

**TRIAL OF ANWAR RASLAN**

Higher Regional Court – Koblenz, Germany  
Trial Monitoring Report 51  
Hearing Date: November 4, 2021

*CAUTION: Some testimony includes descriptions of torture.*

**Summaries/Highlights:<sup>1</sup>****Day 101 – November 4, 2021**

P56, a former colonel at the Syrian Ministry of Interior and a long-time friend of Raslan, told the Court that Raslan defected relatively later than other members of the military because he was concerned about his family and he had to take a long route to Jordan littered with military checkpoints. P56 also identified Hafez Makhlouf as the head of Al-Khatib Branch and said Raslan was under immense pressure from Makhlouf.

The Prosecutors objected to hear additional witnesses requested by the defense. According to the Prosecutors, whether or not Raslan helped people or planned to defect was irrelevant because he knowingly followed through on orders to have thousands of individuals tortured and he reported back to his superiors regarding the successful completion of those orders. The Presiding Judge announced that the Court undertook immense efforts to secure witnesses for the following trial days, however, it was not possible in many cases.

**Trial Day 101 – November 4, 2021**

The proceedings began at 9:40AM with four spectators and three journalists in the audience.<sup>2</sup> Two cameramen took videos and photos before the start of the session. The prosecution was represented by Prosecutors Klinge and Polz. Plaintiff Counsel Schulz was not present.

The witness waited in the last row of the public gallery before the start of the session.

**Testimony of P56**

Presiding Kerber apologized to P56 for mispronouncing his name and informed him about his right and duties as a witness. P56, a 59-year-old Syrian living in [REDACTED] and former colonel at the Syrian Ministry of Interior denied being related to the defendant by blood or marriage. [REDACTED]

**Questioning by Judge Kerber**

Presiding Judge Kerber explained that she was going to ask P56 general questions before her colleague, Judge Wiedner, would continue with in-depth questions. Before starting her questioning, Kerber asked Plaintiff Counsel Scharmer if he had any concerns because he looked slightly confused.

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

<sup>2</sup> Note from the Trial Monitor: One of the accredited Arabic-speaking journalists was given headphones after the break to follow the in-court interpretation.



Plaintiff Counsel Scharmer said he assumed that P56 was to be informed about his right under § 55 StPO since, according to the Defense's request that proposed P56 as a witness in this trial, P56 worked at the same Branch as Raslan. Judge Kerber said she did not see any necessity in this regard. Defense Counsel Böcker intervened, saying since other witnesses in a similar capacity testified in this trial without any issues, he thought that it was irrelevant to inform P56 about his rights under § 55 StPO. Böcker concluded that there were no indications as to why P56 should be informed about these rights. No other parties provided statements in this regard. Presiding Judge Kerber said it was unnecessary to inform P56 about his right under § 55 StPO.

Defense Counsel Böcker said he could not hear the Presiding Judge very well. Kerber pulled the microphone closer and started her questioning of P56.

Kerber asked P56 who he was, what he did in Syria, and how he came into contact with Raslan. P56 said he did not work in the same area as Raslan. He worked at the Ministry of Interior on police issues.

Kerber wanted to know how P56 came into contact with Raslan. P56 said he and Raslan were friends and colleagues because they attended police academy together in 1992. According to P56, Raslan was among the top three of their class and therefore started working at State Security after their one-year training and graduation. P56 stayed with the police. He added that he and Raslan were friends. They stayed in touch, but they did not visit each other until the end of October in 2012. At that time, there was an assembly at the Ministry of Interior to establish a council in order to deal with the issue of retired officers. Raslan and P56 were both members of this council. After the assembly – which took place at the Ministry of Interior where P56 worked – he invited Raslan to his office for a coffee. P56 and Raslan spoke about the events in Syria and Raslan told P56 that he wanted to defect. Raslan “made it clear” to P56 that he wanted to leave the office and Syria. P56 then explained to Raslan that he himself “was sitting on packed bags” and would be leaving the country within the next two days. Raslan therefore asked P56 for help and they agreed on a plan: they agreed to only talk about their defection by using codes. P56 told the court that the phones of all officers were monitored so they decided to refer to the people helping them as ‘you are invited for lunch’. P56 went on to tell the Court that he contacted people in Jordan who wanted to help him, including [REDACTED], who in turn was willing to help Raslan. P56 gave them each other's number and Raslan contacted [REDACTED]. P56 added that he left Syria two days after his meeting with Raslan, then Raslan followed and left Syria two weeks later. However, according to P56, Raslan's journey was more difficult than his own because P56 lived in a town close to the Jordanian border. Whenever he went home from his workplace, the Ministry of Interior, no one asked him where he was going, while Raslan was from a town close to Homs with many military checkpoints on the way to the border. People would have noticed that he was moving toward the border. Raslan therefore had to take a detour via Dara'a, Damascus suburbs and Sweida.

