

Conviction in a case concerning a grave war crime and a terrorist offence

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Today, Stockholm District Court convicted a 32-year-old man for a grave war crime and a terrorist offence and sentenced him to life imprisonment.

The charges

The charges concern allegations related to a filmed execution of a Jordanian pilot, which took place after he was captured in Syria on December 24th, 2014, while on a mission for the global coalition against the Islamic State (IS). On February 3rd, 2015, IS released a video showing the pilot being executed by being set on fire while confined to a metal cage.

In the case, the Prosecutors have alleged that the defendant, who is a Swedish citizen, carried out the execution together with other perpetrators belonging to IS, that he was aware that the act was being filmed and that the film would be distributed. The Prosecutors therefore brought charges for a grave war crime. The Prosecutors have also demanded that the man should be convicted of a terrorist offence and alleged that the act could have seriously damaged certain countries within the global coalition against IS. According to the Prosecutors, the act was committed with the objective of seriously intimidating a population or group of a population which did not share IS' ideology, and with the aim of unduly compelling the global coalition against IS, as an international organization, to perform or abstain from performing military acts. According to the charges, the defendant should be convicted of both a grave war crime and a terrorist offence, or alternatively for aiding and abetting these crimes.

The District Court's assessment of the question of guilt

In the case, it is proven that the pilot was captured after his plane crashed in Syria on December 24th, 2014, that the execution video was published on February 3rd, 2015,

and that he was executed in Raqqa at some point during that period. It is also proven that a non-international armed conflict (NIAC) was ongoing in Syria at the time and that the defendant travelled from Sweden to Syria in August 2014 to join IS. It is further established that the pilot was a protected person under the Geneva Conventions and general international law as placed *hors de combat* by detention.

The execution video itself undoubtedly shows the pilot being killed by being set on fire while confined to a metal cage. The video also shows that he was filmed in various contexts, before and during the execution. Due to the fact that the pilot was on assignment for the global coalition against IS when he was captured and considering the narrative that IS construct in the video, that the execution was a revenge for airstrikes carried out by the coalition, it is clear that there was a nexus between the act and the NIAC.

The District Court has also found that the act as such could have seriously damaged the state of Jordan and other states mentioned in the film, which were part of the global coalition against IS.

- The evidence has shown that the defendant was at the execution site, uniformed and armed, and let himself be filmed. The film and the further evidence have shown that it was another man who lit the fire and thereby directly caused the death of the Jordanian pilot. However, the District Court has found that the defendant, through his actions, contributed so actively to the death of the pilot that he should be considered a perpetrator, says the presiding judge Anna Liljenberg Gullesjö. The defendant's actions consisted of, acting together with other men, guarding the pilot both before and during the execution, and bringing him to the cage where he was set on fire, she continues.

When assessing whether the defendant acted with intent – which he has denied – the District Court has particularly taken into account what was known about IS when he joined the organization, what has emerged about IS' elite force Liwa al-Sadiq, the defendant's Facebook activities, the significance of the execution video and the defendant's subsequent actions.

- The District Court has found that the Prosecutors' evidence indicates with such strength that the defendant has acted intentionally - in terms of the execution, the filming, the distribution of the film and the objective to seriously intimidate a population or group of population that does not share the IS ideology - that it is proven beyond reasonable doubt that this was the case, says Anna Liljenberg Gullesjö. When the defendant's own statements have been assessed, the District Court has considered that they neither refute nor detract value from the Prosecutors' evidence. There is also no basis for discharge from criminal liability.

When examining whether it is possible to convict the defendant for both charged crimes at the same time, the District Court has found that there are no legal

objections to it. The defendant is therefore convicted of a grave war crime and a terrorist crime.

The District Court's assessment of the questions of sentence and damages

- When sentencing, the District Court has taken into account that the act involved a brutal and filmed execution, carried out with great ruthlessness with the purpose of spreading IS' message. The manner in which the execution was carried out must have been extremely painful for the pilot, who must have experienced an intense fear of death. Consequently, no alternative to life imprisonment can be considered, says Anna Liljenberg Gullesjö.

Despite having taken into account that the defendant has already been sentenced to 30 years and life imprisonment respectively for his involvement in the terrorist attacks in Paris in 2015 and Brussels in 2016, the District Court sentences him to life imprisonment.

- If the defendant previously would have been sentenced in Sweden to life imprisonment, the Court would have been legally prevented from deciding anything other than applying the previously imposed sentence also to the additional crimes. The legal position is not clear as to whether Swedish courts should apply the national provision on this matter in relation to a life sentence imposed in another EU state. In light of the fact that the criminal act at issue merits the most severe sanction, life imprisonment, and that conditional release, under certain circumstances, may become relevant in relation to the Belgian life sentence, the District Court has concluded that the penalty should be life imprisonment, comments Anna Liljenberg Gullesjö.

The defendant is currently serving a prison sentence in France. To be able to hold the trial in Sweden, Swedish and French prosecution authorities have entered into an agreement on the temporary surrender of the man to Sweden. The agreement requires that he is returned to France as soon as the legal proceedings in Sweden has been completed, albeit no later than December 27th, 2025.

The defendant will remain in custody in Sweden until the verdict becomes final against him. However, the decision only applies until he is returned to France in accordance with the agreement on temporary surrender.

The District Court has also awarded each of the Jordanian pilot's parents and siblings damages to the amount of 80 000 SEK. When assessing the question of damages, the Court has applied Syrian law together with Swedish case law. Taking into account the very aggravating circumstances of the case, the District Court has considered that it is justified to award a higher amount than the standard amount according to Swedish

case law at the time in question.

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