

Norway: All charges dropped against Krekar

On 15 June 2004 a Norwegian state prosecutor announced that all charges are to be dropped against Mullah Krekar for a lack of evidence and fears that witness testimony in Iraq was coerced (*The Associated Press, June 15, 2004*).

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NORWAY-NETHERLANDS

Krekar case poses more questions than answers

On 12 September 2002, the Dutch authorities arrested Mullah Krekar at Schiphol airport on the grounds that he posed a threat to national security. His flight from Iran to Norway stopped over in Amsterdam.

The "suspect"

Mullah Krekar, an Iraqi Kurd, has been living as a political refugee in Norway since 1991 (and has a Norwegian passport). He is accused of participating in terrorist activities, although the nature of the charges remain unclear and the evidence has proven insufficient for successful prosecution. Mullah Krekar, or Farai Ahmad Najmuddin, is one of the founders of the Islamic organisation Ansar al-Islam (originally Jund al-Islam - Soldiers of Islam). He was born in the Iraqi province of Al-Sulaymaniyah, studied Islamic Law in Pakistan and allegedly followed the teachings of Abdullah Azzam, who was also the mentor of Osama bin Laden. In Pakistan, Krekar became involved in the Afghan resistance movement and went to fight against the Russians in Chechnya. He was cited saying that Osama Bin Laden was the crown of Islam. Ansar al-Islam operated in the north of Iraq and is named in relation to attacks on Kurdish politicians and holds the reins of a religious government in some villages in the north of Iraq.

According to the United States, Ansar al-Islam fighters give shelter to high ranking al-Qaida members and have experimented with chemical weapons. Just before the US and UK-led attack on Iraq, the United States saw Ansar al-Islam as a threat to Kurdish parties in Northern Iraq. In February 2003, Ansar al-Islam was added to the United Nations list of terrorist organisations.

Ansar al-Islam called for a holy war in the region, but it is unclear if Krekar supported this position. Some sources say he supported the radical fractions, others say that he was more of

a compromise figure in the organisation. According to Michiel Leezenberg (lecturer in Islamic Philosophy at the University of Amsterdam) Krekar was a preacher and not a military leader and he argues there is little proof for the accusations about his presumed participation in terrorist activities.

When Krekar was arrested at Schiphol airport in September 2002, the Dutch authorities claimed the arrest took place on grounds of a drugs related extradition request by Jordan. However, the events that followed revealed that the US suspected Krekar of "terrorist activities" as well as relations with al-Qaida and Saddam Hussein, although he does not appear on the FBI's 'most wanted' list. On the day of Krekar's arrest, a Dutch Ministry of Justice spokesman claimed that it was related to immigration offences and that "several countries" were discussing his case with the Dutch secret service (which, it was later revealed, provided the "evidence" for this case).

The events leading up to the arrest

Krekar was put under house arrest in Norway at the end of August 2002 because of alleged recruitment activities for a cell of Ansar al-Islam in Norway. Preliminary investigations were initiated against him on grounds of terrorism and abuse of his asylum status. In face of prosecution in Norway, Krekar left the country for Sweden, but Sweden told him to leave so Krekar took a flight to Iran to travel on to northern Iraq. The Iranian authorities arrested and imprisoned him in Teheran, despite that fact that he was neither convicted of any crimes, nor had he encountered problems with Iranian authorities in the past. Iran used to support Ansar Al-Islam, but according to the Economist, the Iranian secret services have increased their cooperation with 'Western' (American) intelligence agencies.

The events that followed imply at least some form of cooperation between the different governments involved, albeit a confusing one:

On 12 September 2002

- the Iranian authorities expel Krekar back to Norway via Amsterdam where he is arrested and imprisoned at the high security prison of Vught.
- Norway notifies the Dutch Embassy in Teheran of Krekar's presumed terrorist activities,
- the military police at Schiphol airport is notified by the Dutch Embassy in Teheran that Krekar is flying into Amsterdam with Iran Air on flight 765 and tell Dutch police that the Norwegian authorities have revoked Krekar's asylum status.
- Jordan files an extradition request with the Dutch department of Interpol, upon which Interpol orders his arrest. The original extradition order reads: "criminal conspiracy to

commit crimes against individuals". One day later, the extradition request is changed to be only drugs related, presumably to give a legal basis to the extradition (see below).

