



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

Higher Regional Court – Koblenz, Germany

Trial Monitoring Report 13

Hearing Dates: September 15 & 16, 2020

*CAUTION: Some testimony includes descriptions of torture.*

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

**Trial Day 32 – September 15, 2020**

**Mazen Darwish, head of the Syrian Center for Media and Freedom of Expression (SCM), testified on the situation in Syria leading up to 2011 and after the start of the revolution in 2011. He also told the court about his own experience as a detainee of the Intelligence Services as well as physical and psychological torture he experienced. Darwish provided legal background on the competencies and practices of the Syrian Intelligence Services.**

**Trial Day 33 – September 16, 2020**

**P15, [name redacted] a 50-year-old male testified on Raslan’s personal background as well as on two meetings and several phone calls between them. He said in 2012, Raslan provided information and advice on the situation of his cousin, and seemed to be moved by people being tortured. He also said that Raslan was the reason why his journey to Germany was delayed, as Raslan told him that there might be a chance for him to return to Syria based on talks in Geneva. Ultimately, Raslan advised P15 to come to Germany from Turkey. Although P15 came into court in a disguise and expressed concerns for the safety of his family in Syria, the court denied his request to testify with protective measures.**

**Day 32 of Trial – September 15, 2020**

The hearing began at 9:30 am with 10 spectators and 3 members of the press in the audience.<sup>2</sup> Attorney Bodenstein was present as a replacement for Raslan’s second defense counsel Fratzki. The prosecution was represented by prosecutor Klinge. Plaintiff counsels Mohammed and Kroker were not present, while attorney Bahns and Rothmann appeared as plaintiff counsels.

Defendant Al-Gharib entered the courtroom accompanied by a court security guard as usual. However, today he was handcuffed. When he passed one of the other guards on the way to his seat, he spat on the chair next to the guard and cursed him in Arabic. He told his translator not to translate what he just said.

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<sup>1</sup> Throughout this report, [information located in brackets are notes from our trial 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.

<sup>2</sup> No accredited Arabic speaking members of the press were present.

Testimony of Mazen Darwish مازن درويش

Before the witness, Mazen Darwish, entered the court room, presiding Judge Kerber explained that he will testify for two days. She explained that he was detained in the air-force intelligence branch, however today his testimony will focus on the structure of the intelligence system in Syria. Kerber said she got the transcript of Darwish's questioning by the German police from June 30, 2016. She handed a copy to all parties and ordered a break to allow everyone to have a quick look at it.

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[10-minutes-break]

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When Darwish entered the courtroom, judge Kerber greeted him saying that they already know each other from previous sessions. Admonitions were read out to Mazen Darwish, 46-years old head of the [Syrian Center for Media and Freedom of Expression \(SCM\)](#), who lives in Paris.

**Judge Kerber's Questioning**

Kerber asked Darwish about the structure of the Syrian regime and wanted to know how he came into conflict with the regime. Darwish thanked Judge Kerber and said he thinks that what happened in Syria was a natural result of the structure of the ruling system and the government. It started in 1958 with the union between Syria and Egypt (United Arab Republic). Jamal Abd An-Naser's جمال عبد الناصر [former president of Egypt and president of the Union] provisos broke up the political parties in Syria, disbanded the parliament and abolished the entire independent press. According to Darwish, Syrians agreed to sacrifice democracy for the Union, but it only lasted for 3 years and eventually led to the authoritarian regime in Syria. Darwish further explained "we" lost the union while keeping the dictatorship. During 1961 and 1963, the situation was not stable either. The situation slightly improved compared to the time of Abd An-Naser, however society did not recover its spirit. Darwish said this was the reason for the coup of the Al-Ba'th البعث party on March 8, 1963. The first decree of the new government was to declare a state of emergency and a new epoch began in Syria, based on the principle of a one-party state [تقوم على مبدأ الحزب الواحد]. They [Al-Ba'th] started to eliminate all other parties. Once they dislodged the Naseris [supporters of Abd An-Naser] and the communists, an internal conflict within the Al-Ba'th party began. Darwish further recalled that the first internal coup took place in February 23, 1966. Civilian Ba'this were banished and an absolute authority of the military people [العسكريين] was established. Through this first coup, Hafez Al-Assad حافظ الأسد became the Minister of Defense. In 1970, Hafez Al-Assad staged a coup against the "group of the coup of February 23" and monopolized power. This was when the era of Al-Assad began in Syria. Darwish explained that Hafez Al-Assad was more pragmatic than his predecessor and quickly received international acceptance. Already months before his coup, he gained a good reputation as the Minister of Defense when he ended military support by the Syrian army for Palestine in its conflict with neighboring countries. The first phase of Al-Assad's state began in 1973, when he proclaimed a constitution which provided almost absolute power to the president. According to Darwish, Art. 8 of the constitution was particularly critical as it said that the Al-Ba'th party leads state and society. That was the moment when the mechanisms of controlling the Syrian society started and the security apparatuses were given a free hand to substitute for state institutions. The government and its institutions were appointed to apotheosize the individual (Hafez). Darwish explained this with an example from his own childhood.



He said he was born in 1974 in Nablus, Palestine and went to Syria for the first time when he was 6 years old. He was a normal child and was spoiled by his family. When he arrived in Syria and entered first primary grade at 6.5-years-old, his name became “reconnoitering comrade Mazen”. Darwish said he further joined the organization “youth of the revolution شبيبة الثورة”, as all Syrian children did at the age of 12. According to Darwish, Hafez Al-Assad started indoctrinating children before he attacked the civilian [worker’s] unions [نقابات], especially after the armed clash with the military unit of the Muslim brotherhood and before the security apparatuses committed the Hama massacre in 1982. Darwish recalled the massacre in Hama, where the labor associations (in addition to physicians and engineers) were massacred due to their objection and in order to suppress the syndicates and to modify the law in favor of the Al-Ba'th party.

Judge Wiedner asked when that happened. Darwish said the massacre in Hama was committed in 1982 with dozens of civilian victims, approximately 16,000 to 60,000, however there are no official records of the exact number. According to Darwish, these massacres helped to quell the whole Syrian nation, not only in Hama. The massacres also highlighted the importance of the security apparatuses in protecting Hafez Al-Assad’s government. This is the reason why they were given a free hand during the 1980s/90s. When Hafez Al-Assad died in 2000, Syrian society was exhausted, it had no life. Darwish said there were no political parties, active civilian society, media or parliament, nor any shape of democracy. Darwish said there were some attempts by organizations and human rights advocates, however their influence was very limited “and everything was closed in their face.” After Hafez Al-Assad died, there was a handover process in which his son Bashar was introduced as open-minded with western education and well prepared to take over, ever since his older brother Basel باسل died. The situation was a caricature: the first son was being prepared to be bequeathed power, but died in a car accident. Then quickly, the other son was brought from London to be prepared. Darwish said this made evident that there was no country in the real sense but rather a “family property” which was handed from one heir to another. Darwish said that the beginning of Bashar Al-Assad’s reign was quite obscure, as he was 34-years-old while the constitution required the president to be at least 40-years-old. Consequently, the constitution had to be amended in order to comply with the son of Hafez Al-Assad. The parliamentary procedure of amending the constitution took only 10 minutes. Darwish further explained that Bashar Al-Assad started a propaganda campaign of reformation and fighting corruption with his inauguration speech. Indeed, there was some room for change in Syria, however not due to actual legal changes but due to security forces turning a blind eye to certain things. In that phase, Syria witnessed the establishment of cultural and political forums, but without any powers. In September [2000], Syria witnessed a re-liberation of the committees of defending democracy and human rights, but it did not last for long. In February 2001, the government returned to its former state: members of the people’s council who wanted to shed light on corruption practices, like Ma’moun Al-Homsi مأمون الحمصي and Riyad Saif رياض سيف were detained. Additionally, by the end of August 2001, detentions of activists started and cultural and political forums were closed with the exception of the Al-Atasi الأتاسي forum. Darwish said that the Iraq war which started in 2003 was a turning point. It was expected that America “would continue to Syria after it is over with Iraq.” He added that Colin Powell issued some requests to the Syrian government, however it responded by “using the terrorism card against America”, in an attempt to abort a new Middle East as the US suggested. The Syrian government and apparatuses encouraged the religious machinery and religious leaders, to encourage the youth “to struggle” [do Jihad] in Iraq. This practice reached its peak with a gathering point in the city center of Damascus, in the area of the old “Damascus International Fair”. From there, buses were carrying jihadi youth from Damascus (accompanied by security forces) to the



Iraqi borders. Darwish further recalled that by 2004, Syrian society regained some vitality which was correlated with regional developments in the area. On March 8, 2004 and based on a request from the human rights committees, a group of activists (around 100) demonstrated against the state of emergency and 68 of the peaceful demonstrators were detained. Darwish explained that in 2003, the Syrian association for human rights was founded, which published reports and data [on numbers of protestors, detentions etc.] from organizations inside Syria. He further recalled that on March 21, 2004, the Arab-Kurdish conflict started in northern Syria regarding a Kurdish nation. Around 300,000 [Kurdish people] were deprived of Syrian citizenship and prohibited from using their language. Darwish said one could find books in any language in Syria: Chinese, German, English. However, Kurdish language was prohibited and one could not find any book in Kurdish. This was one form of national and ethnic conflict which the government conducted, aiming to tear down Syrian society. In 2005, with the assassination of Rafiq Al-Hariri, رفيق الحريري the Syrian government felt international pressure. Syria consequently withdrew its forces from Lebanon which gained the status of a sovereign country with an Arab and international blessing. According to Darwish, the rapprochement between the Syrian government and the “Iranian project” also started during that phase. The rapprochement already started during the times of Hafez Al-Assad, but certain boundaries could not be crossed at that time. After 2006, and what was considered a victory of Hezbollah over Israel, Syrian forces, army and special forces were opened - under the label of “benefitting from the party [Hezbollah]”- to direct infiltration from Iran and the revolutionary guard. Instances of converting to Shia Islam and cases of Iranian propaganda started. Syria consequently became a part of “the Iranian project.” In 2008, labelled as “prohibition and futility of the project”, a “re-declaration of an international re-normalization” started by the Syrian Minister of Foreign Affairs visiting his German counterpart, the French president Sarkozy visiting Syria and even receiving Bashar Al-Assad and his wife at the Elysée palace. During that time period, the regime detained everyone who was left from the political opposition of the [Damascus Declaration](#), and after that, the signees of the Damascus-Beirut Declaration. Darwish said by doing so, Bashar Al-Assad effectively put an end to political life once again and re-normalized relations with international society, accompanied by granting the security services a free hand. This happened at the expense of the government apparatuses, with bigger economic problems of privatization based on corruption between the government and affiliated groups. Darwish said corruption in Syria was present ever since the time of Hafez Al-Assad. Darwish said it was “a parallel shadow economy”, however Bashar Al-Assad tried to privatize corruption, and so “we” reached 2011: the phase of the Arab spring.

