



Der Generalbundesanwalt
beim Bundesgerichtshof

Federal Public
Prosecutor General



Crimes against Humanity – Advancing Towards a Dedicated International Convention



Picture: Rodi Said /
Reuters

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Crimes Against Humanity



The Convention and National Prosecution of Crimes Against Humanity





Legal Framework

German Code of Crimes Against International Law CCAIL (2002)

Aims at penalisation of any conduct considered a criminal act according to the ICC Statute

Section 6 CCAIL → Genocide ← Art. 6 Rome Statute

Section 7 CCAIL → Crimes Against Humanity ← Art. 7 Rome Statute

Section 8 CCAIL → War Crimes ← Art. 8 Rome Statute

Section 13 CCAIL → Crime of Aggression ← Art. 8bis Rome Statute

Provisions of the German Criminal Code are applicable

This also applies to the rules on mutual legal assistance





Legal Framework

German Code of Crimes Against International Law CCAIL (2002)

- Universal jurisdiction
- (Counterbalance to universal jurisdiction)
discretion regarding investigation into and prosecution of cases with no link to Germany in the German Code of Criminal Procedure

Other than that, no special procedural provisions for CIC





Syrian Regime Cases



Cases against individuals on trial

- Anwar R. (Koblenz Higher Regional Court)
- Eyad A. (Koblenz Higher Regional Court)
- Moafak D. (Berlin Court of Appeals)

- Ahmat H. (Hamburg Higher Regional Court) – case pending
- Ammar A. (Stuttgart Higher Regional Court) – case pending
- Alaa M. (Frankfurt a. Main Higher Regional Court) – case pending

- 5 defendants (Koblenz Higher Regional Court) – main hearing is due to begin in Nov. 2025



Yazidi Cases



Cases against 11 individuals on trial

- Omaina A. (Hamburg Higher Regional Court)
- Sarah O. (Düsseldorf Higher Regional Court)
- Jennifer W. (Munich Higher Regional Court)
- Taha Al-J. (Frankfurt a. Main Higher Regional Court)
- Nurten J. (Düsseldorf Higher Regional Court)
- Leonora M. (Naumburg Higher Regional Court)
- Romiena S. (Celle Higher Regional Court)
- Jalda A. (Hamburg Higher Regional Court)

- Nadine K. (Koblenz Higher Regional Court) – case pending
- Hama S./Alia S. (Munich Higher Regional Court) – main hearing



Verdicts



Article 7 CCAIL

Whoever, as part of a widespread or systematic attack directed against any civilian population,

1. **kills a person,**
2. **inflicts, with the intention of destroying a population in whole or in part, conditions of life on that population or on parts thereof that are calculated to bring about its physical destruction in whole or in part,**
3. **traffics in persons, particularly in women or children, or whoever otherwise enslaves a person and in doing so arrogates to themselves a right of ownership over that person,**
4. **deports or forcibly transfers, by expulsion or other coercive acts, a person from an area in which they are lawfully present to another State or another area in contravention of a general rule of international law,**
5. **tortures a person in their custody or otherwise under their control by causing that person substantial physical or mental harm or suffering where such harm or suffering does not arise only from sanctions that are compatible with international law,**
6. **commits sexual assault, sexual coercion, rape, enforced prostitution, sexual slavery or enforced sterilisation against a person;** confines a forcibly impregnated person with the intention of affecting the ethnic composition of any population or in order to commit offences under sections 6 to 13; or aborts a pregnancy against the will or without the consent of the pregnant person,
7. causes a person's enforced disappearance, with the intention of removing them from the protection of the law for more than just a brief period of time,
 - (a) by abducting that person on behalf of or with the approval of a State or a political organisation, or by otherwise severely depriving them of their physical liberty, without immediately providing truthful information on that person's fate and whereabouts, or
 - (b) by refusing, on behalf of a State or a political organisation or in contravention of a legal duty, to provide information immediately on the fate and whereabouts of the person deprived of their physical liberty under the circumstances referred to under letter (a) above, or by providing false information,
8. **causes another person severe physical or mental harm, especially of the kind referred to in section 226 of the Criminal Code,**
9. **severely deprives a person of their physical liberty in contravention of a general rule of international law, or**
10. **persecutes an identifiable group or collectivity by removing or substantially restricting their fundamental human rights on political, racial, national, ethnic, cultural, religious, gender, sexual orientation or other grounds that are recognised as impermissible under the general rules of international law**



War Crimes Units



Investigations into CIC

- Investigations only by the Federal Public Prosecutor's Office
- First unit created in May 2009
- Presently 3 units
- 14 prosecutors are currently working on CIC cases



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Lessons learnt





Lessons learnt



Investigations into CIC

- No need for specific rules on procedures/specific procedural provisions
- Teams of experts (police, interpreters, researchers)
- Mutual legal assistance and international cooperation
- Witness protection / support



Lessons learnt

Need for international cooperation

1. In view of the **chapeau requirements** (widespread and / or systematic attack on a civilian population)
2. In relation to the **individual participation** in CIC
3. At **every stage** of the way to accountability
4. With a **wide variety of stakeholders** international organisations, national states, UN-mechanisms, NGOs, international tribunals, ICC, international tribunals



Bild: picture-alliance/AP





International cooperation on chapeau requirements, e.g. Syrian regime cases



Requests for information addressed to IIIM and CIJA on

- Intelligence branches from nearly all the intelligence services across the country: Damascus, Daraa, Aleppo,...; Branches 251, 40, 227, 285,...
- Military personnel/soldiers/police
- Civilian military hospital staff
- Militias: Shabiha, Hezbollah, Palestinian militias

Exchange of findings within the "CAESAR"-JIT

- Expert witness report: University of Cologne
- Witness statements
- Reports on institutions of the Syrian regime



International cooperation in relation to individual investigations, e.g. Syrian regime cases

Investigation against a Syrian physician

- Leads on potential witnesses: CIJA, ECCHR, SJAC
- Findings on military hospitals: CIJA
- Findings on torture in military hospitals and military intelligence branches of the Syrian regime: IIMM
- **Witness interviews:**
 - France, Sweden (Joint Investigation Teams),
 - Austria (European Investigation Order),
 - Denmark (European Investigation Order),
 - Sweden (European Investigation Order),
 - Greece (European Investigation Order),
 - Turkey (request for legal assistance)

Times	Crime Scenes
2010 – late 2011 (Nov/Dec)	Military Hospital Homs (608) & Branch 261 (Military Intelligence)
Late 2011/early 2012 – mid-2012	Military Hospital Mezzeh (601), Damascus
Mid-2012 – late 2012	Military Hospital Homs (608) & Branch 261 (Military Intelligence) Military Hospital Mezzeh (601), Damascus
Late 2012 – mid- 2013	Military Hospital Mezzeh (601), Damascus & Branch 235 (Military Intelligence), ... Military Hospital Homs (608)
Mid-2013 – mid- 2014	Military Hospital Tartous



Witness protection



The presence of the Syrian regime during the trials

The central issue was the influence of the Syrian regime during the trial:

- During the main hearing in Syrian regime court cases, witnesses or their relatives in Syria were threatened and intimidated before or after their testimony
- In one case, the 11-year-old nephew of a key witness was abducted in Syria one day before the witness was due to testify in court in Germany
- Witness protection during the main hearing involved police cooperation with the countries of residence



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Witness Tampering



Recurring and prominent problem in ISIL cases

- Threats to witnesses
- Eliciting favorable testimonies
- Social media and press campaigns
- Defamation of witnesses / casting false suspicion



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Thank you for your
attention!

