

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

Higher Regional Court – Koblenz, Germany

Trial Monitoring Report 16

Hearing Dates: October 27, 28, 29, 2020

*CAUTION: Some testimony includes descriptions of torture.***Summaries/Highlights:<sup>1</sup>****Trial Day 38 – October 27, 2020**

- Garance Le Caisne, a 54-year-old French journalist testified about her meeting with the former Syrian military photographer “Caesar” and provided details on the origin, content and structure of the “Caesar files.” Based on her personal conversations with Caesar, she gave insight into the Syrian government’s practice of documenting the corpses of tortured civilians.

**Trial Day 39 – October 28, 2020**

- During a brief session, the judges read out loud the translation of a 30-page report on the evidentiary value of the “Caesar files” commissioned by Carter-Ruck solicitors in 2014. The report puts forth a facial assessment of the Caesar photos.

**Trial Day 40 – October 29, 2020**

- Deußing, a 37-year-old criminal chief inspector from the German Federal Criminal Police (BKA), told the court about his interview with Sami, a crucial member of the Caesar Files Group who helped Caesar leak the pictures and escape from Syria. Deußing also presented on the technical aspects of the BKA’s analysis of the Caesar files.

**Day 38 of Trial – October 27, 2020**

The hearing began at 9:45am with 11 spectators and 5 members of the press in the audience.<sup>2</sup> Ms. Köhler served as the translator from French to German for the witness, Garance Le Caisne, who testified in French.

Judge Kerber said that the court summoned [name redacted] for the second time. He could not testify in court due to time clashes. Kerber asked [name redacted] counsel, Bahns, about his client’s reasons for not coming this time. Bahns said he had difficulties reaching his client who had changed his number. His client did not want to say where he is currently living, allegedly in Sweden. Bahns further said he told his client to respond to the summons and appear in court on 11 and 12 November because he risks not being heard at all.

Kerber said hearings scheduled for 11 and 12 November will consequently be cancelled as the witness will not appear, as well as due to the current pandemic.

<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> Note from the Trial Monitor: No accredited Arabic-speaking journalists requested access to translation.

### Testimony of Garance Le Caisne

Admonitions were read out to Le Caisne, a French journalist who wrote the book “Operation Caesar: At the Heart of the Syrian Death Machine” about the “Caesar files”. She was informed of her rights as an expert witness and her right to refuse to provide evidence to protect her journalistic sources.

### Judge Kerber’s Questioning

Judge Kerber wanted to know who Le Caisne is, how she got in contact with the Caesar files, Caesar himself, and Caesar’s friends. Kerber asked her to tell her story. Le Caisne said she is a freelance journalist and has always worked on the MENA region. She asked how much detail she should provide.

Kerber asked her how many times she has been to the Near East, if she speaks Arabic and about the focus of her work. Le Caisne said she went to Egypt as a freelance journalist in 1992 after she finished her education, together with her future husband. She said she lived in Egypt, Palestine and the Near East but already spoke some Arabic before that as she always had an interest in the Near East. Le Caisne said she did a tour of the Near East in 2000 and wrote about migrant children in French suburbs for 10 years. In 2012 she started working for the French newspaper [“Journal du Dimanche”](#) and went to Tunisia “after Mohamed Bouazizi” who started the Arab Spring in Tunisia, Libya and Syria. Le Caisne said she watched the revolution in 2011 from Paris and went to Damascus in 2012 with a fake name on her passport. She went to the “liberated zones” in the north of Syria, as the revolutionaries called that area. She then travelled to Aleppo a couple times in 2013/14. “Then Caesar came”.

Judge Wiedner wanted to know during which months Le Caisne travelled to Syria in 2011/12. Le Caisne said she was there in January and February 2012. It was hard to enter the country as a western journalist but she managed to get in with a fake name on her passport.

Judge Kerber asked how Le Caisne got in contact with Caesar. Le Caisne said that there was an international press conference in May 2014 at which the members of the Caesar files group were introduced and presented the pictures. Le Caisne conducted an interview on that occasion. Her publisher called her the day after to ask her whether she would be willing to meet Caesar [the translator said meet Caesar “again” which was most likely a translation mistake]. Le Caisne said she had been interested in the situation in Syria for several years at this point and it seemed to her that a meeting with Caesar could be proof of what is happening there. She said she saw only destroyed cities during her visits to Syria and, with the help of Caesar, wanted to understand this destruction. Le Caisne said there were a lot of pictures circulating in the media of suffering people and destroyed cities, but these pictures were actually only the surface of what was really going on. She said there were no pictures of people being tortured at all. She recalled a visit to Aleppo with a photographer where she witnessed unarmed people in civil districts but underground bakeries (otherwise they would be bombed) and experienced 3 bombs within 30 minutes that exploded close to her. Le Caisne said that if one sees how people are torn up by bombs without a possibility of burying them, then one understands that this is a policy of exterminating people and every memory of these atrocities. She added that there is still a lot which was not visible and that destroying a city is the same as destroying a human being. She said that her stay in Aleppo in 2014 “was key”. She felt a lot of anger inside which helped her to find Caesar.<sup>3</sup>

<sup>3</sup> Note from the trial monitor: The translator seemed to get confused with the order of events a couple times and kept confusing 2011 and 2012. It is likely that this sentence is a translation mistake.

Kerber asked with whom Le Caisne conducted the interview. Le Caisne said she conducted the interview with Caesar in Aleppo. Kerber interrupted clarifying that she meant the press conference which Le Caisne mentioned at the beginning of her testimony. Le Caisne said she interviewed [name redacted] at this press conference.

Kerber wanted to know how things proceeded after Le Caisne's assignment [to interview Caesar]. Le Caisne confirmed that she was tasked with interviewing Caesar and that she started searching for him in the fall of 2014. She asked [name redacted] who was her most important contact and the head of a Syrian movement. He presented the files together with Caesar. Le Caisne said she met both men and that she knew that many other journalists wanted to meet Caesar. She translated three of articles into Arabic so Caesar could see her work. She said that [name redacted] told her that he cried reading her articles and that he thought that Le Caisne and Caesar would get along very well. He also told Le Caisne that he would get back to her within one week. Le Caisne said she made clear that she did not want to write a book about Caesar himself, but rather about the detention facilities in Syria. She said the book would not be without Caesar, however not about him only. She said she got permission to meet with him around September/October 2014 and then worked for some time without asking again for a meeting with Caesar. Le Caisne said she then met with [name redacted] regarding Saudi Arabia and went to Turkey to visit the photo archives of the Caesar group. In Turkey, she met with [name redacted] and [name redacted]. Le Caisne said she then asked for a meeting with Caesar in January [2015], however there was silence for weeks. At first, she did not understand why, but then she realized that Caesar and [name redacted] were no longer in contact. She said that it was actually not only Caesar, but two people. She said Sami is a pseudonym and that Caesar was only able to do what he did with the help of Sami. In January 2015, it was [name redacted] and [name redacted] on one hand and Caesar and Sami on the other. She realized that [name redacted] was not able to organize a meeting with Caesar. However, she got help from a person whom she met in Syria who was in contact with Sami. Le Caisne said she was then in direct contact with Sami who she also met several times together with a translator.

Kerber asked whether Le Caisne met Sami face to face or via Skype. Le Caisne said that they met via Skype without the camera on and that she only took notes instead of recording due to security reasons. She further said that after a couple of weeks, Sami called her to tell her that Caesar was worried because there were so many people and prosecutors who made him concerned.<sup>4</sup>

Kerber told Le Caisne that it is fine if she does not remember certain things, however she should let the court know. Le Caisne said that Caesar was worried that he had to testify and that he was very honest to Sami about that. Le Caisne said that Caesar did not like certain things and that she told them that the police will not come to arrest him but perhaps one day he will have to testify. She said that she heard Caesar's voice behind Sami.

Kerber asked whether they spoke via Skype with the camera off or on. Le Caisne explained that they spoke via Skype since back then they thought that Skype was secure.

Kerber asked when Le Caisne first heard Caesar's voice. Le Caisne said it was in March 2015. She remembered that it was around the anniversary of the revolution. Le Caisne said Caesar thanked her and confirmed that it was him. They met late on that day and she was together with [a translator]. She said that she was afraid that she was wrong and did not knew what to do. Le Caisne said she was in a

<sup>4</sup> Note from the trial monitor: there were some serious translation issues which first caused the court to assume that Le Caisne was worried herself, however it turned out that she was directly quoting Caesar.

bubble. She was aware that this meeting was important, but Sami already told her a lot about how she had to be mindful of what questions to ask Caesar so she would not scare him and give him the feeling of being interrogated. Le Caisne said she did not prepare many questions in advance. She recalled that she was together with her translator, and that they were a bit scared. She said they introduced themselves and tried to just let Caesar talk and tell his story. However, he did not like that and asked her to put questions. Le Caisne said she quickly tried to come up with questions and asked him a lot. Caesar felt as if he was interrogated, which was the end of their call. Le Caisne said they met for several days, every one or two days, and described Caesar as a simple and honest man, which she liked. She said people sometimes try to portray themselves as heroes, but not Caesar. Le Caisne said it was a working atmosphere, he spoke and she took notes. She said she sometimes felt his fear. From time to time, he made sketches but he did not want her to have a sheet of paper with his handwriting. She then met with survivors and continued her research.

Kerber asked what Caesar told Le Caisne about his work, how he got in possession of the pictures and what was Sami's position. Le Caisne said that Caesar told her that he had been a military photographer in the center of Damascus since before the revolution. His job was to create files of soldiers who died in car accidents, drowned or committed suicide. Caesar had to take photos of the "crimes scene" or the place of events before going back to his office where he printed the photos and wrote a report for the military police. Le Caisne said Caesar liked his jobs as it served justice.<sup>5</sup> Le Caisne said that when the revolution began, one of the photographers had to take pictures of corpses, namely civilians who were shot. When the photographer came to Caesar's office and told him about that, Caesar realized that the corpses were demonstrators. Le Caisne said that happened in Dar'a and that the photographer was very agitated before it became their new routine. The photographers were called to the hospital in Tishreen, the headquarters of the military police. Le Caisne said that the corpses of civilians had names on them. Later, they were identified by numbers only.

Kerber asked whether Caesar told Le Caisne when [the policy of identifying corpses with numbers instead of names] changed. Le Caisne could not remember. She added that [Caesar and the other photographer] worked in Tishreen Hospital every morning, the hospital where Bashar Al-Assad once worked. Le Caisne said that many corpses were brought to hospitals where they were stored in refrigerators in the mortuaries, which was where the photographers took their pictures. At some point, the mortuary was too small, so the corpses were stored in the hallways. Le Caisne said that when the corpses arrived, they had two numbers. One was supposedly the detainee's number. Underneath the detainee's number was the number of the intelligence service branch (e.g. 248, 215, 225, 251). According to Le Caisne, the forensic specialist from the military allocated a third number to catalogize the corpses. The forensic expert had a note pad in which he noted these numbers, as well as the characteristics of the dead person, such as height, hair color, scars and reason for death. Reasons for death would say, for example, heart attack even though the corpses showed signs of different reasons for death. Le Caisne said that some of the corpses had no eyes or red marks on their throat. Some showed signs of starvation and chemical burns. She said amongst the corpses were kids as well as old people. Le Caisne further explained that at some point they moved from Tishreen Hospital to Mezzeh Hospital as there were so many corpses that there was not enough space in the hallways of Tishreen Hospital. Mezzeh Hospital was more practical since it had a wing left from the old hospital and garages. Le Caisne said that it was easier to hide the corpses in these garages, but that in 2012 people living in

<sup>5</sup> Note from the trial monitor: There were again some translation issues from French to German as to whether the witness said "served justice" or "served judiciary".

