



TRIAL OF ANWAR RASLAN

Higher Regional Court – Koblenz, Germany
Trial Monitoring Report 50
Hearing Dates: October 26 & 27, 2021

CAUTION: Some testimony includes descriptions of torture.

Summaries/Highlights:¹

Day 99 – October 26, 2021

During this short administrative session, the Prosecutors objected to three requests previously issued by the Defense Counsels to hear three additional witnesses. The Defense announced that they would submit further requests to take additional evidence.

Day 100 – October 27, 2021

The Defense submitted eight more requests to take evidence. Amongst others, they requested to hear additional insiders to testify about Raslan’s opposition-friendly attitude, how he wanted to defect since the beginning of the revolution, his limited powers at Al-Khatib Branch due to Hafez Makhlouf, and Division 40 allegedly taking over interrogations and the prison at the Branch. According to the Defense, additional expertise on the history and power structures of the Syrian Intelligence Services is needed.

The Judges did not make any decision about previous request to take evidence and explained that the schedule for the next trial days was still unclear.

Trial Day 99 – October 27, 2021

The proceedings began at 9:30AM with two spectators and three journalists in the audience. The prosecution was represented by Prosecutors Klinge and Polz. Plaintiff Counsels Bahns and Dr. Kroker were not present.

Administrative Matters

Presiding Judge Kerber explained that the Defense previously announced that it would submit further requests to take additional evidence, however, according to the Defense, the submissions were not yet complete. Kerber concluded that this trial day would therefore be relatively short. She announced that the session would start with statement by the Prosecutors regarding previous requests by the Defense to hear additional witnesses.

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

Statements regarding the Defense’s request to take evidence dated October 13, 2021 [[TR#49, day 97](#)].

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 Prosecutors object to summons and hear Mr. Al-Jarba [PW1 97], [PW2 97], [PW3 97] as witnesses.

Reasoning:

- I) According to the Defense's request, PW1_97 is supposed to testify that he and three of his relatives were accused of supporting Iraq to intervene in Kuwait and consequently arrested in 1996 and detained for two years. The request to hear PW1_97 as a witness must be rejected in this regard.

PW1_97 is further supposed to testify that his brother was detained at Branch 285 at the same time, and that his brother told him that Anwar Raslan was always friendly, treated him with respect, was never disrespectful towards PW1_97's brother and never used violence against him. PW1_97 is further supposed to testify that his brother told him that he and his relatives were only released due to Anwar Raslan's intervention. However, there is no evidence that the release was solely based on Raslan's intervention.

The Prosecutors further doubted the connectivity of the Defense's request regarding the question about how PW1_97's brother would know all that. In light of this, summons of PW1_97 is further not required because of the court's obligation or judicial enquiry since PW1_97 is living abroad.

It remains unclear how these events that happened between sixteen and eighteen years ago could be fruitful for the question of fact and guilt in this present trial. It is irrelevant what Anwar Raslan did between 1996 and 1998 and whether he was friendly towards detainees at that time. This trial is also not about Raslan's work at Branch 285 but at Branch 251.

Regarding the Defense's aim to have PW1_97 testify on Raslan's dissertation and work for the opposition: PW1_97's summons must be rejected as well.

On August 12, 2020, the Prosecutors already stated at the Federal Court of Justice that the Defendant's behavior after the charged acts is irrelevant. The behavior was furthermore already detailed in the course of taking evidence at this court, in the form of testimonies by [P54](#) and [Riyad Saif](#). Testimonies of additional witnesses in this regard would only provide limited new insights.

Neither the alleged content of the requested evidence, nor time and place thereof are sufficiently detailed in the defense's request. It is also unclear how exactly Raslan was involved with the opposition. The request provides no explanation on how Raslan's interventions affected Syria. For example, it remains unclear what happened to the black-and-white lists that Raslan allegedly drafted.

- II) The overall judicial enquiry does not require to hear PW2_97 as a witness, since he is residing in [REDACTED].

PW2_97 is supposed to testify that Raslan was pro-opposition, wanted to defect and discussed his escape with PW2_97. However, the request does not provide any concrete information on how PW2_97 knew about all that. It merely mentions nebulous conversations in the summer of 2012. The purpose of the requested evidence is not visible due to missing details. There is further no connection between the charges and Raslan's escape and his pro-opposition attitude.