On 13 September 2002

- the Norwegian Ambassador to Holland visits Krekar at Schiphol airport, where he tells the military police that Krekar still has a legal status in Norway.

After the Ambassador's visit, the military police book a flight for Krekar from Amsterdam to Oslo for Saturday 14 September 2002. The same day, whilst imprisoned in Vught high security prison, Krekar is interrogated by FBI personnel from both, the American Embassy in Brussels and the FBI offices in Washington.

- Krekar remains imprisoned in Vught awaiting trial for Jordan's extradition request, now changed to charges of drugs trafficking.

Although Jordan changed its extradition order for Krekar to drugs related crimes, a letter from the Dutch secret services to the Dutch Ministry of Justice was leaked to the public in January 2003 and it became clear that Jordan was also looking for Krekar in relation to a bomb attack on the chief of the Jordanian secret service Department for Counter Terrorism on 28 February 2002. This information however, was not given to the judges or the defence team, who were led to believe that the extradition request was based entirely on drug related crimes. As Holland does not have an extradition treaty with Jordan, so only people suspected of drugs related crimes can theoretically be extradited because both countries signed the 1988 United Nations Convention Against Illicit Traffic In Narcotic Drugs and Psychotropic Substances, which allows for people to be extradited in relation to drugs crimes. But in Holland, no extraditions under this Convention have taken place and nor have any extraditions to Jordan taken place because of concerns over human rights abuses.

"Suspect" deported during proceedings - lawyers arrested

Throughout the proceedings, Krekar's defence lawyer V. Koppe suspected other motives were behind the arrest. On 28 November 2002, in a letter to the Ministry of Justice, he demanded to be informed about the precise nature of the extradition request. JPH Donner, Minister of Justice, replied there were no charges other than the drugs related ones, but the lawyers initiated proceedings against the minister to clarify if J P H Donner had misled the courts. On 9 January, the judges ruled that the extradition dossier did not support the lawyer's suspicions. This gave the green light for the extradition proceedings against Krekar to start on 25 January at the court in Haarlem. However, on 12 January, before the trial had started, J P H Donner personally issued an order for Krekar to be deported to Norway and claimed there was an agreement that Krekar would be arrested on arrival. The Dutch Ministry of Justice issued a press release on 14 January saying that, confronted with the probability that the

extradition request would not be granted (by that time it became clear that there was no evidence supporting the Jordanian claims of drugs trafficking) and that Krekar would therefore be released from detention. The Ministry had decided they would deport him to Norway, where the authorities had promised to arrest him on arrival. The Norwegian authorities would later deny that there had ever been such a deal. In effect, the Dutch Ministry of Justice decided Krekar's fate (prison and deportation) without any convictions against him and based on accusations of "terrorist activities" for which there remains no evidence.

Krekar's lawyer was not told of the deportation order but went straight to the airport when he heard about it. There he joined Krekar in a police van. Together they challenged the deportation order and lodged an asylum claim with the Dutch authorities on grounds of likely prosecution in Norway and consequent extradition to northern Iraq. His asylum request was rejected within 20 minutes and without proper proceedings being followed. The police ordered Koppe, the lawyer, to leave the van as they were about to drive Krekar to the plane (a private Lear jet aircraft used for deportations). Koppe refused and was then arrested together with his colleague, M. Strooij. Krekar's lawyer said that his client's deportation was a disguised extradition. "Holland cannot deport someone to a country where a criminal investigation is going on and where his residence status might be taken from him", he said. Krekar was flown to Norway.

On 25 January 2003, the extradition case against Krekar fell because he was not there to be extradited. Krekar's lawyers appealed to the Court of Justice in Amsterdam against the deportation and the rejection of Krekar's asylum request. This hearing went ahead, considering Krekar's deportation and right to return to Holland, as well as the irregularities surrounding the Dutch Minister's handling of the case - including his failure to notify the prosecution about the deportation he ordered. The "real" reason behind the extradition request became known when a letter, dated from 13 September 2002, from the Dutch Intelligence Service (AIVD) to the Minister of Justice, was leaked to the public on 18 January 2003. A bomb attack on the chief of the Jordanian secret service Department for Counter Terrorism on 28 February 2002, during which two by-standers were killed, was cited. This information was neither presented to the Court of Justice in Haarlem, which dealt with the extradition request, nor to Krekar's lawyers. If the Court of Justice had known about it Krekar would have been released immediately because it would have rendered the 1988 UN Convention on Drugs redundant as a legal basis for extradition, and there is no other legal basis in Holland for extraditions to Jordan. The full extent of the Dutch ministers collusion in the case as well as the involvement of the secret services was thereby revealed (evidence from the secret services is not admissible in court).

