



**TRIAL OF ANWAR RASLAN and EYAD AL GHARIB**

Higher Regional Court – Koblenz, Germany

Trial Monitoring Report 9

Hearing dates of August 19 and 20, 2020

*CAUTION: Some testimony includes descriptions of torture.*

**Summary / Highlights:**<sup>1</sup>

**Trial Day 24**

- **P11, a 35-year old man, testified about his detention at Al-Khatib and Kafar Souseh branches. Over 16 days, P11 was beaten repeatedly on his back, legs and feet. His testimony describes overcrowded conditions where detainees did not receive medical treatment and suffered from injuries from beating and contagious viruses. He shared that his interrogator had a calm voice that he believes he could recognize today. P11 was not told of his criminal charge, “looking for demonstrations,” until he appeared before a court. He was released after the brief court hearing.**

**Trial Day 25**

- **P12, a 41-year-old software engineer, testified about his detention in Division 40, Branch 251, and Branch 285. His testimony reveals details about the crowded conditions in the cell and the beatings and intimidation interrogators would use to extract information. He was once questioned by a high-ranking interrogator and said he would be able to identify the person’s voice. P12 provided sketches of his cell and the layout of Branch 251, including the corridor where detainees were beaten and left to kneel for several hours. P12 also documented security forces using live ammunition on demonstrators, however, that evidence was destroyed to protect him after he was arrested. P12 was active in early demonstrations and publicly advocated for human rights through blog posts.**

**Trial Day 24 – August 19, 2020**

There were about 10 spectators and 11 individuals from the media present. The proceedings began at 9:30 am. Federal Public Prosecutor Christian Ritscher from Karlsruhe appeared for Prosecutor Jasper Klinge.

The proceedings began with a discussion of an [interlocutory order](#) from the federal court regarding trial monitors’ request for access to Arabic language translation. The High State Court had denied a motion for access to Arabic translation as well as a motion for reconsideration. The issue was appealed to the German Constitutional Court along with a request for preliminary measures. The Constitutional Court

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<sup>1</sup> Throughout this report, [information located in brackets are notes from our court monitor] and “information placed in quotes are statements made by the witness, judges or counsel.” Note that this report does not purport to be a transcript of the trial; it is merely an unofficial summary of the proceedings. The names of witnesses have been redacted.



granted preliminary measures stating that Arabic translation should be provided to Syrian accredited media.

The decree arrived the evening before the trial day and Chief Judge Dr. Kerber noted it that morning. Judge Kerber asked if there were accredited Syrian journalists among the spectators who needed headphones for translation. The trial monitor raised his hand [even though he is not accredited, because he wanted to say that he was one of the applicants]. The court guard came with headphones and asked for media accreditation. Mrs. Michelle Trimborn from ECCHR informed the guard of the situation, who in turn conveyed the information to Judge Kerber at the judges' panel. Judge Kerber came to the spectator's area and Mrs. Trimborn explained the situation. Judge Kerber refused and said that one must be accredited to receive the headphones. Mrs. Luna Watfa, a non-accredited Syrian journalist, talked with Judge Kerber and asked for headphones, but Judge Kerber refused again for the same reason. Judge Kerber returned to the panel and said that she does not even want to start simultaneous interpretation, but it was the decision of the federal court. She said that the [trial monitor] was not accredited and therefore, would not be provided with a translation device. She said that the interlocutory order does not refer to non-accredited spectators.

The full interlocutory order was read out. The petition was filed by SJAC's trial monitor and Mr. Mansour Al-Omari.<sup>2</sup>

### **Testimony of P11**

The witness decided to testify in German and was counselled by Patrick Kroker. The witness is not related to the accused.

The witness was a 35-year-old apprenticed musician and medic.

Judge Kerber asked P11 to talk about his detention. P11 said that, on September 30, 2011, he was in Duma with two friends looking for demonstrations. There were none, however, because the army was in the streets. After that, P11 and his friends were seen by uniformed army, who came and blindfolded

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<sup>2</sup> The problem, and reason for this complaint, is that oral proceedings may neither be streamed live nor recorded before German criminal courts (section 169 subsection one sentence two of the *Gerichtsverfassungsgesetz*, or GVG). Therefore, it is impossible for people in Syria to watch the trial. They rely on accessing trial information in Arabic-language media. However, media representatives are only spectators and not parties to the proceedings. The translations of the court-appointed interpreter are transmitted via headphones directly to the parties in the proceedings. Under "normal" conditions representatives of the Arabic-speaking media could call in "whispering interpreters" (normally at their own expense). Due to the pandemic, and therefore necessary distance regulations, this is currently not possible in the courtroom. The media representatives therefore requested access to the judicial translation system. The presiding judge in Koblenz dismissed the application on the ground that such access requires additional technical equipment that must be maintained and, in particular, disinfected. Furthermore, it would not be possible to ensure that no unauthorized recordings are made. The only thing that, according to the judge, is possible is that a fluent German speaker records the testimonies. The media representatives could use these protocols and have it translated at their own expense. A constitutional complaint against this was filed. No final decision has been made. The issued order is merely a provisional measure preventing the constitutional complaint from becoming worthless, as the constitution-conform condition can no longer be reproduced if the trial has ended. It now obliges the presiding judge to "make appropriate arrangements within the scope of her authority to conduct the proceedings to enable accredited media representatives with special reference to the Syrian conflict to monitor the German-language proceedings with the help of their own arrangements or by making use (for a fee) of the court's translation system provided or by other means in the Arabic language."



them and flipped their t-shirts over their heads [to cover their faces]. Therefore, P11's experience was more acoustic/auditory rather than visual. They were beaten on the streets until the first bus arrived, in which they were taken to another small bus that took them to Al-Khatib, where he stayed for five days. He was interrogated three times and was beaten. Food was scarce and there were human rights crimes. He was brought to the central administration in Kafar Souseh, كفر سوسة, where he stayed until October 16, 2011. He was brought to court and was released afterwards.

Judge Kerber asked how P11 knew that it was Al-Khatib. P11 said that he heard that information from other detainees in the cell. The second time he heard it was when he arrived at Kafar Souseh. He heard a military [person] saying "Here comes the group of Al-Khatib."

Judge Kerber asked if he recognized the accused from back then in Syria. P11 said no.

#### Judge Wiedner's Questioning

Judge Wiedner asked P11 to speak about his civic involvement and to give an overview about his career. P11 said that he was relatively active in the revolution since March 2011. P11 studied medicine from 2002 – 2008 and studied music from 2006 – 2011. He worked as a volunteer army doctor in Al-Yarmouk camp, Palestine hospital.

Judge Wiedner asked if P11 graduated. P11 said no. He did not do his last exam, because he did not want to join the army [compulsory military service].

Judge Wiedner asked P11 if he would be more comfortable testifying in Arabic. P11 said that he would try in German and if he needs help, he will ask the translator.

Judge Wiedner noted from P11's testimony during police questioning that he did not complete his study on purpose, because he did not want to serve in the army. P11 confirmed.

Judge Wiedner asked if it is correct that P11 did not serve in the army. P11 confirmed.

Judge Wiedner asked P11 about his experience in the demonstrations. P11 said he participated in his first street demonstration, a sit-in, in Duma on March 25. He called his friend [name redacted], who is a doctor, an ex-communist and an ex-detainee. After that, he participated in other demonstrations in Al-Midan, ركن الدين Rukn Ed-Deen الميدان and Hama حماة at the end of June (maybe July), one week before Ramadan in 2011. He tried to help using his medical knowledge.

Judge Wiedner asked how the regime dealt with the demonstrations at the beginning. P11 said that the police reacted harshly against the demonstrators. They were even shooting and some [people] fell. Judge Wiedner asked if it was live ammunition. P11 confirmed.

Judge Wiedner asked when the security forces began to use violence at demonstrations. P11 said that, unfortunately, there were no demonstrations without violence. He did not witness demonstrations where one could freely demonstrate against the regime.

Judge Wiedner asked if it was aimed shooting or shooting in the air. P11 said that in 2011 in Jdaydet Artouz جديدة عرطوز he treated a demonstrator who was shot in the upper leg and had removed the bullet at home.

Judge Wiedner asked if he saw demonstrators being detained. P11 confirmed. They were beaten with sticks and weapons, blindfolded, and their hands were cuffed to their front or usually behind their back.