Raslan is accused of having killed a high number of detainees for base motives and tortured an even higher number of detainees as part of a systematic and widespread attack against the Syrian population from April 29, 2011 until September 7, 2012. During this time, Raslan was in charge of the state-organization that was responsible for these crimes.



This is, however, not contrary to Raslan planning his escape. Jurisprudence from the Federal Court of Justice finds that the intent element is not discarded solely because the successful completion of a crime might not have been desired.

Regarding the allegation that PW2_97 could confirm Raslan's position of power, the Prosecutors further refer to their statement at the Federal Court of Justice, dated August 12, 2020. In addition, according to Anwar Raslan, PW2_97 was only aware that some detainees were referred to Raslan, but not how exactly these detainees were released or how much power Raslan had.

III) *The request to summons PW3_97 must be rejected. PW3_97 allegedly resides in [REDACTED] and would testify that he was detained at Al-Khatib for four days (although it is not clear when he was detained there) and that Raslan treated him well during this time and eventually released him. Further, PW3_97 would testify that [P31's](#) parents were allowed to bring food to the Branch and that P31 was allowed to eat his food in Raslan's office. In addition, PW3_97 is supposed to testify that Raslan asked government employees why they continued to arrest innocent people.*

The Defense's request lacks connectivity and therefore does not meet the threshold pursuant to § 244 (3) s.1 StPO.

The Defense's request is missing information about how PW3_97 knows this information, and in general only provides vague information. For example, it is not clear when PW3_97 was detained at Al-Khatib, or why and how he was arrested. It is further unclear how, when and where he was in contact with Anwar Raslan and how he knew about Raslan's efforts regarding his release.

According to all evidence taken so far, one must assume that detainees at Branch 251 were usually held in the underground prison at a building close to Baghdad Street in Damascus. Detainees were only taken to other buildings for interrogations. It remains unclear how PW3_97 could have witnessed P31's parents bringing food to the Branch and P31 eating this food at Raslan's office.

If one considers the Defense's request to be a request to take evidence, the predicted evidentiary value is so limited that summons of PW3_97 is not necessary. According to a decision by the Judges dated [October 13, 2021](#), Raslan was involved in the arrest and referral of detainees. PW3_97's testimony would merely provide information on individual support from Raslan to some detainees.

Presiding Judge Kerber handed out paper and digital copies [CDs] of the prosecutors' statements.

Defense Counsel Fratzky said the defense reserved its right to provide a response to the Prosecutors' statements.

Presiding Judge Kerber explained that the court decided on October 19, 2021 to refrain from hearing another female witness. Copies of the e-mail conversation between Judge Wiedner and a police officer regarding this witness, and the German translation of a screenshot provided by [P54](#) were sent to the parties to the case.

Defense Counsel Böcker asked to talk to his clients for 30-60 minutes after the session to clarify aspects of future requests to take additional evidence that the Defense intends to submit the following day. Böcker added that the Defense already finalized some requests, however, it decided to submit all requests at once on the following day, after they spoke to their client. Judge Kerber consulted the court guards and confirmed that the Defense could talk to their client for thirty minutes after the session.



The proceedings were adjourned at 9:54AM.

Trial Day 100 – October 27, 2021

The proceedings began at 9:35AM with two spectators and two journalists in the audience. The Prosecution was represented by Prosecutors Klinge and Polz. Plaintiff Counsels Dr. Kroker and Dr. Oehmichen were not present. Plaintiff Counsel Bahns joined five minutes late.

Administrative Matters

After opening the session, Presiding Judge Kerber announced that the Defense Counsels would now read out the requests to take additional evidence, as the Defense announced they would the previous day.

Defense Counsels Fratzky and Böcker explained that they already provided the signed copies of the following requests to the court interpreters to ease simultaneous interpretation. Defense Counsels Fratzky and Böcker took turns reading out the following requests.

[The following are recreations of the Defense's requests, based on what the Trial Monitor was able to hear in court.]