Kerber asked whether P56 knew if someone called [P54] helped Raslan. P56 denied.

#### **Questioning by Judge Wiedner**

Judge Wiedner said his first question referred to how P56 got to know Raslan in 1992 when they did their training together. He asked P56 what kind of training that was and what kind of people were trained to do which tasks. P56 explained that there were 50 students training to become officers. All of them previously studied law and then took a voluntary training at the police academy. Courses dealt with all aspects of police work, such as crimes and drugs.



Wiedner recalled that Raslan joined the Intelligence Services after this training and asked P56 if the training was geared toward potential work with the Intelligence Services. P56 said he did not think so. It focused on police tasks, but it was possible that someone was accepted to another department afterwards.

Wiedner wanted to know what happened with Raslan after the training and where he worked afterwards. P56 said both of them were busy and had no time to visit each other. However, as friends they stayed in contact and asked each other about their families and children.

Wiedner said that was not what he wanted to know. He wanted to know where Raslan worked after the training. P56 said Raslan went straight to the State Security. He was dealing with crimes concerning the security of the state. P56 added that Raslan maybe also dealt with drug issues.

Wiedner asked at what Branch Raslan worked. P56 said Raslan worked at the State Security Branch in Damascus and was the deputy of the Investigation Division shortly before "the events". According to P56, the head of the Branch was a cousin of Bashar Al-Assad, Hafez Makhlouf.

Wiedner asked for the number of the branch. P56 said he could not remember, maybe it was 225. It was known as Al-Khatib Branch.

Wiedner wanted to know if P56 knew who led Al-Khatib Branch. P56 said it was Brigadier General Hafez Makhlouf.

Wiedner asked P56 if he knew the name Tawfiq Younes. P56 affirmed that he heard the name.

Wiedner wanted to know who this person is. P56 said he might be the head of a different State Security branch.

Wiedner wanted to know if Raslan worked at Al-Khatib Branch ever since their training or if he also worked somewhere else. P56 said Raslan maybe worked as a police instructor for two years before starting at State Security.

Wiedner asked what P56 meant by "maybe" or if he knew that for certain. P56 explained that he knew Raslan was working as an instructor but was not sure for how long. It might have been one or two years.

Wiedner wanted to know how close P56's contact to Raslan was since 1992. P56 said they did the one-year training together. They were friends and colleagues and in constant contact by telephone.

Wiedner asked how often they were in contact and whether they called each other or sent messages. P56 said they were in contact on special occasions, such as holidays. P56 added that it was normal in Syria that people acted as intermediaries, meaning they would contact each other and ask for favors. When Raslan needed anything police-related, he contacted P56.

Wiedner asked P56 to provide an example. P56 described how a doctor friend of his was arrested during the events in Syria. He was accused of treating wounded people. P56 therefore contacted Raslan, and his friend was released after two days.

Wiedner wanted to know when this happened. P56 said it was in early 2012.

Wiedner said he still did not understand what exactly P56 meant when he said that he and Raslan were friends. He asked P56 how often he and Raslan were in contact: once a week, once a month or rather once a year. P56 said he and Raslan were both very busy.



Sometimes they contacted each other once a year, sometimes multiple times per month. He added that they were in contact for special occasions.

Wiedner asked what they spoke about when they were in contact and what P56 knew about Raslan's work. P56 explained that he did not interfere with Raslan's matters. They spoke about their children. P56 added that Raslan was not allowed to talk about his work and P56 did not ask him about it.

Wiedner asked if they spoke about politics. P56 denied, adding they could not do so.

Wiedner asked if P56 knew something about Raslan's work at Al-Khatib Branch. P56 told the Court that demonstrators who were arrested during the events in Syria were taken to Al-Khatib Branch where they were interrogated.

