



**PARTIES** (Number of defendants: 1)

**Defendant**

LINA [...] 19720622 9200  
 Detained in Kronoberg

Public defender:  
 [...] Stockholm

**Prosecutors**

Public Prosecutors [redacted] and [redacted]  
 Swedish Prosecution Authority  
 National Unit for combating International and Organised Crime  
 Box 57  
 101 21 Stockholm

**OPERATIVE PART OF THE JUDGMENT**

**Offences of which the defendant is convicted**

1. Crimes under international law, serious crimes, Chapter 22 Section 6(1) and (2) of the Criminal Code in the version in force before 1 July 2014  
 7/8/2013 -- 30/6/2014
2. Serious war crimes, Section 4(1)(11) and Sections 11 and 12 of the Act (2014:406) on penalties for certain international crimes  
 1/7/2014 -- 26/5/2016

**Penalty etc.** 6 years' imprisonment

**Detention etc.**

Lina [redacted] shall remain in custody until the judgment on liability becomes final against her.

**Victim Support Fund**

The defendant is ordered to pay a fee of SEK 800 in accordance with the Act (1994:419) on the Victim Support Fund.

**Compensation**

[...]is awarded compensation from public funds of SEK 464 588. Of this amount, SEK 359 130 relates to work, SEK 12 540 to wasted time and SEK 92 918 to VAT. The cost shall be borne by the State.

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## SUMMARY

The District Court sentences Lina [REDACTED] to 6 years' imprisonment for serious crimes under international law and serious war crimes. She is convicted as an accomplice for failing, in her capacity as a guardian, to prevent her son Joan, aged 12-15, from being recruited by unknown accomplices and used as a child soldier for IS in the armed conflict in Syria.

In the first place, the prosecution alleged that Lina [REDACTED] committed the offences in question through active conduct (offence of action), arguing that she allowed Joan to have weapons at home, provided him with equipment and allowed him to leave home to carry out his duties as a child soldier. In the alternative, it was alleged that Lina [REDACTED] committed the offences by omission, by not preventing Joan from leaving home to act as a child soldier (offence of omission). In the second alternative, it was alleged that she encouraged the crimes (aiding and abetting).

The District Court found that Lina [REDACTED] and her husband were part of a sectarian Islamist environment that glorified armed struggle for Islam and Sharia (*jihād*) and emigration to live in a fundamentalist society (*hijra*). In April 2013, Lina [REDACTED] took the couple's younger children, including Joan, and joined her husband and an older son in Syria. The District Court found that Lina [REDACTED] understood that they were going to Syria, and that she was well aware that there was a civil war going on involving violent Islamist groups. Even then, Lina [REDACTED] must have intended that Joan could be used as a child soldier.

The District Court further found that Joan was recruited in Syria and used as a child soldier for IS. He was last deployed in August 2013 and subsequently participated on the IS side in the war until his death. Lina [REDACTED] must have known that. She did not take adequate measures to prevent Joan from leaving home to carry out his duties as a child soldier, and the District Court is of the opinion that she did not intend to prevent this either, but that his role as a child soldier was in accordance with her beliefs.

In the view of the District Court, there are no grounds for upholding the indictment in respect of the offence of action. This is because it was not proven that Lina [REDACTED] had provided Joan with equipment in such a way as to constitute a recruitment or use of him as a child soldier, and the description of the offence must otherwise, in the view of the District Court, be regarded as referring to negligence.

The District Court concluded that international crimes/war crimes can be committed by omission, even if they are primarily aimed at active conduct, and that the underlying international law does not preclude such an application of the law. Furthermore, it is clear that Lina [REDACTED], who was Joan's parent and – under Swedish law – guardian and lived with him, had the status of guardian in relation to him. This means that she had a special duty to protect him, and that failure to do so could give rise to criminal liability.

There is no evidence other than that Lina [REDACTED], although in Syria, lacked the actual ability to prevent Joan from being used as a child soldier. However, she had chosen to put herself in a situation where she must have been aware that she would lack that opportunity. The assessment of the District Court is that a guarantor cannot escape criminal liability for failing to prevent something that she herself has determined with good sense that she cannot prevent, and which she does not wish to prevent. It follows that the failure of Lina [REDACTED] to prevent Joan from leaving home to carry out his duties as a child soldier is punishable. The indictment must therefore be upheld.

There is a significant lack of previous practice regarding classification and penalties. The District Court notes, inter alia, that this is a child aged 12-15 who was used for several years as a child soldier by a terrorist sect and that he was used in connection with direct armed conflict and war crimes, which must have caused him very severe suffering. However, it has not been possible to investigate further the details of how or with what intensity he was used. The District Court also takes into account that failure to act generally carries a lower penalty. All in all, the District Court considers the offences to be serious and imposes a sentence of 6 years' imprisonment.

## BACKGROUND

The investigation shows the following, inter alia, which is not disputed by Lina [REDACTED]

### *The period before Syria*

Lina [REDACTED] grew up in a Christian Iraqi family in Halmstad. She trained and worked for a short period as a nurse. In her early 20s, she met Jiro [REDACTED], who came from a Muslim family, and they became a couple. She became interested in Islam and eventually converted. In 1996, they married according to Muslim law, and the following year they also married according to Swedish law. During the period 1997-2013, the couple had six children together but, after an initial period in Sweden, lived for long periods in different countries. They always cooperated well and agreed on the children, who lived with Lina [REDACTED] but had continuous contact with Jiro [REDACTED]. He also contributed financially to the family, and they used to see him in Sweden on holidays. They were part of a social context shaped by religious beliefs, and one of their motives for moving abroad was to live in a society with a Muslim majority population. From 2009 to 2013, Jiro [REDACTED] ran a Salafi-jihadist website, and also gave sermons.

The same year that Lina [REDACTED] and Jiro [REDACTED] were formally married, 1997, their eldest daughter was born. In 1999, the oldest son, Omar, was born. The following year the family moved from Halmstad to Lund. Joan was born there in 2001. In the same year, Lina [REDACTED] filed for divorce and moved back to Halmstad. In 2002, with Jiro [...]’s support and consent, she and her children moved to the United Arab Emirates. There Lina [REDACTED] made her living as a teacher. In the summer of 2005, when Lina [REDACTED] and the children were at home in Sweden and met Jiro [REDACTED], Lina [REDACTED] became pregnant with twin daughters to whom, after having returned to the United Arab Emirates in the meantime, she gave birth in Sweden in 2006. Jiro [REDACTED] then took care of the other children. The following year, 2007, she and the children moved back to the United Arab Emirates. In 2009 they returned to Sweden, and in 2010 they moved to England. This move was also made after consulting with Jiro [REDACTED] and obtaining his consent, and in

England Lina [REDACTED] continued to support the family by working as a teacher. Jiro [REDACTED] had married another woman. Before the summer of 2012, Lina [REDACTED] and Jiro [REDACTED] agreed that instead of her and the children visiting him in Sweden, they would meet him in Egypt, where he had managed to get a visa, and celebrate Ramadan together. Lina [REDACTED] became pregnant again while they were together. She and Jiro [REDACTED] decided that the family would try living in Egypt. However, Jiro [REDACTED], whose visa expired, soon returned to Sweden, and Lina [REDACTED] went back to work as a teacher.

*The journey to Syria and the time there*

Jiro [REDACTED] did not return to Egypt. According to Lina [REDACTED], he told her that he was in Turkey and was interested in staying there. In fact, he joined a violent Islamist group in Syria. He and Lina [REDACTED] agreed that Omar would visit him during the 2012/2013 Christmas holidays, and Lina [REDACTED] booked a ticket to Turkey for the boy. Omar did not return to Egypt. In April 2013, Lina [REDACTED] and the rest of the children, as agreed with Jiro [REDACTED], flew to Antakya in Turkey, near the Syrian border. She and the children were almost immediately taken across the border into Syria by car, where they were reunited with Jiro [REDACTED] and Omar in the Idlib area. Jiro [REDACTED] told them that he had joined IS. Before the trip, Lina [REDACTED] had bought new clothes for the family and withdrawn more than 73 000 Egyptian pounds (equivalent to almost SEK 73 000). During the following years in Syria, the family moved frequently, preferably within IS-controlled territory, fleeing fighting.

Initially, Omar and Joan did not live with Lina [REDACTED] and the young siblings, but with the men in the Syrian village where the family first arrived. In June 2013, the youngest son was born. On 5 August of the same year, Jiro [REDACTED] was killed in an attack on an airport. After Jiro [...]’s death, Omar and Joan returned home to Lina [REDACTED] and shortly afterwards the family moved to a small town outside Aleppo. The family subsequently lived together, except that Omar and the eldest daughter periodically lived elsewhere. Even then they were near to each other.

In 2013, the eldest daughter, then 16, got engaged or married to Abdurahman, who was a member of IS. In the period between 2013 and 2014, the family moved several times, including living for a time with Jiro [...]’s second wife, before settling in Raqqa in July 2014. In August, Joan’s leg was quite badly injured when a missile hit the city. In 2014, Omar, then aged 15, married a Syrian girl. That same year, Lina [REDACTED] married an Iraqi IS man. In 2016, Abdurahman died, and Lina [REDACTED]’s new husband went to Iraq. He only visited for short periods after that, but Lina [REDACTED] became pregnant again. At the end of the year, Omar was killed. At the end of 2016, the eldest daughter remarried. In 2017, the family moved from Raqqa. In July of that year, Lina [REDACTED]’s youngest daughter was born. Lina [REDACTED]’s new husband died in Iraq. Joan died in Raqqa in September. At the end of the year, the youngest son also died. The family then moved several times to escape the fighting, finally arriving in Baghuz at the end of 2018. The son-in-law allowed himself to be smuggled out, but the rest of the family stayed behind while Baghuz was besieged.

In March 2019, the family was taken to Al Hol camp by Kurdish forces. In March 2020, they were smuggled out of the camp. When Lina [REDACTED]’s twin daughter [REDACTED] and the youngest daughter were being smuggled away, they were discovered and ended up in a Turkish refugee camp, from which they were eventually deported to Sweden. The eldest daughter and the other twin girl are still in Syria.

#### *The internal armed conflict in Syria*

In 2011, large-scale protests broke out against Syrian President Bashar al-Assad. Protests initially came from a large number of disparate religious and political groups, but radical Islamist forces came to dominate and the protests developed into a brutal civil war. At any rate, from spring 2012 there was an internal armed conflict involving, among others, violent Islamist groups. The al-Qaeda-affiliated Islamic State in Iraq (ISI) expanded into Syria in the spring of 2013, changed its name to the Islamic State in Iraq and al-Sham/Levant (ISIS/ISIL), and conflict arose between al-Qaeda and ISIS, which broke away and later changed its name to the Islamic State (IS). IS became a very dominant player in conflict-ridden Syria, controlling parts of the country and proclaiming its



caliphate in the summer of 2014. IS espoused a strict and conservative view of Islam, which included a view of men as superior to women and a struggle against infidel heretics, i.e. those who did not share the IS world view. IS control over different areas was built up gradually. Over time, a fairly extensive bureaucracy, Islamist courts, border controls, training camps, and rules, including the basic premise that women were not allowed to move about freely but needed a male escort, were established.

## **FORMS OF ORDER SOUGHT, ETC.**

### **Forms of order sought, clarifications and position**

The prosecution requested and adduced evidence as set out in the bill of indictment, Appendix 1.

Following questions from the Court, the prosecution made the following clarifications during the main hearing.

The allegation that Lina [REDACTED] brought Joan to Syria in April 2013 (bill of indictment, p. 1 para. 2) is not asserted as part of the criminal offence, but is to be understood as an evidentiary fact in support of Lina [REDACTED]'s intent.

The factual allegation (bill of indictment, p. 2 para. 3) is primarily that she enabled Joan to be recruited and used as a child soldier from the time he was 12 years old until he reached the age of 15. This was by allowing him to handle and store weapons in the shared home, providing him with equipment in the form of shoes and clothes, and allowing him to leave the residence in order to carry out his duties/tasks as a child soldier. It is alleged that she, as perpetrator, committed the offence through active conduct (offence of action). In any event, she partly committed the offence through active conduct, although there may also be periods of negligence during the period of the offence.

In the alternative (bill of indictment, p. 2, para. 4), it is alleged that Lina [REDACTED] did not prevent Joan from being recruited or used as a child soldier (offence of omission). This was by failing to prevent him from leaving home in order to carry out his obligations/tasks as a child soldier.

