



Received by the Court Registry (*Geschäftsstelle*) on 30 September 2021.

K.  
Senior Court Secretary (*Justizobersekretär/in*)  
as Registrar (*Urkundsbeamter/in*) of the  
Court Registry.

**HIGHER REGIONAL COURT (OBERLANDESGERICHT) OF DÜSSELDORF  
FOR THE PEOPLE  
JUDGMENT**

**III-7 StS 3/19**

2 StE 5/19-4

Public Prosecutor General (*Generalbundesanwalt*) of Karlsruhe

In the criminal case

**against**

**1.** S. A.

born on 00/00/00 in D.,  
single, German and Algerian national,  
currently remanded in custody  
in prison I.,

**on the grounds of crimes against humanity causing death, among others**

the 7th Criminal Chamber (*Strafsenat*) of the Higher Regional Court of Düsseldorf,

on the basis of the main hearing which began on 16 October 2019, in which the following participated:

Presiding Judge (*Vorsitzender Richter*) of the Higher Regional Court D.

as the Presiding Judge,

as Associate Judges (*beisitzende Richter*),

Senior Federal Public Prosecutor (*Oberstaatsanwalt*) at the Federal Court of Justice (*Bundesgerichtshof*) I.,

Federal Public Prosecutor (*Bundesanwalt*) at the Federal Court of Justice J.,

Public Prosecutor (*Staatsanwält/in*) K.

as representatives of the Public Prosecutor General,

(...)

**on 16 June 2021**

**ruled as follows:**

Defendant **A.** is given an aggregate youth custodial sentence of **six years and six months** on the grounds of two counts of membership of a foreign terrorist organisation, one count of which also constitutes a crime against humanity causing death through enslavement, a crime against humanity through persecution, aiding and abetting a crime against humanity through rape, deprivation of liberty for a period of more than one week, and deprivation of liberty causing death and bodily harm.

The period from 23 February 2018 to 21 September 2018 during which Defendant A. was imprisoned in Turkey shall be credited against the youth custodial sentence at a ratio of 1:1.

Defendant **C.** (...)

Defendant **B.** (...)

(...)

Provisions applied:

Defendant A.:

(...)

Defendant C. and B.:

(...)

## Grounds of the judgment:

### **Preliminary remarks**

Defendant A. resided in Syria from the beginning of November 2013 to October 2017 with the aim of participating in the fight against the Syrian regime and the formation of an Islamic state governed by Sharia law. It was there that in January 2014 she married I. B., the son of Defendants C. and B., according to Islamic rites; in November 2013, he, together with his brother E. Y. B., became a member of the organisation 'Islamic State (in Iraq and the Levant)', later 'Islamic State' (ISIL/IS, hereinafter referred to as 'IS'), willingly integrated himself into IS and from then on functioned as an active member of the organisation in Jarabulus, Manbij, Raqqa and Al Mayadin.

The Defendant supported her 'husband's' activities for IS, temporarily housed newcomers to IS together with him and attempted to persuade other people to travel to Syria and to participate in jihad for IS.

From mid-September 2015 to October 2017, she, together with I.B. – and with knowledge of the persecution of the Yazidis by IS and the enforcement of its ideology, according to which Yazidis are 'devil worshippers' without any rights and the enslavement of Yazidi women and children is justified on religious grounds – enslaved, sometimes simultaneously, five Yazidi women and two underage Yazidi girls, including the co-Claimants Z., X. and Y. The slaves were forced to follow the instructions given by the Defendant and I.B. They could not choose where to live. They had to do housework, go on shopping trips and look after Defendant A. and I.B.'s shared children. They had to submit to I.B. sexually in accordance with IS ideology. If they 'misbehaved', X., Y. and the girl M1 were hit by the Defendant. With the approval of the Defendant, who considered I. B.'s actions permissible in accordance with IS rules and encouraged him, I. B. also exploited the vulnerable position of at least X. and Y., forcing them to work as domestic slaves and, sometimes using violence, to have sexual intercourse against their will.

The enslaved Yazidi girl M2 was killed in an attack in autumn 2017 when on a shopping trip with I. B. whilst travelling along a road in Al Mayadin that had been under fire since the previous day.

From October 2013 to mid-2015, Defendants C. and B. supported their sons I. and E. Y. B. – who were at first living in Syria together – with knowledge of the fact that they had been members of IS since mid-November 2013; they did so by actively assisting in the purchase and accumulation of weapon accessories and equipment for use by Islamist fighters, and transporting the ordered goods (or in part attempting to so do) from Germany to their sons. Defendant C. agreed to her sons ordering the goods required locally in Syria using her name and her home as the delivery address. Defendant B. provided the funds to pay for the items via his account. In 2014 E. Y. B. went to Turkey and from there carried out further organisational work for IS in the form of procuring and transporting equipment and everyday items required in Syria, which I. B. sold to IS members there with the approval and under the supervision of the organisation. Defendants C. and B. knew about these arrangements and proceeded to support their sons' actions by providing money. They were aware of and accepted the possibility of the capital and financial transactions and the export of weapon accessories being subject to sanctions or violating an arms embargo.

The Chamber terminated the proceedings against Defendant A. on the grounds of the offences designated as counts 2 and 3 in subparagraph II of the bill of indictment of 8 April 2019 in accordance with Section 154(1), subparagraph 1 and (2) of the Code of Criminal Procedure (*Strafprozessordnung, StPO*) and Section 2(2) of the Youth Court Act (*Jugendgerichtsgesetz, JGG*), and, in respect of the potential offences to the detriment of co-Claimant Z. and her child M3, limited them in accordance with Section 154a(1), first sentence, subparagraph 1, and (2) StPO and Section 2(2) JGG to violations of the law to the detriment of the co-Claimant in accordance with Section 7(1), subparagraph 3 of the Code of Crimes Against International Law (*Völkerstrafgesetzbuch, VStGB*) and Section 239(3) of the Criminal Code (*Strafgesetzbuch, StGB*).

The Chamber terminated the proceedings against Defendant C. on the grounds of the offences designated as counts 9, 10, 11, 14, 15 and 16 in subparagraph III of the bill of indictment and against Defendant B. on the grounds of the offence designated as count 15 in subparagraph III in accordance with Section 154(1), subparagraph 1 and (2) StPO.

The judgment is not based on an agreement in accordance with Section 257c StPO.

## A. Findings relating to the Defendants

### I. Relating to Defendant A.

Defendant A. was born on 00/00/0000 in D. as the daughter of M. A. from Algeria and German national A. A. The Defendant's father works in a paint shop in Switzerland and her mother – who has mental health problems – is a housewife.

Until she travelled to Syria in autumn 2013 the Defendant lived with her parents in K., together with her older sister T. She has German and Algerian nationality and speaks German and Arabic.

The parents raised their daughters as Muslims. The father adhered to a very strict interpretation of Islam which he progressively imparted to the Defendant. The Defendant had to endure physical punishment from her father if she failed to follow rules he had set, for example, if she failed to meet his requirement to wear hijab. Due to her health conditions the mother required day-to-day help from her daughters.

The Defendant completed her primary school education at the .... school in K. After primary school until she travelled to Syria in Year 10 she attended the high school (*Gymnasium*) .... in K. She was a high-achieving student who was popular among her classmates and seemed to be a determined, assertive and – initially, at least – open and approachable person.

After the Defendant started high school her parents limited her contact outside the home for religious reasons. In Year 7 the Defendant was taken out of school by her parents from 27 October 2010 to 10 January 2011 for an extended stay in Algeria. After the summer holidays of 2012, which the Defendant again spent with relatives in Algeria, she began to practise Islam very strictly. From then on she began to wear full-body garments and also covered her face when not at school. She studied Islam in her spare time and began to express increasingly fundamentalist views to her classmates. In the end she largely avoided contact with classmates, particularly because she felt torn between her strict religious upbringing by her father on one hand and the Western environment of her school on the other hand. Even a meeting with the youth welfare agency (*Jugendamt*) organised by the senior management of the school, her class teacher, her sister and her classmates, in which alternative housing for the Defendant was discussed, ultimately did not lead to any change in these circumstances. The Defendant spent the summer holidays of 2013 in France, from where she returned with even stronger religious beliefs. In Year 10 in October 2013 she asked her school for permission to cover her face and wear gloves there too. Finally, in discussions with fellow students, she began to aggressively make disparaging comments about Germany and the 'non-believers' living there.

On 31 October 2013, without informing her parents, the Defendant flew from S., via Istanbul, to Gaziantep in Turkey; from there she travelled on to Syria, where the offences on which the conviction is based occurred.

On 4 January 2014 in Aleppo, Syria she married I. B., the son of Defendants C. and B., according to Islamic rites, and it was there that she gave birth to three children, namely a daughter, M4, in Manbij on 00/00/2015, daughter M5 in Raqqa on 00/00/2016 and daughter M6 in Hajin on 00/00/2017.

On the basis of the arrest warrant issued by the investigating judge (*Ermittlungsrichter*) of the Federal Court of Justice of 24 September 2015, ref. 2 BGs 445/15, the Defendant was immediately arrested upon her return to Germany on 21 September 2018 in D. and is currently in custody.

Since then her children have been in the care of the youth welfare agency.

Defendant A. is undertaking distance learning while in custody with the aim of completing her *Abitur* (German school-leaving qualification). The Defendant is a very good student. She is the spokesperson for the prisoners' support service and is involved in various groups. The Defendant has occasional contact with her daughters while in custody. Her relationship with I. B. has now broken down.

The Defendant has no previous convictions in Germany. On 9 January 2019 she was also sentenced in absentia to six years and three months' imprisonment in Turkey in relation to some of the events on which this conviction is based on the grounds of membership of an armed terrorist organisation (IS) and document forgery; this sentence was handed down by the 2nd criminal court of Sanliurfa, ref.

2018/313. The period of imprisonment in Turkey following the border crossing from Syria on 23 February 2018 was credited against the penalty imposed.

## II. Relating to Defendant C.

(...)

## III. Relating to Defendant B.

(...)

### B. Findings relating to the case

#### I. Relating to the terrorist organisation IS and its acts against the Yazidis

##### 1. Relating to the terrorist organisation IS

The organisation known since June 2014 as 'Islamic State' (IS) is a foreign terrorist organisation which – guided by radical religious views – set itself the aim of overthrowing the Shiite-dominated government of Iraq and the regime of President Bashar al-Assad in Syria using armed force, even if this results in civilian victims, and establishing an authoritarian Islamic theocracy based on its own beliefs and governed by Sharia law in Iraq, Syria and the neighbouring states by breaking down national boundaries. The organisation's other aims include the capture of Jerusalem and the physical extermination of the Shiites, Alawites and other religious minorities in its territory, such as the Yazidis. Part of its armed combat involves the destabilisation of existing systems through terrorist attacks.

IS was preceded by the group 'Al-Qaeda in Mesopotamia', which was founded in Iraq in 2000 and similarly perpetrated attacks with the aim of destabilising the Iraqi state. In 2006 the organisation re-named itself 'Islamic State of Iraq' and claimed to be building its own Sunni state. The group, now led by Abu Bakr al-Baghdadi, gained strength following the withdrawal of US troops from Iraq at the end of 2011. To enable them to get involved in the Syrian civil war that started in 2011, Syrian members of the Islamic State of Iraq founded the 'Jabhat an-Nusra li-Ahl ash-Sham' (Nusra Front) as its Syrian subgroup at the instigation of al-Baghdadi.

The origins of the civil war in Syria can be traced back to the social and religious protests held from February 2011 onwards against the regime of President Bashar al-Assad, which is dominated by the Alawite religious minority, in parts of the country with predominantly Sunni populations, which, having been suppressed by government force, developed by the end of 2011 into an armed insurgency with no central leadership. The insurgents formed local organisations with no unified control structure, even after the proclamation of the opposition, the Free Syrian Army (FSA), in July 2011. Large parts of Syria were affected by the insurgency in 2012. This also led to violent clashes between the insurgent groups that were attempting to capture government military bases in the eastern, northern and central parts of the country. Salafist groups in particular gained strength during the civil war, including the Nusra Front, which had become one of the most significant insurgent groups in Syria by the end of 2012. In 2013 the Syrian regime managed to consolidate its position.

In order to safeguard the Islamic State of Iraq's control over the Nusra Front, al-Baghdadi proclaimed the 'Islamic State in Iraq and the Levant' (ISIL, also known as 'Islamic State in Iraq and Syria' [ISIS] and, in Arabic, 'al-Dawlah al-Islamiyah fi l-Iraq wa-sh-Sham') on 8 April 2013, which was to consist of the two groups, the Islamic State of Iraq and the Nusra Front. However, its leader Abu Mohammad al-Julani refused to submit to al-Baghdadi's command. The conflict could not be resolved through the intervention of Ayman al-Zawahiri, Bin Laden's successor as leader of Al-Qaeda in Pakistan, either. ISIL refused to take orders from him and, in early summer 2013, used former Nusra Front troops that had defected to it to take over a series of its bases in northern and eastern Syria. Autumn 2013 in particular saw armed conflicts with fighters from other rebel organisations, including the Nusra Front. In January 2014 ISIL was expelled from Al-Qaeda. In summer 2014 the organisation made great territorial gains in Iraq and, in June 2014, even seized Mosul. In response to this the organisation proclaimed itself the 'Islamic State', now without any territorial restriction whatsoever, and declared al-Baghdadi the caliph. A subsequent offensive directed against the Nusra Front and the Syrian army brought IS further significant territorial gains, as a result of which it controlled a continuous area in eastern Syria and the north-west of Iraq from June/July 2014 onwards.

During the course of 2013 the number of fighters had already grown to around 10 000 to 20 000 men and, by the beginning of 2016, this had increased to approximately 20 000 to 30 000. IS also saw a strong influx of foreign fighters, including from Germany, particularly after the caliphate had been declared.

Abu Bakr al-Baghdadi remained at the head of the hierarchical organisation from 2011 until his death in October 2019 and undertook ideological leadership. He responded to opposition with force, for example, by purging internal opponents. The wider leadership circle included his deputy and two commanders, one for Syria and one for Iraq. A Shura council also acted as the decision-making body for fundamental issues, such as the succession of the emir/caliph. There were also committees ('ministries') on religious and military matters, security and intelligence, finance, supervision of provincial administration and media relations. Each 'province' of IS was assigned a commander who reported to al-Baghdadi. A rudimentary administration and a separate judicial system were set up in each captured territory. A well-developed secret service was also established, which was organised in parallel with other structures within the organisation.

IS required its male members to complete regular military training at special training camps. After completing their basic training IS recruits were assigned to a 'katiba' and equipped with an assault rifle, usually an AK-47, along with ammunition. The organisation gave the fighters the supplies required for day-to-day life and a salary.

It was financed through oil sales, local taxes and protection money, spoils of war, ransom money and foreign donations.

Based on the logo of the Iraqi Al-Qaeda group, IS, like ISIL before it, used the identifying mark comprised of the text 'There is no god but God' in Arabic in white Kufic script, with the 'Seal of Muhammad' underneath in white, featuring the words 'Muhammad, messenger of God' in Arabic on a black background, sometimes accompanied by the organisation's name.

It carried out multilingual public relations work using modern media, particularly through its own media centres. This work was concerned with demonstrating the group's power, thereby intimidating opponents, recruiting followers and emphasising its claim to statehood. It published countless videos of brutal executions on the Internet for this purpose.

Following the proclamation of IS, in June 2014 at the latest, other organisations, groups, emirates and provinces in the territories controlled by IS were no longer considered legitimate. Muslims worldwide and fighters in other groups were called upon to submit to al-Baghdadi. The organisation thereby made a claim to leadership within the jihad movement worldwide.

As a result of the military offensive carried out by the United States and its allies as well as Russia against IS from autumn 2015, it lost most forms of its 'state' composition and reported great losses of fighters, with followers and their families fleeing IS territory at the same time. From autumn 2017 until March 2019 IS and the last of its desperate troops concentrated on delaying surrender, primarily in the Middle Euphrates region, in the south-east of Deir ez-Zor and the small town of Al Mayadin located in that governorate. On 14 October 2017 the town of Al Mayadin, which had already been the target of air strikes in May 2017, was recaptured by the Syrian army following an offensive supported by the Russian air force.

Since 2014 followers of IS have also carried out attacks in the West in its name, particularly in Europe, causing many deaths.

## **2. The treatment of the Yazidis by IS**

According to IS ideology only Jews and Christians had the right to live alongside Sunni Muslims in the region it controls, since these are major monotheistic religions with a book of revelation and are mentioned as such in the Qur'an. Although they could not actually practise their religion openly they were permitted to live in the Islamic State, as long as they paid a poll tax. Shiites and members of other religions, by contrast, were seen as apostates or non-believers and were usually murdered or enslaved. The Yazidi ethnic group is one of the minorities systematically persecuted by IS.

The Yazidis are a religious minority living mainly in Iraq, in Sinjar and further east in Shekhan. The number of Yazidis is disputed but estimates vary between 200 000 and 700 000 people. Yazidism is a monotheistic religion which has adopted elements of Christianity, Islam and Zoroastrianism. The



Yazidis are ethnic Kurds but they primarily define their identity on the basis of their religion. Since angels play a special role in the Yazidi religion, IS considers the Yazidis to be 'devil worshippers' and has set itself the goal of completely exterminating the Yazidi religion.

In the night of 2 to 3 August 2014 hundreds of heavily armed IS fighters attacked the region surrounding the Sinjar Mountains in the north-west of Iraq, where there were several hundred villages mainly populated by Yazidis near the main city, Sinjar. Hundreds of thousands of Yazidis managed to flee, mainly to the Kurdish region of Iraq but in some cases to the Sinjar Mountains too, where they were surrounded by IS fighters for several weeks, with many people, including children, being exposed to the heat without protection and, with no access to food, water or medical supplies, losing their lives. With the exception of K., which is situated particularly far to the south and was first occupied on 15 August 2014, IS managed to capture the villages within the space of three days. The aim of the attack was to completely exterminate the Yazidi religion, the Yazidis as a people and members of the religion in the territories occupied by IS, through, among other things, the forced conversion and religious re-education of all Yazidis, the immediate execution of men who were not willing to convert once they reached puberty, and the enslavement of women and children.

The result was that men who refused to convert to Islam were usually executed by IS quickly and in the immediate proximity – sometimes in front of their families and often during mass executions. The men who declared they were willing to convert to Islam – be it as a means of survival or not – were captured, transported away and subsequently used for forced labour or forcibly recruited as soldiers.

Women and children were initially rounded up at suitable collection points, such as the building of the Solagh Technical Institute to the east of the city of Sinjar, from where they were taken to group accommodation, for example, in schools or prisons in Tal Afar, Baa'j, Badush or the 'Galaxy Hall' in Mosul, a well-known wedding venue, where they remained for some time. From there the women and girls were transported away, under the threat and use of violence, to regions that IS still controlled, particularly to Raqqa in Syria and Mosul in Iraq, where they were used as domestic slaves and sex slaves. The standard of hygiene and living conditions in the group accommodation were appalling and inhumane. The prisoners were branded 'non-believers' and 'devil worshippers' and abused and beaten. There were cases of sexual assault. The prisoners were also forced to pray in accordance with the rules of Islam, contrary to their faith. In the accommodation women and girls were registered and catalogued to prepare for their subsequent sale as slaves. They were sold directly from the accommodation or through central slave markets, primarily in Raqqa or Mosul. Some women and girls were sold or 'raffled off' via online IS auctions. These online portals also featured very young girls, who were shown in photographs in various poses and from various angles.

IS fighters could select and take women and girls either on the basis of their prominent roles, as a prize for exceptional performance, as compensation instead of payment or in exchange for money. The enslaved women and girls were forced to perform sexual acts and used to carry out domestic work and provide childcare.

The English-language magazine DABIQ 4, which was published by IS in October 2014 and widely distributed among its members, offered religious justification for the killing of male Yazidis and the enslavement of Yazidi women and children, and also gave recommended prices for the trading of slaves and specific instructions for the keeping of them. In autumn 2014 IS also published a document entitled 'Questions and answers about the keeping of slaves and prisoners' containing rules for the keeping of female slaves, particularly the conditions under which it was permitted to have sexual intercourse with them.

## **II. Acts committed by the Defendants**

### **1. Involvement of I. and E. Y. B.**

After the sons of Defendants C. and B., I. and E. Y. B. – who, in Germany, were part of the Salafist organisation 'Millatu Ibrahim', headed by Mohamed Mahmoud and Denis Cuspert, which was banned in May 2012 – became increasingly devoted to Islam and were radicalised, they travelled to Turkey, accompanied by Defendant C., at the end of June/beginning of July 2012; Defendant B. knew about this. From there I. and E. Y. B. travelled to Egypt. They then initially travelled to Libya and, at the beginning of 2013, to Syria. Once there they tried to join jihadi groups in the civil war zone. They first



joined Jabhat an-Nusra and then, on 14 November 2013, they joined IS. There I. B. took the name Abu H1, while E. Y. B. became known as Abu G1.

Between October and December 2013 I. and E. Y. B., operating from Jarabulus, ordered weapon accessories and other equipment from various suppliers on the Internet; they then used these themselves in the war in Syria or sold them to Islamist fighters in their group. I. and E. Y. B. also made themselves available to IS as fighters, performed guard duties for IS – which either consisted of protecting the boundaries of territory controlled by the organisation or overseeing the rules of behaviour imposed by IS – and from 20 to 28 November 2013 also participated in an IS combat operation on a military base (Liwa 80) near Aleppo. Between 7 and 17 January 2014 they took part in combat operations in Jarabulus on the side of IS against the Free Syrian Army. During these combat operations they had to hide in a building for several days until they were freed by IS fighters. On 16 January 2014, in the course of this fighting, IS carried out a car bomb attack, which resulted in a number of deaths and led to IS winning this conflict. On 17 January 2014 the brothers were able to leave their positions. The city was now under the sole control of IS.

Following the fighting E. Y. B. and his wife according to Islamic rites, S. N., absconded to Turkey on 22 January 2014, with the approval of IS. He remained in contact with his brother I., who remained in Syria; they both agreed that E. Y. B. would now provide support to I., who wanted to continue to trade equipment and other items in Syria, from Turkey. E. Y. B. was to provide organisational assistance by sending money and equipment to I. in Syria.

I. B. carried out his procurement and sales activities for IS in Jarabulus with the relevant approval from IS and under the supervision of the organisation – from May 2014, at the latest, in the form of a commercial business – by continuing to sell equipment which was necessary or useful in the war zone, such as weapon accessories and, initially, also everyday items in particular such as battery chargers, clothing and groceries, to IS members. He also considered opening an Internet cafe. E. Y. B. continued his organisational activities on behalf of IS in Turkey by procuring the items required and ordered by his brother and organising transportation of them to Syria. To hide his regular journeys transporting goods via Gaziantep to Syria from the Turkish authorities, among other reasons, in autumn 2014 at the latest E. Y. B. founded his own company, which he named 'W. G.' and which supplied goods including outdoor clothing and equipment, camouflage clothing, knives, sights for firearms, drones and bipods.

At some point in mid-2015 I. B. attained an official position in the IS 'procurement agency' in Raqqa and ordered the goods required from his brother E. Y. on behalf of IS in this capacity too. In this way E. Y. and I. B. gradually expanded their business operations for IS, sometimes earning a considerable income. At the beginning of 2017 E. Y. B. returned to his brother in Syria.