Request to summons [PW1_100], living in [REDACTED]

- I) *PW1_100 held the rank of a [REDACTED] in Syria and attended three training courses with Anwar Raslan. He helped Raslan escape and defect, together with [REDACTED] and P54. PW1_100 knows from conversations he had with Raslan about Raslan's pro-revolution attitude. From these conversations, as well as from his own close connections to government circles, PW1_100 also knows that as early as one or two months after the start of the revolution, Raslan opposed the government and wanted to defect. However, Raslan was unable to safely leave the country with his family at that time and therefore he had to delay his escape. PW1_100 can further testify that Raslan did not want to go along with the government's handling of the revolution and had his bags packed by the start of the revolution. PW1_100 obtained this knowledge from conversations he had with Raslan in November 2012 regarding Raslan's escape. PW1_100 and Raslan were both part of a committee on travel restrictions for retired officers over the age of 66 years. After a session of the committee at the Ministry of Interior, PW1_100 and Raslan went to PW1_100's office and spoke about Raslan's escape and the bad conditions at Branch 251. PW1_100 had the same opinion as Raslan. During this conversation, Raslan also told PW1_100 that he would contact people in Jordan regarding his escape. PW1_100 defected one or two days before Raslan and went to Jordan, where the two of them met again. PW1_100 is a Sunni like Raslan and is familiar with the problems that come with that. PW1_100 also knows about the problem that Hafez Makhoulf detained people at Branch 251 and oversaw their torture at this Branch. PW1_100 can testify how on one instance, when Raslan heard screams from the basement prison, he called there and was told that Mohammad Abdallah and others were in charge of torturing detainees.*
- II) *The decision dated July 21, 2021 makes it necessary to hear PW1_100, since the decision holds Raslan responsible for almost everything that happened at Al-Khatib Branch. The decision further lacks legal elaborations on the topic of aiding and abetting. However, Raslan's authority to give orders and his organizational authority at Branch 251 was very limited due to him being Sunni. Raslan tried to help detainees and eventually defected.*



Division 40 and Hafez Makhlouf, as well as Alawites in general, were the ones in power at the Branch. Raslan's attitude allows for conclusions on his behavior during his time at Branch 251. [Defense Counsel Fratzky added that the following paragraph would also be a reply to the Prosecutors' statement from the previous day.]

- III) *Pursuant to § 244 StPO, a request to take evidence first requires one to (1) precisely describe an allegation or fact, (2) to name the evidence that is proposed to prove this allegation or fact, and (3) show connectivity between the alleged fact and the evidence proposed to prove the fact. Regarding requests to summons and hear witnesses, it is consequently required to detail in the request why the witness is supposed to testify about certain things. However, this is not required if the connectivity requirement becomes apparent from the overall context.*

On the issue of how and why a witness obtained knowledge of certain things, the Prosecutors stated that 'nebulous conversation without providing a time when these conversations allegedly took place' are insufficient for a request to summon and hear a witness. The Defense points out that the requirements for requests to take additional evidence must be set lower for witnesses from abroad. It must therefore be sufficient to state that someone had a conversation with someone else without specifying the time or providing a broad time frame. It must further be sufficient to draw a person's knowledge of certain facts from the person's rank or position within the government. The present trial is a trial of international nature, dealing with acts committed abroad, and is of international interest. In light of this and the fact that many of the charged crimes took place ten years ago, it is hard for the Defense to conduct its own investigations. The Defense does not have the capacities like the BKA or intelligence services with their specialized personnel. If one is to say that conducting a trial under universal jurisdiction is "prosecution without borders", the limitations to requests to take evidence must be set lower than in usual trials. It would otherwise violate the constitutional provision of the German state under the rule of law. The investigation of the truth must not fail due to lacking connectivity in requests to take evidence. The defense can only provide rather broad descriptions of a requested witness' testimony, however, restrictions in this regard would unproportionally restrict the work and rights of the Defense.

Defense Counsel Fratzky stressed that paragraph III would be the Defense's reply to the Prosecutors' statement from the previous day. Fratzky added that the Defense also objects to the Prosecutors' statements regarding PW2_97/PW2_100 and insists to summon and hear him as a witness.

