations on many topics: I exposed the trafficking of dual-use materials between Italy and Iran, the trafficking of weapons between Italy and Libya, conducted in-depth interviews with a number of individuals, including the "father" of the Pakistani atomic bomb, A.Q. Khan, exposed serious cases of environmental pollution, exposed the miserable conditions of Pakistani workers in a major Italian garment factory in Karachi, Pakistan, and finally revealed the confidential agreement for a "condolence payment" by the US government to the family of Giovanni Lo Porto, the Italian aid worker killed in Pakistan by a US drone strike [Open Bundle Tab 7].

6. When I started partnering with WikiLeaks in 2009, few professional journalists had heard of WikiLeaks: at that time, WikiLeaks had not yet published its bombshells, like the video "Collateral Murder" or the Afghan War Logs or even the US diplomacy cables. Starting in 2009, I worked on all WikiLeaks' releases of secret documents, acquiring a thorough experience in verifying secret and restricted documents, looking for narratives, angles and stories to make those documents accessible and relevant for the general public. Among

the international journalists who have partnered with WikiLeaks, I am the only one who has worked on all documents, hence knowing in-depth each release and the rationale behind WikiLeaks' publication strategies.

7. Through this work with the WikiLeaks databases and media partners, I revealed the actual role of the Italian troops in Afghanistan (Afghan War Logs files), the identities of Guantanamo detainees (Gitmo Files), scandals and embarrassing diplomatic deals contained in 4,189 US diplomacy cables about Italy, like the US pressures to neutralise Italian prosecutors who investigated the extraordinary rendition of the Milan cleric, Abu Omar, and the US pressures to have Italy buying the controversial Lockheed Martin's fighter jet aircraft, F-35 (Cablegate). I revealed the inner working of the secretive US private intelligence firm Stratfor (GIFiles), the NSA intercepts on German, French, Italian, Japanese leaders, including the intercept of our former controversial Prime Minister, Silvio Berlusconi (NSA World Spying Files), the EU operations to stop migrants and refugees (EU military ops against refugee flow files), the Podesta emails and the CIA cyber weapons (Vault 7 Files).

My Work on the Julian Assange Story

8. It is thanks to this work with WikiLeaks that I began to understand the massive legal and extra-legal risks faced by Julian Assange and his staff. As Edward Snowden told me in an interview, "they run towards the risks everyone else runs away from", which means they run towards the risks that in most cases, corporate media run away from.
9. I have followed the case of Mr. Julian Assange since the beginning: when he left Sweden, the 27th of September 2010, four weeks after the prosecutor Marianne Ny had reopened the case as "rape", Julian Assange travelled to Berlin to meet me and other international journalists working on the Afghan War Logs that his organisation had started publishing at the end of July 2010, partnering with prominent media like The Guardian. He arrived to our appointment in late evening and explained that his luggage had been lost in the direct flight from Stockholm: only his shoulder bag containing his laptop was left (a matter

Mr. Assange has since reported to the Swedish police to investigate and has been widely reported). As a matter of fact, he arrived at our appointment with only the shoulder bag, laptop and a clear plastic bag containing a t-shirt, a toothbrush, and some small bottles of soap, as I immediately reported in an article. It was on the same day that the Swedish prosecutor Marianne Ny ordered the arrest of Julian Assange in absentia. I witnessed the call between Mr. Assange and his Swedish lawyer at that time, Björn Hurtig, announcing that Ms Ny had ordered his arrest to question him. Assange was speaking in English, so I could understand his replies to M. Hurtig. "Why didn't they interrogate me before?", Assange said to his lawyer, "I was in Sweden for six weeks".

10. After our meeting in Berlin, I followed the progress of Mr. Assange's case. He travelled to London to continue his work on major upcoming publications in partnership with The Guardian, including the Iraq War Logs (October 2010) and Cablegate, the publication of US diplomatic cables (end of November 2010), which was reported at the time to be the largest leak in history. I am aware that Mr. Assange continued to offer his cooperation with the Swedish investigation from London, where he needed to remain for these work reasons.
11. I followed the news as the Swedish authorities refused Mr. Assange's offers to provide an interview from London and sought his arrest for questioning through a European Arrest Warrant ("EAW") (in circumstances his lawyers described as unnecessary and disproportionate). I understand the Crown Prosecution Service ("CPS") became involved as the agent of the Swedish Prosecution Authority ("SPA") to act in extradition proceedings after Mr. Assange attended a police station to fight the EAW.
12. After Mr. Assange was arrested in early December 2010, I followed the case: he was initially refused bail and kept in prison in solitary confinement, bailed to house arrest conditions and I also followed his extradition challenge that went all the way to the Supreme Court. Throughout this period, I am aware Mr. Assange and his lawyers had been offering his testimony to the Swedish Prosecutor, Marianne Ny, and requesting that she

come to London to interview him under well-established Mutual Legal Assistance procedures. Mr. Assange's concern about extradition to Sweden was the threat of onward extradition to the United States.