Judge Kerber interrupted Darwish, saying that the translator wanted to swap.

Kerber continued by asking Darwish to talk about 2011. Darwish said that if he may, and before addressing 2011, he wanted to mention some aspects of political control [by the Syrian government]. As an example, he said that in 2005 labelled as “the judicial reformation”, Bashar Al-Assad breached all judicial conventions by issuing a decree, legislative decree 95/2005, which decided to expel 81 judges, in breach of the constitution and the laws he himself issued. Darwish said the decree provided respective authority to the council of ministers within 24-hours (meaning the council has the right to expel any judge, without reasoning). Darwish said this is an example for how the country is run and for the hegemony of the president with his legislative rights. He said it also indicates that the actions of the security services are not mandated by the government, but rather by the president himself. Darwish recalled that some of the judges tried to file a complaint with the higher constitutional court, however the court did not hear them, as in accordance with the constitution, the president assigns its



members. Another example, according to Darwish, is provided by the information branch in state security Branch 285, which blocked hundreds of websites. One of the websites was An-Nazaha النزاهة, which decided to take legal steps. A trial was held on May 13, 2007 at the administrative court (case No. 40/10-06-11). The judges found that they had no information on who was responsible for blocking these websites (knowing that the Ministry of Communication is in possession of the relevant technical devices, however this was the official response from the attorney of the Ministry of Communication via the court). Darwish further recalled a third instance that he witnessed himself: A journalist, Habib Saleh, حبيب صالح was detained because of an article he wrote. The investigating judge referred his case to the judge at the criminal court on December 1, 2008. Darwish said he and Habib's lawyer Mohannad Al-Hasani مهند الحسني went to meet the respective judge, Judge Ahmad Al-Bakri أحمد البكري at the Justice Palace in Damascus to ask him about Habib's case. The judge said that there is no need for asking, because Habib was already sentenced to three years imprisonment when he came from the security [forces]. Darwish said this was before his case was even heard and that the judge told them that Habib was brought by the state security. After many hearings and a lengthy trial, the sentence was indeed 3 years. Darwish concluded that all the instances which he just described are small examples of how the state is controlling the judiciary.

Kerber acknowledged Darwish's explanations and reminded him that they wanted to begin talking about 2011. Darwish said there are hundreds of thousands of examples on all aspects of life in Syria. He said that with the beginning of the Arab spring at the end of 2010 in Tunisia, the youth had new aspirations and felt a wave of freedom. Darwish said that specifically with the departure [was translated as "death"] of Ben Ali بن علي from Tunisia and demonstrations in Egypt, social media began to support Egypt and Libya, while not covering the fact that Syrian demonstrations were quelled by the security services. In February [2011], Darwish said he joined a demonstration in front of the Libyan embassy. The political security service Al-Jibbeh الجبهة Branch, and the inner Branch of the state security intervened. Darwish recalled that they could see how the respective forces detained and hit demonstrators. On February 5, 2011 there was a call for the day of Syrian anger. The call suggested a sit-in in front of the parliament in Damascus and at Sa'dallah Al-Jabri square ساحة سعد الله الجابري in Aleppo. There were no gatherings of people, but Darwish recalled that at that time (ca. February 2), he was summoned by the Inner Security Branch (251) where he realized that there were other people like the author Akram Al-Bunni أكرم البني, Faye Sarah فايز سارة and Anwar Al-Bunni أنور البني who were interrogated by Tawfiq Younes توفيق يونس. Darwish said he was taken to the third floor where he heard that they were accused of instigating people in the streets. Darwish said the security services assumed that there would be a people's movement in Syria for which they prepared. The country was divided into sectors, each of them administered by an intelligence service Branch. After February [2011], the movement on the ground began. Darwish said that a group of protestors was detained during a demonstration in old Damascus on March 15. On March 16, there was a call for a sit-in in front of the Ministry of Interior in order to release the detainees due to "freedom of expression and opinion". Darwish said he participated in this peaceful demonstration in front of the Ministry of Interior. However, dozens and maybe hundreds of security forces came and started beating people, even families, in a very brutal manner. More than 34 women and men were detained. On March 18, kids in Dar'a درعا wrote social media captions, like "Your turn has come, oh Doctor يا دكتور" and "إجاءك الدور، يا دكتور" and "Freedom حرية" on walls. The kids were detained and tortured by security forces. The Intelligence Services reacted with violence to the events of March 18, which was an essential turning point. Darwish said they started detaining people and he himself was detained again on March 28. According to Darwish, there was a live ammunition shooting on demonstrations and "falling of martyrs."



Demonstrations of solidarity with what happened in Dar'a began to expand in Banyas بانياس and rural Damascus ريف دمشق. Demonstrations were peaceful, demanding freedom and democracy by using certain slogans. However, the security forces' response was very violent. Darwish said he thinks that the government decided to push the society towards violence and extremism.

Kerber asked whether Darwish knows more about such a decision. Darwish responded that the government chose to respond with military means to the people's demands instead of political solutions.

Kerber concluded that there was consequently no direct decision. Darwish said it was rather some kind of "orientation". Detentions of peaceful demonstrators were accompanied by the release of Al-Qaeda detainees and detained extremists, particularly those from Iraq. The security forces pushed the youth systematically towards violence. There was widespread arbitrary detentions of people, regardless of whether they did anything, especially in areas that opposed the regime. These young people were put in inhuman circumstances of torture. Their religious and moral beliefs were affronted in detention. At first, the [detention] periods were not long: days, weeks or a month. According to Darwish, the detentions were workshops to produce violence. Many former detainees told him personally after their release that they would rather die than be in detention again. Darwish said this practice of violence led the youth from a peaceful [way] towards sectarianism [ethnic division] and violence. The behavior of the security forces was in line with the terminology of the president and his media advisor Bothayna Sha'ban بثينة شعبان, as the president said in his first speech on March 30 [2011]: "If you want it to be an open war, then let it be an open war". Darwish said this was end of March, when everything was still peaceful. The president immediately went to use a language of war and reminded the public that the regime fought a war against the Muslim brotherhood in Hama حماة and Aleppo حلب for six years and succeeded. Darwish said some young people and groups reacted with violence, sometimes in an organized manner. One part of the violence was a form of self-defense, another part originated from extremists and terrorist organizations that were released [from prison], not to mention the smuggling of weapons into Syria. And then, according to Darwish, Syrian society arrived at an "explosion point". At that time, "we" [Darwish and his colleagues] were in human rights organizations. In April 2011, the Violations Documentation Center [VDC] was launched and he and his colleagues started to document terrifying violations on a daily basis. They were detained and eye-witnessed the violations that they were documenting.

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[15-minutes-break]

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Kerber said that she wanted to know more about the general situation and asked Darwish if he derived his information from his work at the VDC. Darwish thanked Kerber, explaining that he is a Syrian citizen from a political family. His father was arrested and persecuted for several years. His mother was detained for one year at the Palestine Branch [Branch 235 of the Military Intelligence Directorate]. Darwish said he got his knowledge from these circumstances as well as from an early stage when he studied at the faculty of law and was interested in human rights. In September 2000, he joined organizations and commissions for human rights and was consequently expelled from the bar association [نقابة المحامين] in Lattakia in 2002. In 2004, SCM was founded and licensed in France. In 2004



they started publishing annual reports in cooperation with other organizations: e.g. in cooperation with UNESCO and UN Habitat in 2006; a monitoring report regarding the parliamentary and presidential referendum in 2007; a report about censorship of the internet and control of digital space by the regime and the security forces in 2008; a report on the travel-ban in 2009, 417 cases of travel-ban by the security forces were documented. Darwish said that this was his and his colleagues' daily work for over 16 years, resulting in his detention and more than one shut-down of their office. Darwish further explained that he and his colleagues founded the Violations Documentation Center in 2011 as one of the projects of SCM, which today contains over 400,000 records about violations by the government, ISIS, al-Nusra and others.

Kerber wanted to know who or what belongs to "security forces". Darwish did not understand the question. Kerber recalled Darwish mentioning "security forces" and asked who they are. Darwish said there are four Intelligence Services in Syria: the oldest one is the Military Intelligence Directorate (MID), which was founded in the 1950s; followed by the General Intelligence Directorate (GID) (publicly referred to as "state security"), which was founded in the 1960s. The Political Security Directorate and the Air-Force Intelligence Directorate are the most recent, founded in the 1970s.

Kerber concluded that all directorates existed before 2011 and asked whether detentions and torture only began in 2011. Darwish said this was the systematic behavior of the Syrian security forces, whether it was arbitrary detentions, forced disappearances, torture or unjust trials whose "arm" [conducted by] is the state security court. Such conduct was always there. According to Darwish, only two things changed after 2011. Firstly, the number of victims significantly increased. Before 2011, detentions were directed towards a narrow group, the political opposition and surrounding circles. So, the numbers of people suffering from such conduct were less. After 2011, the number of the victims increased to millions. Darwish concluded that this was the first change. Secondly, he said, things changed with regards to torture. Darwish said he was detained before and after 2011. Torture was used to obtain information, when the detainee provided all the information he had, torture ceased. After 2011, it became a form of punishment, revenge and a means to get rid of oppositionists and not used to obtain information e.g. Darwish explained that after his third arrest, he was transferred to the fourth division. He and his colleagues were at Al-Mazzeah airport. مطار المزة. Most of them were transferred there. Darwish said he stayed there for six months. He further recalled that there was a torturing program twice a day for all detainees without asking them questions.

Kerber wanted to know when that happened. Darwish said it happened between April and October 2012 adding that the prison guards did not even know their [detainees'] names. Therefore, a human rights defender was tortured the same way as a combatant and a person who got there due to confusion of names.<sup>3</sup> Darwish concluded that this was one aspect of the evolution of torture as a means of revenge and elimination of oppositionists.

Kerber asked whether it was publicly known in Syria before 2011 that torture was part of the Intelligence Services' work and whether one could know what he might have to do when joining the Intelligence Services. Darwish affirmed that it was publicly known adding that it was public knowledge at least since the 1980s and precisely after 1982 and after the elimination of the military movement which belonged to the [Muslim] brotherhood. Darwish added that the pretense of a combat situation

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<sup>3</sup> Note from the trial monitor: In Syria it is not unusual that a person gets arrested or even tried due to him having a similar name as a wanted person.

was used to eliminate the society in general. He and his colleagues were circulating news and information e.g. on the storming of Tadmor تدمر prison where thousands of detainees were shot. He said the entire Syrian society knows about arrests and torture by the security forces under the pretense of an emergency, especially that oppression by the security forces was not only directed against the [Muslim] brotherhood, but hundreds of left-wing organizations were arrested and tortured. He explained that this happened amongst others to the communist labor party, the political office of the communist party and the Naseris [Jamal Abd An-Naser's supporters]. Darwish said thuggery and torture "were for all", and the regime conveyed that image to the society as a means of intimidation and repression. He said it was constantly present in everyday life.