Request to summons [PW2_97/PW2_100] (phone number provided by P54)

- I) *PW2_97/PW2_100 was a major and also known as Abu Mahmoud in [REDACTED]. He acted as an intermediary between his town [REDACTED] and Branch 251. One week after the start of the revolution, PW2_97/PW2_100 was at Raslan's office at the Branch. PW2_97/PW2_100 is able to testify that Raslan released 30 to 40 detainees every week but had to consult Tawfiq Younes, who was the head of the Branch, for every release. Raslan always told Younes that the detainees would be unarmed, innocent civilians. PW2_97/PW2_100 and Raslan spoke about government attacks on their respective hometowns. Between April 2011 and summer 2011, PW2_97/PW2_100 went to Raslan every week to pick up 30 to 40 detainees. After that, it was no longer possible for PW2_97/PW2_100 to continue this practice since [REDACTED] took over all of Raslan's tasks at the Branch. There was only one single exception: when someone named Youssef was released after two or three hours in detention after PW2_97/PW2_100 contacted Raslan regarding Youssef's detention. Youssef was an opposition activist and participated in every demonstration. Raslan further told PW2_97/PW2_100 at an early stage that he wanted to defect.*



Raslan's positive attitude towards the opposition is also known to PW2_97/PW2_100 due to the many conversations the two of them had. They also spoke about how very sad they were over government attacks on their respective hometowns.

- II) *The decision dated July 21, 2021 makes it necessary to hear PW2_97/PW1_100, since the decision holds Raslan responsible for almost everything that happened at Al-Khatib Branch. The decision further lacks legal elaborations on the topic of aiding and abetting. However, Raslan's authority to give orders and his organizational authority at Branch 251 was very limited due to him being Sunni. Raslan tried to help detainees and eventually defected. Division 40 and Hafez Makhlouf as well as Alawites in general were the ones in power at the Branch. Raslan's efforts to defect and escape have direct implications on the charged acts and his attitude allows for conclusions on his behavior during his time at Branch 251.*
- III) 1) *The requirements on reachability of witnesses living abroad pursuant to § 244 (5) s.2 StPO must be placed lower for the purpose of this trial. This trial deals with acts committed abroad and is of international interest. Witnesses living abroad were and are daily business in this trial. The Court's efforts in determining the truth pursuant to § 244 (2) StPO must be higher regarding such witnesses. Other forms of summoning witnesses, such as making telephone calls or contacting them via email, are possible and have been applied in the past.*
- 2) *Pursuant to § 244 StPO, a request to take evidence first requires one to precisely describe an allegation or fact, to name the evidence that is proposed to prove this allegation or fact, and to show connectivity between the alleged fact and the evidence proposed to prove the fact. Regarding requests to summons and hear witnesses, it is consequently required to detail in the request why the witness is supposed to testify certain things. However, this is not required if the connectivity becomes apparent from the overall context.*
- 3) *On the issue of how and why a witness obtained knowledge of certain things, the Prosecutors stated that 'nebulous conversation without providing a time when these conversations allegedly took place' are insufficient for a request to summons and hear a witness. The Defense points out that the requirements for requests to take additional evidence must be set lower for witnesses from abroad. It must therefore be sufficient to state that some had a conversation with someone without specifying the time or providing a broad time frame. It must further be sufficient to draw a person's knowledge of certain facts from the person's rank or position within the government. The present trial is a trial of international nature, dealing with acts committed abroad, and is of international interest. In light of this and the fact that many of the charged crimes took place ten years ago, it is hard for the Defense to conduct its own investigations. The Defense does not have the capacities like the BKA or intelligence services with their specialized personnel. If one is to say that conducting a trial under universal jurisdiction is "prosecution without borders", the limitations of requests to take evidence must be lower than in usual trials. It would otherwise violate the constitutional provision of the German state under the rule of law. The investigation of the truth must not fail due to lacking connectivity in requests to take evidence. The defense can only provide rather broad descriptions of a requested witness' testimony, however, restrictions in this regard would unproportionally restrict the work and rights of the Defense.*

[Judge Kerber reminded Defense Counsel Fratzky to read slower so that the court translators could follow. The court translators swapped after these two requests and took turns in the further course.]

Request to summons Dr. Kamal Al-Labwani [PW3 100], living in [REDACTED], as a witness and expert

Dr. Al-Labwani, who is requested to be summoned and heard as a witness and expert, indicated his willingness to testify in court in Koblenz to Raslan's family.