Justice minister intervenes

The Minister's handling of the case, the deportation and the withholding of evidence, has received widespread criticism in the media. It is argued he perverted the course of justice and commentators accuse him of hypocrisy, In particular recalling his behaviour during another 'terrorist' trial where the court released four al-Qaida suspects because the evidence against them was provided by the Dutch secret service - the Minister called for a change in law to allow for secret service evidence to be allowed in court for criminal prosecutions. However, in Krekar's case, he withheld this evidence. Ironically, Krekar's lawyers agree with Donner that in this case, the AIVD (Dutch Intelligence Service) evidence should have been given to the court to consider, because it would have shed light on the treatment that would have awaited their client in Jordan. They argue that as this was not a criminal prosecution, the evidence would have only served to provided a basis for the judges to be able to make an informed decision on extradition.

Why was Krekar arrested?

A number of motives are thought to lie behind the initial arrest of Krekar.

More questions have arisen than have been answered: How did Jordan know that Krekar was in Holland and why did Norway notify the Dutch authorities, presumably asking for him to be arrested? Why did the Dutch Embassy in Teheran falsely claim that Krekar's legal status in Norway was revoked? Did Jordan's extradition request on the basis of drugs crimes relate to the lack of a legal basis for the extradition as well as suiting Holland's attempts to prove to the "international community" that it is not 'weak' on drugs policy? Anonymous sources from within the Dutch Ministry of Justice say that it is peculiar that an extradition order from Jordan is considered at all by the Ministry of Justice. Holland has never extradited people to Jordan because of their "lack of trust in the Jordanian legal system".

The U.S. involvement

It was reported that Donner had consulted the U.S. authorities before Krekar was arrested and before he issued the deportation order. Although the US never filed an extradition request they were named as partners in the proceedings. The lack of an official extradition request caused speculation that they did not have enough evidence. Krekar touched on other reasons when he commented on Norwegian television after his deportation from Holland that he has worked with the CIA. FBI officers interviewed him in prison in Holland because of a Jordanian extradition request seeming to confirm J P H Donner's claim that the United States showed a lot of interest in Krekar. One of the federal officers working for the Department of Justice in Washington, who also interrogated Krekar in Vught, acknowledged that the US did not have any proof of possible terrorist activities involving Mullah Krekar. After Krekar's deportation to Norway Washington also claimed that they were not looking for him in relation to criminal activities.

According to Krekar, during his interrogation in Vught, the FBI asked him about Osama Bin Laden and Saddam Hussein and were mainly interested in any possible contacts between the two. Krekar also claimed that the US put pressure on him because he and his group refused to cooperate with them in the planned attack on Iraq.

Political afterpains

When Krekar arrived at Oslo's airport on 13 January 2003, there were no police waiting for him but a lot of journalists - as he had acquired public status in Norway after being accused of terrorist activities and links to al-Qaida. The Norwegian authorities denied that there was any deal with the Dutch authorities. The Norwegian Ambassador said in the press that Norway had time and again made clear that there would be no arrest.

In a debate in the Dutch parliament the Minister of Justice had to admit that there had been no guarantee that Norway would arrest Krekar on arrival in Oslo. Lasse Qvigstad, head of the Oslo Prosecution Authority, prevented his arrest as there was no evidence of criminal conduct. Qvigstad has apparently prevented charges against Krekar for some time now while the Norwegian secret service unsuccessfully sought prosecutions.

According to Norwegian television, the United States started to panic when Krekar was not arrested in Norway and were considering an extradition order. U.S. Secretary of State, Colin Powell, talked with his Norwegian colleague Jan Petersen (Minister of Foreign Affairs) and Powell proclaimed that the US did not want people suspected of terrorist activities "going out and taking part in new actions".