- 13.** Throughout my 8 years of work in partnership with WikiLeaks, I have been often in daily contact with Julian Assange's staff: I have never heard a word, never noticed anything which could suggest Mr. Assange was escaping questioning, quite the opposite, I witnessed many times Assange and his team deeply frustrated for the refusal by the Swedish prosecutors to question him in London, without extraditing him, to make some progress in the investigation. Whenever I discussed on a purely confidential basis this lack of progress with prominent Italian prosecutors who have worked on high profile cases involving mafia criminals or terrorists, they expressed their scepticism about this Catch-22 situation.
- 14.** Various reasons were given for Ny's refusal to interview Mr. Assange in London, including that it was unlawful and that it would affect the quality of the evidence. It seemed strange to many that Mutual Legal Assistance procedures to obtain his testimony were refused in favour of placing Mr. Assange in custody, particularly in circumstances where it later emerged Sweden had used Mutual Legal Assistance procedures in the UK in many other cases since he was arrested in 2010. It was in the public interest to understand why Mr. Assange had been denied the same treatment.
- 15.** As the case dragged on, the refusal to make use of a procedure to question Mr. Assange in the UK which could result in the case being resolved became more difficult to understand. In November 2014, the Swedish Court of Appeal found the Swedish Prosecutor in breach of her obligations for failing to do so: "the failure of the prosecutors to examine alternative avenues is not in line with their obligation – in the interests of everyone concerned – to move the preliminary investigation forward." This also shows the high public interest in understanding what role, if any, the CPS had in the decisions made by the Swedish Prosecutor.

16. I have followed the case step by step, contacting the SPA, traveling to Stockholm when Marianne Ny gave an important press conference on the case, filing FOIA requests in Sweden and in the UK to investigate the delay and why Mr. Assange's case was being handled in this way. I filed my FOIA requests not only with the CPS, but also with the Met Police. It was in this context that I was concerned to understand what role, if any, the CPS had played in decisions about how to handle this case and the extent to which UK authorities had contributed to this delay. Given Mr. Assange's concern about onward extradition to the United States, the reason for him seeking asylum in the embassy, it is also in the public interest to understand what communications, if any, had taken place with the United States.

Public Interest in the Julian Assange Story

17. The situation with Julian Assange is extraordinary – an impasse was created, partly because of the approach of the authorities to Mr. Assange's extradition, resulting in a high profile publisher and free speech advocate being confined in a foreign embassy for a very long period, with no resolution in sight. There is significant public interest in understanding how this situation has come about.
18. Another result of this impasse and the delay in resolving his case has been the very considerable public expenditure on policing Mr. Assange in the Ecuadorian Embassy. According to figures released by Scotland Yard in June 2015, the costs of policing the Embassy from June 2012 to June 2015 amounted to at least £ 11.1 million and indeed in October 2015, Scotland Yard put an end to the 24-hour physical surveillance because it was "no longer proportionate", while announcing "a number of overt and covert tactics to arrest him". Of course, we have no clue how expensive these "covert tactics" have been for UK taxpayers because that information is classified. There is public interest in understanding the reasons for the delay in handling his case and the impasse, given the expense to British taxpayers.

19. Yet another result has been the United Nations Human Rights Committee Working Group on Arbitrary Detention ("UN WGAD") determining that there was an ongoing breach of fundamental human rights, partly due to delay by the SPA and the CPS [Open Bundle Tab 7 pgs 171-189]. It is a highly unusual situation for an editor of a publisher to be arbitrarily and unlawfully detained by nations such as Sweden and the UK. After the UN WGAD decision in Assange's case, I checked with the Swedish authorities whether there had ever been any previous cases like this. The Deputy Director of the Department for International Law, Human Rights and Treaty Law, Katarina Fabian, replied to me that "Sweden has not been found to detain a person arbitrarily by the UN WGAD before".
20. In addition, there is significant public interest in understanding the role played by the CPS in the context of the UK's international human rights obligations. The UK has regularly pressed upon other nations the importance of complying with UN WGAD decisions. In the finding against the UK in the Assange case, the UN WGAD made a number of critical comments about the UK authorities' management of the case. For example:

*During this prolonged period of house arrest, Mr. Assange had been subjected to various forms of harsh restrictions, including monitoring using an electric tag, an obligation to report to the police every day and a bar on being outside of his place of residence at night. In this regard, **the Working Group has no choice but to query what has prohibited the unfolding of judicial management of any kind in a reasonable manner from occurring for such extended period of time.** [emphasis added] [Open Bundle Tab 7]*

The UN WGAD ruling (which the UK appealed, but the appeal was rejected and the ruling stands) raised a number of very serious concerns about the conduct of UK authorities.