- I) *Dr. Al-Labwani is a [REDACTED] citizen. He worked as a doctor in Syria and is one of the leading members of the Syrian opposition. Dr. Al-Labwani met with Anwar Raslan in Jordan after the latter defected. PW3_93 and Raslan both worked for the opposition and amongst others participated in talks in Geneva. Dr. Al-Labwani can testify that in 2011 Anwar Raslan was responsible for the release of PW3_93 who was detained between one and ten days. Both later worked for Dr. Al-Labwani as part of the opposition. The three of them therefore had several conversations. Dr. Al-Labwani can further testify that Hafez Makhoulf was the ‘instance of power’ at Branch 251, which was amongst others due to his family relations to the President Bashar Al-Assad. Dr. Al-Labwani knows this from his work with the opposition. Dr. Al-Labwani further has his own [YouTube Channel](#) where he is posting videos on the history of Syria and the revolution on a daily basis. He is therefore a suitable expert on Syria and the Syrian revolution.*
- II) *The decision dated July 21, 2021 makes it necessary to hear Dr. Al-Labwani, since the decision holds Raslan responsible for almost everything that happened at Al-Khatib Branch. The decision further lacks legal elaborations on the topic of aiding and abetting. However, Raslan’s authority to give orders and his organizational authority at Branch 251 was very limited due to him being Sunni. Raslan tried to help detainees and eventually defected. Division 40 and Hafez Makhoulf as well as Alawites in general were the ones in power at the Branch. Raslan’s efforts to defect and escape have direct implications on the charged acts and his attitude allows for conclusions on his behavior during his time at Branch 251. In determining whether one went along with what happened at the Branch, it makes a difference if this person helped one or many detainees.*
- III) *1) The requirements on reachability of witnesses living abroad pursuant to § 244 (5) s.2 StPO must be placed lower for the purpose of this trial. This trial deals with acts committed abroad and is of international interest. Witnesses living abroad were and are daily business in this trial. The Court’s efforts in determining the truth pursuant to § 244 (2) StPO must be higher regarding such witnesses. Other forms of summoning witnesses, such as making telephone calls or contacting them via email are possible and have been applied in the past.*
- 2) Pursuant to § 244 StPO, a request to take evidence first requires one to precisely describe an allegation or fact, to name the evidence that is proposed to prove this allegation or fact, and to show connectivity between the alleged fact and the evidence proposed to prove the fact. Regarding requests to summons and hear witnesses, it is consequently required to detail in the request why the witness is supposed to testify certain things. However, this is not required if the connectivity becomes apparent from the overall context.*
- 3) On the issue of how and why a witness obtained knowledge of certain things, the Prosecutors stated that ‘nebulous conversation without providing a time when these conversations allegedly took place’ are insufficient for a request to summons and hear a witness. The Defense points out that the requirements for requests to take additional evidence must be set lower for witnesses from abroad. It must therefore be sufficient to state that someone had a conversation with someone else, without specifying the time or providing a broad time frame. It must further be sufficient to draw a person’s knowledge of certain facts from the person’s rank or position within the government. The present trial is a trial of international nature, dealing with acts committed abroad, and is of international interest. In light of this and the fact that many of the charged crimes took place ten years ago, it is hard for the Defense to conduct its own investigations. The Defense does not have the capacities like the BKA or intelligence services with their specialized personnel. If one is to say that conducting a trial under universal jurisdiction is “prosecution without borders”, the limitations of requests to take evidence must be lower than in usual trials. It would otherwise violate the constitutional provision of the German state under the rule of law. The investigation of the truth must not fail due to lacking connectivity in requests to take evidence.*



The defense can only provide rather broad descriptions of a requested witness' testimony, however, restrictions in this regard would unproportionally restrict the work and rights of the Defense.

Defense Counsel Böcker noted that § 184 of the German Court Constitution Act (GVG) would be the core of the Defense's reasonings.