Wiedner asked if P56 knew that from Raslan or somewhere else. P56 said he and Raslan spoke in P56's office in 2012. That was when Raslan told him that a couple of demonstrators were taken to the Branch and that he helped thirty of them to be released. He had to talk to the head of the Branch to do so. When P56 told Raslan that he must help these people, Raslan told him he could not always help them.

Wiedner asked if this was the meeting at P56's office that he previously mentioned when he and Raslan first met. P56 affirmed, adding it was two days before he left Syria.

Wiedner wanted to know when it exactly happened. P56 said it "could have been" on October 29, 2012. He said he left Syria on December 2, 2012.

Wiedner asked if they met two days before P56 left since P56 just said they met on October 29, 2021. After P56 turned to the interpreter, the latter told the Court that P56 had just asked him which month October would be and that he meant the eleventh month. Wiedner asked P56 whether he consequently meant November 29, before his departure. P56 affirmed that it was two days before that. Wiedner asked if P56 left on December 2, 2012. P56 affirmed, adding that Raslan left a few days later.

Wiedner asked P56 if he knew when Raslan left Syria. P56 said it was three or four days after him.

Wiedner said P56 previously mentioned a longer time span and asked P56 how he learned that Raslan left Syria. P56 said they both were in contact by phone after Raslan arrived in Jordan.

Wiedner wanted to know if P56 and Raslan also met in person. P56 said they met once.

Wiedner asked if they met in Jordan since they were in contact. P56 denied.

Wiedner asked P56 what he could tell the Court about his first meeting with Raslan. Wiedner recalled that it was on the occasion of the establishment of some sort of committee. He asked P56 who comprised the committee and what the committee's functions were. P56 explained that the Ministry of Interior established a council of five or six officers. P56 was the representative of the Ministry of Interior and Anwar Raslan represented State Security. There was also a brigadier general from Air Force Intelligence and a brigadier general from the Military Intelligence, as well as a brigadier general from the same division at the Ministry of Interiors as P56. This brigadier general was in charge of passport and migration issues. The aim of the committee was to come up with restrictions for retired officers who wanted to leave Syria.

Wiedner asked how many times the committee met. P56 said they had one assembly, maybe two but he thinks it was once.



Wiedner wanted to know whether P56 knew what Raslan was doing at this time and where he was working. P56 said when they met at his office it was the first time they met [again].

Wiedner asked from which Branch Raslan was sent [to the committee] and what his task was. P56 said it was Al-Khatib Branch. [Raslan seemed upset, gesticulating with his hands while talking to his translator who in turn spoke with Raslan's Defense Counsels.]

Wiedner wanted to know whether Raslan said that. P56 said Raslan told him, adding that P56 knew where Raslan was working and Raslan knew where P56 was working.

Wiedner recalled that first, P56 and Raslan both attended the assembly before they had a private conversation. He asked P56 to recall this conversation in detail. P56 recalled that after the assembly was over, everyone went their own ways and he invited [Raslan] to his office for a coffee because they were colleagues and friends, since they did their training together. P56 added that they both had not seen each other in a long time. It was therefore necessary to meet again and talk because the situation in Syria "was very precarious" at the time.

Wiedner asked what happened next. P56 told the court that "as he already mentioned," he asked Raslan [if he was going to flee Syria], because he felt that Raslan was under psychological pressure. Raslan then told P56 that he had to leave [Syria].

Wiedner wanted to know if P56 was surprised. P56 said of course he was surprised. He told Raslan that he was sitting on packed bags and ready to leave within the next two days. Raslan asked P56 how he was going to "do that" and if he could help him. P56 therefore contacted the person who wanted to help him. P56 explained to the Court that he contacted the person when he was at home, not in his office. He contacted him via Skype because it was less monitored. According to P56, the same person then contacted Anwar [Raslan].

Wiedner asked P56 if Raslan told him about earlier attempts to defect. P56 said he does not think so, however, [Raslan's] situation was different from his own situation: Raslan was from Homs, in the middle of Syria and was working in Damascus, and the easiest way to leave was to go to Jordan. P56 said Raslan was apparently looking for people to help him leave Syria. Maybe he got a chance that day.

Wiedner asked whether money had to be paid [for Raslan's escape]. P56 said he was in contact with Raslan via phone after Raslan arrived in Syria and he thinks that Raslan had to pay money. P56 added that Raslan's journey took ten days because he had to go from house to house, from farm to farm. According to P56, this was certainly expensive.