On 25 November 2017 E. Y. B. was captured by Kurdish forces in Syria, while I. B. was captured in Turkey on 23 February 2018 while attempting to flee, then detained and following sentencing on 9 January 2019 on the grounds of membership of an armed terrorist organisation (IS), among other things, by the 2nd criminal court of Sanliurfa, ref. 2018/313, to several years' imprisonment was provisionally released with a ban on travel.

## **2. Defendant A.**

### **a) Previous events**

Defendant A. was in contact over the Internet from Germany with S. N., who was living in the Syrian city of Jarabulus with E. Y. and I. B., as early as summer 2013. On 31 October 2013, after presenting copies of her parents' passports and a falsified declaration of consent when booking the trip, Defendant A. boarded a flight from S. to Istanbul, from where she flew on to Gaziantep. From there she crossed the border to Syria to meet S. N., who, prior to this, had offered to let her live with her. In Jarabulus Defendant A. met both Defendant C., who was visiting her sons, and I. B. for the first time.

A few days after she arrived in Jarabulus Defendant A. attended mosque together with S. N. and, from then on, regularly attended Islamic classes provided there.

During the fighting in Jarabulus at the beginning of 2014 Defendants A. and S. N. lived in a nearby village with women who A. knew from the Islamic classes, and later in a women's shelter in Jarabulus.

**b) Count 1**

Following her marriage to I. B. according to Islamic rites in Aleppo on 4 January 2014 until she fled in November 2017, Defendant A. was affiliated with IS and supported its radical Islamist and militant ideology and its actions, submitted to the organisation's will and, within this context, carried out activities to further its aims. While there she went by the name Umm H1.

In Jarabulus Defendant A. lived together with I. B. and ran their shared household. By doing so she enabled I.B. to work for IS as a guard and fighter, among other things. These duties, which she knowingly undertook, were expected of her as the wife of an IS fighter within its territory and corresponded to the gender roles propagated by IS.

From February 2014 to the beginning of June 2014 the Defendant, together with I.B., temporarily housed newcomers to IS in her home in Jarabulus, for example, German 'brothers' and their wives who could not immediately find accommodation and German women for whom IS was arranging marriages with IS fighters.

The Defendant also tried to persuade her family members – her sister T., on several occasions, and, in May 2014 and February 2015, her husband according to Islamic rites, N.L., due to his medical knowledge – to travel to Syria to support IS.

In June 2014 at the latest Defendant A. and I.B. moved to another home in the centre of Jarabulus. After safety in the city began to deteriorate – there were also bombings in the city centre – Defendant A. and I. B. moved to Manbij at the end of 2014/beginning of 2015.

Following the birth of M4 in February 2015 the Defendant took care of the couple's daughter, which also freed I. B. up to carry out his duties for IS.

In August 2015 Defendant A. and I. B. moved with their daughter to Raqqa, initially into a four-bedroom apartment. This was because I. B. was taking up his role in the IS 'procurement agency' there. In spring 2016 the family moved into a larger apartment on the outskirts of the city.

As the situation became less and less safe due to the growing number of bombings the family again moved within Raqqa in autumn 2016, following the birth of daughter M5, this time to an apartment that was smaller but in a less dangerous location.

At some point while living in Raqqa, although the precise date is unknown, I. B. gave the Defendant a pistol made by the brand Glock, which she always carried with her from then on – and not solely for the purpose of self-protection.

As IS was driven further and further back by military forces the family – and E. Y. B., who had since returned from Turkey to Syria – moved to Al Mayadin, following IS, in May 2017. When airstrikes on the city by opponents of IS increased and the home of the Defendant and I. B. was bombed, Defendant A. quickly moved into a women's shelter in Al Mayadin with her daughters M4 and M5 at the beginning of October 2017. From there she and I. B. moved two further times in Al Mayadin before the family fled for Turkey at the end of 2017/beginning of 2018.

The Defendant had radical Islamist views and strived for the establishment of the Islamic state under Sharia law sought by IS.

IS made monthly payments in the sum of approximately USD 118 to Defendant A. and I. B. until at least the end of 2016/beginning of 2017.

**c) Count 4**

Between September 2015 and October 2017 the Defendant and I. B. kept a total of seven Yazidi women and girls, including two minors, as slaves in their homes in Raqqa and Al Mayadin. The women and girls were captured during the IS attack on the Yazidi people and then resold, sometimes many times. This specifically concerned the co-Claimants X., Y. and Z. as well as four other people of whom only the first names are known, namely M7, M1, M8 and M2. At the time at which they were kept against their will in the Defendant's home, M1 and M2 were only 13 or 14 years old. M8 spent just a few days there.

Defendant A and I.B. bought the women and girls whom they kept as slaves from a slave trader in Raqqa who also worked for the IS 'procurement agency' and who went by the name of 'Abu H2'. He was an emir and a friend of I. B. Only the girl referred to as M2, M8's sister, was bought from another Arabic IS member in Al Mayadin.

The Defendant and I. B. acted with full knowledge of the persecution of the Yazidis by IS, the enforcement of its ideology – according to which the Yazidis were 'devil worshippers' without any rights and the enslavement of Yazidi women and children was justified on religious grounds – and the goal set by IS to exterminate the Yazidi religious community, and they were aware of the rules on the handling of slaves drawn up and published by IS.

#### **aa) Sequence of enslavement**

Between mid-September 2015 and mid-November 2015 Defendant A. and I.B. first jointly bought co-Claimant Z., who had her two-year-old daughter M3 with her, and kept her as a slave in their home in Raqqa.

Following the sale of Z. to another IS member, they kept a Yazidi woman referred to as M7 as a slave; she was also sold to another IS member before 1 December 2015. M7 also had a daughter with her while she was kept in Defendant A.'s home.

At the beginning of December 2015 the Defendant and I.B. bought a Yazidi girl of 13 or 14 years of age, referred to as M1, as a slave.

In January 2016 the Defendant and I.B. bought the co-Claimant X. and another Yazidi woman referred to as M8 – who, however, only remained in their home for less than one week – as slaves at the same time.

In late summer 2016 they sold M1 to another slave owner. Prior to this the Defendant instructed M1 to put on a short denim dress; the Defendant then put make-up on her and used her mobile phone to take photographs of her, which were then published on an online IS slave market with a note indicating that the girl was for sale.

In addition to co-Claimant X, who was still being kept in their home, they also bought co-Claimant Y. as a slave in December 2016; they kept her as a slave for approximately five months.

In May 2017 I. B. gave co-Claimant X. to his brother E. Y., who – as previously mentioned – had returned from Turkey to Syria. Together they moved with co-Claimants X. and Y. to Al Mayadin, where I. B. and Defendant A. resold Y.

In Al Mayadin Defendant A. and I. B. then, in summer 2017, bought a 13 or 14-year-old Yazidi girl referred to as M2, who they kept as a slave in their home until her death in autumn 2017.

#### **bb) Treatment of the slaves**

All the slaves were forced to follow the instructions given by Defendant A. and I.B. They were forced to get up early; do housework, such as cleaning the apartment on a daily basis, sometimes several times; care for the couple's daughters and go on occasional shopping trips. They were expected to abandon their Yazidi faith and to study and practise IS ideology; in particular, they had to pray in accordance with Islam several times a day.

They could not choose where to live. Only Defendant A. and I. B. had a key for each of the apartments; they kept the apartment locked. This meant they also had control over the enslaved Yazidis' freedom of movement. The slaves were only allowed to leave the apartment with their permission and were usually accompanied by Defendant A. or I. B.

The Defendant also instructed co-Claimant X. and M1 to carry out work for free for other women too. This included N. J. and O. O., who were friends with the Defendant. N. J.'s husband, I. S., had been close friends with I. B. for years. They already knew each other from their shared time with Millatu Ibrahim in Germany and from staying together in Libya. O. O. was married according to Islamic rites to Denis Cuspert, who was also friends with I. B.

At N. J.'s apartments in Raqqa and Al Mayadin, co-Claimant X. had to perform household duties and care for J's daughter on multiple occasions, under the supervision and instruction of Defendant A. In spring 2016 the Defendant also took both co-Claimant X. and M1 on at least two visits to her friend O.

O. During these visits co-Claimant X. and M1 had to clean her apartment, as agreed by the Defendant and her friend.

### **cc) Physical violence against the slaves**

While they were being kept as slaves in the home of Defendant A. the Defendant hit co-Claimants X. and Y. and the girl referred to as M1, sometimes with objects such as a stick, a water hose or a shoe, causing them pain.

#### **(1) X.**

Defendant A. hit co-Claimant X. at least six times during the period in which she was kept as a slave in the Defendant's home from the end of January 2016 to May 2017; the precise dates cannot be determined. This caused the co-Claimant pain.

Co-Claimant X. suffered such chastisement because the Defendant did not feel that she had performed the housework properly, for example. On one occasion, the Defendant hit the co-Claimant because she did not bring the Defendant the breakfast she wanted. She also hit co-Claimant X. on two other occasions because she was displeased with the condition of the apartment; once because she believed there to be a layer of dust on the furniture and once because cat urine was not immediately cleaned up.

The Defendant also hit co-Claimant X. if she felt that the co-Claimant was not providing sufficient care to her children; for example, she once hit her because her daughter M4's nappy was not changed immediately after she had soiled it.

On at least one occasion, Defendant A. hit co-Claimant X. because she did not recite the prayers in the Qur'an correctly, and she did so in the presence of the girl M1.

During Eid al-Adha from 12 to 16 September 2016 the Defendant hit co-Claimant X. immediately after she had been raped by I. B. in the apartment bathroom because she was angry about the situation.

Defendant A. assaulted co-Claimant X. in similar ways on several other occasions in the at least 15 months in which she was kept as a slave in Defendant A.'s home; however, no further details of these can be determined.

#### **(2) M1**

At the beginning of December 2015 Defendant A. hit the girl M1 because she took a shower without first obtaining permission from the Defendant, who was still sleeping. Furious, the Defendant hit the girl hard with her hand several times, causing M1 pain.

#### **(3) Y.**

Defendant A. hit co-Claimant Y. as soon as she arrived and kicked her in the leg three times. The reason for this was that Y. still had some money of her own, which she was hiding under a veil. This veil, which Y. had obtained from a previous slave owner, was the same as the ones also worn by IS women. Both of these things displeased the Defendant, who did not consider this to be fitting given the status of a slave. The hit and the kicks caused Y. pain. After co-Claimant Y. refused to tolerate such treatment and complained to I. B. about it, Defendant A. then refrained from hitting her.

### **dd) Sexual assaults on the slaves**

The enslaved women and girls had to be sexually submissive to I. B., in accordance with IS ideology. Besides exploiting their vulnerable position as slaves in the family's home, he forced at least co-Claimants X. and Y., sometimes using violence, to have sexual intercourse against their will.

As I. B.'s wife, Defendant A. was not happy with this, but she nonetheless told him that she understood it was acceptable in accordance with IS rules. When co-Claimants X. and Y. asked the Defendant for help she told them that it was a sin to resist rape. She claimed that this was simply the fate of the Yazidi slaves.

**(1) X.**

As soon as co-Claimant X. was bought Defendant A. told her that it was a sin for a slave to attempt to escape such sexual intercourse. She claimed that Islam allowed the expulsion of the Yazidi people, the taking of their belongings, and the enslavement and rape of their women. She said that anyone who bought a slave was also allowed to rape her. Encouraged by the Defendant's acceptance of his actions, I. B. sexually assaulted co-Claimant X. in the following ways:

In the afternoon of X.'s second day in the home of the Defendant and I. B., Defendant A. told her to shower and put on a dress which the Defendant had picked out to prepare for sexual intercourse with I. B. Following evening prayers together, the Defendant left the room and went into the neighbouring room, which already contained M1 and M8. When X. tried to follow her I. B. grabbed her by the arm and then dragged her into the bedroom. When she told him she would scream he replied – accurately – that his wife Defendant A. knew what he was going to do and agreed to it. If she – X. – refused, he would force her to sleep with him. He violently pulled off her dress and removed his trousers. The co-Claimant tried to run away but was physically overpowered by I. B., who pushed her on to the bed by her shoulders. He put on a condom, struck X.'s upper legs to stop her from fighting back, and had vaginal intercourse with her for approximately 15 minutes until he ejaculated.

During Eid al-Adha from 12 to 16 September 2016 X. helped I. B. slaughter animals. The Defendant told the co-Claimant, who was spattered with blood as a result of this, to shower. I. B. asked to enter the locked bathroom, which the co-Claimant first refused because she was undressed. After I. B. threatened to break down the door, X. opened it out of fear of him. I. B. entered the room and had vaginal intercourse with the co-Claimant against her will, during which he struck her body.

While co-Claimant X. was kept as a slave by Defendant A. and I. B. she suffered a number of further similar sexual assaults by I. B. The attacks sometimes resulted in bleeding in the co-Claimant's genital area. When she begged the Defendant to stop I. B. from carrying out such attacks the Defendant claimed that she could not do this because that was forbidden under Islamic law ('*haram*').

**(2) Y.**

Co-Claimant Y. also suffered sexual assaults committed by I. B. with Defendant A.'s agreement:

As soon as co-Claimant Y. arrived in Defendant A.'s home, the Defendant told her to remove her body hair to prepare for sexual intercourse with I. B. Then, on the second or third day of her enslavement, I. B. asked the co-Claimant to help him carry a double mattress into the bedroom. Once in there he locked the bedroom door, grabbed her tightly, pushed her onto the mattress and climbed on top of her. Although she told him that she did not want to have sexual intercourse with him and begged him to let her go, he pulled off her clothes, put on a condom and had vaginal intercourse with her for at least 30 minutes until he ejaculated, while Y. cried out in pain. Because of her vulnerable position as a slave in the home and out of fear of his violent behaviour, Y. did not physically resist.

While she was kept as a slave, co-Claimant Y. regularly suffered similar sexual assaults committed by I. B. Each of these was committed in the bed in I. B.'s bedroom and lasted up to two hours. This caused the co-Claimant pain and inflammation in the genital area, as a result of which Defendant A. took her to a female IS doctor for treatment. I. B. forced further painful sexual intercourse on her after this.

**ee) Death of slave M2**

At the beginning of October 2017, as the air strikes on Al Mayadin by opponents of IS hugely increased and Defendant A. and I. B.'s home there also appeared to be at risk, Defendant A. initially took M2 with her to an IS women's refuge in Al Mayadin and then to two further homes in the area which had been found at short notice, into which she moved with I. B. and their daughters.

In spite of the dangerous situation in and around Al Mayadin, one day in October 2017 – the precise date of which cannot be determined – I. B. and M2 went out shopping. There was an agreement between Defendant A. and I. B. that the slaves would be taken along on such journeys if necessary. Accordingly, the slaves had accompanied him and the Defendant on journeys or shopping trips in the past.

For the journey with M2, I. B. chose a main road which he had driven along the day before with the Defendant and on which the Defendant knew that – as on the previous day – she could be bombed.



Like I. B. the Defendant was aware that the slaves could be injured or killed by fighting or bombings during journeys throughout the war zone. The vehicle driven by I. B. was hit by a projectile and M2 was seriously injured. I. B. took the girl to a nearby hospital, where she succumbed to her injuries.

#### **d) Subsequent events**

Despite the increasingly dangerous situation, Defendant A. did not initially want to leave IS territory in autumn 2017 and persuaded I.B. – who was urged to leave by his mother, Defendant C. and his brother – to stay in Syria with her. It was only due to the impact of the increasing air strikes on Al Mayadin and because of her third pregnancy that she also came round to the idea of now leaving Syria.

On the day after M2's death the family travelled to Hajin. Until the birth of their daughter M6 on 00/00/2017, they stayed with families they were friends with and finally with Abu H2, who was now living there. In mid-February 2018 I. B. organised transport to the Turkish border in an HGV for himself, the Defendant and their daughters.

On 23 February 2018, the family reached the border crossing near the Turkish town of Akçakale where they were captured by Turkish border guards and first taken to a military base for domestic security and terrorism-related issues. I. B. was questioned extensively and the Defendant's personal details were also taken. Following a database query, the Turkish authorities became aware of the Interpol notice relating to I. B. and Defendant A. issued by the German law enforcement authorities for the purpose of arrest and in respect of the existing arrest warrants in Germany. Consequently, the Defendant continuously remained in the custody of the Turkish authorities, who were in contact with the German authorities, so that the Defendant could be detained immediately upon deportation to Germany.

After undergoing a medical examination in a hospital, the family were taken to another military base, where I. B. and the Defendant were interrogated by the military police; the presence of a public defence lawyer was also ordered by the people carrying out the interrogation. Following an approved visit by two of I. B.'s relatives, who were also allowed to bring a change of clothes, I. B. was taken to a cell with other men, while the Defendant and the children were held in a waiting room with a locked door. There they had to sleep on benches and on the floor; blankets and canteen food were provided. After knocking, the Defendant was allowed to take a bath, for the purpose of washing clothes too. The Defendant was also allowed to make a telephone call to her sister and the children were allowed to watch television in an adjacent building. The next day two lawyers arrived and advised I. B. and the Defendant.

On 28 February 2018, the family were taken to a court in Sanliurfa, where I. B. appeared before the main judge while the Defendant and the children were made to wait under the supervision of Turkish soldiers. I. B. was remanded in custody; the Defendant was told in court that she and her children were to be deported. I. B. was then transported to a Turkish prison. The Defendant and her children were first taken to a military base in Akçakale; the following day they were again taken to the court and from there they were then driven to an immigration office and then to a police station, where they were held in an unlocked police cell and provided with food. On 5 March 2018, after her daughter M6 fell ill, the Defendant and her daughters were taken to a hospital.

The next day the Defendant and her children were picked up and taken to an immigration detention centre near Gaziantep airport. They were given a room in a secure building, which already contained many families from different backgrounds and cultures; the Defendant and her children were able to take a shower there. The Defendant's sister was allowed to visit her there and bring her clothes. The Defendant and her children lived in cramped conditions. They had since begun sharing the room allocated to them with a Syrian mother and her two children. The doors were locked between 10 p.m. and



8 a.m. and they were allowed to spend one hour a day in the courtyard. They were allowed to buy things from a small shop every two days.

As stated in the judgment imposed upon her by the second criminal court of Sanliurfa on 9 January 2019, the Defendant had been remanded in custody from 6 September 2018. The period of imprisonment served from 6 September 2018 does not result in any change in the factual circumstances.

In a statement of 10 September 2018, she told the Turkish criminal court that she did not know that the passport she was carrying had been falsified and that she had 'nothing to do' with 'DEAS or ISID'. She said that she had been finding being held in the immigration detention centre hard for some time.

On 21 September 2018 the Defendant and her three daughters – following the performance of DNA tests – were deported to Germany by the Turkish authorities. At the airport in D. the children were separated from the Defendant and taken into care by the youth welfare agency. The Defendant appeared before the investigating judge of the Federal Court of Justice. After an arrest warrant was issued she was taken to prison I.

At least until she fled Syria on 23 February 2018 the Defendant continued to have Salafist beliefs and adhered to a radical Islamist, militant ideology, as propagated by IS. It has not been possible to determine whether or not the Defendant still believes in the IS ideology today.

### **3. Defendant C. and Defendant B.**

#### **a) The Defendants' organisational understanding and inner beliefs**

(...)

#### **b) Count 5**

(...)

##### **aa) Order and delivery procedures**

(...)

##### **bb) (Attempted) shipment to Syria.**

(...)

#### **c) Counts 6 to 8**

(...)

#### **d) Counts 12, 13, 17-20**

(...)

#### **e) Subsequent events**

(...)

### **C. Assessment of evidence**

The findings are based on the pleadings filed by Defendants A. and B., insofar as these could be accepted, and the other results of the taking of evidence, particularly the results of analyses of seized data storage devices, the content of telecommunications surveillance, the information provided by co-Claimants X., Y. and Z., the statements of witnesses of the offences and the investigating officials, police notes and official accounts from the German Federal Foreign Intelligence Service (*Bundesnachrichtendienst*). With regard to the terrorist organisation IS and its actions against the Yazidis, the findings are also largely based on the information provided by expert Z2. Expert Z3 has compiled a youth psychiatry report on the issue of the responsibility of Defendant A. under criminal law.

### **I. Pleadings**

## 1. Defendant A.

### a) Pleadings on days 26, 28 and 29 of the main hearing

On days 26, 28 and 29 of the main hearing, during the witness hearing of co-Claimant X., Defendant A. read out the 66-page pleadings she had prepared earlier and also declared that she was willing to answer any further questions by the Chamber and the representatives of the Public Prosecutor General. She provided – in accordance with the findings made – extensive personal details. The Defendant admitted the reasons for her departure; the external circumstances of her departure to Syria and her stay there with S. N. and I. and E. Y. B.; her encounter with Defendant C., who was also there; her marriage to I. B. according to Islamic rites; their subsequent life together; the keeping of their shared household and the raising of their daughters and the changes in location as established.

With regard to I. B.'s activity, she stated that immediately after the wedding, he and his brother had participated in combat operations in Jarabulus, during which he had to hide in a cultural centre. After the fighting, he rented a shop in order to sell goods such as groceries and confectionery from there. He bought a car and often drove to other towns to purchase goods while she spent almost the entire day at home, unless she had been invited to other women's homes or had gone shopping. E. Y. B. visited her in the course of summer 2014 and brought groceries and goods for I. B.'s shop. After IS proclaimed a caliphate, the town saw an influx of newcomers, mostly men. I. B.'s shop was therefore very successful because many of them bought from him. After the move to Manbij at the end of 2014/beginning of 2015 I. B. – according to what he told her – travelled to Raqqa and Al Bab more and more often to collect from his brother E. Y. B. goods which a shop owner in Manbij had brought him from the Turkish border. I. B. then resold these goods. The goods mainly consisted of clothing and sometimes of electronic devices such as power banks. However, she claimed she did not know exactly what was kept in the store room in her home. I. B. believed he would be able to attain a good income through the sale of his goods. They had been able to cover their living costs 'easily'.

During Ramadan in 2015 I. went away for a period of time, supposedly to Raqqa. He had been signed up by the katiba Anwar al Awlaki. Reportedly, however, he did not go there to fight; instead, he was responsible for the procurement of clothing and received a monthly income. After about a month I. B. returned from Raqqa. After Ramadan I. decided to move to Raqqa because of his new job. He told her that IS had signed him up to the 'procurement agency' because he had successfully run a business in the past. His emir there was Abu H2, whose family she, the Defendant, got to know better after moving to Raqqa.

The Defendant denied the charge brought against her in count 1 of the indictment of having performed guard and policing services for IS together with I.B. She did not comment on the other acts of participation of which she is accused in count 1 of the bill of indictment, specifically housing new arrivals to IS and trying to persuade other people to travel to Syria and to participate in jihad for IS.

In relation to count 4 of the bill of indictment, Defendant A. admitted that during her time in Syria, she kept the seven Yazidi women and girls named in the established facts of the case – in two cases accompanied by a daughter – as slaves in her home during the specified periods of time, including co-Claimants Z., Y. and X. However, all the women kept as slaves were reportedly brought into the home solely by I. B. and against her will. I. B. reportedly always justified each of his decisions to buy a slave – whose consent to the sale he allegedly obtained first – on the grounds that they would help the Defendant in the home and with childcare. She reportedly always responded by telling him that she was fine on her own. All the women helped with the housework and the supervision and care of the children. It was only when M7, the second slave, was bought and I. B. told her he had only bought her to resell her for more money that she became suspicious that I. B. was 'sleeping' with her. When confronted, I. B. admitted this and declared it was his right. She, the Defendant, screamed and cried, grabbed her daughter M4 by the arm and proceeded to leave the house. I. B. then said she was free to go to a friend's or to a women's shelter alone, but declared he would speak ill of her and not allow her to see her daughter again. He assumed that he would be granted sole custody. She was also afraid that I., who had already hit her during pregnancy, would do something to her, and feared for her

daughter. She felt humiliated, hopeless and desperate because she was unable to escape her situation. Her relationship with I. B. had reportedly 'died out long ago'. She tried to keep out of M7's way.