Request to summons a witness, following the decision to not summon female witness Z121020528

- I) *Z121020528 was initially supposed to be summoned for October 26, 2021. However, after a phone call between Presiding Judge Kerber and CCI Frey, Kerber decided to refrain from summoning Z121020528. While the Defense does not know about the precise content of this phone call, Presiding Judge Kerber added a handwritten note to the file in which she explained that the witness's in-court testimony would require measures by the BKA and its partners. However, these measures could only be granted in calendar week 45 since the BKA does not have the respective capacities before that. Z121020528 is, however, still relevant to this trial. This is not waived by the fact that the BKA currently has no time to accompany the witness and can only do so in week 45.*

Request to summons [PW4_100], living in [REDACTED], as a witness

- I) *PW4_100 worked as an interrogation officer at Branch 251 with Anwar Raslan for two years until the start of the revolution. PW4_100 will be able to testify that not a single detainee died at the Branch before the revolution. He can further testify that members of Division 40 conducted interrogations at Branch 251 and tortured detainees before the revolution and did increasingly so after the start of the revolution. PW4_100 can further say that due to orders at Branch 251, Anwar Raslan was not allowed to intervene in March 2011, however, he helped detainees by releasing them as part of his daily transcript work. Division 40 was in power of Branch 251 and the relevant prison. PW4_100 can testify that members of Division 40 created interrogation reports and used employees of Branch 251 for their purposes, such as to identify persons they considered traitors. As early as May 2011, Raslan was deprived of all his powers. PW4_100 is able to confirm this because he was transferred to [REDACTED] in May 2011.*
- II) *PW4_100's testimony will further support Anwar Raslan's statements made in this trial.*
- III) *The requirements of reachability of witnesses living abroad pursuant to § 244 (5) s.2 StPO must be placed lower for the purpose of this trial. This trial deals with acts committed abroad and is of international interest. Witnesses living abroad were and are daily business in this trial. The Court's efforts in determining the truth pursuant to § 244 (2) StPO must be higher regarding such witnesses. Other forms of summoning witnesses, such as making telephone calls or contacting them via email are possible and have been applied in the past. PW4_100 indicated that he is willing to testify via video link.*

Presiding Judge Kerber asked the defense how many more requests they would read out. Defense Counsel Böcker said they had three more requests.

Request to summons [PW5_100], living in [REDACTED], as a witness

- I) *PW5_100 will testify that Anwar Raslan was transferred from Branch 285 to the Espionage Branch, Branch 300, at the end of 2006. Raslan could therefore not have been present at Branch 251 in 2007, as one of the previous witnesses stated. PW5_100 himself was transferred from Branch 300 to Branch 251 in 2007. Anwar Raslan took over PW5_100's task at Branch 300. PW5_100 was the head of the Interrogation Division at Branch 251 until 2008 when he was succeeded by Anwar Raslan.*



PW5_100 was then transferred to Branch 285 and the police before he eventually defected. PW5_100 can say that he was unable to act within his Division at Branch 251 due to a conflict he had with Lieutenant Colonel Mohammad Abdallah about [...].

- II) The decision dated July 21, 2021 makes it necessary to hear PW5_100, since the decision holds Raslan responsible for almost everything that happened at Al-Khatib Branch. The decision further lacks legal elaboration on the topic of aiding and abetting. However, Raslan's authority to give orders and his organizational authority at Branch 251 was very limited due to him being Sunni. Raslan tried to help detainees and eventually defected. Division 40 and Hafez Makhlouf as well as Alawites in general were the ones in power at the Branch. Raslan's efforts to defect and escape have direct implications on the charged acts and his attitude allows for conclusions on his behavior during his time at Branch 251.

PW5_100 is further relevant in light of [P35's](#) testimony. Raslan was not the head of the Interrogation Division at Branch 251 in 2007. P35's testimony is therefore incorrect with regard to Raslan's activities in 2007.

- III) The requirements on reachability of witnesses living abroad pursuant to § 244 (5) s.2 StPO must be placed lower for the purpose of this trial. This trial deals with acts committed abroad and is of international interest. Witnesses living abroad were and are daily business in this trial. The Court's efforts in determining the truth pursuant to § 244 (2) StPO 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 summons Manaf Tlass [PW6 100], living in [REDACTED], as a witness (number provided by P54)

- I) Tlass is a former Syrian Brigadier General, now living in [REDACTED]. He escaped Syria in July 2012 with the help of the [REDACTED] intelligence service. His father served as [REDACTED] for over thirty years. [The Defense cited from an interview that Tlass gave to the [BBC: @14:08 – 14:45](#), the translation was provided by the Defense team's translator]. PW6_100 will testify that Hafez Makhlouf was the head of Division 40 and gave orders and tortured detainees at Branch 251. Makhlouf's power was so great that he was able to act without the knowledge of the president and no one could disobey his orders without being detained or even killed, even if one had a higher rank than Makhlouf.