Judge Wiedner asked if that was P11's own detention or others'. P11 confirmed he was talking about others. The demonstrators' heads were shoved down in the car.

Judge Wiedner asked which security forces were doing this. P11 said that he cannot classify them. Judge Wiedner asked if [the forces] were wearing uniforms. P11 said not always.

Judge Wiedner asked if P11 knows what happened with the demonstrators. P11 said that he heard stories that they were tortured and some of them disappeared. P11 said that all of that was conjecture, because there are no official reports. The intelligence services do that, and no one can ask them or hold them accountable.

Judge Wiedner asked if P11 was detained 4 times. P11 confirmed.

Judge Wiedner asked P11 where he was detained. On August 8, 2011, P11 was detained by the military intelligence services, Palestine branch for 23 hours. Judge Wiedner asked if P11 was abused. P11 said only lightly. He was slightly beaten. P11 said that the second detention was in Al-Khatib and Kafar Souseh from September 30, 2011 to October 16, 2011. The third detention was on September 13, 2013 for six days by Jabhat Al-Nusra in Palestine camp . مخيم فلسطين. Judge Wiedner recalled that the police questioning transcript stated "September 12." P11 said that it could be, but it was for 6 days. He was kidnapped from the street, rather than detained. The fourth detention was from January 1, 2014 to February 25, 2014 by the military intelligence services, Palestine branch. Judge Wiedner asked if P11 was abused. P11 said slightly, but that was a special story.

Judge Wiedner asked when P11 left Syria. P11 replied that it was March 16, 2014.

Judge Wiedner asked P11 to further explain the security forces who detained him. P11 said that he saw people in uniforms with Kalashnikovs. At the street crossing, he saw people in "half-uniforms" (same colour but without insignias) and wearing sport shoes, whereas, armed forces wear boots. Syrians know that these people are not from the army, but rather *Shabiha* or intelligence services.

Judge Wiedner asked if they were paramilitary. P11 confirmed.

Judge Wiedner asked if they were part of a specific intelligence services. P11 said that Damascus and its suburbs were divided into districts, for which an intelligence apparatus was responsible. Duma (where P11 was) and Az-Zabadani الزبداني were under the responsibility of Al-Khatib, state security. P11 added that it was a common knowledge.

Judge Wiedner asked if P11 was abused on his way to Al-Khatib. P11 said that the transport was divided into four phases: Phase 1, on the street, in front of the bus; Phase 2, in the bus; Phase 3, in between the two bus rides; and Phase 4, in the second bus. P11 said that he was abused in all four phases, especially on the street. Their shirts were flipped over their heads, while they were insulted and kicked. P11 saw two people getting beaten before their heads were covered with their t-shirts. Seeing this, P11 did that by himself [flipping his t-shirt over his head]. When they saw him do that, they said "that son of a who\*\* knows already about the situation." P11 felt so much pain, because he was beaten in the chest, which was already broken.

Judge Wiedner asked P11 if his rib was fractured. P11 confirmed.

Judge Wiedner asked if there were consequences of his injury. P11 said that he was not able to cough during his detention. He was a smoker, so the mucus collected in his lungs and lead to pneumonitis. The doctors in prison would ask who had a problem, then say that they were not there to relieve pain. After his release, P11 sought treatment.



Judge Wiedner asked if P11 was treated during his detention. P11 said that he was not treated nor was he examined. In the bus, the seats were two next to each other. P11 remembers that someone stepped over him in the bus. P11 was on a seat with his head down. Next to him was his friend. Their hair was set on fire with a lighter (it sounded like that). The armed people started laughing and saying, "They are burning." Another person said that he would put out the flame. P11 believes that the latter urinated on them. P11 was beaten on his back with a metal object or a military helmet.

Judge Wiedner asked if that was in the first or second bus. P11 said that he was on the first one.

Judge Wiedner noted that in the police questioning, P11 said that it was in the second bus. P11 said maybe it was. He apologized saying it was nine years ago.

Judge Wiedner asked P11 to describe the second bus. P11 said that it was a 24-passenger bus, smaller and more modern. It was common knowledge that these busses belonged to the state (mainly to the intelligence services). P11 could differentiate it from the sound of its engine.

Judge Wiedner recalled that in the police questioning, P11 said that he was certain that the second bus did not belong to the army but rather to the intelligence services. P11 confirmed.

Judge Wiedner asked what happened next. P11 said that they entered a lit hall, and it was evening.

Judge Wiedner asked if they got off in an inner yard. P11 said that he does not know and lost track of time because he was blindfolded. They were then brought to the hall.

Judge Wiedner asked if they were brought directly to the hall in the building. P11 said that there were officers and tables where they had to put their belongings.

Judge Wiedner asked if they were not abused immediately at their arrival. P11 said yes [they were not].

Judge Wiedner asked whether they remained on the same floor or went downstairs. P11 said he had to put everything that was in his pockets on the first table and his belt and shoelaces on the second one. At the third table, he had to take off his pants and underwear and squat/crouch down.

Judge Wiedner asked if that was to search body orifices. P11 said yes. They wanted to search if someone was hiding something. They only inspected and he was not touched.

Judge Wiedner asked P11 if he stayed naked. P11 said no. He was permitted to put his clothes back on as well as his shoes minus the laces.

Judge Wiedner requested P11 to describe what happened next. P11 said that he was taken to a cell with others, but his friends went to another one. P11 does not remember how many detainees were in the cell, because it varied every day. It was approximately 9 – 10. P11 clearly remembers that the floor had tiles with some blankets on it. Other detainees helped him lie down. P11 felt as if there was a stone under the blanket. Other detainees helped him look for it but found nothing. P11 lay down again and still felt the stone. His fellow detainees examined his back and told him that there was a swelling from the beating.

Judge Wiedner asked if P11 had open wounds. P11 said that he does not know. Most of the beatings were on the back. Judge Wiedner noted that in P11's police questioning he said that he was worn out, had a lot of pain, and had open wounds on his back and head. P11 said that he did not know.

Judge Wiedner asked if other detainees had injuries. P11 said that he does not remember if it was in that cell or in a different one, but there was someone with injuries in Kafar Souseh.



Judge Wiedner asked P11 if he heard noises or screams from the outside. P11 said that there was something like a window with small holes in it through which some light used to get inside. P11 remembered that there was a cat.

Judge Wiedner asked if the window was at the top of the cell and the cell was in the basement. P11 said that he does not remember if he went downstairs to a basement. P11 saw a [building] corner through the window. Judge Wiedner asked again if the window was at the top. P11 confirmed.

Judge Wiedner asked if P11 saw the cat. P11 confirmed.

Judge Kerber asked whether P11 saw the whole cat or only its legs. P11 said that he does not remember, but the window was above the ground level.

Judge Wiedner asked if P11 heard noise or screams. P11 said no, he does not remember hearing that in that cell.

Judge Wiedner asked if he heard that later in Al-Khatib. P11 said that he does not remember.

Judge Wiedner asked about the general and sanitary conditions and if water was available. P11 said that he remembers that food was scarce. One time, dinner was a potato and a quarter loaf of bread. Another time, it was 7 – 8 olives. P11 said that during his time in Al-Khatib and Kafar Souseh, he lost 17 kg of weight. P11 said that he does not remember the toilet and water in Al-Khatib, however, in Kafar Souseh, there was water and a toilet in the cell.

Judge Wiedner asked if P11 was always in the same cell. P11 confirmed.

Judge Wiedner asked P11 about his interrogation. P11 said that “they” were interrogated three times in five days. P11 said that he was saying “they” [we], because he was with two of his friends. P11 did not see the other two in the first two interrogations. All three of them went to Kafar Souseh.

Judge Wiedner asked where P11 was interrogated and if there was a staircase. P11 said that he does not remember if there was one [staircase]. It was on the same floor. The prison guard was shouting and ordered them to face the wall. He called for their names and then blindfolded them. The prison guard grabbed P11 by his arm and took him to the interrogation room. P11 does not remember the three interrogations. P11 had to wait in a hallway facing the wall. The prison guard knocked on the door and said “*Sidi* [Sir], the prisoner is here”.

