

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

Higher Regional Court – Koblenz, Germany

Trial Monitoring Report 46

Hearing Dates: September 8 & 9, 2021

CAUTION: Some testimony includes descriptions of torture.

Summaries/Highlights:¹**Day 92 – September 8, 2021**

P50, a 45-year-old Syrian doctor [REDACTED] testified about his detention at Al-Khatib Branch where he was beaten. He told the court that the mental trauma caused by detention was more severe than the physical trauma. As a doctor, he also treated former detainees. P50 explained to the Court that detention could completely change a person's personality to the point where one becomes suicidal or violent towards their own family. He also elaborated on the social exclusion suffered by female detainees.

The Presiding Judge then read the judges' decision to reject the defense's request to summon an allegedly former guard at Al-Khatib Branch as a witness.

Three Plaintiff Counsels submitted a statement regarding the Prosecutors' statement about the counsels' previous notice to include enforced disappearances as crimes against humanity to the charges.

Day 93 – September 9, 2021

Criminal Chief Inspector Knappmann from the BKA testified about the questioning of a witness who did not want to testify in court in Koblenz. The witness was questioned twice by the French police before he was questioned by the BKA. Nonetheless, the witness told the BKA that he would not be willing to participate in judicial proceedings or in the trial in Germany. He also declined the Court's summons.

P51, a Syrian doctor, was allowed to disguise his face and conceal his personal information. P51 worked at the Red Crescent Hospital opposite of Al-Khatib Branch. He told the court about visits he and his colleagues made to the Branch where they saw detainees who were in bad physical condition. However, the doctors were not allowed to provide medication or treatment, other than stitching wounds or applying bandages to severe injuries. P51 further said that the hospital was used exclusively by the Branch because other patients were hindered from entering it. Also, detainees were transferred to the hospital as patients without correct medical files, and the mortuary was overcrowded solely with corpses from the Branch.

A Plaintiff Counsel submitted a statement regarding the request to add enforced disappearances to the charges. P50, who was admitted as plaintiff, also provided a short statement on the matter, detailing his and his family's experiences with detention and missing relatives.

¹ 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.

The Defense submitted requests to hear three additional witnesses to provide information about the accuracy of previous witness testimonies, as well as Raslan’s actual competences and character.

Trial Day 92 – September 8, 2021

The proceedings began at 9:35AM with eight spectators and one journalist in the audience. The prosecution was represented by Prosecutors Klinge and Polz. Defense Counsels and Plaintiff Counsels were present as usual.

P50 was accompanied by Dr. Oehmichen. Presiding Judge Kerber noted that P50 was not summoned by the Court but called by Dr. Oehmichen who also submitted a request on P50’s behalf for him to join the trial as a plaintiff and for Dr. Oehmichen to be admitted as his witness counsel. There were no statements on Dr. Oehmichen’s request to be admitted as P50’s witness counsel. Presiding Judge Kerber decided that Dr. Oehmichen would be admitted as P50’s witness counsel for the duration of his testimony on this trial day since he was not able to exercise his rights without counsel.

Testimony of P50

Presiding Judge Kerber said that the Court would hear P50 to comply with its duty of judicial enquiry. P50, a 45-year-old Syrian doctor was informed of his rights and duties as a witness. He is unrelated to the defendant by blood or marriage.

Questioning by Judge Kerber

Judge Kerber explained the Court already knew from Dr. Oehmichen that P50 came into conflict with the Syrian regime and was arrested. Kerber asked P50 to describe how he came into conflict with the regime and the timeframe of his detention. P50 said he would first like to thank the court and everyone involved in making this trial happen. He said when “we” started the revolution in Syria, their aim was to establish a state governed by the rule of law so that every accused had the right to remain silent, speak, “and things like that.” The court “here” would therefore be important. P50 went on to explain his own story.

P50 had a medical practice near Damascus. One day, his parents received a call from a person who said he was sick. This way, the person got P50’s mobile phone number. He eventually contacted P50 who gave him an appointment. P50 said when this person – a relatively small man with a round face – came to his office, he started telling P50 his story. After a few minutes, the man received a call and asked P50 whether it was okay to answer. P50 allowed him to answer. P50 told the court that, as a doctor, he has to be sensitive of the wishes of his patients. However, this time his sensitivity might have been a mistake. P50 went on to describe how the man told the caller that he would be done in thirty minutes and be “there.” Five minutes later, several men dressed in civilian clothes rang the bell at P50’s office. P50 opened the door and they entered. They immediately arrested P50 and put a gun to his neck. P50 said that he called for his sister who was at the office as well, but she did not hear him. He was then taken downstairs where a big car was waiting. P50’s shirt was pulled over his head and he had to sit in the middle seat, with people left and right of him. They then drove for around ten minutes. P50 did not know where. He told the Court that he could not provide exact timeframes because he was in shock. He was then taken inside the premises, the location of which he did not know at the time.

P50 remembered that he had to take a few steps downstairs. On the left side was “some kind of lobby” where he was frisked. P50 said he had to undress, but he was not sure whether he also had to take off his underpants on this occasion or whether that happened another time.



His personal items were taken away and he was allowed to put on his clothes again. He was then taken to a community cell where dozens of people were already detained. He had to stay there for around fifteen minutes before he was taken to a different cell. P50 said he could not remember the number of the cell, but assumes it was No. 1. There was already another person in the cell from Douma. P50 said this person had many injuries on his face and his head and was wearing a bandage around his head. This person stayed in the cell for two days before he was taken somewhere else.

P50 went on to explain that he could not provide an exact time for when interrogations started. He could neither say whether it was day or night, nor on which floor the interrogation took place. P50 said “they” wanted information about his activities but at the beginning, he denied everything. He was then told to lay on his stomach on the floor and put his feet up. He was then beaten on his feet using an item before he was taken back to his cell. P50 said he was then taken again. “They” wanted to have information about P50 and confronted him with information about his colleagues. He was told that, if he did not confirm, he would be punished. P50 described how, one time, he was told “I will beat you twenty times and if I can hear your voice, I will increase the number of beatings.” P50 said this sort of interrogation was repeated around ten times. One time, he was beaten while he was standing. P50 was not sure whether he was beaten with hands or kicked, but the person who did that was standing opposite of him. P50 further explained that he was confronted by three people: P50 was standing in a room and [another detainee] was on the floor. P50 told the Court that he was always blindfolded. Whenever the [other detainee] said something, he was beaten.

Kerber wanted to know who exactly was beaten when the other detainee said something the interrogator did not like. P50 said the other detainee was beaten. He added that this person came to the prison after P50. According to P50, the intention was to confront this person with P50’s statements.

Kerber asked how P50 knew that the other detainees came to the Branch after him. P50 said he did not exactly know when [this person arrived]. However, when P50 arrived, this person was not there. P50 therefore concluded that he either came at the same time or after P50. In any event, P50 was there before this man. P50 added that he met “them” after they were released, and “they” told P50 that they were arrested later than him.

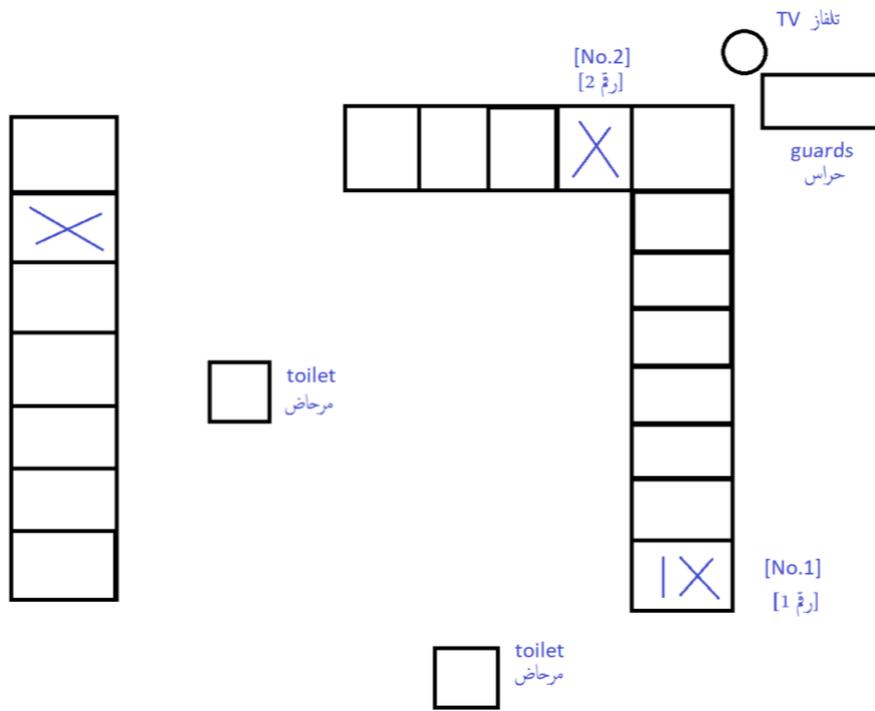
Kerber thanked P50 and told him to continue. P50 went on to describe that another detainee was kneeling in the room. He had to endure the same procedure: he was asked questions and beaten. P50 said he could not remember where the third person was, but he was probably standing opposite of P50. P50 added that he assumes he was in cell No. 1 for five days before he was taken to another cell. He told the court that the [cell] was “L” shaped. P50 was first detained at cell No. 1. His new cell was to the right of his old cell. He spent 25 days in the new cell. P50 added that nearby the second cell there was a TV in the corner and a room where the guards took a rest. [P50 described the layout of the area with his hands on the table in front of him.] He added that he was first in cell No. 1, then taken to the right where there was a hallway, and eventually taken to cell No. 2.

Kerber asked P50 to draw a sketch of the area. [P50 was given a sheet of paper and a pen.]

Kerber asked whether P50 was talking about a solitary cell or a communal cell when he referred to cell No.2. The interpreter explained that P50 was talking about a cell “Zinzana [زنزانة]” and not a solitary cell “Monfarida [منفردة]”.

Kerber said she would like to show P50’s sketch on the screens in court and visually inspect it.

[The following is a recreation of the sketch drawn by P50 based on what the Trial Monitor was able to hear and see in Court.]



P50 explained that cell No. 1 was where he stayed for a couple of days. Cell No. 2 was where he stayed for 25 days and the TV and room for the guards was in the corner. The toilet at the bottom of his drawing was the toilet he used when he was detained in cell No. 1. P50 said he assumes that there was a community cell further down (to P50’s sketch, not in terms of floors, as clarified in Judge Kerber’s request.) P50 said there was a hallway leading to cell No.2 which he marked with an “X” in his sketch. When he was in this cell, he had to use the toilet in the middle. P50 said this was all he could remember.

Judge Wiedner asked if cell No. 1 was a solitary cell. P50 confirmed.

Wiedner wanted to know how big the cell was approximately. P50 said it was 2 meters long, 2 meters high, and 1 meter wide. They had two blankets.

Wiedner asked what kind of cell was cell No. 2. and how big it was approximately. P50 said all cells were around the same size.

Wiedner concluded that it was a solitary cell as well. P50 said it had the same size [as the first cell].

Wiedner asked if the TV and the guards’ room was outside close to the cells and how P50 noticed that. P50 said one could hear the guards and there was a small window through which one could see what happened outside the cell. Whenever the guards were not there, one could look through this window and communicate with other detainees in the opposite cell.

Wiedner wanted to know if P50 was detained in a community cell during his detention at this prison, other than the one cell where he was detained with one other person. P50 said that in this prison – he later learned that it was Al-Khatib Branch – he was detained in a community cell together with other detainees for the first fifteen minutes. The remaining forty days, he was detained in a different kind of cell.

Judge Kerber asked if any of the parties had questions regarding the sketch.



Plaintiff Counsel Scharmer asked whether the labeling of the cells as No. 1 and No. 2 was P50's own way of counting or if there were numbers at the cells. P50 said he assumes that there were numbers and that people were called by the number of the cells, like 1 and 2. However, P50 was not sure about the numbers; it could also be the case that he labeled them in this way because he was first in cell No. 1 and then No. 2.

Judge Wiedner recalled P50 saying that he could not exactly remember the interrogations and was not able to see. Wiedner wanted to know if P50 remembered whether the interrogations took place in the same area where the cells were or if he was taken somewhere else, maybe upstairs. P50 said he assumes – but would not be sure – that it was the same building. He could not remember whether there were stairs. P50 added that he was in shock and could therefore not remember. One was blindfolded and focused on the questions, nothing else.

Defense Counsel Böcker intervened, saying he might have missed something: P50 said he was in the first cell for five days and then 25 days in another cell, but then said he was detained for forty days in total. Böcker asked for how long P50 was detained and whether he could show the cells again on the sketch. P50 explained that he was detained at Al-Khatib Branch for forty days in total: five days in cell No. 1, 25 days in the cell “at the top” [of his sketch] and around ten days at a cell on the left.

Judge Kerber asked P50 to continue providing an overview, asking him what happened next after P50 was interrogated. P50 said the subjects of the interrogations were sometimes a bit strange: he was asked about his age and, when he said he was 36-years old, he was asked whether during his 36 years he was attacked by someone from the police, intelligence services, or government. When P50 said no, he was asked about the reasons for the revolution. [The interpreter had to think for a bit before he translated the following sentence. The accuracy of the translation was confirmed by the other interpreters] P50 was told that the fact that the State would not have harmed anyone should be a favor. P50 told the Court that this would show the different way of thinking of the regime and the people demanding freedom, democracy and the establishment of a state governed by the rule of law. It would not be enough to simply not harm the people.

According to P50, this would explain a lot of what happened in Syria: the revolution was started because of this mentality, and the people would not stop until they reached their goal. P50 said there would be another statement [by the interrogator at the Branch] which would indicate the difference in mentality. He explained to the court that there is a line in the Quran that reads “in hell are 19”. The number “19” was used to compare the room where P50 was detained and hell. Nineteen angles were tasked with punishing the criminals.

Judge Kerber noted that P50 also used the term “Kuffar” which was not translated and asked P50 whether he was also referring to disbelievers. P50 affirmed.

P50 went on to explain that the interrogator who made the reference to the Quran referred to the intelligence services when talking about the “19”. According to P50, this reference was an attack on the civil population and all mankind.