I. B. then slept with co-Claimants X. and Y. too; the co-Claimants reportedly did so willingly, with co-Claimant Y. supposedly actually initiating this. Co-Claimant X. always talked to her about I. in glowing terms; she, the Defendant, had a feeling that the two of them were having a relationship and that she was simply the 'fifth wheel'. Co-Claimant X., who had already been imprisoned by IS for one and a half years before she came to them, once told her that she tried to resist sexual acts by IS men to begin with but, after some time, came to realise that she could not escape and therefore consented to everything. In IS territory, you did not have the right to refuse, either as a wife or a slave. She herself had to continue sleeping with I. B. without contraception. While she was pregnant with M5, she often suffered severe pain and tried to refuse to engage in sexual activity with I. However, he did not accept this. After intercourse with I., she experienced some bleeding and had to attend a hospital for treatment. I. B. knew this but did not show any consideration for her all the same.

With regard to the events that occurred between co-Claimant X. and I. B. during Eid al-Adha in 2016, the Defendant stated that I. B. came to her after slaughtering the animals and she rejected him. I., who had no desire to have a discussion at that point, then went to the bathroom where co-Claimant X. was showering and knocked on the door. Co-Claimant X. opened the door. She – the Defendant – felt humiliated and was angry that co-Claimant X., who knew she was in the living room, 'simply' opened the door. She then began to bang on the bathroom door and scream. When co-Claimant X. came out several minutes later, she pushed her and shouted at her. This was reportedly the only time that she physically assaulted one of the slaves.

I. B. later gave co-Claimant X. to his brother E. Y. B. The two of them – X. and E. Y. B. – reportedly began a love affair.

She met M2 for the first time during a joint visit with I. B. to a Saudi man and his family. Immediately afterwards I. explained to her that M2 was M8's younger sister and said that he intended to buy her. As she knew she would not be able to dissuade I. from doing so by 'flipping out and letting him know how outraged she was', she pointed out their tight financial situation and said that M2 did not seem likeable. Although she hoped that I. would therefore not go ahead with his plan, the next day he took money from her purse, where he always kept his money because he believed it would be safe there, and bought M2. She said that the events leading to M2's death came about as the result of the vehicle stopping because another vehicle had broken down, as established. I. B. took M2 to a clinic in the next village and from there by boat to a local hospital near Gharanij. This was full so he took M2 to the main hospital in Hajin, where she died on the women's ward. He was not allowed to enter the ward. I. B. was distraught. The Defendant offered to go to the hospital herself, which he felt was too dangerous because bombs were falling there constantly. Early in the morning on the following day, however, they both set off. She searched the hospital for M2 – who I. B. had registered under the Defendant's name – without success until a doctor told her that M2 had died. She claimed that M2's death affected her very deeply.

The next day she, I. B. and their children made their way to E. Y. B. and co-Claimant X. in Hajin. She told co-Claimant X. of M2's death and X. was also deeply affected by this. X. informed her of the plans that she and E. Y. B. had to escape and tried to convince her and I. to flee too. However, the Defendant did not trust the middlemen and refused to flee out of concern of being discovered by IS and out of fear, as a pregnant women with two children, of potentially being separated from I. B. I. B. agreed with her and told his brother they would not be going. Co-Claimant X. reportedly bid her a tearful farewell a few days later.

Until the birth of their daughter M6 on 00/00/2017, she – the Defendant – and I.B. stayed with families they were friends with in Hajin and then with Abu H2, who was now living in this area, before finally making the difficult journey to the Turkish border due to the increasing bombings.

## **b) Withdrawal**

Defendant A. withdrew these pleadings on day 41 of the main hearing before she could be questioned by the parties to the proceedings, stating that she would have to prepare a fundamentally new defence

because on day 39 of the main hearing the Chamber had also made reference to further potential criminal liability on the grounds a crime against humanity causing death on the basis of her pleadings.

### c) Pleadings on day 75 of the main hearing

On day 75 of the main hearing Defendant A. then filed further pleadings.

In particular, she stated that she was not aware of IS prior to her departure for Syria. She claimed she went to Syria because she thought it would be easier for her as a Muslim girl if all areas of her life were governed by Islam. She claimed she did not understand the complexities of the political situation there. She believed that phrases such as 'we support our men in their fight and create and give birth to the fighters', which she had already heard on the Internet while in Germany, were irrelevant to her. When she left she did not expect to get married and have children so quickly there. I. B. did not demand this of her either; in Syria, it was simply expected. To be the 'healthy wife of an IS man', it was not possible to go to a doctor and get a prescription for the contraceptive pill. Unlike some other women who wanted a boy, she had no preference as regards the gender of her children.

She initially ruled out fleeing Syria, which she had considered many times, because she did not expect that she and her daughters would survive it. She was also tormented by the question of whether leaving Syria and IS would be compliant with Islam. She ultimately fled because it just so happened that an opportunity to escape arose.

She claims she did not buy or sell any slaves herself, nor did she agree to the handling of them. She reportedly never wanted slaves in her home. She never told anyone to do or not do anything. She never hit anybody. She was also unable to separate from I. B. because of the 'Yazidis'. This reason would not be accepted; in fact, she would probably be punished for it.

Her beliefs changed drastically while in the immigration detention centre and in custody. She has come to understand that when a state claims to be founded on divine authority, there is the risk of it evading control and restriction through rationality and humanitarian principles. It is no longer a question of complying with religious rules that are set and overseen by people. She reportedly believes it is terrible that, under IS, religious rules were followed at many levels at the expense of humanity. Beliefs and faith in God are now a personal matter for her. She wants to observe the five pillars of Islam but decide for herself how to practise her faith, for example, by only wearing her headscarf to pray and on special occasions. Wearing a full veil is now reportedly out of the question for her. She wears make-up and listens to Western music. Mentally she is also freer too. In the prison she gets along well with men and women of different religions and backgrounds and treats them equally. She has also moved away from the notion that the man as the head of the family must make the decisions as well as from the notion that separating from your spouse or from the father of the family is not allowed.

She has since separated from I. B. She has only continued to send letters to him – including with the help of fellow inmates, because she herself has reportedly had no particular interest in doing so any more – because she feels she has an obligation towards Defendant C., who cared for her like a mother and supported her. Her relationship with her own mother was unstable while growing up.

She wants to remain in contact with her daughters, take responsibility for them following her imprisonment and ultimately live with them – completely independently of a partner. She wants to raise her daughters more freely than her parents raised her. She wants to be financially independent in the long term too. She is one of the only prisoners there to be completing her *Abitur* from the prison through distance learning and is putting all her effort into it.

### d) Pleadings on days 78, 79 and 88 of the main hearing

On day 78 of the main hearing, the Defendant declared that the withdrawn pleadings of days 26, 28 and 29 of the main hearing, which she wrote herself, should apply and confirmed the content thereof. On this day and on day 79 of the main hearing she also provided the following information in response to questions:

She was motivated to travel to Syria by the Internet, where doing so was propagated as a duty. She herself never travelled there with the aim of joining a particular group but rather to join the opposition movement against the Syrian regime. Except for Jabhat al Nusra, of which S. N. was a member, she did not know the names of any of the groups.

There were definitely clashes with co-Claimant X., although she claims they did get on well too. Co-Claimant X. was a confidante to her on the whole. The co-Claimant reportedly doted on I. B. He refused co-Claimant X.'s pleas to marry her and instead demanded that she study the Qur'an and behave better. He would then supposedly set her free; otherwise, she would be sold. 'X.' did not want the latter under any circumstances. She – Defendant A. – did not have any influence whatsoever over such decisions. This also applied to the rapes. Even today, however, she claims she is still sorry for what the co-Claimants suffered. Other than simply tolerate everything, there was supposedly nothing she could do. When her health worsened in her second pregnancy she was also glad to have the enslaved women's support, but claims she never saw them as a status symbol. She knew that IS allowed slavery. She was not aware of the fatwa in this regard. She only became aware of the Yazidis once in Syria. Other women told her about them. She came to know X. and M1 not as Yazidis but as followers of Islam. At first, she did not believe them. However, they both voluntarily studied the Qur'an intensively and prayed regularly. They were not forced to do so as the result of any physical violence by her. The women were supposedly left in the house alone, for example, when she went shopping with I. B. The enslaved women accompanied her to her friends' homes gladly and voluntarily. The women were not veiled in their own home.

When Defendant C. came to visit in 2013, not many people were flying the IS flag. The photos during Defendant B.'s visit, in which he and his sons appear to be shooting, were taken on an excursion to the Euphrates, which she also went on. This excursion took place before her marriage to I. B. There the men shot at stones and bottles. One day before their wedding I. then swore allegiance to IS. The beginning of the fighting only became apparent at the beginning of January. Prior to this only occasional shots could be heard. At the beginning of January 2014 they had no financial resources available to them. A couple of months later, however, he rented the shop to sell groceries and power banks. After renting the shop their financial position significantly improved. I. B. bought a power generator and, in May 2014, three expensive, high-quality freezers. I. B. mainly bought the goods from his brother in Turkey. Because of his successful business experience, IS appointed I. B. as a procurement officer in summer 2015. At that point he gave up his 'private selling'. In his role as a procurement officer I. B. continued to buy goods from his brother, who purchased these over the Internet in Turkey and brought them to the border. I. B. arranged the collection of the goods. By the end of 2016/beginning of 2017 IS paid approximately USD 118 per month to I. B. and his family members. I. B. did not receive any additional remuneration from IS.

The in-laws sent confectionery, groceries, clothing and money. She claims she does not know whether these were large amounts or not. She is aware of one occasion on which Defendant C. provided financial support for the purchase of a car. She claims she was not aware of the supply of Kalashnikov magazines, nor did she ever hear that any magazines were to be used for I. and E. Y. B. to buy their way out of IS. Neither of them wanted to buy their way out.

On 14 November 2013, shortly after her arrival in Syria, she had a chat with her friend K. I. She was unable to explain a chat with her sister T. on 20 September 2015 in which she said 'have bought the slave'. I. B. bought her a mobile phone that he also used. However, she claims that she did not she write the message under any circumstances.

She did not try to stop E. Y. B. from escaping, nor did she use a weapon to do so. In actual fact, she was happy for him. She herself did not consider the escape route he had chosen for himself to be safe and she told I. B. this. Ultimately she also fled because IS broke down.

Defendant A. reported the dates, locations and circumstances of her time in Turkey from 23 February 2018 until her deportation to Germany on 21 September 2018 as established.

On day 88 of the main hearing, Defendant A. apologised to co-Claimants X. and Y. as they appeared in court for the making of closing statements by their civil action representatives. She claims that when she learnt that co-Claimant X. would testify in the main hearing, she was relieved and happy. She hoped the co-Claimant would describe her as she, A., was in Syria. The fact that the opposite occurred saddens her. She knew that she and co-Claimant X. had survived difficult times together and that the co-Claimant had suffered. She hopes for co-Claimant X.'s forgiveness for all the times and all the things that were said that caused the co-Claimant to feel she had been treated unfairly and inhumanely by the Defendant. In prison she has come to understand that she was part of a terrorist organisation, and she is ashamed of this and of the enslavement of Yazidi women. She now understands that she is at fault and claims she never wanted to contribute to everything.



## 2. Defendant B.

(...)

### a) Pleadings on day 66 of the main hearing

(...)

### b) Pleadings on day 75 of the main hearing

(...)

## 3. Defendant C.

Defendant C. has not made a statement on the matter.

## II. Findings as regards personal circumstances

### 1. Defendant A.

Defendant A. made a credible statement as regards her personal circumstances as established.

The information she provided is consistent with the remarks made by expert Z3 who reported as a witness in the main hearing what Defendant A. had told him as regards herself personally during examination in prison I. This in turn corresponds to the information provided by witness Z5, employee of the juvenile court support scheme D., who emphasised that during discussions he had with the Defendant in the prison, she told him that despite a consultation with the youth welfare agency because of her difficult family circumstances due to her mother's mental health problems and her strict Muslim upbringing by her father, she had not been offered any further support. She claims this also changed her attitude towards religion, which developed into a Salafist interpretation of Islam and the lifestyle and behaviour propagated therein.

Witness Z6, the headteacher of the *Gymnasium* .... in K., and witnesses Z7, Z8, Z9, Z10 and Z11, former classmates of Defendant A., also provided information which corresponds to the findings as regards Defendant A.'s family circumstances, her academic progress and her radicalisation up until she travelled to Syria. Their testimonies do not exhibit any inclination towards the prosecution and in the Chamber's opinion were instead each characterised by respect for the Defendant and an effort to make use of their powers of recollection.

With regard to the results of the police investigations into the Defendant personally, the witnesses KOKin Z12, KHK Z13, KHK Z14 and KOK Z15 confirmed the findings contained in the corresponding notes regarding the analysis of telecommunications surveillance and the Defendant's Facebook account, which highlight her departure for Syria and her marriage to I. B. in particular. The findings are also based on the police notes made by POK Z16, who initiated the investigations following the departure of Defendant A., and those of KHK Z17, who analysed the chat the Defendant had with witness Z10 regarding her place of residence and her motives immediately after her departure.

The findings in respect of her departure are also confirmed in a farewell note written by the Defendant to her parents and in respect of the birth of her children by the contents of the identity documents of the Defendant's daughters.

The findings in respect of the Defendant's time and academic and social engagement in prison and her contact with her children are also based on the information provided by witness Z5 and witness Z18, her contact person in prison I. Finally, they are also based on the statement made by witness Z19, who was in the prison at the same time as Defendant A., became friends with her and talked to her about children and job prospects, among other things. In her pleadings, Defendant A. credibly described the end of her relationship with I. B., which occurred during her time in prison.

The fact that Defendant A. has no previous convictions in Germany is apparent from the information retrieved from the Federal Central Criminal Register (*Bundeszentralregister*). The findings in respect of her conviction in Turkey and the crediting of the period of imprisonment she served in relation to this matter in Turkey are based on the aforementioned judgment handed down by the Turkish criminal court.



**2. Defendant C.**

(...)

**3. Defendant B.**

(...)

**III. Findings relating to the case****1. Relating to the terrorist organisation IS and the treatment of Yazidis****a) Relating to the terrorist organisation IS**

The findings in respect of the foreign terrorist organisation IS and the Syrian civil war are mainly based on the remarks made by expert Z2, an Islamic scholar and recognised expert in the field of the Near and Middle East and the Syrian civil war, who is known to the Chamber through various proceedings and in whose expertise there is no doubt. The Chamber was also able to refer to his written report on the terrorist organisation 'Islamic State' of 5 February 2016 and the evaluation reports by the Federal Criminal Police Office (*Bundeskriminalamt*) of 6 March 2014, 27 October 2014 and 31 May 2018 regarding the organisation, which confirmed and added to the image portrayed by expert Z2 in line with the findings made.

**b) Relating to the treatment of the Yazidis by IS**

The findings in respect of IS's systematic violent treatment of the Yazidis and – alongside this – in respect of the enslavement of Yazidi women and girls are also based on the remarks made by expert Z2.

The expert gave a detailed account of the attack established by the Chamber which was carried out by IS against the Yazidis, the enslavement of Yazidi women and girls, and the religious justification of this by IS. To add to and expand upon his remarks, he referred in particular to the online magazine DABIQ which was published on the Internet by IS on 12 October 2014 and – as confirmed by the expert – a fatwa (a legal ruling on a point of Islamic law) given by IS in October/November 2014 titled 'Su'al wa-Jawab fi al-Sabi wa Riqab' ('Questions and Answers on Taking Slaves') with recommended prices and instructions on how to keep slaves.

In its finding, the Chamber also drew upon these documents, in which IS described in detail its intention to exterminate the Yazidi culture and religion through the murder and forced conversion of Yazidi men and the enslavement of Yazidi women and children, as well as on notes made by the Federal Criminal Police Office of 27 October 2017 (Z21), 15 February 2019 (Z22), 8 November 2018 (Z23), 19 January 2015, 13 April 2015, 26 May 2015, 15 February 2015 (Z24) and 31 May 2018 (Z25).

Finally, the findings are also supported and complemented by the credible information not yet outlined in detail which was provided by the co-Claimants X., Y. and Z., who as Yazidis living there were themselves victims of the violence in the period concerned.

**2. Regarding the involvement of I. and E. Y. B.**

The findings in respect of the involvement of I. and E. Y. B. are based in particular on the pleadings filed by Defendants A. and B., information provided by witnesses of the offences and investigating officials, police notes, photographs and the results of analyses of seized data storage devices, as well as the content of telecommunications surveillance.

**a) Development of religious beliefs**

The witness KHK Z26, who also documented the results of his investigation in corresponding notes dated 28 November, 3 December and 5 December 2013, gave a detailed description of the development of the religious beliefs of I. and E. Y. B. in Germany. As he credibly stated, the witness visited E. Y. B. following his release from prison in September 2010 as part of the legal response measures, also got to know I. B. and consequently observed the connection the two of them had with the Salafist scene centred around Mohamed Mahmoud, the leader of the Salafist organisation Millatu Ibrahim in

S. which was later banned, and Denis Cuspert. E. Y. B.'s home was searched in 2012 during an investigation into a third party; he carried out this search, during which he found writings regarding Millatu Ibrahim. At the time Millatu Ibrahim also published on the Internet a video in which I. and E. Y. B. were playing football with other members of the organisation. Both brothers were involved in violent clashes between the organisation, together with members of the party Pro NRW, and the police on 1 May 2012.

E. Y. B.'s involvement in this conflict as described by the witness KHK Z26 is apparent from a photograph of the confrontation, in which E. Y. B. is shown, found to be stored on Defendant B.'s seized laptop. The involvement of both brothers B. in this incident is also apparent from an evaluation of the matter in the notes made by KHK Z27 on 28 November 2013.

Defendant B. confirmed the radicalisation of his sons in Germany and their activities relating to the organisation Millatu Ibrahim in his pleadings.

Finally, the witness KHK Z26 credibly stated that following the departure of Mohamed Mahmoud in April 2012 and the ban on the organisation in June 2012, a large number of Mohamed Mahmoud's followers fled; according to his investigations, it was within this context that the brothers B. also fled. This was confirmed by the note made by KHK Z27 on 28 November 2013 regarding the departure of Mohamed Mahmoud and the group's subsequent movements.

#### **b) Departure and stay in Libya**

The finding that I. and E. Y. B. were initially staying in Turkey as of mid-2012 is based on the pleadings made by Defendant B., which the Chamber considers to be credible because they are consistent with the information provided by the witness KHK Z26 who testified that according to his investigations, a vehicle hired by E. Y. B. in K. on 22 June 2012 from the company jj) was not returned on time on 4 July 2012; instead, the German authorities were informed on 21 August 2012 that the car had been found at the airport in Istanbul and had been seized. The same is also apparent from the notes made by KHK Z27 on 28 November 2013 on the documented results of investigations. The content of these shows that on the day of Mahmoud's departure, E. Y. B. complained to his probation officer that he had wanted to visit 'relatives in Ankara' for a long time.

The fact that Defendant C. accompanied her sons in the vehicle, at least to Turkey, is also apparent from an entry in Defendant B.'s notebook. Under the date 29 June 2012, he wrote that the 'children had left', together with 'P.' (P. C.); on 3 July 2012, it is noted that they were back together in Eskişehir, a city in Turkey. Defendant B. expressly confirmed this in response to questioning by the Chamber.

Defendant B. also stated that I. and E. Y. B. went on to travel to Egypt. His information corresponds to the statement given by the witness KHK Z26, which describes the financial investigations undertaken and the cash withdrawals identified in these investigations at a corresponding time from E. Y. B.'s account at ATMs in Cairo and then in Masa Matou, an Egyptian coastal town halfway between Cairo and the Libyan border. I. and E. Y. B.'s journey to Egypt is also apparent from notes made by KHK Z28 and EKHK Z29 of 6 September 2012, who analysed the routes taken by the groups of Mohamed Mahmoud and Denis Cuspert, which also included I. and E. Y. B. The withdrawals from E. Y. B.'s account are confirmed by the aforementioned notes made by KHK Z27.

This is consistent with the information provided by E. Y. B. in an interview given during his imprisonment to a Kurdish TV broadcaster ('ANF News') – which the intelligence services consider to be affiliated with PKK – under undetermined circumstances and posted online in October 2019, and which is characterised by a number of 'cuts':

*'Then I saw, Abu Usama has gone, to Egypt. He said, 'come too', he said. I took my brother, got a car in Germany, a rental car. I drove the car to Istanbul. I left the car there and flew to Cairo. Then, after that, we reached his house. A short while later. The followers then began to arrive, one after the other. In Egypt there was nothing that could be done. So it was not the conditions for jihad.'*

Defendant B. also confirmed I. and E. Y. B.'s subsequent stay in Libya, where they were visited by G. C., Defendant C.'s husband. The Chamber also considers this information to be credible because it is consistent with further pieces of evidence. It is apparent in particular from another entry made by

Defendant B. in his notebook, dated 25 November 2012. This states that 'G.' (C.) was staying 'with the children in Libya'.

The stay in Libya is also apparent from the photographs taken on 26 November 2012, which were saved on Defendant B.'s seized laptop under the file path '..Libya/Trip with G./Pictures with G. ...' and which show I. and E. Y. B. together with G.C. According to the notes made by KHK Z26 on 24 February 2015, on Defendant B.'s laptop under the file path 'Libya', sometimes with the addition of 'shooting guns', there were also numerous photographs – from the period between the end of 2012 to the beginning of 2013, according to the information provided by the witnesses KHK Z26 and KHK Z14 – which show the brothers B. with Mohamed Mahmoud and other people from his circle as well as with various, sometimes heavy, weapons – such as an anti-tank weapon and an assault rifle – in front of the Libyan flag.

Defendant B. credibly claimed to have received the photos and videos from Defendant C. He himself did not want to travel to Libya. This is why the Defendant sent her husband G. to her sons in Libya. In accordance with this, in a monitored conversation with her aunt on 6 October 2017, Defendant C. expressed her annoyance that – unlike her – Defendant B. still had the photos saved and had not deleted them.

In addition to the evidence listed under points c) to g) below, the brothers' time in Syria as of the beginning of 2013 is also confirmed by the text document in English titled 'About me' saved on the seized hard drive of E. Y. B., which describes I. B.'s background, among other things, and is written from his perspective. The exact circumstances of the creation of this document cannot be determined, as other content such as the description of a dispute over the purchase of a thermal imaging camera make the document seem like it may be a letter of justification by I. B. to IS. In it he states that he set out on '*Hijra Fisabilillah*' ('God's path') at the beginning of summer 2012. He claims he went to Egypt and from there flew to Libya. He arrived in Sham (Syria) at the beginning of 2013.