21. Mr. Assange filed his case to UN WGAD in September 2014. I was interested in the issues it raised, particularly the role of the Swedish and UK authorities, and what role the United States had played. There is significant public interest in understanding what role, if any, the CPS played in placing the UK in breach of its international obligations, both for public scrutiny for domestic accountability and in relation to the UK's upcoming Universal Periodic Review before the UN Human Rights Council in Geneva, where its compliance with UN Special Mechanisms such as UN WGAD will be a key subject of the review.

22. All this means there is a very significant public interest in the Julian Assange story and in information which casts light on these matters, including information from the CPS, as the relevant public authority which acted as the agent of the SPA.
23. The Assange case has been sorely lacking in transparency. Any information that enhances transparency and opens to public scrutiny the decisions that have led to the impasse and the exile in the embassy is of the highest public interest.
24. There is also high public interest in the treatment of Mr. Assange because of his role within WikiLeaks. My work in partnership with WikiLeaks, exposing human rights crimes and violations, corruption and abuses using the documents published by WikiLeaks, has shown me the importance of having a stateless media organisation like WikiLeaks. They are able to reveal secret documents which are definitely in the public interest and which no one can obtain even in our Western societies with traditions in transparency and openness. Unauthorised disclosures are vital for democracies as for non-democratic regimes. WikiLeaks can use advanced solutions to protect high-profile sources in this age of mass surveillance, when old-fashioned techniques for source protection are not only ineffective, but also dangerous for our sources. As I already said, this work led to massive legal and extra-legal risks being faced by Mr. Assange and his staff. Exposing information about Mr. Assange's case is therefore important to preserving media freedom.

Information from the Swedish Prosecution Authority

25. As I already mentioned, as part of my investigation of the Assange story, I made two access to information requests to the SPA in August and September 2015 [Open Bundle Tab 5]. Under Swedish access to information legislation, I requested and obtained some correspondence between the SPA and the UK government, and the SPA and the Ecuadorian authorities, relating to Mr. Assange. The SPA initially disclosed 195 pages of correspondence. Some of the information was redacted and I asked for the redactions to

be removed. The SPA finally released 226 pages of documents to me [Open Bundle Tab 6].

26. I also requested the SPA tell me the exact number of pages of the Assange file from August 2010 to August 2015. The SPA disclosed that there were at least 278 documents, each consisting of at least one page. This information is important for a journalist. I used the information in my article "Five years confined: New Foia documents shed light on the Julian Assange case" (16 October 2015), because it allowed me and the readers to assess the level of transparency of the authorities [Open Bundle Tab 7 pgs 168-170]. It shows whether the information provided to me was the bulk of the information held.

Information from the Crown Prosecution Authority

27. On 8 September 2015 I made the following request for information from the CPS [Open Bundle Tab 3 pgs 75-76]:

"I am emailing you because I am very interested in filing a FOIA to access:

- 1) the FULL correspondence between the Crown Prosecution Service and the Swedish Prosecution Authority concerning the criminal investigation against Mr. Julian Assange
- 2) the FULL correspondence (if any) between the Crown Prosecution Service and Ecuador about the case of Mr. Julian Assange.
- 3) the FULL correspondence (if any) between the Crown Prosecution Service and the US Department of Justice about the case of Mr. Assange
- 4) the FULL correspondence (if any) between the Crown Prosecution Service and the US State Department about the case of Mr. Assange
- 5) the exact number of the pages of the Julian Assange's file at the Crown Prosecution Service."

28. I made the request because of my investigative work on WikiLeaks and the Snowden files. I included a link to an article in *L'Espresso* co-authored with the journalist Glenn

Greenwald, concerning the Snowden leaks of information about the NSA targeting Italy, to provide a reference to my work.