### **Judge Wiedner's Questioning**

Wiedner asked whether it is correct that what happened in the detention facilities of the Intelligence Services was publicly known before 2011. Darwish affirmed.

Wiedner asked whether the methods of torture were also known. Darwish affirmed, adding that it was part of everyday life, as he already mentioned.

Wiedner recalled that there was a turning point in 2011 and asked if the tasks of the security forces changed after the revolution. Darwish said he does not think that the tasks changed, rather the quantity of victims. However, even before 2011, the role and tasks of the security forces were to control the society and the state's affiliates, oppressing the other and preventing any shape of opposition to the government at any cost, which included torture, detentions and killing.

Wiedner wanted to know whether there were qualitative changes as well. Darwish said that the main torture methods like Doulab [tyre], Shabh, flying carpet, and use of electric shocks already existed before 2011. All of these means existed and were used. After 2011 and due to the high numbers [of detainees], health conditions [in detention facilities] worsened. The solitary cell which was previously used for one prisoner, now held 6 to 7 people. Darwish recalled that when he was detained prior to 2011 and until March 2011, he was alone in a solitary cell in Branch 215, however when he was detained again after less than a year, the solitary cell in the Air-Force Intelligence Branch was the same size, but they were 7 [prisoners] in there. He explained that the high number of detainees caused severe health conditions, which resulted along with torture and the absence of medical care, in increasing numbers of deaths and killings. Darwish concluded that this was not a result of changing the methods, but rather changing the number of detainees.

Wiedner asked Darwish whether people died in detention facilities of the Intelligence Services before 2011. Darwish affirmed, explaining that this was particularly the case between 1976 and 1988 as a result of the conflict with the [Muslim] brotherhood; fighting professional associations; and fighting the left-wing communist movements. Darwish affirmed that "everything existed."

Wiedner wanted to know more about the differences specifically compared to the situation from 2001 to 2011. Darwish said this period was different from 1976 to 1988. Opposition movements were not the same and only a certain class of people was arrested, usually human rights advocates, and politicians. Darwish said the only exception was North East Syria where different forms of violations existed due to the unique standing of the area. With the arrival of Bashar Al-Assad in 2000 in the first



phase, the regime tried to make the oppression look nice, “as if they were putting makeup on the face of tyranny.”

Wiedner asked if there were torture victims before 2011. Darwish affirmed, explaining that there were however, fewer. Syrian human rights organizations, like the Syrian committee for human rights provided daily reports on the number of torture cases and deaths from torture, but the number was smaller.

Wiedner asked Darwish whether he has knowledge about the situation in the General Intelligence Directorate and Al-Khatib Branch prior to 2011. Darwish said he knows Al-Khatib Branch very well, it is one of the most important Branches in Syria and basically involved in everything. It was led by one of the persons whom Hafez Al-Assad trusted most.

Wiedner wanted to clarify whether Darwish was talking about the General Intelligence Directorate or Al-Khatib. Darwish said he was talking about both, explaining that “the center” [SCM] once got permission from the Ministry of Culture to hold an event in 2008 in the cultural center of Al-Mazzeh. [Darwish showed the relevant document in court]. The event was publicly announced and diplomatic officials were invited. However, an employee [عنصر] of Branch 251 was sent to the location of the event only 15 minutes before it was supposed to start. The employee then informed them that the event has been cancelled, despite the official approval from the Ministry of Culture. Darwish said this is only one simple example to explain the involvement of the Intelligence Services and their power.

Wiedner asked Darwish to provide more general information on Branch 251. Darwish said he can provide some stories from before 2011 which he experienced himself as head of SCM. For example, a member of the German parliament from the Green party officially visited Syria with the permission of the Syrian Ministry of Foreign Affairs.

Raslan’s defense counsel Böcker interrupted saying that Darwish should not read from written documents. Darwish explained that these documents are the official authorization for the conference [ندوة] and a notice issued by a governmental body to cancel it.

Kerber explained that there is no need to include these documents in the minutes.

Böcker said he only wants to clarify whether these documents are actually the documents Darwish was talking about or simply notes.

Kerber repeated her sentence.

Plaintiff counsel Scharmer intervened by saying that the cancellation of the event could be of interest.

Darwish said the documents were copies and he can provide them to the court.

Böcker said he also want to have more precise information on these documents.

Kerber said Darwish should first continue with his testimony before the court will have a look at the documents and respective translation.

Wiedner continued by asking Darwish about the tasks of Branch 251 and what the public knows about these tasks. Darwish said he will answer this question right after finishing the story about the



cancellation of the [SCM] event. Darwish said the German member of parliament, Omid Nouripour was “legally and officially” present in “Their [SCM’s] headquarter in Al-Mazzeah Western Villas on May 15, 2008 when two patrols from Branch 251 came and demanded to attend the event. When Darwish refused to let them join, they forced SCM to end the event. Darwish further mentioned that several travel bans were imposed on him, one from Branch 251, despite the fact that his children were in a European country where he consequently could not visit them. Another incident happened at the end of 2010 when Darwish, pressured by friends, wanted to re-register with the Damascus bar association. Darwish said his supervisor was Khaleel Ma’touq خليل معتوق (who has been missing until today), with whom he registered as a trainee in 2010. The bar association council voted 15 votes in favor of taking Darwish back as a member, and a day was scheduled for him to take the oath. Darwish recalled that when he arrived at the bar association in Damascus, the head of this regional association, Jihad Al-Lahham جهاد اللحام apologized to him on behalf of the association, saying that an official from Branch 251 called Mahmoud Ra’d محمود رعد, came to him the previous day to inform him that Darwish was not allowed to register again. Darwish said the same person, Al-Lahham, later became president of the people’s council [parliament] and concluded by saying that Branch 251 interfered with everything and even with personal relationships of people, in addition to its role in oppressing the opposition and the formation of opposing opinion.

Wiedner asked whether this answer would be Darwish’s description of the tasks of Branch 251. Darwish replied that this Branch was one of the most important Branches in Damascus surrounding area. Its strategic tasks are maintaining security in Damascus and surrounding areas, in a security- not military related sense. The Branch has divisions that control all aspects of life: economy, religion, political parties and students. It is involved in everything, even in the president’s government and the election of the people’s council [parliament], in addition to its “regular” tasks.

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[lunch-break – Al-Gharib was handcuffed before he was guided out]

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Wiedner recalled Darwish citing Bashar Al-Assad: “If you want it an open war, then let it be an open war” and asked how Darwish knew about that. Darwish said that it was part of a public speech by the president.

Wiedner asked whether the speech was on demonstrations. Darwish said he assumes it was directed towards the peaceful demonstrators.

Wiedner further recalled Darwish saying that the Inner Branch [251] was present at demonstrations and asked whether they were uniformed and from where Darwish got this information. Darwish said he already mentioned earlier that before 2011, the Inner Branch summoned him several times e.g. on September 13, 2009.

Wiedner specified that he was asking about the Branch’s presence at demonstrations and whether Darwish recognized them or how he knew that it was the Inner Branch [251]. Darwish said from his personal experience, Brigadier General Tawfiq Younes اللواء توفيق يونس was there [at a demonstration] opposite the parliament. He further recalled that already 3 days earlier, Younes arrested Darwish and interrogated him in his office. Some employees [of the Inner Branch العناصر] summoned and



interrogated him as well. Darwish said he knows what they look like and even knows the names of some of them.

Wiedner wanted to know whether Darwish joined any demonstrations in the spring of 2011. Darwish affirmed, adding that he participated in almost all the demonstrations.

Wiedner asked Darwish to describe the kind of assaults [by the Intelligence Services] and the turning point, when the situation became more violent and weapons were used. Darwish recalled a sit-in in February 2011 in front of the Libyan embassy where the security forces filmed the demonstrators. Darwish said he does not know the reason why, but in an instant, security forces took their batons and demonstrators shouted “a traitor, is the one who kills his people”. [خاين ياللي بيقتل شعبه]. Some people got arrested, but most of them escaped. On March 16, [2011] there was a call to protest in front of the Syrian Ministry of Interior, time and location were announced in advance, and people started gathering. Darwish said that within the first 15 minutes, there was no reaction from the security forces, but the moment that pictures of the detainees were held up, security forces got active, ripped the pictures and assaulted “us” by beating. He added that the beating was sheer torment and recalled that Dr. At-Tayyeb Tizini, one of the most accomplished philosophy teachers at Damascus University, was beaten with batons. Darwish said he himself was bleeding from his head when two officials caught the doctor and slammed him against a light pole. Arrested people were taken to the South Area Branch, which belongs to the Military Intelligence Directorate. Darwish said months later, there was an attempt for another sit-in, this time at Al-Abbasiyyeen square. *ساحة العباسيين*. A big group of demonstrators tried to get over there from Duma. *دوما*. Darwish said he also participated in the demonstration, where live ammunition was shot.

Wiedner wanted to know the exact month. Darwish said he thinks it was in June.

Wiedner asked if people got shot. Darwish affirmed, saying that some were hit by a bullet, some even died. After this episode, in February 2012, Darwish said he was detained for 3.5 years.<sup>4</sup>

Wiedner wanted to know whether this was Darwish’s first encounter with firearms at a demonstration and whether it happened again. Darwish said that it was the only time he experienced live ammunition, however after that demonstration, his participation in demonstrations became less, whereas during the first phase in February and March [2011], he participated in almost all demonstrations in Damascus and the surrounding area.

Wiedner asked whether there were no shootings then. Darwish said at least not in the demonstrations in Damascus. However, in Dar’a for instance, there were, but he himself was not there.

Wiedner wanted to know since when weapons were used [against demonstrators] and from which point in time it happened on a regular basis. Darwish said later there were other parties. For example, in Jisr Ash-Shoghour, *جسر الشغور*, there was shooting from other groups on a security building.

Wiedner wanted to clarify whether the shooting was initiated by the security forces or “the rebels.” Darwish said it was initiated by another party which he cannot specify. There were clashes in front of the building during which security [forces] responded [fired back].

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<sup>4</sup> Note from the Trial Monitor: It was translated as 3.5 months instead of years.