Judge Wiedner asked if P11 witnessed something while waiting in front of the room. P11 said that he was not allowed to ask questions. He was told that in the cell one must lie down on his abdomen and raise his feet up to receive the blows.

Judge Wiedner recalled that in P11’s testimony to police he said that while he was waiting and before his turn, another person was being interrogated in the room and P11 heard screams and the sounds of beating. P11 said that he remembers that it was at the third interrogation and does not remember that it was at that time [first interrogation].

Judge Wiedner asked if it is correct that P11 heard it once. P11 confirmed. It happened in one of the three interrogations, but he was not 100% sure that it was the third one.

Judge Wiedner requested P11 to describe how the first interrogation was conducted. P11 said that he was brought into the room and there was an officer (P11 was not sure because he was blindfolded. He was describing what happened from what he perceived acoustically) with a calm voice who told him to



lay on his abdomen, raise his feet up, and answer questions. When that person did not like the answer, he called another person Abo Ghadab أبو غضب or Abo Azab أبو عذاب. P11 does not remember if there were more people in the room. The executioner did not talk and was only beating. The interrogator asked P11 if he would talk or if Abo Ghadab should keep beating. P11 was beaten. P11 said ok and he would talk, so the beating stopped. Then he was beaten again, he talked, then it stopped, and so on. P11 used to give them burnt names, which were already known.

Judge Wiedner asked what P11 meant by burnt names. P11 said names for people like [name redacted], whom P11 knew was already detained, so that the beating stopped. The interrogator knew [name redacted]. He tried to find restatements to harm people the least possible. P11 does not remember how many times that cycle was repeated, or how long it lasted.

Judge Wiedner asked if the beating was on the soles of the feet. P11 said that yes and on the heel, on the leg, and on the same place [repeatedly]. It was on purpose and they knew they were good at what they were doing.

Judge Wiedner asked what the name of that method is. P11 said Falaqa فلقة.

Judge Wiedner asked if there were consequences. P11 said that he was not able to walk because of his swollen feet, and he had a lot of pain.

Judge Wiedner asked about the tools. P11 said that he remembers that it was neither wooden nor metal. Perhaps it was plastic, but P11 was not 100% sure. The detainees used to talk among each other about the quadruple/tetra/fourfold cable, water pipe, tank belt (which he does not exactly know) and in the branch there was "Al-Akhdar Al-Ibraheemi الأَخضر الإبراهيمي" the green water pipe.

Judge Wiedner asked if others talked about what happened with them. P11 said yes, it was systematic and did not happen only with him.

Judge Wiedner asked if there were orders for beatings. P11 said that the interrogator ordered the prison guard, saying, "Beat him." Judge Wiedner asked if P11 heard that. P11 said yes, the orders were given with a calm tone. It was not an angry tone.

\*\*\*10-minute break\*\*\*

Judge Wiedner repeated the question of if there were orders for beating. P11 confirmed.

Judge Wiedner asked if there were also beatings without orders. P11 said that he does not remember.

Judge Wiedner noted that in the police questioning in 2019, P11 said that during the first interrogation, there were not always direct verbal orders, yet there were beatings. P11 said yes, maybe.

Judge Wiedner asked P11 about the accusations against him. P11 said that he first heard it in court: "Looking for demonstrations," which was not a crime according to the criminal law. P11 perceived that torture<sup>3</sup> was not for the purpose of getting information, but rather as a means of punishment. They tried to make it a systematic process in order to intimidate the people from the regime to not sympathize with the opposition.

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<sup>3</sup> See Text box below



Judge Wiedner asked if P11 was told about his accusation during the interrogation. P11 said that he does not remember. He was not asked real questions.

Judge Wiedner asked P11 about the special subject in the third interrogation regarding his two friends. P11 said that he was able to see from underneath the blindfold. P11 saw only bare feet, they could be [name redacted]. P11 could hear [name redacted] voice while he was being beaten. He [name redacted, P11's friend] got outside and P11 was brought inside. It was a psychological horror. They were not allowed to talk to each other.

Judge Wiedner asked if P11 saw injuries on other detainees. P11 confirmed.

Judge Wiedner asked if P11 saw corpses. P11 said no.

Judge Wiedner asked how they were transported. P11 said that a prison guard came to the cell and called a few names. P11 thought that it was for an interrogation, but the guard told him to bring his shoes with him. They were not blindfolded and all three [P11 and his two friends] met at the corridor. They were maybe 15 – 20 in total. Their hands were tied behind their backs and their heads were between their knees. Afterwards, they were taken to Kafar Souseh. There, a military person said, "This is the group of Al-Khatib."

Judge Wiedner asked if P11 then concluded that it was Al-Khatib and if he talked with others about it. P11 said yes, that was an assumption. No one was 100% sure that they were in Al-Khatib. They found out when they arrived at Kafar Souseh and heard that statement.

Judge Wiedner asked how P11 knew that it was Kafar Souseh. P11 said that when they were registered it was written on the paper: "General Intelligence Directorate – Kafar Souseh."

Judge Wiedner asked if P11 knows the status of both branches. P11 said that Al-Khatib belongs to the state security. Kafar Souseh is central and higher in hierarchy.

Judge Wiedner asked if P11 was beaten in Kafar Souseh. P11 said that he does not remember if he was beaten during the interrogation, but the problem was in the cell. P11 was taken to an office. He was able to see the floor and the tiles were better, which is why he assumed that it could be an office. P11 lay down on his abdomen immediately and raised his feet up. The people in the room laughed and said, "No, no, sit on the floor." The detention was difficult because the cell measured about 3.5m x 4m with 89 detainees. At the door, it was written 103 or 107. The method of sleeping was "*Tasyeef*" تسييف ["swording"] - sleeping on the shoulder. They were like sardines - their backs to the wall and one's head to another's feet. There was not enough space.

Judge Kerber asked for clarification on the term P11 mentioned [*Tasyeef*]. P11 said "*Tasyeef*". People say, "Sleep on your *Sayf*," meaning on the shoulder. Judge Wiedner clarified that there was not enough space for everyone. P11 confirmed. People used to stand several nights and wait for others to wake up. The lights were on the whole time.

Judge Wiedner asked P11 if his family knew where he was. P11 said no. No one knew where they were and there were no attorneys.

Judge Wiedner asked if P11 was apprehensive. P11 said yes. He did not know if he would die or what would happen to him in the future. There were no legal procedures or laws, nor rights for the detainees. There was a prisoner in Kafar Souseh who had an open wound in his leg with a fracture and they were sitting next to him the whole time. He was moaning the whole time from pain and apologized to others for the sounds.



Judge Wiedner asked if P11 still suffers from that experience. P11 confirmed. It was not a pleasant one.

Judge Wiedner asked if P11 has physical consequences. P11 said no. He only had a broken rib. P11 said that because of the COVID-19 situation, he remembered something about Kafar Souseh. They had blindfolds with “ش N” on them (it is like شمالي northern) and P11’s left eye started to get itchy. The same happened with other detainees and their left eyes were red and itching. P11 asked for a doctor and said that there was an infection. When one came, P11 showed him his eye and got very close to the doctor on purpose. The doctor was shocked and quickly backed up. P11 looked at the doctor and knew that it was bad. P11 was released after 17 days and his friends after 34 days. His friends told him that a quarantine was imposed, because the infection spread through all cells. P11 said that an outbreak of viruses and diseases would happen in such cells. P11 wondered about the current situation with COVID-19, which could be a death sentence.

Judge Wiedner asked P11 if that means that it is still the same now. P11 said yes, that it seems so.

Judge Wiedner asked P11 to describe his release. P11 said that the prison guard came to the cell, called P11’s name, and told him to bring his shoes with him. P11 was then transferred by bus to the justice palace. P11 did not know about anything. He was in the court jail waiting, when attorney [name redacted] came. In the courtroom, the [female] judge smiled and asked P11 if he was looking for demonstrations. P11 looked at Attorney [name redacted], who told P11 to say “No.” P11 said “No.” After that, P11 was simply released without a guilty verdict.



Judge Wiedner asked P11 to look to the right and see if he could recognize the accused. P11 said no, but he was glad that the accused was getting a fair trial in a fair court, not like in Syria. He said that he is hoping for a fair decision and thanked the court.