P50 told the court that he studied human medicine, was an active member of the student association, organized events, and partook in extracurricular activities. He wanted to help students continue their studies abroad, particularly in the US. The interrogators asked P50 about these issues but, according to P50, these activities happened eleven years before that interrogation. The interrogator wanted to know why P50 helped students to travel to the US and called him a traitor because he encouraged students to go abroad. P50 told the court that, funnily enough, Bashar Al-Assad was allowed to study abroad and even marry a woman with UK citizenship. Yet, other students were not allowed to study abroad. P50 wanted to provide these examples to show the mentality of the regime.



Kerber asked P50 what happened next, saying that if she was not mistaken, P50 was detained somewhere else as well. P50 said he would first describe what happened at [Branch 251].

Kerber said P50 could for now skip the details about what happened in detention and rather describe the general detention conditions, how the cell was, and how he was treated. Regarding food, P50 explained that sometimes the food was good and sometimes it was not. He lost 20kgs, so his trousers did not fit anymore and he had to tie them. The interrogator once told P50 that the weight loss was the best thing that could possibly happen to P50. However, as P50 told the court, the actual suffering was psychological when he was in the solitary cell. P50 described how he got the idea to cause trouble just to get out of the solitary cell and be punished. He just wanted to feel alive. P50 also thought about committing suicide if [his detention continued] because he did not know what would happen next and how things would end. P50 said he was “taken” on September [REDACTED] when he was wearing a t-shirt and a shirt. After one month, it got colder, and he asked for additional and different clothes. He even suggested to [the guards] that they could take the money he had with him at his arrest and use it to buy clothes. The guards denied.

Judge Wiedner asked whether P50 meant that he was arrested on September [REDACTED] when he said he “was taken”. P50 confirmed. Wiedner asked about the year. P50 said it was in 2011. He added that he told the interrogation officer that he needed a lot of water and he was given water.

Kerber said the judges would now ask some questions. She first wanted to know what P50 was able to hear from his cell. P50 said that someone was beaten, and he was able to hear that. P50 described that when he was in cell No. 1, there was another room from where one could go outside. Whenever someone was to be punished but the guards did not want to take him to the interrogation room, this person was punished in this other room. P50 could hear that.

Kerber asked if P50 was also able to hear street noise, the call for prayer, or pedestrians. P50 said he could not hear those sounds while at Al-Khatib Branch.

Kerber wanted to know what P50 was able to see inside his cell, whether there was light, and if so, where it came from. P50 explained that there was more light in the outer cells than in the inner cells. He could not remember whether there was light inside his cell, but he assumed that light from the hallway was shining into his cell. According to P50, the inner cells were darker. He further described that there was a small window measuring 30x50cm. This window was sometimes open, sometimes it was closed. There was also a gap between the door and the floor which was around 5cm. Light was shining through this gap as well.

Kerber asked if the door was wooden or made of iron. P50 said it was iron.....

Kerber wanted to ask a question but noticed that P50 was about to say something and asked him to go on. P50 explained that, at the end, he had to leave his fingerprint on papers he did not read. There were two investigating officers who conducted P50’s interrogation. P50 said he noticed that there were two voices. One time “this” person came toward P50 when P50 was not blindfolded. P50 said the person stood a bit behind him and did not want P50 to see him. However, P50 was able to see the person and recognized him as the person who was at his practice.

Kerber wanted to know what happened after P50 had to sign the papers. P50 said there was information that he could leave the Branch. It was right before Eid al-Adha. P50 assumed that he would be released and able to celebrate with his family. P50 described that [the detainees] were rounded-up and transported. Instead of being released, they were transferred directly to state security where they were frisked and interrogated. P50 said that he had to hand in all his clothes except for his underpants.



There was an investigator who called one person after the other and made accusations against them. No matter the answer, one was beaten and ridiculed. P50 said he and the other detainees were all accused of the same thing and all of them were beaten. When it was P50's turn, the investigator received a notice from his boss to stop beating people and take them to their cells. P50 said this was the reason why he was not beaten. P50 told the Court that all this happened around Eid al-Adha. His hands were tied behind his back and he had to stay there for 24 hours. P50 said these were the worst hours of his life, he could still feel the pain in his shoulder when remembering this time.

P50 added that he was able to hear the call for prayers so he could estimate the time. The detainees' hands were untied whenever they got food. P50 recalled that there was a child, a boy, in the same cell. His hands were not only tied, but his body was put in chains. P50 said he himself had to stay in this cell for 24 hours before the detainees were dispersed to different cells and fifty new detainees arrived.

There was a toilet inside the [new cell] and one could only sleep if laying on the side or the back. It was very tight. P50 was taken for interrogation from this cell once or twice. He was not beaten during interrogation. P50 said he and his fellow inmates had to stay there for fifteen days before it was decided that they would be released. However, the release was delayed due to a shift change. Some detainees were released, but P50 and some others were not. They were therefore transferred to another cell where they had to stay for two days. P50 explained that his release was initially scheduled for Thursday. He then had to stay on Friday as well because it was a holiday. He was eventually released on Saturday.

P50 told the court that he was taken to a military court where he had the chance to buy sandwiches and eat. It was of course a different and better place than "the hell" where he was before. He was then taken to a military prison where he also had to take off all his clothes. P50 said it was a strange situation because, before that, he could not look in a mirror. He did not know how he looked; he only knew how his "colleagues" looked. There was a very small mirror inside the military prison. P50 said it was very strange because when he looked in the mirror and saw his reflection, he did not recognize himself. He had to stay at this prison for one day before he was taken to a regular court at the Palace of Justice.

P50 said that, at the court, he "of course" denied everything and told the judges that all his statements and confessions were made under torture. P50 explained that his journey did not end in this court. He was transferred to Adra, a well-known prison for dangerous criminals, drug dealers, etc. For P50 and his fellow detainees, however, it was a dream to go there to escape the hell they had been in before. P50 said he only had to spent one day at Adra Prison in "investigative custody" before he was transferred to a normal prison where he had to stay for fifteen days. It was a normal prison where one could file requests to see his charges in writing. P50 said one time during his detention at this prison, someone from "security" was there to get information from P50. P50 was then released after fifteen days. On the day of his release, P50 got one stamp [on his hand]. He told the court that if one got two stamps on his hand, he would be transferred to another prison, but P50 got one stamp and was released. He stayed in Syria for five more days. When he got the information that he might be arrested again, he decided to sleep at different places. With the help of his relatives, he found out whether his name was on one of the lists at the border. On December [REDACTED] 2011, P50 went to Jordan.

Kerber thanked P50, saying she had one more question before the break. She asked P50 how he knew that he was first detained at Al-Khatib Branch and then at the General Intelligence Service. Regarding Al-Khatib, P50 explained that "the guys" [fellow detainees] knew it was Al-Khatib, but P50 did not know how they knew.



Kerber asked who P50 was referring to when talking about “the guys”. P50 said he meant his fellow detainees.

Kerber asked how P50 was able to communicate with them since he told the court that he was detained in a solitary cell. P50 explained that when the detainees were certain that there was no guard around, they communicated with each other in other cells. The cells on the left side were all in one row. The window in the door of the cell was relatively big and if one looked to the side, he was able to see the entire hallway. If [a guard] came, they gave each other signals.

Kerber asked if there were community cells as well. P50 said the cell where he was for the first 15 minutes was a community cell.

Kerber concluded that community cells existed. She went on to ask P50 how he knew that the second prison he was detained at belonged to the General Intelligence Service. P50 said he could not remember, but it was clear to him and his fellow detainees. P50 added that he knew everyone there, around fifty people, and everyone had small pieces of information.

Since there were no urgent questions, Judge Kerber announced a 15-minute break.

[20-minute break]

Judge Kerber handed out copies of P50’s sketch to the parties.

Questioning by Judge Wiedner

Judge Wiedner asked P50 about the general conditions at “this Branch” [Al-Khatib], recalling that P50 was mainly detained in a solitary cell but that there was one injured person with him in the first solitary cell. He asked P50 to tell the court where this person came from and where he got his injuries from. P50 said he could not remember exactly what this person told him, whether he was injured during detention or before.

Wiedner recalled P50 telling the Court about the light in the cells and asked him if he was able to tell day from night and, if so, how he was able to do that. P50 said he thinks he was not able to tell day from night in the first cell where he was for thirty days. He assumed that, in the winter, rain got into the third cell at which he was detained. Based on the meals they got and the fact that they got food twice per day, P50 was able to guess the time.

Wiedner asked where the rain was coming into the cell. P50 said he could not remember whether it was the hallway or the toilet. The memories were a bit blurred and he could not remember exactly.

Wiedner asked if P50 could use the toilet whenever he wanted. P50 said no, detainees could use the toilet one after the other, twice per day. There were set times to use the toilet.

Wiedner wanted to know more about the general hygiene situation at the Branch, whether P50 was able to shower, and if the cells were clean or dirty. P50 said there was no possibility for him to wash for forty days. He did not wash. However, he could not say if they were allowed to or not. On his last day there, a guard asked P50 why he smelled so bad and why he did not shower. P50 replied that he was not sure whether there was a bathroom. The guard told P50 that if he wanted to shower, he would have been allowed to do so. P50 replied that since he would be released anyway, he preferred to shower at home. P50 concluded that he did not shower at Al-Khatib Branch.

Wiedner asked if the scene that P50 just describe happened at Al-Khatib. P50 affirmed, explaining it happened after forty days.

Wiedner wanted to know more about the general condition in the cells and whether it was dirty or clean. P50 said it was very dirty. There were blankets on the floor, but that was everything. P50 did not see dead insects or things like that. Regarding the tidiness, P50 added that it was not a priority for him.

Wiedner asked approximately how many times was P50 interrogated at the first branch. P50 said it was a maximum of ten times. Interrogations happened more frequently during the first couple of days. After that, it happened less and less. When there was new information or when new detainees arrived at the Branch...

Wiedner asked if P50 was always blindfolded on his way to the interrogations and during the interrogations. P50 confirmed, explaining that from the moment he was taken from his cell until he came back, he had to wear blindfolds.

Wiedner asked if P50 was beaten on the way [to interrogations]. P50 said he could not remember.

Wiedner recalled that since P50 was blindfolded during interrogations he could not see much or was unable to see anything happening around him. He asked P50 if he could tell from the voices how many people were present. P50 said he did not have this opportunity. He only noticed once that the investigating officer was talking to another person. It was an important conversation. P50 therefore remembered that there was a second person. Other than that, he had no idea.

Wiedner wanted to know if P50 could tell from that conversation whether the people were subordinate to each other and if orders were given. P50 said there were no orders. It was a conversation to prepare questions.

Wiedner asked if there were orders to beat P50 and if he was beaten by another person other than the interrogator. P50 said as far as he remembered the same person who "investigated" also beat him. He could not remember if someone said to stop or intensify the beating. When he was slapped, the person who slapped him stood right in front of him.

Wiedner wanted to know if P50 was mistreated in different ways as well, other than being beaten and kicked. P50 said there were threats against his family.

Wiedner asked what was said. P50 explained that the threats were general. [The authorities] were willing to get his family [to the branch] as well, and similar phrases. P50 could not remember other forms of physical mistreatment.

Regarding consequences and signs of torture, Wiedner asked P50 whether he was able to walk when his feet were injured and if there were any other consequences of mistreatment. P50 explained that after he was beaten on his feet, they were swollen and he was unable to walk. After he was beaten on his feet, he was told to walk it off so they would not swell. However, P50 did not believe that and thought the intention was to increase his pain. He then heard from others that it would have been good to walk it off. P50 added that his big toe was swollen when he was released, but it went away after two months.

Wiener wanted to know if other detainees told P50 how and if they were mistreated. P50 said he heard from another detainee who talked about a third person who had a boot put in his mouth and received electric shocks.



Wiedner asked if P50 saw other detainees injured apart from the one person who he saw in the solitary cell. P50 recalled that at State Security when he was transferred, he saw a person who was severely beaten on his feet. In the cell, P50 was able to see the person's swollen feet. One could also hear people being tortured.

Wiedner concluded that this happened at P50's second place of detention, the State Security Branch. P50 confirmed.

Wiedner wanted to know what P50 noticed at the Branch that he identified as Al-Khatib. P50 did not notice anything there. He added that there was another person with him in the last cell for seven days. The person was from Harasta and was taken for interrogation and tortured as he told P50. The employees [at the Branch] took him to a place where he was hiding weapons. That was the reason he was tortured multiple times.

Wiedner asked what exactly happened to this person. P50 said he did not know exactly, but he thinks the person was beaten and tortured for several days, then eventually confessed. [Judges Wiedner and Kerber had a short conversation.] P50 recalled that once when he spoke to the detainees in the cell opposite to his, someone came and took a detainee, beat him, and brought him back.

Wiedner wanted to know if P50 experienced sexual violence or knew of others who were subjected to sexual violence. P50 could not remember whether he noticed something like that in detention. However, during his work he was also working with victims of torture, in particular those who were released from prison and women who had been detained. P50 therefore had a lot of information about [sexual violence]. But it did not happen to him while in detention.

Wiedner asked what P50 heard about such things through his work. P50 explained that only a few women spoke about being raped. There was once information about women being raped. P50 said he wanted to explain to the court what far reaching consequences rape has on Syrian society: A woman was in a car with her husband, neighbor, and her son. They were all arrested at a checkpoint and held there for two hours. The husband and the neighbor were separated from the woman. They were all released eventually. The woman was a patient of P50. She was very depressed, suicidal, and thought about killing her own child. Her husband asked her if [the men who arrested the family at the checkpoint] did anything to her. She denied, but her husband was not convinced. Because he was with their neighbor and separated from his wife, he did not believe her. P50 said the woman did not tell him that anything was done to her, but he sent her to a specialist. He later learned from his [female] colleague that the woman apparently had been raped. P50 told the Court he just wanted to illustrate that this woman was willing to kill herself and her child simply because she was asked if she was raped.

Wiedner said he wanted to come back to P50's own experiences, asking him whether he saw dead people at the first branch where he was detained. P50 said no.

Wiedner asked if P50 was able to see someone during his interrogation who he would be able to recognize. P50 affirmed.

Wiedner wanted to know if P50 remembered having seen the defendant [Anwar Raslan] on one of these occasions. P50 said no, adding that he would be able to recognize someone based on his voice.

Wiedner said he wanted to get a quick overview of the time during which P50 was detained, asking whether it was correct that he was arrested on September [REDACTED] 2011. P50 confirmed. Wiedner asked if it was correct that P50 then stayed at the first branch for forty days. P50 confirmed. Wiedner wanted to know if it was correct that P50 was transferred shortly before Eid al-Adha. P50 confirmed. Wiedner said that according to the judges' online research Eid al-Adha was from November 6 to 10, 2011. He asked P50 if that timeframe was correct in terms of his detention periods.



