

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

Higher Regional Court – Koblenz, Germany

Trial Monitoring Report 24

Hearing Dates: January 13 & 14, 2021

*CAUTION: Some testimony includes descriptions of torture.*

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

**Trial Day 55 – January 13, 2021**

P26 was allowed to conceal personal information due to concerns about his family's safety and testified about twice being detained at Al-Khatib. He told the court about constant torture, overcrowded cells, as well as devastating nutrition and hygienic conditions. As none of the parties had any further questions for him, the judges continued to read out the translation of an HRW report.

**Trial Day 56 – January 14, 2021**

The judges continued to read out the last parts of the HRW report, before Alexander Frey, a criminal inspector with the German Federal Criminal Police (BKA) testified on exhibits in Al-Gharib's case. Pictures of Al-Gharib's ID card for the General Intelligence Directorate were shown in court. Al-Gharib's statement, which was already read out in court on trial day 51 was officially added to the case file as evidence and read out again.

**Day 55 of Trial – January 13, 2021**

The hearing began ten minutes late at 9:40 due to technical issues and one of the judges being stuck in traffic. Five spectators and two journalists were present in the public gallery.<sup>2</sup> Dr. Peer Stolle appeared as a replacement for Plaintiff Counsel Dr. Patrick Kroker and Charlotte Foerster-Baldenuis appeared instead of Plaintiff Counsel Khubaib Ali Mohammed.

**Testimony of P26**

P26 was accompanied by his counsel, Antonia von der Behrens, and a friend, who took a seat in the public gallery. Presiding Judge Kerber mentioned that Witness Counsel von der Behrens submitted a request to the court on January 8, 2021, requesting to allow her client to conceal personal information unveiling his identity, due to concerns about his family's safety. Judge Kerber read out the submission which stated that P26 wishes to conceal information about his identity as there are reasonable concerns about assaults against his family still living in Syria. There have been assaults in the past: P26's

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

<sup>2</sup> No one requested access to translation. As announced last year, Presiding Judge Kerber did not explicitly ask the public about requesting access to translation.

father was summoned twice and questioned about the whereabouts of his son, P26. The same happened to one of P26's siblings, who consequently fled Syria. The submission further detailed that since P26 left Syria, he has had no contact with his family so as not to pose any risk to them.

Raslan's Defense Counsel Böcker said he did not receive such a submission and asked the court to send such things in due course to all the parties. He added that, for now, there was no issue about not receiving that particular submission.

None of the parties had any objections to P26's request. Presiding Judge Kerber announced that in accordance with §68 (3) StPO, the court allows P26 to conceal information leading to unveiling his identity as there are reasonable concerns to assume that life, limb, and liberty of his family still living in Syria, would be in danger. Kerber added that these concerns were repeatedly raised by previous witnesses. Instructions were read out to P26 and he was informed about his rights as a witness. P26 said he is not related to the defendants, neither by birth nor by marriage.

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

Presiding Judge Kerber started her questioning by recalling that P26 was heard three times by the French and German police. She added that he still needs to repeat everything relating to his confrontation with the regime in Syria and his imprisonments. Kerber asked P26 to just start telling his story. P26 said that he and his friends were a group of activists. They were peacefully active against the Syrian regime. He was first arrested on [information redacted], on 29 May Street in Damascus.

Judge Kerber interrupted, asking about the year of his first detention. P26 said it was in 2011.

Judge Kerber said there is no reason for P26 to be nervous, he should just keep on talking. P26 continued by saying that he was arrested with several other people, though he did not remember the exact number. He said they were put in a minivan, where they were beaten and tortured. According to P26, they were beaten without a break from the moment they entered the minivan until they arrived at Division 40. He said the beating was very painful, he was hit on his head several times and beaten all over his back, up to his head. P26 said that one of the guards in the van had to sit on him to beat another person. The guard told this person that he should let him know once the nail is stuck into his back. P26 said after that, the guard continued to beat P26, first on his head, then in his face. P26 recalled that several people hit him until they arrived at the first Branch, Division 40. According to P26, his first detention [station before being transferred] only lasted a couple of hours. The guards first requested the ID cards of all the detainees. They had to stand in line in a long corridor, blindfolded and with their hands tied behind their back. P26 further said that one after the other was called into a room with three people. There was constant movement. P26 said that [in this room] a person put his foot on P26's head and asked him about his name, though he already had his ID card. The person further asked for information and used electroshocks without any reason, P26 added. The electroshocks were attached to P26's foot and switched on for around one minute repeatedly. They asked him several questions and used the electroshocks several times before they grabbed P26 and threw him back into the corridor. P26 said he had to stand there, facing the wall, until they [guards] were done with everyone [new detainees]. P26 said he was then transferred to Al-Khatib. P26 further told the court that the entrance and exit to/from Division 40 was a staircase where the guards beat the detainees while they had to go up- or downstairs. They used all things available to them to beat the detainees, including fists and batons. P26 said they had to go downstairs [at Division 40]. According to P26, there was a woman, a fellow detainee, with them. According to P26, the group was then taken to Al-Khatib

in a minivan, where beatings and arbitrary torture continued. When they arrived at Al-Khatib, they had to go downstairs a few steps and stand in a small area where they were frisked, while also beaten. He added that, no matter what one did, one was constantly beaten. He said even the people who cut their cable-strap handcuffs, used the scissors to beat or stab them. P26 said that everyone's belongings were taken away and meticulously noted in a protocol. After that, P26 recalled, they were brought into a cell. P26 added that if he remembers correctly, it was cell number 13. He further explained that the cell had high ceilings. P26 recalled that his hands were still tied when he was brought to the cell and he had to look down on the floor. The guard who took him there put P26's head up and hit it against a wall. P26 said he was thrown into the cell. That was when he first put his head up and looked around, but he then became unconscious. P26 explained that the other detainees in the cell put him aside and carried him to the toilet. P26 clarified that the toilet was inside the cell and that there was actually no proper toilet but a hole in the floor. P26 said that was where his fellow inmates carried him. Apparently, he was in the same condition [unconscious] for one or two nights. P26 said he was then taken to interrogation. He said he still remembers a 17-year-old boy who had a screw in his back and then was beaten on this screw in the bus [to Division 40]. He said that the same boy was beaten right behind him while he, himself, was interrogated. According to P26, the interrogation was very superficial and he was constantly beaten on his back with a whip. However, he did not know how hard the boy behind him was beaten, only that he was beaten. P26 said he denied having participated in a demonstration and told the interrogator that he only worked in a nearby office. P26 said all the other questions were superficial and he was beaten again. The interrogator left and when he came back, P26 was returned to the cell. P26 added that during and after this interrogation, he did not sign anything nor did he provide his fingerprints. P26 further explained that he was in the cell for around seven days, while many people from other regions [not Damascus] were put in this cell as well. He added that they were actually carried into the cell, with blood all over their bodies. According to P26, one of them was unconscious for three to four days. P26 said this person did not even know his own name. He further added that people of different ages were in the cell. One detainee was epileptic and had constant attacks, however, no one [from the guards] helped him. P26 said that after one week, he was transferred to the State Security Branch [285]. He asked the judges whether he should just continue.

Judge Kerber said that before that, she had one detailed question and asked P26 about the boy, whether it was the same person on the bus and during the interrogation. P26 affirmed, adding that they were around 16 people on the bus [minivan]. P26 further explained that he said opposite to the aisle in the middle of the bus. To get to the boy, one of the guards had to step on P26.

Judge Kerber wanted to know how exactly the boy was beaten and how the screw was used. P26 said that he did not see the screw but he [a guard] told the boy that he should let him know once it is stuck in his back.

Kerber wanted to clarify whether a screw or nail was used. P26 said he heard them talk about a screw.

Kerber said she thought [from the transcripts of P26's police hearings] that a stick with nail applications was used. P26 affirmed that they had a baton with nails on it on the bus. He added that they also had whips, plastic batons, electroshocks, and some kind of belt. P26 assumed that the boy was beaten with the stick with the nail applications.