#### The Definition of "Torture" in German Law:

There is no written uniform definition in German law of what torture is. Nevertheless, the regulations in Germany cover the requirements of the United Nations Convention Against Torture (UNCAT).

It would probably be difficult to create a special specific offence of torture in German law. The German law system mainly uses general clauses instead of specific provisions for individual cases. In view of the vastness and indeterminacy of some of the terms contained in Article 1 of the UN Convention against Torture (UNCAT), it seems hardly possible to formulate an offence based on the wording of that Article that simultaneously satisfies the requirements of certainty (so called *Bestimmtheitsgrundsatz*) to be placed on a criminal norm in Germany. Moreover, such a special regulation would suggest reversal conclusions and thus favors the emergence of regulatory gaps. Ultimately, the decisive factor is whether the general criminal provisions are already capable of covering torture.

In regular German criminal law acts of torture are covered by the offences of bodily injury (sections 223, 224, 226 of the *Strafgesetzbuch*, so called StGB), and in particular bodily injury in office/as an official (section 340 StGB). Even though the torture does not necessarily need to have the goal of obtaining information, blackmailing or extortion of testimony (section 343 StGB) is also conceivable. Only the latter provision includes psychological maltreatment.

In the *Völkerstrafgesetzbuch* (Code of Crimes against International Law, VStGB) acts of torture are mentioned in section 7 para 1 No. 5 as a Crime against Humanity and in section 8 para 1 No. 3 as a War Crime. However, neither of these two provisions offers a legal definition. In section 7 the torture is explained in more detail but not conclusively. Psychological maltreatment, for example, largely matches the UNCAT, some other things are missing. The prevailing view in the literature is that torture cannot be conclusively defined, but will be "recognized" when it has occurred. This also makes it possible to capture new methods of torture later on.

When it comes to procedural rules, the Code of Criminal Procedure (StPO), in section 136a prohibits the use of evidence where information has been obtained by the authorities through so called prohibited interrogation methods. Although some torture methods such as abuse, sleep-deprivation, cruelty or the forced use of drugs are mentioned here, they are not explicitly named as torture.

Evidently, apart from 2001 (before the VStGB came into force), there was no Federal Supreme Court decision or ruling in which torture was once defined in more detail by the judges. However, this ruling explicitly refers to the UNCAT (see: Federal Supreme Court, 21.02.2001 - 3 StR 372/00 para 24). Since this decision was made before the VStGB came into force it has no binding effect for the ongoing proceedings. Therefore, it will be quite interesting to see how the OLG Koblenz will later define torture in its judgment when it has to rule on the alleged crimes.

#### Questioning by Prosecutor Ritscher

Prosecutor Ritscher asked if there were children and female detainees in the branch. P11 said that in his cell there were only men. P11 did not see any children or women.

Prosecutor Ritscher asked if there was sexual abuse. P11 said that he did not experience it himself and does not know about others, because they did not talk about it.

Prosecutor Ritscher recalled that P11 said that he was beaten with *Falaqa* and asked if there were other methods. P11 said that he heard about *Shabh* , شبح where one is hung from his hands or ankle for several hours or days. P11 also heard about electric shocks, but he did not see either [methods].

#### Questioning by Defense Counsel Michael Böcker and Plaintiff Counsel



Böcker asked if P11 had read the transcript of his police questioning on August 22, 2019. P11 said that he had only read it that day [of the questioning] and signed it.

Böcker asked if P11 was told about the content of it. P11 said that he had not been.

Kroker asked how big the cell was in Al-Khatib. P11 said that it was approximately 2x3m and they were able to lie down.

Kroker asked how many detainees there were. P11 said about 9 – 10.

Kroker asked what P11 did with his hands when he was lying down in the interrogation with his feet raised. P11 said that he did not mention that he was a musician. He used to put his hands under his chest. Hands and fingers are important to the musician. If they were damaged, it would mean the end of the music career.

Kroker recalled that P11 said that he could remember the voice of the interrogator and described it as calm. P11 said that all three interrogations were conducted by the same person and he could recognize his [the interrogator's] voice.

Kroker asked if P11 could recognize it nowadays. P11 said yes.

Kroker asked if Raslan was willing to give a voice sample. Böcker shook his head and Kroker said that they could see Böcker shaking his head [refusing the request].

Plaintiff Counsel Sebastian Scharmer pointed out that being a musician means that P11 has a good ear for sounds and [musical] instruments. He asked P11 if voice recognition counts as well. P11 confirmed that he is able to recognize voices.

The witness was dismissed.

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Böcker requested to read out a petition that he and his colleague, Defense Counsel Fratzki, wrote, but had not yet signed – an application on repeating the taking of evidence from the beginning. Accredited media representatives with special relations to the trial/ Syrian conflict would be allowed to get Arabic interpretation starting today [due to the preliminary measures ordered by the German Constitutional Court]. This was not available trial days one to 23. Only physical attendance was possible, so an understanding was withheld.

Prosecutor Ritscher said that a statement on that is reserved.

Scharmer stated that the trial takes place in public, but it is not for the public, so proceedings did not have to be repeated.

Al-Gharib's Defense Counsel Schuster said that there would be many difficult legal issues, but he agreed with Raslan's defence.

Scharmer said that tomorrow he might give an explanation on §257 (2) StPO.

The proceedings were adjourned at 12:35 p.m. The next trial will be August 20, 2020 at 09:30 a.m.

**Trial Day 25 – August 20, 2020**



There were about 12 spectators and 8 individuals from the media present. The proceedings began at 9:30 am.

Judge Kerber asked if there were accredited journalists among the spectators who needed Arabic translation. There were none. [Starting this day, this will be a routine question].

Mr. Kägebein appeared for Al-Gharib's Defense Counsel Hannes Linke. Mr. Ritscher and Mr. Polz represented the prosecution. P12 was counselled by Mr. Sebastian Scharmer and invited by Plaintiff Counsel Kroker.

### **P12's Testimony<sup>4</sup>**

The witness was a 41-year-old software engineer who founded a small IT company in Germany and is unrelated to the accused. He was summoned as a witness.

Judge Kerber asked P12 to speak about his career in Syria and his experience with the regime. P12 said that he was born and grew up in Aleppo. He moved to Damascus to study at the university where he studied program/software engineering. P12 graduated in 2004 and worked in his speciality field. He started some political activities in university. In 2007, he founded a personal blog to write about politics. He said that it was not a platform [as it was translated], but rather a "blog". He used a pen name to write about Assad's regime. In 2008, he began other social activities. He was active in writing about the rights of women, children, and people with disabilities, using his real name. Until 2011, he was writing about politics and other subjects using a pen name. In 2010, BBC Media Action Corporation, which specializes in media development, contacted him. They had a program for journalists and bloggers in Syria. From 2010 to mid-2011, he worked as a technician and a trainer in that program.

Judge Kerber asked about his detention experience. P12 said that there were several activities in 2011. On October 24, 2011, he was detained at a restaurant behind the Syrian Parliament along with a [female] journalist who was a student in his program. They were detained in Division 40, which belongs to/is under the administration of Branch 251. He stayed in Division 40 for several hours and was transferred to Branch 251 the same night. The interrogation originally focused on his activity with BBC and the questions branched out (in the interrogation). After 10 – 15 days, he was transferred to Branch 285, where he stayed 10 – 15 days. The total duration was 25 days, but P12 does not know which branch he stayed at for 10 days and which branch he stayed at for 15. Later, he was transferred to the civilian court and Adra Prison. سجن عدرا. He stayed there for about 15 days and then was released by the judge.

Judge Kerber asked how P12 knew which branch he was at. P12 asked if Judge Kerber meant when he was detained at Division 40. Judge Kerber clarified at every place: Division 40, Branches 251 and 285. P12 said that at the beginning, it was Division 40. P12 had an office close to Division 40, approximately 50m away. When he was detained, he was not blindfolded, so he knew where he was. When he was transported, he was blindfolded. He concentrated on the road as the car was moving and the distance was not that far. He was aware of his location when he arrived at Branch 251, as it is well-known in Damascus.