I. B.'s departure with the intention of taking up armed jihad is confirmed by an email he sent to his family on 29 October 2012. In this he states that he and his brother are now on God's path. They had surrendered themselves to glorious Islam and the Qur'an. The *Shaheed* (martyrs) would not die.

I. and E. Y. B.'s stay in Syria is also apparent from Defendant B.'s corresponding pleadings. E. Y. B. also mentions the brothers' onward travel to Syria in his interview with ANF News, according to which this occurred after a two-week stop-off in Turkey in consultation with Mohamed Mahmoud, who was already there.

### **c) Connection to Jabhat an-Nusra and IS in Syria**

The evidence has shown to the Chamber's satisfaction that in the period which followed in Syria, I. and E. Y. B. were first members of Jabhat-an-Nusra and later, as of 14 November 2013, of IS.

This is apparent from the aforementioned chat between Defendant A. and her friend K. I. on 14 November 2013, in which Defendant A. tells her friend that her future husband and his brother are existing members of 'Dawla' (IS) and previous members of 'Nusra'. As she mentioned her future husband, it is obvious that Defendant A. was referring to I. B. and his brother E.

*'They're part of Dawla and they used to be part of Nusra too.'*

In relation to E. Y. B., this is also confirmed by the information he provided in the interview with ANF News, according to which he was initially a member of Jabhat an-Nusra in Syria. In Idlib he was trained in the use of weapons for two weeks. He fought for Jabhat an-Nusra for three to four months. The brothers' involvement and weapons training with Jabhat an-Nusra in 2013 is confirmed by an official account from the German Federal Foreign Intelligence Service of 13 November 2018. In the text 'About Me', I. B. also states that he did a '*muaskar*' (training camp) after arriving in Syria.

The brothers' connection to IS by 14 November 2013 at the latest is also corroborated by the fact that I.B., as the witness KHK Z30, who analysed his Facebook profile, among other things, reported and in notes of 9 December 2013 and 21 April 2014 documented, had been a member since 2013 – initially under his real name – of a Facebook group named 'ISIL', which used the organisation's symbol and posted content regarding the organisation and the Syrian civil war.

On 17 November 2013, as can be seen in the content, I. B. also posted on his secure Facebook profile – now already as ‘Abu H1’ – the photograph of a ‘counter-drugs action’ using a vehicle with an IS symbol, approving of this by commenting ‘so much hashish.. the brothers are clearing up’. Finally, also saved on Defendant B’s seized laptop under a file path named ‘Abu H1’ between 5 and 9 November 2013 were photographs clearly taken in Syria in which Defendant B. with his sons and S. N can be seen with an assault rifle and a flag bearing the IS symbol.

The fact that the Facebook profile operated under the name of ‘Abu H1’ since 31 July 2013 is attributable to I. B. is apparent not only from the fact that the profile was previously operated under his real name, the link with the name ‘I.B.52’ which it still contained and a saved profile picture, but also from the fact which Defendant A., co-Claimants X., Y. and Z. and witnesses Z31 and Z32, who were also in Syria at the time of the offences, consistently stated that this was the name used there for the husband of Defendant A. Co-Claimants X. and Y. also consistently gave the name used for his brother E. Y. B. in Syria as ‘Abu G1’. For example, co-Claimant X. testified that Abu H1 had a brother who was known as Abu G1 to IS men. Co-Claimant Y. stated that Abu G1 was Abu H1’s biological brother.

Co-Claimant X. also confirmed that Defendant A. had told her that I. B. had first been part of Jabhat-an-Nusra and then IS.

This in turns corresponds to the information provided by E. Y. B. in his interview with ANF News and, as regards the crucial matter of the brothers’ connection with IS, the information provided by I. B. within the context of a written statement sent by messenger on 15 February 2021 in response to questioning by Defendant C.’s defence on 8 February 2021.

However, insofar as it is stated therein that he (I.) and his brother E. were not members of a group at the beginning of January 2014 and that it was supposedly only shortly before the FSA attack that he joined IS, completely unexpectedly and unplanned as he had simply been persuaded to do so, this does not correspond to the other consistent evidence on which the findings are based, according to which the brothers joined IS in mid-November 2013 at the latest. This also applies in respect of the pleadings filed by Defendant A. stating that I. B. supposedly only swore allegiance the day before their wedding, thereby ruling out any earlier connection with the group.

The judgment handed down by the Turkish criminal court in Sanliurfa on 9 January 2019 is also based exclusively on I. B. being a member of IS, without giving a more specific time frame.

#### **d) Deployment as fighters for IS and E. Y. B.’s departure from Syria**

That I. and E. Y. B. were deployed as fighters for IS at a military base (‘Liwa 80’) near Aleppo from 20 to 28 November 2013 is evidenced by a chat between Defendant C. and S. N. on 20 November 2013 during which the imminent deployment of the two brothers is discussed (‘they’re driving to liwa 80’). Participation in this military action is also confirmed by the comment posted by I. B. as ‘Abu H1’ on 19 November 2013 (which corresponds in terms of dates):

*‘Off again tomorrow morning.. to Ribab. Alhamdulillah. Making dua for all my brothers on the front line. May Allah give me the opportunity to avenge my fallen brothers and comrades.’*

On 29 November 2013 I. B. again posted a photograph on Facebook with the comment: ‘Lunch on the front line’.

The established circumstances of I. and E. Y. B.’s involvement in IS fighting in Jarabulus in January 2014 is apparent from telephone calls between Defendants C. and B. In a telephone call between the two of them on 7 January 2014, for example, Defendant B. says that their sons are ‘in a dreadful situation’ and had been captured and stripped of their weapons by the ‘opposing side’ on 5 January 2014. E. Y. B. had been able to flee but ‘Ebu M.’ had been shot dead while trying to escape. Consequently, ‘the girls’ – clearly meaning S. A. and S. N. – had been taken away and were hiding in a building, where they were waiting for help. On 13 January 2014 Defendant C. reported ongoing heavy attacks on their children. On 16 January 2014, as is also apparent from a conversation between Defendants C. and B., there was a car bomb attack in which approximately 30 people were killed. In the telephone call Defendant B. explains that the attack was carried out by ‘ISID’ (the Turkish name for ISIS). In response to Defendant C.’s question as to whether ‘ours, the children had done it’, Defendant B. explicitly states that the ‘group of children’ were responsible for the attack. On 17 January 2014

Defendant C. then reported to Defendant B. that the children had 'got out'. She said they had told her that the 'abis' had come and would now 'get them out of there'. In a telephone call on 24 January 2014 I. B. told his father that only the 'abis' controlled the city now. In response to a question as to whether he meant 'ISID, Islamic State of Iraq and Syria', I. B. said: 'Yes, Islamic State.'

Finally, that I. and E. Y. B. were involved in fighting for IS in Jarabulus in January 2014 is apparent from the corresponding pleadings filed by Defendant A. and confirmed by the information provided by E. Y. B. in the interview with ANF News. The corresponding events in terms of the fighting and attacks and the timing of them is also confirmed by a media report by the broadcaster Al-Jazeera analysed by the witness KHK Z26.

That the brothers performed guard duties for IS is apparent from the pleadings filed by Defendant A. and, in particular, from monitored telephone calls in which I. B. tells his mother about this. On 13 February 2014, for example, he describes how he had to keep watch during the night.

The departure of E. Y. B. and S. N. for Turkey after the fighting in Jarabulus had ended on 22 January 2014 is discussed in two telephone calls between Defendant C. and Defendant B. on this day, among other things. I. B. also confirms this in a written statement given in response to questioning by Defendant C.'s defence.

That the departure for Turkey was with IS's approval is reported by V. N., S. N.'s mother, in a telephone call on 7 January 2015 to Defendant C. as a fact shared with her by her daughter.

#### **e) Procurement of weapon accessories and other equipment between October and December 2013**

That between October and December 2013, I. and E. Y. B., operating from Jarabulus, ordered weapon accessories and other equipment from various suppliers on the Internet, which they then used themselves in the war in Syria or sold for a profit – including to IS fighters – is initially apparent from the pleadings filed by Defendant B. He reported that his sons placed the orders online in consultation with their mother. The children had supposedly told him that the magazines had been sold to the FSA and to civilians and that they had earned good money. The Chamber has no doubt that the information provided by Defendant B. is credible – with the exception of the alleged sale of the goods to the FSA – because it corresponds to other pieces of evidence.

In particular, a number of orders for such goods placed during this period have been identified, the specific nature and quantity of which enable the intended purpose to be inferred. The witness KHK Z33 carried out the investigations and analyses as regards the purchase of weapon accessories and equipment. He recorded the details in his notes of 19 April 2016 and then provided them in his testimony as a witness. The witness wrote to the companies which were identified as suppliers to request information. He analysed the invoices sent over by the suppliers. The investigations in respect of the supplier Ff) in Rugendorf were carried out by POK Z34 and recorded in his notes of 22 January 2016. Based on the results of these investigations and the content of the invoices, a total of 435 magazines for the assault rifle AK 47, 33 magazines for the automatic pistol Glock 17 and four magazines for the rifle M16 were purchased in the period in question alone, of which at least 50 magazines for the assault rifle AK 47 were passed on by Defendant C. in Syria. Further weapon accessories such as a bipod, a red dot sight, magazine pouches and gun holsters, mounting brackets and firearm conversion equipment were also ordered. Reference is made specifically to the remarks made in respect of count 5 (under C. III. 4. b) in this regard.

In spite of the fact that Defendant C. is frequently listed as the customer with the companies which supplied the orders, the Chamber believes that the orders were actually still placed by the brothers B. or at least as explicitly instructed by them for their requirements, (including) as IS members involved in combat operations in Syria. Besides the corresponding pleadings filed by Defendant B., this is also corroborated by the fact that a reasonable assessment of the exact needs and technical requirements pertaining to the goods – which had been taken from Germany to Syria or provided for this purpose – could only have been carried out by the brothers B. based on the conditions there.

That the goods were intended for corresponding use by I. and E. Y. B. is apparent from the pleadings filed by Defendant B. and the email addresses used when placing orders. Goods ordered via the online trading platform 'kk' were ordered using the email account linked to this, Y.E.B.91@googlemail.com.



With regard to the (Turkish) email address 'll@yahoo.com.tr' also stored in the sales information, for example, in that of the retailer Hh) in particular, a chat between Defendants C. and S. N., the wife of E. Y. B. according to Islamic rites who was living in Syria, on 22 November 2013 in which she asks Defendant C. to settle a bill from the retailer Hh) in the sum of €41.98 relating to four magazines for the assault rifle M16 and provides account details corroborates the fact that the (Turkish) email address stored for the sales account was not being used by Defendant C. but (or at least also) by his son E. Y. B. and his 'wife'. In a telephone call just a short while later on 24 January 2014 I. B. explicitly advises his father that they had indeed (also) ordered items in Germany. In a conversation on 31 January 2014 I. B. also asks his mother whether the items he had ordered had arrived yet, which she confirmed; G. C. was to take the items to Turkey. Finally, in a telephone call with Defendant A.'s father on 20 April 2014, Defendant B. states that the 'binoculars', because of which he was not allowed to travel on 8 April 2014, had been bought from Amazon by 'the children'.

However, there are no indications in the evidence that the goods were not sold to IS but to other groups or forces in accordance with Defendant B.'s pleadings that his sons reported a sale to the FSA; the Chamber does not believe that, in spite of their membership first with the Nusra front and then with IS, the sons sold goods to the FSA.

#### **f) Sales and commercial activities from the beginning of 2014**

That I. and E. Y. B. remained in contact with each other after E. Y. B. and S. N. left for Turkey on 22 January 2014 and that E. Y. B. continued to support his brother from Turkey and sent money and equipment to I. in Syria, where I. continued his sales and commercial activities for IS in Jarabulus with corresponding approval from the organisation and under its supervision – in the form of a commercial business from May 2014 at the latest – is based on the pleadings filed by Defendant A. and the content of the monitored telephone calls.

That I. B. successfully ran a business from at least May 2014 is apparent from the credible pleadings filed by Defendant A. in this regard. After that, the financial position which she and I. B. found themselves in, which she had still described as precarious at the beginning of 2014, subsequently improved following the rental of a shop a couple of months later. In May 2014 I. B. bought three expensive, high-quality freezers. He mainly bought the goods for the shop from his brother in Turkey.

That the goods were mainly sold to members of IS is suggested by the previous trading of goods by the brothers in 2013 in this area and the fact that as of the beginning of 2014 Jarabulus was in the hands of IS and that it was practically only followers of the organisation who could have bought the goods, particularly military equipment and other equipment. In a telephone call on 24 January 2014 I. B. told his father that the city was 'controlled' by the '*abis*', or 'ISID, the Islamic State of Iraq and Syria'. He said there was nobody else there, only Islamic State. There had still been other groups at the beginning of the war, but not any longer. Finally, the trading undertaken by I. B. with the IS members there is corroborated by his close involvement in the organisation as early as the beginning of 2014. As early as 2 January 2014 he told his mother that he would 'again get something for home from the '*abis*' after the marriage. In a telephone call on 13 February 2014 he told his mother that he was to perform guard duties. In the same telephone call, he reported that the '*abis*', the 'German brothers', had asked him: 'Can you get us something to eat, chocolate and things?'

That I. B.'s business activities – even in Jarabulus – were subject to the permission of the organisation is particularly apparent from a telephone call with Defendant C. on 2 March 2014. In this telephone call he told his mother that he had made a request to run a cafe but had not yet received a response ('Like in Germany, I'll have to wait.'), which is clearly a reference to the relevant permission from the organisation. The way in which the performance of sales activities was subject to supervision and decision by IS is also corroborated by a telephone call that I. B. had on 18 September 2014, in which he describes to his mother how he had been prohibited from running a shop ('...now I'll have to sell out of my car.. I'm not allowed to sell from a shop.' 'But I've got stocks. I'll put everything in there and then sell from my car.') This corresponds to the information provided by expert Z2, according to which IS guaranteed that it would supply citizens with food, electricity and water, and performed an administrative role in this sense. That permission was ultimately granted by the organisation is apparent from the fact that I. B. actually ran a business with IS members as of May 2014.



The expansion of the business by I. B. – with the help of his parents and his brother – is apparent from various telephone calls. As early as 24 January 2014, for example, E. Y. B. explained to Defendant C. the idea to buy cars in Turkey for his brother, as he in turn had a buyer for them. On the same day, Defendant B. asked his son I. how the goods he had ordered through his mother should be sent, to which I. responded that his brother would send the goods to him with somebody as soon as he had them. On 5 February 2014 Defendant C. told her husband G. C. that E. Y. B. had received his Turkish ID card. With this he could withdraw money and send it on to I. together with other goods. In the same telephone call she told her husband to take goods to E. Y. B., who would then forward them on to I.: ‘Take the chargers, the money and everything else with you and give them to him at the next opportunity.’ E. would then take them ‘there’, ‘to there’. E. would not take them across the border himself, however, but pass them over to ‘abis’ instead. On 15 February 2014 I. B. again told his mother that he ‘yet again had to earn some money’ and needed some start-up capital. He would ‘again’ get goods from Germany, but ‘this time just gloves and things’. On 23 February 2014 I. B. told Defendant C. that he intended to take over someone else’s shop without paying rent. On 3 March 2014 Defendant C. told her husband G. that E. Y. B. would be travelling to Gaziantep in the next few days to get I. B. some ‘electrical goods’ which his father had sent him in Turkey to send on to I.

When Defendant B. attempted to leave Turkey on 8 and 10 April 2014 binoculars and weapon accessories were seized, among other things. On 13 April 2014 Defendant B. told her son E. Y. that some of the items for I. – specifically telephone cards, chargers and batteries – had been overlooked upon the departure of his wife – who was permitted to travel alone – on 10 April 2014. In this telephone call E. Y. B. suggested sending the items by post. In a conversation on the same day Defendant C. informed his son I. that E. would soon be bringing a suitcase, to which he said to hold off on the suitcase until he ordered further items.

In a conversation on 3 June 2014 I. B. explained to his mother that the money transferred was passed from his brother to him in that he took orders for items which were not available locally; his brother then procured these and sent them on to him. He then made a profit by reselling them. On 25 and 30 June 2014 I. B. told his mother by telephone that he had bought cheap goods for a ‘supermarket’ that was to be opened. On 6 July 2014 E. Y. told his mother that the regular 10-hour journeys would tire him out, by which he clearly meant journeys via Gaziantep to his brother in Jarabulus. E. Y. also told Defendant C. that the foundation of his company was imminent so his journeys would not attract attention any more. Defendant C. assured him that Defendant A. B. [sic.] would provide financial assistance with the establishment of the company. In a conversation on 12 August 2014 I. assured his mother that his shop was bringing in lots of money.

On 14 August 2014 E. Y. thanked his mother for a printer, which he was using to print invoices. His business now had a proper office, he said. He also told Defendant C. that he could buy cheap power banks for batteries from China, which he would then send to I.

It is apparent from telephone calls between Defendant C. and I. and E. Y. B. on 8 September 2014 that E. Y. B. needed money to be able to buy more goods for I. B. I. B. then asked Defendant C. for €500 to buy ‘something’; Defendant C. shares this with E. Y. B., to whom she wanted to send the money so that he could forward it on to I. On 18 and 24 September 2014 I. B. again told his mother he had bought goods to the value of €1 000 (clothing, shoes, drinks and chocolate) and was now selling out of a vehicle; business was going better and better.

In a conversation between Defendant C. and the mother of S., V. N., on 7 January 2015 the latter confirmed that according to S., E. was ‘always driving to Syria’ to carry out business there.

That I. B.’s business was going well at the end of January 2015, after moving to Manbij, is apparent from a conversation about this between him and his father on 29 January 2015. The development of I. B.’s business is also corroborated by Defendant A. in her pleadings: Their financial position had significantly improved even since mid-2014 and by the beginning of 2015 I. was attaining ‘good turnover’ through the resale of goods from Turkey supplied by his brother.

That E. Y. B. founded a company in Turkey in autumn 2014, including to conceal the shipment of goods to Syria in particular, is also apparent from a telephone call between E. and his father on 31 October 2014 in which he reported that he had already given his company a name and had a company logo made. He had already informed his mother of these preparations by telephone on 8 July 2014.

He had also employed a bookkeeper, which cost TRY 100 a month, and would soon be getting a tax number. The foundation of the company, named 'W. G.', is also apparent from the analysis of Defendant C.'s mobile phone, on which a photo of one of the company's business cards was found. According to a website analysed by the Federal Criminal Police Office from 4 November 2014 the company's product range included outdoor clothing, camouflage clothing, outdoor equipment, knives, sights for firearms, drones and bipods. This is apparent from the notes made by KHK Z26 on 19 November 2015.

Defendant B. also confirmed the foundation of a company by his son E. in autumn 2014 in his pleadings. An extensive description of the business activities carried out by I. and E. Y. B. for the benefit of IS is provided in an official account from the German Federal Foreign Intelligence Service of 13 November 2018.

That after moving to Raqqa in around mid-2015 I. B. obtained an official position in the IS 'procurement agency' and continued to purchase goods from E. Y. B. in this capacity, but now on direct behalf of IS, is apparent from the pleadings filed by Defendant A. which are credible in this regard and which are corroborated by both the information provided by co-Claimant X. and an official account from the German Federal Foreign Intelligence Service. Co-Claimant X. vividly described a large IS hall located in Raqqa in which goods such as laptops, cardboard boxes, military clothing and equipment were stored; Abu H1 told her he was the manager there.

The successive expansion of the brothers' business activities for IS from 2015 onwards is apparent from various monitored telephone calls. In a telephone call on 23 November 2017, for example, Defendant C. told her sister, witness Z4, that E. Y. B. had taken approximately EUR 200 000 with him from Turkey to Syria. Her husband, witness Z4, confirmed the brothers' occasional commercial success, of which he learnt from E. Y. B. on visits to Turkey, in the information he provided.

Finally, that E. Y. B. returned to Syria at the beginning of 2017 is apparent from the pleadings filed by Defendant A. and the corresponding statement made by co-Claimant X.

### **g) Escape and imprisonment**

The findings in respect of the imprisonment of E. Y. B. are based on the information provided by co-Claimant X., who gave details and a vivid description of the joint escape with 'Abu G1', and the content of monitored telephone calls. In a conversation on 3 January 2018, for example, Defendant C. and her husband G. C. discussed how E. was in Kurdish captivity.

The findings in respect of the escape and capture of I. B. are based on the pleadings filed by Defendant A. which are credible in this regard and the Turkish judgment handed down by the second criminal court of Sanliurfa on 9 January 2019, ref. 2018/313.

## **3. Relating to the offences committed by Defendant A.**

### **a) Relating to previous events**

The Defendant admitted the external circumstances of her departure for Syria and her stay there in her pleadings, as well as her contact with and initial visit to the mosque with S. N., their subsequent joint participation in Islamic classes, and how I. and E. Y. B. were involved in fighting in Jarabulus at the beginning of 2014 while she and S. N. remained behind. In particular, she credibly stated that S. N. welcomed her and that they both stayed in the home of E. and I.B. This was where she met Defendant C. Both S. N. and Defendant C. suggested that she marry I. B.

The information she provided in respect of her departure for Syria is confirmed and the circumstances of the booking supplemented by the information provided by the witness KOKin Z12, who began the investigations following a missing person report and analysed Defendant A.'s travel documents.

Witnesses Z11 and Z10, classmates of the Defendant, were also able to confirm the arrival of Defendant A. in Syria at the beginning of November 2013. The Defendant notified witness Z11 of her location in Jarabulus, Syria on 10 November 2013 via the messaging service 'Viber' – possibly by accident – as she credibly reported. She also told witness Z10 of this in a chat about the reasons for her departure via the messenger service 'Viber' on 9/10 November.

That Defendant A. and S. N. stayed together during the fighting at the beginning of 2014 is also apparent from the previously mentioned telephone call between Defendant C. and Defendant B. on 7 January 2014 within the context of the fighting in Jarabulus, in which Defendant C. reports that they (I. and E. Y. B.) had taken ‘the girls’ away after ‘Ebu M.’ had been killed.

## b) Count 1

The findings in respect of count 1 of the indictment are based on the information provided by Defendant A., insofar as this could be accepted, as well as the statements made by co-Claimants X., Y. and Z. and other witnesses – some of whom were in Syria at the time of the offences – as well as police investigation and analysis files and, in particular, the content of telecommunications surveillance.

### aa) Integration into the organisation and internal beliefs

That Defendant A. willingly joined IS at the latest following her marriage according to Islamic rites on 4 January 2014, in line with the findings made, while endorsing a radical Islamist ideology, is initially corroborated by her (general) affiliation with the organisation shortly after arriving in Syria and her internal ideological beliefs, as shared with her peers at that time. In the chat with witness Z10 on 9 and 10 November 2013 via the messenger service ‘Viber’, for example, the Defendant told her:

*‘am with Al-Qaeda by the way’.*

Also:

*‘We are here to establish an Islamic state, according to the law of Islam’ and ‘we support our husbands in the fight’*

as well as

*‘and create and give birth to the fighters’.*

Later in the chat, the Defendant says:

*‘I hate only non-believers. Righteousness can be found only in Islam.’*

In a chat with witness Z8 on 11 November 2013, in which she told Defendant A. that everyone was worried about her because she wasn’t safe there and people were dying there every day, the Defendant retorted:

*‘Yes, and? Everyone dies sooner or later. It’s just a matter of why. And what for. Life is fleeting.’*

Defendant A. responded in a similar way to further questions as to whether she would die for her faith:

*‘Of course. For what else? I’ll do anything to help my people and my community.’*

In the same chat, she also expressed her dislike for ‘non-believers’:

*‘I condemn them for being non-believers. They could still be such good people but their lack of faith just corrupts their actions.’*

That Defendant A. was actually in IS territory by November 2013 is proven by her aforementioned chat with her friend K. I. on 14 November 2013 in which Defendant A. makes reference to her future husband I. B.’s existing membership of ‘Dawla’.