29. The CPS refused the request on 28 September 2015 [Open Bundle Tab 3 pgs 77-83]. I was pretty shocked to realise the lack of transparency in the Assange case, the complete lack of progress of the Swedish investigation, which, as the UN Working Group on Arbitrary Detention concluded, put Mr. Assange into the conditions of remaining confined in the tiny Ecuadorian Embassy, without access to one hour outdoors (which even the worst of the worst, like the mafia boss of bosses, Salvatore Riina, enjoys in Italy).
30. By reading the 226 pages of documents released to me by the SPA, I came to the conclusion that CPS could have something to hide due to its role in advising SPA against an investigative strategy that could have led to a quick closure of the preliminary investigation: questioning Mr. Assange in London, back in 2011, without waiting for seven years. The email exchange I obtained under the Swedish FOIA leaves no room for doubt. In an email to the Swedish prosecutors dated 25 January 2011, a lawyer from the Crown Prosecution Service, Mr. Paul Close, writes to the Swedish prosecutors: "My earlier advice remains, that in my view it would not be prudent for the Swedish authorities to try to interview the defendant in the UK". Mr. Close continues: "Any attempt to interview him under strict Swedish law would invariably be fraught with problems". He therefore concludes: "Thus I suggest you interview him only on his surrender to Sweden and in accordance with the Swedish law". The following couple of paragraphs of this email were completely censored and not released by the SPA. I wonder what they can contain, but whatever they contain, it is absolutely clear the CPS played some role in creating the legal quagmire that stopped any progress of the Swedish investigation. Some of the comments by the CPS' lawyer, Mr. Paul Close, make me wonder what is special about the Assange case. He says explicitly in an email to the SPA on 13 January 2011: "Please do not think that the case is being dealt with as just another extradition request". What makes the Assange case special? Mr. Close does not explain this [Open Bundle Tab 6].

31. Finally, I wonder whether CPS had any contact with the US Department of Justice for extraditing Mr. Assange to the US. This is clearly in the public interest: Mr. Assange had sought asylum in the Ecuadorian embassy because of the risk of extradition and the impasse resulted from the refusal of the UK and Swedish authorities to provide assurances that he would not be extradited to the US if he left the embassy and went to Sweden. If the CPS had no contacts at all, why not clarify this once and for all, as the SPA and the Swedish Ministry of Justice did in 2015 replying to my request that "there has been no correspondence between Sweden and the US regarding the Assange case".
32. On 12 October 2015 I asked the CPS to review the refusal and I made it clear that I had obtained some information from the SPA and that there was a strong public interest in the information [Open Bundle Tab 3 pg 84]. The CPS "review" came to the same conclusion on 21 December 2015 [Open Bundle Tab 3 pgs 85-86].

Complaint to the Information Commissioner's Office

33. On 21 December 2015 I complained to the Information Commissioner about the CPS's refusal [Open Bundle Tab 4 pg 87]. I provided the ICO with information about my journalistic background, including articles in English about Julian Assange and WikiLeaks, one based on the FOIA responses from the SPA and the CPS [Open Bundle Tab 4 pg 87 and Tab 7 pgs 159-170]. I emphasised the strong public interest in the Assange case and the serious lack of transparency around his lengthy stay in the Ecuadorian embassy. I also emphasised the public interest in knowing the number of pages in the CPS's file relating to Mr. Assange.
34. I was very disappointed by the ICO's handling on my complaint [Open Bundle Tab 4]. My ICO complaint was a real Odyssey: I wasted more than a year chasing the ICO, sending emails, calling with little results.
35. I now understand that the ICO only went to the CPS to inspect the information on 19 December 2015, almost a year after my complaint. It looks like the ICO had made up its mind on my complaint before ever seeing the information: on 13 September 2016 the

ICO's officer told me that she had "finished drafting the decision notice", which had been "sent for checking" and, on 21 September 2016, that it had been "checked and sent for sign-off" [Open Bundle Tab 4] I find this incredible. How could the ICO make a proper decision, especially on the public interest, without even having seen the information?

36. Eventually, the ICO gave a decision on 9 February 2017 [Open Bundle Tab 1] I was upset to read how the ICO completely sided with the CPS, accepting all their arguments and just doing lip service to the public interest of this case.

