

NAME	Jalda A.
DATE OF BIRTH	XX.XX.1987/88
BIRTHPLACE	H. in A.
NATIONALITY	German (since 2006)
CURRENT STATUS	Incarcerated
WARRANT OF ARREST	Issued on April 23, 2020 as well as February 8, 2022
OPENING OF THE MAIN PROCEEDINGS	Arraignment on March 23, 2022
FIRST INSTANCE JUDGMENT OF JULY 27, 2022	Sentenced to imprisonment for 5 years and 6 months for membership in a terrorist organization abroad, aiding and abetting genocide, war crimes and crimes against humanity through enslavement

Facts (brief summary):

Jalda A. left for Syria in April 2014 together with the wife of her brother - who had already joined the IS as a fighter – as well as their children. Once there, she married a friend of her brother's, also an IS fighter, according to Islamic rites. Together, they took part in IS punishment operations. After her brother's death, she briefly returned to Germany to receive medical care, but then left for Syria again. On February 4, 2015, Jalda A. gave birth to her child. The IS assisted her concerning childcare. After her husband died during combat operations, she married another IS fighter who held a special position within IS. After divorcing this man, Jalda A. married another IS fighter in September 2017. She moved in with him and thereby also acquired a pistol. As a wife, she saw it as her duty to support the husband during his mission at the IS and to strengthen his fighting capacity. After another divorce, Jalda A. went to a women's shelter. When wanting to leave Syria in December 2017, she was arrested and brought to the Syrian refugee camp until her return to Germany.

Specifically, Jalda A. was accused to have taken possession of two properties with one of her husbands, that were left behind due to the civil war. Together with her later husband, she was said to have kept a Yezidi woman as a slave, who was supposed to take over the housework completely and take care of the child. If the Yezidi woman wanted to leave the house, Jalda A. allegedly threatened her with a pistol. She also allegedly beat and kicked the Yezidi woman on a daily basis. In addition, the husband allegedly regularly forced the Yezidi woman to have vaginal sexual intercourse - under threat of beatings if she refused. Jalda A. was said to have known about this and to have deliberately encouraged this by taking measures to prevent escape. She was also alleged to have known that this behavior promotes one of the IS's goals, namely the destruction of the Yezidis.

Proceedings in the case of Jalda A.:

1. Federal Court of Justice (BGH) - Detention review of May 4, 2022 (AK 17/22)¹
2. Hanseatic Higher Regional Court (Hanseatisches OLG) - First-instance judgment of July 27, 2022 (3 St 2/22)²

1. Federal Court of Justice (BGH) – Detention review of May 4, 2022

Jalda A. could have committed a criminal offense pursuant to Sec. 6 (1) No. 3, Sec. 7 (1) Nos. 2, 3, 5, 6 and 10, Sec. 8 (1) Nos. 3 and 4, Sec. 9 (1) Alt. 2 of the German Code of Crimes against International Law (VStGB), Sec. 129a (1) No. 1, Sec. 129b (1) Sentences 1 and 2, Sec. 27 (1) German Criminal Code (StGB).

The **urgent suspicion with regard to the situation and the IS** resulted in particular from expert opinions, evaluation reports and notes of the Federal Investigation Authority (BKA).

¹ [Federal Court of Justice – Detention review in the case of Jalda A.](#)

² No full text available to date (as of November 28, 2023).

With regard to the contributions to the crime, Jalda A. had only agreed that she lived in the IS territory from April 2014 until the end of 2017 in diverse houses and apartments. Furthermore, the suspicion of the crime was based on statements of various respondents, various witness statements (especially the testimony of the enslaved Yezidi woman as well as another convicted Syrian returnee), telecommunication contents, structural investigations, the will of one of the defendant's husbands, and the authority statement of the BKA. With regard to the details, reference was made to the arrest warrant issued by the investigating judge of the Federal Court of Justice and the main findings of the investigations set out in the indictment of the Federal Public Prosecutor General dated March 18, 2022.