Posts by the Defendant on the Facebook account ‘..mm’) also corroborate her proximity to IS as early as November 2013. For example, the words ‘Dawla Islamiyya’ were posted on the profile with a heart symbol behind them on 22 November 2013. This was followed on the same day by a post with the title ‘The Islamic State of Iraq and Syria distributing food to the people #isis’. On 23 November 2013 a post with the title ‘ISIS - No matter who you’re (sic) and what’s your nationality, if you’re Muslim we love you for the sake of ALLAH SWT’ was shared. This was followed by a number of religious sayings and posts of photos with alleged martyrs and ‘Lions’ of the ‘Islamic State of Iraq and Syria’.

That this Facebook profile is attributable to Defendant A. is also apparent from the information provided by witness Z10 who testified she communicated with Defendant A. via this Facebook profile; for the

background picture of her Facebook profile, the Defendant reportedly used the same photo that she had also used on the messaging service 'Viber'.

This photograph, which has since been seen, shows a fully veiled female with a weapon. That this photo actually shows the Defendant is apparent from her pleadings in this regard in which she states that she only sent the message 'am with Al-Qaeda by the way' to her classmates on 9/10 November 2013 and at the same time set the photo, in which she is reportedly 'only holding a blank pistol', as her profile picture on the messaging service 'Viber' in order to 'make an impression'.

Her willing integration into the organisation and submission to its will are also apparent from her marriage to I. B. with knowledge of his IS membership and the associated submission to the role propagated by IS, and the Defendant's other subsequent actions for IS as described below.

Defendant A. credibly admitted her marriage to I. B. according to Islamic rites, their subsequent life together, the keeping of their shared household, including the upbringing and care of their daughters, and the family's moves and changes in location as established. That the wedding took place on 4 January 2014 is corroborated by a Facebook post by Defendant A. on the same day featuring the words 'Got married' and depicting a heart. Co-Claimants X. and Y. also stated that the Defendant told them of her wedding to Abu H1.

It is clear from Defendant A.'s chat with her friend K. I. on 14 November 2013 that she already knew about I. B.'s membership of IS.

The Defendant also reports that she received a Glock pistol from I. B. in Raqqa, stressing that this and I. B.'s other weapons were not kept within the children's reach and that she always carried the pistol with her in case of an emergency where she needed to protect herself and her children.

In line with the customs of the organisation, the Defendant then took her kunya name (Umm H1), based on the kunya name of her 'husband' (Abu H1). The use of the name Umm H1 for Defendant A. has been confirmed by, among others, co-Claimants X., Y. and Z. as well as witnesses Z31, Z32, Z35 and J., who were also in Syria at the time of the offences.

The Chamber does not believe Defendant A.'s remarks that she toyed with the idea of fleeing time and time again, but did not do so because she did not believe that she and her daughters would survive and only fled once circumstances allowed this. In actual fact, it is apparent from various telephone calls that the Defendant wanted to stay in Syria and had no inner doubts about her radical Islamic ideology prior to fleeing, which she did as she felt compelled to do so because of the military situation. In a telephone call on 29 August 2014, for example, Defendant A.'s mother told her sister B. V. that 'S. is with ISIS' and was fully confident of the path she had chosen. In further telephone calls with her sister and other acquaintances in 2015, Defendant A.'s mother again described her daughter's 'fanatical mindset' and her view that she could not imagine living in Germany under the '*kuffar*' any longer.

That Defendant A. held on to her radical mindset and continued to pursue her goals in Syria until recently is also apparent from a conversation between Defendant C. and her sister M. D. on 23 November 2017 in which Defendant C. describes a dispute between her sons regarding the issue of remaining in Syria. Out of fear of his brother and Defendant A., who had reportedly even threatened him with a weapon, E. Y. B. had distanced himself from them to enable him to leave soon, which Defendant A. had however tried to discourage him from doing. In another conversation with her brother Ö. Ö. on 5 February 2018, Defendant C. responds to the question of why I. B. had not left Syria earlier by saying that his wife did not want to leave earlier.

#### **bb) Activities to further the organisation's goals**

The findings in respect of the Defendant's activities to further the organisation's goals – in addition to her role as the wife of an IS member and the mother of children who had been born there and were to be raised in line with the ideology – are apparent as follows:

(1) With regard to the housing of new arrivals to IS, in respect of which Defendant A. has not provided any information herself, the findings are based on the results of telecommunications surveillance.

The hosting of new arrivals is addressed for the first time in a conversation between I. B. and his mother on 26 February 2014. According to this conversation, they had had lots of visitors; they had

taken in two 'abis' from Germany and their wives, who were not able to find homes. In a conversation on 2 March 2014, I. B. stated that the German visitor was still there but the Chechens, who he said had been demanding, were gone. In a telephone call on 30 May 2014 Defendant C. told her son E. Y. B. to look after his brother as some new people were again coming to stay with him. In a telephone call on 6 June 2014 Defendant A. also told her father M. that she had been given permission to provide accommodation to an unmarried sister for three days; now she was no longer allowed to do so, however. A Moroccan emir had reportedly introduced a new system, under which 'new sisters' first had to stay in a specific house.

(2) The established recruitment of prospective IS supporters by Defendant A. is apparent from the content of messenger chats and telecommunications surveillance. After urging her family in Algeria to 'do their duty' in a Skype chat with her father on a date on which her membership of IS cannot be determined with certainty, namely 19 November 2013, in a chat on 27 May 2014 she then forcefully attempted to persuade N. L., who came from Bosnia and was married to her sister T. according to Islamic rites, to join jihad as a medical professional:

*'You have to do something! .. The mujahideen are in desperate need of every kind of medical help they can get. (..) Muslim workers in healthcare services have a huge responsibility and their contribution to jihad is essential. In fact, they could be paid more than the fighters.'*

In a telephone call on 1 February 2015 the Defendant also spoke about fighting in Kobane and asked her father to tell N. L. that he should come 'here' (to Syria).

In a conversation with her sister on 6 March 2018 Defendant C. again confirmed that Defendant A. was constantly trying to persuade her sister T. to come to Syria too.

(3) The finding that IS was giving I. B. and Defendant A. monthly payments in the sum of USD 118 by the end of 2016/the beginning of 2017 at the latest is based on the pleadings to this effect filed by Defendant A. This is corroborated by the findings from the telecommunications surveillance. In a telephone call with his mother on 1 May 2014, for example, I. B. responded to the question of whether they were 'making ends meet' by stating that they were receiving 'support from the abis'.

When, in a telephone call on 12 May 2014, her father offered to send her more money, the Defendant retorted:

*'We're not lacking money, they gave us \$118 yesterday. That's every month!'*

The Defendant also told her father that they were receiving money from 'Dawla' in a telephone call on 6 June 2014. During a conversation on 17 May 2014 M. A. told his sister V., who was living in France, that he had sent S. money via Western Union, but that 'Dawla' was also 'giving' 'them' something 'every month' and supplying them with goods.

(4) That Defendant A. had performed guard and policing services together with I. B. could not be established to the Chamber's satisfaction, however. The monitored conversations did indeed give indications that the Defendant was participating in such activities that were being carried out by I. B. In a telephone call with his mother on 13 February 2014, for example, he described how he had to keep watch during the night and had 'taken [S.] with him'. In a telephone call on 12 May 2014 he also explained how he had to go to work and would take S. with him; she ended up working a bit too. However, in consideration of the fact that it was unusual for men and women to work together on guard duty and that the evidence did not yield any further findings in respect of the exact nature of the work performed by the Defendant together with B., the Chamber cannot reach any definite conclusions in this regard.

(5) The findings in respect of the family fleeing to Turkey at the end of 2017/the beginning of 2018 after the air strikes by opponents of IS on the city of Al Mayadin increased and the home of the Defendant and I. B. was bombed are based on the information provided by Defendant A. They are confirmed by the telephone call between Defendant C. and her brother Ö. Ö. on 5 February 2018, in which she consistently tells him of the circumstances of this escape and the associated risks.

#### **c) Count 4**

The findings in respect of count 4 are based on the pleadings filed by Defendant A, insofar as they could be accepted, and in particular on the information provided by co-Claimants X., Y. and Z. and the



other witnesses Z35, Z32, Z31 and J., who were also living in Syria at the time of the offences, and one of Defendant A.'s fellow inmates in Germany, witness Z19, as well as on the content of telecommunications and official accounts from the German Federal Foreign Intelligence Service.

Defendant A. admitted the general matter of the enslavement of seven Yazidi women and girls in the home of I. B. and Defendant A., the purchase of them from the slave trader Abu H2 and a Saudi Arabian IS member, the periods for which they were found to have been kept and the sequence of the enslavement as established. In particular, the information she provided is consistent with the information provided by co-Claimants X., Y. and Z., who each gave a comprehensive account of their own fate and that of the other slaves – insofar as they were aware – in the home of Defendant A. In particular, the co-Claimants also described the established – essentially identical – general treatment of the slaves by the Defendant and I. B., the physical violence used against them and slave M1, and the sexual assaults committed by I. B., with the involvement of Defendant A., as established.

Based on the information they provided, the Chamber also came to the conclusion that contrary to the pleadings filed by Defendant A., she herself was involved in the purchase of the slaves as well as I. B. and did exercise authority over them within their home, including by herself when he was absent. Based on the information provided by co-Claimants X., Y. and Z. in particular, which is corroborated by further evidence, the Chamber was also able to reach the conclusion that I. B. and Defendant A. also acted with knowledge of the persecution of the Yazidis by IS, in the interest of enforcing its ideology and with an understanding of the rules drawn up and published by IS on handling slaves.

In her pleadings Defendant A. gave a detailed account of the exact circumstances of the death of the slave M2, which was confirmed by co-Claimants X. and Y. The death of M2 during a journey within the war zone is also corroborated by an official report from the German Federal Foreign Intelligence Service.

## **aa) Details of the co-Claimants**

### **(1) Co-Claimant X.**

Co-Claimant X., who was heard on 13 days of the trial, stated that she comes from the village of K. in the Sinjar region; at the time of the IS attack, she was living there with her family. After the attack, which the witness described in great detail, she was held in the school building in K. together with the other inhabitants of her village. There, IS separated the men from the women. The women and children were transported away by bus and held in shared accommodation in different places – including Soulaa, Tal Afar, Al Kash and Mosul – over a period of several months. The women were forced to convert to Islam. She herself was moved to Raqqa together with her brothers, then aged three and eight years old, who she had passed off as her sons so that IS members did not consider her a virgin. Once there her eight-year-old brother was picked up by IS members and taken to an IS training camp. She and her three-year-old brother were sold to an IS member for whom she was intended to be a sex slave. She was subsequently sold a total of seven times to IS fighters, each of whom physically abused and raped her. She ultimately ended up with a slave trader called Abu H2 in Raqqa. He sold her to Abu H1 and Umm H1, i.e. Defendant A. There was already one Yazidi slave named M1 who was 13 or 14 years old living in their home. She and M1 had to do housework and look after Abu and Umm H1's daughter M4 as well as M5, who was born later. M5 had to be taken to a public hospital as soon as she was born for medical reasons. She and I. B. took the child there and she was left there to stay with the child, which she did for three days. I. B. threatened to kill her if she told the hospital that she was a Yazidi and had been kidnapped by IS. As she was afraid of this, she did not disclose any information, even when a doctor became suspicious and asked her about it. It was for the same reason that she did not attempt to flee. In total she lived with Abu and Umm H1 for approximately one and a half years until Abu H1 passed her on to his brother, Abu G1. During the time she spent living in the Defendant's home, the Defendant hit her often, 'if not every day then every other day', including with objects such as a hose, shoes or a wooden stick. The co-Claimant gave the occasions described in the findings as examples. She could not provide any further details.

M1 was also hit by the Defendant, on one occasion because she had taken a shower without obtaining her permission first. She, the co-Claimant, was only allowed to leave the house alone once during that entire period because she had been instructed to go shopping. Besides this, she was only allowed to leave the house under the supervision of the Defendant and Abu H1. The front door and windows of the home were always locked. Umm H1 kept hold of the front door key. During I. B.'s absence, she

exercised sole authority over her as a slave. When she was made to accompany Defendant A. on visits to her friend Umm J1, witness J., the Defendant instructed her to do housework there. She frequently accompanied Abu H1 on his work in the 'quarters' and had to clean there too. Night-vision binoculars, cartridge belts and military clothing were stored in these quarters.

With Defendant A.'s approval she was reportedly raped by I. B. more than 100 times, sometimes daily but at least every three days, with the exception of times when she was on her period or I. B. was absent, for example, due to ongoing fighting or for other reasons. When the other slave Y., co-Claimant Y., was bought, they were both raped. Defendant A. told her that Abu H1 had a sexual preference for Y. because she was more experienced.

The day after her arrival Defendant A. told her to take a shower and gave her a blue dress with stitching to put on. Following 8 o'clock prayers with Abu and Umm H1, which she joined in with out of fear of being considered a non-believer, Umm H1 left the room. She wanted to follow her but Abu H1 took her by the hand and locked the door. The co-Claimant threatened to scream so loud that Umm H1 would hear. Despite her crying, he – as established in detail – raped her. M1 later told her that she and Defendant A. had heard her crying in the next room.

When she was bought, Defendant A. told her that it was a sin for a slave to refuse to have sexual intercourse with her master. She claimed that Allah allowed the expulsion of non-believers like the Yazidi people, the taking of their belongings and the rape of their women. Islam, she said, allowed the rape of a '*sabiya*' (slave). She said that anyone who bought a slave was also allowed to rape her. The Defendant claimed that without her agreement, I. B. would not have raped her and the other Yazidi women. I. B. reportedly told her this himself.

Defendant A. and I. B. bought the girl M2 after she herself had been given to Abu G1 as a slave by Abu H1 and Defendant A. and after the move to Al Mayadin, whereby she also moved. M2 was approximately 13 years old. M2 was also raped by I. B.

With regard to M2's death, she stated that Abu H1 took her and M2, even after she was no longer his slave, to the war zone in Al Mayadin several times by car. There was fighting there. She and M2 were used as 'shields' by Abu H1: Abu H1 also made them carry guns to draw the attention of any opponents away from him and on to the women. They were always very scared for their lives. On the day on which M2 died, she herself had not travelled with them. The street along which the car that Abu H1 was driving travelled was bombed. A bomb hit the car. M2 was taken to the hospital by Abu H1 and died there. Defendant A. told her about this.

Together with Abu G1, she later fled and was initially imprisoned in a Kurdish prison, until she was released in December 2017 and could return to her family. She was questioned about her experiences of being captured by IS by various aid organisations, in particular, on multiple occasions, by the human rights organisation Yazda.

She saw co-Claimant Y. again once after her release, namely at an event for Yazidis who had been released from IS captivity, but she only greeted her briefly.

## **(2) Co-Claimant Y.**

Co-Claimant Y. was heard on eight days of the trial. She described the IS attack on her village S.S. near the town of Sinjar in great detail. She was captured by IS members together with her father, her sister, and her nieces and nephew, and taken to the police station in S.S. Her children, two daughters and two sons, were not with her at the time as they were in the care of her husband, from whom she was living separately. From the police station, she was taken with other women and her nephew, who she passed off as her son, by bus and other means of transport via Mosul and Tal Afar to Raqqa and Palmyra. In the various accommodations, the women were photographed and prices for them were set, before they were then sold. The first IS member who bought her took her nephew away from her. In total she was sold 24 times to IS fighters, each of whom physically abused and raped her, including to Abu H2 in Raqqa, a trafficker of women, who then sold her to Abu H1. Defendant A. first met her when she was being kept by Abu H2, when I.B., the Defendant and another slave who was at that time still unknown to her, co-Claimant X., visited. Afterwards, Abu H2 told her that Abu H1 intended to buy her. He collected her a few days later. When she arrived in the home of the Defendant and I. B., 'X.' was wearing a green dress. X. told her that Defendant A. and I. B. had kept two other Yazidi women called Z. and M7 as slaves before her.

Co-Claimant X. was frequently hit by Defendant A., including with a hose and a broom handle, among other things. The Defendant hit ‘the girl from K.’ ‘very hard’ and ‘very often’, and especially when X. did not do what Defendant A. wanted. She herself – as established – was hit by Defendant A; she then made a complaint to Abu H1 and told him that she would not be treated like X. After this, the Defendant stopped hitting her. The Defendant always made sure that she and X. practised the Islamic faith and prayed regularly. Defendant A. took this as an opportunity to hit X. too. She and X. had to clean the home according to the Defendant’s instructions regularly and thoroughly, including the rooms in each of the homes where weapons and munitions were stored. She herself was raped by I. B. with Defendant A.’s agreement.

The first rape by I. B. was committed a few days after her arrival there, after she had been made to shave her body hair as instructed by Defendant A. I. B. had bought a heavy double mattress which he could not carry on his own. She therefore had to help take the mattress into a room. When she then tried to leave the room, he locked the door and – as established in detail – raped her vaginally. She screamed in pain. This was particularly unpleasant for her as Defendant A. and X. were able to hear her. When she asked I. B. what his wife would say about him raping her, he told her that she knew about it and made it clear that she agreed to it. The rapes were always committed with the same violent force. While raping her, I. B. hit her with the flat of his hand, kissed her against her will and also penetrated her mouth. After being raped she had to take a shower. Within the context of this, co-Claimant Y. described a conversation she had with co-Claimant X. about a rape. She asked co-Claimant X., ‘X’, ‘Does he do exactly the same to you? Why don’t you scream? Because it hurts me.’ X replied, ‘It doesn’t last as long for me. The rape is over quickly and then he just goes.’ X. also told her that I. B. reproached her by claiming that co-Claimant Y. ‘moved better’. She did not have the confidence to ask more precisely ‘how he sleeps with her’.

She was raped approximately every other night, sometimes even daily. Sometimes I. B. even raped both X. and her on the same night. He always penetrated them with his penis against their explicit will and he also raped them orally. He struck her upper legs and pulled her hair. The intercourse lasted for a long time. She suspects that he took ‘pills’ for this purpose. The intercourse was also very painful and resulted in injuries in the genital area, because of which Defendant A. took her to a female doctor. Afterwards she was raped again. She was then resold again until her freedom was finally bought by her family. She saw co-Claimant X. again at the event for Yazidis who had been freed from IS captivity but did not speak to her, only greeted her.

After she was freed she learnt from M2’s stepmother that M2 had been killed by a bomb strike while she was a slave in the home of Umm and Abu H1.

### **(3) Co-Claimant Z.**

Co-Claimant Z. testified on nine days of the trial. Prior to the IS attack she lived with her husband and their three sons and two daughters. Only Yazidis lived in her hometown K. in the Sinjar region near the Syrian border. Immediately after the attack on 3 August 2014 she was taken by IS to K., Tal Afar, Mosul and finally to a slave market in Palmyra. Her two-year-old daughter was in her care. At the slave market she and other women were first registered and then sold. The first IS member who bought her and her daughter sold her approximately two months later to Abu H2, who then in turn sold her and her daughter to Abu H1. He and ‘S.’ held them captive against their will for approximately two months. There, Defendant A. forced her to do housework and look after her daughter M4, until she was resold. Before being freed from IS, she and her daughter were resold multiple times and she was raped on multiple occasions. Defendant A. constantly hit her for no reason, stating that she was a slave, a non-believer. Abu H1 raped her in the house and in his quarters, together with other IS members there too and sometimes in front of her child. Defendant A. was aware of the rapes and told her, ‘you are a *sabaya* and Abu H1 can do whatever he wants with you’. By and large, Defendant A. seemed to her to be angry, not happy.

Her other, older daughter, who was also taken captive by IS, and regarding whose fate – and her own – a book has been published, is now living in France. She does not know what has happened to her three sons and her husband.

### **bb) Evaluation of the co-Claimants’ statements**

The Chamber considers the co-Claimants’ statements on which the findings are based to be credible.

The Chamber has taken into particular consideration the possibility of there being a feeling of need for revenge – including, even, for the Yazidi people as a whole – which could lead to the co-Claimants deliberately providing false information or exaggerating, especially because of the serious persecution which the co-Claimants and the Yazidi people as a whole suffered at the hands of IS. Equally, the Chamber has taken into account that considering the multitude of ways in which the co-Claimants were persecuted, similar acts which were actually carried out by other IS members could have been described and wrongly attributed to Defendant A. inadvertently. The Chamber also felt compelled to address in particular the source of each of the statements and in this respect any discrepancies between the statements previously made to third parties. The Chamber obtained an expert report from the expert Z36 with regard to the issue of co-Claimant Z.'s ability to testify.

In light of the level of detail and consistency between the statements in particular, but also the degree to which they correspond to other forms of evidence, the Chamber does not ultimately have any major doubt in the credibility of the information provided by the co-Claimants on which the findings are based. However, the Chamber does not believe that the information they have provided in respect of the specific nature and frequency of the acts of bodily harm committed and the sexual violence they suffered, which is sometimes vague and often (quite understandably) emotional, can withstand enough scrutiny to make further findings in respect of the circumstances established based on this, even by way of estimation. In particular, the following applies:

(1) The information provided by co-Claimants X., Y. and Z. in respect of the IS attack on the Sinjar region and their subsequent individual fate, according to which they were captured, taken away and enslaved by IS after the attack in the way they described, fully corresponds to the expert statements provided by the expert Z2 and the results in the aforementioned police analysis notes on the attack carried out by IS on the Yazidis in the Sinjar region.

In particular, each of their reports is not limited to information which could have been taken from the media or publications by international organisations; each actually contains a wealth of details associated with their own personal situations. All the co-Claimants provided detailed descriptions of the attack on their village, their separation from specific family members and the locations of their subsequent detention and displacement by IS. They each provided details on the fate of the relatives who were with them. For example, co-Claimant X. stated that she passed her younger brother off as her son for her own protection; co-Claimant Y. reported keeping her young nephew with her and declaring that he was her son, until he was taken away from her by the first IS member who bought her. Co-Claimant Z. in turn gave a convincing description of the presence of her two-year-old daughter during her imprisonment. Both the brother of co-Claimant X. and the daughter of co-Claimant Z. are also mentioned in the pleadings filed by Defendant A., who also described her – ultimately successful – attempts at organising a meeting between co-Claimant X. and her brother and the presence of co-Claimant Z.'s daughter in her house. The possibility of the co-Claimants having been able to fabricate the sequence of the persecution is also unlikely given the extensive descriptions of the exact features of their various 'slave owners' and the details of what they each experienced there. The incidents described by them were characterised by various complexities and individual sequences of events.

(2) The accuracy of the co-Claimants' accounts is suggested by the high level of detail of the information they provided in respect of the key facts but, in particular, also in respect of the incidental events, so that theoretically it is conceivable but, in the Chamber's opinion, unlikely that the co-Claimants fabricated their statements or hugely exaggerated them. In particular, the co-Claimants were also able to state from where their knowledge of these details came or for which reasons it was not possible for them to provide further details of particular isolated events. With regard to the credibility of the statements made by co-Claimants X. and Y., it is also the case that they described situations in which the Defendant stated she was involved in such a way that they could be easily verified by other witnesses. Finally, the co-Claimants were able to comprehensibly justify gaps in the consistency of the statements.