Wiedner wanted to know which security forces used live ammunition: police, army or civilian for example. Darwish said in February, the sit-in was in particular locations and therefore, they were able to see the forces and identify them. Essentially, he identified people from Branch 251 and the Political Security – Al-Jibbeh الجبة Branch. Darwish added that only a small number of people he was able to identify were from the Military Intelligence Directorate. However, at demonstrations where live ammunition was used, he was not able to identify specific individuals. They were a mixture of military forces and intelligence Branches.

Wiedner asked whether Darwish was familiar with the term “Division 40”. Darwish said he has no personal experience with it and was never arrested by them nor detained in their facilities. However, through his work in documenting violations and through his colleagues in the centre [VDC], who were arrested by the Division, he is familiar with it.

Wiedner wanted to know what exactly Darwish knows about Division 40 and its tasks. Darwish said he knows that it is part of Branch 251 and is headed by the colonel (and perhaps later, the brigadier general) Hafez Makhlof حافظ مخلوف. Due to the relationship between him and Bashar Al-Assad, there is a bigger significance to that division.

Wiedner asked Darwish to specify this significance and the tasks of Division 40. Darwish said to his knowledge, the tasks of Division 40 (or division of the city (Damascus)) are part of the tasks of Branch 251, however Division 40 was responsible for a certain geographical area. However, as Makhlof is its head, the Division interfered in assigning ministers and businessmen and their deals [transactions].

Wiedner said this would not answer his question about what was Division 40’s purpose. Darwish said that its tasks were part of the tasks of Branch 251.

Wiedner asked Darwish to look at the defendants to his right and tell him whether he met them before. Darwish denied this was the case.

Wiedner recalled that in his interview with the German police, Darwish mentioned terrible things about his detention, however these things did not happen in Al-Khatib. Wiedner asked if that was correct. Darwish affirmed.

Wiedner asked Darwish to list where he was detained. Darwish said he was first detained in the Area Branch ,[227] فرع المنطقة which belongs to the Military Intelligence Directorate. His second detention was at Branch 215, the third one lasted for 3.5 years and was initially at the air force [Branch] in Al-Mazzeah airport, مطار المزة, then at the fourth division, followed by an air force [Branch] and state security – central interrogation branch.

Wiedner wanted to know where Darwish experienced torture. Darwish said he was tortured at Al-Mazzeah airport, fourth division, air force administration and state security – central interrogation branch.

Judge Kerber now wanted to have a look at the documents which Darwish mentioned earlier.

Darwish said the first document is from the Ministry of Culture, doc. No. 311, and was addressed to the Arabic Cultural Centre in Al-Mazzeah. It includes the permission to host a conference on “Press and the Freedom of Expression” on August 25, 2008 which was organized by Darwish. The document has

the signatures of the Director of the Cultural Centre, Najib As-Sousi, نجيب السوسي and the assistant of the Minister of Culture, Mohammad Turkey As-Sayyed, محمد تركي السيد.

Kerber asked the translator to confirm. The translator affirmed.

Darwish said the second document is a press announcement from the Committee of the Defense of Human Rights, titled “Syrian authorities continue to crack down on freedom of expression”.

Kerber wanted to know whether this document was related to the first one. Darwish said it was a press announcement on the cancelation of the conference.

Kerber asked the translator whether he can confirm that. The translator affirmed.

Kerber wanted to know whether the prohibition of the event was also written in a document or only happened verbally. Darwish said the press announcement was speaking about the prohibition.

### **Prosecutor’s Questioning**

Prosecutor Klinge wanted to know whether Darwish heard about one of the defendants back in Syria. Darwish said he heard of Raslan.

Klinge asked what Darwish heard. Darwish said that Raslan was the head of the interrogation unit in Branch 251.

Klinge asked whether Darwish heard or was told about the conditions there or about Raslan. Darwish said he had colleagues who were detained in the interrogation division in branch 251. He further has knowledge about Branch 251 through the Documentation Center [VDC].

Klinge wanted to know whether that was before or after March 2011. Darwish said it was after March 2011.

Klinge asked what Darwish’s colleagues said about the detention conditions. Darwish said during the first phase in March and April [2011], they talked about torture methods, in particular Doulab and general mistreatment. After April, they reported even more torture and higher numbers [of detainees]. Darwish said he and his colleagues began to document cases of death under torture.

Klinge asked whether Darwish knows names of people who died under torture at Branch 251 between 2011 and 2012. Darwish affirmed.

Klinge asked Darwish to provide these names. Darwish presented a folder, saying that it contains documents on one of the victims, [name redacted]. The folder includes: the testimony of a defector from Branch 251, a certificate from Harasta military hospital مستشفى حرسنا العسكري, and a video recording from the victim’s brother addressed to the court in Koblenz. All materials indicate that [name redacted] Al-Khleif يامن الخليف died during his time at Branch 251. These documents also show the chain of

custody<sup>5</sup> and are for the court. Darwish added that the documents were translated into German for the court.

Plaintiff counsel Dr. Oehmichen pointed out that Darwish mentioned “chain of custody”, which could also be translated as “chain of command”.<sup>6</sup>

Klinge wanted to know what exactly the documents show and where Darwish got them from. Darwish said he brought several documents, the first one contains names of the commanders from Branch 251 and the administrative structure as well as names of 93 people who work there.

Klinge wanted to know from where Darwish got the document. Darwish said it was prepared and made available by the litigation department of SCM and also the Violations Documentation Center [VDC] department, using testimonies of defected members [عناصر] (two from Branch 251) and open-source material. The methodology and the names are in the document and were translated into German.

Klinge concluded that the document is consequently not an original from the Intelligence Services but was made by Darwish’s organization. Darwish affirmed, adding that the document was prepared at SCM, based on available information. He went on to explain that the second document is about the detainee [name redacted] and contains a certificate from Harasta hospital which indicates that the detainee arrived there dead from the Branch. This document also provides a chain of custody and is verified [authentic]. Darwish said there is also a testimony from the brother of the detainee, who says that, based on the information he received from someone working at the Branch, his brother died at Branch 251.

Plaintiff counsel Scharmer had a question regarding the translation and wanted to clarify whether the person died in the Branch or Harasta hospital. Darwish said the person was already dead when he arrived at Harasta hospital.

Prosecutor Klinge went on to ask whether the certificate from Harasta hospital is an original, a copy or a summary. Darwish said that it is a copy of the original, adding that the chain of custody would indicate how SCM got it.

Klinge wanted to know how the testimony of the victim’s brother was presented. Darwish said the brother’s testimony was documented in a video and is a message addressed to “the justice of the court.” He is currently in Greece and willing to testify in court.

Klinge asked when the person died. Darwish said according to the certificate, he arrived at the hospital on August 27, 2012. He was transferred and medical procedures were attempted for resuscitation in addition to electric shocks [defibrillator], but there was no response.

Raslan’s defense counsel Böcker intervened by complaining that the documents should not be discussed right now during a public session and that Klinge’s questions on the documents would be

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<sup>5</sup> Note from the Trial Monitor: The translator asked Darwish, what the Arabic term “سلسلة الحيازة” means. Darwish said [in English]: “chain of custody”. The translator did not mention the term when he translated Darwish’s statement.

<sup>6</sup> Note from the Trial Monitor: This translation seemed to have caused confusion later, because what Oehmichen referred to was “chain of command” which Darwish provided later as a separate document as well.

inadmissible as it is not clear where the documents came from, what exactly they include and how Darwish got them.

Prosecutor Klinge said he did not know about the documents, Darwish and the SCM collected the information and the documents should be shown in the public main procedure.

Böcker requested a break, saying that the parties to the case received a transcript of Darwish's interview with the German police (in addition to a transcript of an interview from the prior day which the parties already received) only today and no one knew about today's "surprise box". He said those would be heavy documents that should be made available first, before discussing them in a hearing. Böcker said he has no questions on the documents today but requests an additional hearing, as at this point, it would be some kind of "whisper down the lane" and "surprise box".

Klinge said that the material is possibly evidential and therefore Darwish should explain what he brought with him today. Regarding the transcripts, Klinge explained that the first transcript is from July 29, 2017, the transcript of July 30, 2017 was not added to the case file, as it was only part of the [structural investigation](#).<sup>7</sup>

Plaintiff counsel Scharmer tried to say something when Böcker interrupted him, saying that he is not accusing anyone, however Darwish was summoned to provide an overview rather than reading out specific documents.

Presiding judge Kerber said that prosecutor Klinge wanted to get the content [of the new documents] described, which would be understandable. Darwish's documents would therefore be put on record and surely not addressed tomorrow, however the witness could be summoned again.

Scharmer proposed that since Klinge already clarified the origins of the documents, the judges should ask their questions on the documents and then Darwish can be summoned again so the other parties can ask their questions.

Kerber asked Darwish what exactly he wanted to hand over to the court, how many documents he has and provide a short description. Darwish said he would like to submit nine files:

1. Chain of command [structure of hierarchy]
2. Death certificate from Harasta hospital
3. Death certificate from Harasta hospital
4. Death certificate from Red Crescent hospital
5. Note to the head of Branch 251 regarding a conflict between the Branch's interrogation division and the forensic department at Harasta hospital about corpses of detainees
6. Two-page long chart on deaths inside Branch 251, which includes numbers of cooling entities in the mortuary [برادات] and number of corpses
7. Locations of four mass graves
8. Series of telegrams between the security branches and the central administration regarding a detainee who died in custody at Branch 251. He was apparently an employee at the Ministry

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<sup>7</sup> Note from the Trial Monitor: Since 2014, the German Federal Prosecutor General is conducting a so-called "structural investigation" (Strukturermittlungsverfahren) into crimes committed in Syria since 2011. Such an investigation is not related to specific case or instance but aimed at collecting evidence in a larger context which can then be used in specific cases.



of Oil. The telegrams also include descriptions of his arrest, his death at the Branch and suggestion to transfer him to the military police and to bury him in a known location. The series further includes the response from the central administration in Damascus which agreed to the proposed procedure and requested to notify the national security office, since the person was an employee in the Ministry of Oil. This correspondence describes how a peaceful detainee transforms into one of the Caesar photos.

9. 103 photos of detainees who died at Branch 251 from the Caesar files.

Darwish added that all documents were translated to German, indicate a chain of commanders involved and their ranks. The rest of the documents all include a chain of custody. Lastly, there is a copy of the Centre's [SCM] license which shows that the Centre since has been working on the fight against impunity, documenting violations and collecting evidence, ever since 2004.

Judge Kerber asked whether Darwish needs the documents back. Darwish denied, saying they are copies for the court.

Kerber announced that she received a total of 12 documents which are formally added to the minutes. She went on to ask Darwish about the content of the CD he provided. Darwish said it includes

1. Structural framework of Branch 251 and names of employees
2. video message from the brother of the detainee [name redacted] to the court with German translation.
3. 103 Caesar photos

Kerber ordered a 15-minute break, so the translators could help to evaluate the documents.