Judge Wiedner intervened, asking whether the situation with the screw took place at a later point or in the bus as well. P26 said this situation took place on the bus, adding that he remembered that the boy behind him [during the interrogation] was the same boy from the bus.

Judge Kerber wanted to know whether P26 was then released after his first detention. P26 denied, explaining that he was transferred to State Security [Branch 285]. He said that he met people there who had been at the same demonstration and arrested at the same time. However, he did not see the boy there, adding that he did not know what happened to the boy.

Judge Kerber asked what happened next to P26. P26 said that they did not do anything on the bus [guards did not beat the detainees], However, they were blindfolded and their hands were tied behind their backs. When they arrived at State Security [285], they received a “relatively normal” welcome. According to P26, their personal information was registered outside in some kind of back yard where an officer was sitting at a desk. One detainee after the other had to go to the desk where their information was registered along with their personal items. P26 said after that they were beaten “a bit” and put in a cell. He added that these were the “welcome-beatings”. P26 said he thinks that the cell was called the “Northern Cell” and was relatively small, however, overcrowded as more than 60 people were in this cell. He said there were many people who were never interrogated and nothing happened with them. P26 further explained that he himself was interrogated after one week. He was asked “weird” questions. For example, they wanted to know how much he paid for his house. He said it was strange that he was not beaten during this interrogation. P26 said they also asked him about his monthly salary, but nothing about demonstrations. He further explained that every time one returned to the cell after an interrogation, the guards entered the cell and all detainees had to stand up, facing the wall. The guards then picked one of the detainees and beat him up. P26 added that the same happened every time there was an argument in the cell or some kind of noise. According to P26, the guards sometimes entered the cell without any reason. One time they decided to beat a 70-year-old man. The detainee next to P26 said that they should beat him instead of the old man. P26 said, eventually, both of them were beaten. P26 explained that the beating took place in a manner that the detainee had to lay down and his feet were held up using a rifle. One was then beaten on the soles of his feet with a piece of wood. P26 further recalled that during his time at the State Security [Branch 285], there were executions. One time around noon, their cell was vibrating. Guards stormed the cell, shouting that everyone has to lay down and be quiet. P26 said they all obliged and did not make a noise. They then got their lunch. P26 explained that there was a hole, covered with a sheet of metal. This sheet of metal was ripped away and attached afterwards [after they got their lunch through that hole]. P26 explained that everything went back to normal after that incident. P26 further explained that one night, they could not sleep as many new detained arrived in the cell next to theirs and they were beaten all night long.

Presiding Judge Kerber asked where all that happened. P26 said it was at State Security [Branch 285].

Judge Kerber asked for another name for State Security. P26 said it is a Branch of the General Intelligence Directorate (GID) in Kafar Souseh. He further added that based on the different screams, he guessed that at least 45 people were in the corridor right in front of P26’s cell. P26 said that he and his inmates watched through the gap underneath the door of their cell. One of his inmates said that the new detainees were from Homs.

Kerber wanted to know whether Al-Khatib or Kafar Souseh was worse. P26 said regarding his first experience [detention], Al-Khatib was worse. With regards to his second experience, they were both the same. P26 added that in terms of beatings they were both equally bad.

Kerber asked P26 to tell the court about the end of his first detention and his second detention. P26 said in total he was in detention for 21 days at Al-Khatib and Kafar Souseh before he was released due to an amnesty. P26 corrected himself, saying that he was detained 28 days in total.

Kerber asked whether he then went home and when he was detained for the second time. P26 said his second arrest was on April 5, 2012. He was arrested together with a group of people. He recalled that they were at an office to work on a project when the office was stormed. P26 said the people storming the office carried rifles and searched the office.

Kerber wanted to know whether P26 was there when the office was stormed. P26 said he just arrived when the office was stormed, adding that one of them [armed men] stood by the door when P26 arrived. According to P26, the people storming the office carried arms. The office had the form of an "L" and people sat in the corner and P26 sat next to them. According to P26, there was another office next door, however, it was closed. P26 further explained that a woman from his group spoke to one of the armed men and asked him what they wanted from them. The men insisted on searching the office, so one of P26's group tried to hide different things. P26 said this person threw laptops out of the window. P26 himself took an iPad, put it in a bag, and hid the bag in the office. P26 explained that the men at first did not find anything in the office, however, the head of the unit came back and looked outside the window where he saw the items on the street. One of the men went downstairs to collect the items and eventually, they also found the iPad. P26 explained that he said the iPad would belong to him when they found it, so he had to enter his password. At first, P26 refused, but as they continued to threaten him (although he was not beaten), he entered the password. P26 said that at the same time, messages from his friend popped up, showing pictures and short clips from demonstrations. According to P26, they then decided to arrest him, put his sweatshirt over his head, tied his hands, and put him in a car. P26 said they then came back with all of the devices and everyone from his group. They then went to Division 40, just as during his first arrest. P26 explained that this time, however, the Division was quite empty. He remembered that the first time, it was very crowded and the corridors were packed with people who were beaten up. According to P26, there were only two or three officers at the division at his second arrest. One could neither hear nor see anything. P26 said the officers asked about the devices and items even before they registered their personal information. P26 further explained that he was in a room with a Colonel, at least that was how the soldier addressed the person, according to P26. P26 went on to tell the court that the officers at Division 40 had all of the devices and items from the office and asked him and his friends questions about it. P26 said, even though they already had everything, they continued to ask questions. One after the other was interrogated. P26 said that there was a soldier behind him who hit him on his upper thigh with his knee. P26 said at some point, he fell down due to all the beating, the same person then picked him up again. P26 said he did not remember what the Colonel did, but he was picked up and questioned again. P26 explained that he gave a false answer before he was taken downstairs where he was told to enter the password for his Facebook account. P26 explained that usually if one of his group was arrested, the others would delete that person's account. He further said that there were three people in the basement. The soldiers constantly hit them [P26 and his friends], as their backs were naked. P26 explained that the soldiers hit them and then poured alcohol on the injuries. He and his friend were then taken to different rooms and P26 was questioned about his passwords again. P26 said that he could not access the account, as it was already deleted. However, the interrogator did not believe him and "continued". His soles were tied to a rifle and he had to endure *Falaqa* [beatings on the soles of one's feet]. P26 said after that, he was taken to a space underneath the staircase together with some people from his group. He explained that they could not sleep as the space was so small. The next morning, the same



procedure started again, however, they [the guards] were not allowed to touch anyone from P26's group. P26 said he did not know why this was the case. After that, his group, except for one woman, was taken to Al-Khatib. When they arrived there, they had to go downstairs and it was immediately clear, the people there did not know why P26 and his group were there. P26 explained that they were neither blindfolded nor were their hands tied, they just had to sit and wait. According to P26, one of the guards asked them for their names, however, he did not take any notes. The hallway in which they had to wait was relatively small and there were people against whom military punishment was imposed. P26 said these people were there for around five days. He mentioned again that the people at Al-Khatib did not know why he and his friends were there and that the interrogation was rather quick, however, he and two other friends were not questioned at all. P26 said that they were lectured to differentiate between capitalism and liberalism and it was obvious that they did not have a clue why he and his group were there. P26 said it was somehow funny, as they met one of the guys who "welcomed" them at Division 40. He said that he does not feel well if he cannot beat anyone, nevertheless, P26 and his friends were treated "normally" for five days, as P26 told the court.

Judge Kerber wanted to clarify whether P26 and his friend stayed in the corridor for five days. P26 affirmed.

Judge Kerber further wanted to know whether P26 spoke to the people who faced military punishment. P26 did not understand the question and Judge Kerber clarified that she was referring to the people in the hallway that P26 just mentioned. P26 explained that they were not necessarily employees from Al-Khatib or Division 40, but officers who received some kind of punishment. Two of them were soldiers, one was a policeman from a police office in Damascus and another one was an employee of Division 40.

Kerber asked whether P26 spoke with them. P26 said he only spoke to the one from Division 40.

Kerber wanted to know whether that person knew who the other people were. P26 said that none of them were blindfolded or had their hands tied, so they could talk to each other.