Mezzeh started complaining about the smell because there were so many corpses. The corpses were piled up and every morning, Caesar and his colleagues took pictures of them without asking any questions. They were always accompanied by one guard. They took several photos of each corpse (3-4): face, bust and entire body. After that, they went back to their office. The corpses were marked with two numbers, which were written on sticky tape of bad quality with a marker. The forensic experts either attached a card with another number to the corpse, put the card on the corpse or held it for the picture. The number of the forensic expert was always shown in the picture, the counting system went from 1-10 on the first day and continued on the second day. It always went until 5,000 and then continued with 1/b2, 1/b3...until b5,000 so it was always counted from Arabic 1 until Arabic 5,000.

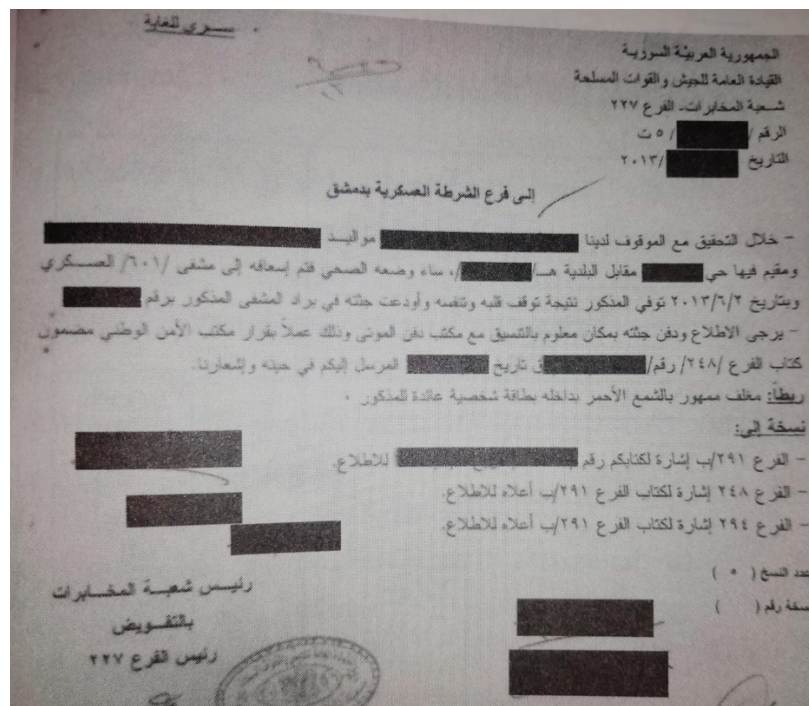
Judge Wiedner wanted to know whether the number from the forensics experts was per corpse or per picture. Le Caisne said it was per corpse.

Wiedner further asked whether it was written on paper. Le Caisne confirmed adding that it was also noted in a notepad which was stored in the forensics expert's office. She further explained that after taking the pictures, the photographers went back to their office to print the photos. There was a form which was filled out and the photos were attached to this form. Le Caisne said she could not remember what exactly these forms looked like, but she could check in her notes.

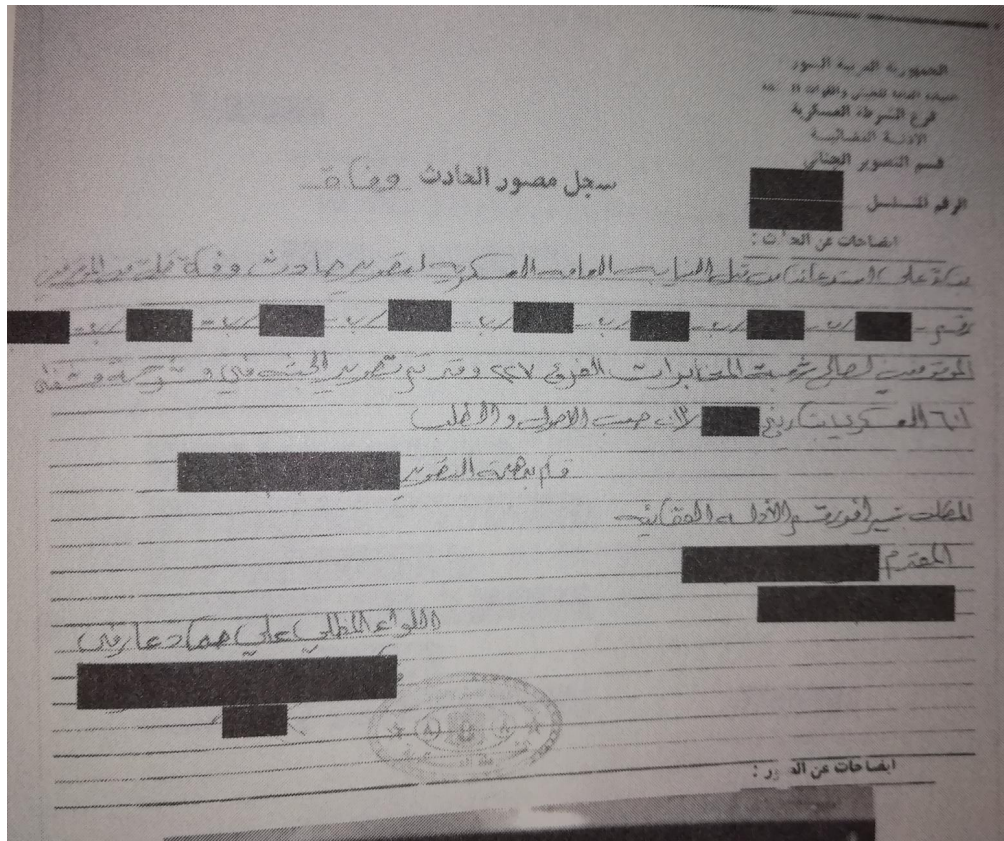
Judge Kerber asked what kind of forms were used. Le Caisne said the forms were numbered and photos were attached.

Kerber asked whether the court could have a look at one of these forms. Le Caisne confirmed.

The judges visually inspected [Annexes 1 and 3 from Le Caisne's book](#).







Judge Kerber asked one of the court translators to translate the document:

Protocol

Photograph death/decease [written in handwriting]

On request by the military prosecution in order to photograph a decease [numbers and abbreviations]

On behalf of Branch 227 of the intelligence service the corpse was photographed at the military hospital 601 on [day]/[month]/2013.

Fulfilled accordingly and as order by [name]

Principal: taking of evidence

Syrian Arab Republic  
General Commander of the Military  
Military Police Division  
[...]  
Division of Criminalistic Photography

Kerber decided that it was sufficient to inspect only one of the two annexes.

Wiedner asked from where Le Caisne got this document and if she got it from Caesar. Le Caisne affirmed saying that she saw a picture of it.

Raslan's defense counsel Böcker intervened asking whether he could ask a question regarding the document which was just shown in court. Judge Kerber affirmed.

Böcker asked Le Caisne whether she got the picture [of the document] from Caesar. Le Caisne affirmed.

Böcker further asked whether Caesar took a photo of the document. Le Caisne affirmed.

Böcker then wanted to know whether Le Caisne got the picture of the document taken by Caesar. Le Caisne affirmed.

Böcker had a question for the court translators as he was uncertain who ordered the documentation of corpses: the public prosecutor, Branch 227 or the military prosecutor. One of the court translators read the first line of the document: on the order of the military prosecutor.

Le Caisne intervened saying that it is difficult to read the document, but that she had a translation with her. Judge Kerber said Le Caisne should read out the translation [translated from French to German by the Ms. Köhler] and the court translators should check whether it is correct.

Le Caisne read:

Details regarding the instance: ordered by the general military prosecutor to document the event of death. Detainee No. #. Detained by Branch 227 of the intelligence service. Pictures from the mortuary of hospital 601 requested 2013 (exact date filled in by hand). Signed by the representative for judiciary evidence (name redacted), paratrooper of the military police.

One of the court translators added that the document said 'paratrooper lieutenant colonel' before the signature and 'Major General Ali' on the left side. The other court translator added that the document said the pictures were taken in the autopsy hall of the hospital [not the mortuary as translated].

Plaintiff counsel Dr. Oehmichen intervened saying that the translation would be too complicated and prone to mistakes. Judge Kerber said that the judges made a thorough assessment of the pros and cons of different translation techniques and that it made the most sense to use this technique [Ms. Köhler as translator for the witness translating from French to German and vice versa and the court translator for the German to Arabic translation].

Böcker asked Le Caisne whether the year (2013) was in the document and the exact date had to be filled in. Le Caisne affirmed explaining that these forms were pre-printed and already used before the revolution. This routine was simply continued. Le Caisne further added that in the fourth line of the document, it says 2013 but the exact date and name would be redacted.

Böcker asked who made the redactions. Le Caisne said they [she, her publisher, Caesar and Sami] tried to redact as much as possible explaining that nowadays if someone in Syria recognizes a relative in the Caesar files, it means that the person in the picture is a terrorist and his entire family is considered terrorists as well. Le Caisne said that many people recognized their relatives but did not dare to tell anyone. She said that the cousin of a Syrian friend of hers recognized her husband in one of the pictures. Her husband never participated in demonstrations, but was arrested and tortured. Le Caisne said her friend's cousin lived in Dar'a and when she recognized her husband in the Caesar files, she called her friend in France using a Jordanian sim-card.

Böcker wanted to know whether the redactions refer to dead people. Le Caisne affirmed saying that the redactions include the number of the forensic experts and the number of the detainee. She added that somewhere in the archives of the regime one can find the names attached to these numbers.

Böcker asked who made the redactions. Le Caisne said "we" together with her publisher.

Wiedner asked Le Caisne to explain Caesar's course of action. Le Caisne explained that Caesar and his colleagues took pictures every day, then went back to their office where they had to fill out the documents. At the beginning, there was one document per corpse, however since the beginning of 2012, the number of corpses increased, so they had to use one form for several corpses with the relevant photos attached. These forms were then sent to the military police. Le Caisne said that the workload constantly increased. The pictures were sorted by the relevant branch of the intelligence services. She said that the corpses in Tishreen Hospital were hurt and not always sorted. The photographers took the pictures quickly, so initially they were not always in a certain order. The pictures were then put in order based on the relevant branch of the intelligence services, as well as the number given by the forensic experts. For example, there was a pile for 215, 225, 248, air force [المخابرات الجوية] (which had no number) and 251.

Wiedner said he heard that Le Caisne cannot remember one of the numbers. Le Caisne said every branch of the intelligence services has a number, however, the air force intelligence service is simply called "Jawiya" [الجوية].

Kerber wanted to know how Caesar reacted to his work. Le Caisne said that at first Caesar did not believe what others told him [about the corpses being civilians]. She said that Caesar then saw the corpses with his own eyes. From what she understood, it was really difficult for Caesar to show emotions because it was a regime of terror against all people. Le Caisne said she worked in Syria for a long time and still cannot imagine such horror. She said one is constantly worried about his family and she believes that Caesar was frightened and lost. Le Caisne said that when Caesar first saw the pictures [of the civilian corpses] he was scared and wanted to talk to Sami. She said Sami was an engineer with connections to the revolution and was much more involved in the revolution than Caesar. Le Caisne further explained that Caesar wanted to defect right away, but Sami convinced him to stay. Caesar was in a dilemma: If he stayed, he would be a complicit, if he left, his family would be in danger. Le Caisne said she thinks that Sami pushed Caesar to spread the pictures. Le Caisne said Sami wanted to help all the families, which is an important aspect of the Caesar files. She said that the people in the pictures only have numbers and names. They simply disappeared. Le Caisne said Syria is a country of absentees. She said people feel powerless when their family member is missing. It is like a black hole that encompasses more than just fear. She said that many people do not talk about their missing relatives out of fear. When someone is arrested, he is considered a terrorist. Le Caisne further explained that the pictures from the Caesar files came from detention facilities, which are black holes. If one is referred from a detention facility to a prison, he is lucky since it means that he re-appears. If one is in a prison, he still has a name and his family can request a visit or death certificate with the military police. In a detention facility, there is simply nothing. Le Caisne said Sami and Caesar wanted to show the pictures to the world and show the families what happened. Families who are able to recognize a relative in the pictures are lucky because it indicated that the person died fast. After months or years in a detention facility, people become unrecognizable. At the beginning, Sami told Caesar to stay. She thinks that Sami was aware of the evidentiary value of the pictures. With these pictures, the regime documented its own atrocities. Under Hafez Al-Assad, there were also many dead people, but no pictures. Under Bashar Al-Assad, there are pictures. Le Caisne said that this circumstance led Sami to convince Caesar to stay for around two more years.