- II) The decision dated July 21, 2021 makes it necessary to hear Manaf Tlass since the decision holds Raslan responsible for almost everything that happened at Al-Khatib Branch. The decision further lacks legal elaborations on the topic of aiding and abetting. However, Raslan's authority to give orders and his organizational authority at Branch 251 was very limited due to him being Sunni. Raslan tried to help detainees and eventually defected. Division 40 and Hafez Makhlouf as well as Alawites in general were the ones in power at the Branch. Raslan's efforts to defect and escape have direct implications on the charged acts and his attitude allows for conclusions on his behavior during his time at Branch 251.

Tlass' testimony is also relevant in light of what P54 said about Manaf Tlass: that he was leading the Republican Guard but changed his attitude when the revolution started; that he disapproved of the military reaction to the revolution, but Bashar Al-Assad did not listen to his suggestions; that Manaf Tlass and Hafez Makhlouf had an argument about a more rational solution for the revolution, and that no one could simply disobey Makhlouf's orders. In light of these statements by P54 about Tlass, one can conclude that Anwar Raslan, who was not as high-ranking as Manaf Tlass, would have been killed in case of disobedience. Manaf Tlass' testimony will also confirm that Hafez Makhlouf was the source of power at Branch 251 and that even a high-ranking, long-serving officer like Tlass could only defect and flee.



A lower-ranking officer without relevant connections would have risked detention or even death in case of disobedience. Anwar Raslan's help for detainees must be evaluated in light of this and acknowledged accordingly.

- III) 1) *The requirements on reachability of witnesses living abroad pursuant to § 244 (5) s.2 StPO must be placed lower for the purpose of this trial. This trial deals with acts committed abroad and is of international interest. Witnesses living abroad were and are daily business in this trial. The Court's efforts in determining the truth pursuant to § 244 (2) StPO must be higher regarding such witnesses. Other forms of summoning witnesses, such as making telephone calls or contacting them via email are possible and have been applied in the past.*
- 2) *Pursuant to § 244 StPO, a request to take evidence first requires one to precisely describe an allegation or fact, to name the evidence that is proposed to prove this allegation or fact, and to show connectivity between the alleged fact and the evidence proposed to prove the fact. Regarding requests to summons and hear witnesses, it is consequently required to detail in the request why the witness is supposed to testify certain things. However, this is not required if connectivity becomes apparent from the overall context.*
- 3) *On the issue of how and why a witness obtained knowledge of certain things, the Prosecutors stated that 'nebulous conversation without providing a time when these conversations allegedly took place' are insufficient for a request to summons and hear a witness. The Defense points out that the requirements for requests to take additional evidence must be set lower for witnesses from abroad. It must therefore be sufficient to state that someone had a conversation with someone else, without specifying the time or providing a broad time frame. It must further be sufficient to draw a person's knowledge of certain facts from the person's rank or position within the government. The present trial is a trial of international nature, dealing with acts committed abroad, and is of international interest. In light of this and the fact that many of the charged crimes took place ten years ago, it is hard for the Defense to conduct its own investigations. The Defense does not have the capacities like the BKA or intelligence services with their specialized personnel. If one is to say that conducting a trial under universal jurisdiction is "prosecution without borders", the limitations of requests to take evidence must be lower than in usual trials. It would otherwise violate the constitutional provision of the German state under the rule of law. The investigation of the truth must not fail due to a lack of connectivity in requests to take evidence. The defense can only provide broad descriptions of a requested witness's testimony, however, restrictions in this regard would disproportionately restrict the work and rights of the Defense.*

Request to summons Gerhard Conrad as an expert

Request to summons an expert on Islamic Studies with a focus on Syria, to testify about the power structures in Syria, particularly regarding to Branch 251, Hafez Makhlouf, and Division 40, as well as the structures between Alawites and Sunnis.

The Defense proposes to hear [Gerhard Conrad](#), who according to Wikipedia [German entry] is a retired German intelligence officer with experience working in Damascus and the Middle East. He retired in 2011 and is a Visiting lecturer at King's College and a member of the Roundtable of Intelligence Services in Germany. His testimony is based on his professional background and own personal experiences.

