Friedrich-Alexander-Universität
Rechts- und Wirtschafts-
wissenschaftliche Fakultät

Case Information Sheet

Anwar Raslan

INTERNATIONAL
NUREMBERG
PRINCIPLES
ACADEMY

NAME	Anwar Raslan
DATE OF BIRTH	February 3, 1963
BIRTHPLACE	Homs, Syria
NATIONALITY	Syrian
CURRENT STATUS	Incarcerated
WARRANT OF ARREST	Issued on February 7, 2019
OPENING OF THE MAIN PROCEEDINGS	March 6, 2020
FIRST INSTANCE JUDGMENT OF JANUARY 13, 2022	Sentenced to life imprisonment without a finding of special gravity for a crime against humanity in the form of homicide, torture, aggravated deprivation of liberty, rape and sexual assault combined with murder in 27 cases, grievous bodily harm in 25 cases, aggravated rape, sexual assault in two cases, deprivation of liberty for more than one week in 14 cases, hostage-taking in two cases and sexual abuse of prisoners in three cases
APPEAL OF MARCH 20, 2024	Change oft he verdict and dismissal of the further appeal

Facts (brief summary):

Since April 29, 2011, the Syrian security authorities have attempted to violently supress the protest movement that emerged against the regime of President Bashar al-Assad as part of the so-called "Arab Spring." For this reason, demonstrations across the country were broken up through the use of live firearms, and a large number of actual or alleged demonstrators were arrested, mistreated, tortured or killed. The declared goal was, on the one hand, to obtain information about additional opposition members and, on the other hand, to intimidate the population in order to prevent further protest actions. The Syrian general intelligence service played a decisive role in this.

ICLU Erlangen-Nuremberg
International Criminal Law
Research Unit of the FAU

Gefördert durch:
Bundesministerium der Justiz
aufgrund eines Beschlusses
des Deutschen Bundestages

During the period from April 29, 2011, to July 2012, Anwar Raslan headed, with the rank of colonel, the Investigations subdivision of Department 251 of the Syrian General Intelligence Service. A total of 30 to 40 employees, including several interrogators, were under his command as their military superior. The torture in the prison building of Department 251 was carried out under the leadership and responsibility of Anwar Raslan. During the above-mentioned period, Anwar Raslan was responsible for the deaths of 27 prisoners who had previously been massively abused by guardsand interrogators with blows, cables, sticks, kicks and electric shocks. In some cases, sexual violence was also used to humiliate and degrade the prisoners.

Proceedings in the case of Anwar Raslan:

1. Federal Court of Justice (BGH) – Detention review of September 5, 2019 (AK 47/19)[1]
2. Federal Court of Justice (BGH) – Detention review of December 17, 2019 (AK 59 as well as 60/19)[2]
3. Federal Court of Justice (BGH) – Detention review of April 7, 2020 (AK 6 as well as 7/20)[3]
4. Higher Regional Court Koblenz (OLG Koblenz) – First instance judgment of January 13, 2022 (1 StE 9/19)[4]
5. Federal Court of Justice (BGH) – Appeal judgment of March 20, 2024 (3 StR 454/22)[5]

[1] Federal Court of Justice – First detention review in the case of Anwar Raslan.
[2] Federal Court of Justice – Second detention review in the case of Anwar Raslan.
[3] Federal Court of Justice – Third detention review in the case of Anwar Raslan.
[4] No full text available (as of October 15, 2024).
[5] Federal Court of Justice - Appeal judgment in the case of Anwar Raslan.

1. Federal Court of Justice (BGH) – Detention review of September 5, 2019

The Federal Court of Justice decided on September 5, 2019, pursuant to Secs. 121, 122 of the German Code of Criminal Procedure (StPO), that the **pre-trial detention of** Anwar Raslan must **continue** as the requirements for the continuation of pre-trial detention beyond six months were met.

Anwar Raslan was an **urgent suspect** regarding the acts charged in the arrest warrant, namely crimes against humanity in combination with three separate cases of dangerous bodily injury and two separate cases of bodily injury, pursuant to Sec. 7 (1) No. 5 of the German Code of Crimes against the International Law (VStGB), Secs. 223 (1), 224 (1) No. 2, No. 4, 25 (2), 52 of the German Criminal Code (StGB). The urgent suspicion arose from several witness statements and from information provided by the co-defendant Eyad A.

Furthermore, the court affirmed the **reason for detention as a risk of absconding** pursuant to Sec. 112 (2) No. 2 StPO, since Anwar Raslan had to expect a high overall prison sentence in the event of his conviction and had only been living in Germany for a few years and had numerous connections abroad.

The conditions for the continuation of pre-trial detention beyond six months were also met in the opinion of the court, since the **particular difficulty and scope of the investigations** had **not yet permitted a verdict** and therefore justified the continued execution of pre-trial detention.

Ultimately, even in the opinion of the Senate, the **pre-trial detention was not disproportionate to the** importance of the case and the expected punishment (Sec. 120 (1) Sentence 1 StPO).

2. Federal Court of Justice (BGH) – Detention review of December 17, 2019

Also within this decision, the Federal Court of Justice decided on December 17, 2019, pursuant to Secs. 121, 122 StPO that the **pre-trial detention of** Anwar Raslan must **continue**.

The requirements for the continuation of pre-trial detention beyond nine months were met.