Kerber wanted to know what exactly Sami and Caesar did with the pictures. Le Caisne said there was a USB stick with copies of the pictures. Caesar had access to the computer where the pictures were stored. He hid the stick in his belt or socks. Le Caisne said Sami was able to go home after work every



evening and was travelling back and forth between his home and workplace every day. Le Caisne said Caesar gave the USB stick to Sami who then archived the pictures. This practice went on for one and a half years. She added that one has to understand that Syria significantly changed. At first, there was a peaceful demonstration, then the protests were violently squashed. Demonstrations became more and more violent. Contrary to what happened in Libya where there was one front, there were different groups in Syria. Le Caisne said some districts were controlled by the Free Syrian Army,<sup>6</sup> while some were controlled by Islamic groups.

Kerber asked whether Le Caisne meant the Free Syrian Army or the Syrian Army. Le Caisne said she meant the Free Syrian Army. She further explained that Caesar's daily commute home from work was difficult when certain districts were controlled by the opposition. According to Le Caisne, Caesar felt that he was working for the right thing. Le Caisne said that some people from Caesar's office defected. She added that the revolution was more about social and economic factors and not so much about ethnicity.<sup>7</sup> Many members of the military who were part of ethnic groups [fled] and the majority of the remaining military police were Alawites. Caesar felt more and more alone and there were less and less Sunnis. At some point, Caesar was asked to train someone, an Alawite. Le Caisne said things became more difficult for Caesar. The idea was to balance the number of pictures and the threat they posed. The more pictures, the higher the threat.

Kerber asked whether Sami or Caesar had the idea to leave. Le Caisne did not know.

Kerber asked where the pictures were when Sami and Caesar left. Le Caisne said Sami had all the pictures. Caesar was taken out of the country. He was entrusted to members of the opposition every 50 kilometers and was taken to southern Syria where he waited a month, hidden in a truck, then left the country. She said that Sami left the country through official channels and that the pictures were brought out of the country by a third person.

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[15-minute break in proceedings]

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

Wiedner wanted to narrow the time frame and recalled La Caisne statement that the corpses started to belong to civilians in March 2011. Le Caisne affirmed.

Wiedner asked when Caesar turned to Sami and who then started his "work" [copying and archiving pictures]. Le Caisne said she did not know the exact day but it was in the spring of 2011.

Wiedner wanted to know if they started copying pictures onto the USB stick right away or whether they started to do this later. Le Caisne said she did not know. She added that the copies were not very structured. The entire process took place under fear and there was no plan as to when to copy certain pictures. Le Caisne said she believes that some pictures were duplicated adding that one has to know

<sup>6</sup> Note from the trial monitor: The translator said "Syrian Army" instead of "Free Syrian Army", as the witness actually said. This led to some confusion, as to why presiding judge Kerber intervened.

<sup>7</sup> Note from the trial monitor: The translator said "ideologies" which was apparently a mistake, as the witness went on to talk about different ethnicities.

that they were “amateurs” not professionals, so she did not expect to get a precise copy or professional work.

Wiedner summarized that they consequently started copying pictures in 2011. Le Caisne affirmed.

Wiedner wanted to know whether it was spring or summer. Le Caisne did not know, but it was 2011.

Wiedner asked whether it went on for around 2 years. Le Caisne affirmed saying it lasted until summer 2013.

Wiedner asked whether this was when Caesar defected. Le Caisne said she thought so but had no evidence.

Wiedner asked whether Caesar told Le Caisne about his daily routine. She mentioned that he took pictures in the morning and then returned to his office. Caesar got a call every morning around 9am to come to the hospital to take pictures of corpses. At the beginning, there were relatively few corpses so he was done quickly. However, the number of corpses increased, so it took longer to take pictures. He went to Mezzeh Hospital and Tishreen Hospital in the north, close to the military police. Generally, he took pictures in the morning and then went back to the office.

Wiedner wanted to know when the number of corpses increased. Le Caisne said it was in 2012 but she was not sure whether it was spring or summer. She added that decrees were issued by the regime to empty cells.

Wiedner asked what kind of decrees. Le Caisne said she learned of the decrees from other sources [not Caesar or Sami].

Wiedner wanted to know when these decrees were issued. Le Caisne said 2012.

Wiedner wanted to know what hospital 601 stands for. Le Caisne explained that 601 is a code for the hospital in Mezzeh, a district in Damascus.

Wiedner asked how the pictures were taken. Le Caisne said the pictures were taken by a digital camera but she did not remember which model, maybe “DX50”. The pictures were then transferred to a computer from which Caesar copied them onto a USB stick that he hid in his belt or socks. Caesar then returned to his home district where Sami lived as well. He gave the stick to Sami who then further processed the pictures.

Wiedner asked about the size of the single files and wanted to know whether they were compressed or complete. Le Caisne said high definition (HD) pictures were given to Sami. He made two copies: one HD and one of lower quality to transfer them abroad via internet. However, she was not sure to where the pictures were transferred. A hard disk with HD copies was then smuggled outside of Syria by a third person.

Wiedner wanted to know whether the pictures were already of lower quality during Caesars work. Le Caisne said the lower quality pictures were sent via internet.

Wiedner asked when that happened. Le Caisne did not know.

Wiedner asked how they proceeded with the pictures after Caesar fled. Le Caisne said that Sami kept the pictures, however they were also sent to the Syrian National Council (SNC) via [name redacted]. Le Caisne further explained that Sami and Caesar were never in contact with the SNC. However, politicians with connections to the opposition were supposed to show the pictures to the world. Sami and Caesar

went to Qatar. The country financed a commission of inquiry (Carter-Ruck solicitors) to write a report on the files. That happened at the end of 2013/beginning of 2014.

Wiedner asked Le Caisne whether the names Imran and Zachariah [codenames] sound familiar to her. Le Caisne affirmed saying that the two of them were in Turkey where the SNC has its headquarters. She further added that Sami and Caesar left Syria on different routes but rejoined in Turkey with Imran and Zachariah. Imran and Zachariah tried to document the 53,000 pictures by classifying them in order to say how many detainees came from each branch, e.g. 225.

Wiedner wanted to know whether they also considered the causes of death. Le Caisne explained that Zachariah worked as a pediatricist and tried to sort the pictures by injury and classify them by types of injuries.

Wiedner wanted to know more about the relationship between Imran and Zachariah and Sami and Caesar. Le Caisne said Imran and Zachariah were in contact with [name redacted] and met with the SNC. She was not sure whether Caesar met with the SNC.

Wiedner wanted to know whether Le Caisne met with Imran and Zachariah. Le Caisne affirmed adding that it was in November 2015 in Turkey.

Wiedner asked whether they met in person. Le Caisne affirmed explaining that they met at an office for two days. They showed her incredible things and she was able to work with them for two days. She said she learned a lot from them, like how the regime functioned, what the numbers (on the corpses) meant and from where exactly the pictures came.

Wiedner asked how Le Caisne knew where the pictures came from and if Imran and Zachariah told her. Le Caisne said she assumes that the pictures were disseminated somewhere. The two of them were the first people she questioned about the files and Caesar, about the use of excel sheets for classification purposes and about their story. She said that today, she would ask questions, but at that point, she did not think about certain things which are now obvious to her.

Wiedner asked whether Caesar told Le Caisne about his motivation and why he took pictures of corpses in the first place. Le Caisne said it is not entirely clear to her and explained that in Syria, everyone did his job and produced reports without knowing why or what the person next to him was doing. She said that Caesar did his job without exactly knowing why but she has three possible explanations for it. First, it was some kind of routine. He took pictures of dead soldiers before which still continued and in addition also took pictures of the corpses of civilians. Second, it is a fact that the regime archives a lot. One could compare the Syrian regime to the "Staatssicherheit".<sup>8</sup> Le Caisne explained that the Syrian regime learned to archive basically everything. Third, pictures of corpses allowed subordinates to show their superiors that they did a good job. Le Caisne added that it is fascinating how obvious the atrocities of the regime are, but at the same time not at all. Since the corpses only have numbers instead of names it is easy for the regime to claim that people are not actually Syrian. The regime archived everything while at the same time hiding everything.

<sup>8</sup> "Staatssicherheit" was the intelligence service in the German Democratic Republic, endowed with far-reaching competences regarding surveillance of civil society and detailed documentation.

Wiedner recalled that the Caesar files include 53,000 pictures. He asked Le Caisne how many dead people they include. Le Caisne said the files consist of three [categories of persons]: detainees, soldiers and civilians who are dead but have not been detained. There are about 25,000 pictures of detainees.

Plaintiff counsel Kroker intervened saying that from the initial French testimony of Le Caisne, he understood a different number.

Judge Kerber asked to wait for clarification between the translator and Le Caisne. Le Caisne checked her notes and clarified that the first group (detainees) includes 28,707 pictures of 6,786 detainees.

Judge Wiedner wanted to know how many corpses the other groups comprise. Le Caisne said the second group (soldiers) includes 1,036 people and the third group (non-detained civilians) includes 4,025 people.

Wiedner wanted to know which path the pictures took before they were made public, what happened in Qatar and why the pictures were connected to Qatar in the first place. Le Caisne said Qatar supported the opposition in Syria and financed a commission of inquiry, namely David M. Crane and Desmond de Silva, to inspect the pictures.

Wiedner asked why these people were paid to inspect the pictures. Le Caisne said they are both former prosecutors at the Special Court for Sierra Leone and experts in evaluating evidence. She said they were accompanied by forensic experts to examine “Caesar’s unaffectedness” and authenticate the pictures. Le Caisne said they issued their report in January 2014.

Wiedner asked Le Caisne about the British law firm Carter-Ruck solicitors. Le Caisne said this law firm hired David M. Crane and Desmond de Silva and paid for everything together with Qatar.

Wiedner asked how the pictures were presented to the public. Le Caisne said there was a meeting at the French foreign ministry in January 2014 attended by a “core group” who supported the Syrian opposition and approximately ten foreign ministers from France, Germany, U.S., Turkey, Jordan, Italy, Saudi Arabia and Egypt. A group within the SNC provided a video presenting the pictures. Le Caisne added that Laurent Fabius [French foreign minister at the time] agreed to make the pictures available to certain authorities. She also said that the pictures were put on table during peace talks in Geneva by Ahmad Jarba and representatives of Carter-Ruck. CNN, the Guardian and others reported on that.

Wiedner asked when Le Caisne last had contact with Sami and Caesar (in person), but noted that, as a journalist, she has the right not to answer.<sup>9</sup> Le Caisne said she prefers not to answer.

Wiedner recalled Le Caisne saying that Caesar and Sami were afraid. He asked if they are still in fear. Le Caisne said Sami “is afraid as well”.

Wiedner asked whether Le Caisne was able to ask Sami and Caesar about their fear. As far as she understood, they are afraid.