In the further alternative (bill of indictment, p. 3 para. 1), it is alleged that she facilitated the crime in question by allowing Joan to handle and store weapons in the shared home, providing him with equipment in the form of shoes and clothing, and allowing/failing to prevent him from leaving the home in order to carry out his obligations/tasks as a child soldier (aiding and abetting).

It is alleged that Joan was first used as a child soldier on 5 August 2013. It is further alleged that Lina [REDACTED] had the overriding intention that Joan might become a child soldier as early as when she entered Syria in April 2013. At the very latest, she must have realised that he was being used and would continue to be used as a child soldier when she became aware of his involvement on 5 August 2013 and some time later saw a film of the day in question as well as photo 1 (enclosure 104), i.e. in the early autumn of 2013.

However, it is not alleged that Lina [REDACTED] should be held criminally liable for anything that occurred before Joan moved into her home after Jiro [...]’s death, since it has not been possible to determine what authority she had over him during the time in Syria before that. As the action may be understood, Lina [REDACTED]’s responsibility began, and with it the period of the offence, when she gained influence over Joan’s care and upbringing after he moved back home. The prosecution did not specify the exact time of the move back home, but it has emerged that it took place immediately after Jiro [...]’s death on 5 August 2013.

Lina [REDACTED] has denied the offences.

### **Framework of the examination**

The prosecution's description of the offence provides the framework for the Court's examination. The way in which the prosecution chose to present the case is thus decisive for what the District Court can rule on, and in the present case means that the District Court is prevented from examining whether Lina [REDACTED] could be held criminally liable for having taken Joan to Syria or for having used him as a child soldier before he moved in with her after Jiro [...]’s death.

Lina [REDACTED] is charged with serious crimes under international law and serious war crimes. However, the act in question is continuous. The division into two offences is due to the fact that, during the period of the offence, the penal statute was moved from the Criminal Code to a special law, with the offence in question being given a different designation.

### **Jurisdiction**

Crimes referred to in the Act (2014:406) on penalties for certain international crimes (formerly the Act on penalties for genocide, crimes against humanity and war crimes) are subject to universal jurisdiction, see Chapter 2 Section 3(6) of the Criminal Code. A Swedish court is thus competent to judge these offences even if they are committed outside the country and without the requirement of double criminality. Prior to the entry into force of the 2014 Act, Chapter 22 Section 6 of the Criminal Code contained a provision on crimes under international law, serious crimes. Universal jurisdiction also applied to that offence.

As a starting point, a prosecution order is required for the prosecution of offences committed outside Sweden. However, this is not necessary if the offence was committed against a Swedish interest by a Swedish citizen, see Chapter 2 Section 7(6) of the Criminal Code. A Swedish interest includes Swedish citizens, see Chapter 2 Section 3(3) of the Criminal Code. Both Lina [REDACTED] and Joan are Swedish citizens.

The current provisions of Chapter 2 of the Criminal Code entered into force on 1 January 2022. The starting point for procedural law is that it applies directly from its entry into force. This means that, unless otherwise provided, the provisions are immediately applicable regardless of whether competence is extended or limited by legislative amendments (prop. 2020/21:204, p. 138 et seq.).

## GROUNDS OF THE JUDGMENT

### General information on the investigation in the case

Many of the relevant persons in the case could not be heard because they were either killed in Syria, could not be located or are relatives who exercised their right not to participate in the main hearing. The evidence consists largely of ‘structural evidence’, including reports and expert witnesses, which can give a good picture of the situation in general and the underlying circumstances, but which has no direct bearing on the conduct of Lina [REDACTED].

Lina [REDACTED] was heard. M[...], D[...], P[...] and M[...]P[...] were heard as expert witnesses. Cecilia [...] and Anna [...], who knew Lina [REDACTED] and were part of the same religious environment as her a number of years before the events at issue in the case, Sadat [REDACTED], who made purchases on behalf of Lina [REDACTED] when she was in Syria, and Lina [REDACTED]’s daughter Taymyah were also heard as witnesses. Apart from Lina [REDACTED] herself, Taymyah is the only person heard who was present in Syria when the alleged acts were committed. However, the District Court notes even at this stage that Taymyah is only 15 years old and has therefore heard a great deal about events that took place when she was a young child, that she has lived through what must be described as severely traumatic experiences in a relatively short period of time, and that it is only natural that she, as a close relative, may have an interest in protecting and helping her mother. Her statements must therefore be treated with caution.

Extensive documentary evidence has been submitted. In addition to reports, this includes financial investigations, documentation from IS, a number of pictures of Joan and others, and chats and similar communications, mainly between people who have not been heard in the case. The chats were mainly between Omar and the children's grandmother, who was in Sweden. There are no messages from Joan, and there are only a small number of messages from Lina [REDACTED], including to her brother in Sweden. The chats make extensive use of different names and nicknames for the people involved, kunyas, which is common in Arab culture. For example, Khadija is another name for Lina [REDACTED] and Othman and Qaqa are alternative names for Joan.

### **Was Joan recruited and used as a child soldier?**

#### **Legal regulations**

For a child to be regarded as being used as a child soldier in the legal sense, it is not necessary for the child to take part in direct combat, but rather, use and recruitment are defined very broadly. The preparatory works state that recruitment includes any action that leads to the child being considered, formally or in practice, as a member of a national armed force or armed group. It covers recruitment that is voluntary, coercive or otherwise compulsory. Responsibility may include, inter alia, enrolment in a school run by or otherwise closely associated with the military organisation of a State if the enrolment also involves the child's participation in hostilities in the event of armed conflict.

With regard to the use of children for direct participation in hostilities, such participation includes, in addition to combat, such activities as scouting, spying, sabotage, working in an arms or ammunition factory, and transporting arms to places where hostilities are taking place. It also covers the use of children as decoys, couriers or guards in, for example, military barracks or arms and ammunition depots. Excluded from this provision is the use of children to carry out work or tasks that are only indirectly related to the fighting, such as delivering supplies to a military base or performing domestic

chores for military personnel (prop. 2013/14:146, p. 273). The wording is close to the definition used by UNITAD, with reference to international law sources, in its report on IS child soldiers.

### **Investigation into the recruitment and use of Joan as a child soldier**

It is clear from the facts of the case that, during the relevant period, there was a non-international armed conflict between the Syrian regime and several armed groups in Syria, in which IS came to be a dominant player. IS clearly fulfilled the requirements that international law imposes in this context on the organisation of armed groups. It is further established that IS trained child soldiers – both from its own ranks and kidnapped children from other groups – in training camps that included both religious indoctrination and military training, and historically used child soldiers extensively in the conflict. In the view of the District Court, it is also clear that the crimes to which Joan is alleged to have been subjected – i.e. recruitment and use as a child soldier on behalf of IS in an ongoing civil war – have such a connection with the armed conflict as is required to constitute a crime under international law/war crime (see prop. 2013/14:146, p. 259 et seq.).

It is clear from Lina [REDACTED]'s own statements that Joan began training in running and martial arts with Omar and the men of the village in the immediate aftermath of her arrival in Syria. It is further clear that he was taken to the battle that cost Jiro [REDACTED] his life, that he waited nearby while the battle raged, and that a picture was taken in connection with the incident of him wearing camouflage and a battle vest, standing with an adult male in similar attire (photo 1, enclosure 104). He also appears in a photo taken in the family home, where he is handling a Kalashnikov-type automatic rifle with his younger brother (photo 2), wearing a battle harness and holding a grenade in each hand (photo 3), wearing a battle harness and accompanied by battle-dressed and armed adult men posing with desecrated bodies in Naim Square in Raqqa, where he performs the 'IS finger', a Muslim gesture of holding up a finger to signal that God is one and frequently used by IS (photo 4), and in a 'martyr photo' published by IS after his death (photo 5).

Omar, who, in chats with his grandmother, revealed that he himself was a committed and fighting member of IS, wrote to her in early November 2013 that Joan was training in a training camp, to which Omar took him, which was better for him than sitting at home because he was learning his religion. He further wrote, regarding photo 1, that it was at home, before Joan and 'Abo' (presumably their father Jiro ██████ went off to war. In response to his grandmother writing that he and his brother were so clever, he replied in August 2014 that no, they were Muslims fighting heretics. Later in August 2014, he referred, as it may be understood, to driving Joan to a roadblock where 'our brothers' (which may be understood as meaning IS members) went with fair skin and came back tanned. He also told his grandmother that when Joan was out fighting with his brother-in-law, IS member Abdurahman, everything went well, but that he had injured his leg in a missile attack on his home town.

IS's own documentation shows that in November 2016, around 6 months after he turned 16 and therefore could no longer be a child soldier under the law, Joan was examined at a hospital in Raqqa and was declared to belong to the IS Military Department. After his death in Raqqa in 2017, IS published a 'martyr photo' of him. Both Omar and Joan also appear in an IS register of members and are both listed as martyrs and as members of different brigades. Joan is listed under the tab 'Raqqa Province inside the siege, martyrs' and it is stated that he was part of the Talha Media group and died at the 'barracks'. The documentation includes a large number of other people who were also part of the Talha brigade, which included sections for snipers, artillery, suicide squads and administration.

Joan's sister Taymyah also stated that Joan worked as a soldier for IS in Syria, including in photography, and that he was trained for this in training camps where weapons were also provided. Although Taymyah's testimony, as the District Court previously found, must be evaluated with caution, her statements in this part are consistent with the rest of the evidence in the case and appear logical, moderate and credible.

### **The District Court's assessment**

Against this background, the District Court finds it established that unknown perpetrators recruited and used Joan as a child soldier on behalf of IS and that this use began at the latest in the context of the battle in which Jiro █████ died on 5 August 2013. The District Court finds that he subsequently assumed a position of continuous availability to IS for use as a child soldier when the need arose. In the opinion of the District Court, it is also clear that he participated in the conflict on the side of IS until his death, which means that he was used as a child soldier until he turned 15 years old. As regards recruitment, it was not claimed that he was recruited at any particular time. In the opinion of the District Court, it may be considered established that he was enrolled and trained in camps in a manner that constitutes recruitment, and that this took place during the period of the offence, by all appearances around November 2013.

### **Principal claim of the prosecution of liability for an offence of action**

In the first place, the prosecution alleged that Lina █████ enabled Joan to be recruited and used as a child soldier, that the enabling consisted in her allowing him to have weapons in the shared home, assisting him with equipment and allowing him to leave home to carry out his duties as a child soldier, and that this is to be assessed as an offence of action.

In the alternative, it was alleged that Lina █████ did not prevent Joan from being recruited and used as a child soldier, that she did so by not preventing him from leaving home to carry out his duties as a child soldier, and that this constitutes an offence of omission.

First, with respect to the prosecution's allegation that Lina █████ actively allowed Joan to handle and store weapons in the shared home and allowed him to leave home to carry out his duties as a child soldier, the District Court makes the following considerations. The prosecution has not elaborated on how allowing Joan to handle/store weapons or



leave home constitutes an offence of action, or how the alleged offence of action differs from the action of omission alleged in the alternative. It has not been alleged, much less shown, that Lina [REDACTED] gave any actual permission, either verbally or in any other specific way, such as making room for weapons in the home. To 'allow' and to 'fail to prevent' appear in this context almost as synonyms, and the District Court is of the opinion that the description of the offence, as it is constructed, may fairly be regarded as referring to negligence.

The fact that Lina [REDACTED] assisted Joan with equipment obviously constitutes active conduct. In this regard, it is established that Lina [REDACTED] allowed a card linked to an account belonging to herself to reach Sadat [...]– with whom she was acquainted through the Muslim community she and Jiro [REDACTED] had joined – in Sweden, and that on her behalf he withdrew money and purchased goods that were sent to the family in Syria. The purchases were largely clothing, including five pairs of reinforced hiking trousers of the brand Fjällräven, which then cost approximately SEK 1 300 a pair in various sizes, and two pairs of boots. Two pairs of trousers were for Omar, two pairs were for his son-in-law Abdurahman, and the last pair was for Joan. The shoes were for Omar and Joan. Underwear, sweets and perfume were also bought.

Lina [REDACTED] is therefore specifically accused of having bought a pair of boots and a pair of hiking trousers for Joan. These are shoes and clothing sold for civilian use in Sweden for purely civilian purposes. There is no evidence that Joan used them as a child soldier, or for that matter that Omar or Abdurahman, who received the same type of trousers, used them in connection with hostilities. Against this background, the District Court considers that it has not been proved that Lina [REDACTED], by purchasing the shoes and trousers, provided Joan with equipment in such a way that it could constitute an element of recruitment or use of him as a child soldier. The prosecution's argument that military groups that are not the army of a particular country use equipment from the civilian market, that the boots bear some resemblance to the shoes in the photo of his equipment that Omar sent to his grandmother, that the trousers were relatively expensive and that both they and the boots in themselves appear to be well suited for use in combat, does not alter that assessment.