P50 confirmed again. Wiedner recalled that P50 was then transferred to the General Intelligence Service of the State Security Branch after fifteen days. P50 confirmed. Wiedner went on to recall that P50 was then at the military court and in detention there for one more day. P50 confirmed. Wiedner concluded that at the end of his entire detention period, P50 was at Adra Prison for around two weeks. P50 confirmed, adding it was fifteen days, maybe a bit less. Wiedner wanted to know when P50 was eventually released. P50 said it was on December [REDACTED] 2011.

Questioning by the Prosecutors

Prosecutor Klinge said the prosecutors only had a few questions, starting with a question about how long the interrogations approximately lasted. P50 said they took one to two hours each time.

Klinge asked P50 whether he could say how many times he was approximately beaten during interrogations. P50 said as far as he could remember, he was beaten at almost every interrogation. At each interrogation, he was supposed to provide information. However, the interrogators already had the information, so P50 could not deny. If the interrogators did not like P50's answer, he was punished.

Klinge asked if P50 was beaten intermittently or without interruptions. P50 said he could remember one time where he received twenty beatings in a row.

Klinge wanted to know if P50 noticed female detainees at Al-Khatib Branch. P50 said he could not remember.

Klinge further recalled that P50 was detained in a solitary cell almost for the entire duration of his detention at Al-Khatib Branch. He asked P50 if he had any explanation for why he was in solitary confinement and not in a community cell. P50 said they probably assumed that he was playing a big role in the events in Syria. At his transfers, most detainees in the group were doctors as well. P50 said they would usually select one person who would then be the advocate of the group. However, there were orders from the top that no one was allowed to talk to P50's group. P50 said he would clarify: the order was that no one should talk to this group. P50 therefore assumed that his group was playing an important role for "them" [security forces]. P50 tried to understand why he was taken to a solitary cell. His guess was that "they" wanted to prevent P50 and his group from getting information from other detainees or passing information to them. P50 explained that there was one thought: There were so-called coordination points. Whenever groups within a city existed, they organized themselves on Facebook in so-called coordination points. If someone was a member of such a point, he was considered to be as dangerous as a person carrying a weapon. The regime considered these people to be more dangerous than those carrying a weapon. P50 told the court about one of his friends who participated in peaceful demonstrations and who was against carrying weapons. He was executed in detention. According to P50, detained jihadists were released at the beginning of the revolution.

Klinge wanted to know if P50's family members got any information about his whereabouts from authorities. P50 said no, his family thought he was somewhere else.

Klinge asked if P50's family made inquiries about him. P50 said his sister told him that the family tried to make inquiries about his whereabouts. His sister was the one who took the call from the person who pretended to be sick and came to P50's practice. His sister tried to call this number and berated the person. [P50 giggled when recounting the story.]

Klinge asked whether P50 knew if his relatives tried to get information from other places as well. P50 explained that every branch was in charge of a certain area. The Air Force Intelligence was in charge of [REDACTED]. Al-Khatib was in charge of [REDACTED]. His family therefore assumed that he was with the Air Force Intelligence since his practice was in [REDACTED].

Questioning by the Defense Counsels

Defense Counsel Böcker recalled that P50's practice was in the suburbs of Damascus, and asked him whether it was north or south of Damascus. He asked P50 to tell him where exactly it was, ideally providing an address. P50 said his practice was in [REDACTED] in the [REDACTED] neighborhood.

Böcker said he needed to process this information and see whether he can localize the area [on a map]. P50 said that he was talking about 2011. The entire town was destroyed by now.

Kerber wanted to know whether Defense Counsel Fratzky had any questions while Böcker was looking something up, adding that [REDACTED] of Damascus. Fratzky said no and Böcker said no one had to wait for him; he needed to do some research and others could ask questions.

Questioning by the Plaintiff Counsels

P50's counsel Dr. Oehmichen said she only had one question. Since P50 used to work as a doctor, she asked him whether he could explain what the worst consequences of detention for people in Syria were. P50 explained that as a doctor he worked with detainees and people who were tortured. Most people focused on the physical consequences but there were psychological consequences as well, and they were deeper than the physical torture. He recalled the woman he mentioned earlier, who was detained for two hours. According to P50, this was a good example to illustrate that women are suffering worse consequences than men. P50 said that men [who were detained] would be considered heroes by society. However, some women who had been released were killed by their families. Other women were disowned by their husbands and relatives.

Kerber asked P50 whether he needed a break. P50 said no, adding that when women leave detention, they live in hell. They suffered from posttraumatic stress disorder and depression. Some things could not be diagnosed by people who had no expertise, only by experts. Torture and detention have such severe impacts that they could even cause people's personalities to change. P50 explained that when people were detained, they acquired certain personality traits. Due to torture in detention, these people would be completely different persons when they were released. When husbands, wives, and children wanted to greet their loved ones, they were met by a person who was entirely different than before. These people were even able to attack their families. P50 added that these consequences might not be directly visible to the families and have an impact on several generations.

Questioning by the Defense Counsels

Böcker recalled P50 being transferred to a detention facility from his practice in [REDACTED]. He asked P50 whether he went to Al-Khatib Branch without any stops along the way. P50 affirmed.

P50 was dismissed as a witness. P50 thanked the court and his counsel Dr. Oehmichen noted that P50 wanted to say something.

Judge Kerber said if it would not be too extensive, she would allow P50 to go on. P50 said he had one point that was very important to him. Judge Kerber asked whether this would be a declaration or a witness testimony. After a short consultation, P50's counsel said P50 would make a declaration. Kerber allowed P50 to continue. P50 said "this event" left its mark on him, which would be one of the reasons for his testimony in court. The detention had a severe physical and mental impact on him. According to P50, a [psychologist called Frankl](#) who was detained at a concentration camp for three years during the Holocaust made significant contributions to the treatment of detention survivors, in particular logotherapy. P50 said his presence and testimony in court would therefore be logotherapy for him and others who experienced similar things.



He added that he hopes people who worked for the intelligence services and the government learn the difference between information gained at a peaceful place and information extorted from people with torture. P50 said he wanted to thank the Court and hopes that the trial will be a lesson and people would no longer be tortured in prisons. P50 thanked the Court in German. Kerber thanked P50 in Arabic.

Administrative Matters

Regarding P50's request to join the trial as a plaintiff, the prosecutors said they were not opposed. The other parties did not provide statements on the matter.

Kerber said she would now read out a decision by the judges that was a bit longer and a statement by Plaintiff Counsels would be read out as well. Plaintiff Counsel Scharmer said it would take around twenty minutes to read his and his colleagues' statement.

Kerber announced a 10-minute break.

[15-minute break]

[The following is a recreation of the judges' decision, based on what the Trial Monitor was able to hear in Court.]

Decision regarding the requests by counsels Böcker and Fratzky dated [August 19, 2021](#).

The request to summon [REDACTED] was denied.

- 1) *The request was referring to a witness currently residing in Turkey. He is a former Sergeant Major who worked as a guard in the same Branch as Anwar Raslan. He is supposed to testify that the Syrian Republican Guard, the 4th Division and 'Hafez Makhlouf's people' had power at Al-Khatib Branch. Further, employees of Division 40 conducted interrogations on a daily basis and sent reports via Hafez Makhlouf to the head of the Branch [Al-Khatib]. The witness is also supposed to have information on the power of Division 40. The witness is supposed to testify about the opposing attitude of Anwar Raslan in the situation back then. According to the request, the witness could also testify how powerless Anwar Raslan was compared to Hafez Makhlouf and Division 40. The request summarizes that the Accused did not have any authority and organizational power over the horrible incidents at Al-Khatib Branch. He rather tried to help. Once he ensured that his family was safe, he defected. Neither torture nor fatal casualties could be attributed to the Accused.*
- 2) *The formulation of the request is unclear.*
 - a. *The evidence taken so far indicates that the Accused himself worked at Branches 285 and 251 of the Syrian General Intelligence Directorate for a long time. The request states that Branch 251 belonged to Division 40 and Branches 251 and 285 were both situated at the headquarters of the Intelligence Directorate. However, the evidence taken so far indicates that Branch 251 was located in Al-Khatib neighborhood, Branch 285 in Kafar Souseh and Division 40 in Jisr al-Abyad. The request states that the witness worked 'at the same Branch' as the Accused. It is therefore unclear whether he worked at Branch 251, 285 or Division 40. The timeframe is also unclear, and it is not clear whether the witness and the Accused met or had a personal relationship.*



- iii. *So far there have been no indications for the claims made in the request. According to Thurmann, the Republican Guard and the 4th Division were particularly close to the top of the regime and in charge of protecting the President. A collaboration between these units and Branch 251 of the General Intelligence Directorate only happened regarding military quelling of demonstrations, arrests, and transports of detainees. Neither Thurmann, nor Engels, Al-Bunni, Darwish or the BND indicated a connection between Branch 251 and other people regarding detentions, except for arrests which were conducted by other divisions as well. The result so far is that Division 40 acted as part of Branch 251 to a certain extent. What Division 40 actually did was to arrest critics of the regime, alleged critics, and others and keep them for a while as well as to conduct a first interrogation. All witnesses who were arrested like that were then transferred to Al-Khatib Branch. The court does not know of any witnesses who were interrogated at Al-Khatib by the same person who interrogated them at Division 40. [P21](#), who worked at Branch 251 until 1989, described Hafez Makhlouf as a dominant figure due to his family relationship with Al-Assad. However, he did not detail how this was actually apparent, nor did he describe actual interrogations by Division 40 at Branch 251. He rather described that he saw Hafez Makhlouf as the factual head of the General Intelligence Service. Others like Engels, Al-Bunni, and Darwish stated that Division 40 supported Branch 251 and that they had shared local competences. They all said Makhlouf was very brutal. Engels added that Hafez Makhlouf unauthorizedly communicated with other intelligence services. [...] It is unlikely that the witness will describe anything else than Hafez Makhlouf acting arbitrarily to a certain extent.*
- b. *According to the German Federal Prosecutor General Office, it is very likely that the witness will be prosecuted for crimes against humanity (§7 (1) VStGB). The Judges also consider that based on findings so far regarding Branch 251 and Division 40, as well as detentions there including torture, detention condition, and the role of guards, as well as the position of the witness, there is a suspicion of crimes against humanity and a prosecution seems likely. According to the Federal Prosecutor General Office, due to the witness' connection to the events at Al-Khatib, he must foresee the possibility of an extradition request. If summoned, a request for legal assistance in accordance with Art. 12 EU Convention on Mutual Assistance in Criminal Matters [controlled deliveries in cases of extraditable offences] was to be issued in connection with Art. 1 and 3 EU Convention on Mutual Assistance in Criminal Matters. The witness would need to be extensively informed about his rights, in particular §55 StPO, and about the possibility that any statements can be used against him in proceedings against himself. The witness would further need counsel. It is therefore unlikely that the witness will testify. Rather, he will make use of his right to remain silent.*
- c. *The witness is currently in Turkey, which is a non-EU country. Legal assistance therefore has to be formally requested in accordance with the EU Convention on Mutual Legal Assistance and its Additional Protocol. The legal process is eased under Art. 4 of the Additional Protocol and the agreement between Germany and Turkey. Such a request must be handed to the Turkish Ministry of Justice by the German Embassy in Turkey. Upon oral request, the German Embassy told the Judges that such a request usually takes four to six months to be addressed, if they would be addressed at all. There are further uncertainties surrounding the witness' travel documents and a visa application must be examined first.*



Visas are only issued for refugees for a permanent stay. The Federal Prosecutor General Office confirmed that legal assistance requests with Turkey usually take a lot of time and the exact duration is not foreseeable. The Office provided examples where such a request took twelve to fourteen months to be addressed by Turkish authorities and another one that has not been addressed since 2019. If the Judges counted September 1, 2021 as the date of issuance of a legal assistance request with Turkey, they would have to calculate at least six months until the witness would arrive in Germany, however, delays could lead to eight months duration and the success of the request is uncertain. Based on the current proceedings in court, the taking of evidence will be concluded by the end of September 2021, and summons and hearing of the requested witness would cause a significant prolongation of the trial.

- d. *An overall assessment finds that summons of the witness are not required to determine the truth. The witness will most likely not agree to make any statements. If he does provide information, he will not provide additional information since it is not apparent how the witness obtained the knowledge. The required organizational and temporal efforts are not required.*
- 5) *An attempt to have an audio-visual questioning of the witness is demanded in light of temporal and other efforts. However, the value of the testimony would be significantly limited due to the witness not being present in court and the Judges being unable to observe his reactions.*

[The following is a summary of the Plaintiff Counsels' statement based on what the Trial Monitor was able to hear in Court.]

Statement by Plaintiff Counsels Bahns, Dr. Kroker and Scharmer regarding the Prosecutors' statement dated [August 19, 2021](#).

Contrary to the Prosecutors' perception, the legal notice to include enforced disappearance to the indictment should be made.

In sum, the prosecutors are of the opinion that an intention to place persons outside the protection of the law as part of the systematic attack against the civil population could not be proven and that several elements of the crime would not be provable in case of the Accused, Anwar Raslan.

1) *Protection of the Law*

No one could reasonably doubt that at least since the beginning of the revolution, there was the intention to remove people's legal protections. As the prosecutors admitted 'information was collected as well'. However, this was not the main goal and placing people outside the protection of the law was not simply a side effect or some kind of collateral damage. Such a view is absurd to those affected. The Prosecutors' elaborations on this matter further show a is also legally incomprehensible definition of intent relating to §7 (1) VStGB.

- a. *All witnesses testified that they would have done anything when tortured just to prevent further torture: they were willing to provide false information and sign false confessions. The conclusion of the prosecutors that the release of detainees was connected to them providing information, was not confirmed by any witness. They rather said the intelligence services tried to disguise their fate and whereabouts.*

Witnesses [P20](#), [P21](#) and [P16](#) said that. It was also confirmed by the UN Commission of Inquiry. [Mazen Darwish](#), [Anwar Al-Bunni](#), [Christopher Engels](#), [Garance Le Caisne](#) said that as well. In addition, [Anwar Al-Bunni](#) and [Mazen Darwish](#) told the court that a system of torture was already applied in Syria before 2011.