Judge Kerber said that the senate will look at a selection of pictures, on defense counsel Böcker’s request clarifying that they will inspect a random selection of pictures

<sup>9</sup> Note from the trial monitor: There were some serious difficulties arising from the French-German translation. Judge Kerber had to intervene, requesting the translator to only translate what the judges are saying and not interrupting anyone.



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[65-minute lunch break]

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Judge Kerber said they will now inspect some pictures, adding that she does not expect Le Caisne to recognize any of them, but asks her to say if they look similar to the pictures from the Caesar files and if it is likely that they belong to the Caesar files.

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[a total of eight pictures were shown without further explanation]

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On the last of the eight pictures, Kerber said that the photo is a bit different from the previous ones as the person is wrapped in a plastic bag. Kerber then asked Le Caisne if she thinks that these pictures are from the Caesar files or if she even recognizes any of them. Le Caisne said the pictures look very similar to the pictures from the Caesar files.

Kerber asked why they look similar. Le Caisne said they look similar due to the numbers on the corpses and the indication of the branch. They also have white cards with numbers from the forensic expert written on them as well as plastic bags in which some of the corpses are wrapped. She said that the people in the pictures shown in court experienced the same atrocities as the people in the pictures from the Caesar files.

### **Prosecutor's Questioning**

Klinge asked Le Caisne if Caesar told her what he expected from the publication of the files. Le Caisne said Caesar was naive<sup>10</sup> to think that the publication of the pictures would stop the crimes from happening. She said Caesar assumed that when the crimes would be obviously visible, the international community would stop the crimes.

Klinge concluded that Caesar's expectations have not yet been fulfilled. Le Caisne affirmed.

Klinge asked Le Caisne how Caesar feels today. Le Caisne said it is difficult for her to speak on his behalf, adding that over the five years, he wavered from hopeful to desperate.

Klinge asked whether Caesar's statements and information are plausible. [After a rather long break,] Le Caisne explained that she saw the pictures before she met Caesar. She also saw the work of colleagues and experts about the matter who relied on Syrian NGO's. When she met Caesar, it felt as if the puzzle fit together. Since she already met two people who knew Caesar before she actually met him, she and Caesar quickly developed trust in each other and her doubts lessened.

Klinge recalled Le Caisne saying that the corpses were first stored and photographed in Tishreen Hospital 607 before it changed to Mezzeh Hospital 601. Le Caisne affirmed saying that they first took pictures in Tishreen but at some point, the corpses were taken to Mezzeh because there were simply

<sup>10</sup> Note from the trial monitor: The German-French translator said "frivolously" even though everyone in court could hear that Le Caisne used the French word "naïve" which can be directly translated to German as well as English.

too many and not enough space to store them in Tishreen. There were too many people in Tishreen while the hospital in Mezzeh was not open to public.

Klinge wanted to know when the hospitals were changed. Le Caisne could not remember.

Klinge asked whether the photos were taken in other places as well. Le Caisne said photos were also taken in Harasta Hospital, adding that she has no further information on that particular hospital.

Klinge asked whether the pictures from the Caesar files were modified. Le Caisne said she does not know.

Klinge wanted to know why Zachariah, Imran and Sami categorized the pictures. Le Caisne said they did so to help outsiders better understand the pictures, including the injuries to corpses and the origin of the pictures.

Klinge asked whether the names of the files were changed. Le Caisne said she does not know.

Klinge wanted to know to whom the pictures were passed and to whom Caesar passed the pictures. Le Caisne said she is not entirely sure who got the pictures. According to her, [name redacted] got a copy and several copies were passed to different war crimes units: in France, one to you (Office of the German Federal Public Prosecutor General) and (some) to the FBI.

Klinge asked whether Liechtenstein also received a copy. Le Caisne affirmed saying that [name redacted] passed a copy to Liechtenstein to protect himself.

#### **Defense Counsels' Questioning**

Böcker recalled Le Casine talking about detention facilities and prisons. He wanted to know what she meant by the detention facility (fara') [فرع]. Le Caisne explained that there are four intelligence services in Syria, which are divided into branches. Some of them are represented everywhere. Some of them are for specific regions only. If someone gets arrested by one of the intelligence services, he gets transferred to a detention facility within a certain branch and he disappears. Someone can receive a "sentence" and be transferred to a "prison", either civilian (Adra) [عدرا] or military (Sidnaya) [صيدنايا]. Le Caisne said once one is in prison, he is back on the radar and can be released from prison. A court can acquit someone who can then be arrested again by a different intelligence service and disappear again.

Böcker wanted to clarify that if someone goes to a detention facility for a short time and is then transferred to a prison, that the person is lucky. Le Caisne affirmed, saying that this is not the case if someone gets arrested by the general intelligence service.

Judge Wiedner asked when Sami and Caesar left Syria. Le Caisne said they left in summer 2013.

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

Plaintiff counsel Kroker recalled Le Caisne saying that Caesar worked at Al-Mezzeh Hospital where corpses were stored and people living in the area complained about the smell. He then asked her whether she knows, from her own knowledge or from Caesars descriptions, the distance between Al-Mezzeh Hospital and the president's palace. Le Caisne said that the palace lies above the military hospital, directly above considering air-line. She added that in several of the pictures from the Caesar files, one can see corpses in the front and the hill on which the palace is situated in the background.

Kroker wanted to know when Sami started to copy pictures and when Caesar called him to say that he should start copying. He recalled Sami telling the German Federal Criminal Police (BKA) that he started copying pictures in 2011. Le Caisne said that sounds plausible.

Kroker had a question regarding the correct translation of the explanation of how the pictures were sent when they were saved in Syria. He said he heard Le Caisne saying that they were saved on Sami's computer and then "partir sur l'Internet". His question would be whether they were sent via internet or uploaded in a cloud. Le Caisne said they were probably uploaded in a cloud.

Kroker asked when that happened. Le Caisne said she cannot say.

Kroker recalled Sami telling the BKA that they started uploading the pictures in 2012 and only categorized them once in Turkey. Kroker wanted to know whether that statement is plausible. Le Caisne affirmed.

Kroker asked Le Caisne how certain she was, and remains, that the pictures are authentic. He recalled her saying that the pictures were validated by people who recognized relatives etc. or saw corpses themselves. Kroker asked Le Caisne how many people recognized persons from the pictures. Le Caisne said that two years ago, the Syrian Association for the Missing and Prisoners of Conscience (SAFMCD), launched a website dedicated to the Caesar files. They received calls from families who recognized someone. As of two years ago, they received calls from more than 700 families who recognized their relatives in the pictures.

Kroker asked whether Le Caisne spoke to Najah Al-Bukai. Le Caisne affirmed.

Kroker asked her why she spoke with him and what his work indicated. Le Caisne said Al-Bukai is a graphic artist who was detained twice. She explained that his work seems bizarre, but if one sees Al-Bukai's sketches, he realizes how realistically they capture experiences. Le Caisne said when she first saw Al-Bukai's sketches of people only dressed in underwear, skinny, carrying corpses, she thought she was mistaken, as it seemed so unbelievable. She said his sketches are very important as they are alive. [Le Caisne started crying] She said his sketches and the people shown are alive. People in Caesar's photographs are already dead. Le Caisne added that there would be no photographs from inside the cell and so Al-Bukai's sketches are important as they show the detainees when they are still alive.

Kroker said there is [link to a French newspaper which published Al-Bukai's sketches](#) if the court wants to inspect them. Judge Kerber said they would not inspect them at this point.

Plaintiff counsel Schulz asked Le Caisne about the video "unveil, name and indict". Kerber asked him to give Le Caisne two minutes and to be thoughtful of the translator by using short sentences and to take breaks. Kerber clarified that Schulz was talking about the 8-minute clip in the Caesar files which was shown at the French Foreign Ministry on 12 January 2014.

Schulz asked Le Caisne whether she knew the content of the clip. Le Caisne affirmed.

Schulz asked her what the clip was about. Le Caisne said it explained the pictures from the Caesar files and the three different numbers.

Schulz asked who was in possession of the clip. Le Caisne said SNC showed her the clip.

Kerber asked whether any of the parties has further questions.

### **Defense Counsels' Questioning**

Böcker recalled the prosecution asking to whom Caesar passed the files. Böcker wanted to know more, like how the Office of the German Federal Public Prosecutor General got ahold of the pictures. Le Caisne said they got the pictures from Sami.

Böcker asked whether Le Caisne spoke about that with Sami. Le Caisne said she and Sami spoke about that once.

Böcker wanted to know whether Sami told Le Caisne if the [he added that he does not like the term “files” because they are actually pictures] files for the German prosecutor were the original ones or were modified. Le Caisne said she did not know.

Böcker recalled Sami’s statement to the BKA in which he said that the version of the files to which the BKA has access is the original one. The original version would be sorted the same way as the pictures were uploaded to google drive. Some might be double, and all the names and numbers would be the same as the original files. Böcker asked Le Caisne about google drive. Le Caisne said that she does not understand the question.

Böcker clarified that according to what Le Caisne just told the court, the files were uploaded and transferred via google drive. He then asked whether Le Caisne could provide more details as to how and where exactly the pictures were saved on google drive. Le Caisne said that Sami did not tell her the exact location of the files.

Böcker wanted to know whether Sami told Le Caisne anything about whether the names and numbers of the files were modified. Le Caisne said that since she is no expert, it is difficult for her to provide information on the technical aspects. She can only differentiate between high-definition photos and non-high-definition photos.

Böcker concluded that Le Caisne cannot remember anything regarding his previous question. Le Caisne said that Sami did not tell her how the files were given to the Office of the German Federal Public Prosecutor General.

Judge Wiedner recalled that the files were uploaded in a cloud via google drive and asked Le Caisne whether that was the same version or whether there were two different versions. Le Caisne said she does not know how the files were transferred. From what she understood, the files were uploaded in low resolution because the internet connection in Syria was “random”, so it was easier to transfer the files in low resolution.

Wiedner asked Le Caisne who told her that. Le Caisne asked whether Wiedner referred to the internet connection or the transfer of the files. Wiedner said “internet”. Le Caisne said she spoke to many people about the state of the country during the revolution. Sami told her that the internet connection was random, which sounded plausible to her.

Wiedner concluded that the files were transferred outside Syria in low-definition. Le Caisne affirmed.

Böcker asked whether the Office of the German Federal Public Prosecutor General consequently got the low-definition pictures. Le Caisne said Sami gave compromised pictures to the Office of the German Federal Public Prosecutor General.

Kerber asked Le Caisne whether she thinks that the Office of the German Federal Public Prosecutor General received compromised pictures. Le Caisne said that from her understanding, the Office of the



German Federal Public Prosecutor General got the high-definition pictures, so they were probably not compromised.

Böcker thanked Kerber and Le Caisne.

Al-Gharib's defense counsel Schuster recalled Sami's statement with the BKA in which he said that [Sami and Caesar] assumed that the revolution would last for 2-3 more months before Assad would fall, so they wanted to collect as much evidence as possible to use it in future trials. Sami further said that Caesar felt endangered by both the Syrian Army as well as the Free Syrian Army. Schuster asked whether this statement makes sense to Le Caisne. Le Caisne said that Caesar was attached to the regular Syrian Army.

Schuster clarified that [Caesar's fear of RSA and FSA] is what Sami said about Caesar. Le Caisne said that Caesar was part of the regime and has always been working for the regime. He decided to copy pictures from the regime, which meant that he secretly worked against the regime. However, in the eyes of the Free Syrian Army, he was a man of the regime. Le Caisne said Caesar was trapped.

Schuster asked whether Caesar told Le Caisne of what he was afraid. Le Caisne said that he was afraid of two things. First, that he would end up like the people in his pictures if the regime found out what he was doing and arrested him. Second, he was afraid that the opposition would arrest him because he was officially part of the regime.