In the light of the foregoing, there are no grounds for upholding the prosecution's principal claim of liability for an offence of action. Liability for aiding and abetting through active conduct is thus also excluded. The District Court will therefore focus its examination below on the prosecution's alternative claim of liability for an offence of omission.

### **Negligence**

#### **Starting points for the assessment**

Some offence descriptions directly indicate that the offence is aimed at omission ('genuine offences of omission'). However, other offences, which primarily concern active conduct, can also be committed by omission under certain conditions, provided that the wording permits this ('false offences of omission'). This may be the case even if the description of the offence in the penalty notice is expressed in such a way as to indicate active conduct. Practice shows, inter alia, that assault and murder can be committed by omission (NJA 2013 p. 588, judgment of Skania and Blekinge Court of Appeal [Hovrätten över Skåne och Blekinge] in Case No B 454-15, judgment of Göta Court of Appeal [Göta hovrätt] in Case No B 2705-20). The Supreme Court of Sweden stated in NJA 2013 p. 588 concerning assault that the description of the offence in question essentially refers to the causing of a certain effect without any further restrictions as to how the causing takes place, and noted that it had been a starting point for the interpretation of the criminal statute in preparatory works and doctrine that omission was also covered by the scope of meaning.

Not just anyone can be held liable for a false offence of omission: as a rule the perpetrator must be a guarantor and therefore have a duty to act (the doctrine of the guarantor). For example, a guardian has a responsibility to act to protect his or her child that an outsider does not have.

What the District Court has to consider, therefore, is whether the current criminal statutes relating to crimes of international law/war crimes, which do not expressly criminalise omission but are primarily concerned with active conduct, also cover omission. In doing so, the District Court must also take into account that the Swedish criminalisation of these acts is an implementation of international law, and cannot be applied contrary to what prevails under general international law (see prop. 2013/14:146, p. 71). The prosecution argued in this regard that the doctrine of the guarantor is part of general criminal law, which is generally applicable regardless of the specific offence on which the Swedish court passes sentence.

At the outset, it should be noted that crimes under international law/war crimes are not offences of effect in the way that assault or murder are. However, in the opinion of the District Court, this is also not a prerequisite for negligence. Offences of effect have dominated practice and doctrine on omission, and several statements on negligence refer to offences of effect, but the District Court cannot infer from the 2013 cases that the starting points for the assessment set out therein relate exclusively to offences of effect, or that other types of offence could not be committed by omission. It has been argued in the doctrine that most crimes, which do not require personal action, can somehow be committed by omission (see Petter Asp et al., *Kriminalrättens grunder*, 2013, p. 106).

### **Negligence and international law**

The preparatory works to the relevant provision do not mention omission. The Act (2014:406) on penalties for certain international crimes (International Criminal Code) explicitly criminalises certain cases of omission, but in provisions that address the responsibility of the superior. With regard to these provisions, the preparatory works state that, in Swedish law, criminal liability may also follow from the ‘doctrine of the guarantor’, that it should be possible to consider superiors as supervisory guarantors to a certain extent even without specific legislation, and that the existence of both supervisory and protective guarantors is affected (prop. 2013/14:146, pp. 61, 205). Furthermore, it is expressly stated that, inter alia, certain other forms of war crime may be committed through omission (prop. 2013/14:146, pp. 262 et seq., 271).

It is clear that states should also be able to use their national legal traditions in relation to crimes covered by the Rome Statute. As a starting point, therefore, the same rules and principles that otherwise apply to the general part of national criminal law should also apply to prosecutions under international criminal law (prop. 2013/14:146, pp. 71., 212 et seq.).

In comparison with many other areas of general criminal law, the doctrine of the guarantor is rather undeveloped. However, it has been established in practice and accepted in national criminal law for some time. The Supreme Court of Sweden has made it clear that the principle of legality does not preclude negligence from being read into any penal provision whose wording, interpreted broadly, permits it, and the existence of the doctrine of the guarantor is touched upon in the preparatory works to the International Criminal Code. It should also be uncontroversial internationally that parents have a special responsibility to protect their children. Similarly, failure to act on the part of a person with a duty to protect may be punishable, although different legal systems may deal with the issue in different ways, for example by interpreting in practice liability for failure to act in provisions that are primarily concerned with actions, or by introducing more explicit offences of omission.

In this context, a German judgment from April 2020 can also be mentioned (Dusseldorf Higher Regional Court, judgment of 29 April 2020- 7 StS 4/19 juris). In this ruling, a woman who took her child to war-torn Syria was convicted of, among other things, war crimes against the person. The war crime was that the woman agreed to allow her then six- to eight-year-old son to undergo training in an IS training camp. The woman ceased to object and instead explicitly consented to the boy's attendance at the camp, however, after being told that if she did not accept the boot camp she could return to the women's home, which she wanted even less as she was of the opinion that the child must leave the women's home at the age of seven and begin training regardless. Consequently, there was hardly any question of voluntary and thus valid consent. Rather, it should be understood that the woman in the German case allowed the recruitment of the son in the sense of failing to prevent it.

### **The District Court's assessment**

In view of the above, the District Court can come to no other conclusion than that a crime under international law/war crime can be committed by omission, provided that the wording of the relevant criminal statute permits this. The verbs in question are *to infringe* ('commits a serious infringement of...'), *to recruit* and *to use*. In this context, the infringement consists of recruitment and/or use. The District Court will therefore focus its examination on the latter concepts, although it may be noted that the District Court considers that the verb 'to infringe' can also cover 'to omit'.

In the opinion of the District Court, the concept of *use*, in this context synonymous with use or exploitation, is to be equated with 'inflict' and 'deprive' as dealt with in previous case-law, in the sense that use primarily refers to active conduct but meaningfully also includes omission. As for *recruit*, according to the District Court, it is linguistically a verb more focused on active conduct. Systematically, however, from the structure of the provision in question, it seems difficult to explain and hardly reasonable that, by omission, one could be guilty of a war crime by using but not by recruiting child soldiers. In the view of the District Court, such an interpretation, i.e. that recruitment can take place by omission, is also possible without violating the wording. The District Court is therefore of the opinion that it may be considered possible also to be guilty of recruitment by omission.

### **Lina █████'s intent and responsibility**

### **Lina █████'s ideological background**

In the opinion of the District Court, Cecilia S████ and Anna S████ both gave credible and reliable accounts. Although the period about which they were interviewed is more distant, they both gave a nuanced account, were clear about what they were not sure about, and provided essentially consistent information. Through their testimonies, it was established that Lina █████ had been active in a closed Salafist environment since at least

the late 1990s. The group advocated a fundamentalist interpretation of Islam and cut off contact with society and outsiders, who were perceived as infidels. Within the group there was a strong focus on jihad, and boys were raised to be mujahedin, jihad warriors. Fighting and dying for God and Sharia was the most desirable thing. It was common for them to show children propaganda films glorifying jihadi fighters who fought and died. This also happened in Lina [REDACTED]'s home and Lina [REDACTED]'s children saw such films. In the environment, children were also shown films in which infidels were beheaded, which was perceived as something positive, but it is not certain that Lina [REDACTED]'s children saw these films. The view of the group was that al-Qaeda and bin Laden were the right kind of Muslims, and that the men who carried out the terrorist attacks in the US on 11 September 2001 were martyrs who had done something admirable and should be rewarded by God.

Another focus of the group was the aspiration to make hijra, i.e. emigrate to an Islamic country and live fully according to Sharia law. This would allow the children to be protected from the influence of Western democracy. Several people from the environment emigrated for this purpose. Before the US invasion, Afghanistan, then ruled by the Taliban, who practised brutal Sharia law, was considered the best country to settle in, and Lina [REDACTED] and Jiro [REDACTED] had long-standing plans to move there with their children, which had to be shelved because of the war. Other countries of interest were the United Arab Emirates, Egypt and Morocco. Turkey, on the other hand, was not perceived as an attractive option. These countries were a kind of holding area, better than the West but not nearly strict enough, rather societies living in anticipation of a fully Islamist state, to be created through jihad. This endeavour included both the violent defence of Muslims attacked by non-Muslims and the creation of such an Islamist state through wars of aggression.

Lina [REDACTED] had a leading and influential position in the group. She was considered very knowledgeable about Islam, taught the other women in the group, and socialised with other high-status women in the violent Islamist movement. The sectarian environment was very gender-segregated, and women had to obey their husbands and not have contact with men outside the immediate family. They lived very strictly and sparsely.

Lina [REDACTED] and Jiro [REDACTED] may have divorced under Swedish law, but they were always married according to Islam and lived as a family when Lina [REDACTED] was in Sweden with the children. They were a team who shared a common belief in jihad and hijra.

It appears from David L [REDACTED]'s statements that SÄPO shares the view that Lina [REDACTED] and Jiro [...]’s relationship was continuous. He further stated that SÄPO had been interested in Jiro [REDACTED] since the second half of the 1990s and had been aware of Lina [REDACTED] since 2000. They have since been of continuing interest for counter-terrorism monitoring. Jiro [REDACTED] was for a long time a central figure in the violent Islamist environment in Sweden and had close links to the inner circle of Islamist terrorist networks. The couple had a long history of associating with returnees from conflict zones, including people with links to al-Qaeda. SÄPO judged that the purpose of their trip to Syria was to join an armed group fighting with Islamist motives. The women who travelled to Syria as early as 2012/2013 typically came from a long history within the violent Islamist environment and had strong ideological convictions. They travelled there to live with their family in a future Islamist settlement built on strict Sharia law. The Islamic State would be made global by force. Of the 300 Syrian travellers that SÄPO considered of interest for the purpose of monitoring, Lina [REDACTED] is to be considered one of the more influential based on her long time in the environment, her ideological knowledge, her husband’s high status and her association with other high-status women in the same environment.

The fundamentalist environment and the links to Islamist terrorist groups described by Cecilia S [REDACTED], Anna S [REDACTED] and David L [REDACTED] correspond well with what Magnus R [REDACTED] said.

### **Regarding the trip to Syria**

It is clear that Lina [REDACTED] moved to England with her children in 2010, and by her own account they had a good life there and enjoyed it. Before the summer of 2012, she and Jiro [REDACTED] agreed that instead of visiting him in Sweden, she and the children would join

him in Egypt to celebrate Ramadan together. Once there, they agreed that they would try living together in Egypt, where Lina and the children stayed while Jiro █████ returned to Sweden because his visa expired. From Egypt, Lina █████, who became pregnant again, dismantled her life in England. She said that the decision to remain in Egypt was partly because she did not want the children to lose their Arabic, which was why it was good to live in an Arabic-speaking country, and partly because she and Jiro █████ wanted to try again. However, based on the information provided by Cecilia S████ and Anna S████, the District Court finds that Lina █████ and Jiro [...]’s relationship never ended, even though they were living apart.

In the winter, when Jiro █████ should have returned to the family in Egypt, he did not show up. Instead, he had travelled to Turkey and on to Syria. Lina █████ stated that he told her that he was in Turkey and wanted the family to join him there, which they agreed would happen after the end of the school term. They also agreed that Omar would visit him during the Christmas holidays, and Lina █████ bought tickets to Turkey for the boy. Omar never returned to Egypt. In April 2013, Lina █████ and the rest of the children flew to Antakya in Turkey, near the Syrian border, from where they were almost immediately taken by car across the border into Syria. Prior to the trip, Lina █████ had made a large number of cash withdrawals in Egyptian pounds, totalling more than SEK 70 000, and bought equipment for the family’s new life.

Lina █████ claimed that her understanding and intention was that she and the children would go to Turkey and live with Jiro █████ there, and that he lured them to Syria. She stated that they did not discuss in detail why they were moving to Turkey, but perhaps it was due to the emerging unrest in Egypt.