(3) For example, co-Claimant X. described the first time she met Defendant A. comprehensively and realistically. This occurred in the presence of I. B. and his slave M1 at the home of the slave owner Abu H2, where she was being kept at the time. While M1 told her at the time that Abu H1 wanted to buy her, Umm H1 told all the girls to leave the room so that I. B. could inspect her. Umm H1, who herself remained in the room, spoke in Arabic. She, the co-Claimant, explicitly told Defendant A. that



she did not want to be bought again because she did not want to be raped again. In response, Defendant A. told her that it was a sin to say such a thing; according to Islam, when IS members bought a Yazidi slave they were also allowed to rape her. Both Defendant A. and Abu H1 also assured her that she would not be sold again if she did the housework and made herself sexually available to I. B. Just a day or two later, Abu H2 then took her and M8, another Yazidi woman, to see Umm and Abu H1 and said that Abu H1 was to have his pick of the two women. She was ultimately chosen, while M8 was taken to the home of Abu O. a few days later.

Co-Claimant X. was able to provide extensive information on the families' individual homes, such as their layouts, the furniture they had and their living conditions. Among other things, she precisely described the way in which windows and doors were locked so that she could not escape, and how the Defendant and I. B. each had access to the Internet at home. Furthermore – during questioning by expert Z2 – she was able to provide specific information about a number of Defendant A. and I. B.'s contacts in Syria. Defendant A. often had IS women – who were described in detail and named by the co-Claimant – to visit, who addressed each other using their 'umm names'. Meanwhile, she was able to determine that they were speaking German. She, co-Claimant X., had to attend to the women. I. B. was also frequently visited by IS men also named individually by the co-Claimant, who chose pieces of equipment from his stores. I. B. was sometimes away for weeks at a time, during which a friend of Defendant A. called Umm S. moved in.

Co-Claimant X. provided extensive detail in respect of daughter M4, Defendant A.'s pregnancy with her second daughter M5, the birth, subsequently caring for this child and M2's subsequent death.

(a) In particular, individual details can also be found in the description of the circumstances of the first time she was raped by I. B. and the rapes she subsequently suffered during Eid al-Adha in 2016.

However, the Chamber could not sufficiently determine a specific number of further rapes. The co-Claimant was only able to provide a general figure for the total number of rapes she suffered ('more than 100 times'). Her account of this, which is, understandably, emotional is clearly not based on a reliable numerical record of events but instead consists of a description – which is generally credible – of further offences not based on quantifiable individual events. However, the Chamber is certain that a number of similar, although not more specifically definable, sexual assaults occurred.

It was also not possible for the Chamber to make a more reliable estimate – for example, based on a 'mathematical projection' – because this was subject to a variety of other circumstances which co-Claimant X. described in detail, particularly, for example, that she had periods, which meant that I. B. refrained from sexual acts, that he – for various reasons, including to participate in fighting or to perform guard duty – was absent for long periods of time, or that sexually, he preferred another slave – namely co-Claimant Y. – and that she was therefore not forced to have sexual intercourse so often.

(b) Co-Claimant X. also described in detail the general reasons behind the physical violence by the Defendant and gave as examples the six established acts of physical injury committed by Defendant A. Insofar as she described the established incident during Eid al-Adha, Defendant A. herself confirmed that there had been a physical incident ('pushed and shouted') on this occasion.

Any further substantiation of the physical injuries suffered was not possible due to the (understandably) emotional, unreliably numerically specified and otherwise vague information provided by the co-Claimant on the grounds of regular similar events, for example, being hit by the Defendant every other day. An estimation of the number of acts of violence in addition to the six incidents identified was also not made in the absence of a suitable basis for such estimation.

(c) For the entirety of co-Claimant X.'s statement, it otherwise applies that the witness was able to spontaneously and plausibly state from where her knowledge of the details came. For example, she could comprehensibly explain from where she knew the relatives of Defendant A. and I. B. who were not living in Syria, namely Defendant A.'s sister and father and Defendant C. She said that Defendant A. communicated with her father and her sister T., whose names co-Claimant X. knew, using her laptop. She witnessed this because she was in the same room and was able to follow the conversation, which was in Arabic. Abu G1 showed her photos and videos of his mother, Defendant C., on his mobile phone. This is how she recognised Defendant C. as the mother of Abu H1 too. She found out the Defendant's real name when the Defendant accompanied her to the doctor and she was able to glance



in her handbag, where she kept an identity document. 'Daesch people' often did not disclose their 'real' names out of fear of being prosecuted at a later date.

Equally, co-Claimant X. was able to plausibly explain the reasons for which she was not able to provide further information about certain things. For example, this is the case in terms of providing the specific time frame during which she was kept by Defendant A. On one hand, she justified this by her almost complete lack of schooling, and on the other hand by the fact that during her captivity, she did not have access to a mobile phone or a calendar. She was unable to keep track of Yazidi holidays because these sometimes vary and, besides this, she was always scared of observing or talking about them. However, she was able to specify when her captivity with Defendant A. began based on other external circumstances, namely the Defendant's pregnancy. Approximately one month after she arrived, the Defendant told her that she had missed a period. She remained with the Defendant until M5 was seven or eight months old. That she could no longer remember certain details for which she was asked, for example, which electrical devices she took with her when she fled, she comprehensibly justified with the length of her captivity and the number of experiences during this time. She had forgotten certain things. She could not reliably remember all the details.

(d) The credibility of the statement is also supported by the fact that co-Claimant X. described situations in which the Defendant, according to her statement, was involved in such a way that they could easily be verified by other witnesses. Co-Claimant Y. ('Y'), M8 and M1 were also held in the home of the Defendant and I. B. at the same time as her. Y. was also aware that she had been raped. Y. and M1 were – like her – raped by I. B. She learnt from Defendant A. herself that prior to her, two other Yazidi women, namely Z. and M7, had been kept as slaves.

If the co-Claimant had wanted to deliberately falsely incriminate the Defendant with a fabricated or exaggerated account, it would have made more sense – in consideration of the risk of discovery this would entail – not to provide any simultaneous accounts of various incriminating circumstances by third parties and the details of events to third parties.

(e) Doubt in the credibility of the information she provided also does not arise in respect of whether there was a relationship with E. Y. B. concealed or untruthfully denied by the co-Claimant, as Defendant A.'s defence suggested when questioning the co-Claimant. In this regard, the co-Claimant stated that she did not have a partner-like relationship with E. Y. B. at any point. 'Abu G1' never told her that he wanted to marry her. She herself had been able to imagine herself marrying 'Abu G1' in order to avoid being sold again. Life as a '*sabaya*' solely consisted of being 'traded, sold, and bought'. A 'Syrian' she had been with before had beaten her terribly, also with hopes of her marrying him. But she did not. She always just wanted to run away from him. When she realised that life as a '*sabaya*' consisted solely of being 'bought and sold' and that she existed merely as a servant, she did not want to live such a life. This is also why, although she had been raped and beaten by E. Y. B., she asked him, 'if you're going to rape me, why don't you marry me?', to which he responded that he would not marry a slave. 'You are a *sabaya*. We can sell you too.'

In particular, the credibility of the information she provided is also not undermined by the fact that a 'will' in which co-Claimant X. was included was found on the media seized from E. Y. B. At the same time, E. Y. B. explicitly stresses herein that in the event of his death, 'X.' should be 'set free', and therefore paraphrases her continued status as a slave. With regard to photographs found on a data storage device belonging to E. Y. B. from 2017 which picture co-Claimant X. in what appears to be an outwardly relaxed mood when doing household activities, she plausibly explained that she had been a slave to the family for years. If there had ever been anything to laugh about, she laughed too. 'Whatever happens to a person, they laugh or smile sometimes.'

That a form of close relationship developed between co-Claimant X. and E. Y. B., particularly during their joint escape, does not otherwise give rise to any doubt in the credibility of the incriminating statement, which is supported by other pieces of evidence, with regard to the preceding periods in the home of Defendant A. and I. B.; in particular, this does not give rise to a motive for false incrimination.

(f) Insofar as co-Claimant X. was accused of alleged contradictions with information previously provided to the investigating authorities, she was also to fundamentally dispel these convincingly. For example, this applies for the statement she made during the hearing by the Public Prosecutor General, according to which Defendant A. made the decision to choose her and not M8, while in the main

hearing she said that this decision had been made by Abu H1. In response to further questions in this regard, the co-Claimant clarified that she did not know exactly what Umm and Abu H1 were discussing and responding to in terms of Abu H2's offer to pick out a woman, as Defendant A. and I. B. spoke German to each other. She said that they always spoke this language when they did not want the slaves to understand the content of their conversation. I. B. then announced the decision that had been made. However, Defendant A. later confirmed that she made the final decision. In this regard, the co-Claimant also credibly corroborated that – as far as she was aware – important decisions in the marriage were made by Defendant A. As far as she could see, her agreement was required for both the purchase and the sexual assault of the women and girls by I. B. Just before co-Claimant X. and Abu G1 fled – so in autumn 2017 – Defendant A. also made the decision to not escape with them but to stay in Syria instead, although Abu H1 wanted to flee together with his brother and the women.

(g) The Chamber also does not have any major doubt in the credibility of the information provided by co-Claimant X. because in Iraq she provided contradictory information regarding a key point in her statement in the main hearing. Co-Claimant X. was questioned by the aid organisation 'Yazda', which is endeavouring to document the persecution of the Yazidis, among other things, a total of four times in Iraq. As the co-Claimant confirmed and as is apparent from the records of the conversations, two discussions documented by employees of the organisation initially took place on 18 December 2017 and 14 January 2018. Two further interviews with the witness on 16 January and 30 April 2018 were recorded on video. In the video recorded in April 2018, Defendant A. and I. B. were not the subject of the questions. In respect of the rather brief discussion held on 18 December 2017 shortly after her release, the co-Claimant stated that it could be the case that it was also filmed by Yazda, but she did not know any more.

Both in the – brief – discussion on 18 December 2017 and the lengthy video interview by Yazda employees on 16 January 2018, however, co-Claimant X. stated, and confirmed when presented with the translations produced, that she was treated 'well' by Defendant A. and I. B. The Defendant reportedly did not allow sexual assaults by I. and sometimes advocated for the slaves' needs in other ways too. In this regard, the co-Claimant confirmed in response to allegations that in the video interview on 16 January 2018 she stated that the wives of migrants in IS treated the slaves better than the Iraqi or Syrian women did. The wives of the immigrants told her: 'To do that to you, the Yazidis, that was inhumane.' In Europe, all religions existed alongside each other and none of them bothered the others. However, in the interview on 14 January 2018, which was not recorded on video, she essentially described the circumstances of her treatment in the same way as in the main hearing, which is understandable for the co-Claimant when presented with the information provided therein.

When presented with the conflicting information, the co-Claimant stated that during the video recordings she was afraid that the video would be released and that if she told the truth there would be detrimental consequences for her relatives who were still in IS captivity or even for her herself. This is because she was scared that I. B. and the Defendant were in contact with people in the refugee camp in which she was staying at the time of the interview. She emphasised the good treatment by the European women because she knew many Europeans through Defendant A. and I. B. and she also feared detrimental consequences for herself and her family from them. That, in contrast to this, she explicitly mentioned the poor treatment by the slave owner A. L. in the first interview on 18 December 2017 was because she knew he had died and was not worried that his relatives or acquaintances would punish her for making such a statement. Regardless of this, she felt ashamed reporting in detail in front of a camera what 'he had done to her'.

On the whole, the Chamber believes that the various pieces of information provided by the co-Claimant – admitted by her – to the organisation Yazda can be traced back to plausible statements.

This also applies in consideration of the fact that during a preliminary hearing by the Public Prosecutor General, she said that the information presented to her which shows her treatment by Defendant A. and I. B. in a more positive light was first due to alleged 'translation errors', a misunderstanding or the potential result of technical problems and the resulting repetition of the interview process several times. Later in the hearing, the co-Claimant expressly clarified – in line with the information she provided in the main hearing – that just after she was released, she was very ashamed of saying what she had experienced. She did not have full trust in Yazda either. It is therefore possible that some things could have been recorded 'incorrectly'. The fact that some of her family members were still in IS captivity was a factor. She did not want to put them in any danger. The organisations made videos which could

have been published on the Internet. She herself had bad experiences of such publications when she was shown a picture of her mother, who had fled from Tal Afar, while being held as a slave by A. L.

Finally, the accuracy of the co-Claimant's account is supported, and the opposing interpretation that only the information that exonerates Defendant A. and I. B. is correct is undermined by the fact that co-Claimant X. provided a detailed and highly personal account of the incidents, making it very unlikely that she could have fabricated or exacerbated this at a later date. The information she provided is also corroborated by other pieces of evidence, particularly the statement made by co-Claimant Y.

(h) However, the information provided by the witness J. – who was sentenced by the Chamber (not with legal force at the time of questioning) on the grounds of membership of IS, among other things – was fruitless in this regard. The witness stated that she could not assess whether things had gone well for co-Claimant X. in the home of the Defendant and I. B. She claimed she did not have any knowledge of the treatment of the enslaved women in the home of Defendant A. or of the rape of the slaves by I. B. ('I can't say anything about what happened behind closed doors.'). She said she never spoke to Defendant A. about the enslavement of Yazidi women, which is why she could not assess her attitude towards them. This topic was taboo. The same applied in respect of the relationship between Defendant A. and I. B., which was not discussed in greater detail either. Defendant A. and I. B. seemed to be a 'normal couple'.

(4) In particular, co-Claimant Y. also described key events, such as the first time she met Defendant A. and the circumstances – as established – of the first time she was raped by I. B. and the acts of violence carried out by Defendant A. because of the veil she was wearing, realistically and in great detail, together with a number of the circumstances surrounding incidental events during her enslavement in the home of Defendant A.

Co-Claimant Y. also had detailed knowledge of Defendant A. and I. B.'s family and financial circumstances and could provide the sources of her knowledge. For example, Abu H1 and Abu G1 showed her photographs of their mother, Defendant C., which is also why she recognised her in the meeting room. Defendant A. told her that her mother was mentally ill. The Defendant said that she had become sympathetic towards Islam while still in Germany and it was there that she decided to join the jihad. Her sister knew about these plans and supported her with them. In Syria, Defendant C. pushed her to marry I. B. Co-Claimant X. told her that Defendant A.'s real name was S. S. received regular financial support from her mother-in-law. Defendant A. had her own money and also received packages from Germany containing clothing for herself and her daughters.

The information provided by the co-Claimant in respect of the relationship between Defendant A. and I. B., for example, is also particularly vivid and realistic. They seemed to be in harmony with one another. I. B. never hit Defendant A. in her presence and they got on well with each other and did not argue. They spoke German to each other so she could not understand, but she deduced that they were both happy from their faces. They both called each other '*Schatz*' ['darling']. When she asked what this word meant, as she did not know, Defendant A. told her that it was what people who were fond of each other called each other. Co-Claimant X. – without knowing the German meaning of the word either – also made an impromptu comment that I. B. and Defendant A. did indeed call each other '*Schatz*'.

The credibility of co-Claimant Y.'s statement is also supported by the fact that she did not incriminate Defendant A. at certain times, although it would have been easy for her to do so. For example, the co-Claimant stated that Defendant A. had only hit her once. When asked whether Defendant A. possessed any weapons, she said 'no' and stated that the Defendant received two packages but that, as far as she could see, these did not contain any weapons, only clothes. She could not remember whether Defendant A. wore an explosive belt or an explosive vest. In response to the allegation that in a video hearing previously carried out by the victim protection organisation 'Back to Life' (Action Yazidis) in Iraq on 3 December 2019 she stated that she had seen Defendant A. wearing such a vest when heading out in the car, she explained that because of the number of events, she could not remember whether Defendant A. possessed any weapons or that she had made such a comment in an interview.

Finally, the information provided by co-Claimant Y. was clearly subject to the possibility of verification by other witnesses, which was obvious to the witness. In particular, she also knew at the time of her statement that co-Claimant X. was present in Germany as another witness and was available to verify

the information she provided, even though they did not have any contact with each other prior to their hearings.

However, in consideration of the fact that the co-Claimant could only describe the first rape in detail and could not otherwise specify the exact course of events and provide the exact number of subsequent – similar, according to the credible information provided by the co-Claimant – sexual assaults, the Chamber has proceeded from the basis of one identifiable offence and otherwise an unspecified number of further regular sexual assaults. The Chamber was also unable to estimate a specific number of further rapes due to the other circumstances credibly described by co-Claimant X., namely that no rapes took place particularly during the co-Claimant's periods and when I. B. was absent as well as in certain other special cases.

(5) Co-Claimant Z. identified Defendant A. as Umm H1 and S., in whose home she was kept. She credibly described the events that occurred in the home of Defendant A. and I. B., which, following the limitation of prosecution, concerns only the accusations in question of enslavement and deprivation of liberty as such. However, the information provided by the co-Claimant in respect of the individual circumstances of her treatment and that of her daughter were often generalised, lacking in detail and difficult to understand based on the nature of the account.

There are, however, no major doubts in the witness's general ability to make a statement on the whole. When asked about the physical and emotional consequences of her experiences, she reported that every time she has to remember the events, she struggles to breathe and is therefore receiving psychological treatment. She is taking antidepressants. She has also said that her cognitive ability and memory have been seriously affected, but has also said that she remembers the events well and will not forget them. During the hearing, the witness was shown two photographs of I. B. from 2017, according to the file name. In one photograph, she did not recognise I. B.; in response to the other photograph, which shows I. and his brother E. Y. B., she said that she had seen 'them' and that they also came to the 'quarters' in which she was raped by I. B., sometimes also by third parties and sometimes in the presence of her young daughter.

That the co-Claimant – for example, as a result of post-traumatic stress – is so limited in her cognitive abilities that she is unable to accurately recall previous events is not found to be the case, however. The Chamber is certain of this based on the expert report on co-Claimant Z.'s ability to make a statement, which was obtained in the course of the main hearing. Expert Z36, a renowned expert in the field of mental health treatment, neurology and forensic psychiatry who is known to the Chamber from various other proceedings and in whose specialist knowledge there is no doubt, stated following an extensive examination of the co-Claimant that she was in fact suffering from post-traumatic stress, currently to a minor extent, but that there were no indications of a psychopathological restriction of her ability to give a statement. The basic foundations of adequate situational perception, long-term memory, source memory and the largely independent recollection of memories were not impaired. In the examination and test setting, the co-Claimant was able to provide a comprehensible description, speak in a linguistically nuanced and detailed manner, and share both psychologically burdensome and neutral parts of her memory within the situational context of psychological stress. There were no indications of any particular inclination to fabricate things either.

Nor is there any doubt as to the credibility of the information provided by co-Claimant Z. on which the findings are based – which information is consistent with other evidence – as a result of discrepancies between the information she provided and the content of the book 'Pp'. In 2018, the journalists A. H. and A. M. published the book 'Pp.' in French about the imprisonment of the co-Claimant and her now grown-up daughter R. D. I. by IS. The Chamber has had the parts of the book concerning the co-Claimant translated and they were included in the main hearing. The journalists had previously interviewed co-Claimant Z. in Iraq, as she reported. In response to the allegation that neither Defendant A./S' or Umm H1 nor Abu H1 are mentioned by name in the book, co-Claimant Z. comprehensibly explained that she told the journalists everything she had experienced, except for certain incidents that she was ashamed about. For example, she did not tell them that some men had taken pills before raping her and that she had been raped by several men at the same time in what were known there as the 'main quarters'. She also told the journalists about Defendant A. and I. B. and the events that occurred in their home. However, there had not been any plans to write a book about this. She also does not know what the journalists ultimately used. She has never found out what the book contains



as she cannot read and the book has never been read aloud to her either. The accuracy of her statement that she also told the journalists about her experiences with Defendant A. and I. B. and the lack of care in the journalistic reporting of the reported events is corroborated by the fact that I. B. ('Abu H1') and his (poor) treatment of the co-Claimant are clearly described in the book under the name 'Abu Q.'. Witness Z22, who was commissioned by the Federal Criminal Police Office to analyse the book as a scientific analyst, plausibly deduced that 'Abu Q.' was I. B. based on the description of the man as a Turk who was married and had a seven-month-old daughter, as well as from the phonetic similarity between the names.

Furthermore, in terms of its structure and content, the book 'Pp.' is not a documentary work, which means that deviations in the content of the book from the information provided by co-Claimant Z., which is corroborated by other pieces of evidence and, in relation to key facts, by the pleadings filed by the Defendant herself, do not give rise to any doubt in the credibility of the information provided by her on which the findings are based.

Finally, there is no doubt in the credibility of the information provided by co-Claimant Z. in respect of her imprisonment by Defendant A. and I. B. as a result of the fact that she, as the witness confirmed, did not mention this to the organisation Yazda when in Iraq. This is because Defendant A. herself admitted that the co-Claimant was kept there as a slave; this is also corroborated by the information provided by the other co-Claimants.

(6) The information provided by co-Claimants X. and Y. who, also according to Defendant A.'s statement, were kept in her home at the same time, is consistent in respect of all key points and also in respect of a number of particular points regarding incidental events, insofar as the events were perceived by the two witnesses.

For example, co-Claimants X. and Y. both consistently reported that Defendant A. did not intervene when I. B. raped them although it would definitely have been possible for her to do so because within the context of her relationship with I. B. in the home, the Defendant made the decisions and could therefore have stopped him from doing such things at any time. She 'wore the trousers' and was 'the head of the household'.

Co-Claimants X., Y. and Z. consistently described the relationship between Defendant A. and I. B. as loving and harmonious, as previously mentioned ('darling'). They did not observe any physical altercations between them. The co-Claimants also consistently stated that Defendant A. justified the keeping of slaves and the rape of the women to them by saying that the women were 'non-believers' and 'sabayas' and that Islam permitted this.

Co-Claimants X. and Y. both described how I. B. did not rape them when they were on their periods and that I. B. had a sexual preference for co-Claimant Y. based on his practice with her and used a condom. Defendant A. also knew about the rapes and the frequency thereof because, according to the information provided by both co-Claimants, the condoms were kept in the bedroom she shared with I. B.

All three co-Claimants also vividly described in detail how, as established, Defendant A. was, by doing so, acting in accordance with the IS ideology. They describe the Defendant as being a member of IS, 'Daesh', and a vocal advocate of the persecution of the Yazidis and the enslavement of Yazidi women by IS. For example, co-Claimant X. stated that the Defendant propagated the IS ideology as follows:

*'Umm H1 said: Buying and selling slaves, and beating them, is permitted; swapping sabiya is also permitted. You are not allowed to cry for your relatives. You are non-believers; you must pray five times a day and learn the Qur'an by heart, and forget your Yazidi faith.'*

Witness Y. stated:

*'She was exactly like those IS people, even behaved like them. She is Daesh too.'*

The co-Claimants describe Defendant A. as being convinced that she wanted to teach them the Qur'an; she had become very religious. She woke the women up early for morning prayers and oversaw their five daily prayers. Co-Claimants X. and Y. consistently stated that Defendant A. took them to Islamic lessons, at which she also made co-Claimant X. undergo an exorcism.