In the Dutch hearing on Krekar's deportation and asylum request, the Court of Justice ruled on 1 February 2003 that the deportation of Krekar had been unlawful and that the asylum request which Mullah Krekar made together with his lawyers on the last moment at the airport was justified and should have been taken into account and not rejected within twenty minutes. In his decision, the judge queried why, after four months of imprisonment in a high security prison, Krekar and his lawyers had not been notified about the deportation as well as wondering why the Minister of Justice personally ordered the deportation and why the case had not followed the normal rules and regulations. However, the Judge ruled out the possibility of Krekar being returned to Holland because there was no reason to believe Norway was unsafe.

Back in Norway

On 19 February 2003, the Norwegian Minister of Interior Affairs (Local Governance) Erna Solberg decided to extradite Mullah Krekar to northern Iraq. The Minister said that Krekar was a threat to Norway's national security and that his refugee status should be revoked, even

though a month earlier, the Norwegian public prosecutor saw no legal basis for his arrest. There was to be an investigation into the alleged abuse of the asylum system, according to the Norwegian authorities, Krekar had regularly visited northern Iraq after 1991. The Norwegian authorities also continued proceedings against Krekar for alleged financing of guerrilla activities as well as the formation of a terrorist group. Krekar was charged with breaking § 104a in the Norwegian Penal Code, which covers organisations which threaten or disturb the security of the country.

Brynjar Meling, Krekar's lawyer in Norway, appealed against the decision to extradite him to northern Iraq and the Dutch lawyers launched another appeal against Krekar's deportation to Norway, claiming that Krekar's life was in danger if he was extradited and demanded his return to Holland. On 21 and 22 of February 2003, members of the Dutch Immigration and Naturalisation Service (IND) visited Krekar in Norway concerning his rejected asylum request. On 26 February, the appeal was sent to the Court of Justice in Amsterdam. On 9 April this year, the judge ruled that Mullah Krekar's asylum application was unlawfully rejected by the Dutch authorities and that the state was obliged to look at his substantive claim. The Ministry of Justice concluded from the ruling that Krekar would have to be allowed to return to Holland to process his application.

In Norway, Mullah Krekar is under investigation and Jordan has lodged an extradition requested on the same grounds that it did to Holland. On 15 March 2003, Krekar was told that he had to leave Norway within three weeks. The government revoked his asylum status. According to the Minister of Interior Affairs, Erna Solberg, there are reasons to believe that Krekar, as leader of Ansar al-Islam, has relations with al-Qaida. Erna Solberg claimed that Krekar's role as political, religious and military leader would attract terrorism to Norway. She also thought that his life would not be in danger in northern Iraq. However, during the USA-UK invasion of Iraq most of the members of Ansar al-Islam were killed.

On 19 March 2003 Krekar gave an interview to the Dutch news programme, Netwerk, in which he stated that he had his troops ready and that they were far more dangerous than Palestinian suicide bombers. On 20 March the war in Iraq started. The interview was partly reproduced by the Norwegian television and interpreted as breaking the terrorist statute § 147a in the Norwegian Penal Code. The Oslo Remand Court consequently ruled on 21 March 2003 that he be held for four weeks on remand to await trial. Krekar won his appeal to the Intermediate Court and therefore the Økokrim (police branch dealing with economic crimes) appealed to the Supreme Court, based on the Intermediate Court's legal interpretation of § 147a.

On 9 April 2003, the Norwegian Supreme Court overturned charges brought against him in an earlier judgement by the Oslo Remand Court. The Court said that there was still no evidence to convict Krekar of any terrorist offences.

As of June this year, the Ministry was still working on the extradition case. The Minister, Erna Solberg, told Aftenposten on 7 June that the Ministry was working on "putting the extradition decision into effect". A number of lawyers have argued against this, on the grounds that the Kurdistan Democratic Party is now in control of Northern Iraq, and that Iraq is not (yet) a state in its own right, so that extradition to Iraq would in effect be extradition to the US occupation force, and the US has the death penalty.

Extradition to Jordan has been set aside (the request was far too thin) and extradition to Iraq is an uphill case. It is predicted that Krekar will remain in Norway.

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