### Questioning by Judge Wiedner

Judge Wiedner asked how P12 was brought to Division 40 and if Branch 251 was in a different location. P12 said that he was sitting in "[Aroma Café](#)" restaurant with a [female] journalist. He received a call on his phone from an anonymous number. When he answered, they immediately hung up. After a few

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<sup>4</sup> P11 and P12 are joint plaintiffs.



minutes, two people came to the table and asked him if he was [name redacted] and P12 said yes. They told P12 to come along without a movement [making a fuss] and they made sure that he brought his laptop with him.

Judge Wiedner asked if they were wearing uniforms. P12 said that they were plain-clothed, but it was known that security forces wore plain-clothes. After that, they [the detainees and the security forces] went downstairs (they were on the 2<sup>nd</sup> floor initially). [Downstairs] There were six to seven members of the security forces making it a total of around ten [members of the security forces]. One of them asked P12 for his car keys, without asking about the car's location. P12 considered it probable [assumed] that he was surveyed/monitored/watched and that it was an ambush. Two to three cars were waiting for P12 outside. They took P12 and the journalist [with the car]. The person in the front [seat] looked like an officer. He greeted P12 sardonically/cynically and told him that he [P12] is their neighbour. The car moved about 500m to 1km, which was the distance between the restaurant and the division. Judge Wiedner asked if P12 was blindfolded. P12 said no. He entered Division 40 with his eyes open.

Judge Wiedner asked if the location of Division 40 was different from that of Branch 251. P12 confirmed, but said Division 40 was under administration/belongs to/ was subordinate to Branch 251.

Judge Wiedner asked if P12 could describe Division 40. P12 said that it was possible to enter it from two locations: a higher location from a main street, where one could take the staircase down to reach the division, and from a side street. P12's office was on the side street [apparently, P12 was describing using gestures].

Judge Wiedner asked how P12 knew that it was Division 40. P12 said that the whole area knew that Division 40 was there. It is well-known and not something new.

Judge Wiedner asked P12 to describe his experience there. Once inside, P12 said, he was put in an empty room with a chair. They immediately took his laptop. They went outside for a few moments. P12 had a flash memory with him, which he swallowed. There was a lot of information on it. A person stayed with him [in the room] for a time period. After around half an hour, he was summoned and taken to a person who could be an officer or an official who had P12's Facebook account open. He asked if P12 was an oppositionist and P12 said yes. He saw a [business] card of a Syrian oppositionist and asked P12 if he knew that person. P12 responded that he had gotten to know him in Egypt. The interrogation did not last long with only a few questions and then he told P12 to leave. P12 was taken back to the room for approximately an hour (his whole time in Division 40 was 2 – 3 hours).

Judge Wiedner asked if P12 was abused there. P12 said no, never.

Judge Wiedner asked if he was blindfolded in Division 40. P12 said no.

Judge Wiedner recalled that P12's testimony in the police questioning said that he was blindfolded when he was brought.

Scharmer said that Judge Wiedner's above question should be retracted, because there might be confusion otherwise. P12 said that he was not blindfolded in Division 40. The first time he was blindfolded was when he was transferred from Division 40 to Branch 251.

Judge Wiedner asked if P12 knew through his activity who the head of Division 40 was. P12 said that it was unofficial knowledge from reports that Division 40's main task/duty was storming and detaining on behalf of [for the sake of/ i.e. for] Branch 251. At that time, the manager [head] of the division was Hafez Makhoulf حافظ مخلوف.



Judge Wiedner asked P12 to explain who that person is. P12 said that he is the brother of Rami Makhloof, رامي مخلوف, a major Syrian businessman, and the cousin [Bashar's mother and Makhloof's father are siblings. Note for the translator: ابن خال بشار] of Bashar Al-Assad.

Judge Wiedner asked P12 about his arrival at Branch 251 and if he was beaten. P12 said that he was blindfolded in Division 40 and put in the back seat of a car with a [security] personnel to his right, another one to his left, the driver, and a person next to him [in the front seat]. At the same time, P12's hands were tied behind his back. On the way, they were mocking P12 saying that he was a media personnel/individual, but they did not beat him. P12's concentration was on the road, because he expected that he would be taken to Branch 251. He was concentrating to know where he was heading. It was not a far distance - a few kilometres away, so he knew that it was Branch 251. He used to go back and forth on that road daily.

Judge Wiedner asked if P12 was directly in the building. P12 said that he does not know how, but he found himself inside a building.

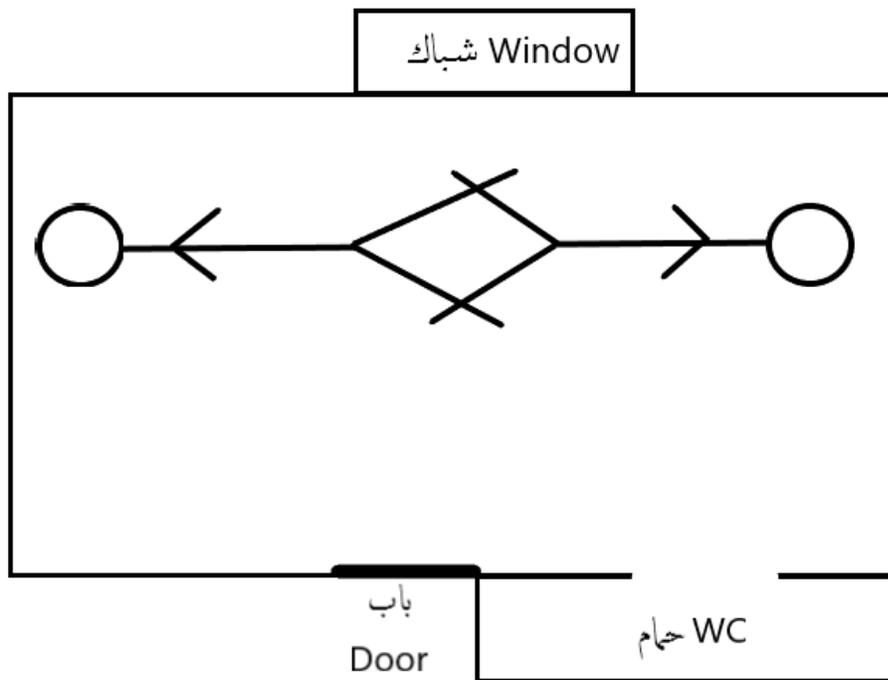
Judge Wiedner asked if P12 went upstairs or downstairs. P12 said that he was initially taken downstairs a few steps. There was a small room, where he had to take off all his clothes. They searched all P12's belongings and P12 did the "security movement" crouching down and then standing up. They took his personal belongings, even his belt and wallet. P12 put on his clothes and went downstairs a few steps to the cell.

Judge Wiedner asked P12 to describe the cell, its size, and how many detainees were there. P12 said that it was 2.5 – 3 meters in length and 2 – 2.5 meters in width. When he entered the cell, there were 12 – 15 people. After a few days, there were 25 people.

Judge Wiedner asked about the air. P12 said that the cell was underground and completely sealed/closed. There was a window, which was closed with iron plates/plaques/sheets. There was a small toilet inside the cell. The [cell] door was made of iron and had a hatch through which the prison guards used to talk with them ["us" the detainees]. The door at the bottom had small holes that they called ventilation holes.

Judge Kerber said that the following was a sketch made by P12 and asked P12 to explain it.

A sketch was shown



P12 said that he drew the room [the cell] with the iron-plated window. He also drew how two people's legs interlocked, if two people wanted to sleep. That was the best position for sleeping, because with the increase in numbers [of detainees], they began to sleep in shifts. There was a small toilet which they also used for taking showers. The door was not accurately drawn, because it was reaching the wall.

Judge Wiedner asked what P12 meant with "sleeping in shifts." P12 said that when they exceeded 15 people, they were not able to sleep all at once. Therefore, they began to rotate/shift. They used to sleep two hours and then change/alternate/substitute [with others]. There was no way to lie down on their backs, but rather they had to lay on their sides.