Raslan's plaintiff counsel Böcker wanted to know whether there will be more documents. Judge Kerber forwarded the question to Darwish, who replied that regarding this particular case, these were all documents, however with regards to other cases, he provided other documents to "other courts" like IIIM.

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[15-minute break]

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Judge Kerber asked the parties whether anyone had comments on the documents and suggested to continue the hearing as planned initially and in case questions on the documents arise, Darwish can be summoned again.

Prosecutor Klinge continued by recalling that Darwish mentioned that live ammunition was used against demonstrators in Dar'a and asked when the use of firearms during demonstrations in 2011 began. Darwish said the first time he himself experienced the use of firearms was at the attempted sit-in at Al-Abbasiyyeen square when people wanted to come from Duma. However, the first time that he documented shootings on demonstrators through SCM was on March 18. Darwish said he spoke publicly about it on TV and as a result, was arrested on March 22.

Klinge asked where the first shooting at demonstrations happened. Darwish said in Dar'a.



Klinge asked whether firearms with live ammunition were afterwards used on a regular basis and whether Darwish documented anything. Darwish said the first shooting on demonstrators was documented in Dar'a, afterwards in rural Damascus. It then became "normal" on a daily basis. Starting in April, SCM documented violations in a database.

Klinge asked when it [use of live ammunition against demonstrators] became daily. Darwish said it mainly happened in areas outside Damascus e.g. in Dar'a and then in Duma. He said he and his colleagues documented shootings on demonstrators specifically on Fridays. In Homs, they first documented shootings on demonstrators in April and as the days went by, shootings expanded.

Klinge wanted to know whether Darwish heard about CCMC. Darwish affirmed.

Klinge asked what Darwish knows about it. Darwish said he has no first-hand information, but he and his colleagues used to hear that a unit was established from the crises management unit and includes a group of high-ranking officers. He recalled that later, when he was in prison, an explosion happened and some officers died.

Klinge asked when and why it [CCMC] was founded. Darwish said with progressing demonstrations and the inability to control them, this unit was founded as a tool to handle demonstrations. As he heard, it has more powers than "normal bodies". It was authorized to suppress demonstrations with military means and to conduct negotiations and consultations.

Klinge asked Darwish about the members of CCMC. Darwish said some of the prominent names were: Jamil Al-Hasan جميل الحسن, Asef Shawkat آصف شوكت, Ali Mamlouk علي مملوك as well as the Ministers of Defense and Interior.

Klinge asked whether Darwish has knowledge about specific decrees regarding the CCMC. Darwish said he heard about it but has no evidence. He only heard what was circulating in general.

Klinge wanted to know what was generally being said about the cell. Darwish said he heard rumors that there were two movements inside the cell: one in favor of violence and military decisiveness, which was led by Jamil Al-Hasan. The other one in favor of combined military and political action, Asef Shawkat was part of this movement.

### **Defense Counsels' Questioning**

Raslan's defense counsel Böcker wanted to clarify some confusion surrounding the term "chain of custody" and its German translation. He asked Darwish what he meant. Darwish explained that he himself used the term "سلسلة الحيازة" and felt that it was not translated well. That's why he used the English term "chain of custody".

Böcker wanted to know what he meant by that. Darwish said that during their work, specifically in the Violations Documentation Center [VDC], they used a special methodology to preserve evidence and take testimonies of witnesses regarding certain evidence. Usually, with every piece of evidence, they have a special format, which explains how the evidence found its way to the Centre.

Böcker asked whether Darwish meant “chain of command”. Darwish said when he talked about the “chain of custody”, it was related to the tracking of evidence. However, one of the documents was actually on the “chain of command and rankings at Branch 251”.

Böcker wanted to know whether it is correct that Darwish was never detained at Branch 251 of the GID but at Branch 285, however not prior to 2015. Darwish said he was not detained at Branch 251. He was transferred from Adra [prison] to Branch 285 (state security – central interrogation branch) in May 2015.

Böcker recalled Darwish mentioning that they started documenting cases of torture after April 2011 and wanted to know whether Darwish himself or other people were involved in the documentation. Darwish explained that starting in April, they realized that the numbers of violations was bigger than the capacity of the Centre [SCM], therefore they founded the Violations Documentation Center [VDC] as one of the Centre’s [SCM’s] projects. Darwish said he was involved in it together with a big group of employees including Razan Zaytouneh رزان زيتونة and Ayham Ghazzoul, أيهم غزول, the latter of whom died under torture and is on one of Caesar photos. Today’s pieces of evidence were compiled by members of the strategic litigation project.

Böcker asked whether Darwish was personally involved in the documentation. Darwish affirmed, adding that he manages the SCM and both projects.

Böcker went on to clarify that he knows that Darwish is the head of the SCM and the projects, however his question is whether Darwish was directly involved in compiling one of these documents. Darwish asked for clarification what Böcker meant by “direct intervention”.

Böcker explained that among the documents seems to be a list with names. He asked Darwish whether he was involved in creating this list or if he got help. Darwish said that there is one list of names which refers to the “chain of command” at Branch 251 and that the methodology of creating this list is also attached to it.

Böcker said he simply wants to know whether Darwish was the one who compiled the list. Darwish said the question is very complicated and perhaps, if Böcker would have a look at the document, it would become clearer to him.

Böcker again asked if Darwish was involved in compiling the list. Darwish said that Böcker can find his signature on the documents on which Darwish, amongst others worked.

Böcker wanted to know why Darwish brought these documents to the hearing today but not to his hearing with the German police. Darwish said that at the time of his hearing with the police, the subject matter was his personal detention. Branch 251 was consequently not of interest, whereas “today”, he was summoned for this particular reason.

Böcker went on to ask Darwish technical questions on the Caesar files, whether he knows how they were created. Darwish said the pictures are available open source, the source is also attached to the CD. He said according to Caesar’s [the photographer’s] statements, the pictures were taken from 2011 until defection in 2013.

Böcker wanted to know if Darwish knows how many photos were taken in 2011 and 2012, as they are of particular interest in this case. Darwish said the question is legit, however he cannot provide a timeframe. It would be possible to provide a time frame by analyzing the metadata of each file.

Klinge intervened asking Böcker how he would know that there is only a single file from 2011, as he just mentioned. Böcker replied that only one picture from 2011 is included in the case file. Klinge explained that this would only be the current state of knowledge. Böcker affirmed, explaining that this is why he wants to ask Darwish whether he knows anything else. Darwish said he cannot answer this question and suggested to seek help from experts. Böcker concluded that he now has an answer to his question: “that Darwish cannot answer the question”.

Al-Gharib’s defense counsel Schuster asked Darwish about the school system in Syria, about Hafez Al-Assad controlling children (youth organization of the Baath party), and asked Darwish to provide more information in this regard. Darwish said that in Syria, this system is still in place, until today. There is the concept of “people organizations” المنظمات الشعبية and by definition, they are generic organizations associated with Al-Baath party. The first one is “The Baath pioneers طلائع البعث” organization for children between 6 and 12 years. Then “The Revolution’s youth شبيبة الثورة” organization for the age group between 12 and 18. After 18, there is “The National Union for Syria’s Students” which includes the students in the universities and institutions.

Schuster asked whether the membership in “The Baath pioneers” organization was mandatory. Darwish affirmed, explaining that it is mandatory as the children at age 6, when in first grade are simply not asked, the same is the case for the “The Revolution’s youth شبيبة الثورة”, both are mandatory and membership is consequently “automatic”. Darwish said the same is the case with the “The National Union for Syria’s Students”.

Schuster wanted to know whether that would be some kind of political indoctrination or what the purpose of those youth organizations would be. Darwish said in his opinion this practice is not unique. Totalitarian regimes employ the same method: North Korea, Russia and all the totalitarian regimes. They are political organizations in the sense that children are indoctrinated with ideologies which are then reproduced. One can see this in curricula, in songs or in the curriculum of the socialist national education which was a subject that remained with him for 6 years [starting in 7<sup>th</sup> grade], including exams on it. The curriculum talks about the values and principles of Al-Baath party. Darwish said the subject was even present at university, in law school when he specialized in public international law.

The proceedings were adjourned at 03:40 p.m.

The next trial day will be September 16, 2020 at 09:30 a.m.

### **Day 33 of Trial – September 16, 2020**

The proceedings began at 09:30. There were about 14 spectators and 3 media representatives present.

The prosecution was represented by prosecutors Klinge and Haferkamp. Attorney Rothmann appeared as replacement for Plaintiff counsel Mohammad. Plaintiff Counsel Dr. Kroker was not present.



Raslan's defense counsel Böcker said he wanted to give Raslan an empty calendar and showed it to Judge Kerber who approved it. The calendar was then given to Raslan.

#### Continuation of Mazen Darwish's testimony

#### **Prosecutors' Questioning**

Prosecutor Klinge recalled that the use of firearms in Dar'a on March 18 was documented and that later, in April 2011 firearms were used in Duma as well. Klinge asked Darwish to provide some more explanation on that. Darwish said that with the beginning of the demonstrations in Damascus and then in Dar'a, news started to spread through social media and other media channels. Youth movements began to communicate and gather under the heading "coordination". He explained that especially in Duma, there was historically a form of political movement. Demonstrations started in order to show solidarity with Dar'a, especially since Syrian forces sieged Dar'a, in addition to the use of firearms against demonstrators. Demonstrations usually happened after Friday prayers especially in front of Duma's Grand Mosque جامع دوما الكبير. Darwish said the slogans were the same peaceful ones, essentially showing solidarity with Dar'a. He further recalled a shooting where more than one person was killed.

Klinge asked when that happened. Darwish said the situation escalated at the beginning of April. It started on one of the Fridays, when demonstrators "fell" [were killed]. That Friday, security forces arrested many demonstrators and took many corpses with them. According to Darwish, there was an overlap between political and military levels [in responding to the demonstrations]. Darwish further said that some detainees were released and [the collected] corpses were handed over to the families. Among the government's conditions [for handing over corpses] was that the funeral should take place swiftly with a shortened procedure. However, the funerals took a general nature.<sup>8</sup> Darwish said that some of these negotiations with families were conducted by Branch 251.

Klinge wanted to know where Darwish got his information from. Darwish said he and his colleagues were documenting violations during that time. He said they were contacted by people [families] who had to negotiate with the regime. The Violations Documentation Center [VDC] had an office in Douma until the end of 2013, which was directed by the lawyer Razan Zaytouneh. After her abduction, the work continued until 2017. Darwish said their information came from the ground.

Klinge further recalled a demonstration in Douma on April 29, 2011 which was quelled by the use of firearms and asked Darwish to further elaborate on that. Darwish explained that they [VDC] documented that incident with a list of the victims, arrested people and in addition they also stored testimonies on that event.