In any case, the following punishments were said to have occurred:

It is highly probable that the defendant had joined the IS, a terrorist organization abroad, and her activity (household management, concrete involvement) also qualified as a "real" act of participation, so that there was an urgent suspicion of a crime with connection to **Secs. 129a (1) No. 1, 129b (1) Sentences 1 and 2 StGB**. The authorization to prosecute was given.

By occupying at least two apartments or houses left behind by the rightful owners due to war, Jalda A. was strongly suspected of committing a war crime against property and other rights, **Sec. 9 (1) Alt. 3 VStGB, Sec. 25 (2) StGB**.

By enslaving the Yezidi woman and committing sexual violence against her, she was also strongly suspected of the crime against humanity, **Sec. 7 (1) Nos. 3 and 6 VStGB**. The overall offense required for Sec. 7 (1) VStGB existed. The usurped ownership of the Yezidi woman constituted enslavement, in which Jalda A. most likely participated as an **accomplice, Sec. 25 (2) StGB**. The spouses forced the Yezidi woman to run the household without payment, determined her whereabouts and denied her the opportunity to move freely. Violence by both spouses was also a daily companion for the Yezidi woman. Jalda A. **aided and**

abetted the rapes committed by her husband, which fulfilled the elements of the crime under Sec. 7 (1) No. 6 VStGB (**Sec. 27 (1) StGB**), by creating the conditions for the commission of the crime (control and prevention of the Yezidi's escape). In this regard, there was also the necessary functional connection between the specific act and the overall offense. The enslavement and the promotion of the rape of the Yezidi woman nurtured the IS's actions against the Yezidis in general.

German criminal law was applicable pursuant to Sec. 1 Sentence 1 VStGB and pursuant to Sec. 129b (1) Sentence 2 Alt. 2 and 4 StGB or Sec. 7 (2) No. 1 StGB.

The **grounds for detention** were **risk of absconding** and **serious crime**. It was likely that Jalda A. would evade criminal proceedings. If there was a conviction, a substantial prison sentence was to be expected. Also, the time spent in the refugee camp (3 years and 10 months) would probably not count towards the prison sentence. The flight-preventing aspects had been assessed as insufficient. Jalda A. had no residence or job in Germany. The fact that her children were in Germany also did not appear to be sufficient.

Accordingly, the requirements for the continuation of pre-trial detention pursuant to Sec. 121 (1) of the German Code of Criminal Procedure (StPO) had been met. The particular scope of the investigations (24 regular files and one special file) and their particular difficulty had not yet permitted a judgment. Furthermore, the preliminary investigation was also conducted with due speed.

2. Hanseatic Higher Regional Court (Hanseatisches OLG) – First-instance judgment of July 27, 2022

Jalda A. committed a criminal offense pursuant to Sec. 6 (1) No. 2, Sec. 7 (1) Nos. 3, 5, 6, 9, 10, Sec. 8 (1) Nos. 3 and 4, Sec. 9 (1) VStGB, Secs. 129a (1) No. 1, 129b (1), 223, 224 (1) No. 2, 25 (2), 27 StGB and was sentenced by the Hanseatic Higher Regional Court to a **prison term of 5 years and 6 months**.

The facts described in the indictment were essentially confirmed during the proceedings. During the preliminary proceedings, Jalda A. initially held back and omitted large parts of the events and tried to find other explanations for her actions. At the trial, she credibly admitted parts of the accusation, namely the voluntary departure to Syria, the marriage of the three IS fighters, the taking possession of the house, the involvement of the men in IS fights and the possession of weapons, the receipt of widow's benefits, the places of residence in Syria and in the women's shelter, the living with the Yezidi woman as well as the events after having committed the crime. However, Jalda A. stated that many things she was accused of were not true. The reason for her departure was, for example, only the desire to visit her brother, she did not know anything about a civil war before entering the country, she also only learned about the attack on the Yezidis in 2015 and did not know exactly what was going on. Moreover, her husband's role was that of a fighter only for a short time, after the trip to Bremen she returned to Syria for the sake of love. Moreover, she would not have attended public punishments, the joint plaintiff was first hidden from her and after she was told about it, she wanted a divorce and wanted her husband to release the joint plaintiff. Her husband replied that the Yezidi woman was comfortable and when asked, the joint plaintiff is said to have confirmed this. Jalda A. did not speak Arabic at all, so that she was unable to converse with the plaintiff. The plaintiff would have done all the work of her own and she never noticed that violence was used or that the plaintiff was even raped. She did not lock up the

joint plaintiff, nor did she possess a weapon. Jalda A. also noted that although she belongs to the Islam, she felt that the interpretation of the IS was wrong.