37. Only now, as a result of my Tribunal case, has the ICO's lawyer provided part of an answer to part of my request. The witness statement of Mr. Smeath has finally told me how many files of correspondence there are between the CPS and the SPA (though my request was for the number of pages in the Julian Assange file). We now know that there are 24 lever arch files of correspondence between the SPA and the CPS, each containing between 300 and 400 pages. This means there are between 7,200 and 9,600 pages of correspondence between the CPS and the SPA. If you consider that all I have obtained in two years of struggle with FIOA requests is a grand total of 27 emails from SPA and CPS, you realise that this is not even the tip of the iceberg, it is a NANOTip.

the CPS clarified that this correspondence is the FULL correspondence on the Assange case, rather than the CPS-SPA correspondence

38. This reinforces how little transparency there has been about the Assange case.

Late Disclosure by the CPS

39. At 16h59 on 3 August 2017 – less than a working day before this witness statement has to be filed – the CPS disclosed to me by email 336 pages of documents. The CPS's covering letter said that the disclosure was in response to the first paragraph (of five) in my FOIA request, made on 1 September 2015: ie "the FULL correspondence between the Crown Prosecution Service and the Swedish Prosecution Authority concerning the criminal investigation against Mr. Julian Assange". The CPS therefore still refuses to release any information they hold under the other four paragraphs of my request: the correspondence about the case of Mr. Assange (if any) between the CPS and Ecuador; the

CPS and the US Department of Justice; the CPS and the US State Department, as well as the exact number of pages of the Julian Assange file at the CPS.

40. The late disclosure is only of 336 pages of documents. We know from the ICO that there are thousands of pages of correspondence. This is still just a very small part of the picture. The late disclosure is also only of documents that are very old: 239 pages out of 336 pages deal with the CPS-SPA correspondence going back to 2010 and 2011; 90 pages deal with the CPS-SPA correspondence going back to 2012; only 7 pages deal with CPS-SPA correspondence in 2013. Contrary to what I had requested in my FOIA application, the CPS has not released any documents at all from 2014 or 2015.
41. The late disclosure also deals with pretty mundane logistical issues which shed no light whatsoever on one of the most serious anomalies of our times: a high profile publisher being "arbitrarily detained" (as the UN WGAD determined) in the heart of Europe, with no end in sight, and with the detention and the process around it generating very significant public expenditure.
42. The CPS has also made redactions, some of which are very heavy, so whole chains of email are obscured. In the covering letter accompanying the late disclosure, the CPS justified the redactions and the failure to disclose any further material under section 30 of FOIA (information held for the purposes of criminal proceedings). It seems they have abandoned relying on section 27 of FOIA.
43. In the covering letter, the CPS set out three factors it has taken into account in applying the exemption under section 30. These factors ignore any public interest arising from the role of the press as a watchdog and as part of open democracy. I am not surprised because what is included with the disclosure shows that the CPS has a disdain for the media.
44. The CPS has also ignored the finding of the UN WGAD and so has not taken into account that my FOIA request and the criminal proceedings concern an individual who has been determined by a respected international body to be in arbitrary detention. In fact it seems

that the CPS has ignored almost all the specifics of this case. The public interest factors it took into account do not even reference that the request concerns Mr. Julian Assange, a publisher involved in exposing wrongdoing by publishing secret documents – all it says is that the case is a “high profile matter”. It is high profile because of all the elements of the public interest that I set out in paragraphs 17-24 above. None of which the CPS took into account.

45. The CPS claims to have taken into account that the SPA already disclosed information to me. But it has redacted information that was released by the SPA: see, for example, the email at page 38 of the late disclosure, which is from Mr. Paul Close, a UK lawyer at the CPS, to the Swedish Prosecutor Marianne Ny, dated 25 January 2011. This email is very important and it is one of the Swedish FOIA documents which allowed me to write a major investigative piece "Five Years Confined: New Foia Documents Shed Light on the Julian Assange Case" [Open Bundle Tab 7 pgs 166-170]. This news story was widely reported by the international media, including by the Guardian newspaper in the UK. In the email, Mr. Close says to Ms. Ny that “it would not be prudent for the Swedish authorities to try to interview the defendant in the UK” and suggests that she “interview [Mr. Assange] only on his surrender to Sweden and in accordance with the Swedish law”. The CPS has almost completely redacted this email. The choice to redact this provides confirmation that the reason the CPS is resisting my FOIA application is that it has something to hide for its responsibility in the quagmire keeping Mr. Assange confined. There is no reason why the CPS should heavily redact that email: it contains nothing which could compromise the investigation or reveal personal data and facts about the two women; it contains nothing that would compromise the extradition process (either the extradition of Mr. Assange or any extradition). It seems to me the CPS wants to avoid the legitimate oversight by the press. This is not a proper reason: public interest should prevail over simple embarrassment.

46. In the covering letter with the late disclosure, the CPS has listed four factors which it says are the public interest factors against disclosure. They are all very general and do not