In the opinion of the District Court, there are a number of circumstances that make Lina █████’s version of events appear incongruous. It can only seem strange that she would abruptly leave Egypt and dismantle a well-functioning existence in England, only to move on to Turkey shortly afterwards. All the more so as the children would hardly be able to improve their Arabic – an alleged main reason for moving to Egypt – in Turkey. The District Court also finds it entirely unlikely that Lina █████, who, by her own



admission, had handled previous moves abroad thoughtfully and competently, would in this case take a large group of children with her to settle in a country that was regarded in their circles as an inferior option to Egypt, where they did not speak the majority language and to which they had no ties, without further ado and without any real discussion with Jiro [REDACTED]. It seems even more unrealistic that she would make the move without examining factors such as housing, work or school, or where the town to which they were travelling was located. In addition, Lina [REDACTED] made extensive cash withdrawals and purchases, which seems logical for a trip to a place where it can be difficult to get things – such as Syria – but difficult to explain for a trip to Turkey, where there are generally good opportunities to shop and withdraw money. Lina [REDACTED]'s assertion that Jiro [REDACTED] reportedly said they would be living in a small town in Turkey and, as it may be understood, that it would be possible to exchange money but not to withdraw it, does not change that assessment. It also seems to the District Court difficult to explain why Lina [REDACTED] would not question or react to the fact that Omar, who was in his early teens and had not previously been away from her for any length of time, contrary to her and Jiro [...]’s alleged agreement, did not return after the Christmas holidays but remained with his father, and that in the time leading up to the April trip she reportedly had only occasional conversations with him and Jiro [REDACTED] and no meaningful idea of where they were or what they were doing. That assessment is not altered by the fact that, as she pointed out, she was pregnant and had several younger children to care for.

The District Court further notes the evidence of Lina [REDACTED] and Jiro [...]’s close cooperation, religious convergence and common pursuit of jihad and hijra, and concludes that there is no indication that Lina [REDACTED] has in any way changed her position on these matters. In this context, it may further be noted that Jiro [REDACTED] ran an openly Salafist website and, in close connection with his trip to Syria, gave a sermon that in principle openly called for war trips to Syria. There is no evidence that Lina [REDACTED] was aware of the website in question or this sermon, but it is clear that Jiro [REDACTED] was not trying to hide his beliefs, but was clearly and openly expressing his support for violent Islamist extremism and for the need for the righteous to carry out or at least support jihad

missions to Syria. It seems impossible to the District Court that Lina [REDACTED] would have been unaware of his opinion on these matters.

All in all, the District Court finds that Lina [REDACTED] must have been aware that she and the children, including Joan, would be travelling to Syria, and that this was in accordance with her beliefs and wishes. This view is further supported by Lina [REDACTED]'s conduct – or lack thereof – during the years in Syria, to which the District Court returns below. The fact that Taymyah stated that at the time, when she was 7 years old, she perceived that her family was going to Turkey and that her parents were at odds when they arrived in Syria does not lead to a different assessment. Nor does the fact that Omar told his grandmother in September 2014 that 'it was dad who brought us here'.

#### **Regarding Joan's role as a child soldier**

Lina [REDACTED] claimed that she did not know that Joan was being used as a child soldier, and that she opposed it. The District Court will therefore first consider her knowledge of his role as a child soldier, and then her attitude to it, although the issues are closely related and the assessment overlaps to some extent.

In this regard, it may also be noted that, based on the way in which the prosecution has chosen to limit its action, the period of the offence begins when Joan moved home to Lina [REDACTED] after Jiro [...]’s death on 5 August 2013. It has not been specified exactly when the move home is said to have taken place, but it seems that it was in the period immediately after Jiro [...]’s death on 5 August 2013. With some margin in Lina [REDACTED]’s favour, the District Court considers that the move back home must have taken place no later than 7 August 2013.

#### *Lina [REDACTED]’s knowledge of Joan’s role as a child soldier*

Lina [REDACTED] herself stated that before leaving Egypt she was well aware of the ongoing conflict in Syria. The media coverage was very intense, both internationally and in

Egypt, and she also had personal contact with people who had fled the war in Syria. She could not have been unaware, especially given her roots in the Islamist environment, that the conflict included violent Islamist groups with links to al-Qaeda and others. Clearly, she had already understood that these groups, whose war propaganda films she had shown to her children and whose acts of terror she had admired, did not consider themselves bound by the rules of war. She was also well aware that in this culture boys are considered to become adults early, and that the highest ideal to which they can aspire is to fight and die as mujahedin, jihadi warriors. Anyone who takes children into a brutal war zone is obviously prepared to expose them to the suffering and hardship that must be considered unavoidable in such a situation, as well as to extraordinarily high risks of injury and death. All in all, the District Court concludes that Lina [REDACTED] must have been aware of the risk that the boys, including Joan, would be used as child soldiers prior to the trip to Syria.

Once in Syria, it must very quickly have become clear to Lina [REDACTED] that Joan would be used as a child soldier by IS. By her own account, on arriving in Syria she was met by Jiro [REDACTED], who was armed and wearing a battle harness, and told her he was with IS. She herself also said that during the first period in Syria, before Jiro [...]’s death, she observed her sons training with the men, including running and martial arts. They also told her about this when they got home, which was sometime during the week, and Jiro [REDACTED] also spoke about training. The boys made no mention of weapons training, but when she saw Omar – then 14 years old – handling weapons, she knew he must have received weapons training. Even at this stage, Lina [REDACTED] must have realised that Joan was either already being used as a child soldier or was being prepared to be used as one soon.

On 5 August 2013, Jiro [REDACTED] was killed and the boys moved home to Lina [REDACTED]. Two days after Jiro [...]’s death, she learned that when he left for the attack that cost him his life, he had taken Joan with him. After the family moved to a town outside Aleppo shortly afterwards, she saw a film showing the brutal battle. There she also saw photo 1 (enclosure 104) and found out that it was taken in connection with Jiro [...]’s death.

Certainly by then it must have been clear to her that Joan was being used as a child soldier, and it must have been obvious that this would continue.

In the years that followed in Syria, this realisation can only have been reinforced, and Lina [REDACTED] must have been aware that Joan was continually being used as a child soldier for IS. In this regard, it should be noted that it emerged from Lina [REDACTED]'s statements that the boys associated with men who were in IS and went to different places with them, and that it was important for the boys to become like their father, a hero who fought against the regime. She herself also testified that she feared that Joan would be used as a child soldier, that he was later given a battle harness and weapons, and that he left home without her having any further insight into what he would be doing. Furthermore, it is worth mentioning what she herself told us about knowing from an early stage that Omar had weapons that he was trained to use and let Joan handle, and that she perceived that he was part of IS, whose propaganda he accepted. Based on the investigation in the case, the District Court considers that it is clear that Omar was recruited and used as a child soldier in 2013, and subsequently continued to fight for IS until his death. Omar's role as a child soldier and jihadi fighter is not covered by the indictment, but Lina [REDACTED] cannot have been unaware of his activities, and it must have been obvious that what happened to Joan's brother, only 2 years older, would also happen to him.

The District Court notes that in his chats with his grandmother, Omar was very open about his positive attitude towards IS and talked about the war, including that he and Joan had been involved in various battles. It is hard to understand why he would then have withheld that kind of information from his family present in Syria, even though Taymyah stated that he was more secretive than Joan. The District Court finds far-fetched Lina [REDACTED]'s claim that Omar lied to his grandmother in order to appear manly and that his statements are therefore not credible. Over a long period of time and in many messages, Omar consistently expresses the values he was brought up with and shared with his father, whom he undoubtedly greatly admired and wanted to emulate. The picture of Syria, the conflict and IS that emerges from his messages is very much in line with what is known in these respects. What he writes about his and his family's affairs is often mentioned in passing, as part of other conversations. That he would have thus

skillfully and consistently for most of his life in Syria painted a false picture for a close relative to whom he often seems to turn for support in difficult moments appears to the District Court to be completely improbable.

Taymyah said she was aware that Joan was working as a soldier for IS. She knew Joan would be at the fight on 5 August 2013 because he had told her. He had guns at home, mostly Kalashnikovs, which he acquired when he was around 12 to 13 years old. They shared a room, and she saw him cleaning them. He also had a battle harness. He was trained in front of their eyes, in training camps. This also happened when he was 12 to 13 years old. He did not usually give details of what he was doing, but would say, for example, that he was going to be part of the support personnel, in combat or in camp. He told the family at home, so they would know where he was. She recognises photo 3 (enclosure 104), which was probably shown to her by Joan himself.

Although Taymyah's statements must be evaluated with caution, for reasons previously mentioned by the District Court, her statements in these parts appear to be credible and reliable, and correspond well with what is otherwise known in the case. She was also very cautious about what Lina [REDACTED] knew and the extent to which Joan and Omar were involved in fighting. The fact that a child who lived very closely with his family, like Joan since Jiro [...]’s death, would let others know his whereabouts and share his life also seems natural, and no reason has emerged for her to exaggerate Joan's involvement in the conflict or what he conveyed about it.

*Lina [REDACTED]’s attitude to Joan’s role as a child soldier*

As previously stated, Lina [REDACTED] claimed that she was lured into Syria against her will. A woman who is taken against her will into an active war zone with her minor children may be expected to take every possible measure to remove herself and the children immediately, especially when the children are being used or are at risk of being used as child soldiers. It could thus be expected that Lina would have done her utmost to contact the authorities in Sweden or another country outside IS territory for assistance at every

possible opportunity immediately upon arrival and throughout the period in Syria. It should also be expected that she would try to contact any person in Sweden or abroad who might have the slightest possibility of helping in any way to keep her and the children safe, including, but not limited to, her Christian family in Sweden. The children's grandmother, who, in chats with Omar – available on a phone to which both Omar and Lina [REDACTED] had access – made it clear that she had no high opinion of IS and wanted the children to get out of Syria, also seems a natural person to approach.

Lina [REDACTED] said that there was not always access to electricity and/or a connection, which is also supported by the chats. However, it is clear that on many occasions she was able to chat and/or call abroad. She was clearly in contact with the children's grandmother, with Sadat Bela to arrange the purchase of goods that were then transported to Syria, with her bank and, after Joan's death, with her family in Sweden. However, it is undisputed that she never even hinted that she or the children might be in Syria against her will, and she never made any attempt to contact the authorities. No reasonable explanation for this has emerged, but Lina [REDACTED]'s statements that the grandmother was accusatory towards her and that they therefore had limited contact and that she did not want to give her Christian family any reason to harass her about her conversion to Islam appear in this context to be completely unrealistic.

On the contrary, the chats contain details suggesting that Lina [REDACTED] was not in Syria against her will at all. Omar wrote to his grandmother in November 2013 that he was staying, but that if the situation worsened he would send the family away, and that 'mum doesn't want to go', 'they want to die here'. In January 2014, the grandmother wrote to a friend that Lina [REDACTED] was not listening, and that she wanted to stay there. Jiro [...]s second wife wrote to the grandmother in March 2014 that 'the children will not leave their mother and return'. In August 2014, the grandmother sent photo 3 (enclosure 104) to Jiro [...]s second wife and wrote that Joan was in Syria, 'that's what their mother wants', 'have you seen how the severed [sic] head, 'their mother is a criminal'. She also sent photo 4 to Lina [REDACTED] and wrote 'how can you let the children go with such people to learn to commit crimes and cut off heads', 'they need to go to school and learn', 'since you gave birth to them, show consideration to God', 'is that what you want the children

to be, head cutters', 'and become criminals'. In September 2014, Omar wrote to his grandmother that 'if they [the enemy] want to get our women, they must first pass our corpses, if they do, my mother and my sisters [...] are ready with guns and bomb belts ready to die and take everyone around with them, my father has always said that to us and to my mother'. Also in September 2014, when Omar expressed doubts, his grandmother wrote that 'don't tell anyone [if he was going anywhere], not even your mother', 'because if you tell her, she might tell others so that they stop you from going'.

In May 2017, Lina [REDACTED] wrote to her brother that 'we're all fine', 'Omar isn't with us any more but it's the path we've chosen and we have to be patient with him', 'But otherwise everyone's fine'. When the brother expressed his regret and wrote that it was terrible that Jiro [REDACTED] and Omar were gone and that he did not understand 'what you have done and are doing', Lina [REDACTED] replied that 'of course I'm sorry for them both but happy for them because this was their wish', 'it isn't for you to understand how we live and what we believe in'. In October 2018, she wrote to her brother that 'we live on the little patch that is left for us Muslims and IS'. In response to her brother expressing that he was saddened to hear that she had lost so many in her family, she wrote 'well it's a hard life we live with everyone wanting to finish us off hehe', 'it takes a lot of patience', and 'all of us in my family are happy with the life we're living'. She said that some of the worst things, such as almost daily bombings, could be difficult, 'but we got used to it years ago and it's part of our everyday life'. In November, when the brother pointed out that it was an awful existence and that the children must feel terrible about it, she replied that it was terrible and that they all felt fear, but that the children slept well at night and that they lived on in what had been everyday life for several years. In December, she wrote, among other things, that 'Don't know if you follow news about us and have any idea what's going on here', 'All different kinds of people want to finish us off', 'We feel safe in the life we live because our faith strengthens us and helps us be patient' and 'If you believe in what me and my family believe, you have to be prepared for it to be the way we're living today'. In March 2019, she asked her brother for money to smuggle herself and her family out of the camp. The brother did not agree to send money but offered to contact the Swedish authorities for help, which Lina [REDACTED] emphatically turned down. At the main hearing, she explained that in the al-Hol camp she pretended to be

Syrian in order to be in a better part of the camp and therefore did not want to reveal that she was Swedish, a statement that the District Court considers cannot be disregarded. However, she also wrote to her brother, in connection with expressing that she did not want to go to the authorities, that ‘Then in Sweden they can take my girls away from me’, ‘They’ll say I’m a bad mother’.