However, the aim, quality and occurrence significantly changed after the revolution. Torture was used systematically to intimidate society, not to gain information. It was enabled by enforced disappearances. This change of paradigm is also visible from a CCMC document dated April 20, 2011.

Those who were not fortunate enough to be released are still in detention, missing, or dead. This aspect is well documented by international organizations and NGOs. [Two COI reports from March 11, 2021, and 2013 were cited.]

- b. *Contrary to what the prosecutors think, the fact that torture and unlawful detention was used to also obtain information is no contradiction to the intent to remove the disappeared person from the protection of the law. In addition, jurisprudence from the German Federal Court of Justice does not require that the relevant crime be the final goal of the perpetrator, but that he also acted with *dolus directus*, if the crime was only his interim goal. There can be no serious doubt that the Syrian Government and, acting on behalf of it, the Accused also wanted to terrorize civil society.*
 - c. *Precautionary to any doubts by the judges, the Plaintiff Counsels request to summon and hear Fadel Abdul Ghany and Mariam Al-Hallak [the plaintiff counsels detailed how these witnesses can testify about enforced disappearances in Syria based on personal experiences and professional work in specialized NGOs].*
- 2) Apparent Elements of the Crime

There are several interpretations of other relevant elements of the crime admissible regarding § 7(1) No. 7 VStGB. Nonetheless, the requested legal notice to include enforced disappearances as crime against humanity to the indictment must be issued.

a. Lack of immediately providing truthful information on whereabouts

The prosecutors were of the opinion that because the relatives of P17's brother were given false information about his fate by employees of military hospitals and not by the Accused personally, this element of the crime would not be fulfilled. However, the prosecutors misconceive that in accordance with international standards, enforced disappearances are regularly committed by more than one perpetrator as stated in fn. 23 of [Art. 7 \(1\) \(i\) Elements of Crimes](#). The Accused acting as the one depriving people of their rights merely has to be from the same state institution as the person providing false information. In addition, the prosecutors did not acknowledge the fact that P18 and P17 were first given false information about the death of P17's brother by employees of Branch 251 regarding his alleged natural death (others provided different information about the death of P17's brother). This would already fulfil the element of the crime, since the Accused in his leading position had authority over employees of Branch 251 and was responsible for their actions. In addition, Anwar Raslan did not immediately provide truthful information about the whereabouts of P17's brother. He instead told the family that they should just take a corpse and not cause any trouble. He only gave hints that P17's brother died, however, he did not provide any concrete truthful information. Until today, no corpse was handed over to the family and the cause of death remains unclear. It is also entirely unclear what happened to P17's brother as could be seen when P17 directly addressed Anwar Raslan in court asking him to provide information about his brother.

This element of the crime must be interpreted in accordance with international law. [Art. 24 CED](#) stipulates the right of each person to be provided information about the whereabouts of missing persons and obliges states to immediately and entirely investigate disappearances. The information provided by the Accused about P17's brother cannot be considered immediate and truthful information. [The Plaintiff Counsels also referred to the [Burundi Decision of the Pre-Trial Chamber of the International Criminal Court](#).]



- b. *The Prosecutors are of the opinion that only explicit requests are captured by § 7 (1) No. 7 VStGB, however, this falls behind the ICC Statute, which was supposed to be the blueprint for this norm. The wording of the VStGB norm only requires an inquiry without specifying who needs to address who and in what way. It is also not required that the inquiry be directed to the perpetrator of deprivation of liberty or a direct colleague. An official enquiry is neither requested. It is self-explanatory that an official written request would obviously be unsuccessful, and the requirement of such is ignorant of the threats posed by the government on people living in Syria. Such a requirement would further avoid the protection aspect of the norm. [The Plaintiff Counsels again referred to the ICC PTC Decision.] Regarding the element of the crime of inquiries, the wording and purpose of the norm provide that any inquiry without immediate response is sufficient. This is fulfilled in the present case. P46 also described that his family approached different Branches but was always placated at the gate.*
- c. Immediacy as an element of the crime
[The Plaintiff Counsels elaborated on different ways to determine an adequate timeframe that qualifies as 'immediate' for the purpose of informing families of arrested people. They argued that one must provide not only one period of time but also a point in time from which something is considered not immediate. In doing so, the Counsels referred to ICC Jurisprudence.] Immediate means without any culpable hesitation, meaning that there are no obvious reasons for letting someone wait. [The Counsels referred to a [decision from the UN Committee on Enforced Disappearances](#) saying that the first 24 to 48 hours of a disappearance are particularly crucial to prevent the risk of torture and killing.] According to Arts. 25 + 59 of the German Constitution, German law must be interpreted in an international law friendly manner. Therefore, letting someone wait [for information] for more than 24 hours in cases of arrest and detention qualifies as sufficient element of the crime. The Court heard from witnesses whose families did not hear about their whereabouts for more than three days. The timeframe of 24 to 48 hours was therefore considerably exceeded. It is also attributable to Anwar Raslan.

As a result, it is found that the elements of the crime of § 7 (1) No. 7 VStGB are fulfilled and the legal notice [to include enforced disappearances as crimes against humanity to the indictment] must be granted.

Prosecutor Klinge said he and his colleague would not make a follow-up statement.

Plaintiff Counsel Dr. Oehmichen said she wanted to reserve the right to make a statement at a later point.

Defense Counsel Böcker said he wanted to stay out of this rather academic debate.

Presiding Judge Kerber distributed digital copies of the case file to the parties and announced that the BKA confirmed to the Judges that the family of the witness summoned for the following day would be in danger. The witness will therefore be anonymized.

The proceedings were adjourned at 1:17PM.

**Trial Day 93 – September 9, 2021**

The proceedings began at 9:37AM with fourteen spectators and one journalist in the audience. The prosecution was represented by Prosecutors Klinge and Polz. All Plaintiff Counsels were present. P50, who testified as a witness the day before, was given a headset to follow simultaneous Arabic interpretation, sitting next to his counsel Dr. Oehmichen.

Defense Counsel Böcker asked when the anonymous witness would testify in Court. Presiding Judge Kerber explained that the witness will testify at 11AM, after CCI Knappmann testified on his questioning of witnesses [REDACTED] and [REDACTED].

Testimony of Mr. Knappmann

Criminal Chief Inspector Christian Knappmann was informed about his rights and duties as a witness and denied being related to the defendant by blood or marriage.

Questioning by Judge Kerber

Presiding Judge Kerber recalled that two witnesses declined to testify in court. She said that Knappmann who lead the police questionings of these two witnesses was therefore summoned to testify about these questionings. She asked him to first tell the court about his questioning of [FR19]. Knappmann explained that FR19 was questioned by the BKA in Toulouse, France. FR19 told the French authorities that he was detained at Division 40 and Branch 251, and was a witness and victim of severe violence. The German Federal Prosecutor General's Office (GBA) therefore told the Federal Criminal Police Office (BKA) to hear the witness as part of the present case. Knappmann and his colleague then questioned the witness on [REDACTED] in Toulouse [the date was confirmed upon Judge Wiedner's request].

Defense Counsel Böcker intervened, asking for the relevant code in the case file since he had not yet opened the relevant transcript. Judger Kerber provided the reference number and added that Knappmann's description of this particular questioning would be short. Knappmann went on to explain that the witness was questioned on the premises of the French Police in Toulouse. The BKA officers explained to FR19 why he would be questioned as a witness and informed him about his rights and duties. FR19 then told Knappmann and his colleague that he does not want his testimony to become public and prefers to hide his identity. Knappmann told the Court that FR19 already testified with the French Police before that and there were no indications that he preferred to stay anonymous. Knappmann and his colleague therefore informed FR19 that his first questioning would already be part of the German case file which is also accessible to the Defense Team and the Accused. They also explained that in case of a trial, FR19 would have to testify in a public court. According to Knappmann, FR19 was very irritated and concerned by this information. He hid his face in his hands and thought about what he just heard. FR19 then said he was unaware that things have already developed so far. Knappmann told the Court that he and his colleague decided to give FR19 a break. During the break, they tried to explain to FR19 what his testimony would mean for the German proceedings and that he would have to repeat everything in court. Knappmann also informed the GBA about the recent developments and called Prosecutor Klinge during this break. FR19 resigned, saying it was all pointless and that he worried about the safety of his family members in Syria. Knappmann told FR19 that they could not take that fear away from him, but that they would not want him or his family to be in danger. Knappmann left it to FR19 to decide how he wanted to proceed. FR19 said that it would already be too late anyway. When Knappmann asked him whether he was sure that he wanted to continue, FR19 said no. Knappmann therefore called Klinge again and explained everything to FR19 once more. FR19 then confirmed that he did not want to testify with the BKA.

Questioning by Judge Wiedner

Judge Wiedner recalled that FR19 precisely articulated his concerns, according to the BKA's transcript: the case [against Anwar Raslan and Eyad Al-Gharib] caused a lot of attention, also with the Syrian Regime. If FR19's testimony would be read out in Court, he would fear that there would be spies in the public audience collecting information about FR19. He also mentioned something about defected members of the [Syrian] Intelligence Services. Knappmann recalled that FR19 told the BKA that members of the Intelligence Services would never defect. Instead, they would continue their work and collect statements against the Syrian Regime and FR19 would therefore be considered a terrorist.

Questioning by Judge Kerber

Judge Kerber asked Knappmann to tell the court about his questioning of [GER19]. Knappmann explained that GER19 was questioned in Berlin on [REDACTED]. He was made known to the BKA through ECCHR and he was accompanied by his counsel and legal representative Dr. Kroker. The BKA already knew what GER19 told the Belgian police and wanted to ask more precise questions. GER19 first provided extensive information about himself, saying that he was an activist who was detained by the [Syrian] Intelligence Services several times. At the very beginning [of the revolution] on March 15, 2011, he was arrested at a demonstration in Damascus and detained at Al-Khatib Branch and Kafar Souseh (Branch 285). He spent six days at Al-Khatib Branch and forty-one days at Kafar Souseh before he was released on the street. Knappmann told the Court that GER19 provided a lot of information about himself before the BKA presented him a photo array.

GER19 immediately identified Anwar Raslan in the second picture and mentioned the name Anwar Raslan. When asked about how he knew the name, GER19 explained that he was arrested by the General Intelligence Directorate on March 15, 2011 and Anwar Raslan was present at his interrogation. GER19 did not know this person back then, but when Anwar Raslan was arrested, his picture was shown on the internet and when GER19 saw it he was shocked and recognized the person. Knappmann explained that GER19 then described the course of his interrogation: he was interrogated by an interrogation officer on March [REDACTED] 2011, along with other employees of Branch 251 present as well. There were two guards, one on the left and one on the right of GER19. According to Knappmann, GER19 identified one of the guards as Mohammad Abdallah [see day 12, [TR4](#)]. Two more people were sitting on a sofa on the left of GER19. One of them was Anwar Raslan and the other one was unknown to GER19. The interrogation lasted thirty to forty minutes. GER19 had to look at pictures and videos of demonstrations and identify people. He was therefore not blindfolded. GER19 further told Knappmann that he was constantly beaten by the guards. The guard he identified as Mohammad Abdallah was in charge of the beatings and arbitrarily hit him at every answer and without any apparent reason. GER19 said he was beaten with a black stick with a five or six centimeter caliber. He was beaten on his back, head and face and subjected to *Falaqa*. When Knappmann asked GER19 whether orders to beat him were given, GER 19 said no and added that there were orders to pause the beating when he had to look at the screen [to identify people in pictures and videos]. Knappmann then asked Ger19 to describe the people in the interrogation room. GER19 mentioned the name Anwar Raslan and the name of one of the two guards. He also explained that the two people sitting on the sofa, Anwar Raslan and another man, were higher ranking because, the day before, when GER19 saw the interrogation officer, the guard did not salute. However, the guard did salute Anwar Raslan and the second person on the sofa. The people on the sofa were wearing suits, the interrogation officer a shirt, and the guards were wearing jeans.

Kerber asked if GER19 was able to identify the dialect of the people at the interrogation. Knappmann told the court that according to GER19, the interrogation officer came from the coastal region and was an Alawite. GER19 said that one would notice this different dialect easily.

However, he was not sure about Anwar Raslan. GER19 told Knappmann that Raslan spoke the Damascene dialect, but one could notice that he was not originally from Damascus. The second man on the sofa was from Sweida. GER19 assumed he was Ishmaelite but was not sure.

Questioning by Judge Wiedner

Wiedner wanted to know if GER19 remembered where he was interrogated. Knappmann affirmed, saying that GER19 described that he was interrogated in the basement of Branch 251. Knappmann added that GER19 mentioned the number 254 to identify the Branch but said that he was taken to Al-Khatib Branch. He was interrogated in a rather big room which was 20 to 25 square meters wide. To the left of the desk was a double-sofa.

Wiedner asked about the relationship between the two people on the sofa, if there was a supervisor-subordinate relationship. Knappmann said GER19 could not provide information on this matter. He was only able to tell that these two people were higher ranking than the interrogation officer, because the guards saluted them but not to the interrogation officer on the previous day, and due to their clothes. GER19 was unable to make assumptions about the relationship of the people on the sofa based on their conversations.

Wiedner recalled GER19 identifying Anwar Raslan and detailing his slang. Wiedner asked Knappmann whether Raslan was directly talking to GER19. Knappmann said when he asked GER19 about that, he explained that the interrogation officer was sitting opposite of him, behind a desk. The two people on the sofa made comments from time to time and insulted GER19, calling him a son of a bitch and a liar. One time someone from the sofa said "I'll show you how to answer properly" but GER19 was not able to identify who said that. Anwar Raslan directly addressed GER19 and asked him why he was unable to identify people in the videos although he was at the demonstration. GER19 further added that all people in the room were constantly present during the interrogation.

Wiedner referred to the BKA's transcript of GER19's questioning according to which GER19 said that the employees constantly spoke with each other and said comments like "liar" and "son of a bitch". "I'll teach you how to answer properly" was said from the sofa. The beating then got more intense. Knappmann confirmed.

Wiedner recalled that Knappmann already told the Court how Raslan directly addressed GER19 when he asked him how it could be possible that he was unable to identify people in the videos although he was present at the demonstration. Wiedner confirmed that it was also transcribed like that, asking Knappmann whether he remembered what GER19 told him about his reply. Knappmann said he was not sure if it was at this occasion or another time when GER19 told the interrogator that he did not participate in the demonstration and was only there by chance.