Klinge asked about the numbers of arrested and dead people. Darwish said that at least dozens of people were arrested or hurt and they have names of eight people who were killed.

#### **Plaintiff Counsels' Questioning**

Plaintiff counsel Scharmer said that Darwish would be a lawyer and an expert on the Syrian legal system and asked whether torture and murder is prohibited in Syria and if there are groups that grant themselves immunity [from criminal prosecution for the use of torture]. Darwish explained that legally, torture is prohibited by the constitution. Syria ratified the [Convention against Torture and Other Cruel,](#)

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<sup>8</sup> Note from the Trial Monitor: It is not clear whether Darwish meant that funerals became a regular practice as there were so many dead who needed to be buried or whether the funeral took place as usual, contrary to what families were told.



[Inhuman or Degrading Treatment or Punishment \(CAT\)](#) [in 2004], however refused to sign the [Optional Protocol](#) which allows for external examination [of detention facilities and measures taken to prevent torture]. He added that all of that is however, theoretical. In reality, torture and kidnapping [خطف] exist and are covered by law, in particular with regards to security forces and police, before or after 2011. Darwish said this started with the Legislative Decree 14/1969 which grants immunity for members of the state security. It is not possible to file a complaint against them regarding torture procedures, enforced disappearances or any other violation. This was also confirmed by Art. 74 [of Legislative Decree 549/1969] which states that it is not allowed to prosecute a worker of state security, or those assigned or loaned to contractors directly in front of the judiciary. Darwish said this also applies to volunteers or contracted civilians. In addition to that, another Legislative Decree was issued in 2008, which expanded immunity from prosecution to the rest of the security organs: political security, police and inner security. However, the worst thing to happen in that regard was in 2011, when the government ceased “the suspension of working with the state of emergency [martial law]” and The President of the Republic via Decree 55/2011, granted the security forces the status of “judicial police,” الضابطة العدلية, which means detention can be extended for 60 days without referring a person to judiciary. In practice, that Decree gave security forces the opportunity to detain, torture, conduct enforced disappearances and kill within a period of 60 days (not more than that). Darwish said, members of the security forces are also protected on a financial level, as the law of “oversight and inspection الرقابة والتفتيش” prevents any form of financial oversight over the security forces. He said that these [laws] were some forms of exemptions that security forces enjoy.

Scharmer recalled Darwish saying that torture was practiced before and after 2011 and asked Darwish whether he knew about sexualized violence at the GID, in particular Branches 251 and 285. Darwish affirmed that it existed and people heard particularly from the Muslim Brothers whose families and women were subject to sexualized violence and detention as a way of exerting pressure on them. After 2011, Darwish and his colleagues received reports about such violations concerning men and women. Darwish said they had female colleagues who were detained in Branch 251 and faced some kind of sexual harassment and in a broader scope, they also documented cases of rape concerning men and women.

Scharmer asked whether these were individual cases or if it was systematic. Darwish said that the problem was that shortly after the start of the demonstrations, security forces were given a free hand to do whatever they wanted and were granted a legal blanket (Darwish referred to Decree 55). They were free to do whatever they wanted without any restrictions imposed on the officers, whether it was torture or other forms of sexual violence. Darwish told the court that he was detained, along with his wife and female colleagues from the Centre. The first question he was asked by the interrogator was “Since you’re a lawyer: In your opinion, if your wife is raped, do you have the right to divorce her without paying the deferred dowry?”. Darwish said that certainly, he was not interested in knowing the law. It was a means to let him know that “your wife could be raped here”. Darwish said it [sexual violence] was systematic and was used.

Scharmer recalled Raslan’s vitae: he comes from a Sunnite village, worked for the state security since 1995, became an officer in 1996, was the head of the interrogation unit at Branch 251 since 2008 and probably became a brigadier general shortly after. Scharmer asked Darwish whether he thinks, from what he knows, that it is realistic that such a person was not involved with torture or murder in 17 years. On Scharmer’s comment that this question might sound strange to Darwish, the latter thanked for the question and replied that it is not strange at all. He said that in his opinion, the fact that an officer belongs to a certain ethnicity, has no effect on this topic, he keeps exercising his job. Darwish wanted to “elaborate a bit” further: the security forces are controlled by officers from the Alawite sect. A part of the control mechanism is the loyalty or ethnical affiliation. However, that approximation is



incomplete. There are 3 other aspects that need to be taken into account: Firstly, it is generally known what the security forces do and what their function is. When a person volunteers to offer his services in that Branch freely, it means that he, in advance, agrees to be a part of this system and accepts to exercise these practices. Secondly, there are sectors in the government which only accept people whose loyalty and affiliations are known e.g. security forces [branches], scientific researches sector [department] (which belongs to the army) and the army sector [department]. Every person accepted by these sectors [departments], was scanned: the person himself as well as his beliefs and his affiliations. He would not have been accepted, without proof that his loyalty is guaranteed. Darwish said he thinks that one should read the security bodies and their ethnic composition in this regard.

Scharmer said that in 2008, Raslan became the head of the interrogation unit and asked if this would be possible without knowing about torture or using it. Darwish denied, saying it would never be possible.

Schulz recalled Darwish quoting Al-Assad the previous day “If you want it an open war...” and asked whether this speech can be found on the internet. Darwish said that there is a special website for the Republic Presidency which contains all speeches. He thinks that it could even be recorded on television and one is able to obtain it.

Schulz asked if it is still available online. Darwish said he assumes that one can access it via internet, but he does not know the specific link. However, he can hand a copy of the speech to the court.

Schulz wanted to know the name of the relevant website. Darwish said it is called “[web]site of the Syrian Republic Presidency”.

Schulz asked if Darwish has knowledge of any word/picture/audio recording of Raslan. Darwish said he has no information in that regard.

Schulz asked about Assef Shawkat. Darwish said that Assef Shawkat used to be a high-ranking officer within the Syrian Intelligence Services, husband of Bashar Al-Assad’s sister and one of the members of CCMC.

Plaintiff counsel Dr. Oehmichen said that “bar association” (Anwaltskammer) was translated and later “Labor Union Chamber” (Gewerkschaftskammer), and asked Darwish to explain the meaning of those terms. Darwish said he meant the bar association branch in Damascus [فرع نقابة المحامين في دمشق].<sup>9</sup>

Dr. Oehmichen recalled Darwish saying that until 2011, torture was used to get information, and asked whether there was then a difference in quality, number of people being tortured and if it was no longer used to get information. Darwish affirmed, saying that torture was a tool to extract information. One of the developments was that after 2011 and in addition to extracting information, it became a tool for revenge, killing and to shatter the will and mind. He said it became independent from any regulation. Darwish recalled him and other people being subject to “Shabh” [hanging from ceiling with feet barely touching the floor] in old Al-Mazzeah airport prison. Darwish said he was not able to see anything, but heard a hanged person [مشبوح] next to him telling the interrogator to let him down because he wanted to confess that he possessed weapons. The interrogator told the person that he did not want [to lower him]. The person told the interrogator that he wanted to tell him about crimes he committed and that he murdered people (the person only wanted to be relieved and be lowered). The interrogator responded in cold blood: “I don’t want information. Stay there hanged [مشبوح] until your hands are torn up and then die”. Darwish said he simply did not want any information at all.

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<sup>9</sup> Note from the Trial Monitor: The translator explained that the word “chamber” would not be used in Syria, but rather (labor) union.



Dr. Oehmichen wanted to know whether Darwish knows about any other Decrees which would be relevant to this trial. She asked if Darwish has juristic knowledge about decrees that could be relevant for the trial. Darwish said he thinks that these [the ones he previously mentioned] were among the most important laws by the President of the Republic, that gave a “protection blanket to the security forces.” However, there are additionally dozens and hundreds of Administrative Decrees. Darwish added that the most important thing is silence, an unwritten rule which makes all these practices possible.

### **Defense Counsels’ Questioning**

Raslan’s defense counsel Böcker asked Darwish about Jisr Ash-Shughur and wanted to know whether he knows something about an incident in June 2011. Darwish said that was exactly what he previously indicated: that in the first months, there was a shooting on the security forces. That was the clearest incident and happened in June, 3 months after the demonstrations began. An armed group of civilians (not sure exactly who) shot at a security center [building] in Jisr Ash-Shughur, besieged it and killed a group of security forces. The latter fired back in a crossfire.

Böcker asked whether June 5 until June 7 [2011] would be logical. Darwish affirmed, saying that the siege lasted from the evening of one day until afternoon of the following one.

Böcker wanted to know whether the number of 120 killed members of the Syrian security forces would be correct (this would not be a scientific source but an accessible source). Darwish said the number 120 is, in his opinion, too big and exaggerated. The site that had been attacked was a detachment that belonged to the security [forces] and was in a peripheral area. In that type of detachment, it is difficult for more than 20 to 30 people [عنصر] to find space.

Böcker wanted to know whether some of those 120 people might have been killed by their own people while defecting, so not only forces fighting against civilians but against their own members. Darwish said he already mentioned that there was a crossfire, both parties killed each other and the clashing lasted for hours.

Böcker said he was not talking about reciprocally killings only but also security forces killing their own people while defecting. Darwish said he now understood the question and said that that he heard that some of the forces [عناصر] wanted to defect and were demonstrating [he most likely meant demonstrating against the shooting]. Their colleagues consequently shot them in order to prevent them from defecting. However, Darwish said he cannot confirm this information.

Böcker asked how the Syrian system (state security) treated their members if they were not 100% loyal and/or refused orders, before 2012. Darwish said ultimately, the nature of the regime does not accept anything but absolute loyalty. He assumes that the regime would not deal permissively with people who refuse or breach instructions [orders].

Böcker said given the case that someone’s perspective on history from 1958 was different in 2008, if someone like this realizes in 2011 that he does not want to continue, what would he do, would he go to Al-Assad and resign or what would be his options. Darwish said first of all, it has to be clear that he does not judge the intentions of people and is not in a position of prosecuting anyone. He assesses the events from a legal and documentative aspect. Again, the regime is not forgiving with those who do not show loyalty. Each case, person or location is different and must be examined specifically. Darwish added that he can only talk about things in general and hopes that any additional issues would be left for the justice of the court.

Böcker asked whether it was possible for someone to defect in 2011 without harming himself or his family. Darwish said he already answered this question.



Böcker denied, saying that he did not understand and repeated his question. Darwish said he already mentioned that the regime is not forgiving in such cases.

Böcker wanted to know what exactly Darwish meant by that and what the reaction of the regime would be. Darwish said he thinks he answered that question as well: it differs from one case to another, each case, person or location is different and must be examined separately.