Wiedner asked if the two men had further contact in Jordan or at a later time. P56 explained that the two of them spoke about the events and the difficult situation of living in Syria when they were both in Jordan. They spoke about the fact that their children could no longer attend university. According to P56, that was the main issue they spoke about.

[The two court interpreters were quickly chatting with each other, as did the Judges.]

Wiedner wanted P56 to tell the Court what Anwar Raslan told P56 about the reasons for his defection. P56 said they did not talk about details, but he could see that [Raslan] was under psychological pressure. P56 went on to explain that the two of them left Syria at a point in time that some would consider quite late because many officers left before them. However, [fleeing] was dependent on the situation and opportunities. P56 said it could cost one his life to be arrested [while trying to leave the country].



Wiedner asked if Raslan told P56 why he did not defect earlier and why he was unable to try before. P56 denied, adding that he could not remember the details. He said he already mentioned earlier that it was not easy for an officer to leave Syria, it was depending on opportunities.

Wiedner wanted to know if Raslan spoke about his family in this regard. P56 said of course Raslan wanted to take his wife and children with him, otherwise they would have been arrested by the regime.

Wiedner asked if they spoke about that. P56 said of course Raslan said that he did not want to leave alone but only together with his family. P56 added that this was normal. He recalled that he himself went to Geneva in 2011 to attend a conference on human rights. He wanted to stay in Geneva, but his family was still in Syria, so he returned.

Wiedner recalled P56 mentioning psychological pressure on Raslan. Wiedner asked P56 if Raslan said anything on this matter, like where the pressure came from and what kind of pressure he faced. P56 said Raslan told him that he became tired of his work. P56 added that he already told the Court that Hafez Makhlouf was working in the same area [as Raslan]. Raslan was under [Makhlouf's] control and had to do everything Makhlouf wanted.

Defense Counsel Böcker intervened saying he had one question: who said that Hafez Makhlouf worked at the same area? Judge Wiedner replied that this was his next question anyway: how did P56 know that Hafez Makhlouf worked at the same area as Raslan? P56 explained that he was an officer at the Ministry of Interior. He of course knew who worked at the different branches because Damascus was relatively small.

Wiedner wanted to know whether what P56 just told the Court was what Raslan told him or what he concluded from his own experience. P56 said he knew that without Raslan telling him. P56 knew [Makhlouf]. P56 added that he knew that Hafez Makhlouf was the head of a Branch at the State Security.

Wiedner asked P56 who Hafez Makhlouf is and what branch he led. P56 said Hafez Makhlouf was the head of Al-Khatib Branch and enjoyed full sovereignty because he is the cousin of Bashar Al-Assad.

Wiedner asked about Makhlouf's rank. P56 said he was Brigadier General.

Wiedner wanted to know where Makhlouf's office was. P56 said it was in Damascus on Baghdad Street.

Wiedner asked P56 if he knew about Division 40. P56 said he thinks it was [Makhlouf's office].

Wiedner asked if the office and Division 40 were the same place. P56 said he thinks so, adding that if someone asked him questions about police matters, he would be able to answer all of them. However, he was unsure about the different State Security Branches.

Wiedner wanted to know if Anwar Raslan was under Hafez Makhlouf's influence when P56 met Raslan. P56 said of course he was, he was until the very last minute. According to P56, the name Hafez Makhlouf was frightening in Syria.

Wiedner explained that the Court heard that Raslan worked at Branch 285 at this time and not at Al-Khatib. P56 said what he knew was that Raslan was at Al-Khatib, however, it could have been possible that he was somewhere else.

After a short discussion, Presiding Judge Kerber announced a ten-minute break.



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[15-minute break]

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Judge Wiedner said he only had two short questions. He first wanted to know which rank P56 held when he defected. P56 said he was a Colonel.

Wiedner also wanted to know what Hafez Makhlouf's rank was as far as P56 would know. P56 said he was a Brigadier General. [Judge Wiedner consulted both interpreters to confirm that P56 indeed said Brigadier General ["ameed" عميد].

### **Questioning by the Prosecutors**

Prosecutor Klinge asked P56 whether he knew something about Raslan's political beliefs before they met in November 2012. P56 explained that Raslan was from Homs, more precisely Al-Houla, where more than a hundred people were killed, including neighbors, friends and relatives of Raslan. P56 said he knew Raslan as a friend and colleague, and he knew Raslan's morals and character as well. According to P56, Raslan definitely did not agree with [the killing in Al-Houla].