In the opinion of the District Court, Lina [REDACTED]’s messages to her brother cannot be understood in any other way than that she was willingly in IS-controlled territory and continued to view IS’s violent jihad positively, despite the hardships and deaths it caused the family. Lina [REDACTED]’s claim that what she wrote was religiously motivated does not lead to a different assessment. Omar, the grandmother and Jiro [...]’s second wife also expressed the view over the years that Lina [REDACTED] was with the family in Syria because that was what Lina [REDACTED] wanted. The grandmother certainly had limited contact with Lina [REDACTED] herself, but Omar and Jiro [...]’s second wife were present with Lina [REDACTED] in Syria. On the other hand, there is no indication in the written material that Lina [REDACTED] ever reconsidered the religious beliefs that had shaped her life and that she had shared for many years with a group that focused on the desirability of living in a fundamentalist Islamic state, which would be created by force if necessary, and on jihad and martyrdom as the highest thing to which boys could aspire. It may also be noted that when IS lost ground, Lina [REDACTED] did not attempt to surrender to Kurdish or allied forces, but continued to flee through IS territory and eventually made it to IS’s last outpost, Baghuz.

*Overall assessment of the question of intent*

On balance, the District Court finds that Lina [REDACTED] must have been aware from the time of her departure from Egypt that Joan could be used as a child soldier, an awareness that can only have been reinforced after her arrival in Syria. Even when he was first used as a child soldier, on 5 August 2013, she must therefore have realised the imminent risk that he would be recruited and used as a child soldier at any time. By the time she saw the combat footage and photo 1 (enclosure 104) a short time after Jiro [...]’s death, she must have been fully aware that Joan was being used and would continue to be used as a child soldier.



Her awareness of the risk of Joan being recruited and used as a child soldier, and subsequently of the fact that Joan was being used as a child soldier, was clearly not a relevant reason for her not to take him to Syria or to make any attempt whatsoever to seek help. On the contrary, the District Court finds that since travelling to Syria and in any event until she fell into the hands of Kurdish forces in 2019, she was deliberately in war-torn Syria with the children, including Joan until his death, despite the fact that she knew the boys were fighting for IS.

All the evidence of the strong faith that characterised her adult life and the way she brought up her children, what was expressed mainly by but also about her in the chats, and the fact that she never made any effort to seek any form of rescue or pointed out that anything that happened was not in line with her wishes, together strongly suggest that she did not, as she claimed, oppose Joan being recruited and used as a child soldier. The District Court considers that, on the contrary, it was in accordance with her convictions and intentions, and thus not something that she sought to prevent.

Therefore, from the time of the trip to Syria until the beginning of the period of the offence, Lina [REDACTED] had the overriding intention that Joan should be recruited and used as a child soldier. Throughout the period of the offence she was fully aware of the risk that Joan would be recruited as a child soldier, and the realisation of that risk was not only something to which she was indifferent but was in keeping with her religious aspirations. Similarly, from the beginning of the period of the offence on 7 August 2013 until she was shown the combat footage and photo 1 (enclosure 104) some time later, she was fully aware of the risk that Joan would be used as a child soldier, and the realisation of that risk was not only something to which she was indifferent but was entirely in line with her convictions. From the time in late summer/early autumn 2013 that she became aware of the combat footage and photo 1 (enclosure 104), she was fully aware that the risk had been realised and that Joan was being used and would continue to be used as a child soldier. This was still not something that she opposed, but rather was in accordance with her ideological aspirations. In conclusion, Lina [REDACTED] thus, throughout the period of the offence, intended that Joan should be recruited by unknown perpetrators and used as a child soldier for IS. Lina [REDACTED]'s statement that she could not imagine younger children

being used as child soldiers, that Omar was perceived as older than he was, and her other submissions do not lead to a different assessment. Nor does what Taymyah said about Lina [REDACTED] not wanting Joan to be a child soldier, or what Sadat [REDACTED] said, without specifying what it was based on, about getting the impression from Lina [REDACTED] that she wanted to leave Syria and that IS was behaving badly.

### **Lina [REDACTED]'s legal liability**

#### *Guarantor status*

A prerequisite for being held liable for a false offence of omission is that one has the status of guarantor. A person may have guarantor status because there is an obligation to avert risks that threaten someone for whom the person is responsible and therefore has to protect. A child is particularly vulnerable because he or she lacks or has limited possibilities to protect his or her own interests and to protect himself or herself against threats and risks. An obvious starting point is that the child's guardian has the status of guarantor. In relation to a child, such a status may also arise on other grounds, e.g. close cohabitation. For guarantor liability to arise in the case of cohabitation, the person must have such a close relationship with the child and such a position in relation to the child that he or she can be said to participate in, and indeed have an influence on, the child's care and upbringing (NJA 2013 p. 588).

In the present case, it is established that Lina [REDACTED], who was Joan's parent, lived with him. In the view of the District Court, it is clear that she had such a close relationship with him and such a position in relation to him that she could be said to participate in, and indeed have a decisive influence on, his care and upbringing. Under Swedish law – though not under IS law, which was not a state law recognised by Sweden – she was his guardian. Lina [REDACTED] thus had the status of guarantor of protection in relation to Joan.

*Conditions in Syria*

It is further established that Lina [REDACTED] did not prevent Joan from leaving home to carry out his duties as a child soldier. The prosecution did not elaborate on what steps Lina [REDACTED], in order to avoid criminal responsibility, might have taken to prevent this, but pointed out that Lina [REDACTED] did not contact the authorities or anyone else for help and did not leave or try to leave Syria with the children.

Lina [REDACTED] stated that she chose to stay in Syria because her sons refused to leave the country and she felt she could not leave without them. She further claimed that as a woman in IS-controlled areas, she was not in a position to prevent Joan from leaving home, but that Omar and later Joan was the head of the family.

It is difficult to see what effective action Lina [REDACTED], once in Syria, could have taken to prevent Joan from being recruited and used as a child soldier by the repressive, misogynistic and violent organisation within whose sphere of control they lived. This especially as there is no evidence other than the fact that Joan, although he could not of course consent to be a child soldier, wanted to be one. Her ability, by contacting the Swedish authorities, smuggling herself and a large group of children out of the country against the wishes of her ideologically convinced and gun-toting teenage sons, or in some other way, to actually prevent Joan from leaving home to carry out his duties as a child soldier, appears almost theoretical. The prosecution's argument that she was an older woman of high status in the environment, that the IS control system was not as developed at the beginning of the period of the offence, that some other women managed to get out with their children, that SÄPO was able to provide some assistance to some people in certain cases, that she was able to dispose of financial assets and that she also by her own account had some influence within the family, does not change this assessment in any decisive way.

*Legal conditions for negligence*

There is a statutory limitation on guarantor liability, which means that the offence must be preventable without danger to the person concerned or to anyone else, and that it can take place without notification to the authorities. However, this concerns a specific form of liability for supervisory guarantors, see Chapter 23 Section 6 of the Criminal Code. It is thus not a rule that applies to guarantor liability in general, and in the view of the District Court is not applicable in the present case (see Petter Asp et al., *Kriminalrättens grunder*, 2013, p. 117 et seq.).

A starting point, however, is that negligence presupposes that it was existentially possible to intervene and that an intervention would also have succeeded. This can be expressed as a high degree of probability that the consequence would not have occurred if the defendant had acted as she had (see NJA 2007 p. 369, Petter Asp et al., *Kriminalrättens grunder*, 2013, p. 109). In the present case, there is no criminal sanction as in the case of offences of effect, which means that the rule may reasonably be interpreted somewhat more broadly, almost to the effect that an intervention would have prevented the offence. However, this does not apply without exception. Doctrine states that the concept of omission does not in itself require that the omitted act be possible to perform. In the case of acts that are merely impossible to perform in a particular case – as opposed to acts that are generally impossible – there is no obstacle to speaking of omission, regardless of whether the act is impossible to perform for everyone or perhaps only for certain persons. Criminal liability is not excluded in such a situation (Jareborg, *Allmän kriminalrätt*, 2001, p. 132). This may be because the perpetrator deliberately or negligently put herself in a situation that she is then unable to control (see a.a., p. 130).

The question of the possibility of taking an obstructive measure and the effectiveness of the omitted measure has not, as a rule, been dealt with in any great depth in the case-law on parental responsibility as guarantor of protection (see NJA 2013 p. 588, judgment of Skania and Blekinge Court of Appeal in Case No B 454-15, judgment of Göta Court of Appeal in Case No B 161-16, judgment of Svea Court of Appeal [Svea hovrätt] in Case No B 4565-18, judgment of Göta Court of Appeal in Case No B 2705-20). All these

cases differ in many respects from the circumstances of the present case. Of greatest interest, according to the District Court, is Case No B 454-15. In that case, Skania and Blekinge Court of Appeal convicted a man of wilfully depriving a child under his care of her life by failing to intervene to protect her from violence and by failing to ensure that she received immediate care. The man was in an apartment where a woman was beating the child to death, and told the woman to calm down but then left the child alone with her. The Court of Appeal states that the man ‘did not intervene adequately when [the child] sought his protection’. A warning – i.e. the measure that Lina [REDACTED] herself claims to have taken to prevent Joan from acting as a child soldier – was thus not an adequate response, but further measures were required, as the District Court understands it almost a physical intervention. There is no discussion of the man’s ability to intervene successfully in the course of events, nor is there any discussion of the risks that this could have entailed for himself (see also the judgment of Svea Court of Appeal in Case No B 4565-18, which also concerns a carer who was in the same apartment where the other adult committed the offence against the child).

*The District Court’s assessment*

It must be stressed that Lina [REDACTED] herself chose to place herself and the children in an extraordinarily dangerous situation where, based on her knowledge of the situation in Syria and the relevant Islamist groups, she must have been aware that she would be unable to prevent Joan from being recruited and used as a child soldier. The social order that deprived her of that influence was consistent with her religious beliefs and with what she was striving for and taking steps to achieve. That Omar and Joan would take on an early role as head of the family and advocate fighting for IS was also precisely what she raised them to do. The District Court further found that even the fact that Joan was recruited and used as a child soldier was in line with her beliefs and thus not something to which she objected.

The assessment of the District Court is that a guarantor cannot escape criminal liability for failing to prevent something that she herself has determined with good sense that she cannot prevent, and which she does not wish to prevent. It follows that the failure of

Lina [REDACTED] to prevent Joan from leaving home to carry out his duties as a child soldier is punishable.

As far as the issue of complicity is concerned, Lina [REDACTED]'s insight must be considered to have encompassed the wider structure of child soldiers within IS, including the involvement of various individuals in their recruitment and use. According to the District Court, she may be considered to have committed the acts jointly and in tacit collusion with unknown accomplices, who, by active conduct, participated in the recruitment and use of Joan as a child soldier. With regard to the question of the extent to which contributory negligence can be extended, the District Court is of the opinion that the fact that Lina [REDACTED], due to self-inflicted incapacity and unwillingness to act, was unable to intervene in an adequate manner cannot be taken into account in this respect either. The District Court concludes that she should be convicted of crimes under international law/war crimes as an accomplice.

### **Classification and penalties**

#### **Classification**

In assessing whether a crime under international law is serious, particular account shall be taken of whether it has been committed by a large number of separate acts or whether many people have been killed or injured or substantial loss of property has occurred as a result of the crime. In determining whether a war crime constitutes a serious crime, particular account shall be taken of whether the act was committed as part of a plan or policy or as part of a wider criminal enterprise, or whether the act caused death, serious pain or injury or serious suffering, extensive damage to property or exceptionally serious damage to the natural environment.