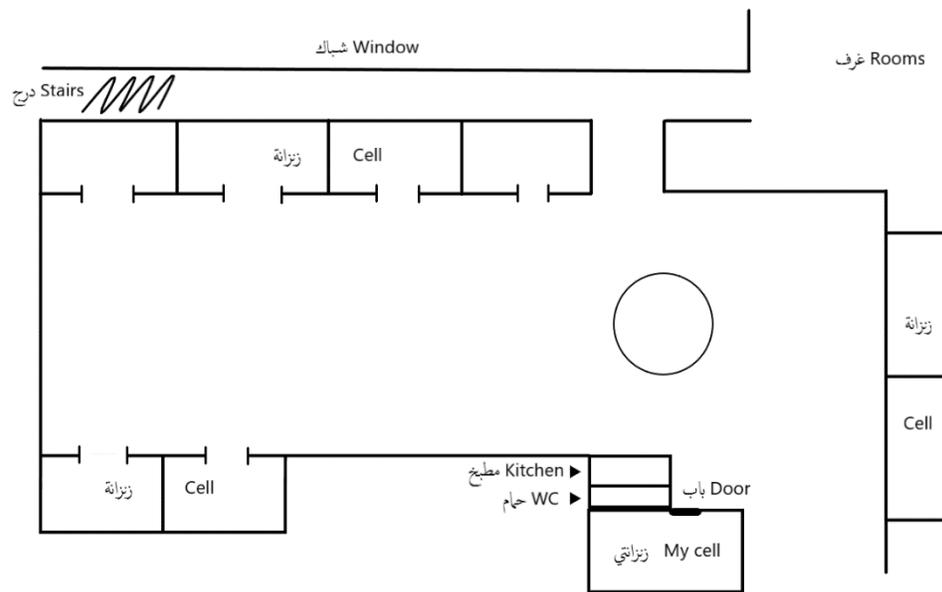
Judge Wiedner asked if there was a shower or if they used the water from the toilet. P12 said they used water from the toilet. There was a hose tied to a tap, but there was no soap.

Judge Wiedner asked if P12 stayed in the same cell the whole time. P12 confirmed.

Judge Wiedner asked P12 about food and water. P12 said that they drank water from the toilet. The food was scarce and there were two meals per day. The amount of food that was given for 15 people, barely sufficed for five people. It was mainly bulgur or boiled rice. They sometimes added another component/ingredient, such as red stock/sauce for example. Breakfast was a few olives and some jam, just a little amount for every person, and bad quality [Tahini] Halawa/Halva.

Judge Wiedner asked if P12 could describe the cell and where the interrogation was conducted.

Another sketch was shown



P12 said that he saw torture in the corridor. The circle is where the interrogations were conducted and, sometimes, in the rooms behind the circle. On the bottom left, there are cells that he used to hear female voices coming from.

Judge Wiedner asked if there was daylight in P12's cell. P12 said no, never. They did not know if it was day or night. They used to estimate the time by the food, e.g. breakfast meant that it was morning.

Judge Wiedner asked P12 to recall the question he was asked when he first entered the cell. P12 said that the moment he entered, they [the prisoners] asked him what the time was. They were accustomed to asking this to every newcomer. One of the worst experiences was to lose the perception of time. Asking the prison guards the time was one of the punishable taboos. P12 asked if the spectators could imagine 10 days or 11 months (in his second detention) without knowing what time it was. It was clear that it was systematically done. P12 visited [was detained in] several branches and it was always the same.

Judge Wiedner asked if there was light in the cell. P12 said no, never.

Judge Wiedner asked if the cell was always lit. P12 asked if Judge Wiedner meant artificial light. Judge Wiedner confirmed. P12 said that it was lit 24 hours a day.

Judge Wiedner asked P12 to describe his interrogation. P12 said that the main method used to interrogate him was to summon him outside the cell. P12 had to take off his socks and face the wall towards the kitchen. He was then blindfolded and his hands were cuffed behind his back. P12 then walked into the circle, where the interrogation took place. P12 always had to kneel, as the interrogator sat in front of him and the prison guard behind him. Then, he would begin to interrogate P12. P12 was once tortured before he was interrogated. Every time the interrogator was not pleased with his answer, P12 was tortured.

Judge Wiedner asked how P12 was abused. P12 said that during the interrogation, he had to lie down on his abdomen and raise his feet up behind him. He was beaten on the feet and sometimes on his back.



Judge Wiedner asked what tools were used. P12 said that sometimes it was a very thick military belt and sometimes a braided quadruple/tetra/fourfold electric cable.

Judge Wiedner recalled from P12's testimony during police questioning that P12 received 20 blows to the feet. P12 said yes, in each time [P12 could have meant: each interrogation or each round. It was translated as the first option].

Judge Wiedner asked when P12 was beaten. P12 said that he was once beaten before the interrogation as a kind of intimidation. The remaining times he was beaten during the interrogations.

Judge Wiedner asked about the information P12 was asked for. P12 said that at the beginning of his interrogation, he was asked about his work at BBC Media Action. Their focus was on the nature of his work there. It was obvious that they knew the details already. P12 asked Judge Wiedner what the question was and laughed (P12 forgot the question).

Judge Wiedner asked about the abuse and the subject of the interrogation. P12 said the torture was correlated to his work, although he was not hiding any information. He knew that they knew everything already, but the interrogator was very stupid and did not know what "password" and "email" meant [P12 pronounced them in English i.e. [باسورد و إيميل] and thought that P12 was concealing information. The interrogator once swore at P12, because a mark/sign/symbol appeared on P12's name.<sup>5</sup>

\*\*\*15-minute break\*\*\*

Judge Wiedner repeated that P12's interrogations were not in a room, but rather in the corridor between the cells. P12 confirmed. Most of them were there, only a few were in rooms.

Judge Wiedner asked if there was a desk. P12 said that they once took him to the office of the head of interrogators or some higher-ranking officer. The regular interrogator was next to P12.

Judge Wiedner asked if he [the interrogator] was standing or sitting. P12 said that the regular interrogator was standing next to P12, but the higher-ranking officer was sitting in front of P12.

Judge Wiedner asked if that was in the corridor. P12 said no, only in the room.

Judge Wiedner asked if there were two people, an interrogator and a person who beat detainees. P12 confirmed that that was typical.

Judge Wiedner asked whether there were orders or instructions to give beatings. P12 said that when the interrogator did not like the answer, he used to give an order to the prison guard who was behind: "This one [P12] does not want to talk. Deal with him. تصرف معه."

Judge Wiedner asked how they [the two people] talked with each other and about the conduct/attitude between them. P12 said that the prison guard was calling the interrogator "Sid" [my master/sir].

Judge Wiedner asked how many times P12 was interrogated. P12 said that he did not accurately remember, but, about five times.

Judge Wiedner asked if P12 was abused each time. P12 said no, not every time. There was at least one time when he was not tortured but only intimidated.

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<sup>5</sup> It was unclear to the Court Monitor what exactly P12 meant in this explanation. One possible translation could be "He insulted him that his name would have been published."



Judge Wiedner asked if P12 was beaten on the soles of his feet or somewhere else. P12 said that every time it was the same method.

Judge Wiedner asked how that affected/impacted his feet. P12 said that when they used to go back to the cell, it was difficult to walk and they were not able to stand. There was blue discoloration, redness, and swelling. They used to go directly to the toilet to pour some water [on the feet] and move [around] in order to let the blood flow.

Judge Wiedner asked P12 to clarify what he meant by moving. P12 said that it was common practice to do so [move], as they learned from each other what they should do to alleviate the pain. They used to stay in pain the whole night.

Judge Wiedner asked if others' situations were the same. P12 said that there were some [detainees], whose situations were similar to his, but there were many with worse situations.

Judge Wiedner recalled that P12 said during the questioning that the pain was barely bearable. Detainees did some exercises to help their blood circulate. Others' feet were bleeding, and some were beaten 100 times on their feet. The walkway to the toilet was an ordeal. P12 confirmed.

Judge Wiedner recalled from P12's testimony during police questioning that he was once taken to a room with torturing tools. P12 said that he was once taken to a room with a table inside it. He was sitting and the interrogator was sitting next to him. The main goal that day was to extract the names of P12's partners at work. In the room, there was an electric device and many beating tools – dozens, like cables, military belts, and batons. During the interrogation, a prison guard holding pliers entered. They [we] used to hear that they [pliers] were used for removing the detainees' finger and toenails. He [the prison guard] entered and was doing "this" [P12 mimicked opening and closing pliers with his hand] with it.

Judge Wiedner asked if P12 was blindfolded back then. P12 said no, he was not blindfolded and saw everything. It was intimidation, but he was not tortured.