Al-Gharib's defense counsel Linke asked if the Syrian criminal law knows "obstruction of justice". Darwish said the translation was not clear.

Judge Kerber intervened, asking whether this term exists in Syrian language. Darwish affirmed.

Linke asked again whether this concept existed in Syrian law. Darwish affirmed.

Linke went on to ask about "obstruction of justice in office". Darwish affirmed again.

Plaintiff counsel Scharmer had one more question regarding Jisr Ash-Shughur, saying that Böcker told the version of the regime while he himself wants to tell the version of the BBC. Böcker interrupted complaining that this would not be true and he did not say that.<sup>10</sup>

Scharmer repeated the question, saying that according to the BBC, defected members of the security forces themselves attacked the detachment. He asked Darwish which version was right. Darwish said that the truth could be something else. In a country with neither press, freedom nor judicial investigations, it is really difficult to specify which story accurately tells what really happened. However, BBC Arabic and its office in Damascus has good connections with the Syrian government and its security bodies. Darwish said the relevant journalist at the time is still there today and has better connections than Darwish.

Böcker asked whether it is possible that one's own people shoot you. Darwish said he heard that question, adding that this story [version] exists and he cannot verify it.

The witness was dismissed.

Böcker referred to yesterday's confusion about the translation for "chain of custody" and "chain of command". Judge Kerber said what Darwish meant was "chain of evidence". Prosecutor Klinge said that the term is also mentioned in Darwish's documents, maybe this would clarify it. Böcker said he only wanted to know if this topic was completed. Judge Kerber affirmed.

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10-minute-break

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### Testimony of P15

The witness entered the courtroom wearing a face mask and a cap. Judge Kerber asked him to take them off. P15 asked if he could keep them on and said that he has a brother in Syria who was detained twice by the Intelligence Services and is afraid that something bad would happen to him.

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<sup>10</sup> Note from the Trial Monitor: There was a dispute about the remonstrations between Scharmer and Böcker for some time. When they stopped, Darwish asked whether the initial question was for him.





Judge Kerber said before P15 says anything, she has to inform him about his right and duties as a witness.

Kerber asked whether the situation of P15's brother was related to P15's testimony in court. P15 denied, adding that his brother is the last family member who is still in Syria and was taken [detained] twice by the Intelligence Services.

Kerber asked why he was detained. P15 said that they [the intelligence services] asked him about P15.

Kerber wanted to know whether the questions to his brother were related to P15's testimony or the fact that he is no longer in Syria. P15 said the latter was the case.

One of the Plaintiff counsels, Dr. Oehmichen wanted to intervene, however judge Kerber stopped her.

Kerber concluded the Intelligence Services did not go for P15's brother because of the trial. As witnesses are only allowed to be disguised in certain cases, P15 has to take off his cap and mask. P15 again asked the court whether there was a possibility of him staying disguised, as his brother is under surveillance. Judge Kerber denied saying that there would be certain "rules of the game" in a criminal trial and told him to take off his mask and cap.

Again, Dr. Oehmichen tried to intervene by asking whether Kerber thinks that the Intelligence Services would differentiate [between arresting P15's brother in relation to P15's testimony or the fact that he lives abroad]. However, Kerber interrupted her and asked the witness for his name and age.

P15 said that his name is [name redacted], he is 50 years-old.

Kerber asked P15 about his occupation. P15 asked if he could rather not answer. Kerber denied adding that the question was about his current occupation in Germany, not in Syria.<sup>11</sup> P15 said that in Germany, he is unemployed.

As part of the witness instruction and last question on the formalities, Kerber asked if P15 was related to the accused. P15 denied.

### **Judge Kerber's Questioning**

Kerber said that P15 told the BKA that he knows Raslan and asked him to tell the court about it. P15 said that "Mr. Raslan" is a "son of the region" [from the same region P15]. The main contact P15 had, was with the brother of Raslan's wife. The first time P15 met Raslan was in 2005 when one of Raslan's relatives [P15 said either: 1- "the father of his mother" or 2- "His father or his mother"] died. P15 went to console the family and got to know Raslan on that occasion.

Kerber said that the court is interested in Raslan. P15 said that he met him at the condolence gathering and then after 2005 for the second time. P15 recalled that he was in Damascus with one of his relatives when he spoke to Raslan on the phone and went to meet him. P15 said that he does not remember where exactly they met but they drank a cup of coffee [and sat] for no longer than 30 minutes. P15 said he left and never saw him [Raslan] again, only sent SMS on Eid or certain occasions. He said that this was their entire relation, via phone.

Kerber wanted to know what they talked about in the café. Plaintiff counsel Scharmer corrected and said that P15 did not say café, he just said they met for a coffee. P15 said they met in the office. He could not remember the subject, but "it was greeting and stuff like that."

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<sup>11</sup> Note from the Trial Monitor: P15 mentioned his profession back in Syria but it was not translated in German due to an overlap between translation and the judge talking. So, it might have been overheard.

Kerber asked P15 if he knew what Raslan's occupation was. P15 of course he knew that Raslan was an intelligence officer.

Kerber asked what P15 wanted from Raslan. P15 said he did not want anything at all. P15 explained that he saw Raslan at the condolence gathering where he gave P15 his number. It was a friendly visit and P15 did not want anything.

Kerber wanted to know whether P15 wanted something from Raslan. P15 denied adding that neither did he have in mind to ask anything at all.

Kerber asked whether P15 mentioned his cousin to Raslan. P15 said that this was in 2012. P15 told the court that his cousin [son of the sister of P15's mother]. was arrested and P15 did not know where his cousin was. Nobody was able to know where he was. P15 added that maybe during Ramadan 2012 [began on July 20 and ended on August 18], P15 talked with "Mr. Raslan" on the phone from P15's home and in presence of his cousin's family. P15 said he called and told Raslan that his cousin has been missing for a while and the family is desperate and does not know anything about his fate. Raslan took the name of the cousin (that was shortly before Iftar [breaking the fast]) and once he noted some information about him (date of birth), he asked for some time and told P15 to call him back after 1 or 2 hours. After Iftar, P15 talked to Raslan who said that unfortunately, P15's cousins' situation was not that good, (he was in an interrogation [تحقيق] situation or something like that) and according to Raslan, needed a lawyer to defend him. The situation was too unfortunate. Raslan said a certain phrase which P15 wanted to share: "something that bleeds the hearts (or the heart, P15 was not sure) شيء يدمي القلوب/القلب".

Kerber asked what Raslan meant by that. P15 said that until today, he does not know. Perhaps Raslan was just comforting a sad person. Only Raslan himself knows. P15 confirmed that this was exactly what happened.

### **Judge Wiedner's Questioning**

Wiedner wanted to know when the condolence gathering took place. P15 said that he cannot provide a timeframe with dates, because he did not write them down to testify [in the future], but he thinks that it was in 2005.

Wiedner said that P15 also mentioned that year during the police interview and then asked whether P15 knew about Raslan before [2005], since he was in contact with the family. P15 said that in fact, he wants to emphasize that he only knows Raslan from meeting him once. The second meeting, did not last for more than 30 minutes. It was in 2005 or 2006, P15 said he does not remember exactly but the dates were close to each other.

Wiedner said his question was rather whether P15 knew what Raslan used to work, before they met in 2005. P15 said he knew the brother of Raslan's wife, who told him that someone in Raslan's family died, so P15 went to the condolence and sat with them. Another of Raslan's brothers-in-law (P15 was not sure of his name, maybe [name redacted]) has a wife who is a gynecologist in the area and is called [name redacted] who has a good reputation. P15 said that these were the only members of the family whom he knows, adding that it was a simple, not a very deep relationship.

Wiedner wanted to know where Raslan originally comes from. P15 said he is from a village under administration of Homs, Al-Houla حمص، الحولة.

Wiedner asked P15 to specify the village. P15 said it is called Taldou تلدو.



Wiedner confirmed that P15 said the same thing during his interview with the BKA. He went on to ask P15 about Raslan's occupation. (P15 and Wiedner clarified that Wiedner was talking about 2005 and before). P15 said Raslan worked as an intelligence officer.

Wiedner wanted to know what he did before that. P15 said that as far as he is concerned, Raslan was a police officer.

Wiedner recalled P15 telling the BKA that Raslan was "a trainer in the police faculty". P15 affirmed.

Wiedner asked what Raslan's rank was. P15 said that perhaps he was a lieutenant-colonel مقدم, however he is not entirely sure.

Wiedner again quoted from what P15 previously told the BKA, where he said that Raslan was a "captain, but also not sure". P15 said at the time of the condolence gathering, Raslan was a lieutenant-colonel مقدم, but when he was working with the police, maybe he was a captain نقيب. P15 said he can only make assumptions as he did not ask Raslan about that matter.

Wiedner recalled that after that, P15 met Raslan only one more time for a coffee, and asked where that was. P15 said it was in Damascus in Raslan's office. He said he does not remember the exact location. However, he recalls that Raslan's office was not on the 1<sup>st</sup> floor.

Wiedner asked P15 to describe the situation and wanted to know whether P15 had to pass a security check before entering Raslan's office. P15 said "of course there was no control", however at the door, P15 was stopped (P15 does not know if they talked it over with Raslan) "We"<sup>12</sup> were asked about our names.

Wiedner asked in which year that happened. P15 said it was in 2006 or 2007, he did not remember exactly.

Wiedner recalled P15 telling the BKA that this happened in "2007 or 2008". P15 said "maybe."

Wiedner asked P15 to describe the office. P15 said that he went to have a coffee, not to take photos of the office. However, as far as he remembers, the office was normal, neither big nor small. P15 added that he does not remember much.

Wiedner wanted to know whether P15 knows the geographic location and the function of the building. P15 denied, adding that he does neither remember the location nor its name. However, P15 remembered that the office was at the State Security Intelligence Branch.

Wiedner quoted from P15's interview with the BKA during which he mentioned "the Inner Branch" in this context. P15 the BKA asked him about the Inner Branch but he did not know the name.

Wiedner wanted to clarify what P15 meant by "state security" and asked P15 what he knows about the Intelligence Services. P15 said all the Intelligence Services in Syria "are the same subject." He said that the members of the Intelligence Services would not know more about that.

Wiedner asked if Raslan was wearing a uniform [when they met for coffee]. P15 denied saying that Raslan wore civilian clothes.

Wiedner wanted to know whether Raslan was still occupying the same position, when P15 contacted him in 2012. P15 affirmed that he called in 2012 and that Raslan was definitely still in the same position. P15 said he did not know where Raslan was working, but he knew that he was an Intelligence Officer

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<sup>12</sup> Note from the Trial Monitor: P15 said "we" although it did not become clear during his testimony whether he was there alone or accompanied by anyone.

and P15 was hoping to get information about his cousin. Raslan helped P15 by saying that his cousin's situation was not good and that he needed a lawyer. P15 said "that was everything."