This is not an exhaustive regulation, rather, an assessment of all relevant circumstances should be made in the usual way. Although the offence of war crime includes a wide variety of types of crime, the starting point is that these are serious acts the prosecution

of which is a matter of concern for the entire international community. Therefore, even for war crimes of the ordinary type, there must be room for relatively severe assessments in terms of penalties. It should be borne in mind that war crimes are generally committed in extraordinary circumstances. The specific, peripheral circumstances of an armed conflict or occupation, both at the collective and individual level, must be taken into account. A guiding example of whether an act qualifies as a serious war crime should therefore be whether it caused serious pain or injury or severe suffering. Responsibility for war crimes against the person includes acts of varying degrees of severity, but generally speaking they are likely to be of such high severity that they should be classified as serious war crimes. Offences committed by persons in a senior position should generally carry a higher penalty than offences committed by a person who did not hold such responsibility (prop. 2013/14:146, pp. 196 et seq., 274, 300 et seq., NJA 2021 p. 303).

In this case, the District Court considers that a child aged between twelve and fifteen has been recruited and used as a child soldier by a terrorist sect in a very brutal civil war, and that the child's own parent made this possible. The crime was committed over a period of several years, and it is clear that Joan handled at least automatic weapons and grenades, was present in direct armed conflict dressed in military equipment, and that he also posed with desecrated bodies in a manner that in itself should be considered a war crime. During this time he has also sustained a serious injury to his leg as a result of a bombing near his home. However, the District Court does not find any evidence that that injury occurred while he was acting as a child soldier, and any injury sustained during a period when a child is, strictly speaking, constantly available for use as a child soldier cannot be considered to be a consequence of that use. The intensity with which Joan was used as a child soldier has also not been elucidated, and the investigation suggests that to some extent he had tasks of a somewhat less dangerous and traumatic nature than participation in armed conflict, torture or similar. However, it is clear that, as a child soldier, he was exposed to an extremely high risk of injury and death – which is further underlined by the fact that after the end of the period of the offence he was killed in the final battle for Raqqa – and it is in the nature of things that a child used as a child soldier and involved in activities directly linked to lethal combat and desecration is subjected to

very severe psychological suffering. Against this background, the District Court considers that, on balance, the offence is to be assessed as serious.

### **Penalties**

Lina [REDACTED] does not appear in the criminal record.

The scale of penalties for serious crimes under international law includes imprisonment for up to life, while the scale of penalties for serious war crimes ranges from 4 years to life imprisonment. There is no previous Swedish practice regarding this type of war crime, and the question of penalties is not regulated in international law. Internationally, too, practice is sparse, and foreign judgments must also be considered with caution as they bring into play the sanctioning rules and scales of penalties of other legal systems.

In the aforementioned German judgment, in which a woman was convicted of war crimes against the person, including allowing her child to attend IS training camps, the overall sentence – which also included a number of other offences – was 5 years and 3 months in prison. By way of comparison, there is also a Swedish case where a woman was sentenced to 3 years in prison for aggravated child abduction after taking the child to IS-controlled areas in Syria (judgment of Skania and Blekinge Court of Appeal of 24 June 2021 in Case No B 747-21). As regards the practice concerning parents who, as guarantors, have committed offences of omission against their children, the penalty is 1 year's imprisonment for aggravated assault consisting of failure to seek treatment for the child's burns (judgment of Svea Court of Appeal of 4 April 2012, see NJA 2013 p. 588), 5 years' imprisonment for particularly aggravated assault consisting of failure to protect the child from being subjected to prolonged cold baths (judgment of Svea Court of Appeal of 21 August 2018 in Case No B 4565-18), suspended sentence for causing death by failure to supervise in a swimming pool (judgment of Göta Court of Appeal of 29 September 2016 in Case No B 161-16), 8 years' imprisonment for manslaughter by failing to seek care for a serious injury sustained by the child in the home (judgment of Göta Court of Appeal of 21 June 2021 in Case No B 2705-20), and 14 years'



imprisonment for murder by failing to seek care for the child or intervene in the ongoing abuse of the child's life (judgment of Skania and Blekinge Court of Appeal of 19 May 2015 in Case No B 454-15).

Based on an overall assessment of the circumstances of the case, including taking into account the fact that Lina [REDACTED]'s liability is limited to negligence, which generally carries a lower penalty, the District Court finds that the penalty amounts to 6 years' imprisonment.

In view of the nature and severity of the offence, no penalty other than imprisonment may be imposed. In the view of the District Court, Lina [REDACTED]'s participation has not been limited in such a way as to trigger the application of Chapter 23 Section 5 of the Criminal Code, and there are no extenuating circumstances. The length of the prison sentence should therefore be determined in accordance with the severity of the offence.

### Other

There is still a risk that Lina [REDACTED] will abscond or otherwise evade prosecution or punishment while at large. The current offence is not punishable by a sentence of less than 2 years' imprisonment, and it is not clear that there are no grounds for detention. Detention is still proportionate. She shall therefore remain in custody until the judgment on liability becomes final against her.

Contributions to the Victim Support Fund are required by law.

The compensation claimed by the defence is reasonable. In view of the sentence imposed and Lina [REDACTED]'s financial circumstances, this cost shall be borne by the State.

Settlement document attached.

**HOW TO APPEAL**, see Appendix 2 (TR-01).

An appeal to Svea Court of Appeal must be received by the District Court no later than 25 March 2022.

For the District Court

Jakob Hedenmo



**The document relates to**

Personal ID number/coordination number/date of birth 19720622-9200	Date of judgment/decision: 4/3/2022
Last name: [REDACTED]	First name: LINA [REDACTED]

The person has been detained\* for a continuous period of at least 24 hours in Sweden or abroad in connection with an offence tried in the case or to which the sentence relates. The detention has taken place during the following times.

\*as referred to in Section 2 of the Act (2018:1250) on credit for time spent in detention

**Detained**

**Detention lifted/terminated/suspended**  
(leave blank for a detention in progress)

21/9/2021	
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**Simultaneous enforcement of a sentence in another case**

- The Prison and Probation Service has informed the Court that the person has commenced enforcement or has enforced a sentence in another case during the time he or she has been deprived of liberty (Sections 2-4 of the Decree (2019:96) on credit for time spent in detention).

**Previous detentions relevant to the settlement**

- In the decision, the Court has wholly or partially set aside the sentence in the previous judgment, decision or order, and there is information on detention in the previous judgment, decision or order that is relevant to the settlement.

*Please note: When the Court submits the judgment/decision or the judgment certificate to the Prison and Probation Service, previous judgments/decisions with any settlement documents and settlement documents pursuant to Section 12a of the Code of Criminal Procedure must be attached, if there is information in them that is relevant to the settlement (Section 3(4) of the Regulation (1990:893) on notification of judgment in certain criminal cases etc.).*

Signature

Clarification of name



4/1/2022

Provide these details when contacting the auth

Stockholm District Court  
[Stockholms tingsrätt]  
Division 4,4 Processing Unit 13  
Box 8307  
104 20 STOCKHOLM

STOCKHOLM DISTRICT  
COURT [STOCKHOLMS  
TINGSRÄTT]  
Division 4

RECEIVED 4/1/2022  
:  
CASE NO: B 20218-20  
ENCLOSU 43  
RE:

**IN CUSTODY**

TR case: B 20218-20  
Case admin.: VÅLD

Defendant: surname and all forenames ■■■■, Lina ■■■■		Contact name Lina	Occupation/title
Personal IDNo ■■■■	Citizen of Sweden	Telephone	Interpretation requirement
Address ■■■■			
Public defence counsel/representative ■■■■			
Detention etc. Arrested in absentia 20/9/2021, Arrested 21/9/2021, Detained 24/9/2021.			
Contact details Detained in ■■■■			

**Claim for damages etc.**

**SERIOUS WAR CRIMES and CRIMES UNDER INTERNATIONAL LAW, SERIOUS CRIMES (5000-K1217405-20) or alternatively aiding and abetting SERIOUS WAR CRIMES and CRIMES UNDER INTERNATIONAL LAW, SERIOUS CRIMES**

Injured party

Joan ■■■■, born 27 May 2001, deceased

Criminal Act

Since at least the spring of 2012, there has been a non-international armed conflict between the Syrian regime and several armed groups in Syria.

Lina ■■■■, as guardian and parent, despite knowing about the armed conflict, brought her son Joan ■■■■, born 27 May 2001, to Syria in April 2013.

Lina ■■■■, together and in concert with other perpetrators, caused Joan [...] to be recruited and continuously used for direct participation in hostilities (used as a child soldier) by an armed group in Raqqa, Aleppo and elsewhere in Syria between 1 August 2013 and 27 May 2016, when Joan ■■■■ reached the age of 15. Joan ■■■■

- was trained and educated for direct participation in hostilities,
- provided with military equipment such as uniforms, battle harnesses and military weapons requiring special training, such as anti-tank grenades and firearms, and
- used in combat, served armed, used for propaganda purposes and for other missions that were part of the conduct of the war.

Lina [REDACTED]'s involvement was that she, as guardian and the adult with sole responsibility for and the greatest influence over Joan [REDACTED], allowed him to be recruited and used as a child soldier from the time he was 12 years old until he turned 15. Lina, who was responsible for his daily care, allowed him, among other things, to handle and store weapons in the shared home, provided him with equipment such as shoes and clothes and allowed him, alone or together with other perpetrators, to leave home in order to carry out his duties/tasks as a child soldier.

Furthermore, at no time during the entire period of the offence did Lina [REDACTED], despite having a duty to protect Joan [REDACTED], prevent him from being recruited or used as a child soldier.

Lina [REDACTED] committed the act as part of or in connection with the armed conflict.

In so doing, Lina [REDACTED] committed a grave breach of Common Article 3 of the Geneva Conventions I-IV and of a generally recognised principle of international humanitarian law in armed conflicts.

The offence is to be regarded as serious in view of the fact *that* Lina [REDACTED], as sole guardian and responsible for Joan [REDACTED], was involved in his recruitment and use as a child soldier by an armed group from the age of 12 and his subsequent use as a child soldier for several years until he reached the age of 15, *that* the armed group to which Joan [REDACTED] was recruited and used by as a child soldier was a violent jihadist group/terrorist organisation, including IS, which engaged in particularly ruthless and brutal warfare, *that* the armed group used Joan [REDACTED] for combat missions and equipped him with military weapons, thereby putting his life at risk, *and that* Joan [REDACTED], as a child soldier, caused serious injury and suffering.

Alternatively, by the above-mentioned conduct, Lina [REDACTED] promoted crimes under international law, serious crimes/serious war crimes.

#### Legal basis

Section 4(1)(11), Section 11 of the Act (2014:406) on penalties for certain

international crimes in the version in force before 1 January 2022  
Chapter 22 Section 6(1) and (2) of the Criminal Code in the version in force  
before 1 July 2014

### Evidence

#### *Verbal evidence*

**Interview with Magnus [REDACTED]** regarding his research on the Salafist environment in Sweden, his knowledge of Jiro [REDACTED] the North African network, the Swedish travellers who travelled to Syria in 2012-2013, the purpose/ideological basis behind this, the fact that they travelled with their families and their opportunities to return home from August 2013 onwards, all in support of the claim that Lina [REDACTED] was aware of Jiro [...]’s ideological beliefs, that it was possible to leave Syria alternatively to bring her children to safety after Jiro [REDACTED]’s death, and in support of the claim that Lina [REDACTED] actively chose to bring her entire family to the conflict zone as part of contributing to the establishment of an Islamic state, and what status Lina [REDACTED] had within the jihadist environment in Sweden and Syria.

**Interview with David [REDACTED] of SÄPO** regarding the travel patterns of Swedish travellers during the period 2012-2014 and the opportunities for Swedes to return home from Syria during the period August 2013 to December 2014 in support of the claim that Lina [REDACTED] could have left Syria if she had wanted to.

**Interview with Patrik [REDACTED], Technical INV, Swedish Defence Materiel Administration [Försvarets Materielverk] (FMV)** about the equipment Joan [REDACTED] had, the training required to handle the equipment and the dangerousness of the weapons involved in the case, all in support of the claim that Joan [REDACTED] was used for direct participation in the hostilities and that he used/was provided with lethal weapons requiring special training.