Judge Wiedner asked P12 about rings. P12 said that perhaps he saw rings, but he was not sure about that moment.

Judge Wiedner recalled P12's testimony during police questioning that in the room there were rings on the wall to hang detainees from their hands. P12 said that he saw the ring scene in many branches, but he was not sure if he saw them at that moment as well.

Judge Wiedner asked if P12 saw signs of injuries on other detainees or if P12 heard about them. P12 said that he saw torturing procedures. In one case, there was someone who was being tortured in the corridor and then entered the cell. His two knees were bleeding and inflamed. One of them [a knee] was so damaged that they saw the bone. The main torturing method in the corridor was to have the detainees kneel (on their knees) for hours and days. The prison guards would beat them the whole time and pour water on them. When the person re-entered the cell, they remained in that position for a long time.

Judge Wiedner asked if there were specific objects for the beatings, such as cables. P12 said in some occasions, the quadruple/tetra/fourfold electric cable had open endings (the metal was apparent). Occasionally, he [the prison guard] used to beat with [these] endings on purpose.

Judge Wiedner asked what the effect was. P12 said when one was beaten with it, it pulled flesh with it.



Judge Wiedner asked if there was medical care or doctors. P12 said that, for the injuries themselves, there were none. However, there was a person who used to come routinely more than once a week. He used to open the [cell door] hatch and ask if anyone was sick. If someone said that he was sick, then the person would give him paracetamol or an antibiotic, but sometimes the person gave nothing, and sometimes, the one who answered [that he was sick] would get beaten.

Judge Wiedner asked what questions the other detainees were asked in the interrogations in front of the cell, as well as why they were beaten. P12 said that the questions were mainly about demonstrations, if they [the detainees] were armed, if they attacked security forces, and about the names of people.

Judge Wiedner asked if some detainees were tortured with electric shock or were hung from their hands. P12 said no, at least not in Al-Khatib.

Judge Wiedner asked if there was group punishment. P12 said that it was possible if they were talking with each other and the prison guard heard them and sometimes, there was group punishment without a reason. The prison guard would enter the cell and tell them to face the wall. They would stand up and face the wall, then he would beat them collectively and randomly. Sometimes, they would lie down on their abdomen and raise their feet up and he would beat them.

Judge Wiedner recalled that P12 said that he was interrogated by a high-ranking officer. P12 confirmed, saying that he remembers. One time the regular interrogator took P12 and they walked the corridor to another room. The regular interrogator was standing to the right of P12 and the higher-ranking officer was sitting in front of P12 at [behind] a table. The latter began by asking P12 about his affiliation with the "17 April" [movement] and indirectly insinuated that P12's wife was detained. P12 replied right away that yes, he was affiliated with them. He asked P12 about one of the statements/declarations on P12's laptop. P12 denied that he made that and said that his friends made it. He [the higher-ranking officer] ended his questions by telling the interrogator next to P12, "You will extract names from him [P12], or you will be in his [P12's] place".

Judge Wiedner asked how P12 knew that the person was a high-ranking officer. P12 said it was because the regular interrogator was addressing him as "Sidi".

Judge Wiedner asked if P12 was beaten there. P12 said no.

Judge Wiedner asked if there were children or elders among other detainees. P12 said that the ages varied. He does not remember children, but there were two detainees around 17. There were all ages, up to 70.

Judge Wiedner asked if there were children. P12 said no.

Judge Wiedner asked if there were women. P12 said that he heard female voices and saw women from the door's hole. When P12 was transferred to another branch, there was a lady with him in the car.

Judge Wiedner asked if P12 saw corpses. P12 said no.

Judge Wiedner recalled P12's testimony during the police questioning that there was a prison guard as a detainee. P12 said that that person was working at the same branch, but P12 does not remember if he was a prison guard. That person was with them in the cell and, once, was hit in the face.

Judge Wiedner asked P12 why that person was there. P12 said that he [that person, the detainee] headed to a prison guard [an actual one] to speak with him directly. The [actual] prison guard told him



[the detainee] that he was a prisoner at that time, not a colleague. Judge Wiedner clarified his question asking why the person was detained. P12 said that he does not remember.

Judge Kerber recalled P12's testimony during police questioning that it was "because of refusing/disobeying orders. His name was [name redacted]." Judge Kerber then asked why he refused orders. P12 said that he remembered that his name was [name redacted] when Judge Kerber mentioned it, but P12 did not remember the reason. He was most likely a normal employee, not a prison guard.

Judge Wiedner recalled that P12 was then transferred from Al-Khatib and asked P12 to describe what happened afterwards. P12 said that he was transferred from Al-Khatib when the subjects in the interrogation branched out. The last time he was interrogated in Al-Khatib, it was by an officer from a different branch for five minutes. Two days later, P12 was transferred to Branch 285 and was interrogated there with new accusations.

Judge Wiedner asked if P12 knew why he was transferred. P12 said that he is not sure, but Branch 285 was usually<sup>6</sup> the central interrogation branch in Syria. When the cases branched out and new files were opened, especially regarding P12's acquaintance with opposition leaders in Damascus and rural Damascus, he was transferred. Concurrently, there was an initiative by the Arab League as an attempt to find a political solution and release detainees. P12 was not sure, whether it [the reason that he was transferred] was because of the initiative, or because of the branching out of the interrogation.

Judge Wiedner asked where Branch 285 is located. P12 said in Kafar Souseh كفر سوسة.

Judge Wiedner asked if P12 was abused there. P12 said that he was abused right away, once he entered the prison.

Judge Wiedner asked about detention conditions in Branch 285. P12 said that once he entered, he had to take off all his clothes and was totally naked. They took his belongings and frisked him. At that time, P12 was not allowed to wear his clothes again, did not enter the cell, and was left in the corridor. He remained standing facing the wall for a whole day. They switched on a cooling air conditioner and every now and then, they poured water on him. They allowed him to go to the toilet once and gave him five minutes to eat. One or two times, he had to lay on the floor, and they stepped over him. The following day, they brought him to the cell. At that time, he was beaten but in the context of group punishment.

Judge Wiedner asked about the reason for P12's release. P12 said that he cannot be sure. P12 knew later that there was a brokering/intermediary by the Arab League from Nabil Al-Arabi نبييل العربي [the head of the league]. Three years later, P12 was once again taken to Branch 285, where he was interrogated by the same interrogator who told P12, "You are still alive? Haven't we killed you yet? The likes of you should not live."

Judge Wiedner asked how long P12 was imprisoned after that. P12 said that the second detention was three years and five months.

Judge Wiedner recalled that P12 said that it was from February 16, 2012 to July 17, 2015. P12 confirmed.

Judge Wiedner asked P12 when left Syria. P12 said 15 – 16 days later.

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<sup>6</sup> The Court Monitor thought that word "usually," in this context, was used as a filler word.



Judge Wiedner asked if P12 still suffers from health side effects. P12 said that “until now,” he is being treated. He has a problem in his knee and in his back because of the beating. He also has some marks on his feet, because of inflammation.

Judge Wiedner asked if there were other effects. P12 said no, these were all the effects.

Judge Wiedner asked P12 to look to his right and say if he recognized one of the accused. P12 said no, but he can recognize the voice of the person who threatened “his” interrogator [P12 meant the high-ranking interrogator who threatened P12’s regular interrogator.]

Judge Wiedner asked Böcker if Accused Raslan would give a voice test. Böcker replied that he would not give a voice test and that from now on he perceives this question as an imposition. He stated a general explanation for the whole trial that Raslan will not give a voice test.

Judge Wiedner recalled that P12 was engaged with the opposition and in demonstration in 2011. P12 confirmed.

Judge Wiedner asked when P12 participated in demonstrations. P12 said that early March 15, 2011, he was there, close to the Umayyad mosque in Damascus. Later, P12 participated [in demonstration] where he used to live, e.g. in Harasta حرستا, where he was almost killed when a bullet passed near his head. P12 participated in a demonstration in Al-Qaboun, the day a massacre happened against the demonstrators.

Judge Wiedner asked what happened. P12 said they were moving in the demonstration. There were ten thousand people holding banners and chanting against the regime. They arrived at a place where the soldiers and the security forces of the regime were on top of the buildings. They started shooting at the demonstrators with live ammunition. P12 was almost killed in that demonstration as well. Unfortunately, a 70-year-old man was killed. P12 had asked him [previously], if he was not afraid to die. He told P12, “It’s ok. I want freedom for my children and grandchildren.” P12 got emotional and asked for a break.