Kerber wanted to know what these people did and what kind of punishment they got. She added that she is interested to know more about what happened inside the regime. P26 said they did not talk about details. The policeman was punished with 14 days imprisonment as he stayed away from work without providing an excuse. P26 said he does not know anything about the others. One of the men did not want to talk at all. In general, P26 said, they were all very cautious about what to say as they did not know who was listening.

Judge Kerber asked what happened next after they spent 5 days in this corridor. P26 said that one of his friends was close to being released, he went to pick up his belongings and leave. However, they could not find his belongings and eventually realized where he and his friends came from and requested their belongings from Division 40. P26 said that is when they found out why he and his friends were there [at Al-Khatib]. P26 explained that consequently, all of them had to stay. The officers asked everyone about which items belonged to them and then put the group in different cells. P26 said at first, he was in a cell together with two or three other people from his group. The cell they were in looked like a transformed canteen with a high zinc ceiling. According to P26, the cell also had a window showing to the office of the director of the prison. Further, there were three interrogation rooms and the cell actually did not look like a cell. P26 added that there was porcelain and more than 100 or even 200 people in the cell. P26 said that the toilet was broken, which led to a funny incident. He recalled that one of the detainees had to use the toilet but when he sat on it, the toilet broke

underneath him and he cut his butt. According to P26 that was not the funny part, however, the toilet was then replaced and after that, the prison director opened the window and gave a speech about how great the government and Bashar Al-Assad is and how ungrateful the detainees were. P26 said it was a very bizarre situation. P26 further explained that his first interrogation did not take long. He was only asked about his name before he had to wait outside [of the room where he was interrogated] before he was taken to a different cell. The cell was relatively small, around 4x5 meters, however, 65 people were inside that cell. P26 said the cell looked like a former office with bricked-up windows. It was very tight and one could not even put both feet on the floor, so they had to stand on one foot and change to the other from time to time. He added that they could only sleep while standing on one foot and this situation lasted for three or four days. P26 summarized that it was a reason why some of the people in that cell went crazy.

Judge Kerber asked P26 to explain what he meant by “went crazy”. P26 said he can provide two examples. The first incident involves a 19 or 20 year-old man who suddenly started to yell at P26. P26 said this person yelled ‘I was not with you in that picture, look at my phone’. P26 said he did not understand what the person was talking about, as he said things without any clear context. According to P26 the person also said that ‘I did not betray you’. P26 said this situation lasted for two days and the person cursed a lot. The second incident involved a man who pretended to drive around inside the cell. That person acted as if he was taking passengers somewhere, saying ‘No, we cannot go that way. There is a checkpoint, we have to turn around’.

Judge Kerber asked whether that person pretended to be a taxi driver. P26 affirmed, adding that it was a very surreal situation.

Judge Kerber wanted to know whether the people eventually turned normal again. P26 affirmed, explaining that usually people turned normal, however, if one told them what happened, they could not remember anything. P26 said such conditions sometimes lasted for two days. He further said that the detainees made bets amongst each other about who is the next one to go crazy. P26 said that one time he had high fever (40°C) and he did not know what was going on, that was when people told him that he is next to go crazy. According to P26, he apparently said he wants to go home, during his fever. He added that he does not know whether that is true, he could only remember that he had high fever and was lying in someone’s lap and this person also tried to cool his forehead. P26 went on to explain that he was in this cell for around two weeks before he was taken to interrogation. The interrogation took place on the first or second floor, according to P26, he only went up a couple of steps, so it must have been on the first floor [ground floor as P26 said that the cells were in the basement]. P26 further said that he was not blindfolded when he entered a room that looked like a kitchen (there was a sink in the room). He was then brought to the interrogation room. P26 said that one could hear screams from time to time. He assumed that some people were beaten, others not. P26 said he was blindfolded when he entered the interrogation room. He had to kneel and his hands were tied behind his neck. According to P26, he was asked for his name and whenever he denied anything, he was either whipped, kicked or beaten on his head, however, no electroshocks were used. P26 said he had to leave his fingerprint on a document without knowing what the document said before he was taken back to the cell downstairs. According to P26, a 14-year-old boy was brought to their cell, after he returned from his own interrogation. P26 said it was normal that one was beaten when taken to a cell. However, the boy was thrown inside the cell and then taken outside after 30 minutes. P26 explained that the boy was repeatedly taken and beaten every 30 minutes for two days. When he asked the boy why they did that to him, the boy said that when he arrived at the Branch, his hands were tied behind his back and

he accidentally knocked over the inspector's chair, that was the reason why he was repeatedly beaten. P26 said that every time the boy returned to the cell, his feet were bleeding. P26 tried to cool his feet and comfort him. The boy told P26 that they were looking for his brother, that was why he was initially interrogated. P26 said that one day, the boy disappeared. According to P26, after 21 to 23 days, he [P26] was taken to State Security [Branch 285] again. He said that his group was split up when they arrived there and only one person from his group was with him when they took P26 aside and asked him for his name. P26 said he was then taken to a solitary cell measuring 2x3m with around 20 people inside. He added that, just like at Al-Khatib, there was an incontinent person in the cell, who constantly urinated at the other detainees. P26 said he was released after a week.

Presiding Judge Kerber thanked P26, adding that she only had a few more questions. P26 said what he just told the court was a brief summary of his experience in detention.

Judge Kerber said his summary would be sufficient and wanted to know whether he saw the interrogator during his second interrogation at Al-Khatib. P26 denied.

Kerber asked him the same question regarding his first interrogation. P26 again denied.

Kerber wanted to know whether he saw one of the interrogators at all. P26 denied.

Kerber asked whether the detainees had any nicknames for certain guards. P26 affirmed, adding that one guard from Homs was called Ali. Another one, who used to pick up the boy every 30 minutes, was called Abu Ghadab. P26 added that Abu Ghadab was known as the most brutal guard.

Kerber wanted to know whether P26 knows about any other torture methods at Al-Khatib, such as *Doulab* [tire], German chair, or hanging people by their arms with their feet ten centimeters above the floor. Kerber added that the court heard about such methods from other people who were detained at Al-Khatib. P26 said he did not see the German chair, however, he witnessed the tire in his cell. P26 said the guards, Abu Ghadab and another guard, entered the cell and randomly started beating people. That was when they also forced a detainee to squeeze into the tire. P26 said that was when he witnessed *Doulab*, adding that he heard many screams from different people.

Kerber asked if he saw a device to hang people from the ceiling. P26 denied.

Kerber wanted to know more about medical treatment at Branch 251. P26 said that there was some kind of medical treatment, however, they did not receive adequate treatment. He added that when someone needed anything, they just got what was there in terms of medicine.

Kerber asked P26 if he received any treatment when he had a fever. P26 said he got an injection.

Kerber asked him whether he knew what substance they injected him with. P26 denied.

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[20 minute break]

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

Judge Wiedner thanked P26 for his detailed descriptions and said he would try to ask his questions chronologically, focusing on Al-Khatib and his interrogations there. Wiedner first asked P26 about the reason for his first arrest and wanted to know what P26 witnessed at demonstrations in 2011,



regarding arrests and shooting. P26 said his first arrest was during a demonstration on 29 May Street. He said these demonstrations were called 'net-demonstrations'. P26 explained that he was part of a group that organized demonstrations at a cinema in Damascus. They started shouting their slogans when security forces came and started beating up people. P26 explained that usually, whenever male demonstrators were arrested, the women told the security forces that these men were their brother, companion etc. P26 further said that on this day, he first ran away but when he heard shots, he knew that the girls would try to snatch the boys from the security forces, so he came back. According to P26, everyone was beaten and they [security forces] were armed. P26 recalled that one had a gun, another one a rifle. That was when everyone at the demonstration was arrested.

Wiedner recalled that P26 mentioned that people died at demonstrations and asked him whether he ever witnessed such an incident himself. P26 affirmed. Wiedner asked him to provide more detail. P26 said that once they had to take one of them [his corpse] to his family by car. P26 explained that they saw a red dot from a sniper on that person's body, so everyone ran away. Shortly after, the person was dead. According to P26 that was during Ramadan.