Fratzky said that Le Caisne was in contact with Caesar and asked her what type of person he is [in terms of his character]. Le Caisne said he is a military man and "simple"—he did not look into the future. She said he was honest.

Fratzky asked whether this was her subjective impression. Le Caisne said that everything regarding his question would be subjective.

Fratzky recalled that Le Caisne said that Caesar was trapped between the regime and the opposition. He asked Le Caisne whether Caesar was in contact with opposition forces. Le Caisne denied saying that Caesar was only in contact with Sami.

Fratzky asked whether Sami was in contact with the Free Syrian Army. Le Caisne affirmed adding that Sami was a so-called activist engaged in the revolution.

Fratzky wanted to know about Sami's background and whether he defected. Le Caisne said that Sami was a civilian – an engineer.

Fratzi asked whether it was possible for someone to just leave. Judge Kerber intervened [due to translation issues and Fratzky's vague question] and asked if it was possible to quit if someone no longer wanted to work for the regime. Le Caisne denied, saying that if someone wanted to leave, he had to defect and ensure that his family was safe. She explained that the Syrian regime does not like defectors and if someone cared about his family, he would ensure that the regime could not reach his family.

Fratzky recalled Le Caisne's statement that Caesar was brought 50 kilometers south, and asked her what happened with Caesar's family before that. Le Caisne said she could not answer.

Schulz recalled Le Caisne's statement to the French police on 4 December 2015 where she said that the "report"<sup>11</sup> includes more than 1,000 victims, mainly Syrians. The French police then asked her if Caesar told her anything about French victims. Schulz wanted to know whether Le Caisne remembers her answer to that question. Le Caisne did not remember exactly but when France received a copy of the Caesar files, they were looking for their own nationals in the files. She said there was a rumor that some of the victims were French. Le Caisne did not know whether she spoke with the police about it but she remembered that they were looking for French nationals amongst the victims in the Caesar files.

Schulz recalled Le Caisne's answer to the question of the French police where she said that at no point did any witness tell her about French victims amongst the people in the Caesar files or victims with French nationality. Le Caisne did not understand Schulz' question. Judge Kerber intervened and asked if Le Caisne remembered that she gave the answer which Schulz just read out. Le Caisne said she could not remember since it happened five years ago, however if Schulz says so, it might be true. She said she was asked many questions.

Schulz concluded that the question about French victims never occurred to Le Caisne at the time of her questioning by the French police and asked her whether she had asked herself that question by now. Le Caisne said she asked the question to the French police who told her that there were no French victims.

Le Caisne was dismissed.

Proceedings adjourned at 2:45 pm.

### **Day 39 of Trial – October 28, 2020**

The hearing began at 9:30am with 7 spectators and 4 members of the press in the audience.<sup>12</sup> Defendant Al-Gharib withdrew his detention complaint.<sup>13</sup> Plaintiff counsel Kaleck was present.

Th German translation of a [report on the evidentiary use of the Caesar files](#) was read out. The report was issued in 2014 by the British law firm Carter-Ruck, and was compiled by forensics experts and experienced international prosecutors. The report is 30 pages long. It includes pictures, annexes and a table of contents. The report describes the pictures and does not provide any details about the technical aspects (metadata) or analysis.

The proceedings adjourned at 10:30 am.

<sup>11</sup> Note from the trial monitor: There was some confusion regarding the word "report" as well as the general translation. Judge Kerber had to intervene and Schulz clarified on Le Caisne's request that "report" means "Caesar files"

<sup>12</sup> Note from the Trial Monitor: No accredited Arabic-speaking journalists requested access to translation.

<sup>13</sup> One of Al-Gharib's defense counsels, attorney Kägebein, appeared 15 minutes late due to traffic.

**Day 40 of Trial – October 29, 2020**

The hearing began at 9:30am with 8 spectators and 3 members of the press in the audience. Plaintiff counsel Kaleck was present.

**Testimony of criminal chief inspector Deußing regarding the BKA's analysis of the Caesar files**

Admonitions were read out to Deußing, a 37-year-old criminal chief inspector from the German Federal Criminal Police (BKA) who already testified in court several times. He provided a PowerPoint presentation on the background of the [structural investigation](#) into Syria. The investigation began in 2019. It included witness interviews and an inspection of public reports, such as the Carter-Ruck report. The Carter-Ruck report was the first time Deußing was exposed to the Caesar files. Deußing provided his presentation to Judge Kerber and Wiedner, as well as to the parties of the case asking questions for clarification. After his presentation, Deußing testified about Sami's witness interview with the BKA, which Deußing led.

Deußing said that Ambassador Stephen Rapp informed the office of the German Federal Public Prosecutor General about the Caesar files in Liechtenstein. The files were provided to Liechtenstein via [name redacted] through Carter-Ruck and the Syrian National Movement (SNM). Deußing provided the following timeline:

13 November 2015	Mutual Legal Assistance (MLA) request to Liechtenstein.
4 February 2016	Handing over of two hard drives to the German Federal Criminal Police (BKA) and the German Federal Public Prosecutor General in Vaduz.
11 February 2016	Technical safeguarding and regeneration of the data by the BKA.
22 May 2017	Folder labeled "Sami" was given to the forensic division of the University of Cologne.

Kerber asked whether the BKA had two hard drives with pictures. Deußing affirmed, explaining that "Samsung Disk 1" was 16.75 GB, and included 56,185 files in 1,238 registers. "Samsung Disk 2" was 14.18 GB, and included 41,508 files in 1,971 registers. There were 97,693 files in total, of which 54,689 were duplicates. Overall, there was a high number of duplicates. Deußing provided an overview of the structure of the folders within the "Sami" folder:

Arabic name	German translation (which will be English in this report)	Number of files/pictures
الشرطة العسكرية	MP – Military Police	178
فرع المخابرات 215	Intelligence Branch 215	13,803
فرع المخابرات 220	Intelligence Branch 220	216
فرع المخابرات 248	Intelligence Branch 248	206
فرع المخابرات 216	Intelligence Branch 216	1,108
منوع	diverse	391
المخابرات الجوية	Air Force	1,115
غير معروف	unkown	601
فرع المخابرات 235	Intelligence Branch 235	482
فرع المخابرات 251	Intelligence Branch 251	446
فرع المخابرات 227	Intelligence Branch 227	8,003

Deußing said that this was also the folder given to the University of Cologne. He added that there were several excel sheets as well, one of which could not be opened. Deußing then provided an example of the structure within the folders using folder “251”:

Branch	Number of pictures	Number of people	Share in total pictures
251	446	99	1,49%

Deußing said they learned about this structure during their interview with Sami in November 2017 where Sami showed Deußing a chart which looked like the one that Deußing made. Sami then confirmed the structure and described how he structured the pictures. Judge Kerber said Deußing should first finish his presentation before talking about the witness interview with Sami.

Deußing went on to explain that Sami sorted all the pictures. First, he looked at the pictures when they were not sorted. Then, he changed the names of the files, put them into different folders and created the chart. Deußing explained this method with the help of two slides and said that he himself realized that the names of the files follow a pattern and allow for conclusions to be made on the content of the file. Numbers displayed in the pictures include: the detainee No., the branch No., and the examination No. The names of the file follow a similar pattern:

227-detainee No. [redacted]-462013(1)

Deußing explained that this code resembles a date,  
it was sometimes written as month/year: 52011

Kerber asked whether the last number was the examination number, allocated by the forensic experts. Deußing said no, explaining that only the detainee number is included in the file name.

Wiedner asked whether Deußing asked Sami what the series of 0s (00000) means at the end of some file names. Deußing thought about the structure and the meaning of the file names before he heard from Sami. He then asked Sami about it. Sami confirmed that the file names include the branch number, the detainee number, and the date. Sami sorted the files according to the names of the folders because he got them from Caesar in certain folders and then changed the names of the files



accordingly. Deußing asked Sami about the series of zeros. Sami said that they were already there and he did not include them, but he realized that whenever there was no death or record date, the series of zeros was put at the end of the file name.

Wiedner concluded that the series of zeros are substitutes for missing dates. Deußing affirmed, saying that the zeros were included when there were no clues about the death or record date. Deußing said Sami first assumed that the dates in the initial file names represented the dates of death. Considering the names of the initial folders, Sami then realized that these dates are actually the dates on which the picture was taken (record date). However, death dates and record dates would have been close together. Deußing further explained that whenever there is a number in brackets at the end of a file name, multiple pictures of the same person exist.

Wiedner asked why the examination number allocated by the forensic experts consisted of a number and a “b” at the end [e.g., 123/b]. According to Deußing, Sami said that the number from the forensic experts was only allocated when the order to take pictures was given. When the corpses arrived at the hospital, they only had two numbers. After the forensic experts arrived, the third number was allocated and written in a notebook. The numbers went until 5,000 and then switched to letters. Deußing provided an example where the number was “26/b” and explained that there must have been at least 5,025 corpses before this one. Deußing provided examples from different folders to illustrate his point.

According to Deußing, the hard drives include pictures of corpses and pictures of reports. He provided an example from the folder labeled “Kuwait” [كويت] which included a total of five pictures of reports. Deußing provided a translation of the document.

[Below is an incomplete recreation of the document provided by Deußing based on what the court monitor could hear and see in court. Missing portions of the document are marked with [...].]

<p style="text-align: right;">Syrian Arab Republic General Commander of the Military and Armed Forces Military Police Division [...]</p> <p>Report: No. 642/358</p> <p>Records of the photographer who took the pictures of the event.</p> <p>Event: Death</p> <p>Explanation of the event: In the context of the order provided to me by the General Military Prosecution, corpses of the detainees from Branch 215 of the intelligence service with the following numbers were photographed:</p> <p style="padding-left: 40px;">2614/b, 2615/b, 2616/b, 2617/b, 2618/b, 2619/b, 2620/b, 2621/b, 2622/b, 2623/b, 2624/b</p> <p>on 24 May 2013 in the autopsy hall of the military hospital 601 by Sergeant [name redacted].</p>
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Deußing said that he provided this document as background information on the documentation process in Mezzeh Hospital 601.

Wiedner wanted to confirm where the document was found. Deußing affirmed that it was in the “Kuwait” [كويت] folder. Some pictures of reports were also found in the “Sami” folder.

Wiedner asked whether the translator from the BKA was sworn in. Deußing affirmed.

Deußing provided background on similar reports from the military intelligence which were not in the folder that the BKA got from Liechtenstein, but were given to the BKA by the Commission for International Justice and Accountability (CIJA) in July/August 2020 and were translated by the BKA.

[Below is an incomplete recreation of the document provided by Deußing based on what the court monitor could hear and see in court. Missing portions of the document are marked with [...].]

	Syrian Arab Republic
	[...]
	[...]
	Intelligence Service – Branch 227
	Nr. 120460-22
	Date: 05 August 2013
[...] Hassan Said.	
Re: Request to terminate proceedings regarding [name redacted] who died in custody. (mother [name redacted], born 1988 in Hay Al-Na'ura/Idlib) funeral at a place known to the Damascus military police.	
He was arrested on 23 March 2013. On 31 July 2013 his health condition worsened as to why he was brought to hospital 601 where his condition further worsened and he eventually died on the same day, due to breathing difficulties and heart failure. 2655/0 was stored in a cooling chamber.	

Deußing said one can see from the document how the military intelligence used the detainee number to assign a name and hospital number to the person. He further said that the “death certificate” that he showed before this document was used internally while this “death certificate” was handed over to someone. Deußing explained that a witness who identified the dead person in one of the Caesar pictures provided such a certificate to the BKA. When they translated the document, they recognized several characteristics, such as: place of death – Tishreen hospital (607); date of death – 30 May 2013. These indicators fit the file name, which states 4 June 2013 as date of record/death date, and that the date of record and actual death date would always be around the same time.