\*\*\*5-minute break\*\*\*

Judge Wiedner asked when the violence by the security forces against demonstrators approximately started. P12 said that from the first day, the regime used violence. However, live ammunition was used two weeks later (in the areas/places where P12 was).

Judge Wiedner asked when that was. P12 said at the beginning of April, [the use of] live ammunition [started] (in the areas/places where P12 was).

Judge Wiedner asked if P12 saw corpses, other than the ones he mentioned. P12 said that he did, especially in Al-Qaboun where the massacre took place. P12, also, saw at least two in Harasta, one [got shot] in his chest and another one in his neck. Sometimes, P12 filmed/took photos [the Arabic صور word could mean either one, but probably, P12 meant filming] of security forces shooting at the demonstration. P12’s goal was filming/taking photos from the side of the security forces, to document that they were shooting live ammunition at the demonstrators.

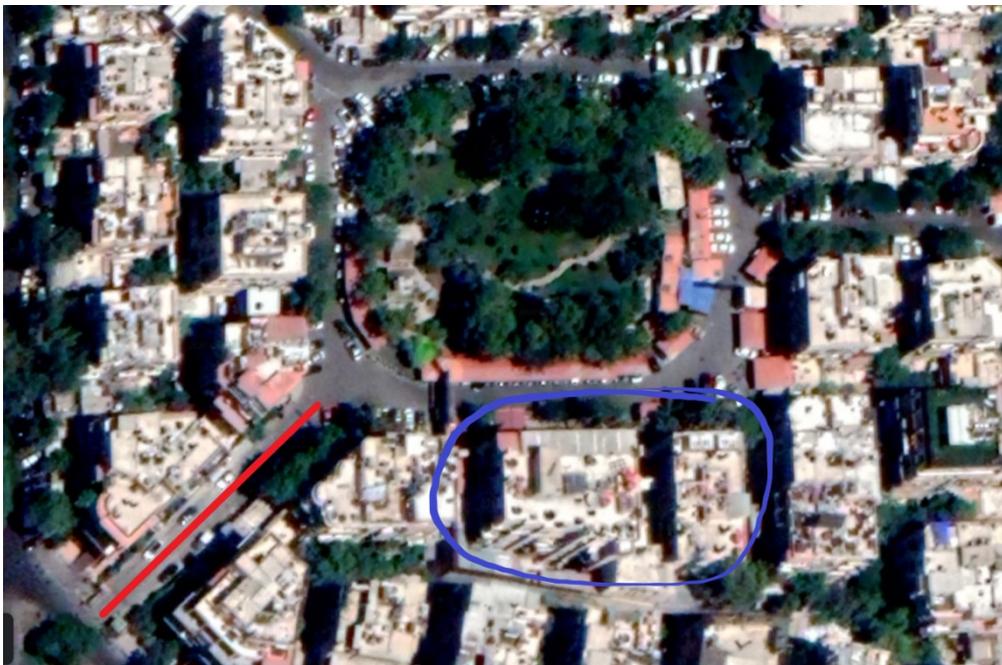
Judge Wiedner asked if P12 saw arrests and riot control squads. P12 said he saw them all the time and dozens of times. One time, there was a full military storming/raid of Harasta, where P12 used to live. There was a complete combing of the streets and buildings.

A satellite image was shown.



Judge Wiedner asked if P12 recognized it. P12 confirmed. It is Branch 251, the main entrance, and the Red Crescent hospital.

The image was zoomed-in.





P12 said that that is the location of Al-Khatib branch. P12 said that not all the buildings belong to the branch, as most of them are residential. The slanting/sloping street at the bottom [see the red line] is the main entrance close to the Red Crescent hospital. The buildings that P12 indicated [blue circle] with a pen [during the police questioning] are Al-Khatib branch.

The prosecution asked if the material of security forces shooting at the demonstration, filmed by P12, are still in P12's possession. P12 said no.

The prosecution asked if it was taken away from him along with his laptop. P12 said no. The filming [same note as above] was done by a secret camera that resembles a pen. When P12 was detained, his wife destroyed everything that could have harmed him.

Judge Wiedner recalled that P12 said that he was taken to the "head of the interrogation." Judge Wiedner asked P12 if he remembers his name or rank. P12 said that he does not precisely know his rank, but his rank was higher than P12's regular interrogator. P12 does not know his name.

Judge Wiedner asked if P12, himself, or other detainees were sexually abused. P12 said that he heard a lot about these matters, and he has friends who experienced it.

Judge Wiedner asked if P12 himself experienced that. P12 said no.

Judge Wiedner asked if P12 knows details about others' abuse. P12 said that one of the methods was using a glass bottle and sometimes a stick. Sometimes, they tied the penis to a weight. Sometimes, they scalded the penis with hot water.

Judge Wiedner asked if that was in Al-Khatib or in Branch 285. P12 said that he was told that after they got out of the detention in Adra <sup>عدرا</sup> [he meant after the release from Adra prison]. That was not in a specific branch. P12 did not see that [sexualized violence] during his detention period.

At 12pm, the topic of a break was brought up. Scharmer said that the witness would like to continue the session.

#### Questioning by Defense Counsel

Böcker asked if the prison staff in Al-Khatib was detained. P12 said that a detained employee was with him.

Böcker asked if P12 knew what that person did wrong. Judge Kerber said that she had already questioned the witness on that point. Böcker took back his question.

Fratzki said that the translator told him that there might have been a part missing in the translation, concerning the interrogation in Branch 251 and that the interrogator came from another branch. Fratzki asked where the interrogator was from. P12 said that two days before he was transferred, he [that interrogator] came from a different branch and interrogated P12 for a short time. Two days later, P12 was transferred.

Fratzki asked if it was correct that the interrogation was in Branch 251, but the interrogator was from a different branch. P12 confirmed.

#### Questioning by Plaintiff Counsel Kroker

Kroker asked if the sexual abuses of P12's friends happened in Adra or if P12 could not assign the abuse to a branch. P12 said that the matter was talked about in Adra Central Prison and all of them [P12 and



his friends] were detainees in different branches. Each one spoke about his experience, but P12 cannot correlate each case with a specific branch.

Kroker asked if it was, however, in the branches of the intelligence services. P12 confirmed.

Kroker asked if the detainees in Branch 251 talked about where they were detained. P12 said that they talked about how they were detained in Al-Khatib branch and all of them knew that information.

Kroker asked how P12 was addressed. P12 said that he was addressed by name.

Kroker asked if P12 recalls names or nicknames of prison guards. P12 said that the most famous prison guard who was executing collective punishments was called "Abo Ghadab أبو غضب". There was another one with an odd/strange/weird name, "Memati ميماتي." P12 only recalls these.

Kroker asked if there was Razan Zaytouneh. رزان زيتونة. P12 said that he does not remember.

Kroker asked if P12 was detained by himself on February 16, 2012. P12 said no, he was detained along with 15 people from the Syrian Center for Media and Freedom of Expression (SCM).

Kroker asked about the head of SCM. P12 said it is Mr. Mazen Darweesh مازن درويش.

Kroker asked if he was detained with P12. P12 said yes, they were detained together.

The witness was dismissed.

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Plaintiff's Counsel Scharmer gave an explanation/declaration on the grounds of §257 (2) StPO: Questioning of the defendant and the right to make a statement after the taking of evidence.<sup>7</sup>

A partial summary of P11's statement yesterday, who gave clear information on Branch 251, was given:

- 1) It was the same interrogator in all 3 interrogations;
- 2) He heard his voice;
- 3) He has a good ear.

Unfortunately, Raslan does not want to give a voice test, but the accused stated in his testimony through the translator that he interrogated P11 without mentioning any circumstances. Raslan confessed that he did the interrogations, and it was the same person three times. This person gave direct and indirect orders to torture.

The proceedings were adjourned at 12:15 p.m.

The next trial will be August 19, 2020 at 09:30 a.m.

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<sup>7</sup> After each co-defendant has been examined and after evidence has been taken in each individual case, the defendant shall be asked whether he has anything to add.