**Interview with Cecilia [REDACTED]** regarding her knowledge of Lina [REDACTED] in the period prior to Lina [REDACTED]’s arrival in Syria and Lina [REDACTED]’s ideological views, how her children were exposed to jihadist propaganda, her desire to live in an Islamic State governed by Sharia law, her choice of place of residence and her relationship with Jiro [REDACTED], all in support of the claim that Lina [REDACTED] went to Syria with the aim of contributing to the establishment of an Islamic State that would include her children and that she was able and willing to act independently of Jiro [REDACTED]

**Interview with Anna** [REDACTED] regarding her knowledge of Lina and Jiro [REDACTED] in the period prior to Lina's arrival in Syria, Lina's ideological views, her desire to live in an Islamic State governed by Sharia law, her choice of place of residence and her relationship with Jiro, all in support of the claim that Lina went to Syria with the aim of contributing to the establishment of an Islamic State that would include her children and that she was able and willing to act independently of Jiro

**Interview with Iman** [REDACTED] about her knowledge of Lina [REDACTED] and Jiro [REDACTED] and the information she received from Jiro [...]’s second wife Inas about the time when the family lived in Syria, all in support of the claim that Lina [REDACTED] went to Syria with the aim of contributing to the establishment of an Islamic State and that she was able and willing to act independently of Jiro [REDACTED]

**Interview with Sadat** [REDACTED] regarding his contacts with Lina [REDACTED] about her time in Syria and regarding the purchases he made on her behalf in Halmstad during the winter of 2014 and 2015, all in support of the claim that Lina [REDACTED] had the ability to control her finances, that she purchased clothing intended to be used by her children, including Joan [REDACTED] as a child soldier, and to refute the claim that she was in Syria involuntarily when she bought/ordered other goods such as clothes, perfume and sweets intended for use in Syria.

**Interview with Maria** [REDACTED] (via video link from UNITAD), Head of UNITAD Gender and Children Unit, regarding the findings in the report **INITIAL FINDINGS ON ENLISTMENT, CONSCRIPTION and USE of CHILD SOLDIERS by ISIL CUBS OF THE CALIPHATE** in support of the claim that children were used as child soldiers on a large scale and in a structural manner by IS (at least from mid-2014), that children were treated differently depending on their origin, that children of travellers were forced into service to a lesser extent than children of other origins, that IS gradually established a structure for the handling of child soldiers and that it followed from IS ideology that children should be used as child soldiers, as Lina [REDACTED] must have realised.

#### *Documentary evidence*

The following documentary evidence is submitted in support of the claim that Joan [REDACTED] was used for direct participation in hostilities by an armed group.

- **Photograph published on the website Gudmundsons blog on 10 August 2013 and on dorar-aliraq.net pp. 109-112 and pp. 133-139 of the Main Protocol**, in support of the claim that Joan [REDACTED] was used as a child soldier from at least 1 August 2013.

- **- Seized photographs, pages 6, 14, 26, 28, 30-33, 38-40, 42, 51-52, 54-58, 60-65, 68, 70, 72-73, 136-139, 141 and 144 of the Photograph Appendix**, of Joan █████ in a home environment, in military equipment and with signs or markings associated with an armed group as well as photographs of Omar █████ in support of the claim that Joan █████ was used as a child soldier, that he lived at home during the time he was recruited and used as a child soldier and that Omar █████ was fighting for an armed group.
- **‘FMV Technical Intelligence Report’, pp. 68-91 in the Report Appendix**, regarding the Swedish Defence Materiel Administration's assessment of the weapons and equipment with which Joan █████ was provided, in support of the claim that he was used for direct participation in hostilities and in support of the claim that he used/was provided with lethal weapons requiring special training.
- **Documents recovered from a hard drive seized on 14 November 2017 by the US Coalition pp. 45-47 of the Main Protocol**, in the area of Raqqa relating to one Abu al Qaqah Al Swedi who is reported to have been examined at Raqqa General Hospital on 28 November 2016, in support of the claim that Joan █████ continued as a soldier even after his fifteenth birthday and until his death.
- **Photograph published on IS media channels pp. 124-132 of the Main Protocol**, of Joan █████ when he died (the martyr photo), in support of the claim that he belonged to and was used by the armed group until his death.
- **Analysis and summary prepared by NOA Analysis regarding Joan and Omar [...]’s participation in hostilities, pp. 12-14, p. 16 of Additional Protocol I**, regarding which jihadist IS-affiliated group Joan [...] was initially recruited to, that Lina attended a training/indoctrination camp, and that the location where Joan [...] poses with dead bodies is Naim Square in Raqqa and what that location was used for during July-August 2014, all in support of the claim that Joan [...] was used for direct participation by an armed group in an armed conflict.
- **Documents recovered from digital devices and other documents seized in February 2019 and on 22 September 2017 by the US Coalition pp. 4-53 (summary pp. 4-8) of Additional Protocol II**, regarding a personal register of IS members and other documents linked to Joan and Omar [...], also mentioning Lina █████, in support of the claim that Joan



[...] was used as a child soldier by an armed group and that Lina Ishaq's intention for her stay in Syria was to help establish an Islamic State.

The following documentary evidence is submitted in support of the claim that Lina [REDACTED] caused the recruitment and use of Joan [...] as a child soldier

- **Analysis and summary prepared by NOA Analysis regarding Jiro [...]’s ideology and group affiliation in Syria, pp. 8-40 of the Report Appendix**, about Jiro [...]’s ideological beliefs and his participation in armed groups in Syria and his death in August 2013, all in support of the claim that Lina [REDACTED] must have realised that Jiro [...] was travelling to the region to participate in an armed struggle and that she, as well as Jiro [...], went to Syria with the ideological conviction that the whole family would contribute to the establishment of an Islamic State, that she was the sole guardian of Joan [...] from August 2013, and to disprove the claim that Lina [REDACTED] was unaware of Jiro [...]’s ideological convictions.
- **Analysis and summary prepared by NOA Analysis regarding Syria in spring 2013 and media coverage in the outside world’ pp. 126-139 in the Report Appendix**, about the situation in Syria in 2013 and the coverage thereof in Egypt (where Lina [REDACTED] was living at the time) and in the outside world, in support of the claim that Lina [REDACTED] travelled to the region when there was an armed conflict going on, or alternatively, that when she arrived in Syria she chose to stay despite the circumstances.
- **Documents from IS’s own administration seized by the US coalition, pp. 24-35 of the Main Protocol**, in Syria regarding documentation about Omar [REDACTED] being considered a martyr, a widow’s pension for his wife ‘Umm Safieh’ and a decision on food rations/pension for Lina [REDACTED], in support of the claim that Lina [REDACTED] and her family actively joined and lived voluntarily in IS-controlled territory and in support of the claim that Lina [REDACTED] was the sole guardian of Joan
- **Financial investigation, pp. 181-199 of the Main Protocol**, regarding Lina [REDACTED]’s financial activities during her time in Syria, including ordering/purchasing five pairs of hiking trousers and two pairs of hiking boots as well as clothing for the family in the autumn/winter of 2014-2015, in support of the claim that Lina [REDACTED] had the ability to take action by controlling her finances, that she purchased clothes intended to be used by her children, including Joan [REDACTED] as a child soldier, and to refute the claim that she was in Syria involuntarily when she purchased

other goods such as clothes, perfume and sweets intended to be used in Syria over an extended period of time.

### **Reports – Report Appendix and Additional Protocol II**

The following documentary evidence is submitted in support of the claim that there was an armed conflict in Syria at the time of the offence, that the use of Joan [REDACTED] as a child soldier was connected to that conflict and that Lina [REDACTED] intended to commit the offence

- **Human Rights Council Report of the Independent International Commission of Inquiry on the Syrian Arab Republic, pp. 142-152, 160, 176-178, 193-194 of the Report Appendix**, in support of the claim that there was a non-international armed conflict in Syria at the time of the offence (paras 1-15, especially (1 and 8)), as well as regarding IS's development (paras 24, 29-39, 52, 56-57, 64, 70) in the period 2012-2014, the flow of 'foreign fighters' to Syria (paras 125-127), the use of child soldiers by IS and the brutality used by IS in its warfare (paras 67-79, 88-91, 205-213) in support of the claim that Lina [REDACTED] brought Joan [REDACTED] to a region where there was an armed conflict, that she intended to contribute to the establishment of an Islamic State in accordance with the ideological beliefs espoused by the terrorist organisation IS and that the group for which he was used was a terrorist organisation/violent jihadist group and that the warfare in which he was used was particularly ruthless and brutal, as Lina [REDACTED] must have realised.
- **Depictions of Children and Youth in the Islamic State's Martyrdom Propaganda, 2015-2016 by [REDACTED], pp. 209-212) in the Report Appendix**, in support of the claim that systematically indoctrinated and used children as child soldiers and that the use of child soldiers was in accordance with an ideology that mothers should raise their sons to participate in the armed struggle to build the Islamic State.
- **Swedish Foreign fighters in Syria and Iraq, [REDACTED], pp. 256, 265, 285-86, 300, 311, 326, 329-32 in the Report Appendix**, regarding the Swedish travellers (men and women) who travelled to the region and returned and that approximately 80 per cent joined IS, to refute the claim that Lina [REDACTED] was tricked into coming to Syria and in support of the claim that, unlike many other travellers, she was older when she travelled and that she had an opportunity to leave Syria if she so wished.
- **Memorandum from the Swedish Security Service** regarding Swedish travellers' travel patterns to Syria and opportunities to return during the

years 2013-2014 in support of the claim that Lina [REDACTED] had an opportunity to leave Syria, **p. 140 in the Report Appendix**

- **Europol – Women in Islamic State propaganda – roles and incentives, pp. 388-422 in the Report Appendix**, in support of the claim that Lina [REDACTED]'s intention in travelling to Syria was to contribute to the establishment of an Islamic State and that, in accordance with IS ideology, she would raise her son to take part in the armed struggle to build the Islamic State.
- **UNITAD's report 'INITIAL FINDINGS ON ENLISTMENT, CONSCRIPTION and USE of CHILD SOLDIERS by ISIL "CUBS OF THE CALIPHATE"', pp. 57-120 in Additional Protocol II**, in support of the claim that children were used as child soldiers on a large scale and in a structural manner by IS (at least from mid-2014), that children were treated differently depending on their origin, that children of travellers were forced into service to a lesser extent than children of other origins, that IS gradually established a structure for the handling of child soldiers and that it followed from IS ideology that children should be used as child soldiers.
- **From Daesh to 'Diaspora': Tracing the Women and Minors of Islamic State, pp. 428, 430 in the Report Appendix**, in support of the claim that Lina [REDACTED]'s intention in travelling to Syria was to contribute to the establishment of an Islamic State and that, in accordance with IS ideology, she would raise her son to take part in the armed struggle to build the Islamic State

**Information from secret coercive measures pp. 130-138 in the Chat Appendix**, directed against Lina [REDACTED] 'Conversation between Matilda at the social services in Halmstad and Lina [REDACTED] after the report about Lina's family had been broadcast on SVT on 4 February 2021' to refute the claim that Lina [REDACTED] did not know that her children had fought as child soldiers and in support of the claim that she had an opportunity to exert influence over Joan [REDACTED]

**Chats – all page numbers refer to the Chat Appendix.**

The following chats are cited in support of Lina [REDACTED]'s active choice to stay in the region and her intention from the moment she arrived in Syria to stay and contribute to the establishment of an Islamic State/the ideology that led to Joan [REDACTED] being used as a child soldier

- Chats between Joumana and Khadija/Omar [REDACTED]  
1/11/2013 20:17:06 – 1/11/2013 20:26:05 (mum doesn't want to go, they want to die here), p. 24
- Chats between Joumana and Britny/Omar [REDACTED]  
5/9/2014 17:33:19 (Lina and the sisters ready to defend themselves with guns and bomb belts) p. 62  
11/9/2014 16:15:31 – 11/9/2014 18:44:07 (Joumana worries that Lina will stop Omar if he wants to go home) p. 70
- Chats between Joumana and Laila [REDACTED]  
10/1/2014 08:20:05 (it was Lina/Khadija who decided that Aya should get married) p. 100  
22/1/2014 08:13:58 – 22/1/2014 08:15:00 (Lina/Khadija has texted Jomana that she wants to stay) p. 101
- Chats between Joumana and Inas:  
19/3/2014 14:49:16 – 19/3/2014 14:51:45 (the children will not leave their mother and return) p. 110  
31/3/2014 09:48:45 (Inas has spoken on the phone with Lina who says everyone is fine and loves her new husband) p. 113  
7/4/2014 05:10:59 – 22/4/2014 15:47:15 (Khadija/Lina and Inas talking on the phone. Inas finds out what Joumana has written to Lina, through Lina) p. 114  
5/8/2014 19:32:49 – 5/8/2014 20:04:55 (Joumana has received pictures from Omar when he is equipped for battle and convinced that it is Lina who wants the children to fight) pp. 116-117
- Chats between Lina [REDACTED] and her brother [REDACTED]:  
3/5/2017 16:55:21 – 11/5/2017 10:37:55 (this is the path that Lina and her family have chosen) p. 6  
28/10/2018 13:21:38 – 28/10/2018 13:35:03 (they live on the little patch left for Muslims and IS, the whole family is happy with the life they're living) pp. 9-10  
8/11/2018 07:26:42 – 8/11/2018 07:27:44 (difficult with food but Lina isn't sad) p. 11  
15/11/2018 07:27:10 – 18/11/2018 08:14:25 (Lina talks about how hard it is to get food and about the bombing) p. 12  
15/12/2018 12:30:29 – 5/1/2019 14:21:50 (Lina says that their area is getting smaller and smaller, that it is being bombed and that it is difficult to get food. If you believe in what your family believes in, you have to be

prepared for the life they live) p. 15  
28/3/2019 21:44:18 – 30/3/2019 09:34:40 (Lina doesn't want help from  
the Swedish authorities) pp. 18-19

The following chats are cited to support the claim that Omar [REDACTED] was a  
combatant in an armed group/violent jihadist grouping and eventually IS.