The Chamber considers the claim made in Defendant A.'s pleadings that M1 and co-Claimant X. converted to Islam voluntarily, prayed regularly and asked to participate in Qur'an lessons to be incorrect in light of the consistent information provided by the co-Claimants and refutes it within the context of the findings, whereby the possibility cannot be ruled out of co-Claimant X. in particular sometimes adapting her outward behaviour to avoid being punished.

All three co-Claimants described – as established – their identical daily duties in the home of Defendant A. and her standard of cleanliness. They consistently reported in this regard that the house had to be fully cleaned three times a day. Co-Claimants X. and Y. both described how Defendant A. used to run her finger along furniture that had been cleaned to check whether the dust had been cleaned off. All the co-Claimants stated that Defendant A. gave them the responsibility of bathing her daughters and changing their nappies. When her daughters wet themselves, their nappies had to be changed immediately, otherwise the Defendant would get very angry.

Descriptions of the stores of weapons and equipment which I. B. kept in each of the homes and the instruction given to take extra care when cleaning this room were also consistent.

Each of the co-Claimants consistently describes Defendant A.'s audio and visual contact with her father, her 'mother-in-law', Defendant C., and her sister. The statements were also consistent in respect of the language in which these conversations were held, namely Arabic with her father and German with her mother-in-law.

In light of the depth of detail, spontaneity and individuality of each of the statements, the Chamber does not consider there to be any indications that an arrangement has been made between co-Claimant X. and co-Claimant Y., for example, when they encountered each other at the meeting for Yazidis who had been released from IS captivity. In this regard, they both consistently stated that they had not spoken to each other there. They comprehensibly justified this by stating that they wanted to distance themselves from their recent past. Besides this, it was not possible to speak due to the large number of women present. In any case, they would not have been interested in doing so due to the fact that relations between them during their time in the home of Defendant A. and I. B. were not exactly easy. For example, at the time the co-Claimants did not agree on the intensity with which the homes had to be cleaned. Co-Claimant X. – out of fear of Defendant A., she said – had higher standards. The Chamber also rules out the possibility of an arrangement being made in Germany. In this regard, co-Claimant Y. credibly stated that it was only immediately before her hearing in the course of these proceedings that she learnt that 'X.' had already been heard as a witness, but was not told the content of her statement.

(7) Finally, the credibility of the information provided by the co-Claimants on which the findings are based is corroborated by the fact that such confirmation can be found in other various other pieces of evidence.

That Defendant A. herself was involved in the buying and keeping of all the slaves in accordance with the findings made from mid-September 2015 to autumn 2017 is corroborated by the fact that in a telephone call with her father as early as 1 February 2015, she reported with interest that she had witnessed Kurdish-speaking slaves when attending an appointment with her midwife. In a chat with her sister on 20 September 2015 she then declared 'have bought the slave', whereby she did not make any reference to I. B. and no such reference is apparent from the context of the message either. The Chamber considers the claim made in Defendant A.'s pleadings that she did not write this message, with reference to I. B. having gifted her the mobile phone – which he used from time to time – to be an untruth to protect herself: In theory, there is of course the possibility that I. B. also used the mobile phone. In such a case, however, one would have expected that I. B. would recognise the person he was speaking to. In fact, there are no indications that I. B. had ever spoken to T. A., particularly with regard to the matter of his actions as a member of IS, whereby such contact was not likely either due to the gender segregation required by IS.

Witness Z32, who wrote the book 'Rr.' under the pseudonym 'M. A.' about her time in Syria, stated that 'Umm H1' was very well-known there because she had travelled there so young and was therefore also present in the media. At the beginning of 2016, she was collected by 'Umm H1' at a mosque in Raqqa and taken to her home by car. Besides her and 'Umm H1', her daughter – named 'M4' – and a 13 or 14--year-old Yazidi slave were also in the car. Among other things, 'Umm H1' told her that her husband was Turkish and had one brother. 'Umm H1' lived on the first floor of an apartment building

near Dawar Saa. At the apartment she met another Yazidi slave who was approximately 20 years old. 'Umm H1' declared that both of the women were her slaves and that her husband had previously sold another, older slave. She and 'Umm H1' were served politely by the slaves.

Witness Z31 – who has been sentenced with legal force by the Chamber on the grounds of membership of IS, among other things – who met Defendant A. in Raqqa stated that the Defendant was there with Yazidi slaves, which is otherwise consistent with Defendant A.'s pleadings stating that she told three people in Raqqa that the women and girls accompanying her were her slaves. However, as the reason for this – which was refuted in the findings – the Defendant stated that she was uncomfortable with their actual relationship with I. B., because she had found out that he was having sexual intercourse with the women.

Witness Z35, who was also in Syria, stated that she knew the Defendant through a chat group consisting exclusively of the wives of IS members. It was known among the Germans that the Defendant or her husband apparently had a slave. Defendant A. once told the chat group that she had 'a [...] at home' who 'cleans' and 'helps [her] around the house'.

Finally, witness J. – who was sentenced by the Chamber on the grounds of membership of IS, among other things, although this was not legally binding at the time at which she gave her statement – confirmed that she had got to know co-Claimant X. as Defendant A.'s slave. She met Defendant A. at the end of March/beginning of April 2015 in Raqqa. The Defendant was apparently very friendly, and very mature and responsible for her age. Defendant A. visited her several times accompanied by the slaves X. (X.) and 'A.' (M1) and introduced the women by name when they first met. According to the information provided by Defendant A., M1 was 15 years old. It was clear to her – witness J. – that the women were slaves. Defendant A. offered to make X. do housework for her. She accepted this offer. As instructed by Defendant A., X. then cleaned her kitchen often. She ruled out the possibility of co-Claimant X. working for Defendant A. and I. B. voluntarily.

That Defendant A. also made co-Claimant X. do housework for O., who was also sentenced, and who was married according to Islamic rites to Denis Cuspert, a friend of I. B.'s, is also apparent from the judgment handed down by the Higher Regional Court of the Free and Hanseatic City of Hamburg and the information provided by co-Claimant X. that was reported there.

The death of slave M2 when accompanying I. B. on a car journey is confirmed not just by the Defendant's pleadings and the information provided by co-Claimants X. and Y. but also by an official report from the German Federal Foreign Intelligence Service. According to this, I. B. and Defendant A. held at least two slaves in their home, one of which was a minor. The minor was killed during a journey in an air strike.

The information provided by the co-Claimants is also consistent with the other pieces of evidence beyond the key events, however. For example, this is the case in respect of Defendant A.'s required standards of cleanliness as described by co-Claimant X., which I. B. told Defendant C. about in telephone calls on 10 March 2014 and 1 May 2015. In a telephone call with an acquaintance on 29 August 2015 the Defendant's mother said in respect of Defendant A. that 'S. is such a clean one'.

The 'exorcism' suffered by co-Claimant X. is also confirmed by the remarks made by the expert Z2 (in addition to the information provided by co-Claimant Y.). The expert explained that '*ruqia*' – exorcism – was highly valued by Salafists and he was also aware of such practices in Islamic State. For background, the expert explained that the Qur'an describes the '*jinn*' as a demon which possesses 'crazy' people or non-believers; according to the Qur'an, healing can also be achieved by reading it aloud.

Co-Claimant X.'s statement that the Defendant instructed M1 to put on a short denim dress and then put make-up on her and used her mobile phone to take photos of her, which were then published on an IS online slave market with a note that M1 was available to buy, is confirmed by the remarks made by the expert Z2 with regard to the existence and prevalence of such online slave markets. The Chamber also saw similar photographs of co-Claimant X.

Photographs of a carpet previously described by co-Claimant X. which was located in the bedroom of daughter M4 were seen; these were consistent with the description.

The financial support described by the co-Claimant that Defendant A. and I. B. received from their parents is confirmed by the content of a number of telephone calls; please refer to the remarks made

under count 5 with regard to the details (cf. under C. III. 4.). It is also confirmed in Defendant A.'s pleadings.

Whether or not the conversations described by co-Claimant X. between Defendant A. and her sister were actually had, in which they discussed, among other things, that her husband should go to Syria because as a doctor he was needed there, is proven by the previous chat between Defendant A. and her brother-in-law on 27 May 2014.

Finally, in addition to the choice of his *kunya* name, I. B.'s love of cats as described by all three co-Claimants is also confirmed by, for example, a telephone call with his mother on 1 April 2015, in which he said he was just playing with the cat.

cc) That Defendant A. and I. B. acted with knowledge of the persecution of the Yazidis by IS and sought to enforce its ideology and were aware of the rules drawn up and published by IS on handling slaves is apparent, on one hand, from the established circumstances of external events, and on the other hand from Defendant A.'s pleadings, the information provided by various witnesses who were present and the remarks made by expert Z2.

The Defendant herself stated that she knew that IS considered slavery permissible. She claimed that she became aware of the Yazidis in Syria when other women told her about them.

Witness Z35, who was in Syria at the time of the offences, credibly reported that as far as she was aware, everyone living in the caliphate knew about the persecution of the Yazidis by IS and their rules on handling slaves. In particular, the enslavement of the Yazidis was a topic in IS media, namely in videos disseminated by IS, radio broadcasts and the organisation's newspapers. Foreigners living in the caliphate obtained information via such media. The rules issued by IS in this regard were also expressly discussed in a chat group of which Defendant A. ('Umm H1') and the witness herself, among others, were members. At the Chamber's request, witness Z31 also confirmed that, as far as she was aware, the Defendant knew about the IS rules on handling Yazidi slaves; IS had drawn up and declared the rules to everyone, including her. In correspondence with this, expert Z2 stated that IS rules as a whole and specifically those on handling Yazidi slaves were included in media disseminated throughout the caliphate and discussed among the foreigners.

Finally, the Defendant's active knowledge of the IS rules on the enslavement of Yazidis is apparent from the information provided by co-Claimant X. She provided a vivid and detailed account of how Defendant A. followed issues regarding the enslavement of Yazidis and their treatment by IS members on the Internet, told her that IS permitted such actions and cited the IS rules as a means of justifying her and I. B.'s behaviour. Co-Claimants X. and Y. also confirmed this accordingly.

dd) Based on the evidence provided and other facts as follows, the Chamber considers the Defendant's pleadings that she internally distanced herself from I. B. after he first had sexual contact with a slave, M7, but that he insisted on doing so and subsequently had sexual intercourse with her against her will too to be refuted.

For example, the mobile phone belonging to Defendant C. – the mother of I. B. – which was seized by the Chamber in the course of the main hearing contained, among other things, photographs of letters from the Defendant to I. B. dated 6 and 17 June and 4 and 5 July 2019, in which the Defendant discusses her life in prison and says that she thinks about the children and I. endlessly. The letters all bear kisses and are signed 'with love, S.'. Another letter dated 7 July 2019 ends with 'love you'. Defendant C.'s mobile phone also contained an image of a postcard which Defendant A. had sent to her, in which she thanks her for bringing I. B. up to the 'man of her dreams'. The mobile phone also contained numerous letters from I. to the Defendant, the content of which suggests that he remained devoted to her too.

The fact that witness Z19, who was held in the same prison as Defendant A. for a time and became friends with her while there, stated that she and other inmates who were friends with Defendant A. had written letters and postcards for Defendant A. because the Defendant's cards did not look affectionate enough is not grounds for any other assessment. The witness reported having spoken to the Defendant about the content of the letters. There are no indications that they had been written or even sent to Defendant C. without Defendant A.'s knowledge.

That the relationship between Defendant A. and I. B. continued until at least autumn 2019 is apparent from further information provided by witness Z19. She credibly stated that Defendant A. began to

seriously consider the matter of possible separation from I. B. in autumn 2019. The Defendant told her –alone – that her desire to make a fresh start with her daughters was the reason for this. The Defendant also told her about the ‘highs and lows’ of the time she had shared with I. B., without going into any detail. The Defendant told her of her worries whether I. B., whom she described as a good father, would ‘cope with separation’.

Finally, the information provided by witness Z19 is confirmed by the statement made by witness Z18, who stated that as Defendant A.’s point of contact in the prison, he noticed in late summer 2020 that she was breaking away ‘slowly from her husband and his family’.

**d) With regard to subsequent events**

The findings indicating that, in spite of the increasingly tense situation as regards safety in IS territory in autumn 2017, Defendant A. did not initially want to leave and – contrary to her own pleadings – tried to convince I. B., who was being urged by his mother, Defendant C., and his brother to leave, to stay with her in Syria are based on the credible information provided by co-Claimant X. She reported that Abu H1 wanted her and his brother – Abu G1 – to accompany him when he fled, but that Defendant A. refused and told her that she did not want to go to the land of ‘non-believers’.

This inner belief held by Defendant A. is confirmed in the previously mentioned telephone call between Defendant C. and her sister M. D. on 23 November 2017, in which Defendant C. describes a disagreement between her sons over the issue of whether to stay in Syria, whereby Defendant A. allegedly threatened E. Y. B. to make him stay in Syria.

The findings in respect of the escape route and the capture of Defendant A. and her family as they crossed the border near the Turkish town of Akçakale on 23 February 2018 as well as their subsequent handling by the Turkish authorities and the Turkish criminal court, primarily in respect of the military and police custody up to 6 March 2018, their transfer to a detention centre in Gaziantep and the circumstances of their uninterrupted stay there prior to their deportation to Germany on 21 September 2018, are based on Defendant A.’s pleadings, the records of the arrest and an Interpol database search by the Turkish authorities on 24 February 2018. That I. B. was held in custody from 28 February 2018 and the Defendant from 6 September 2018, and that the Defendant provided the information established to the Turkish criminal court, is apparent from the content of the judgment handed down by the 2nd criminal court of Sanliurfa on 9 January 2019, as is the matter of the subsequent sentencing of the Defendant in absentia. Further findings as regards the matter of the legal force of the judgment could not be made in the absence of appropriate legal assistance by the Turkish authorities.

Finally, the findings in respect of the Defendant’s deportation and separation from her daughters, as well as the details of her subsequent arrest and imprisonment in Germany, are based on the Defendant’s pleadings and the information provided by witnesses Z5 and Z18.

The contact between the German and the Turkish authorities is deduced from notes made by the Chief Public Prosecutor (*Generalstaatsanwaltschaft*) of Düsseldorf on 20 March 2018, according to which there was a telephone call between the German and Turkish authorities, among other things. The Defendant’s repatriation to the Federal Republic of Germany was overseen by the Federal Foreign Office and the Federal Criminal Police Office based on the information received from Turkey.

**4. Relating to the offences committed by Defendants C. and B.**

**a) The Defendants’ organisational understanding and inner beliefs**

(...)

**bb) Organisational arrangements with their sons**

(...)

**cc) Adjustment of the organisational arrangement**

(...)

**dd) Knowledge of restrictions on the movement of goods and capital and of the arms embargo**

(...)

**b) Count 5**

(...)

**aa) Order and delivery procedures**

(...)

**bb) (Attempted) shipment to Syria**

(...)

**c) Counts 6 to 8**

(...)

**d) Counts 12, 13, 17-20**

(...)

**e) Subsequent events**

(...)

**D. Legal analysis****I. Defendant A.**

Defendant A. is liable to prosecution as a result of the offences determined – in counts 1 and 4 of the bill of indictment remaining after the limitation of prosecution for the purpose of decision-making – on the grounds of two counts of membership of a foreign terrorist organisation, one count of which also constitutes a crime against humanity causing death through enslavement, a crime against humanity through persecution, aiding and abetting a crime against humanity through rape, deprivation of liberty for a period of more than one week (of which there were five concurrent cases constituting one act), and deprivation of liberty causing death and bodily harm (of which there were eight concurrent cases constituting one act).

The actual acts of serious human trafficking (of which there were three cases constituting one act), extremely serious human trafficking, human trafficking for the purpose of the exploitation of labour (of which there were two cases constituting one act, in accordance with Section 233(1) StGB in the version valid until 14 October 2016), the deprivation of liberty, and aiding and abetting rape (in accordance with Section 177(1), subparagraphs 1 and 3, Section 177(2), second sentence, subparagraph 1 StGB in the version valid until 9 November 2016 and Section 177(1), Section 177(5), subparagraphs 1 and 3, Section 177(6), first sentence and second sentence, subparagraph 1 StGB in the currently valid version) do not apply on the grounds of the concurrence of laws.

1.



a) With regard to the crimes against humanity in accordance with Section 7(1), subparagraphs 3, 6 and 10, Section 7(3) VStGB, the applicability of German criminal law is determined in accordance with the universal jurisdiction laid down in Section 1, first sentence VStGB; this also applies for forms of involvement below perpetration, in accordance with Section 2 VStGB.

It can remain undetermined whether the applicability of German criminal law already arises from this as an annex for the offences committed and constituting one offence (cf. BGH, decision of 6 June 2019 - StB 14/19, BGHSt 64, 89 paragraph 71; also of 3 February 2021, AK 50/20, juris paragraph 51; by contrast Gierhake NJW 2019, 2635 et seq.). With regard to the human trafficking in accordance with Section 232 StGB, the applicability of German criminal law is also specifically provided for in Section 6, subparagraph 4 StGB. It is also provided for regarding all other offences committed in Section 7(2), subparagraph 1 StGB. The Defendant is a German national and at the time at which she committed the offences, the relevant locations of the offences in Syria were controlled by IS; effectively, she was not therefore subject to any criminal jurisdiction (cf. for example BGH of 3 March 2021, AK 10/21, juris paragraph 41; of 9 June 2020, AK 12/20, juris paragraph 32 each with further references).

b) In addition, the conditions set down in Section 129b(1) StGB for the application of Section 129a StGB to terrorist organisations outside the European Union have been met. The crucial element in this respect, in addition to the Defendant being a German national (Section 129b(1), second sentence StGB), is an authorisation to prosecute required by Section 129b(1), third and fourth sentences StGB, which the Federal Ministry of Justice and Consumer Protection issued on 18 March 2014 for the criminal prosecution of members or supporters of ISIL and adapted on 13 October 2015 to reflect the name 'IS' used from then on by the organisation.

c) The Defendant, who was acting as a juvenile in the period of the offences until 24 January 2016, has, in accordance with Section 3 and Section 104(1), subparagraph 1 JGG, based on her mental and moral development, the level of maturity required to understand the injustice of her actions and to act according to this understanding.

Before travelling to Syria, the Defendant regularly attended Year 10 at a high school, where she achieved good academic results. She also helped her mother with day-to-day life.

The youth psychiatrist expert Z3 consulted by the Chamber comprehensibly stated that there were no indications of any youth psychiatric disorders in the Defendant. Her radicalisation and devotion to IS at that time are considered a search for identity and identity-finding process which are typical of her age. The intelligence tests the expert carried out during the examination of the Defendant which demonstrated a level of at least average intelligence were evidence of a level of at least this at a younger age, which also covers the Defendant's entire school education. Any delay in mental maturity is therefore rejected. Delays in the moral maturation process, namely the ability to emotionally perceive something as injustice, are likewise ruled out in consideration of the Defendant's biography. She was taught values and norms in both a family and school environment, as already proven by her social engagement during her time at school as confirmed by her classmates.

The Chamber has no reason to doubt the qualifications and expertise of the experienced youth psychiatry expert Z3 (expert in child and youth psychiatry and psychotherapy), who came to this conclusion on the basis of extensive examination and testing of the Defendant and is known to the Chamber from other proceedings.

2.

By committing the offence established in B.III. 2. b (count 1), the Defendant was guilty of participating as a member of a foreign terrorist organisation in accordance with Section 129a(1), subparagraph 1 and Section 129b(1), first and second sentences StGB.

a) IS is a foreign organisation outside the Member States of the European Union whose objectives and activities are aimed at committing murder, manslaughter, crimes against humanity and the other crimes listed in Section 129b(1), subparagraphs 1 and 2 StGB. Its organisational structure fulfils both the requirements of the concept of an organisation previously applied in the case law of the Federal Court of Justice (see, for example, in that regard judgment of the Federal Court of Justice of 20 March 1963, 3 StR 5/63, BGHSt 18, 296, 299 et seq.; Federal Court of Justice, judgment of 14 August 2009, 3 StR 552/08, BGHSt 54, 69 paragraph 123) and the requirements of the legal definition, which are

slightly lowered in terms of the organisational structure and decision-making process, in Section 129(2) in conjunction with Section 129a(1) StGB, in the version valid since 22 July 2017.

b) The Defendant participated as a member of IS. In accordance with the case law of the Supreme Court, a perpetrator participates as a member if, supported by the shared will of both parties and for a certain duration, they integrate themselves within the organisation, submit to its will and actively engage in an activity to promote its aims. This promotional activity can consist of directly contributing to the enforcement of the organisation's aims, for example, by participating in combat operations. However, it can also be directed at merely creating or maintaining the foundation for the organisation's activities. Promoting the establishment, cohesion or activity of the organisation is therefore sufficient. For example, conduct of appropriate severity that promotes or is otherwise typical of the organisation may be considered. In contrast to this, cases of merely formal or passive membership that is of no meaning to the activity of the organisation are fundamentally lacking an active act of membership (BGH, decision of 15 May 2019, AK 22/19 with further references).

The case law of the Supreme Court, in the context of an overview, has considered, in particular, deliberately entering the territory of IS, marrying an IS member, receiving money and accommodation from IS, following orders given by a husband with commanding authority and by other local commanders, deliberately deciding to expand the 'constituent people' of IS, using blog posts to call on those of similar beliefs in Europe to also travel to IS territory and join that organisation, and receiving training in dealing with weapons, as evidence of active promotion. The fact that the activity was mainly carried out within the context of managing the household does not preclude participation as a member (Gericke/Moldenhäuer NStZ-RR 2020, 329 with numerous references from the case law).

According to this standard, the Defendant was not only a passive member of IS, but as such actively promoted its aims and integrated herself within the organisation with its agreement. Aware and approving of the aims and actions of IS, she deliberately decided to emigrate from Germany to the region controlled by IS. She entered into a marriage according to Islamic rites with the IS member I. B. on 4 January 2014. It was as a result of this, at the latest, that she willingly integrated into IS by mutual agreement. The birth of her children in IS territory also served as a means of creating and maintaining the foundation for IS's activities. The Defendant helped I. B. perform his duties for IS by managing the household and caring for their children. Together with I. B., she also provided temporary accommodation for new arrivals to IS and tried to persuade family members – namely her sister T., several times, and her husband according to Islamic rites N. L., in May 2014 and February 2015 – to serve IS too. For their activity for IS, the Defendant and I. B. received a monthly payment of USD 118 from the organisation, which was intended as a means of support for them both. Until she fled in 2017, the Defendant lived continuously in IS territory.

3.

By keeping seven Yazidi women, Z., M7, M1, X., M8, Y. and M2 – who later died – as slaves – sometimes at the same time – together with I. B. in their household in line with IS ideology in the period from September 2015 to October 2017 (see B.III.2.c, count 4), the Defendant was guilty of a (joint) crime against humanity resulting in death through enslavement in accordance with Section 7(1), subparagraph 3, Section 7(3) VStGB and Section 25(2) StGB.

a) The enslavement of the seven women and girls by Defendant A. and I. B. was included in the aggregate act laid out in Section 7(1) VStGB; it forms part of an intentional attack on the civilian population that is considered both systematic and widespread.