Wiedner asked about the year that incident happened. P26 said it was after his first arrest and prior to his second arrest, however, he did not remember the exact date, only that they carried his corpse in the back of a car to the person's family.

Wiedner wanted to know whether P26 saw corpses during his detention. P26 denied, adding that he saw many people in "very, very bad condition", however, none of them were dead.

Wiedner recalled that P26 mentioned detainees that were covered in blood and asked P26 to describe the condition of fellow detainees at Al-Khatib. P26 explained that, as he already mentioned, he was in a big old cell during his first detention at Al-Khatib. More than a hundred people were in this cell, simply lying there. P26 described that there was enough space for some to sit down (explaining why some were lying on the floor). He further added that one Friday, new detainees were brought to the cell. One of them was covered in blood, his clothes were ripped. According to P26, he was still conscious and simply put in the cell. P26 further told the court about a detainee who suffered epileptic attacks, but the guards refused to provide medicine. According to P26, another detainee was physically present, but unable to move. P26 did not know the reason for his condition. P26 concluded that the overall condition of the detainees was very bad. Some had signs of beatings on their face and were covered in blood. P26 added that the food was very bad and the detainees had to fight about the food, as there were sometimes only five small pots for everyone in the cell. The detainees gathered at the door and one of them received the pots to distribute them among everyone. They had to break everything into small pieces in order for everyone to get at least some food. P26 summarized that this was their lunch. For breakfast, they got olives, around 3 to 4 per person. From time to time they also got some jam and a small piece of bread. P26 explained that the bread itself was of normal size but since they had to share it, each person only received a tiny piece.

Wiedner wanted to know whether the nutritional situation was the same for both of P26's detentions at Al-Khatib or if one of them was worse. P26 said they were both equally bad.

Wiedner asked whether P26 lost weight. P26 affirmed, adding that he sometimes wishes that he would still have the same weight.<sup>3</sup>

Wiedner wanted to know whether the condition of the people that P26 just mentioned worsened or if they received medical treatment. P26 said until he left the cell, their condition stayed the same and they did not receive any treatment.

Wiedner wanted to clarify whether this was during P26's first detention at Al-Khatib. P26 affirmed.

Wiedner asked P26 how long he had to stay at Al-Khatib for his first detention. P26 said he had to stay around one week for his first detention and around 23 days for his second detention.

Wiedner wanted to know how P26 knew that he was at Al-Khatib. P26 said that the people who were already there told him and the second time, he already knew the place.

Wiedner recalled that P26 mentioned that he fell unconscious at the beginning of his first detention and wanted to know if this was due to the beating or other reasons. P26 affirmed that his unconsciousness was due to beatings, adding that he was continuously beaten from his arrest until he was put in the cell. According to P26, the beating was most intense on the bus. Later at the Branch and in the Cell, they were "only beaten occasionally."

Wiedner further recalled that P26 told the French police that his head was smashed against a wall. P26 explained that he was beaten on his head multiple times on the bus. When he was taken to the cell, he was also beaten on his head and the guard smashed his head against the wall. P26 said he stumbled into the cell and when he raised his head, he fell unconscious.

Wiedner wanted to know more about P26's first interrogation during his first detention: What did the interrogator want to know, what was the aim of the interrogation? P26 said he was asked why he was there and what he did at the demonstration. According to P26, he stuck to his answer that he only wanted to buy a sandwich in a nearby shop, despite continuous beating. P26 said he was then taken away and did not have to sign anything nor leave his fingerprint.

Wiedner asked if the interrogation took place in the basement or somewhere else. P21 said that the place of interrogation during his first detention was in the basement, adding that he was never upstairs. He further explained that the room was completely dark and had a strong smell of blood and alcohol (disinfectant). P26 said he heard many screams from people who were beaten harshly. The room was not too far away from the entrance of another room which was on his way back to the cell.

Wiedner recalled that P26 told the court about an interrogation where a 17-year-old boy was beaten behind him and wanted to know whether that was the same situation. P26 affirmed.

Wiedner asked whether P26 was interrogated on another occasion during his first detention. P26 denied, explaining that he was only interrogated once during his first detention.

Wiedner referred to P26's interrogation during his second detention and asked him where the interrogation took place. Wiedner added that P26 should first describe the situation before the sketches that he created during his police hearings will be shown and discussed in court. P26 said that

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<sup>3</sup> Note from the Trial Monitor: P26 seemed to feel comfortable and often used visual language (imitating the sound of the rifles of the security forces) and used his hands to explain three-dimensional aspects of certain situations. The comment on how weight cannot be considered as trivializing the nutritional situation at Al-Khatib but rather as illustrating the judges how thin he was back then.

during his second detention he was also only interrogated once. He added that he was actually interrogated twice, however, the first interrogation was only about superficial questions while the second interrogation was an “actual interrogation”. P26 went on to explain that the prison cells were on one side of the basement with stairs leading up to where the interrogation rooms were. He was taken upstairs (he assumed it was the first floor [ground floor]) where the detainees first had to wait in some kind of kitchen. They were all standing around a sink, which was in the middle of the room, with their hands tied behind their back. P26 said they were then taken into the interrogation room. The room had a window on the left side and the interrogator was sitting opposite to the window at a desk. According to P26, there were also two sofas in front of which he had to kneel on the floor. He added that there were one or two people behind him, considering the screams, he assumed it was one person.

Wiedner wanted to know whether P26 noticed that the beatings were ordered. P26 denied, explaining that he was always beaten as a reaction to his answers.

Wiedner asked whether P26 noticed other interrogations taking place, whether he heard screams. P26 said he heard many screams from torture when they were in the kitchen.

Wiedner wanted to know whether the screams came from the same room or if there was more than one room for interrogations. P26 said that when he was interrogated on the first floor [ground floor] he only heard screams coming from one room. He recalled that it was in the evening and several officers were present, but the light was switched off. P26 said he assumed that only the interrogators were there and that only one interrogation took place at that time. During his first detention, he could hear screams coming from all directions when he was in the cell, adding that he even heard female voices. At that time [first detention] one could also hear when the new detainees arrived and were beaten. There was a small gap under the door of the cell where one could see people being beaten in the corridor. P26 said they constantly hear people being beaten.

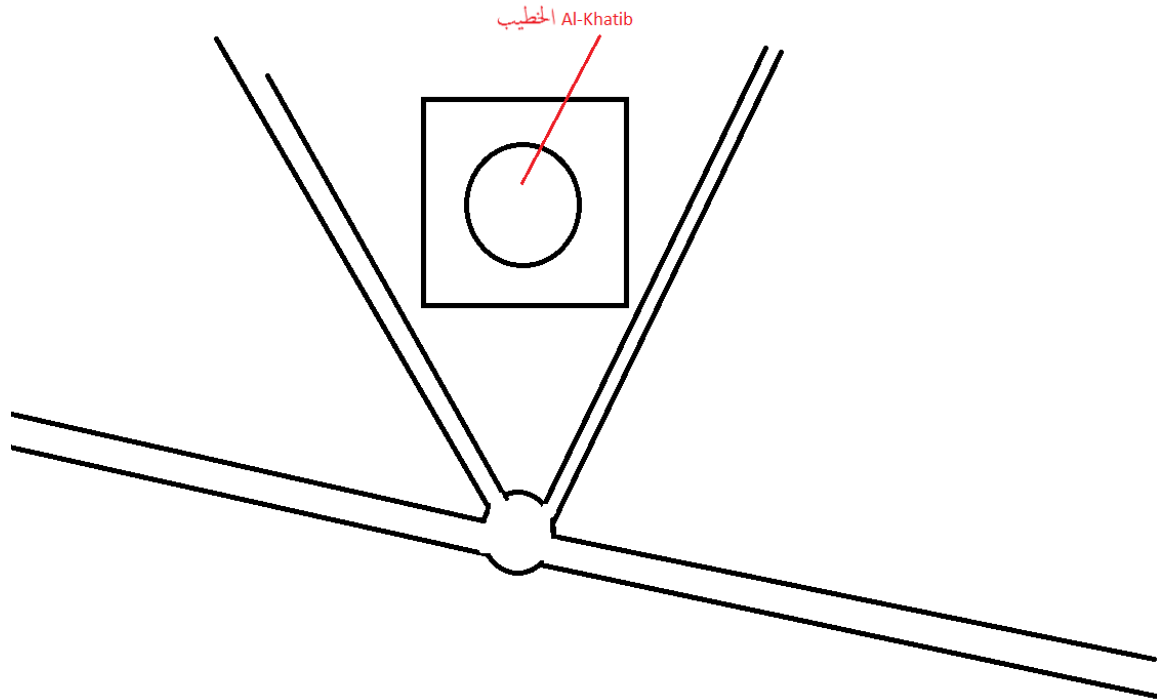
Wiedner asked how many times P26 heard torture when he was in the cell. Was it only once or twice a day or for longer periods? P26 said it was never at a certain time but daily.