Wiedner confirmed that the transcript says the same. He went on to ask Knappmann what GER19 mentioned regarding his position and reason for arrest. Knappmann asked Wiedner to prompt him. Wiedner said the reason GER19 was arrested was related to his engagement during the beginning of the Arab Spring. Knappmann explained that GER19 was an activist involved in the preparation of demonstrations. GER19 told Knappmann that the reason for his activities was the Arab Spring in Egypt. This was when Syrian society started thinking about its own fate. Society changes and they were ready for a change. According to GER19, a hitch moved the entire society and people started organizing themselves on Facebook, gathering, and organizing demonstrations.

Wiedner concluded that GER19 was not a mere participant of the demonstrations but one of the organizers. Knappmann said this is what he remembered. GER19 was among the last six people at this demonstration and stayed until the end.

Wiedner wanted to know what GER19 told Knappmann about how he knew that he was detained at Al-Khatib Branch. Knappmann explained that GER19 was able to tell where he was detained for two reasons. First, during interrogations at Kafar Souseh Branch, he told the interrogators the same information that he told the interrogators at Al-Khatib Branch. GER19 therefore concluded that he was first detained at Al-Khatib Branch. Second, after his release he was told to pick up his ID card at Al-Khatib Branch. When he went there, he was indeed able to pick it up.

Wiedner recalled that when GER19 identified Anwar Raslan in a photo array he reacted [immediately] and mentioned the situation in the basement. Wiedner asked Knappmann what exactly GER19 said in this regard. Knappmann explained that GER19 was not blindfolded, however, he could not look around and was only allowed to look at the screen. Otherwise, he would have been beaten. When Knappmann asked GER19 how he was able to recognize Anwar Raslan, he said that he could take a look around, but was beaten. He further added that he was very good at memorizing peoples' faces and was therefore able to recognize Anwar Raslan in a picture.

Wiedner asked if GER19 saw Raslan again. Knappmann said no, GER19 saw a picture of Anwar Raslan when he was arrested in Germany.

Wiedner referred to the BKA's transcript of the questioning according to which GER19 detailed that he was not allowed to turn toward the sofa. However, he had a glimpse at the people there and since he has a good memory of faces, he could remember them. He did not see them again but when Raslan was arrested he saw his picture on the internet and immediately recognized him and was shocked. Knappmann confirmed.

Wiedner wanted to know what else GER19 said about Al-Khatib Branch. Knappmann explained to the Court that he asked GER19 to chronologically describe his arrest and detention: GER19 was arrested by security forces at a demonstration. He was then taken to a hotel where all six of them (two women and four men) were beaten and experienced other violence. They were then taken to Al-Khatib Branch by car. When they arrived, ten to fifteen members of the security forces mistreated them for five to ten minutes. They were beaten amongst others with a threaded bolt and a car's toothed belt. Knappmann added this would be the usual welcome party. GER19 said there were male detainees at Al-Khatib Branch, but he did not know about women. He and other detainees were taken downstairs to the basement where they had to stand in line, facing a wall. They were immediately taken to interrogation, one after the other. GER19 was the last one. While he was waiting, he could hear the screams of his fellow detainees. He was then taken to a room where he had to lie down and someone stepped on his face. He was asked questions and asked why he participated in the demonstration. GER19 said he was severely beaten and hit on his head at the beginning, so he went unconscious. When he woke up, he was in solitary cell No. 16. He was interrogated again on the same day. This time it was about his family and he was tortured with *Falaqa*. GER19 said he could not remember how many times he was beaten because at some point one could not feel anything anymore. He was bleeding and lost a molar.

Wiedner asked Knappmann about an incident with water that happened after the interrogation. Knappmann said GER19 was dowsed with cold water.

Wiedner wanted to know more about the interrogation officer. Knappmann said GER19 was always interrogated by the same person. It was also the same person when Anwar Raslan was present, as well as the interrogations after that. Knappmann detailed that the interrogation with Anwar Raslan was on the second day of GER19's detention. On the third day, he was told to sign blank sheets of paper. When he refused, he was taken to a torture room and tortured.

Knappmann said he could not remember exactly, but he thinks that the interrogation officer was not present in the torture room. There was only a guard.

Wiedner cited from the BKA's transcript according to which GER19 explained that he was not again interrogated by Anwar Raslan. GER19 had to sign blank papers with the letterhead of the General Intelligence Directorate on it. When he refused, he was taken to a torture room where he was subjected to *Falaqa* and beaten with hard items. He was wearing blindfolds. There was no interrogation officer, just a guard. Wiedner asked Knappmann what happened next. Knappmann explained that GER19 was called in for a conversation by the interrogation officer. GER19 was confronted with his alleged testimony. When he said that this was not the truth, he was beaten again.

Wiedner asked if GER19 had to give his fingerprint before this conversation. Knappmann confirmed.

Wiedner asked Knappmann what else he could remember from GER19's questioning. Knappmann said torture decreased from the third day onward while the number of detainees increased. GER19 assumed that there was simply not enough time to torture everyone as intensely as they did the first three days. GER19 further heard screams of other detainees, amongst them children and women. He recognized four people. GER19 wanted to be released, have cigarettes and eat good food. He asked to be transferred. On the fifth day, he was taken to the community cell and was not tortured. On the sixth day, four people were chained together and taken to Kafar Souseh Branch. According to GER19 Kafar Souseh was significantly worse. When asked about his physical condition [at Al-Khatib Branch], GER19 described that his back was hurting a lot, he had many enflamed wounds, a headache, and his feet were bleeding due to *Falaqa*. However, GER19 added that "this" was nothing compared to Kafar Souseh.

Wiedner asked if GER19 mentioned inflammation in his mouth. Knappmann affirmed.

Wiedner asked how GER19 got this inflammation, if it was related to his tooth. Knappmann affirmed, saying that GER19 told him that he lost his molar after the second interrogation and the wound got inflamed.

Wiedner asked about medical care. Knappmann said GER19 got pills twice: two on the fifth day and one on the sixth day.

Wiedner wanted to know about the medical care for other detainees. Knappmann explained that GER19 was in solitary confinement for the first five days but he could hear screams. When he was in the community cell, he could see signs of torture on other detainees, as well as open fractures. GER19 said one could see that people were tortured.

Wiedner recalled that GER19 witnessed black eyes, broken arms, swollen feet and other injuries, but considered this to be nothing in comparison to Kafar Souseh. Knappmann confirmed.

Wiedner wanted to know if GER19 saw dead people. Knappmann said when he asked GER19 about that, he said no.

Wiedner asked if GER19's relatives were given any information about him. Knappmann explained that nothing happened in this regard. Regarding dead people, he added that GER19 told him about an incident at Kafar Souseh: when GER19 was tortured in the hallway, he tried to defend himself by kicking. He accidentally kicked a person lying on the floor. One of the guards said this person would be left there to die.

Wiedner asked about the general situation of GER19's questioning by the BKA: how GER19 was able to communicate with the interpreter, what impression Knappmann had of GER19, how he behaved, whether he was hesitant or open. Knappmann said that as usual, they checked whether GER19 and the interpreter were able to communicate. Everything was fine in this regard.

Wiedner asked if the transcript was re-translated for GER19. Knappmann confirmed.

Wiedner asked if GER19 signed the transcript. Knappmann said it would be standard procedure that everything would be re-translated for the witnesses, and they then had to sign every page. Relevant edits would be made by hand and also signed by the witnesses.

Wiedner again wanted to talk about the situation in the basement involving Anwar Raslan on a sofa and guards saluting him. Knappmann explained that the guards who tortured GER19 were also the ones who picked him up at his cell. When they entered the room with the two men sitting on the sofa, they stomped on the floor and saluted. However, GER19 did not see them doing that when they met the interrogation officer on the previous day.

Questioning by the Prosecutors

Prosecutor Klinge asked Knappmann for his impression of GER19. He wanted to know if GER19 was calm and credible or if there was a certain eagerness to incriminate [Raslan]. Knappmann said GER19 was very motivated to provide information about his activities as an activist and personal information on his studies in [REDACTED], where he also wanted to obtain a PhD. He was enthusiastic and happy about the weather in Berlin. Overall, GER19 was high-spirited. His English was very good, such that Knappmann was able to chat with him during the breaks. GER19 was not stressed at all. He was not excited, but saw a purpose to testifying and wanted to help detect a crime.

Klinge asked if the recognition of Anwar Raslan by GER19 was credible. Knappmann said he had no doubt about it during the questioning. When asked about the recognition, GER19 was completely convinced that he recognized the face and seemed truly shocked. He stuck to this story throughout. He was not stressed but convinced and never made any additions [to his story]. Knappmann concluded that he saw no reason to doubt GER19's identification of Anwar Raslan.

Questioning by the Defense Counsels

Defense Counsel Böcker asked if GER19 provided concrete information as to where exactly he was beaten. Knappmann said GER19 did so in parts. At the first interrogation, GER19 was beaten in his face and elsewhere. GER19 was not able to recall every hit, but described the arbitrariness of the beating.

Böcker said he was referring to the interrogation with Anwar Raslan. Knappmann explained that the guard who GER19 identified as Mohammad hit him on his back with a black stick and used his bare hands to beat GER19 on his head and face. GER19 was unable to tell whether he was beaten with a flat hand or a fist. He was also tortured with *Falaqa* and beaten on his feet using a stick.

Böcker recalled that when GER19 spontaneously recognized a person based on a picture he had seen on the internet, Knappmann asked him to describe all people who were present at the interrogation, except for one person. Knappmann affirmed, saying he did not ask GER19 to describe the person he identified as Anwar Raslan.

Böcker wanted to know why. Knappmann said GER19 already saw his picture on the internet and Knappmann was interested in who else was present at this interrogation.



Böcker asked Knappmann for his reasons to not let GER19 describe Raslan. Knappmann said in preparation of his in-court testimony he again read the transcript of the questioning. There was no explicit decision to not let GER19 describe Raslan. However, whenever witnesses already saw someone on the internet, one would abstain from a description of this person because memories of own experiences and the picture on the internet would mix, and a description would therefore not be relevant.

Böcker said he needed two more minutes to ask his next question.

Defense Counsel Fratzky recalled GER19 mentioning the name of one of the guards and asked Knappmann if GER19 told him how he knew this name. Knappmann said GER19 did not tell him and he did not ask GER19 about it. Knappmann explained that from his and his colleagues' experience guards would usually be called "Abu names", which would not be their real names. There was not a single case where the "Abu name" was the actual name of one of the guards.

Knappmann was dismissed as a witness.

Administrative Matters

Presiding Judge Kerber said the Judges were thinking about reading parts of the transcript of the BKA's questioning of the witness who decided not to further testify [FR19]. However, this would not be done on this very day since Plaintiff Counsel Dr. Oehmiches said she wanted to read out a statement. Kerber wanted to know how long Dr. Oehmichen's statement would be in light of having a break before the next witness would testify at 11AM.

Defense Counsel Böcker wanted to know if Kerber was referring to FR19 [Böcker mentioned the full name] when talking about reading out parts of a transcript. Kerber confirmed, adding that she did not want to repeat the name in court.

Dr. Oehmichen requested a longer break since the plaintiff issue [P50's admission to join the trial as a plaintiff] was not yet decided.

Judge Kerber announced a thirty-minute-break.

[35-minute break]

[Plaintiff Counsels Reiger and Mohamed left]

The witness [P51] entered the court room wearing glasses and a fake beard in addition to his COVID-19 mask. He was accompanied by his counsel Mr. Obst and two BKA officers.

Presiding Judge Kerber explained that the witness was anonymized as Z203052_07_06 [P51]. She noted that he was able to communicate in German and told him he could consult the interpreters anytime or switch to Arabic. Kerber further noted that P51's counsel Obst submitted a statement regarding P51's security situation. The BKA confirmed to the judges that P51 has relatives living in government-controlled areas in Syria. P51's counsel Obst submitted a request for anonymization of his client. Kerber decided that P51 was not obliged to provide information relating to his identity in accordance with § 68 (3) s.1 StPO. She added that security concerns were already raised by several other witnesses and that P51 was further allowed to partially cover his face.

P51's Testimony

Judge Kerber asked P51 whether he could give some information about his age and profession. Before passing the question to P51, Kerber informed P51 about his rights and duties as a witness. P51 said he is a doctor and worked at a hospital. He denied being related to the defendant by blood or marriage.

Questioning by Judge Kerber

Judge Kerber said P51 was questioned twice by the BKA regarding Al-Khatib Branch in Damascus. She asked P51 to describe how this came about. P51 explained that a couple years ago, he was working at the Red Crescent Hospital close to Al-Khatib Branch, between thirty and fifty meters from the Branch.

Kerber asked if the buildings were neighboring buildings. P51 confirmed.

Kerber wanted to know more about the relation between the two institutions. P51 described how at the beginning of the revolution in 2011, demonstrations were mainly happening on Fridays. He and his colleagues were told to treat detainees at the Branch who were arrested during this first phase.

Kerber asked what P51 noticed and what the place looked like. P51 explained that usually someone [from the Branch] came and instructed one or two doctors to go to the Branch. P51 said [the doctors] had no choice but to follow [the order]. If they denied, they would have gotten into trouble. Depending on the situation, doctors and caretakers went [to the Branch]. P51 said he already described the building to the police.

Judge Kerber explained that the transcripts of both occasions when P51 was questioned by the police were on the case file. Nonetheless, P51 had to repeat all that [information] in court. P51 went on to explain that the main entrance of the Branch is at a crossroad opposite to the hospital. The Branch is called Al-Khatib due to the neighborhood where it is located. There were security guards one had to walk by. At the second or third building on the right-hand side, one had to hand over his mobile phone. Stairs led to the basement where the detainees were held. P51 added that he always had to go downstairs to the basement. Someone yelled that the doctors arrived, and a heavy gate was opened. P51 explained that there were several areas. He added that as far as he remembered, considering that it happened ten or eleven years ago, the cells were on the right side. On the left was a kitchen surrounded by a yard. This is where P51 had to go, depending on where the detainees were taken [left or right yard]. There were only a few injured detainees during the first phase. They were also beaten with items and hands in front of P51 and his colleagues. Then, one after the other was called and P51 and his colleagues were allowed to talk to them but not allowed to ask them questions. The detainees were not allowed to talk to P51 and his colleagues. P51 added that if someone had an injury that had to be stitched, he was allowed to do that or to apply bandages. There were four cases that required stationary treatment. Usually, P51 and his colleagues had to describe the cases on sheets of paper, for example detailing hematomas or whether a fracture needed to be x-rayed. P51 said the hospital did not have an orthopedic station, so patients who needed orthopedist treatment had to go somewhere else.