Wiedner asked how the BKA was able to assign the death certificate to a picture from the Caesar files. Deußing said the witness [name redacted] brought the picture to his interview with the BKA. He apparently found it online and recognized the person. The witness then confirmed that he knows the person from the picture and the death certificate was given to one of his relatives in Syria.

Weidner recalled that the BKA received documents from CIJA. He asked how CIJA got the documents. Deußing said CIJA did not tell them and BKA did not ask. He explained that it is CIJA’s mission to collect and analyze documents related to Syria. He did not know how exactly they got these documents, but the documents seemed authentic. Cardiovascular collapse and breathing difficulties as cause of death are identical to the documents from the Caesar files.

Wiedner asked whether the translation of the document showed by Deußing referred to a document which was typically given to relatives. Deußing affirmed that the witness said they got the certificate but could not see the corpse at Tishreen Hospital.

Deußing explained the structure of the “Kuwait” [كويت] folder.

folders	German translation (name stays the same)	Number of files/pictures
6-2011		[...]
8-2011		[...]
9-2011		[...]
[...]		[...]
14.8.2013		[...]

Deußing explained that the name of one folder indicated the year 2013, but the other names were less clear. This folder also included duplicates found in the “Sami” folder. Deußing further explained that Sami used the dates from these folders as the dates for naming the single files. The structure of “Kuwait” was more detailed than the structure of “Sami” because “Kuwait” included 80 to 287 sub-folders.

Wiedner asked who created the “Kuwait” [كويت] folder. Deußing recalled that Caesar called Sami one or two months after the start of the revolution and told Sami about civilian corpses and their causes of death. Caesar then brought some pictures to Sami’s flat where they looked at them together. This happened around May 2011. Caesar was the head of a group of seven photographers in Qaboun, and he copied the pictures to a USB stick and brought them to Sami’s place where Sami then transferred copies to his computer. The pictures were not sorted. The file names allocated by the military police included dates. “Sami” and “Kuwait” [كويت] can be differentiated by file names. For example, a name in “Sami” might be J-201-05211, while a name in “Kuwait” [كويت] is DSCM – [continuing number]. The file name in “Kuwait” [كويت] would be typical for pictures taken with a digital camera, so those file names are most likely the initial name of the pictures. The above-mentioned picture was saved in folder “5-2011” in “Kuwait” [كويت]. The corpse in the picture had the number 201 and the word “air force” [القوّات الجوّية] written on it. These factors yielded Sami’s methodology for sorting.

Kerber asked whether “J” for air force was added manually. Deußing assumed that Sami added that based on the names and structure of the folders in “Kuwait”.

Kerber said she was familiar with the “DSCM” code for pictures from digital cameras. She wondered whether the folders and naming of pictures was done manually. Deußing affirmed that it was not done by Sami, but rather by the military police. So the folder names in “Kuwait” [كويت] are the initial names given by the military police. Initially, Sami did not change these names. He uploaded them randomly before he exported them and started sorting them in Turkey.

Deußing went on with his presentation saying that some of the pictures are “oversight” pictures of the military hospital in Mezzeh. He used these pictures during his interview with [name redacted]. The witness was working with the military and transferred to hospital 601 after his basic training. He

confirmed that the picture was taken at 601 and he himself saw the corpses there. Deußing said he also showed another picture, which was publicly available, to the witness who confirmed that the person in the picture is an employee at 601, [name redacted]. It is not clear where this picture came from, so the BKA gave it to the German Aerospace Centre (DLR) to analyze where the picture was taken. They used satellite images and identified piles of either laundry or corpses on the premises of the military hospital in Mezzeh, Damascus. Other characteristics, such as trees and vehicles, on the satellite images were compared to the picture and it was confirmed that the picture was taken at hospital 601. Deußing went on to explain why the date modified on the pictures was more recent than the date of creation. This is an indicator that the original pictures were somehow modified, which can happen by copying, uploading, *etc.* Sami confirmed that four versions of the Caesar files exist:

1. Compressed data on google drive
  - Sami later used this version to sort the pictures: “Sami” folder.
2. Uncompressed data, later uploaded to google drive.
  - Sami told Deußing that Carter-Ruck asked for pictures with better quality, so the HD version was uploaded to google drive.
3. Compressed data
  - Safety copy from Sami’s computer to a hard drive then to a laptop. It was taken out of Syria by an intermediary.
4. Uncompressed data
  - Copied from Sami’s computer to a hard drive, still in Syria.

According to Deußing, the BKA has the compressed uploaded version as well as the HD uploaded version, which Sami gave to the Office of the German Federal Public Prosecutor General who in turn gave it to the BKA where the technical division assessed whether the higher quality would be of use for the work and report of the BKA.

Kerber concluded that the metadata exists but would be useless. Deußing confirmed that the metadata exists for the uncompressed files. The dates of when the files were last modified are more recent than the file names suggest because of the copying and uploading processes which changed the original metadata. Deußing has a chart with all the modification dates which shows that the closer to 2013, the more changes occurred to the initial data. He provided an example from Branch 227:

- Date of last change: June 2012
- Date in file name: June 2011

Deußing said this might be a typo, but the fact that the file was saved in folder 6-2011 and that [Sami and Caesar] started uploading them in 2012 makes it plausible that the actual date of creation was June 2011.

Kerber concluded that the date 4 June 2013 indicated that the picture is from 2011 or 2012. Deußing said there are no pictures from 2011. For 2012, there are several pictures of one person labeled as file “052012.”

Wiedner said that a file’s date of last modification is the most recent date. He asked Deußing what else the date of modification indicates. Deußing said it is dependent on the time/date setting on the



computer on which the file was processed. It generally indicates the last time something happened with this file. However, one cannot confirm the date and time without access to the original computer.

Wiedner wanted to know whether dates of last modification for the pictures of corpses from Branch 251 say 2011 or 2012. Deußing said that he did not see this date/file combination. However, there is a file for Branch 251 allegedly from May 2012 (052012) which was last changed in 2013. Sami told Deußing that Caesar and his colleagues were in charge of taking photos at Tishreen and Mezzeh hospitals, but there is also a hospital in Harasta, a suburb of Damascus, where Caesar did not take any pictures. Deußing's office has information from the International, Impartial and Independent Mechanism on Syria (IIIM) which indicates that guards said that Al-Khatib transfers people/corpses to the hospital of the Red Crescent where the cause of death is determined. From there, the corpses are brought to Harasta Hospital. Deußing recalled that Al-Gharib said that corpses from Branch 251 were brought to Mujtahid when they did not show signs of torture. If they showed signs of torture, they were brought directly to a mass grave in Najha.

Wiedner asked whether the German authorities got compressed files after their MLA request to Liechtenstein. Deußing affirmed.

Wiedner asked whether the German authorities later got uncompressed files. Deußing affirmed.

Deußing continued with his presentation saying that the files were created by the military police in Qaboun in Mezzeh and Tishreen between May 2011 and August 2013. He added that the pictures were taken for documentation purposes regarding deceased detainees. They were used by security authorities for reports and for their decision-making processes.

Böcker intervened saying that he did not understand how metadata got lost when files were copied. Deußing referred to a study by the FBI which says that one can make conclusions on the type of camera used by looking at the EXIF (Exchangeable Image File) data. However, the Caesar files only carried a small amount of data. The data got cut when the files were uploaded. The technical photo division of the BKA told him that there is no EXIF data in the uncompressed files.

Klinge asked Deußing whether one can tell from the totality of data available when the earliest files were created. Deußing explained that he could tell from folder "052011" [May 2011] located in "Kuwait" [كويت]. He could also tell from a file in "Sami" entitled "air force 2011" [المخابرات الجوية]). There is also a folder called "042011" (April 2011) consisting of corpses from Dar'a.

Klinge asked how many files are included in the May 2011 folder and which branch the corpses are from. Deußing said they are from the air force intelligence [المخابرات الجوية] directorate, but he has to check how many pictures it includes.

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[15-minute break in proceedings]

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Wiedner referred to a note from September 11, 2020, written by the BKA regarding documents received from CIJA. He asked Deußing how many documents the BKA received from CIJA and how they

were similar in content. Deußing said he is sure that they received four documents which were nearly identical with respect to content. They all refer to persons detained by the military intelligence directorate in 2013. The letterhead was identical, but some referred to Branch 227 and others to Branch 215. All documents described the reasons for death using similar wording: “health condition worsened,” “transferred to hospital,” “deceased at the hospital.” They also referred to the locations of the corpses and the decision-making processes behind deaths. According to Deußing, ¾ of all corpses were not given to relatives. Rather, they were buried at a place known to the military police.

Wiedner thanked Deußing for his explanation and referred to the conclusion of a report on the military police dated August 2020 which said that Caesar worked for the military police in Tishreen and Mezzeh hospitals. Wiedner wanted to know what this conclusion was based on. Deußing said it is based on reports by the military police, Sami’s testimony, witness’s [name redacted] testimony and death certificates.

Wiedner recalled the second part of the conclusion which stated that the process of taking pictures and filling out the documents was a procedure of the military police prior to 2011 that continued after 2011. Sami said that the reports were used by the military judiciary to issue death certificates and for other documentation purposes. Early on, supposedly one form was used per person, but later, one form was used for multiple people.

#### **Defense Counsels’ Questioning**

Böcker asked if Deußing looked at the pictures from Branch 251 dated 2012. Deußing affirmed saying that there were four pictures which included 28 May 2020 in the file name. All pictures showed the same person. The numbering system was unidentifiable and 433 or 432 was the only legible number.

Böcker asked about signs of torture. Deußing said that he saw injuries on the corpse but could not explain the background or causes of these injuries.

Böcker asked whether Deußing came to any conclusions. Deußing said no, he is not a forensic expert.

Böcker asked how and why the files got to Liechtenstein. Deußing said SNM and [name redacted] trusted Liechtenstein and chose it for neutrality reasons.

Böcker asked Deußing which files the Carter-Ruck report includes. Deußing said he did not look at the report, however, Carter-Ruck only had access to an excerpt from the Caesar files while the BKA had access to more files.

Böcker asked why Carter-Ruck had access to files in the first place. Deußing said when Caesar and Sami left Syria, they were looking for support. Deußing was not sure why exactly Carter-Ruck got files.

Böcker asked Deußing about the relation between Qatar and Carter-Ruck. Deußing said the office never conducted any specific investigation regarding the Carter-Ruck report. According to Deußing they knew about this report as it was available online and used it as a first starting point for their own analysis and investigations into the Caesar files.

### Prosecutor's Questioning

Klinge recalled an MLA request by the Office of the German Federal Public Prosecutor General to the IIIM regarding a guard from Branch 251.

[Below is an incomplete excerpt of the BKA's note based on what the court monitor could hear and see. Missing portions of the note are marked with [...].]

*The request was issued on 15 February 2019 and the protocol of the questioning of the guard from Branch 251 was handed over on 9 May 2019. The questioning referred to cases of death within the Branch. The guard said that whenever a detainee died, the guards were informed. The corpse was then brought to the hospital of the Red Crescent [...] there a heart attack was officially declared, and noted on the death certificate and in the detainee's file. The death certificate was often thrown away. If the certificate was not thrown away, it was passed to the head of the general intelligence directorate. The corpses were transferred to Harasta where the forensic expert in charge had a log book tracking the number of corpses and the respective branch from which the corpses came, as well as the codes for those details. From 2013 onward, the codes were no longer written directly on the corpses. Around 50 to 60 corpses, the hospital was completely packed, so they called the intelligence service who then told the hospital to bring the corpses to mass graves. At the beginning of 2013 the corpses in Harasta were buried right away due to complaints about the smell.*

Klinge asked Deußing who the guard is. Deußing said he is a trustworthy source. Al-Gharib told the BKA about a guard named [name redacted]. Deußing saw a video in which [name redacted] presented documents. The IIIM provided the same documents alongside a source code. Deußing and his office came to the conclusion that the documents from the IIIM and the video are identical.