Wiedner asked P26 about “the result” and wanted to know whether it was burdening him to hear such things. P26 said he was in constant fear that he might be the next to be in this position. He was constantly worried about how long he would be alive, how long he might have to stay in prison, what they knew about him, and when they might call his name. He said the fear was always present.

Wiedner asked P26 to look to his right [defendants’ bench] and tell the court whether he recognizes someone. P26 said he did not recognize anyone.

Presiding Judge Kerber said the court will now visually inspect one of the sketches P26 created during his police hearings.

[the following sketches are recreations of P26’s sketches based on what the Trial Monitor was able to hear and see in court]

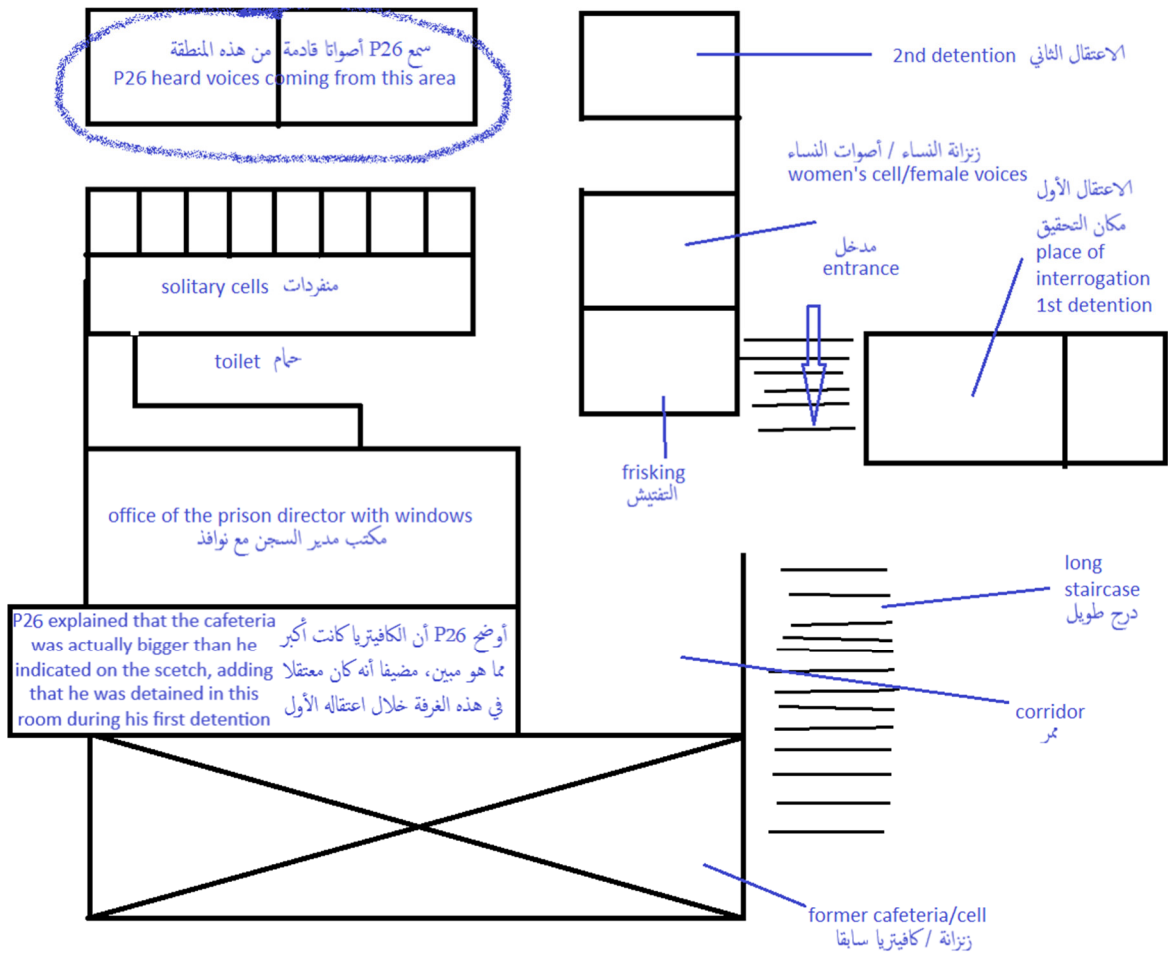


Judge Kerber asked P26 whether he remembered the sketch and where exactly Al-Khatib would be. P26 said he remembered creating the sketch and pointed at the area where he located Al-Khatib [circle in the sketch above].

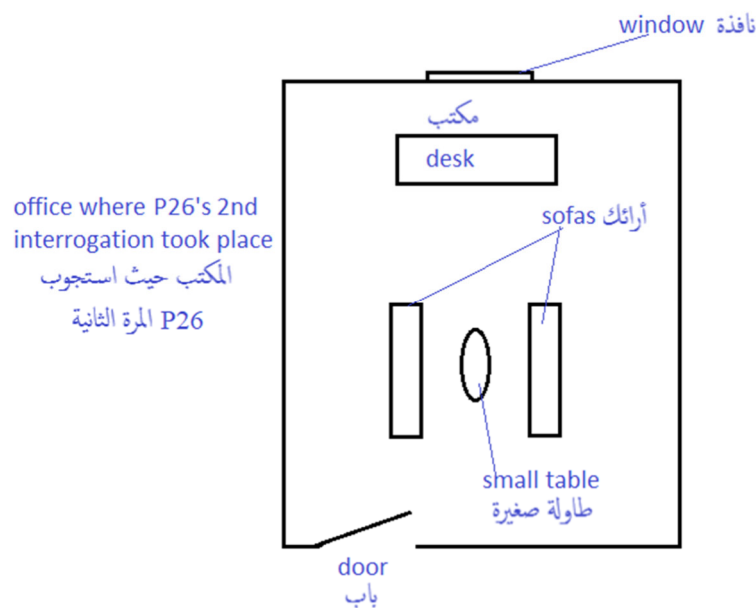
A map was shown in court and P26 was asked to point to the area where he located Division 40.

Judge Wiedner asked P26 whether he was able to see the locations himself or if he knew from somewhere else. P26 said that when he arrived at Division 40, he could see a unique rooftop. The location of Al-Khatib was commonly known, although he did not see the entrance when he arrived there.