Klinge asked when the killing happened. P56 said it was at the end of 2011.

Klinge asked if it could have also been May 2012. P56 said he already told the Court that he could not remember details very well because it happened ten years ago.

Klinge wanted to know if P56 spoke with other people about Raslan's attitude. P56 denied, explaining that everyone kept that to himself.

Klinge asked if Raslan at one point spoke about the massacre in Al-Houla himself. P56 said of course. He added that he and Raslan had another colleague who also did his training together with the two and was from the same town. This colleague, [REDACTED] and his child were killed there.

Klinge recalled P56 mentioning that relatives of Anwar Raslan were killed as well. He asked P56 how he knew that. P56 explained that the massacre was in the same town [as Raslan was from] and it was a very small town. According to P56, there were certainly relatives, neighbors, and acquaintances of Raslan among those who were killed. P56 said one of them was the colonel whom he just mentioned.

Klinge wanted to know if Raslan told P56 about the conditions at Al-Khatib Branch in 2011 and 2012 or later. P56 denied, adding that they did not talk about details.

Klinge asked if Raslan said anything on this matter at all. P56 said no, quite the contrary. Raslan told him that he helped thirty people. They were protestors who were arrested at Al-Madamiyyeh in Damascus. Raslan convinced the head [of the Branch] that they were innocent and should be released.

Klinge asked who the head [of the Branch] was. P56 said he assumed it was Hafez Makhlouf.

Klinge further wanted to know if P56 was in contact with the Jordanian Intelligence Services before he fled to Jordan. P56 denied.

Klinge asked if P56 was questioned by the Jordanian Intelligence Services after his flight to Jordan. P56 affirmed.

Klinge asked what they wanted to know. P56 said they asked him personal questions, for example, where he had been working.



Klinge said Intelligence Services normally did not question people without a purpose and always had a special interest. He asked P56 whether he had an idea what this special interest was. P56 explained that every officer who defected was questioned by the Jordanian Intelligence Services. Their focus was on officers from the [Syrian] Intelligence Services, not the police.

Klinge wanted to know if many intelligence officers had defected at that time. P56 said the number of intelligence officers who defected was relatively low. More military and police officers had defected.

Klinge wanted to know what it looked like in Syria when P56 left: what the state of the regime was and where the frontlines were. P56 explained that the war was on the doorstep of Damascus. The situation in Syria was difficult. When P56 left, he heard gunshots everywhere.

### **Questioning by the Defense Counsels**

Defense Counsel Böcker recalled that P56 went on a trip to Geneva in 2011 but returned home because of his family. Böcker asked P56 to describe how he went to Geneva and what he did there. P56 explained that there was a conference. He was a member of a discussion board dealing with human rights in Syria. P56 said [the board] was supposed to discuss this matter. He was part of an official delegation led by the current Foreign Minister who was then the Minister of Justice, Faisal Muqdad. P56 was sent from the Ministry of Interior with another officer.

Böcker wanted to know in which month this happened, acknowledging that it happened a long time ago. P56 said it was in [October].

Böcker recalled that P56 fled in October [2012], asking P56 whether he had to pay money [to flee]. P56 said he personally did not have to pay money.

Böcker further recalled that P56 mentioned that he left Syria relatively late and that it was easier [to escape with one's family] the closer one was to Jordan. P56 confirmed.

Böcker asked if this circumstance affected the timing of one's escape, considering that people who were closer [to Jordan] could leave earlier. P56 said his situation was different from [Raslan's]. P56 lived in the border area and defected later because he was under no pressure since his work was solely administrative. Anwar [Raslan] however was from the middle of Syria. Things were therefore not that easy for him and he had to wait for an opportunity.

Böcker asked if P56 knew what Raslan or others in 'small Damascus' said about the beginning of 2011, the events in spring 2011. Böcker wanted to know if P56 held the same post throughout this period. P56 affirmed.

Böcker wanted to know if Anwar Raslan told P56 anything about what changed after the start of the events, since early to mid 2011 P56 said they did not talk about details, and he did not ask Raslan what and where he was working.

Regarding their talks, Böcker wanted to know what P56 had to expect what would happen between his meeting with Raslan and his escape, in case Raslan would have been a good servant [of the regime]. P56 asked if Böcker referred to whether P56 trusted Raslan. Böcker affirmed. P56 explained that he knew Raslan since 1992. He knew his morals, his character, which town he was from. P56 said Raslan opened his heart to him.