Kerber asked if these patients were actually taken somewhere else. P51 said he was not informed about that. It was not known to him.

Kerber wanted to know when P51 was at the Branch for the first time. P51 said he went there starting in April 2011, but he would be unable to provide an exact date.

Kerber concluded that the first visit was in April 2011. P51 confirmed.



Kerber recalled P51 mentioning that, at the beginning, the detainees “looked good”, asking him what he meant by that. P51 explained that it was normal that people were beaten and had fractures. The longer they had to stay in their cells, the worse they looked. They were just skin and bones.

Kerber asked P51 when he went to the Branch for the last time. P51 said he cannot answer.

Kerber asked about the year, adding that the indictment period was until September 2012 and asking P51 whether he was still working at the hospital at that time. P51 affirmed that he was working at the hospital in 2011 and 2012 and had to go to the Branch during this period.

Kerber recalled P51 “impressively” describing to the BKA how he was able to tell whether detainees had been at the Branch for a longer time, for example based on their clothes. P51 said one could not only tell from the clothes. 90-95% of the people were only wearing underwear. If they had been at the Branch for only a couple hours, the underwear was still white. Things looked differently after a couple of days, because it was too crowded, however, at the beginning the condition of the people was good. According to P51, people had a normal weight at the beginning of their detention, but they barely got food or water. He could not say for how long someone had been at the Branch, but he could tell whether they were new or not.

Kerber wanted to know how the prison looked, asking P51 what he noticed with his eyes and other senses. P51 said it was not bright, at least not on the right side where the cell area was. It was dark, although there were lamps. Nonetheless, the lamps were not shining very bright. It was bright on the left side, amongst others in the kitchen. However, that was only where the reception was and where people were sorted. P51 said the smell varied with the weather. It was horrible in summer and feces would be a fragrance compared to that.

Kerber asked what people mostly suffered from. On P51’s request she asked what diseases people usually had. [P51 quickly consulted his counsel] P51 explained that almost everyone had injuries from being beaten with items. New detainees were often bleeding and their hands were wetting from patterns of restraint. One could also see when people were beaten on the way to see P51 and his colleagues. Some had hematomas caused by their own bones.

Questioning by Judge Wiedner

Wiedner said since P51 is a doctor, he could give an expert opinion on the condition of the detainees at the Branch. He asked P51 to describe to a layperson how visible bones and bones still underneath the skin could cause different injuries. P51 said that hematomas were only caused [if there was no open fracture]. But detainees also had injured tissue, which P51 was able to stitch sometimes, but sometimes they were not. Injuries were not only caused by torture or beatings but also from sitting. If someone did not have fat, his bones would press against the skin.

Wiedner asked if P51 was talking about an open ulcer. P51 confirmed.²

Wiedner asked if P51 saw bone fractures. P51 confirmed.

Wiedner wanted to know if P51 also saw inflammation. P51 again confirmed, adding that they could not treat inflammation during later phases. They were allowed to conduct one examination but not to give medicine. Instead, they were told to write notes, but P51 did not know whether the instructions in the notes were realized.

² Note from the Trial Monitor: It was not entirely clear whether P51 was only talking about hematomas caused by bones, or about hematomas caused by bones and open ulcers.



Wiedner asked P51 whether he saw signs of medical treatment [being provided], like bandages. P51 said yes. Wiedner asked how many times. P51 said sometimes people had bandages, but most times they did not. P51 saw no apparent reason for why some people received treatment and others did not.

Wiedner summarized that P51 witnessed the condition of injuries and the severity of injuries, which were sometimes life-threatening. He asked P51 what would have happened if these people did not receive medical treatment. P51 said some people would have died.

Wiedner asked from what they would have died exactly. P51 explained that with open wounds and fever one could assume that, if left untreated, [their condition would] result in a massive inflammation causing a sepsis. One could not survive a sepsis without being hospitalized.

Wiedner asked if P51 ever saw people like that. P51 affirmed, saying he could not remember whether they were at the very last stage, but they were in a very bad condition.

Wiedner wanted to know if there were diseases that were left untreated like for example heart or kidney conditions that required urgent medical care. P51 confirmed that in particular elderly detainees between 70 and 80 years-old suffered from chronic diseases such as diabetes or hypertension. P51 added that he has a strong guess that these people never received medical treatment.

Wiedner asked if P51 guessed that or if he was able to find out through conversations. P51 said no, adding that they were not allowed to ask precise questions.

Wiedner wanted to know if they were not even allowed to ask medical questions. P51 said they were allowed to ask medical questions, for example if someone had diabetes or other chronic diseases. But they were not allowed to ask whether they received treatment.

Wiedner concluded that P51 was still allowed to ask detainees about diseases. P51 confirmed.

Wiedner recalled P51 mentioning elderly people and asked him about the age range of the detainees. [P51 consulted his counsel.] P51 said there were minors as well. He himself saw a boy who was 14 or 15-years-old. He was arrested together with his father at a demonstration. The boy had a big hematoma on his head, something P51 had never seen before. It was filled with 'liquid.' One had to do a CT or MRI but P51 could not tell whether it was done or not. He added that the age range included eighty-year-olds as well.

Wiedner wanted to know when the incident with the boy happened, whether it was at the beginning or toward the end. P51 [consulted his counsel and] said it was definitely in 2011. P51 said he could remember because during the first phase there were more doctors at the Branch.

Wiedner said he wanted to talk about the different phases in a minute but first wanted to know how old the age range of detainees reached. P51 said it was more than eighty years.

Wiedner asked if P51 treated female detainees as well. P51 said he did not treat women.

Wiedner asked who treated them. P51 said he did not treat them at the Branch but at the hospital.

Wiedner concluded that P51 did not treat female detainees at the Branch, asking him whether the women he treated at the hospital came from the Branch. P51 affirmed.

Wiedner said he now wanted to carefully determine the timeframe starting in 2011. He recalled P51 mentioning that a first phase started in 2011 and asked him what he meant by that and how it was different from later phases. P51 explained that during the first months, demonstrations mainly happened on Fridays after the prayer.

The opponents of the government were arrested by security forces. [P51 consulted the interpreter for the following sentence] The police scattered demonstrations. However, the police were not normal police.

Wiedner asked how P51 came into contact with [protestors] at Al-Khatib Branch. P51 said as he already mentioned, after a few weeks, special shifts for doctors and caretakers were developed. Everyone at the hospital knew that [employees of Al-Khatib Branch] would call, so they took a bag with medical items and were accompanied to the Branch.

Wiedner asked if the people from the Branch usually called the hospitals or came and picked the doctors up. P51 said they were usually picked up and a man called before that.

Wiedner wanted to know how many people went to the Branch. P51 said it varied, asking Wiedner if he was only referring to doctors or all medical personnel.

Wiedner asked about the doctors. P51 explained that sometimes there were several doctors who were accompanied by medical personnel.

Wiedner asked if the medical personnel were caretakers. P51 affirmed.

Wiedner wanted to know the average number of doctors and caretakers who went to the Branch. P51 said during the first couple months they were usually three or four doctors and three or four caretakers.

Wiedner asked if they were all male. P51 affirmed.

Wiedner wanted to know if there were female nurses who went the Branch. P51 said no, adding that [female nurses] were, however, often told to go.

Wiedner asked if P51 and his colleagues only went on Fridays during the first phase or how many times per week they usually went to the Branch. P51 said they did not only go on Fridays, but mainly on Fridays. However, they also went during the week.

Wiedner asked if they went two or three times during the week during the first phase. P51 explained that he was at the hospital every day, except for when he was on leave. He could not say how many times his colleagues went to the Branch.

Wiedner further recalled that P51 made a connection between the first phase at Al-Khatib and demonstrations. He asked P51 who he met at the Branch, how many people were tortured, how many people P51 saw, and what was the condition of people. P51 said [these factors] varied. Most of the time, the detainees were waiting in the yard. They sat on the floor while P51 and his colleagues were standing. The detainees were then called one after the other.

Wiedner asked how many people usually gathered there, asking P51 for a rough estimate (single-digit, double-digit or more than hundred). P51 said there were usually thirty to forty people, sometimes less, sometimes more. This was also the number of people who were treated by P51 and his colleagues. Some might not have been injured but there were usually thirty to forty people.

Wiedner wanted to know for how long P51 and his colleagues usually stayed at the Branch. P51 said they stayed until they were done, maybe two hours.

Wiedner asked if there were freshly injured people, or how P51 characterized the first phase. P51, affirmed, detailing that during the first phase they usually treated new detainees, however, P51 was not there every Friday.

Wiedner asked how many times P51 was there. P51 consulted his counsel who told the Court that P51 would not answer this question since it would lead to conclusions regarding his identity. P51 added that he was there more than once.

Wiedner wanted to know if P51 was there regularly. P51 said no, it depended on his shifts and holidays. However, he was there often.

Wiedner asked how long the first phase lasted. P51 consulted his counsel who asked for a short break.

Judge Kerber ordered a 60-minute lunch break.

[65-minute break]

[Some of the spectators left.]

Judge Wiedner first recalled that P51 defined the first phase as the time period when he treated new detainees. He asked P51 until when this phase lasted. P51's counsel wanted to say something, but P51 started to answer by saying that the first phase was when demonstrations happened every Friday and many people participated and were arrested. [The frequency of demonstrations] got less after a couple months but P51 could not provide a precise date.

Wiedner said he was not asking for a precise date but wanted to know if this occurred in 2011. P51 affirmed, saying that after four to six months, demonstrations were less frequent for different reasons.

Wiedner asked how P51's work changed as a consequence. [P51 quickly consulted his counsel.] Wiedner further wanted to know how the injuries of the detainees changed. P51 described that at first, four or five of his colleagues went to the Branch. After that, an employee from the Branch came when they needed a doctor and took whoever was at the emergency room. There were no or only a few new detainees and most had older injuries and things like that.

Wiedner recalled P51 telling the German police that there were two categories of patients: fresh ones and older ones. The newly arrived detainees were in a not so bad condition, their clothes still looked good. P51 confirmed, adding that there were only a few new arrests each Friday and many detainees had been at the Branch for three or four weeks.

Wiedner wanted to know how many people were usually there, where they were, and how many patients P51 and his colleagues usually treated during the second phase. P51 said they had to go downstairs where a heavy gate was opened. They then had to turn right to the cell area where another gate was opened. One or two people were injured, others had a cough, fever, or diarrhea.

Wiedner asked if P51 treated the people inside their cells. P51 said no, saying that they were treated in front of the [cell's] door. He did not dare to look inside the cells.

Wiedner wanted to know more about the general condition of the detainees. P51 said the longer one was detained, the worse his condition was. [Detainees] were only wearing underpants which had an awful color because they were covered in feces and urine. People were skin and bones and could not move properly.

Wiedner asked if P51 was allowed to take people to the hospital or if he recognized one of the detainees at the hospital. P51 said he could not remember; he only wrote reports.



They were not allowed to take anyone with them, simply because of the path they had to walk between the Branch and the hospital. People were only transferred by car.

Wiedner asked P51 if he could remember such a transfer to the hospital. [P51 consulted the interpreter and his counsel.] P51 said he could not remember how exactly the people looked because it was dark. He could therefore not say whether one of them was later taken to the hospital.

Wiedner explained that he was not particularly interested in detainees that P51 personally treated at the Branch. He was instead interested in transfers of detainees from the Branch to the hospital in general. P51 confirmed that such transfers definitely happened.

Wiedner asked P51 whether he saw dead people at the Branch. P51 said no.

Wiedner wanted to know if P51 noticed cases at the hospital where people who came from Al-Khatib Branch died. P51 recalled that he already told the German police about an incident when a car and a pick-up truck arrived at the hospital. They carried two or three corpses. It was at night and very dark. P51 was ordered to confirm the death of these people.

Wiedner asked if P51 did confirm their death. P51 affirmed.

Wiedner wanted to know how P51 was able to confirm the death of these people. P51 explained that he was unable to determine the exact cause of death. However, [detainees] were generally in bad condition and very thin. He could not exactly tell when they died. According to P51 the corpses smelled bad as all living detainees. However, the corpses smelled even worse.

Wiedner asked how P51 was able to attribute these corpses to Al-Khatib Branch. P51 described that one could say that the hospital he worked at belonged to this Branch. The people inside the cars also belonged to Al-Khatib Branch. They regularly came to the hospital, so P51 knew they belonged to the Branch. P51 added that he and his colleagues gave them "Abu names", explaining that this would be a common way to call people if you would not know their real names.

Wiedner concluded that P51 recognized employees of the Branch. P51 explained it was always the same ten to fifteen people from the Branch who came to the hospital to get the doctors and who also worked in the basement of the Branch. It was well-known that they came from Al-Khatib Branch, since it was opposite of the hospital and only people from the Branch came to the hospital. P51 added that the hospital and the Branch were located on the same block. Cars coming to the hospital were stopped and checked. [P51 used his hands to describe the location of the street and the hospital and Branch buildings on the table in front of him.] According to P51 there was a roadblock made of concrete and a check point at the main street. It did not belong to Al-Khatib Branch, but one had to pass it to get to the one-way street behind it. People coming from the opposite direction were allowed to go to the hospital. P51 added that most of the time there was an additional check point from Al-Khatib Branch as well.

Wiedner concluded that people coming from outside were consequently filtered. P51 confirmed.

Regarding the incident with the pick-up truck/van and the corpses, Wiedner asked P51 what he thinks the purpose of his work was: whether he had to issue a death certificate or take the corpses. P51 said he could not issue a certificate since he had no personal information about the deceased. He only had to confirm their death. P51 explained that every patient who was treated at the hospital had his own file. However, with detainees they just had to write any name. The guards then told them the age and they just wrote any date of birth. The files were therefore based on false data.



Wiedner asked if P51 had to write something when the corpses were shown to him. P51 said no, they only had to say that [detainees] were dead and then [the corpses were] transported somewhere else.

Wiedner wanted to know when this incident happened. [P51 consulted his counsel.] Wiedner said P51 already told the police. P51 said it was definitely before mid-2012.

Wiedner referred to the BKA's transcript according to which P51 said, when asked about the date of the van incident, that he could not tell exactly but sometime between spring 2011 and June 2012. P51 confirmed.