- Chats between Joumana and Khadjia/Omar [REDACTED]  
1/11/2013 20:19:21- 1/11/2013 20:29:25 (mum doesn't want to go, they  
want to die here) p. 24  
5/11/2013 17:52:57 – 5/11/2013 18:00:43 (Omar to take part in a major  
battle) pp. 25-26  
11/11/2013 19:35:18 – 11/11/2013 19:35:34 (Omar gets money through  
spoils of war) p. 28  
12/11/2013 18:36:36 – 12/11/2013 18:36:36 (Omar wants to help his  
Muslim brothers) p. 29
- Chats between Joumana and Britny/Omar [REDACTED]  
5/8/2014 19:11:15 – 5/8/2014 19:13:25 (Omar is in Damascus fighting for  
IS) pp. 33-34  
18/8/2014 18:06:49 (Omar to carry out an attack) p. 40  
25/8/2014 17:52:12 – 25/8/2014 17:52:19 (photo of Omar's weapon) p. 52  
5/9/2014 17:13:05 – 5/9/2014 17:31:51 (Omar is convinced of the struggle  
and his ideology) pp. 58-62  
15/9/2014 20:27:24 – 15/9/2014 20:29:19 (Omar is a member of IS)  
pp. 77-78
- Chat between Lina [REDACTED] and her brother [REDACTED]:  
3/5/2017 16:55:21 – 11/5/2017 10:37:55 (this is the path that Lina and her  
family have chosen) p. 6

The following chats are cited to support the claim that Joan [REDACTED] was recruited  
to an armed group/violent jihadist group/IS and used for direct participation in the  
armed conflict, of which Lina [REDACTED] was aware:

- Chats between Joumana and Khadjia/Omar [REDACTED]  
12/11/2013 18:07:34 – 12/11/2013 18:16:50 (Quaqah/Joan training in  
training camp) p. 28-29  
12/11/2013 18:46:37 – 12/11/2013 19:08:44 (Quaqah/Joan to go to war  
with Abo) p. 29-30  
5/8/2014 19:38:05 – 8/8/2014 07:21:56 (Joumana sends a message to Lina  
in which she is angry with Lina about the photo from Naim Square) p. 31

- Chats between Joumana and Britny/Omar [REDACTED]  
5/8/2014 19:51:19 – 5/8/2014 19:51:22 (Omar says he and his brother are Muslims fighting heretics) p. 37  
20/8/2014 15:34:21 – 20/8/2014 16:01:23 (Omar tells us that Joan was blackened/sunburned) pp. 41-42  
24/8/2014 20:13:38 – 24/8/2014 20:24:19 (Joan was wounded, not fighting Abu Rashed, but while checking his wounds after an attack on Raqqa) pp. 48-50  
24/8/2014 20:30:09 (Lina dresses Joan's wounds and goes to the hospital when needed) p. 50  
15/9/2014 20:17:34 – 15/9/2014 20:19:48 (IS court issues permit to carry weapons) pp. 75-76  
12/10/2014 16:40:06 – 12/10/2014 16:40:32 (Joan has recovered from injury) p. 88
- Chats between Lina [REDACTED] and her brother Fady:  
3/5/2017 16:55:21 – 11/5/2017 10:37:55 (this is the path that Lina and her family have chosen) p. 6

The following chats are cited in support of the claim that Lina [REDACTED] could have acted independently, had control over her situation and that of her children, and could have left the country if she wished.

- Chats between Joumana and Britny/Omar [REDACTED]  
24/8/2014 20:08:50 (Lina has chosen to turn down offers of a husband) p. 47
- Chats between Joumana and Laila [REDACTED]  
9/1/2014 21:18:16 – 9/1/2014 21:19:26 (Khadjia/Lina has fled to the Turkish border) p. 99  
10/1/2014 08:20:05 (it was Khadija/Lina who decided that Aya should get married) p. 100  
22/1/2014 08:13:58 – 22/1/2014 08:15:00 (Khadjia/Lina has texted Joumana that she wants to stay) p. 101
- Chats between Joumana and Inas:  
21/2/2014 21:10:00 (there are some from there who returned to Sweden) p. 109  
25/3/2014 12:27:30 – 31/3/2014 09:48:45 (Inas has spoken on the phone with Lina who says everyone is fine and loves her new husband) p. 113

The following chats are cited in support of the claim that daughter Aya and son Omar were married when they were minors.

- Chats between Joumana and Laila [REDACTED]  
2/11/2013 22:23:14 – 2/11/2013 22:25:33 (Aya has got married) p. 97  
9/1/2014 21:10:45 (Aya’s husband is wounded) p. 99
- MMS to Joumana from Khadiga:  
2/11/2013 22:18:11 (Aya has married a guy from Saudi Arabia) pp. 105-106
- Chats between Joumana and Iman:  
18/3/2014 07:58:25 – 18/3/2014 08:35:40 (Omar has got married) p. 122

The following chats are cited in support of the claim that Lina [REDACTED] communicated with Joumana and thus received the information that Joumana had about her sons, thus refuting the claim that she did not know that her sons had participated as combatants in an armed group.

- Chats between Joumana and Khadija/Omar [REDACTED]  
11/11/2013 19:32:34 (Lina has just talked to Joumana) p. 28  
5/8/2014 19:38:05 – 8/8/2014 07:21:56 (Joumana sends a message to Lina in which she is angry with Lina about the photo from Naim Square) p. 31
- Chats between Joumana and Laila [REDACTED]  
22/1/2014 08:13:12 – 22/1/2014 08:15:00 (Khadija has texted Joumana that she wants to stay) p. 101
- Chats between Joumana and Iman:  
10/4/2014 08:28:43 (Joumana is angry and says that she skyped with the donkey, i.e. she can be assumed to have made clear what she thinks about various things to Lina) p. 124
- MMS to Joumana from Khadija:  
2/11/2013 22:18:11 (Aya married a guy from Saudi Arabia) pp. 105-106

The following chats are cited in support of the claim that Omar [REDACTED] was often away from his family and thus had limited influence and control over Joan [...]’s daily life.

- Chats between Joumana and Khadija/Omar [REDACTED]  
1/11/2013 20:19:21- 1/11/2013 20:29:25 (Omar is where the fighting is, the family is in Aleppo or Idlib) p. 24  
11/11/2013 18:43:46 – 11/11/2013 19:29:03 (Omar is not with the family) p. 27
- Chats between Joumana and Inas:  
8/2/2014 09:08:08 – 2/3/2014 15:27:36 (Omar is occasionally away from the family) pp. 108-109  
5/8/2014 19:32:49 – 5/8/2014 20:04:55 (Omar is in Damascus) pp. 116-117.
- Chats between Joumana and Iman:  
22/04/2014 13:46:30 – 22/04/2014 13:53:11 (Omar lives alone) p. 125
- Chats between Joumana and Britny/Omar [REDACTED]  
5/8/2014 19:11:15 – 5/8/2014 19:13:25 (Omar is in Damascus) pp. 33-34  
18/8/2014 18:06:49 (Omar in a different place from the family) pp. 39-40  
24/8/2014 20:13:38 – 24/8/2014 20:24:19 (Omar not in the same place as Joan who is injured) pp. 48-50  
29/8/2014 19:37:42 (Omar to visit Joan who is injured) p. 54  
6/9/2014 17:37:36 (Omar to visit Raqqa where the family is) p. 66  
15/9/2014 20:12:17 – 15/9/2014 20:13:37 (Omar is in Elbab and is being visited by Lina and Joan) pp. 72-74  
12/10/2014 16:38:37 – 12/10/2014 16:40:32 (the family is in a different place from Omar) pp. 87-88

The following chats are cited in support of the claim that Lina [REDACTED] remarried after Jiro's death.

- Chats between Joumana and Iman:  
18/3/2014 07:58:25 – 18/3/2014 08:04:32 (Lina has got married) pp. 122-123  
22/4/2014 13:46:30 – 22/4/2014 13:46:53 (Othman/Joan called Joumana and told her that Lina had got married) p. 125

#### Administration

Draft main negotiation plan attached

[REDACTED], *investigator*  
[REDACTED], *assistant investigator*





## How to appeal

Judgment in criminal matters,  
District Court

TR-01

If you want any part of the judgment to be changed, you can appeal. Read how it works here.

### Appeal in writing within 3 weeks

Your appeal must be received by the Court within 3 weeks of the date of the judgment. The deadline for appeal can be found on the last page of the judgment.

### Appeal after the other party has appealed

If one party has appealed in due time, the other party also has the right to appeal even if the deadline has expired. This is known as a cross-appeal.

A party may lodge a cross-appeal within 1 additional week from the end of the period for appeal. A cross-appeal must therefore be lodged within 4 weeks of the date of the judgment.

A cross-appeal lapses if the first appeal is withdrawn or does not proceed for any other reason.

### This is what to do

1. Indicate the name of the District Court and the case number.
2. Explain why you think the judgment should be changed. State what change you want and why you think the Court of Appeal should hear your appeal (read more about leave to appeal below).

3. Specify the evidence to which you want to refer. Explain what you want to show with each piece of evidence.

Submit any documentary evidence not already in the case file.

If you want to have new interviews with someone who has already been interviewed or a new viewing (for example, a visit to a site), you should mention this and explain why.

Also indicate whether you want the plaintiff to attend a main hearing in person.

4. Provide name and personal ID number or corporate identification number.

Provide current and complete information on where the Court can reach you: postal addresses, email addresses and telephone numbers.

If you have a representative, please also provide the representative's contact details.

5. Sign the appeal yourself or have your representative do so.
6. Send or submit the appeal to the District Court. You will find the address in the judgment.

### What happens next?

The District Court checks that the appeal has been lodged in due time. If it is filed too late, the Court rejects the appeal. This means that the judgment remains in force.

If the appeal is lodged in time, the District Court forwards the appeal and all documents in the case to the Court of Appeal.

If you have previously received letters by simplified service, the Court of Appeal can also send letters in this way.

### **Leave to appeal to the Court of Appeal**

When the appeal is lodged with the Court of Appeal, the Court first considers whether the case should be reviewed.

If you do *not* obtain leave to appeal, the judgment under appeal remains in force. It is therefore important to include everything you want to say in your appeal.

### **When is leave to appeal required?**

#### **Criminal part**

In the criminal part, leave to appeal is required in two different cases:

- The accused has only been sentenced to a fine.
- The accused has been acquitted of an offence carrying a maximum penalty of 6 months' imprisonment.

#### **Damages part**

Leave to appeal is required for the Court of Appeal to hear a claim for damages. Exceptions may apply when a judgment is appealed in the criminal part, and there is a claim for damages linked to the offence. In that case, leave to appeal is not required for the damages part if

- leave to appeal is not required for the criminal part

or if

- the Court of Appeal grants leave to appeal in the criminal part.

### **Decisions on other matters**

In cases where leave to appeal is required in the criminal part (see above), leave to appeal is also required for decisions which may only be appealed in the context of the appeal against the judgment. Decisions subject to special appeal do not require leave to appeal.

### **When do I get leave to appeal?**

The Court of Appeal grants leave to appeal in four different cases.

- The Court considers that there is reason to doubt that the District Court ruled correctly.
- The Court considers that it is not possible to assess whether the District Court ruled correctly without reopening the case.
- The Court needs to review the case in order to provide guidance to other courts in the application of the law.
- The Court considers that there are exceptional grounds for reopening the case for some other reason.

### **Want to know more?**

Contact the District Court if you have any questions. The address and telephone number can be found on the first page of the judgment.

More information is available at [www.domstol.se](http://www.domstol.se).