Böcker asked what would have happened if P56 trusted the wrong person. P56 said it could have cost him his and his children's lives.

Böcker concluded that P56 was aware of that. P56 said of course he was. He was cautious.



Defense Counsel Fratzky said he had another question regarding the conversation that P56 had on November 29. Fratzky recalled that P56 and Raslan were both members of a committee and he asked P56 if he spoke with Raslan [during the conversation on November 29] about where Raslan was working. Fratzky recalled P56 saying that Raslan worked at Al-Khatib. Fratzky wanted to know from P56 whether he knew [where Raslan was working] from what Raslan told him during this conversation or from the fact that they knew each other for a long time. P56 said he did not know if Raslan mentioned it, however, P56 already knew that Raslan was working at Al-Khatib Branch.

Fratzky further recalled P56 saying that Hafez Makhlof was a Brigadier General, a relative of Bashar Al-Assad and had a lot of power. Fratzky wanted to know if Makhlof was able to give orders to persons with a higher rank due to his family relations. P56 said that Makhlof surely derived his power from his familial relation to the President. According to P56, Hafez Makhlof gave orders to higher-ranking persons. His brother Rami was in control of the economy.

### **Questioning by the Plaintiff Counsels**

Defense Counsel Dr. Kroker recalled that P56 mentioned he was in Geneva in “the tenth month of 2012.” He asked P56 whether it could have been September. P56 said he thinks it was “the tenth month.”

Kroker asked if the meeting was at the United Nations. P56 affirmed that it was at the UN.

Kroker asked if it was at the seat of the United Nations Human Rights Council. P56 affirmed, adding that there was a report on Syria and they discussed this report internationally. P56 added that it was a report which is issued every four years.

Kroker wanted to know if the report also included descriptions of the Intelligence Service’s prisons in Syria. P56 affirmed, explaining that the heads of the security branches dealt with this report before the events in Syria. Every minister was given the opportunity to make statements on his position.

Kroker asked what the report said about the conditions at the Intelligence Service’s prisons after April 2011. P56 said he did not know exactly.

Kroker recalled that P56 mentioned a meeting at the Ministry of Interior which took place on November 29 and included brigadier generals from the Ministry of Interior and the Intelligence Services. Kroker asked P56 for the names of these people. P56 said he could not remember names. The name of the colonel from the Ministry of Interior might have been Naji An-Numayri ناجي النميري, who was responsible for passport and migration issues.

Kroker asked about the ranks of other people who were present. P56 said there was a brigadier general from the Intelligence Services. There were three brigadier generals.

Kroker recalled P56 describing six people. He asked P56 whether he could remember who else was present. P56 said it was him, Anwar Raslan and three brigadier generals. There were five or six people in total.

P56 was dismissed as a witness at 11:27PM.

### **Administrative Matters**

Presiding Judge Kerber announced that the session was not yet closed for the day since the Prosecutors had a statement to read out.

[The following are recreations of the Prosecutors' statements based on what the Trial Monitor was able to hear in Court.]

**Prosecutors' objection regarding the Defense's request to summons [PW2 97/PW2 100], [PW4 100], and [PW5 100] as witnesses**