Wiedner wanted to know more about the state of the corpses, if they showed injuries and how their general condition was. P51 said he already described that they were in a bad, miserable state. They were extremely thin but he could not remember precise injuries.

Wiedner asked if they were dressed. P51 said they wore underpants and nothing else.

Wiedner confirmed that P51 told the police the same [information]: when he was asked about signs of torture, P51 affirmed and added that he could see bruises and that they were emaciated. P51 confirmed.

Wiedner recalled that the corpses did not stay with P51. He wanted to know what happened to them. P51 said he does not know but he was told that they were taken to Najha [Cemetery] مقبرة نجها.

Wiedner asked if apart from that, corpses from the Branch were stored at the hospital, for example in the mortuary. P51 explained that every hospital has a cooling room where corpses can be stored for a short time. According to Muslim tradition, people must be buried quickly. However, if someone dies at night the corpse is stored in the cooling room or a couple hours until the family arranged everything.

Wiedner asked if P51 was talking about 2011 or 2012. P51 said this was generally the case. In winter, one could not smell the corpses. However, at some point P51 and other neighbors of the hospital started to smell them. P51 explained that corpses were usually put in cooling drawers. The hospital's mortuary had four to six of such drawers. In the summer when it was very warm and there was not enough space, one could smell the corpses. According to P51, the pharmacy, laboratory, kitchen, and cafeteria for the hospital's employees were located in the basement. One could either take the lift downstairs or walk around the building, pass the loading ramp. If one took this way, he had to walk past the mortuary. P51 said it stank. Usually, the key to this room was kept at the hospital's reception. However, there was a time without a key. The families were then called immediately and told to take the corpse of their loved one because there was no space in the cooled mortuary.

Wiedner concluded that the cooling room was overcrowded and asked P51 why this was the case. P51 said he and his colleagues were told that the key to the cooling room was with Al-Khatib Branch. The hospital could no longer use the room. P51 added that he could not say if the room was overcrowded every day or how many corpses were stored there. It did not matter in the winter, but in the summer it often stank.

Wiedner further concluded that one could indeed smell that there were too many corpses and that during this time, the key was at Al-Khatib Branch. Wiedner asked P51 if there were other indicators that corpses were transferred from the Branch to the hospital.

Defense Counsel Böcker intervened saying P51 just said "we were told that the key was at the Branch". P51 asked what the question was.



Judge Wiedner said P51 made a connection between the key and Al-Khatib Branch because he was told that the key was at the Branch. Wiedner asked P51 if he noticed that on other occasions as well, or if someone told him about transports. P51 said neither. He was not told. But there were rumors, and no one asked questions because the hospital belonged to the Branch.

Wiedner asked P51 to explain what he meant by “belonged to”. P51 consulted the interpreter.

Defense Counsel Böcker intervened saying he was having an issue for a while now but did not want to offend P51. However, P51 just said the “the hospital belonged to the Branch.” One should therefore inform P51 that he is not obliged to make any further statements. It would not be because of his work but because of an organizational issue and hierarchies. Böcker said this would also be an important aspect for his closing statement.

Prosecutor Klinge said he does not see any necessity to inform P51 about [§ 55 StPO](#). P51 did not say that he was working at Al-Khatib Branch. In accordance with what the [Federal Court of Justice](#) found in June 2019, there would be no sufficient suspicion against P51.

Judge Kerber said she would also not see any necessity in this regard. P51 consulted the interpreter and his counsel asked for a short break.

[5-minute break]

P51’s counsel Obst explained that although his client has very good German skills, he could only express some details in his mother tongue. He just examined the organizational structure and competencies together with his client during the break. It would basically be the case that Al-Khatib Branch simply transferred patients to the hospital. Whenever a security officer from the Branch appeared at the hospital, everyone was at his service. Obst concluded that this is how P51’s descriptions should be understood.

Judge Kerber asked P51 if that was correct. P51 confirmed.

Wiedner recalled P51 explaining to the police during his questioning that, regarding the relationship between hospital and Branch, every intelligence branch had their own hospital where they would take their detainees. The security guards [coming from Al-Khatib Branch to the Red Crescent Hospital] were always the same. P51 told the court that in Syria there were many branches like Al-Khatib, for example the Palestine Branch. This branch would not take its detainees to P51’s hospital because it was not nearby. According to P51 it was always the same fifteen people from Al-Khatib Branch who came to the hospital.

Wiedner asked P51 to continue his description asking if he remembered particular cases of detainees from the Branch who were treated at the hospital, for example a female activist. P51 said regarding women, he did not treat them at Al-Khatib Branch but at the hospital. He once treated a young woman, around 20 years old. She was an activist.

Wiedner asked whether she came from Al-Khatib Branch. P51 confirmed.

Wiedner wanted to know from what injuries or disease she was suffering. P51 recalled that she most likely had acute kidney failure. She was hospitalized at the station for internal medicine.

Wiedner asked about a Christian activist and what else P51 was able to remember. P51 affirmed that there was a Christian.

P51 added he was told that the activist was taken to the hospital, but he could not remember exactly. He took videos and pictures of demonstrations. When he was taken to the hospital, he was dead.

Wiedner asked if the person was dead when he arrived or died at the hospital. P51 said he could not remember very well.

Wiedner wanted to know the estimated date when these two cases happened. P51 said the incident with the female activist definitely happened in 2011 and the other incident with the man also happened during the first months.

Wiedner asked P51 to estimate how many people he treated at Al-Khatib Branch from “the beginning” until September 2012. P51 asked if Wiedner was referring to the number of people P51 himself treated or the number of people for whom P51 was present during their treatment. Wiedner said he wanted to know how many detainees P51 treated and for how many was he present while they were treated. P51 said he could not provide a precise number. Wiedner asked if they were hundreds or rather thousands. P51 said they were at least hundreds but he could not say whether they were thousands.

Wiedner asked P51 about a laboratory. P51 said it was diagonally opposite of the hospital in Al-Khatib [neighborhood].

Judge Kerber asked how P51 knew that it was the Al-Khatib laboratory and if there was a sign. P51 said it was widely known that the laboratory was diagonally opposite of the hospital. It is the biggest [laboratory] in Syria.

Kerber concluded that the laboratory existed and that it was known. P51 confirmed.

Questioning by the Prosecutors

Regarding injured people who came to the hospital [from the Branch], Prosecutor Klinge asked P51 how this happened, if the patients were guarded and how they were treated. P51 asked if Klinge was referring to people P51 and his colleagues treated. Klinge affirmed. P51 described that they were taken by car because they could not walk. They were alone in a room and always accompanied by a guard. They were tied and their files were based on wrong information. P51 explained that although medical questions were permitted, one could not say that these people received proper medical treatment. It was normal that they were insulted by the people who guarded them.

Klinge wanted to know if there was a special station for these people. P51 denied, saying as far as he knew there was no special station.

Klinge recalled that there were constant insults from the guards who accompanied the patients. P51 asked whether Klinge meant that he was insulted. Klinge said he was talking about the patients. P51 said they were constantly insulted, even when they were tied [to their bed].

Klinge wanted to know what they were tied to. P51 said the detainees were tied to their bed by their hands or feet.

Klinge asked if everyone had his own bed. P51 affirmed.

Klinge recalled that P51 was unable to see the condition of the detainees in the basement of the Branch. He asked about the condition of the detainees at the hospital. P51 said the detainees who came to the hospital were not only those with injuries but also those with pneumonia or diarrhea. The longer they were detained, the worse their condition. They also had open wounds and bruises.

Klinge asked how long [detinees] usually stayed at the hospital. P51 said that it varied from patient to patient, depending.....

Klinge [interrupted and] told P51 to provide an estimate; if it was rather long or short. P51 said they were at different stations. He therefore could not tell.

Klinge asked if the patients were insulted and mistreated in front of P51. P51 said they were insulted, which was normal. He added that the guards were unable to speak in a normal tone.

Klinge wanted to know if there was mistreatment at the hospital. P51 said people were pushed. He added that when he came to the Branch, the guards yelled and opened the gate.

Klinge asked if there was a staff doctor at the Branch as well. P51 said there was someone but P51 could not say whether he was a military (police) or civilian employee. However, people would have noticed a difference: while P51 and his colleagues were always polite, this person was constantly yelling and insulting.

Klinge asked if this doctor mistreated people at the Branch. P51 said [the doctor] insulted people, slapped them in the face, “and things like that”.

Klinge wanted to know if the patterns of injuries were sufficient enough to allow for conclusions regarding torture methods. P51 said he was unfamiliar with torture methods, but there were injuries that could not be caused by hand. There were such massive bruises that could only be caused by an item. However, P51 could not say with which item they were caused.

Klinge concluded that people had welts. P51 consulted the interpreter and told the court that he would consider that a hematoma.

Klinge asked if people had bleeding and open [wounds on their] feet. P51 affirmed.

Klinge asked if they also had injuries on their wrists from being hanged. P51 affirmed that he saw such injuries with some detainees but he could not say if it was because they were hanged.

Klinge further wanted to know if people showed signs of fixation. P51 affirmed.

Regarding the different phases that P51 mentioned, Klinge concluded that the condition of the detainees got worse with the phases. P51 said he could not say it like that because he did not see people twice.

Klinge concluded that the overall condition [of detainees] got worse. [There was confusion with German-Arabic interpretation and] P51 said he did not understand every word. He told Klinge that he forgot the question and asked him to ask the question again. Klinge wanted to know if P51 noticed indicators of sexual violence. P51 said he could not say.

Klinge asked if there were female nurses for female detainees at Al-Khatib. P51 affirmed.

Klinge wanted to know about corpses at Al-Khatib Branch. P51 said, as he already told the court, he did not know exactly but he was told – and that would most likely be true – that those corpses were taken to Najha [Cemetery] مقبرة نجها .

Klinge asked P51 about the relationship between Al-Khatib Branch and Harasta Hospital. P51 said there was not only Harasta Hospital but also Tishreen Hospital. However, as the Court would probably know, the highway was blocked. The way to these hospitals was therefore dangerous because the government was not in control of certain areas and could therefore not pass parts of this way.

Klinge wanted to know if injured detainees from Al-Khatib Branch were taken to Harasta Hospital. P51 said he could not say anything about that. He would not know.



Klinge wanted to know if P51 knew who the head of interrogations at Al-Khatib was when P51 was in Syria. P51 said it was Anwar Raslan.

Klinge asked how he knew that. P51 said he could not provide an exact date [of when he learned this information] but later [after he had to go to the Branch]. When Raslan defected people were talking about his defection.

Klinge asked if he knew about Raslan before or after [Raslan's] defection. P51 said unfortunately he could not remember exactly but he assumed that the name was "known to us."

Klinge wanted to know if people said something about him [Raslan]. P51 asked what exactly Klinge was referring to. Klinge said he wanted to know if people said Raslan was nice or brutal. Defense Counsel Böcker intervened, saying Klinge should ask a more precise question: when and where people were talking. Klinge specified that he wanted to know if people spoke about Anwar Raslan as the head on interrogations and about his character when P51 was still in Syria. P51 said no, people did not talk about higher-ranking officers. However, their names were known.

Prosecutor Polz wanted to know if P51 and his colleagues were watched by people from the Branch when they were examining and treating patients at the Branch. P51 said of course they were never left on their own.

Polz asked if these people also interfered with medical care. P51 said he was [not allowed to provide treatment]. He was only allowed to say what a person needed e.g., bandages or medicine. But he was not allowed to directly provide anything.

Polz asked if P51 could decide what happened [in terms of treatment] or if the final decision was with an employee of the Branch. P51 said he could not provide information on that.

Questioning by the Defense Counsels

Defense Counsel Böcker said it would be important to him to chronologically connect the incident with the van and the corpses and the female activist. He asked P51 which event happened first. P51 said he could not say.

Böcker referred to the BKA's transcript according to which P51 was asked if he saw children and women at Al-Khatib Branch. P51 replied to the BKA that he saw a 13-year-old child and remembered that a woman was taken to the hospital from Al-Khatib Branch. She was a famous activist, but P51 said he could not remember her name. According to P51, she was at the intensive care unit, and it happened before November 2012.

Böcker asked P51 if the date that he gave the BKA or the one he just gave in court was more accurate.

P51's counsel Obst intervened, saying that his client told the BKA that it happened before November 2012 and today in court he said it happened in February or March 2012. The latter date was earlier than the first date he provided. The question was therefore redundant, according to P51's counsel.

Böcker asked if it happened before November 2012. P51's counsel said P51 already answered this question.

Böcker went on to ask if it was correct that, during the incident with the van and the corpses, P51 was only told to orally confirm death and he did not have to confirm death in writing. P51 confirmed.

Böcker asked if P51 examined the corpses. P51 affirmed, saying he briefly examined them. However, to issue a death certificate he would have needed ID cards, and he would never get that.

Böcker recalled that P51 examined the corpses. P51 again confirmed.

Böcker referred to the BKA's transcript of P51's questioning according to which P51 said that he was able to confirm the death of these people without examining them. Böcker asked P51 [if he examined the corpses or not]. [After briefly consulting his counsel,] P51 said that one could say that these people were dead simply because they looked so bad. He saw their condition before an examination and noticed that they did not move.

Böcker wanted to know how he had to imagine this situation: he asked where the van was and whether P51 had to look into the van or if the corpses were taken out of the van. P51 said no one could imagine such things without having experienced it themselves.

Böcker affirmed that this would of course be the case, nonetheless he wanted to have an image of the situation. He asked P51 what happened after P51 was called [by employees of the Branch who carried the corpses]. P51 said the van stopped at the main entrance [of the hospital]. There was one or two cars of the same kind and P51 was told to come and see if the people were dead.

Böcker asked if P51 had to go outside. P51 affirmed.

While Böcker asked for a short moment, P51 spoke to his counsel. Böcker said he had no further questions.

Questioning by Judge Wiedner

Judge Wiedner said he also had a question in this regard. He recalled that both times he was questioned by the BKA, P51 was asked how he confirmed the death of these people. P51 told the BKA that he did not feel a pulse and could not determine a heartbeat. The people already looked like they were dead and P51 explained to the BKA that he therefore would not have needed to examine them, but he did so nevertheless. P51 also told the BKA that he remembered a bad smell. In Court, P51 did not know what Wiedner meant.

Wiedner said he was talking about determinations of death [of the bodies] in the van, about which he was questioned by the BKA. He asked P51 if he could remember what he told the BKA about that. P51 recalled that he told the BKA that he could not feel a pulse and that the people looked like they were dead. They were not normal people with regular skin. In short: they looked really bad.