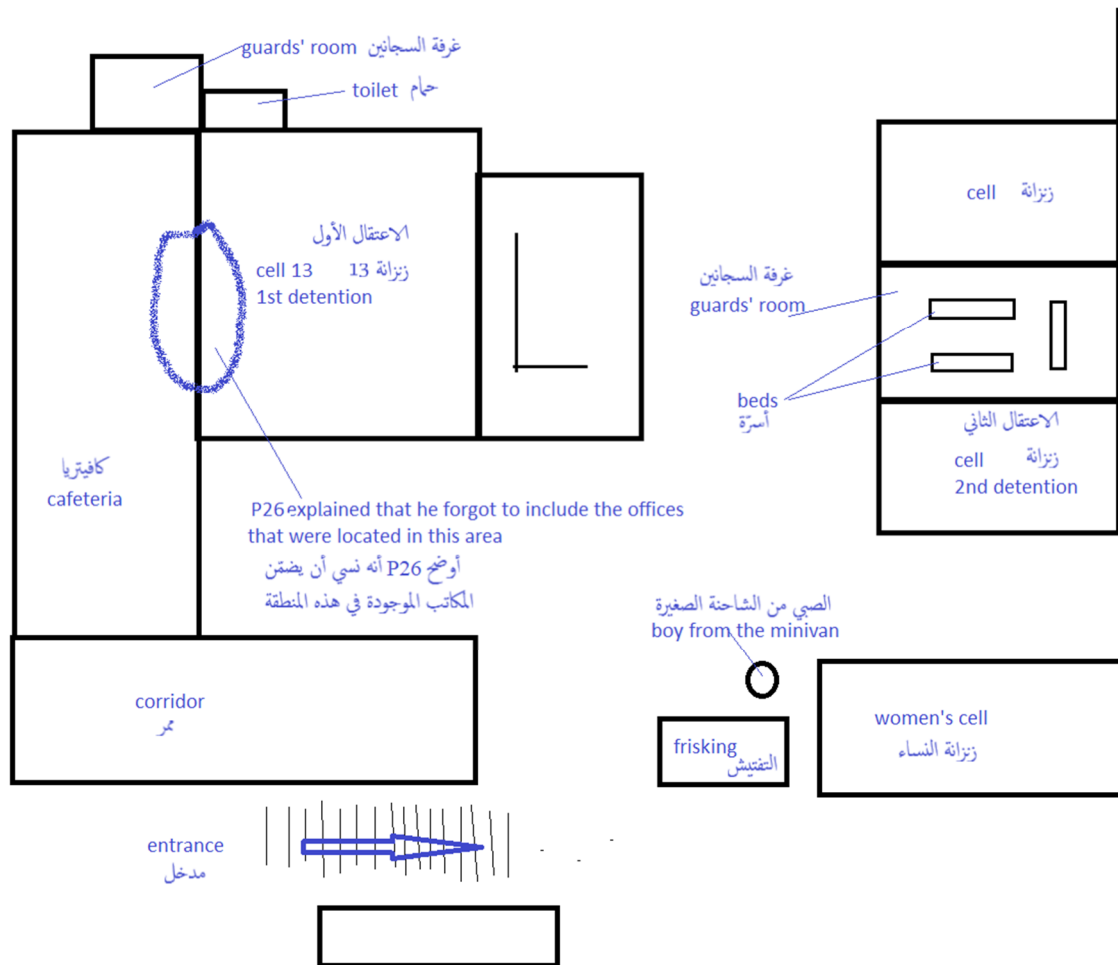
Before Judge Kerber showed a second sketch, she asked P26 to come to the Judges' bench and check whether his name was somewhere on the sketch.



[The following sketch was included at the bottom right corner of the previous sketch]





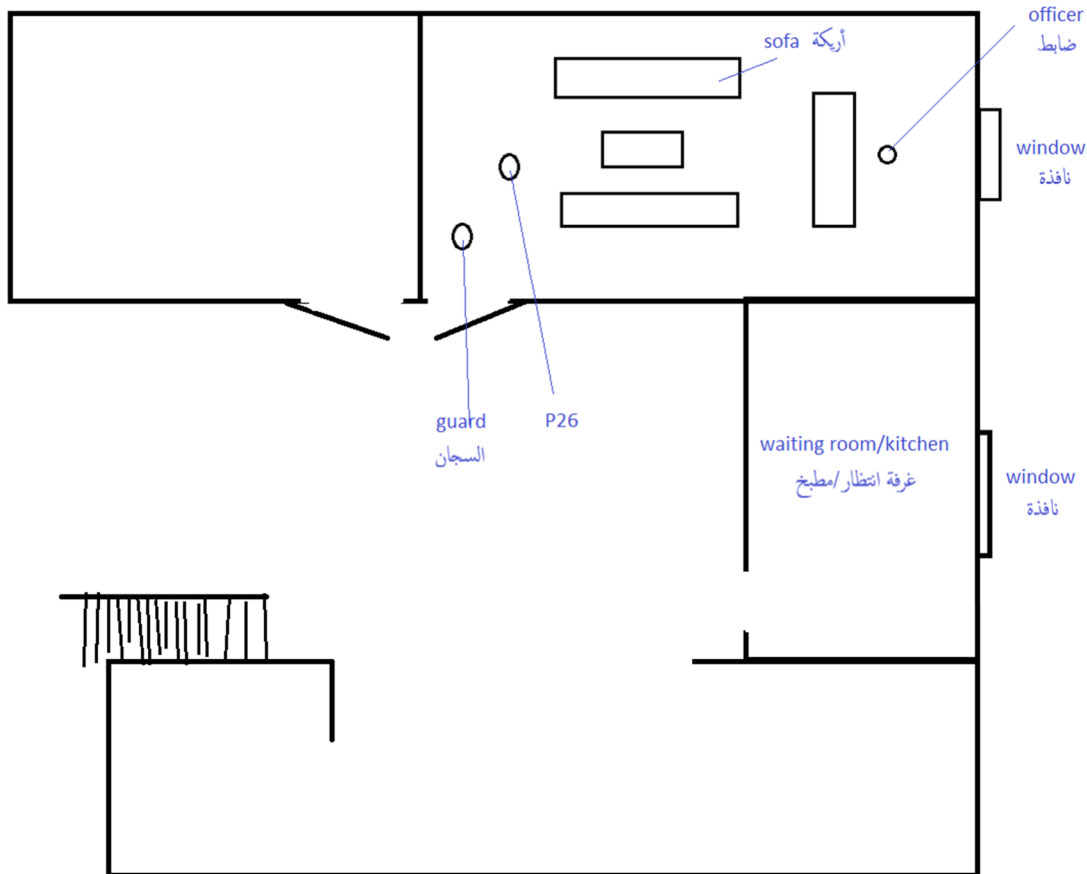


Judge Wiedner wanted to know whether the cafeteria was already there during P26's first detention or only modified later. P26 said he did not know, as he did not see this area during his first detention.

Wiedner asked whether all the sketches showed underground areas. P26 affirmed, adding that the staircase would be relatively long and the cafeteria had a 4m high ceiling and bricked windows only at the very top of the room.

Wiedner wanted to know how the detainees could tell whether it was day or night and asked if the lights were switched on and off. P26 explained that there were no windows and no light inside the cell. They simply trusted their estimate of time.

[Another sketch that P26 created was shown in court]



Judge Wiedner asked whether this area was on the first or second floor. P26 said he was not sure, however, he assumed that it was on the first floor [ground floor] as he only had to go upstairs to the first landing [coming from the cell in the basement].

As none of the parties had questions about the sketches, Judge Kerber announced a one-hour break.

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[70 minute break]

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Presiding Judge Kerber explained a few administrative issues regarding the following day before Judge Wiedner continued his questioning. He asked P26 whether his detentions had any physical or psychological consequences. P26 said he did not experience physical consequences but still lives in fear. He added that it took some time for him after his second detention to deal with nightmares about being arrested and beaten.

As none of the other parties had questions for P26, Judge Kerber ordered a short break for the judges and translators to prepare for the read out of the [HRW report](#).

P26 was dismissed as witness.

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[10 minute break]

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After a part of the translation of the report was read out, Judge Wiedner announced that the witness who was summoned for January 27 was not willing to come to Koblenz, so the BKA officer who questioned the witness before, will be summoned instead.

Raslan's Defense Counsel, Böcker, said he wanted to informally discuss something before the hearing was adjourned for the day: Raslan's defense team was not satisfied with the expertise provided by Laura Thurmann [\[TR#1, trial day 3\]](#) and required a broader knowledge provided by experts. Raslan's defense said the situation was improved by certain journalists [\[TR#15, trial day 37\]](#) and [\[TR#16, trial day 38\]](#), however further experts are needed, particularly to cover the important aspect of the ethnic composition and dynamics in Syria. Böcker said he tried to think of an adequate expert and came to the conclusion that [Guido Steinberg](#) [Böcker was not sure about his last name] would not be suitable, as he specialized in Islamist terror. Instead, Böcker proposed to hear [Michael Lüders](#). He added that, with all due respect, he is sure that Thurmann will provide better expertise in ten years. Böcker further said that before officially submitting an evidence request, he wanted to informally discuss this with all other parties, as he was sure that others felt the same. Böcker concluded by saying that he thinks this would be an important issue to discuss before the two cases are severed.