- I) *The request to summon PW2\_97/PW2\_100 should be rejected pursuant to [§ 244 \(5\) s. 1&2 StPO](#) since the Court's duty to establish the truth does not require it to hear PW2\_97/PW2\_100 as a witness. The positive attitude of the Accused towards the opposition, as mentioned in the statement on October 26, 2021, is irrelevant to the events at the Division at issue. The Federal Court of Justice repeatedly found that intent is not waived if the final outcome of an act might not be desired.*
- Raslan might have planned his escape for a year and a half, however, during this time, he continued working in his position, passing along orders that he knew were illegal and always reported back to his superiors on the successful completion of these orders. In its decision from [October 13, 2021](#), the Court found that occasional help by the Accused to individual detainees took place. However, this does not change the fact that within the same period, thousands of people were tortured with the Accused's acceptance. He could hear their screams at his office and refrained from helping them. His liability is not waived by his escape.*
- The effort in terms of time and organization does not acceptably relate to the expected evidentiary value of PW2\_97/PW2\_10's testimony. [The prosecutors referred to their statement from [October 26, 2021](#) regarding efforts, expected duration and success of legal assistance requests to non-EU countries.]*
- II) *PW4\_100, a former interrogation officer at Branch 251 is supposed to confirm that no one died at the Branch before early 2011. This knowledge would, however, require that PW4\_100 was involved in all aspects at the Branch, which will most likely not be the case. It is also not apparent if this would have any effect on the question of facts and guilt. Even if PW4\_100 testifies for the purpose of showing that even after early 2011 no one died at the Branch, his summons should still be rejected pursuant to [§ 244 \(3\) s. 3 no. 2 StPO](#) [irrelevant for decision]. The general obligation of the Court to establish the truth would neither justify PW4\_100's summons. Moreover, PW4\_100 is supposed to testify that Hafez Makhoul's Division 40 conducted interrogations and torture at the Branch, controlled Al-Khatib Branch, independently wrote interrogation transcripts, and made use of Al-Khatib Branch personnel for its own purposes. Nonetheless, there is no connectivity between the temporal information provided in the Defense's request. PW4\_100 should also be rejected as a witness in this regard, considering that his testimony would be irrelevant for the decision. The request only offers possible conclusion but no mandatory conclusions. Anwar Raslan's liability is independent of a potential use of Al-Khatib Branch by Division 40. It would not prove a deprivation of power.*
- It is also unclear what PW4\_100 is supposed to say in terms of the Accused's general behavior since this is not part of the indictment. The required connectivity between the request and the trial as laid out in [§ 244 \(2\) StPO](#) is not given since the alleged facts are irrelevant for the decision. PW4\_100 is also supposed to testify on orders by the head of Branch 251 given from March/May 2011 onwards. However, the Defense's request is not a formal request to take evidence on this matter since it lacks connectivity. The request does not elaborate on how PW4\_100 is supposed to know about this. The sole fact that PW4\_100 and Raslan both worked at the same Branch is insufficient, since not every employee knows about everything that is going on at a Branch, as P55's testimony showed. The same is applicable regarding Raslan's treatment of detainees and his alleged involvement in releases. The request is lacking precise information in this regard as well and only offers general information.*



- It remains unclear why, when, and how many detainees Raslan helped. It is further irrelevant how many detainees he helped before April 29, 2011 since it is not part of the indictment period. It is also not apparent how PW4\_100 should know that Raslan was completely stripped off his authority from May 2011 latest, as claimed in the request. This claim is further contrary to what Raslan himself stated on [May 18, 2020](#) when he said that he was stripped of power in June 2011.*
- III) *PW5\_100 is supposed to testify that Raslan did not work at Branch 251 in 2007 and thereby refute [P35's](#) testimony. This is, however, irrelevant pursuant to [§ 244 \(3\) s. 3 no. 2 StPO](#) as it does not matter where Anwar Raslan was working before April 2011 when he accepted and ordered horrible acts as part of a systematic and widespread attack against the Syrian civil population. Regarding the alleged differences between Raslan and Mohammad Abdullah, PW5\_100's testimony would be irrelevant pursuant to [§ 244 \(3\) s. 3 no. 2 StPO](#). PW5\_100 is supposed to testify that Anwar Raslan was completely hindered in doing his work and that there was enmity between Raslan and Abdullah. However, it is not apparent how this would affect the question of guilt.*
- IV) *Lowering the threshold for the requirement of connectivity for cases related to other countries, as proposed by the Defense, is not compatible with German law. The issue of witnesses who need to be summoned abroad is already addressed in [§ 244 \(5\) StPO](#). This legislation concerning summons of witnesses living abroad entered into force in 2000. When the German Code of Crimes Against International Law (CCAIL – VStGB) entered into force two years later, in 2002, the legislator did not see any necessity to amend the existing law on witnesses living aboard, as one can see from the legislation-reasoning. Rather, the Procedural Code (StPO) was [amended in 2019](#) by adding detailed requirements in terms of connectivity that need to be fulfilled for a request to qualify as a valid request to take evidence. This amendment aims to prevent delays of judicial processes through submission of unqualified requests. A lowering of these requirements in cases of witnesses living abroad was not intended.*
- The argument that the Defense would not have sufficient capacity to conduct its own investigation, thus lowering the threshold for connectivity, is irrelevant since the party investigating a matter is not the one who has to draft the request and set out how and why a proposed witness knew certain things. This is for the party requesting the witness.*