With regard to the requirements of the existence of an **urgent suspicion** and the **existence of a reason for detention,** the court referred to its decision of September 5, 2019 (as seen above). In this regard, it was not considered decisive for the question of detention that Anwar Raslan was no longer charged with the - ideally competing - participation in simple or dangerous bodily harm as well as criminal liability under Sec. 7 (1) No. 9 VStGB, because the Attorney General had excluded these from criminal prosecution pursuant to Sec. 154 (1) No. 1 StPO. The crime under Sec. 7 (1) No. 5 VStGB weighed more heavily than the above-mentioned offenses in any case.

The conditions for the continuation of pre-trial detention beyond nine months, were met since the **particular difficulty and the special scope of the averments had not yet allowed a judgment** and the proceedings were still sufficiently promoted after the Senate decision of September 5, 2019.

Ultimately, in the opinion of the Senate, **pre-trial detention** was still **not disproportionate** to the importance of the case and the punishment to be expected in the event of a conviction (Sec. 120 (1) Sentence 1 StPO).

3. Federal Court of Justice (BGH) – Detention review of April 7, 2020

On April 7, 2020, the Federal Court of Justice decided in accordance with Secs. 121 and 122 StPO that the **pre-trial detention of** Anwar Raslan must **continue.** The requirements for the continuation of pre-trial detention beyond twelve months were met.

With regard to the prerequisites of the existence of an **urgent suspicion of a crime** and the **existence of a reason for detention,** the court referred to its decision of December 17, 2019, and to the court decisions and application documents referred to therein, together with the indictment of the Attorney General.

The conditions for the continuation of pre-trial detention beyond twelve months, were present in the opinion of the Senate, as the **particular difficulty and the special scope of the averments had not yet permitted a verdict** and therefore justified the continued execution of pre-trial detention. The proceedings were also sufficiently supported after the Senate resolution of December 17, 2019.

Ultimately, in the opinion of the Senate, the **pre-trial detention was not disproportionate to the** importance of the case and the expected punishment (Sec. 120 (1) Sentence 1 StPO).

4. Higher Regional Court Koblenz (OLG Koblenz) – First instance judgment of January 13, 2022

Note: A copy of the judgment has been requested but has not been sent to date.[6]

5. Federal Court of Justice (BGH) – Appeal judgment of March 20, 2024

In response to Anwar R.'s appeal, the Federal Court of Justice decided to amend the conviction on three points. Otherwise, the appeal was dismissed as unfounded. In the opinion of

[6] as per December 20, 2023.

the Federal Court of Justice Anwar R. had committed the crime of particularly serious sexual coercion instead of particularly serious rape, and merely aided and abetted the sexual abuse of prisoners in two cases instead of sexually abusing prisoners in three cases. The conviction of the defendant for sexual coercion in two cases was completely dropped.

The court came to this conclusion due to the full substantive review of the judgment required by the raised complaint. However, the findings of the Higher Regional Court Koblenz, which were based on a legally flawless assessment of the evidence, could not support the guilty verdict in every respect.

In this context, the Federal Court of Justice pointed out that the Higher Regional Court had correctly rejected a procedural obstacle based on official immunity. The general immunity of public officials has its limits in crimes under international law, such as the crimes against humanity and war crimes in the case of Anwar R. The statement made by the Permanent Mission of the Federal Republic of Germany to the United Nations in November 2023 would not have changed this, which is why it was not necessary to obtain a decision from the Federal Constitutional Court.

However, the findings do lead to a different legal assessment: the rape that took place to the detriment of co-plaintiff F cannot be considered a particularly serious rape for Anwar Raslan as an accomplice, since **Sec. 177 (2) sentence 2 No. 1** of the German Criminal Code (StGB) in the version applicable at the time of the offense was designed as an **own offense**. The (at the time of the offense absent) Anwar R. could therefore not have committed the attack. Consequently, it is seen as a case of **sexual assault under Sec. 177 (1) Nos. 1 and 3 StGB** (old version), the *actus reus* of which can be **attributed** to Anwar R as co-perpetrator. Furthermore, the sexual assault committed to the detriment of two other joint plaintiffs is repressed by legal unity: Sec. 177 (1) No. 1 and 3 StGB (old version) has **no wrongdoing that is not already completely covered** by Sec. 7 (6) VStGB. Furthermore, all acts to the detriment of the named joint plaintiffs are to be assessed for the defendant as cases of aiding and abetting the sexual abuse of prisoners. However, it must be taken into account that the acts at the expense of one of the joint plaintiffs are already statute-barred according to Sec. 78 (1) sentence 1 StPO and are therefore omitted. On this basis, the court amended the guilty verdict in accordance with Sec. 354 (1) of the German Code of Criminal Procedure.

On the other hand, the procedural objection also raised by Anwar Raslan was rejected as unfounded: in his appeal, he argued that the Higher Regional Court Koblenz was not permitted to base its conviction of the human rights violations committed in Syria on the read reports of the commissions of inquiry. He argued that this was a **violation of the principle of immediacy**. However, the BGH made it clear that reports by independent international commissions of inquiry fall within the scope of Sec. 250 sentence 2 StPO but can be read and used in accordance with Sec. 256 (1) No. 1 lit. a), as was the case in the first instance proceedings at the OLG Koblenz.

Furthermore, Anwar R. was ordered to pay the costs of the proceedings in accordance with Sec. 473 (4) of the German Code of Criminal Procedure.

Gefördert durch:
Bundesministerium der Justiz
aufgrund eines Beschlusses
des Deutschen Bundestages