Presiding Judge Kerber asked the other parties to the case whether anyone wanted to comment on Böcker's informal suggestion.

Prosecutor Klinge said the prosecution side does not see any necessity in hearing another expert. If Böcker is of a different opinion, he should make an official request.

Plaintiff Counsels Dr. Oehmichen and Scharmer both said that they might comment on this at a later point.

Raslan's second defense counsel Fratzky added that Michael Lüders would provide deep academic expertise on the matter, while Guido Steinberg's expertise would rather focus on ISIS. Fratzky added that Raslan's defense team noticed insufficient coverage of the issue surrounding religious groups, which would be important in Raslan's case as "he did not belong to a group with any power" [belongs to a minority group].

Plaintiff Counsel Scharmer asked whether Raslan's defense team had already contacted Lüders. Böcker denied, adding that his proposal was rather spontaneous, however, he would contact him before making an official request. Fratzky added that they first wanted to get everyone's feedback and address the issue before the severance of the trial. He said it would be sufficient timing as the expert does not need extensive preparation and can provide his expertise in court on short notice.

Presiding Judge Kerber said "short notice would be the heading here" and explained that the judges need time to provide a statement that would not happen before the following day.

The proceedings adjourned at 2:25 pm.

The next hearing will take place on January 14, 2021.

**Day 56 of Trial – January 14, 2021**

The hearing began at 9:30 am with six spectators and two journalists in the public gallery.<sup>4</sup> Dr. Peer Stolle appeared as a replacement for Plaintiff Counsel Dr. Patrick Kroker and Charlotte Foerster-Baldenuis appeared instead of Plaintiff Counsel Khubaib Ali Mohammed.

The Judges continued to read the last part of the translation of the [HRW report “We’ve never seen such horror”](#).

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[20 minute break]

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Criminal Chief inspector Alexander Frey, who led the investigation in Al-Gharib’s case and had already appeared as a witness on previous trial days [see [TRs 3,5, 11](#)], was summoned to testify on an exhibit that was found during the search of Al-Gharib’s flat in Germany. Instructions were read out to Frey and Presiding Judge Kerber informed him that today’s focus will be on a smartphone and accompanying SIM-card and SD-card which was found in Al-Gharib’s flat.

**Testimony of Alexander Frey**

Presiding Judge Kerber asked Frey to summarize the note he wrote on the above-mentioned exhibits. Frey said that in his position as lead-investigation against Al-Gharib, he inspected almost all exhibits, amongst others a Huawei smartphone. The BKA’s IT-department tried to refurbish the phone, however, it was not possible. Together with this phone, the officers also found a SIM-card and an SD-card, both of which could be refurbished. The inspectors then had a look at all the pictures that were saved on these cards, as well as text-files. Frey explained that the text-files were automatically created by the phone. Four pictures - two pairs - were of special importance: One pair showed an excerpt of a family-register in German and Arabic. The other pair showed the front and backside of an intelligence service ID card.

Judge Wiedner asked Frey to describe, in his own words, where the phone came from and how it got to him. Frey said it was found during the search of Al-Gharib’s flat.

Judge Kerber announced that the first two pictures regarding the family-register will be shown in court.

[two pictures of an excerpt of a family register in Arabic and German were shown in court]

Frey explained that both versions were found on the SD-card and the BKA’s translator confirmed the correctness of the translation. Frey added that the register was issued in Damascus, if he remembered correctly, it was issued in February 2016.

Wiedner wanted to know whether the pictures were found together with the phone. Frey confirmed.

Judge Kerber said two more pictures will be shown in court. Frey said the pictures show Eyad Al-Gharib’s intelligence service ID-card. Kerber asked the translators to confirm, which they did.

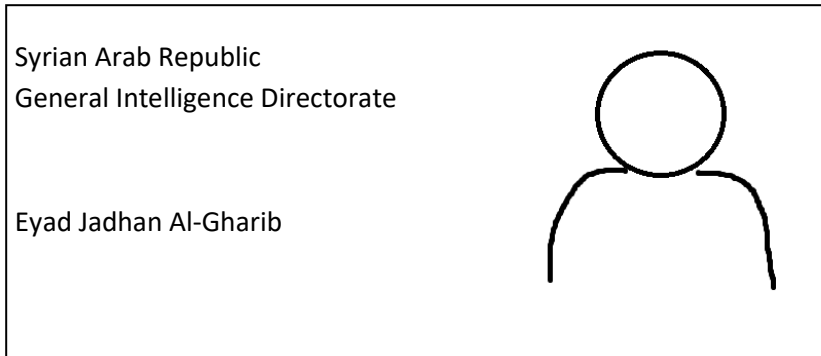
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<sup>4</sup> No one requested access to translation. As announced last year, Presiding Judge Kerber did not explicitly ask the public about requesting access to translation.

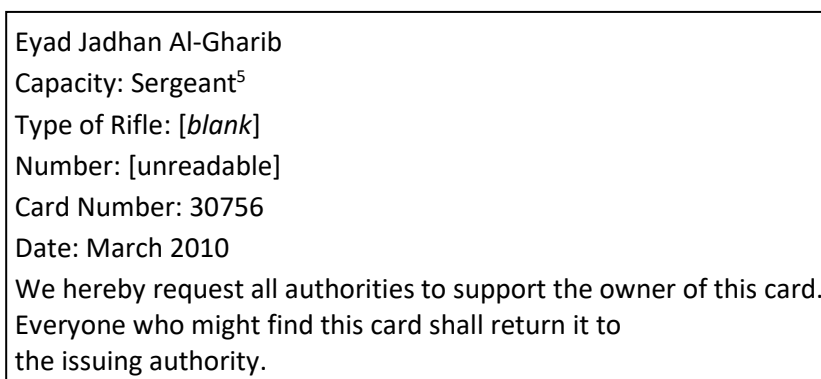
[two pictures (front and backside) of an ID card were shown in court]

Kerber asked the interpreters to read out what was written on the card:

[front of the card including a picture of Al-Gharib]



[back of the card as translated by the interpreters in court and cross-checked with the BKA's notes:]



Judge Kerber wanted to know how the two pictures relate to each other. Frey explained that both were saved on the SD-card that they found in Al-Gharib's flat. Frey assumed the pictures show the front and back of the same ID card.

Judge Kerber thanked Frey for his testimony, adding that it was short but important. Frey was dismissed as a witness.

Judge Kerber went on to explain that the court will now deal with the application to take evidence, issued by Al-Gharib's defense. She said first the application will be read out, after that the court will visually inspect and read out the Arabic Annex and the translation of this document, which was also attached to the application. While it would be read out, the translators should check whether the translation was correct.

[The following is a recreation of the application to take evidence, based on what the Trial Monitor was able to hear in court]

<sup>5</sup> Note from the Trial Monitor: The translations of ranks are based on what has been said in court in German. The German terms are then translated to US and UK rank, according to the [official NATO code](#).