- I) *On April 28, 2020 the Court heard from Ms. Thurmman who provided an overview of Syrian history and a media analysis of what happened during the revolution. [The Defense provided a comprehensive summary of Thurmman's testimony. For a summary and her full testimony, see [TR#1](#), trial day 3].*



An additional expert report will show that Anwar Raslan had no power and had to follow orders of Hafez Makhoul. Anwar Raslan could neither order torture nor prevent what Division 40 was doing. Within his limited capacities, Raslan tried to help detainees regardless of the dangers for his own life.

- II) *The decision dated July 21, 2021 makes it necessary to hear Mr. Conrad since the decision holds Raslan responsible for almost everything that happened at Al-Khatib Branch. The decision further lacks legal elaborations on the topic of aiding and abetting. However, Raslan's authority to give orders and his organizational authority at Branch 251 was very limited due to him being Sunni. Raslan tried to help detainees and eventually defected. Division 40 and Hafez Makhoul as well as Alawites in general were the ones in power at the Branch. Raslan's efforts to defect and escape have direct implications on the charged acts and his attitude allows for conclusions on his behavior during his time at Branch 251. Anwar Raslan put his own life at risk when he turned against the regime. In assessing contribution under the German Criminal Code and the Code against International Crimes, examining the backgrounds is crucial. Ms. Thurmman's expertise was far from being sufficient for these purposes. The Defense therefore requests to hear Mr. Conrad.*

Presiding Judge Kerber asked the Defense whether their statement on the Prosecutors' statement would be submitted and read out. Defense Counsel Fratzky affirmed, saying that it would be paragraph III/2 of the previous requests and since he already read it out four or five times, he sees no necessity to read it again. Kerber concluded that the deadline for submitting the statement would be met.

None of the parties provided a statement on the Defense's new requests. Prosecutor Klinge said he and his colleague would reserve the right to provide statements and would try to submit the statements in writing before the next trial day.

Presiding Judge Kerber announced a 30-minutes break to prepare copies of all submitted requests for the parties and to discuss additional administrative issues afterwards.

[35-minute break]

After handing out the copies of all submissions made on this day, Kerber announced that the Judges have to read out a decision regarding charges of crimes committed against the plaintiffs:

Supplementing the decision dated July 21, 2021 on crimes committed against the plaintiffs in this trial pursuant to German domestic criminal law, the Judges consider that all acts were committed unanimously together with jointly performed dangerous bodily harm, [§ 224 \(1\) No. 4 StGB](#).

Based on recent phone calls he made with several people, Judge Wiedner added a note to the case file:

On October 25, 2021 Judge Wiedner had phone call with an officer at the Ministry of Justice of Rhineland-Palatinate who is in charge of legal assistance requests. This person informed Wiedner that legal assistance requests issued to Egypt would only be processed very slowly and it would be difficult to estimate how long such requests would take to be processed by Egyptian authorities. A request related to a confiscated truck was issued in 2017 and until this day, there has not been a reply from the Egyptian authorities. Another legal assistance request related to the transfer of files was issued in 2018 and it took one year to be processed.



A request from 2011 remained unaddressed for six months and eventually was withdrawn since it could no longer be considered in the relevant trial. The officer further explained to Wiedner that there was no legal basis to have audio-visual testimonies of witnesses in Egypt.

Wiedner further called the German embassy in Cairo on October 26, 2012. The relevant officer there confirmed to Wiedner that the above descriptions were similar to his own experiences. He also added that it is questionable if requests would be processed at all. According to the officer at the embassy, legal assistance requests would take at least four to six months to be processed, however, it usually takes one year, and some are never processed at all. However, it would depend on political aspects and intelligence background of the requests. The officer explained to Wiedner that the Egyptian intelligence service has a veto right concerning certain legal assistance requests of special interest. This would lead to some request never being processed or being blocked.

Presiding Judge Kerber explained that the Judges are unable to provide information about the schedule and content of the next trial days. They would have to make several phone calls and as of now, the next trial day would take place as initially scheduled.

The proceedings were adjourned at 11:28AM.

The trial will resume on November 3, at 9:30AM.