Wiedner asked if P15 had the feeling that his cousin was detained in an area within Raslan's responsibility or whether Raslan got the information from somewhere else. P15 said that he does not think that his cousin was with Raslan, since he was arrested by the Military Intelligence Directorate. P15 added that this is his evaluation of the matter, however he does not have any details.

Wiedner wanted to know whether Raslan spoke about the physical condition of P15's cousin. P15 said that Raslan answered briefly in 3 words saying that his [cousin's] situation was not good and that he needed a lawyer, preferably one who is specialized in "such cases." P15 said he in turn, told his cousin's brother who was present [when P15 called Raslan].

Wiedner recalled P15 telling the BKA that "Raslan said that the cousin was arrested at a checkpoint and that his condition was very bad because of torture". P15 replied that this section was not about his cousin. Wiedner affirmed that he accidentally quoted the wrong passage and apologized. P15 said that, when P15 mentioned his cousin and Raslan told him about his [cousin's] situation, right after Iftar [breaking the fast], P15 called Raslan back who then told P15 about the specialized lawyer. This was when Raslan mentioned that incident [which Wiedner just quoted].

Wiedner wanted to know more about what happened at that incident. P15 said that Raslan said that a detainee was brought to him from one of the checkpoints. He was beaten by "the forces of" the checkpoint so much that his body was hurt, so he was unable to stand up and his condition was very bad. P15 said that this is what happened and after that, Raslan said "something bleeds the heart", however P15 does not know whether Raslan meant his cousin or everyone, only Raslan would know.

Wiedner asked P15 what happened with his cousin. P15 said that "until today", nothing is known about him. He recalled that his cousin was an awesome young man who studied veterinary medicine at college.

Wiedner wanted to know more about the fate of P15's cousin. P15 said that no one knows anything. "They" sent his ID card and a death certificate to his family. P15's aunt visited her son in Sednaya صيدنايا prison for no more than 5 minutes. P15 said he thinks that she visited him twice. The third time, they gave her a death certificate and sent the ID card back to the governorate. P15 said that indicates that he was dead.

Wiedner asked whether the cause of death was mentioned. P15 said in general, "they" make up a cause of death e.g. heart attack or something like that. He added that the regime does not admit killing anybody.

Wiedner quoted P15 telling the BKA about a "heart attack" as cause of death. P15 affirmed.

Wiedner went on to ask P15 whether he remembers Raslan's rank, when he contacted him concerning his cousin. P15 affirmed, saying that Raslan was a colonel عقيد.

Wiedner asked whether P15 knows when and why Raslan stopped working with the Intelligence Services and why he left Syria. P15 said that in general, he does not know anything about Raslan, his work or personal affairs.

Wiedner asked if P15 contacted Raslan again regarding P15's own situation. P15 affirmed, saying that he called Raslan in Turkey, as P15 was told that Raslan was in Germany. P15 told him that he wanted to go to Germany but Raslan did not encourage P15 to do so. P15 recalled that he was living in a camp in Turkey at the time. He said that [Raslan's] discouragement referred to the possibility that there



might be a solution soon and “we” could go back home [to Syria]. P15 said that Raslan was the reason why P15’s journey to Germany was delayed.

Wiedner asked when this happened. P15 said in 2014, but he does not remember exactly, maybe at the end of 2014.

Wiedner wanted to know where Raslan got that information about Syria’s situation from and what he was doing at that time. P15 said that he was told that Raslan went to Geneva and might have more information about Syria than himself. Raslan literally advised P15 that ‘there is no need [to come to Germany]. If P15 is not in need for a source to eat, then it is better to wait, as something might change in the near future.’

Wiedner asked if P15 contacted Raslan again. P15 said that he called him and asked him if there was still hope. He told P15 that it could take a long time and encouraged P15 to come to Germany.

Wiedner asked when that happened. P15 said it was in 2015.

Wiedner wanted to know whether P15 and Raslan had contact in Germany. P15 affirmed, saying that they were in loose contact (occasional reassurance and stuff like that).

Wiedner asked if the contact was in person or via phone. P15 denied personal contact, adding that they only met twice and only asked from time to time how things were going.

Wiedner asked if they called each other in Germany. P15 affirmed.

Wiedner wanted to know whether Raslan spoke about his personal situation in Germany. P15 said that Raslan once told him about his health condition. He had issues with his stomach, went to the hospital and had a surgery. P15 recalled that Raslan said that his matters were fine and that he was working as a security [guard] and had a driver’s license. They talked about the general situation in Syria which everyone talks about. P15 said he wished Raslan and others good health.

Wiedner mentioned that P15 was detained once and Raslan worked for the Intelligence Services. He asked P15 to evaluate whether Raslan was critical or loyal to the regime. P15 said that September 16 [same as the day session] is the anniversary of his detention. He was arrested in 2012 at 07:00 in the evening and stayed there for 45 days.

P15 asked for a short break.

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10-minute break

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Wiedner said that P15 does not have to talk about his own experiences in detention, but rather assess on which side Raslan stood. P15 said that he does not know what he should say. They did not talk about this subject. P15 said for him, so long as Raslan left the regime, he “practically moved to the other shore.”

### **Defense Counsels’ Questioning**

Raslan’s defense counsel Böcker mentioned that P15 was at Raslan’s office between 2006 and 2008 and ever since only had contact via phone in 2012. Böcker recalled P15 saying that Raslan worked at the same duty station during that entire time. P15 asked if Böcker meant the identical position or only Inner Security.

Plaintiff counsel Scharmer complained that P15 said the opposite to what Böcker just quoted.

Böcker asked P15 to describe Raslan's work in 2012. P15 said that he does not know anything about his work, it was Raslan's sole concern.

Böcker wanted to know whether P15 knows anything about Raslan's workplace. P15 denied.

Böcker said they however talked on the phone in 2012 when P15 told Raslan the story of his cousin, and consequently wanted to know if they did not talk about Raslan's occupation. P15 said that he and Raslan spoke about P15's cousin, because Raslan was an Intelligence Officer and they [P15's family] hoped that he had information. However, regarding Raslan's workplace, P15 does only know that he worked at State Security. P15 added that nothing more was of interest for him.

Böcker quoted from P15's interview with the BKA during which he said that "Raslan asked me to call back after 2 hours, then Raslan said that the situation would be difficult, my cousin would be heard in front of a military court, which notoriously only happens in exceptional cases". P15 asked Böcker to which specific sentence he is referring. Böcker went on to ask P15 whether Raslan mentioned the term "notoriously" or if P15 did. P15 said that he himself used this term.

Böcker asked whether P15 said that to the police. P15 said that he did not understand the question.

Böcker asked how P15 knew that military court would be equivalent to a special case. P15 said that he does not know that wording and does not remember that sentence.

Böcker again quoted parts from P15's interview with the BKA where P15 said "[the context of the phone call was repeated], the call shows that Raslan was affected by the situation. P15 had the feeling that Raslan had compassion for the story of the young man at the checkpoint. P15 was surprised that a member of the Intelligence Services would talk about it and condemn it on the phone, though his phone might be controlled [bugged]". P15 affirmed the statement.

Böcker asked P15 about his perception of Raslan's attitude. P15 said that there is no need to repeat because he already answered that. Regarding the phrase "Bleeds the hearts", P15 added that when one hears that, one can feel that the person who is talking is touched by what is happening. This would be how P15 perceived the situation. However, whether Raslan was touched by what happened to P15's cousin, or by everybody, P15 does not know. P15 added that when he hears such words from someone, he feels that the person is touched by something.

Böcker recalled that P15 was afraid of deserting because his family and himself are rather supportive of the government (both [P15 and Raslan] working in the state apparatus). Böcker then wanted to know whether P15 asked Raslan if he could get his cousin out of prison or both of them with pooled forces. P15 asked if the question was regarding [name redacted] [was translated to "my cousin"]. Böcker affirmed. P15 said that he called Raslan who answered as P15 already told the court.

Böcker clarified that he wants to know whether P15 called Raslan with the aim to ask him about a "detour" for his cousin. P15 asked if Böcker meant that whether P15 wanted to ask Raslan about [name redacted] what his situation was and things like that.

Böcker denied saying that he wants to know whether P15 thought of something like "Can you just release him?". P15 denied, explaining that what he had on his mind was to ask Raslan about his cousin<sup>13</sup> and get relevant information. That was everything they spoke about.

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<sup>13</sup> Note from the Trial Monitor: Many times, instead of saying a name or "my cousin", P15 used the term "the young man".

Raslan's second defense counsel Fratzki asked if P15 still remembers the interview with the BKA from 2019. P15 said that he might have forgotten some specifics, but in general he remembers.

Fratzki asked if P15's hearing was retranslated into Arabic. P15 affirmed.

Fratzki asked how long it took. P15 asked if Fratzki meant the interview. Fratzki said that he meant the retranslation. P15 said that he does not remember, however it did not take long.

Fratzki asked if there were corrections. P15 affirmed that there might have been some corrections.

Fratzki asked if it lasted 3.5 hours. P15 denied.

Fratzki said that "here" [BKA interview minutes], it says that the retranslation lasted from 4pm to 7:30pm. P15 said that this might include the computer work, but that it didn't last that long.

### **Plaintiff Counsels' Questioning**

Plaintiff counsel Schulz asked if P15 remembers the question "when did Raslan defect from the regime?". P15 affirmed, adding that he remembers that it was at the end of 2012 and the news he saw on TV. However, he does not remember on which channel.

Schulz further quoted from P15's interview with the BKA during which he said that he found out [about Raslan's defection] via TV, at the end of 12/2012, on Al-Jazeera". P15 said that it might have been Al-Jazeera as they were broadcasting, along with other channels such as FSA [Free Syrian Army] channel and Safa صفا channel.

Schulz said that P15 said that he would have read about it in the "news thread" and asked what "news thread" means. P15 said that an officer was with the regime and then defected and joined the other side.

Schulz asked if "news thread" means the text [banner] under the TV picture. P15 affirmed

Plaintiff counsel Scharmer recalled that P15 had the feeling that Raslan was touched by the situation (phone call) and asked P15 whether he had the same feeling in 2006, that Raslan would be somehow touched. P15 said "by what should he be moved in 2006 – 2007?" P15 added that they were talking about 2012.

Scharmer affirmed, adding that he still wants to know about the situation in 2006 when they had a coffee together. P15 said on the contrary, they were laughing back then, in a good mood, "nothing worth mentioning."

The witness was dismissed.

The proceedings were adjourned at 12:40 p.m.

The next trial will be October 01, 2020 at 09:30 a.m.