Questioning by a Plaintiff

Judge Kerber announced that P50 was admitted as a plaintiff to the trial and therefore allowed to question P51.

P50 said that it was often the case that a detainee was "out of reach" [fasal]. He asked P51 if he experienced cases where the person was "out of reach". P51 asked in what way one would be "out of reach".

P50's counsel told him to slowly repeat his question. Judge Kerber intervened, saying it was unclear what P50 meant by "out of reach". The court interpreters explained that P50 used the word "fasal" which they did not know. P50 started to repeat his question when Defense Counsel Böcker intervened, saying that P50 was speaking too loudly.

P50 said he would repeat his question slowly and quietly: it was often the case with Syrian detainees that some of them lost their minds and were no longer in control of the situation and acted strangely. One would call that "being out of reach" [fasal]. This was known regarding detainees and former detainees.



Defense Counsel Böcker intervened, saying he objected to the statement. Presiding Judge Kerber said there was no reason to object yet, since P50 was only providing clarification to his question. P50 continued his question, asking P51 whether he saw such cases with detainees or other psychological cases. P51 said he now understood the question: “fasal” meant crazy or insane and someone would lose their senses under stress. P51 said he did not see such cases. Regarding the psychological situation of detainees, he explained that he did not see a single happy detainee. They were all depressed because they did not know what would happen next.

Questioning by the Plaintiff Counsels

Plaintiff Counsel Dr. Oehmichen asked if one would need a forensic education to determine whether someone was dead. P51 said no, every doctor is permitted to do that.

Dr. Kroker asked P51 to narrow down the time frame in which the incident with the van happened. He wanted to know when between early 2011 and June 2012 it happened. Defense Counsel Böcker intervened, saying he objected to this question. According to Böcker, P51 already said he could not remember and confirmed the statements he made with the BKA saying that the incident with the woman was before the end of 2011, early 2012. Dr. Kroker said P51 confirmed the reference that Judge Wiedner made to the transcript of P51’s questioning. However, he wanted to know more precisely when exactly before November 2012 the incident happened.

Böcker said he objected to this question since it would be redundant considering that P51 also spoke about the event with the woman at the intensive care unit. According to Böcker, the question would also be incomplete.

Presiding Judge Kerber intervened, saying that since this was a trial according to German Criminal Procedure, one needed a precise question: P51 is asked to narrow down the incident with the van in relation to the beginning of an applicable time frame. Defense Counsel Böcker requested a decision regarding the admissibility of this question.

[10-minute break]

Presiding Judge Kerber apologized that she forgot to ask for statements from other parties on this matter. Since there were no statements, Judge Kerber read out the following decision:

[The following is a recreation of the above-mentioned decision based on what the Trial Monitor was able to hear in court.]

The question whether, regarding the event with the van, P51 is able to narrow down the estimated earliest possible date when this event happened is permitted. There are no restrictions to the question.

Dr. Kroker asked P51 whether he was able to narrow down when the incident with the van and the dead people occurred more precisely than spring 2011. P51’s counsel said he discussed the issue with his client during the break and P51 would not provide information on this matter. P51 confirmed that he would not provide information.

Plaintiff Counsel Scharmer said he had one more question regarding the situation with the van. He wanted to know if the incident happened before or after P51 was called to Al-Khatib Branch for the first time. Scharmer added that P51 previously said that he went to the Branch for the first time in April 2011.



P51 asked what time frame Scharmer was talking about. Scharmer said he wanted to know if the incident with the van and the corpses happened before or after P51 went to Al-Khatib Branch for the first time in April 2011. P51 said it was after that.

P51 was dismissed as a witness.

Plaintiff Counsel Bahns said he wanted to make a statement about the objection of the question. P51 previously told the Court that the incident [with the van and corpses] happened before June 2012 which was earlier than November 2012, the timeframe he mentioned to the police. P51's counsel said that June was earlier than November. The objection of the question was therefore incomprehensible to Bahns.

Plaintiff and Plaintiff Counsel Statements

Presiding Judge Kerber said P50 and Plaintiff Counsel Dr. Oehmichen prepared statements that they would now read in Court. Kerber said she would prefer if P50 would provide his statement first and asked Dr. Oehmichen whether this order would work for her. Dr. Oehmichen explained that P50 wanted to provide two statements. She therefore proposed to have P50 provide his first statement, followed by her statement, and then P50's second statement. Judge Kerber told P50 to come to the witness stand so he could sit next to the court interpreter to avoid confusion in interpretation.

P50 said he would try to speak slowly and quietly so the interpreter could follow, and everyone could hear him well.

[The following is a recreation of the statement provided by P50, based on what the Trial Monitor was able to hear in court.]

In Syria, arrest by the regime means two things: disappearance and torture. No one knows where the detainees are taken and the detainees themselves only know [where they are] in some rare cases. One only knows if he is summoned to appear at an intelligence branch and does not return from there. There are some further aspects:

- 1) *When my wife spoke to the person who arrested me, he denied everything. I saw this same person at Al-Khatib Branch [...] I asked others about it when I was in my cell. I spoke to others through the window in the cell door.*
- 2) *My entire family did not know where I was. They assumed I would be with the Air Force Intelligence. They only received information after 55 days, when I was at the civil court and able to contact them because someone gave me his mobile phone.*
- 3) *The regime arrests the people who appear [at a branch to ask for their relatives]. It is therefore very dangerous to ask questions. I was told a story which one can also read about on the internet: it is about a woman called [REDACTED]. The regime wanted to get her husband. He fled and drowned. She then wanted to get a passport because she was pregnant. She was accompanied by two of her husband's sisters. They were all arrested. The woman was detained for a long time and gave birth to twins while in detention. She was later released.*

Plaintiff Counsel Böcker intervened, saying he had to interrupt P50. Judge Kerber asked Böcker why he had to interrupt P50. Böcker said he was confused about what exactly was happening. If this was a questioning of a witness, then it would be repetitive in light of P50's previous testimony. If this was however a statement on certain evidence in accordance with § 257 StPO, then it might collide with § 258 StPO [The right to make final statements, however, the final statement must not include aspects that were already covered in previous statements by the plaintiff]. Judge Kerber said this would be a reasonable objection and asked Dr. Oehmichen whether she would know more about the length of her client's statement.



Kerber further noted that P50's statement included some repetitions, and his third point was mere hearsay. If he would only have another two or three sentences, she would let him finish the statements, otherwise further discussions would be needed. Dr. Oehmichen said she was sorry that her client was interrupted. This statement was actually planned to be read out after her own statement. However, it was rescheduled upon Kerber's request. Judge Kerber allowed P50 to continue.

The woman was released in exchange for FSA members.

- 4) *There was no male who made inquiries to the regime about detainees. This is only done by elderly women. Young women did not do it out of fear of being arrested. My mother for example asked about my father who disappeared seven years ago. No one did anything to a man's mother. Therefore, no man went to the Syrian regime to make inquiries.*
- 5) *The regime is using enforced disappearance as a method to finance its employees. High amounts of money are being paid to get some information about one's loved ones.*

[Plaintiff Counsels Dr. Kroker and Scharmer left.]

Plaintiff Counsel Dr. Oehmichen read out a statement about the Prosecutors' statement on a legal note requested by Plaintiff Counsels Bahns, Dr. Kroker, and Scharmer.

[Due to the length as well as speed of reading and amount of detail, the Trial Monitor was not able to adequately take notes and recreate the statement. The following is therefore a summary of the statement.]

Dr. Oehmichen stated that on behalf of her clients, she affirms to include enforced disappearances according to § 7 (1) no. 7 VStGB to the indictment. She said that in the context of a systematic and widespread attack against the civil population in Syria, people were subjected to enforced disappearances with the aim to remove them from the protection of the law. She went on to describe that both the Prosecutors and the Plaintiff Counsels agreed that there was a systematic and widespread attack against the civil population going on during the indictment period. They further agreed that people were arrested and deprived of their liberty by the Syrian state and its organizations. According to Dr. Oehmichen there were, however, disagreements regarding: (i) the immediacy of providing information as the objective element of the crime, (ii) the individual liability of the Accused, and (iii) the intention to remove people from the protection of the law as subjective element of the crime.

Dr. Oehmichen went on to elaborate on all three aspects, criticizing the Prosecutors' restrictive interpretation of the law and the divergencies between the VStGB and the Rome Statute, the Convention Against Enforced Disappearances, and *ius cogens*. She concluded that § 7 (1) no. 7 var. a VStGB and § 7 (1) no. 7 var. b VStGB are applicable in the present case.

Presiding Judge Kerber thanked Dr Oehmichen and asked if her client wanted to make another statement. Defense Counsel Böcker intervened, saying although he would be cognizant of the rights of plaintiffs, he would like to have clarification about whether P50 would make a statement on the current issue (a statement according to §257 StPO) or a general statement. Böcker said he would object to the latter. On Judge Kerber's request, Dr. Oehmichen detailed that there would be no direct connection between the intended statement and her statement or a witness testimony. She therefore had to admit that the defense was right and P50 did not intend to make a declaration according to § 257 StPO.



After briefly talking to her client, Dr. Oehmichen said P50 could make his statement as part of his final statement. Judge Kerber asked Böcker if the matter was urgent to him or if he could spare five minutes [to hear P50's statement]. Böcker replied that random statements would be made in this trial. He said he respected most of the witnesses, in particular P50, but he would still act as a Defense Counsel. Judge Kerber said since this was a trial based on German Criminal Procedure, she had no reason to oppose Böcker and P50 could still make his statement as part of his final statement.

Defense Counsel Böcker said the defense team had requests that needed to be submitted and read in court.

[The following is a recreation of the defense's requests, based on what the Trial Monitor was able to hear in court.]

Request to summon and hear [PW1] living in [REDACTED], Germany as a witness.

PW1 participated in opposition activities in 2011 and 2012 and in demonstrations in [REDACTED]. He is the brother-in-law of P32 and helped her. PW1 will be able to testify that the Accused did not use violence against P32 or against his sisters. He can further testify about P32's mental illness and whether it occurred shortly before her testimony in court or earlier. His questioning will disclose what happened to P32 and her family.

The decision dated [July 21, 2021](#) makes it necessary to hear PW1, since the decision holds Raslan responsible for almost everything that happened at Al-Khatib Branch. However, his authority to give orders and his organizational authority was very limited due to him being Sunni. Raslan tried to help detainees and defected. Division 40 and Hafez Makhoul as well as the Alawites were the ones with power at the Branch.

PW1 can clarify that the Accused did not use violence against P32 and her siblings and clearly distanced himself from this violence. These acts of torture can therefore not be attributed to Anwar Raslan who had no authority to give orders and no organizational authority. He did not aid this violence.

Request to summon and hear [PW2] living in [REDACTED] as a witness.

PW2 worked as a pilot and later as a journalist. He was arrested at a demonstration in 2011. The accused arranged for him to be released from his cell. PW2 can testify that the Accused never ordered, exercised, or approved violence. Rather, the Accused was interested in novels and opposed the continuing large-scale arrests. PW2 will be able to confirm this as the Accused told [the information] to PW2. PW2 met Anwar Raslan at the end of 2013 as part of Raslan's opposition activities. This was when PW2 and Raslan spoke about Raslan's activities during the indictment period.

The decision dated July 21, 2021 makes it necessary to hear PW2, since the decision holds Raslan responsible for almost everything that happened at Al-Khatib Branch. However, his authority to give orders and his organizational authority was very limited due to him being Sunni. Raslan tried to help detainees and defected. Division 40 and Hafez Makhoul as well as the Alawites were the ones with power at the Branch.

The hurdles for required reachability of witnesses living abroad have to be placed low for the purpose of this trial.



Since this trial deals with acts committed abroad and is internationally recognized, the Court's efforts in determining the truth must be higher regarding such witnesses. Other forms of summoning such as telephone calls or email are possible and have been applied in the past.

Request to summon and hear [PW3] living in [REDACTED] as a witness.

PW3 completed a degree in political science and worked as an officer at the General Intelligence Directorate. He joined the opposition and was detained 12 times. The Accused helped PW3 regarding his release and defection. PW3 knew the Accused's attitude and that he sympathized with the opposition and that he helped detainees. PW3 worked with Dr. Kamal Al-Labwani and met Riyad Saif in Istanbul.

The decision dated July 21, 2021 makes it necessary to hear PW3, since the decision holds Raslan responsible for almost everything that happened at Al-Khatib Branch. However, his authority to give orders and his organizational authority was very limited due to him being Sunni. Raslan tried to help detainees and defected. Division 40 and Hafez Makhoul as well as the Alawites were the ones with power at the Branch.

The hurdles for required reachability of witnesses living abroad have to be placed low for the purpose of this trial. Since this trial deals with acts committed abroad and is internationally recognized, the court's efforts in determining the truth must be higher regarding such witnesses. Other forms of summoning such as telephone calls or email are possible and have been applied in the past.

Defense Counsel Böcker said he had another statement to provide. He requested to visually inspect a screenshot from Google Maps in Court to show the way from Al-Khatib Branch to Darayya. According to Google Maps, one would need thirty minutes by car to go from Darayya to Al-Khatib Branch. However, it would only be ten minutes from Darayya to Kafar Souseh. P50 said the drive from his practice to Al-Khatib took ten minutes. However, it would be more likely that he was driven to Kafar Souseh.

Böcker said he objected to a reading of the transcript of FR19's questioning with the French Police. FR19 was not willing to be questioned by the BKA or in court due to an alleged security risk. This circumstance was also confirmed by CCI Knappmann. FR19 was questioned by the French Police before. The principle of immediacy would be violated [if the transcript was read] since the French interrogation officer could be summoned. Taking evidence by reading transcripts of questionings can be done as an additional measure. However, it could not be a replacement. This would be inadmissible.

Prosecutor Klinge and Plaintiff Counsels Oehmichen and Bahns reserved the right to provide statements on the defense's requests. Böcker said the defense would not provide a statement on Dr. Oehmichen's previous statement.

Dr. Oehmichen asked if her client could get an Arabic translation of the defense's request [to inspect the Google Maps screenshot]. Judge Kerber denied. Dr. Oehmichen said in this case, she would [officially] request it.

The proceedings were adjourned at 12:37PM.

The trial will resume on September 29, at 9:30AM in room 128 in the Regional Court's building.