The court found that the statements made by Jalda A. were credible insofar as they correspond with the findings. Insofar as they contradict the findings, her statements were implausible and had been refuted by the gathering of evidence. Doubts regarding the credibility of Jalda A. arose from false statements made during the preliminary investigation and from the maintenance of statements contradicting the investigation.

Through her acts within the IS, Jalda A. was found guilty of membership in a foreign terrorist organization pursuant to **Secs. 129a and 129b StGB**.

By the appropriation of a house of the opposing party there was also a punishability according to **Sec. 9 VStGB** (co-perpetration).

In addition, Jalda A. had committed a crime of complicity pursuant to **Sec. 7 (1) No. 3 VStGB** and **Sec. 7 (1) No. 9 and No. 10 VStGB**. Regarding Sec. 7 (1) No. 3 VStGB, the explanations in the detention review were complied with. However, the court additionally considered the requirements for criminal liability under Sec. 7 (1) Nos. 9 and 10 VStGB to be met. The attack on the Yezidis constitutes a systematic and widespread attack on the civilian population. Due to the enslavement of the Yezidi woman, No. 3 is initially relevant. By enslaving her for approximately three weeks, Jalda A. - together with her husband - deprived the Yezidi woman of her freedom and thus fulfilled the elements of crime in No. 9. The provision of No. 10 prohibits the persecution of certain groups or communities. One of the central goals of the IS is to destroy the Yezidi religious community. The enslavement of the plaintiff was linked to her membership in this group, so that this element of the crime was also fulfilled.

By promoting the rape of the joint plaintiff, Jalda A. was also guilty of **aiding and abetting Sec. 6 (1) No. 2 VStGB, Sec. 7 (1) No. 5 and No. 6 VStGB** as well as **Sec. 8 (1) No. 3 and No. 4 VStGB**.

By the attacks directed at the joint plaintiff, which were partly carried out with a flashlight, Jalda A. also made herself punishable pursuant to **Secs. 223, 224 (1) No. 2 StGB**. However, these acts did not lead to criminal liability under the extermination offenses (Secs. 6 Subsection 1 No. 3, 7 Subsection 1 No. 2, VStGB) or under the torture offenses (Secs. 6 Subsection 1 No. 2, 7 Subsection 1 No. 5, and 8 Subsection 1 No. 3 VStGB).

The **applicability of German criminal law** resulted from the principle of universal jurisdiction (Sec. 1 VStGB), according to Sec. 129b (1) Sentence 2 Alt. 2 and 4 StGB and Sec. 7 (2) No. 1 VStGB.

In all cases, the fact that Jalda A. had no previous convictions and had partially confessed was taken into account as a **mitigating** factor. The commission of the crime already took place five years ago, the imprisonment was subject to further restrictions due to national security proceedings and resulted in her being separated from her children. It was also considered that she had already spent about four years in the *Camp Roj* under difficult conditions, although this time could not be counted in the context of a custodial sentence. Regarding Sec. 9 VStGB, it was taken into account that the occupation of the residential house was limited in time and that the house had not been permanently damaged during that time.

The length of membership in the foreign terrorist organization and the particularly dangerous and violent nature of the IS were taken into account as **aggravating factors**. In addition, the fact that several criminal offenses were committed had a negative impact.

Taking all the circumstances into consideration again, the court **sentenced** Jalda A. to a total term of imprisonment of **five years and six months**. She was also accused

of occupying two other apartments. She was able to refute this and was acquitted in this respect.