Klinge wanted to know whether Deußing had information about people who saw corpses at Harasta Hospital. Deußing affirmed. They got this information from the documents provided by the IIIM. One of the documents refers to Branch 251 and describes an internal proceeding regarding a complaint against a person/employee from the hospital who refused to accept corpses. This indicates that there have been corpses from intelligence branches at the beginning of 2013 if the report is correct. Deußing added that the former head of the hospital, [name redacted], said that there were corpses. He did not say where the corpses came from and why they were at the hospital.

Klinge recalled that Deußing previously mentioned a witness who identified a person from the Caesar files and wanted to know whether there are more people who identified someone from the files. Deußing affirmed saying that [name redacted], a lawyer, identified several people who were former colleagues. He said that one of them was arrested as he provided legal consultation to demonstrators. Deußing said the lawyer also identified people from his own family. Deußing further explained that all witnesses who identified people from the files said that none of them had connections to the armed opposition.

Klinge referred to the forensic report issued by the University of Cologne on behalf of the BKA and asked Deußing about the causes of death listed. Deußing said they are mentioned in a note, but he does not remember exactly.

Klinge asked whether the forensic report also mentioned unknown causes of death. Deußing affirmed.

Klinge asked Deußing about reports on the Central Crisis Management Cell (CCMC) and its tasks and structure. Deußing said his office knows about the CCMC from CIJA. CIJA provided reports from 20 April 2011 when the CCMC basically proclaimed a new level in dealing with the conflict. Deußing said members of the CCMC are high-ranking officials from the intelligence services, according to CIJA.

Klinge asked when the CCMC was founded. Deußing said the name “Central Crisis Management Cell” already indicated that the cell’s task is to manage the crisis on behalf of the Syrian state. According to Deußing, it was founded in March 2011.

Klinge wanted to know more about the analyses of the files by Carter-Ruck as well as by the FBI. Deußing said he already mentioned that the FBI inspected the files and tested their metadata and authenticity. The FBI examined the EXIF data and concluded that the content of the files was not manipulated. However, the number (of the forensic expert) which is written on the cards was made more visible on some pictures. These changes had no connection to the corpse and Deußing only saw pictures without any changes.

Klinge said since Deußing worked on the Caesar files, he wanted to ask Deußing whether he had any doubts about Caesar’s work and the authenticity of the files. Deußing said no, other witness statements confirmed the timestamp related to the file names. There are other congruent reports and satellite images especially of Mezzeh Hospital 601. Deußing concluded that so far, there are no facts indicating that the files are not authentic.

#### **Plaintiff Counsels’ Questioning**

Kroker referred to the death certificate which was provided by a witness and shown during Deußing’s presentation. Kroker wanted to know whether it was usual practice to give death certificates or if that only happened for individual cases. Deußing said it was for an individual case, however in this case the witness paid bribe money to get the certificate. Deußing further added that it was not always possible to identify the victims, so in many cases, no death certificate was issued. He went on to explain that many families only found out about their relatives through the Caesar files as they scanned through the website day and night.

Kroker asked Deußing how many death certificates he has seen. Deußing said he cannot provide an answer due to ongoing investigations.

Kroker wanted to know whether death certificates were the rule or the exception. Deußing said only a few death certificates were issued, so they are the exception.

Kroker asked if there was one particular point in time when a large number of death certificates were issued. Deußing said he knows about related public reports; however, he has not seen any document to verify this assumption.

Kroker asked about the precise point in time mentioned in these public reports. Deußing said that is only speculation.

Bahns referred to a report from September which dealt with decision-making processes [within the intelligence services] and asked who was involved in these processes and what exactly has been decided. Deußing said information was passed even to the head of the military intelligence directorate, however he is not sure whether this person actually signed any document.

Bahns asked whether these decisions concerned the return of corpses. Deußing said there was a proposal in the documents [in the burial order, for example]. However, it is not possible to assess whether these proposals were actually realized solely based on the documents.

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[65-minute lunch break]

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#### Testimony of criminal chief inspector Deußing regarding Sami's testimony with the BKA

Kerber asked the prosecution and plaintiff's counsel whether they have any news regarding Sami's appearance in court. Both said no.

Wiedner asked Deußing to describe the overall circumstances of Sami's testimony with the BKA before the judges try to "refresh" his memory concerning particular aspects by citing the BKA's minutes. Deußing said Sami's interview as a witness took place in the BKA's premises in Berlin in the presence of a translator from the BKA. Sami was asked at the beginning whether he understood everything and at the end of the interview asked to check the minutes. He had to sign every page of the minutes and had no difficulties understanding everything.

Wiedner asked whether the minutes were re-translated. Deußing affirmed.

Wiedner asked how long Sami was heard. Deußing said he was heard for two days.

Wiedner wanted to know about Sami's personal background. Deußing said he lived in the suburbs of Damascus which were controlled by the Free Syrian Army (FSA). He left Syria because he was afraid of being arrested. He left before Caesar.

Wiedner asked when Sami left Syria. Deußing said he left prior to 2014.

Wiedner recalled Sami saying that he left on [information redacted] 2013. Deußing affirmed.

Wiedner wanted to know where Sami went after leaving Syria. Deußing said he believes he went to Jordan.

Wiedner asked where he went before he went to Jordan. Deußing could not remember.

Wiedner recalled Sami saying that he legally entered Lebanon and then left for Jordan on 22 July 2013. Deußing affirmed.

Wiedner asked where Sami went after he left Amman. Deußing said he went to Turkey and is currently in a European country.

Wiedner again recalled parts of Sami's statement with the BKA where he said that after his stay in Amman he went to Istanbul on 14 November 2013 and then on 12 January 2014 he went to Qatar where he stayed for around three weeks before going back to Istanbul. Deußing affirmed.

Wiedner wanted to know more about the relationship between Sami and Caesar. Deußing said they were already in contact prior to the beginning of the conflict and knew each other since 1997. They stayed in touch after the beginning of the conflict. Sami told the BKA how Caesar called him to tell him about the corpses and that they then met around May 2011.

Wiedner asked what Sami told the BKA regarding Caesar's position before the beginning of the conflict. Deußing said according to Sami, Caesar worked as a photographer with the military police in [information redacted] where he was the head of seven photographers.

Wiedner recalled Sami saying that Caesar had to take pictures of soldiers, accidents, suicides etc. Deußing affirmed.

Wiedner recalled Sami saying that two months after 18 March 2011, at the end of May, Caesar called Sami to visit him because he saw civilian corpses and detected discrepancies between the conditions of the corpses and the official reports by the forensic experts. Wiedner asked Deußing in which hospitals Caesar worked. Deußing said Caesar worked in Tishreen and Mezzeh.

Wiedner asked about Harasta Hospital. Deußing said this hospital does exist, however Caesar did not work there.

Wiedner wanted to know what happened after Sami and Caesar met regarding the pictures. Deußing said Caesar told Sami about the corpses. When Sami asked for pictures, Caesar provided them. Deußing further said that according to Sami, Caesar wanted to defect but they jointly decided that it is important to collect evidence for the event of a possible overthrow of the regime. For that reason, Caesar smuggled pictures on a USB stick or SD card and the pictures were then saved on Sami's computer.

Wiedner went on to ask how exactly the USB stick was used in smuggling the pictures and if it was a new one for every instance. Deußing said Caesar always used the same USB stick. Sami copied the files on his computers as they were saved on the USB stick (same folder structure). The data on the USB stick was then deleted and the USB stick was used again.

Wiedner went on to ask how Sami dealt with the files. Deußing said at first, the pictures were saved in an unstructured manner on Sami's computer. In 2012, they decided to protect the data from the government (possible searches) and consequently uploaded a compressed version on google drive. Later three additional versions were created.

Wiedner concluded that the procedure described by Sami was repeated several times and asked Deußing about the number of files that were dealt with in that manner. Deußing said the number of files per day increased. At first, there were only several, then 20 to 30 and 50-70 towards the end.



Wiedner recalled that Sami told the BKA that the structure of the files/folders was not important. The pictures were saved on a standing computer, then a compressed version of files was uploaded onto google drive because the internet service was bad and they could only upload a compressed version. Also, they did not want to cause suspicion by uploading big amounts of data.

Wiedner asked whether the pictures were first put in some kind of order. Deußing said Sami started sorting them in Turkey.

Böcker intervened, saying that Sami's statement regarding the increasing number of pictures per day was not cited correctly. At first, he said there were 3 per day at the beginning, before he changed it to "several per day". Deußing affirmed that Sami changed his statement from "3" to "several per day".

Wiedner asked what happened next [with the files] and how they were passed to people abroad. Deußing said according to Sami, the files were sent to [name redacted] who then handed them over to Liechtenstein.

Wiedner recalled Sami's statement in which he said that they downloaded the compressed files in Jordan and [name redacted] handed over a compressed version to Liechtenstein. Wiedner asked which versions were compressed and which were complete. Deußing said Sami told the BKA that in order to reduce the volume of data due to the slow internet connection and to allow an unsuspecting transfer of data, they uploaded a compressed version of the files in Syria. Only after they left Syria, they were sent an HD version of the files.

Wiedner explained that the 250 KB files contain compressed data while the 1-1.3 MB files contain the original data, including original file names, and the uncompressed HD files were only uploaded once the FSA was in control [of the region from where the files were uploaded]. Wiedner then asked how the forensic experts [mandated by Carter-Ruck] got involved and which version they worked with. Deußing said Sami did not provide any details on how exactly the forensic experts came into play, however they were in contact with Carter-Ruck and had talks with them about the quality of pictures and eventually asked for "bigger" files to allow for a better inspection.

Wiedner asked about the connection between the files and the proceedings in Germany. Deußing said that the GBA was given an uncompressed version.

Wiedner recalled that the GBA got access to this version in September 2017. Wiedner asked Deußing which versions of the files exist. Deußing said there are four versions:

1. Compressed version which was uploaded and used by Sami in Turkey to sort the files and given to Liechtenstein by [name redacted].
2. Uncompressed version which was uploaded on a cloud and given to the GBA by Sami.
3. Compressed version which was copied from a Syrian computer to an external hard drive, smuggled out of Syria by the FSA, then transferred to a laptop.
4. Uncompressed version which is saved on an external hard drive and is still in Syria

Wiedner recalled Sami telling the BKA that they were afraid that they could no longer access the files [on the cloud] once they left Syria. This is why the FSA smuggled the files out of Syria. 98% of the files were uploaded on a standing computer. 100% of the files were uploaded as an uncompressed version. Sami said he uploaded and modified them from July until end of August 2013. When Caesar fled Syria at the end of August 2013, they had 5,100 pictures.

Wiedner asked Deußing about Caesar's emotional condition when he first met with Sami. Deußing said it was not safe to show emotions, but Caesar was upset about the corpses and false causes of death being recorded.

Wiedner recalled Sami saying that the version which was handed over to the GBA was sorted by him when people died from torture according to the intelligence branch. He sorted only the files from the military and air force. Sami further said that he no longer worked with [name redacted], so he does not know what [name redacted] did with the pictures before they were handed over to the GBA. Wiedner referred to the chart which detailed the structure of the relevant folder. Deußing said he already presented this chart in his presentation. Sami confirmed to Deußing that he made these changes by adding the branch number as well as the date to the file name.