December 9, 2020

Attorney  
Matthias Schuster

Higher Regional Court Koblenz

Regarding: Criminal Case against Eyad Al-Gharib

Application to take evidence

*The signatory hereby requests to take evidence in form of an expertise of a graphic expert regarding the handwriting of the statement [which was read out on trial day 51] and Eyad Al-Gharib's signature.*

*Reason:*

*On November 4, 2020, Prof. Dr. Rothschild provided an impressive oral expertise of the so-called Caesar-files, which showed photos of emaciated corpses. During a talk between defense counsels and client, Eyad Al-Gharib mentioned that he was deeply shattered by the photos and the expertise. The counsels asked him to write down his feelings, which he did. The counsels received the handwritten statement on November 17, 2020.*

*The counsels explicitly declare that they had no influence on the content of the statement, nor did they make any changes. The statement, subject matter of this application, provides authentic insight into the defendant's innermost thoughts.*

Matthias Schuster

Presiding Judge Kerber asked one of the court interpreters to interpret what she was reading out, while the other interpreter should check whether what she read was a correct translation of the Arabic document shown in court.<sup>6</sup>

[The following is a recreation of the statement, based on what the Trial Monitor was able to hear in court. The statement can also be found in TR#21]

*On November 4, 2020, the painful photos from the Caesar-files were examined and displayed in court. The presentation by Prof. Dr. Rothschild was very clear and provided excellent explanations. I want to thank Prof. Dr. Rothschild for his remarks on psychological and physical torture. I also want to pay my respect and gratitude to the hero, Caesar, for his fight against the Assad regime.*

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<sup>6</sup> Note from the Court Monitor: After Kerber read out the statement, she addressed the court translators to confirm the correctness of the translation. The translators said that the translation was correct, however there was an issue with the numbering of the pages. The last paragraph on the second page which was highlighted with an arrow and asterisk, would actually be the last paragraph of the entire statement, following the last paragraph of the third page.

*I want to explain what I felt while seeing these photos; they broke my heart. I had to think of all the innocent victims of these bestial acts. The human mind cannot understand how humans can do such things to each other. I trembled during the entire presentation. Anger and hatred against Assad and his accessories filled my mind and heart. 99% of the pictures, I have not seen before. I only saw those that Al Jazeera and other news agencies already published. During the entire presentation, I had to think of all my relatives that are still in detention. Seven relatives, several friends, and hundreds of people from my hometown were arrested and their fate is still unknown. I was searching for familiar faces on the Caesar photos while at the same time, I was afraid to recognize anyone.*

*After this painful session when I was alone in the van back to the prison, I could no longer control myself and started to burst into tears. I was filled with grief and pain. I had to think about my family and tried to understand why people get arrested only because they demand equality, freedom, and justice at demonstrations. I painfully realized that Bashar al-Assad and the members of his [sect] are criminals that are still committing thousands of crimes, while the whole world knows about it but is only watching. The international community did not do anything about it.*

*I love my country and the people, that is why I hope to see the criminal regime, particularly the criminal and dictator Bashar al-Assad, in front of an international court. As all Sunnis, I was entirely powerless. 90% of the revolutionists are Sunnis. After the outbreak of the revolution, there was mistrust against Sunnis and we were constantly threatened. The first month after the revolution, we were degraded and they took away our arms and ID's. We were under constant surveillance and they were only hoping for the smallest sign of partisanship to arrest us. I only had the following options:*

- 1) Openly disobey orders, which would have led to my arrest and arrest usually ended with execution.*
- 2) Defect and flee. That would have been foolish and sheer madness. They would have tortured my family until I returned to Syria.*
- 3) The right option was to wait and prepare until the border was open, to then defect and flee together with my family.*

*I chose this option on January 5, 2012, as many others did.*

*Is the love for my family – my wife and four children – a fault for which I deserve punishment? I hope this court will find an answer that will also serve as an answer for future soldiers who find themselves in a civil war in their home countries.*

*I want to thank all parties to this trial and everyone involved, and pay my respect to them.*

*Tuesday, November 10, 2020*

*Eyad Al-Gharib*

*[signature]*

Judge Wiedner said that the cover sheet from Al-Gharib's questioning with the BKA will be shown in court next to the signature under the handwritten statement to compare the handwriting.

[Both signatures were shown in court, indicating that they belong to the same person]

Presiding Judge Kerber asked Al-Gharib's counsel Schuster, to tell the court how he obtained the written statement. Schuster asked Judge Kerber whether he should stay at his seat or testify from the witness stand since he would answer her questions as a witness. Kerber said Raslan's Defense Counsel Böcker had already pointed at the witness stand, so Schuster should come to the front. Schuster replied that, with all due respect, Böcker is not the one leading this trial and repeated his question for Judge Kerber. Kerber told Schuster to come to the witness stand to get all the formalities right.

Once Schuster went to the front to take the witness stand, Judge Kerber read out instructions to him and reminded him that as Al-Gharib's defense counsel, he is allowed not to testify at all. Schuster replied that he would provide a narrow testimony, adding that his client released him from his professional secrecy regarding the written statement. Schuster further said he assumes that everyone could still remember the expertise provided by Prof. Dr. Rothschild, the impressive presentation, and the photos. Schuster explained that after this court session, he and his colleague Linke had a short consultation with their client, Mr. Al-Gharib, during which attorney Linke asked Mr. Al-Gharib about his thoughts on the presentation and photos. According to Schuster, Mr. Al-Gharib replied that he was deeply shattered and kept looking at the photos to search for his relatives. Schuster further said that at the following court session or shortly after, Mr. Al-Gharib gave him the written statement, adding that since he neither speaks nor reads Arabic, he did not realize that there was an issue with the numbering of the pages. Schuster explained that he forwarded the statement to their translator [every defense team has one translator allocated to them]. According to Schuster, the translation of the statement took a while, he got it back via e-mail at the end of November. Schuster said he simply copied and pasted this translation to his application or evidence which the court received.

Judge Wiedner asked whether he received the written statement from Al-Gharib on November 17, 2020. Schuster affirmed.

None of the other parties had any questions for Schuster. Prosecutor Klinge jokingly asked to comply with all formalities, whether Schuster is related to the defendant by blood or marriage. Schuster denied.

Schuster was then formally dismissed as a witness.

Plaintiff Counsel Scharmer said he would now be ready to make a statement on the proposal to hear another expert that was brought forward by Raslan's defense counsel the previous day.

Presiding Judge Kerber said she first would like to ask whether the defense can provide more details on their suggestion and be more concrete about how another expert would benefit the trial. Raslan's Defense Counsel Böcker said that, basically, they had two things in mind. (1) They want to hear an expert who specializes in ethnicity and religion. (2) The expert Ms. Thurmann barely said anything about international entanglements in Syria, the point in time from which parties in the Syrian conflict were "actually repressed," and when civilians started to carry arms. Raslan's second Defense Counsel Fratzky added that the additional expert should also provide more information about the relation between the different confessions.

Judge Kerber asked the Defense Counsels whether they can be more concrete. Böcker said they could not, at least not on the present day. Kerber replied that the judges, for now, will not comment on the matter.

Plaintiff counsel Scharmer, on behalf of Plaintiff Counsel Dr. Kroker and himself, explained that the expertise of another expert would be dispensable in their opinion and there would be no indication to hear another expert. Scharmer added that while they agree that Thurmann's expertise alone was not sufficient, they think that the court heard enough from other experts and witnesses such as Anwar Al-Bunni, Mazen Darwish, or Chris Engels from CIJA. He added that these witnesses and experts painted a clear picture of different confessions in Syria and their relation to each other. According to Scharmer, the defense should be more precise about their envisaged benefit from hearing another expert if they actually request to hear one. Scharmer went on to explain that if the Judges consider hearing another

expert, he and Dr. Kroker both have serious concerns regarding the suggested expert, Michael Lüders. While he had published several books and articles about Syria and the MENA region, he is a very polarizing academic, as he published certain things with insufficient factual background. Scharmer added that this can be verified in various newspapers and magazines. According to Scharmer, Michael Lüders said on a well-known German talk-show that there is no civil society in Syria. Scharmer concluded that while there is nothing wrong with hearing a polarizing expert, there are certainly better alternatives. He and his colleague Dr. Kroker, for example, suggested [Bente Scheller](#), [Kristin Helberg](#), or [Dr. Muriel Asseburg](#), all of whom speak Arabic.

As none of the other parties had any further comments, Presiding Judge Kerber announced the building and room where the hearings will take place from January 27, 2021, onwards. Kerber asked the interpreters to interpret this information for everyone in the public gallery

The proceedings adjourned at 11:30 am.

The next hearing will take place on January 27, 2021.