**Objection regarding the Defense's request to summon Gerhard Conrad as an expert**

- I) *The Defense's request to summon Gerhard Conrad as an expert is not a request to take evidence but a suggestion to take evidence because there are no concrete allegations as to how Conrad obtained the relevant expert knowledge. The reasons for rejecting a request to take evidence as set out in [§ 244 \(3\) StPO](#) are applicable in this case as well. [§ 244 \(4\) StPO](#), however, only includes additional reasons for the rejection of an expert. The summons of an expert must therefore be rejected pursuant to [§ 244 \(3\) s. 2 StPO](#). The requirements of a formal request to take evidence and a formal request to summon an expert are not fulfilled [Prosecutor Klinge recalled that it was the Defense's intention to prove that Raslan did not have decision-making power at the Branch due to being a Sunni and therefore also suffering mortal fear]. The Defense's request, however, merely includes assessments and conclusions without any facts. It is not apparent how the proposed expert would know all that. The experts CV that the Defense pulled from Wikipedia, does not provide any hints for the source of the expert's relevant knowledge. The relevant knowledge requires that the expert had knowledge of Anwar Raslan's personal connection to Hafez Makhlouf – knowledge that other experts would not have either. The Defense's request is therefore a mere suggestion.*

- II) *The suggestion should be rejected pursuant to § 244 (3) s.3 no. 1 StPO since the Judges themselves already have the relevant knowledge. Throughout the trial, the Judges heard several experts, among them Syrians such as Al-Bunni and Darwish, and obtained multiple reports on the Syrian context. Judges can obtain certain knowledge throughout trial which consequently renders the summoning of additional experts redundant. No expert could provide additional expertise to what had already been collected from the countless witnesses who testified in this trial. All these witnesses had direct experience of the events happening in Syria during the indictment period.*

Defense Counsel Böcker replied that, in terms of connectivity, time cannot be a decisive factor since P56, for example, provided valuable contributions to the trial, although he testified about his experiences after the indictment period. Böcker further said it would be in the Defense's own discretion to determine the time to submit a request to take additional evidence and that the required connectivity was given in all their requests.

Defense Counsel Fratzky added that it would be far from irrelevant if the court heard from witnesses and the Defense summoned witnesses to debunk previous statement from other witnesses. According to Fratzky, this would all be about the truth and therefore be relevant to the overall evaluation. Every piece of evidence would be relevant if it was pertinent to the truth. On the topic of required connectivity, Fratzky added that this present trial was one of its kind. One could therefore not make arguments referring to jurisprudence from the Federal Court of Justice from the last century. Fratzky added that he quickly looked up other, more current and relevant jurisprudence from the Court of Justice and indeed found something to which he might come back.

Plaintiff Counsel Mohammed said establishing the facts is always important. However, on the 99<sup>th</sup> trial day, one could indeed ask why these requests were not submitted one and a half years ago.

Defense Counsel Böcker replied that the Defense does not have the relevant resources and it sometimes makes more sense to submit these requests now, rather than earlier.

Presiding Judge Kerber explained that the Court had several piles of paper to hand out to the parties. These papers included the Court's efforts during the last few days:

- Email communication between Judge Wiedner and a witness;
- Note dated October 29, 2021;
- Email communication between Judge Wiedner and one of the court interpreters;
- Note from the BKA dated October 29, 2021;
- Statement from the BKA dated October 29, 2021 regarding the evaluation of a situation of threat;
- Note from the Court's administration regarding a phone call;
- Note from Judge Wiedner regarding a phone call;
- Forwarded email from Judge Wiedner to Presiding Judge Kerber regarding an email from the BKA dated November 3, 2021;
- Annexes:
  - two travel documents
  - one identification card
  - witness summons by the BKA
  - one of the Prosecutors' statements that were just read out in court.



Presiding Judge Kerber added that the Judges undertook significant efforts to secure witnesses for the coming trial days. However, it was not always possible to do so, the trial day scheduled for November 10 would therefore be cancelled.

Defense Counsel Böcker asked if the Judges could informally ask Mr. Al-Bunni and the BKA why the witness "HS" only appeared now after the trial had been going on for one and a half years. Judge Kerber replied that Böcker could ask Attorney Schulz himself.

The proceedings were adjourned at 11:47AM.

The trial will resume on November 11, at 10:15AM.