Wiedner recalled Sami saying that there are three different kinds of pictures: detainees, martyrs and terrorists. According to Sami, that was how they were sorted by the regime, by Caesar himself because it was his job. Sami said that he only worked on the detainee pictures, however he also saw some of the martyrs' pictures, which included names of the dead persons. Sami said he was in a hurry, so he might have made some small mistakes in naming and sorting the files. Wiedner said that the BKA presented Sami with a sample file name for him to explain how he named the files:

xxx-xxxx-xxxxxx(1).jpg

Branch No.-Detainee No.-Date

Deußing said Sami confirmed to him what Deußing already realized: the first number indicates the number of the branch from which the corpse came, the second number indicates the detainee's number and the third number indicates a date. The number [in this case "1"] in brackets was inserted automatically by the computer and indicates that multiple pictures exist for one person.

Wiedner had a question regarding the date: Does it resemble the date of death or the date when the picture was taken, which would be shortly after the date of death as Deußing previously explained. Further, the folders were often named after the date of death. Wiedner also wanted to know what a series of "000" at the end of the file name means. Deußing said Sami told him that the series of "000" was inserted when neither a date of death nor the date on which the picture was taken was known.

Wiedner asked how the names and numbers of branches were allocated. Deußing said Sami told the BKA that he knew over 29 different branches, which he aligned with the pictures and then allocated the numbers accordingly. In cases where there was no number, the pictures were allocated to the air force using "J" or "JA" to indicate the air force intelligence directorate "jawiya" [الجوية].

Wiedner recalled that the BKA presented more pictures to Sami to ask him about the numbers on the corpses and cards. Deußing affirmed and explained the three-part numbering system which includes

the detainee's number, the number of the intelligence branch [where the corpse came from and where the detainee was detained] and the number given by the forensic expert. Deußing said that according to Sami, the first two numbers were allocated at the hospital once the corpses arrive. The third number was allocated by the forensic expert once the order to take pictures of the corpse was given. Sami identified [name redacted], a forensic expert, in one of the pictures.

Wiedner asked what else Sami said regarding the detainees' numbers. Deußing recalled Sami saying that the detainees' numbers are allocated by the intelligence services. However, Deußing could not say whether numbers were allocated right away or after detainees died.

Wiedner recalled Sami's statement with the BKA where he said that the branch number is allocated at the beginning. Deußing explained that the branch number refers to the branch at which the detainee died.

Wiedner once again referred to Sami's witness interview by the BKA during which Sami said that [name redacted] lived at Tishreen Hospital and was also in charge of "601" [Al-Mezzeh hospital] as a forensic expert in Damascus until 2014. He was in one of the long shots, which were actually prohibited. Deußing said according to Sami, Caesar said that taking these long shots was prohibited. However, at some point there were so many corpses that Caesar needed long shots to get a better view.

Wiedner asked Deußing which picture they showed Sami. Deußing said it was a picture taken at 601 Mezzeh.

Wiedner asked whether Sami made any further changes except changing file names. Deußing said he believes that Sami changed file names, relocated files into certain folders and created the chart.

Wiedner asked whether Sami provided any information on the letter "b" which was used behind the number of the forensic expert. Deußing said Sami explained to the BKA that the number allocated by the forensic expert always ended at 5,000. It was never higher than that, instead a letter was used to continue the counting.

Wiedner referred to a gap in the numbers contained in the Caesar files and asked whether this has something to do with Caesar's arrest. Deußing affirmed, adding that Caesar was detained for a short while which is why there is gap in numbers. Deußing said he does not know whether they later caught up in terms of numbers/continuing counting.

Wiedner asked whether files were deleted. Deußing said he does not think so, however Sami did not know whether Caesar deleted some.

Wiedner again recalled Sami's interview with the BKA during which he said that he is not sure whether Caesar had further pictures and that Caesar was detained for 25 days. The BKA then presented further pictures to Sami. Deußing said they showed him pictures from the military police which were sent to the military judiciary where they issued death certificates.

Wiedner asked whether the BKA presented any other pictures to Sami. Deußing said he could not remember.

Wiedner confirmed that Deußing's statement matched the BKA's interview minutes. Wiedner then recalled the process of documenting the death of detainees. At the beginning there was one file per person, then later "collective files" were used. [name redacted] was the one who took the pictures [for the death certificates], not Caesar. First the forensic expert came and allocated a number, then the photographer took the pictures, which Caesar copied to a computer. Then the file was created. Wiedner asked whether Deußing asked Sami about the reasons for this documentation procedure. Deußing said this procedure was already established [before the revolution] and was routine.

Wiedner asked whether there was corruption. Deußing said the documentation of corpses is also a way of showing the whereabouts of corpses to ensure that people who are dead are not being released in return for money or that people are being released for money but claimed to be dead.

Wiedner quickly recalled Sami's statement on this with the BKA where he said that some people told their bosses that a detainee died when the person was actually released in return for money. Wiedner then asked what happened to the corpses [after pictures were taken]. Deußing said if he remembers correctly, Sami said that the corpses were brought to mass graves.

Wiedner wanted to know whether Sami said anything about corruption and the search for missing persons as well as activists and families who identified people from the files. Deußing said there was an organization who tried to identify the people from the files, around 300 people were identified. According to Deußing, Sami also identified someone – a doctor.

Wiedner noted that some corpses were unidentifiable. There was a list of identifications and an offer to contact [the organization who provided the pictures online]. Wiedner then showed a picture of a man with a cigar, talking on the phone. Deußing said Sami identified him as forensic expert. It was always the same [person/forensic expert on all pictures].

Wiedner said toward the end of the interview, the BKA asked Sami whether he witnessed international crimes himself. Deußing said he cannot remember. Wiedner said Sami told the BKA that at the beginning [of the revolution] he himself witnessed people being shot death at demonstrations with no possibility of collecting their corpses. He also witnessed people being arrested at demonstrations, one time 40 people were arrested at once. Sami said that his house was raided on one occasion and his computer was confiscated. Luckily, he did not have any files saved on that computer.

Wiedner asked Deußing whether he asked Sami about google drive and whether [the uploaded version of the files] still exists. Deußing said he thinks that it was deleted, however he does not know when.

Wiedner wanted to know more details about how the files were uploaded and what happened to the uploaded folders. Deußing said a compressed version of the files was uploaded in 2012 by an intermediary. Wiedner added that Sami also told the BKA that he was requested to check another account on which the files were uploaded so that it could be deleted.

Wiedner asked Deußing about the atmosphere during Sami's interview with the BKA. Deußing said it was calm. Sami was willing to talk. That is why they heard him for two days. Sami told him during a break that he was grateful that the BKA appreciated the information he provided.

Wiedner wanted to know whether the interview was structured. Deußing said it was “normal.” It followed protocol and Sami was structured and focused.

Wiedner asked whether Sami was afraid and how they dealt with his codename. Deußing said the GBA made the decision regarding the use of a codename so they did not talk about it in the interview.

Wiedner asked whether Sami showed signs of fear. Deußing said he was afraid of providing personal information, that is why they kept this part as short as possible.

### **Prosecutor’s Questioning**

Klinge presented two pictures from the Caesar files. The first one showed two doctors. Deußing said the BKA showed this picture to Sami for identification of the two people. However, Sami could not identify them. Referring to the seal on their uniforms, Sami said that the picture was taken at Tishreen Hospital.

Klinge showed the second picture which showed two doctors in a hallway of what looked like a hospital with plastic corpses in the background. Klinge mentioned the file name: [information redacted]. Deußing said one can see from the file name that it is from April 2011.

Klinge asked whether Deußing at any point was under the impression that the person he was talking to was not Sami. Deußing said no. The person told him he was Sami and provided so much detail especially regarding the file names that Deußing never had any doubts.

### **Defense Counsels’ Questioning**

[The defense teams had consultations before they asked their first question.]

Fratzky wanted to know “what kind of guy” Sami is and what impression he made to Deußing. Deußing said he already told the court that Sami was very solid, calm and structured. He was never aggressive and always seemed to be motivated. He was always cooperative.

Fratzky asked about Sami’s educational level. Deußing said he does not know, maybe they did not talk about it for security reasons. However, from how Sami answered and reacted to the questions, Deußing was of the impression that Sami is educated.

Fratzky wanted to know about the connection between Qatar and London. Deußing said he and his office only built upon the public report [report by Carter-Ruck which was read out the previous day], however they wanted to get their own impression of the pictures and make their own findings. He said the report was only a beginning and they never tried to contact anyone involved in the creation of that report.

Fratzky asked whether they informed themselves about the connection [between Qatar and Carter-Ruck] anyway. Deußing said his office never conducted any financial investigation into Carter-Ruck solicitors. They wanted their own witnesses to confirm that these pictures were from Syria. The first witness, [name redacted], was heard after October 2015.

Fratzky asked why Sami was not [appearing before the court]. Deußing said maybe he is afraid. However, he can only speculate as he is not in contact with Sami.

Al-Gharib's defense counsel Schuster recalled that the files were initially divided in different categories (detainees, martyrs and terrorists) and asked whether there were any more division (such as reasons for detention). Deußing said Sami only worked on detainee pictures. Regarding the reasons for detention, Deußing and his office clarified that with the help of witnesses such as [name redacted] and [name redacted]. In general, people were arrested in connection to demonstrations.

Schuster wanted to know more about the category "regime/martyrs". Deußing said that Sami did not say anything on this. However, "Kuwait" [كويت] included pictures of crime scenes and suicides within the Syrian military. In these cases, there was often the name of the killed/dead person, while there was only a number for detainees. The term "terrorist" was allocated by the Syrian government. Deußing said it is known to the BKA that the term "terrorist" has a wide meaning for the Syrian government and is used for demonstrators and anyone opposing the government.

Schuster asked whether Deußing has any further recollection of those witnesses. Deußing said they heard many witnesses on reasons for arrests. With regards to dead people, he cannot answer that question.

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

Schulz asked Deußing whether he can evaluate if Caesar's real name is known to Syrians. Deußing said that Sami told the BKA that it is apparently easy to reveal real names.

Schulz wanted to know if other intelligence services provided information regarding Caesar's identity. Deußing said he and his office never tried to unveil their real names. He does not know how other services dealt with this matter.

Schulz concluded that it is easy to unveil Sami's real name. Deußing said that is the reason why they did not ask any questions about his identity.

Kroker referred to Schuster's question on information provided by witnesses and asked how many times witnesses spoke about accusations of terrorism by the regime. Deußing said he has to put this in context: of course, witnesses told them about such accusations as they came from certain regions, belonged to certain ethnicities or participated in demonstrations. It also happened that someone told the intelligence services something like that without having evidence for their accusations.

Kroker concluded that the label "terrorist" was similarly used as the labeled "heart attack". Deußing affirmed that the label "terrorist" was often used by the Syrian government and added that the German intelligence service (BND) also confirmed that.

Reiger asked Deußing whether the injuries in pictures regarding Branch 251 often indicated torture. Deußing said that Prof. Rothschild can provide more information on that.

Schulz again referred to the identification issue, mentioning that Caesar's or Sami's identity is known to the Syrian intelligence services. Deußing affirmed that it would be easy for them to identify Caesar



and Sami adding that Sami said “if they did not find out by now, they are idiots who do not do their job properly”.

Fratzky said that Sami was granted asylum on [information redacted]2014 adding that the BKA as well as the criminal police offices of the federal states often have a look into the files of the German Federal Office for Migration and Refugees (BAMF). Deußing said he cannot provide information on this matter.

Fratzky asked whether the BKA internally conducted investigations regarding the identity of Sami and Caesar. Deußing said they did not check anything regarding asylum-seeking procedures.

Judge Kerber provided administrative information on the hearings next week.

The proceedings adjourned at 2:15 pm.

Next hearings will take place on November 3, 2020.