A civilian population is a large group of people who share the same distinctive features for which they are attacked. A defining feature is that the measures are not primarily aimed at certain victims as individual people but rather because of their affiliation with the group. It is not necessary for the entire population, as described, to be affected by the attack. Instead, it is sufficient that a significant number of individuals are affected (see BGH, judgment of 20 December 2018, 3 StR 236/17, BGHSt 64, 10 paragraph 164; decision of 6 June 2019, StB 14/19, BGHSt 64, 89 paragraph 56; decision of 9 February 2021, AK 5/21, juris paragraph 32; MükStGB/Werle, 3rd edition 2018, Section 7 VStGB paragraph 15, 21 with further references).

An attack in accordance with Section 7(1) VStGB, with reference to the legal definition provided in Article 7(2a) of the Rome Statute, is a course of action involving the repeated performance of the

individual acts laid down in Section 7(1), subparagraphs 1 to 10 VStGB, behind which a collective – a state or an organisation – stands (BGH, decisions of 9 February 2021, AK 5/21, juris paragraph 33; of 17 June 2010, AK 3/10, BGHSt 55, 157, paragraph 25; of 6 June 2019, StB 14/19, BGHSt 64, 89, paragraph 57).

Based on the case law of the international criminal courts (see MüKoStGB/Werle, loc. cit., paragraph 26), an attack is deemed to be widespread if acts are performed on a great scale with a high number of victims (see also BGH, decision of 9 February 2021, AK 5/21, juris paragraph 33).

It is deemed to be systematic if the use of force is organised and methodical in the interest of acting consistently (see BGH, judgment of 20 December 2018, 3 StR 236/17, BGHSt 64, 10, paragraph 166; of 6 June 2019, StB 14/19, BGHSt 64, 98, paragraph 57; decision of 9 February 2021, AK 5/21, juris paragraph 33; MüKoStGB/Werle, loc. cit. paragraph 27).

The attacks committed by IS on the Kurdish population of Yazidi faith in the region surrounding the Sinjar mountains in north-west Iraq, beginning with the attack in the night of 2/3 August 2014, is deemed a widespread attack in accordance with this regulation. The attack by the IS militants was followed by a number of violent acts with a high number of victims, namely the immediate execution of men who were not willing to convert and the enslavement of women and children. The combination of the actions overseen by IS aimed at completely wiping out the Yazidi faith is grounds for the systematic nature of the attack (see BGH, decision of 9 February 2021, AK 5/21, juris paragraph 31 et seq.).

The question of whether or not the features of the attack on the population in accordance with Section 7(1) VStGB must also have a 'political element', meaning that an attack is subject to the condition that it is carried out as a means of enforcing or supporting the policy of a state or an organisation aimed at such an attack (see BGH, decisions of 17 June 2010, AK 3/10, BGHSt 55, 157, paragraph 26; of 6 June 2019, StB 14/19, BGHSt 64, 89, paragraph 61; judgment of 20 December 2018, 3 StR 236/17, BGHSt 64, 10, paragraph 168 and with regard to prevailing opinion MüKoStGB/Werle, loc. cit., paragraph 30 et seq.), can remain undetermined. The attacks were carried out as a means of enforcing the 'political' ideology of IS with the aim of eradicating the Yazidi religion and establishing radical Sunni Islam, as the 'true religion', as the sole faith in the territories occupied by IS.

b) The Defendant (and I. B.) enslaved (jointly) the seven Yazidi women and girls in accordance with Section 7(1), subparagraph 3 VStGB.

This is understood to mean the exercise of an arrogated 'right of ownership' over a person (BGH, decision of 9 February 2021, AK 5/21, juris paragraph 39 with reference to the legal definition, based on the Convention on Slavery of 25 September 1926 in the version as amended on 7 December 1953 [BGBl. 1972 II p. 1473 et seq.], in Article 7(2)(c) of the Rome Statute ['the exercise of any or all the powers attaching to the right of ownership over a person'], BT-Drucks. 14/8524 p. 20; Werle/Jeßberger, Völkerstrafrecht, 5th edition, paragraph 1022; MüKoStGB/Werle, loc. cit., paragraph 57). Since no such right of ownership over a person exists by law, the matter of slavery constitutes de facto a form of treatment whereby the perpetrator forces a person to submit to their will and their interests and denies them the freedom to act as they choose (see Werle/Jeßberger, loc. cit. paragraph 1024). Key indications of this are control over the victim's movements, their vulnerability, abuse, and financial control over or exploitation of the person concerned. It is not absolutely essential for the victim to be 'bought' or 'sold' using money or any other form of consideration or for the exercise of the 'right of ownership' to last for a long time. However, these aspects can be strong indications of enslavement in accordance with Section 7(1), subparagraph 3 VStGB (BGH, decision of 9 February 2021, AK 5/21, juris paragraph 39; Werle/Jeßberger, loc. cit., paragraph 1024).

Based on these criteria, Defendant A. did enslave the women and girls stated (together with I. B.). The Yazidi women and girls who were held captive by the IS members were bought from the slave trader Abu H2 and, in the case of M2, from another IS member as if they were objects. The question of whether Defendant A. or I. B. ultimately accepted financial liability for the purchase of the women and girls can remain undetermined because whether they did or not, Defendant A. subsequently forced the women to submit to her will and her interests. She denied the women the freedom to act as they chose. She controlled their freedom of movement and forbade them from practising their religion. She forced the women to learn the Qur'an and to do housework and provide childcare in her home in exchange for no remuneration, and she instructed them to do the same in her friends' homes too. If

the women did not behave as she wished, the Defendant hit them, or at least co-Claimants X. and Y. and girl M1. In I. B.'s absence, she exercised sole power of authority over the women and girls.

c) The Defendant acted wilfully. In particular, she knew that the women and girls had previously been captured and taken away by IS during the attack on the Yazidis in the Sinjar region. Aware of and implementing this campaign of destruction propagated by IS against the Yazidis, who she also considered to be non-believers, she bought the women and kept them in her home as slaves. Finally, she also knew that the women and girls were being held there against their will. She acted knowing that she was complying with the rules on handling Yazidis that had been set by IS. The fact that she was not comfortable with the sexual contact between I. B. and the enslaved women and girls does not change this.

d) The fact that the enslaved Yazidi girl M2 was killed on a shopping trip with I. B., on which she was taken with Defendant A.'s approval in spite of the clear and specific threat in and around Al Mayadin, gives rise to the specific consequences laid down in Section 7(3) VStGB.

The grounds for application of 'through an offence pursuant to paragraph (1), subparagraph 3' may also be met if the death occurs as a result of the act of enslavement itself, and also if it occurs during the state created as a result of enslavement, particularly as a result of the treatment suffered by the victim (see, for example, with regard to Section 239b StGB: BGH of 18 September 1985, 2 StR 378/85, BGHSt 33, 322; Schluckebier in: Laufhütte et. al., StGB Leipziger Kommentar, 12th edition 2015, Section 239a paragraph 39 et seq.). If the death of the victim is not directly caused by the actions or omissions of the perpetrator but by the further involvement of third parties or further conduct by the victim themselves, it is necessary for the victim's death to arise as the result of case-specific risks that are typically associated with the matter at hand (BGH loc. cit., 324). However, the victim's death is not attributable if it occurs as the result of a general or everyday risk such as a general road traffic accident, even while subject to slavery, if these circumstances cannot be traced back to particular case-specific risks arising from the specific offence committed by the perpetrator in conjunction with the victim's individual disposition (see Schluckebier in: Laufhütte et. al., StGB Leipziger Kommentar, 12th edition 2015, Section 239a paragraph 41 et seq.).

The keeping of slaves specifically was not just the cause of M2's death; this also occurred as a result of a particular risk, to which she was exposed as a result of enslavement by the Defendant and I. B., materialising. She herself could not choose where to live; instead, she was forced to live far from her hometown, in the household or under the supervision of IS members, in the town of Al Mayadin, which as an area to which IS had retreated at the time in question was exposed to bomb strikes by opponents of IS. The resulting risk of being injured or killed in these combat operations was significantly increased because as a result of her position as a slave, M2 had to participate in a shopping trip with I. B., who drove along a main street that had been bombed the day before and on which further possible attacks were expected. The Defendant was aware of this danger.

The journey taken in order to go shopping corresponded to the Defendant and I. B.'s shared conceptions and the usual treatment of the slaves, whose tasks included accompanying the Defendant and I. B. on shopping trips and other errands (see, for example, with regard to attribution to accomplices, BeckOK StGB/Kudlich, 50th edition, 01/05/2021, StGB Section 18 paragraphs 20-21 with further references).

That the death of M2 is directly attributable to the autonomous actions of a third party, namely the party in the civil war that was responsible for firing the shot, does not prevent such attribution. In the present case, the death of the victim is the culmination of certain case-specific risks (taking the slave against her will to a particularly dangerous place in a situation that is known to be dangerous) that are typically associated with the matter at hand (see BGH, loc. cit., 324). In this specific case, however, this does not concern a general or everyday risk.

The Defendant caused M2's death through negligence, Section 18 StGB. Even if, as assumed by the Chamber, she may have hoped that M2 was not injured or killed, it was obvious to her that M2 could have fallen victim to a bomb strike that the Defendant also considered possible and likely and that the risk was actually increased by going on journeys in the areas exposed to shelling.



e) The violations of Section 7(1), subparagraph 3 and Section 7(3) VStGB committed by the Defendant within the context of the widespread and systematic attack on a civilian population to the detriment of seven Yazidi women and girls through enslavement constitute an offence in the legal sense.

By way of exception, the inclusion of the enslavement – causing death, in one case – by the Defendant to the detriment of the seven Yazidi women and girls in the aggregate act laid out in Section 7(1) VStGB results in one punishable offence in the present case despite the differences between the victims concerned because there is a material, temporal and spatial connection between the individual offences which justifies such as an exception (see BGH, decision of 6 June 2019, StB 14/19, juris paragraph 69; decision of 3 February 2021, AK 50/20, juris paragraph 47; see, with evidence from the case law of the international criminal courts, Werle/Jeßberger, *Völkerstrafrecht*, 5th edition, paragraph 1120; MüKoStGB/Werle, 3rd edition 2018, Section 7 VStGB paragraph 141).

This results in particular from the structure of the offence of a crime against humanity, based on which the individual acts form parts of the attack on the civilian population (BGH, decision of 6 June 2019, StB 14/19, juris paragraph 47). The act of enslaving the aforementioned women and girls was performed in connection with the IS attack on the Yazidi civilian population, formed part of this and in this respect served to further the aims of IS. The Defendant and I. B. decided to keep Yazidi slaves to use for labour in the household and for B.'s sexual satisfaction, then resell them and buy more slaves. As the circumstances of such purchase and the Defendant's aims and actions in relation to the keeping of slaves were identical in each case and there is a close material, temporal and spatial connection between the actual captivity of the women, the assumption that there is one punishable offence seems justified. All actions were repeatedly aimed at the seven aggrieved holders of rights in the same way. The enslavement of M7, M1, M8 and co-Claimants X. and Y., between which there was an overlap time-wise, was ultimately the result of the same actions of the Defendant in part.

Through the enslavement of the Yazidi women and girls, Defendant A. is also guilty of a crime against humanity through persecution on religious grounds and on the grounds of gender in accordance with Section 7(1), subparagraph 10, variants 6 and 7 VStGB.

a) Fulfilment of this criteria is subject to the condition of persecution of an identifiable group or community through the deprivation or fundamental restriction of basic human rights, here the overall IS attack on the Yazidis (cf. MüKoStGB/Werle, loc. cit. paragraph 109). The victims of the persecution may be the group per se; however, such persecution may also be aimed at individual people, if they are attacked as representatives of an identifiable group (MüKoStGB/Werle, loc. cit.).

Basic human rights are the non-negotiable rights that are laid down, for example, in Articles 3, 4, 5 and 9 of the General Declaration of Human Rights and in the International Pact on Civil and Political Rights, in particular the rights to life, to physical and mental health and to freedom of movement (MüKoStGB/Werle loc. cit., paragraph 110); this also includes the prohibition of slavery (see also Brückner, *Minderheitenschutz im Völkerstrafrecht*, 2018, p. 343).

Through her actions as described, the Defendant fundamentally restricted the basic human rights of the women and girls; the restriction was imposed through enslavement in accordance with Section 7(1), subparagraph 3 VStGB, which, in any case, is sufficient for the criteria of Section 7(1), subparagraph 10 VStGB (see MüKoStGB/Werle, loc. cit., paragraph 112, 115).

b) The Defendant acted wilfully and with discriminatory motives, namely on the grounds of religion and gender (see, with regard to the requirement for discriminatory intent, MüKoStGB/Werle, loc. cit., paragraph 116 with further references).

The perpetrator acts with religious motives by discriminating against the victims on the grounds of their affiliation with a certain religious community (see MüKoStGB/Werle, loc. cit., paragraph 119; Brückner, loc. cit., p. 286). In particular, persecution can also be gender-specific if a man and a woman who are members of the same affected group are attacked in different ways or through different forms of violence depending on their gender, e.g. by the murder of men and the rape of women (see, for example, in this regard pre-trial chamber I of the ICC of 30 September 2019, ICC-01/12-01/18, paragraph 667 et seq.; Hall/Powderly/Hayes, in: Triffterer/Ambos, *The Rome Statute of the International Criminal Court*, 3rd edition 2015, p. 225; Brückner, loc. cit., p. 288).



The acts of religious discrimination by IS against the Yazidi people included the separation of men and women. While Yazidi men either had to convert and then be moved to formerly Shiite villages, or be murdered, the rules set by IS – which the Defendant sought to implement through the offence – stated that Yazidi women should be used as sex slaves or domestic slaves. The Defendant enslaved the women and girls in her home in accordance with IS ideology on the grounds of their affiliation with the Yazidi religious community and because they were Yazidi women and girls.

c) The persecution carried out by the Defendant to the detriment of the six Yazidi women and girls M7, M1, M8, co-Claimants X. and Y., and M2 – the Chamber has limited the prosecution in respect of co-Claimant Z. in accordance with Section 154a(2) StPO – constitutes one punishable offence for the aforementioned reasons of the particular material and temporal proximity and similarity between the attack carried out in this case and therefore constitutes one material offence in a legal sense.

Despite the smaller range of sentence, the matter of the persecution is not superseded by the crime against humanity (causing death) of enslavement on the grounds of the concurrence of laws due to the overlap in the actions committed here, which constitute one offence. Subparagraphs 1 to 10 of Section 7(1) VStGB contain a list of individual offences. These are each different in terms of their configuration, particularly in terms of the protected individual rights, but also in terms of the applicable sentences. While the freedom of movement and will is protected from slavery by Section 7(1), subparagraph 3 VStGB, Section 7(1), subparagraph 10 VStGB is aimed at providing protection against discrimination; the discriminatory motives in subparagraph 10 are not actually laid out under enslavement in subparagraph 3. Section 7(1) VStGB does not contain any variations at all, which is why the different offences are in principle listed together (see also BGH of 3 February 2021, AK 50/20, juris paragraph 39 et seq., 51; MüKoStGB/Werle, loc. cit., paragraph 144).

5.

By preparing co-Claimants X. and Y. for each of their initial instances of forced sexual intercourse with I. B. and emboldening him by stating that she agreed with such sexual assaults against the co-Claimants on the basis of IS ideology, Defendant A. is also guilty of aiding and abetting a crime against humanity through rape by I. B. in accordance with Section 7(1), subparagraph 6, Section 2 VStGB and Section 27 StGB.

a) I. B. committed a crime against humanity through rape in accordance with Section 7(1), subparagraph 6 VStGB.

An individual is guilty of this if they sexually assault or rape another person within the context of an attack on a civilian population. In any case, the criteria for the offence of sexual assault are met if the perpetrator forces a person to perform or suffer sexual acts through force, through the exploitation of their vulnerable position or through threats with particular malice (MüKoStGB/Werle, loc. cit., paragraph 82). Rape is deemed to have occurred if the perpetrator physically assaults the victim, resulting in penetration, through the use of force, the threat of violence or coercion, or the exploitation of a structurally coercive situation (MüKoStGB/Werle, loc. cit. paragraphs 83-85).

I. B. fulfilled both of these criteria in the case of co-Claimants X. and Y. by forcing them into sexual intercourse through physical violence and the implicit threat of violence, or at least through the exploitation of their vulnerable position and structurally coercive situation as slaves in the Syrian territory controlled by IS. His sexual actions were also part of the IS attack on the Yazidis. They served not only to attain his sexual satisfaction but also to achieve IS's goals, particularly the extermination of the Yazidi religion.

b) The Defendant contributed to this, physically and mentally.

The latter is the case when the main perpetrator is explicitly or implicitly emboldened in relation to their intention to carry out an offence, even in relation to their decision on whether or not to carry out the offence (established case law; see, for example, BGH, decision on 20 September 2016, 3 StR 49/16, BGHSt 61, 252, juris paragraph 17).

Defendant A. told I. B. that she agreed to him having sexual intercourse with co-Claimants X. and Y. in line with IS ideology. By doing so, she encouraged him to force the co-Claimants to have sexual

intercourse, using force if necessary but, in any case, by exploiting their vulnerable position as slaves in the home of IS members, and therefore emboldened him to commit the offence.

She told co-Claimant X. that her husband had the right to own slaves and have sexual intercourse with them, that it was a sin to refuse rape, and that she – the Defendant – was prohibited by Islamic law from stopping her husband from committing such rapes. The Defendant also made co-Claimant X. shower and put on a particular dress before the first time she was forced to have sexual intercourse with I. B. in order to prepare her for the act. For the same reason, she instructed co-Claimant Y. to remove her body hair before the first time she was raped by I. B.

c) The Defendant acted wilfully, both in respect of the main offence and her actions of aiding and abetting. In particular, she knew that IS propagated the rape of Yazidi women and girls as a means of furthering its aim of exterminating the Yazidi people, and expressed her support for this ideology to I. B. and the enslaved women. She expected I. B. to have sexual intercourse – using force, if necessary – with the co-Claimants, who were in a vulnerable position, and accepted it as a consequence of the IS ideology which she advocated.

d) The corresponding acts committed by I. B. to the detriment of co-Claimants X. and Y., who were for a period kept in the home of the Defendant and I. B. at the same time, constitutes one punishable offence in the Chamber's opinion, in particular because of the specific material and temporal proximity, and therefore constitutes one act of a crime against humanity (through rape) in the legal sense.

This crime against humanity committed by I. B. as a separate main offence which can be aided or abetted is not superseded by the crimes against humanity of enslavement and persecution which were also committed (see JStGH of 12 June 2002, IT-96-23 & IT-96-23/1-A, 'Kunarac et. al', paragraph 186 for 'enslavement through rape' SLSGH of 26 September 2013, SCSL-03-01-A, I 0766-11114, 'Taylor' of 26 September 2013, paragraph 577, for 'rape and sexual slavery', Werle/Jeßberger, Völkerstrafrecht, paragraph 1068).

Defendant A. consistently aided this main offence, even if this took the form of multiple acts; due to the accessory status of aiding and abetting, this only constitutes one offence of aiding and abetting, even when the main offence constitutes one punishable offence as in the present case (see Fischer, StGB, 68th edition, Section 27 paragraph 34 with further references).

6.

a) In relation to co-Claimants Z., X. and Y and the other aggrieved parties M7 and M1, Defendant A. is also guilty of the (joint) severe deprivation of liberty in five – due to the link resulting from the crime against humanity causing death through enslavement in accordance with Section 7(1), subparagraph 3 and Section 7(3) VStGB – related cases constituting one act in accordance with Section 239(1), Section 239(3), subparagraph 1 StGB and Section 25(2) StGB, as each count of deprivation of liberty lasted longer than one week. All the women kept as slaves were deprived of their liberty – even if they were not constantly locked in but in another way, namely through threat (see in this regard Eisele in: Schönke/Schröder, StGB, 30th edition 2019, Section 239 paragraph 6a). They were only allowed to leave the Defendant and I. B.'s home under their supervision or in certain cases alone, solely for certain errands they had been instructed to carry out, and they then had to return. In the event that they tried to escape – which was almost impossible in the territory controlled by IS – they would have had to expect massive punishment.

b) In respect of the girl M2, the Defendant is also – constituting part of the same offence – guilty of joint deprivation of liberty causing death in accordance with Section 239(1), Section 239(4) StGB and Section 25(2) StGB. The above remarks (under 3.d) apply accordingly in this regard. The criminal liability also arising in accordance with Section 239(3), subparagraph 1 StGB is diminished to less than this on the grounds of the concurrence of laws.

c) In respect of M8, there is a (simple) act of joint deprivation of liberty – constituting part of the same offence – in accordance with Section 239(1), Section 25(2) StGB, as she was held against her will by the Defendant and I. B. for less than one week.

d) As the crime against humanity of slavery in accordance with Section 7(1), subparagraph 3 VStGB is often associated with imprisonment and in this regard this is often used as a means of committing the crime, (simple) deprivation of liberty is often diminished on the grounds of the applicability of the general concurrence rules (BGH, decision of 17 June 2010, AK 3/10; BGHSt 55, 157, paragraph 50) by way of the concurrence of laws (see in general Schluckebier in: Laufhütte et. al., StGB Leipziger Kommentar, 12th edition 2015, Section 239 paragraph 53). However, this does not apply for the (qualified) deprivation of liberty for more than one week in accordance with Section 239(3), subparagraph 1 StGB and the deprivation of liberty causing death in accordance with Section 239(1), Section 239(4) StGB, the illegality of which is not typically included in the crime against humanity of enslavement.

7.

a) In respect of M8 and co-Claimants X. and Y., Defendant A. is also guilty of two joint severe counts of human trafficking in three cases constituting one act in accordance with Section 232(2), subparagraphs 1 and 2 and Section 232(1), first sentence, subparagraph 2 StGB and Section 25(2) StGB as well as in relation to the victims M7 and M1 of joint human trafficking for the purpose of exploitation of labour in two cases constituting one act in accordance with Section 233(1) StGB in the version applicable up to 14 October 2016. In accordance with Section 2(1) and (3) StGB, the law applicable up to the end of the keeping of the slaves shall apply because the behaviour remains subject to punishment and the law in force since 15 October 2016 is no more lenient.

b) In respect of M2, who was a minor at the time of the offences, there is a (joint) particularly severe count of human trafficking in accordance with Section 232(3), first sentence, subparagraph 1 and second sentence, Section 232(1), first sentence, subparagraph 2, Section 232(2), subparagraphs 1 and 2 StGB.

c) Prosecution of the offences in respect of co-Claimant Z. is disregarded in this respect in accordance with Section 154a(2) StPO.

d) The severe human trafficking, the particularly severe human trafficking and the human trafficking for the purpose of exploitation of labour in accordance with Section 233(1) StGB in the version applicable up to 14 October 2016 are diminished by means of the concurrence of laws to less than the criminal liability on the grounds of the crime against humanity through enslavement in accordance with Section 7(1), subparagraph 3 VStGB. The provisions of the Code of Crimes Against International Law therefore take precedence *lex specialis* over the general offences of the Criminal Code if they impose a special punishment in a certain context, for example, in relation to an attack against the civil population (see general BT-Drs. 14/8524, 13; AMbos NJW 2010, 1725, 1727; MüKoStGB/Weigend, loc. cit., Section 2, paragraph 7). This applies in the present case.

8.

The eight physical assaults against co-Claimants X. and Y. and girl M1 established under B.II.2.c.cc each fulfil the criteria of bodily injury in accordance with Section 223(1) StGB. The Public Prosecutor General affirmed the special public interest in criminal prosecution in accordance with Section 230(1), first sentence StGB.

However, the inflicted physical injuries which constitute one act due to the combining effect of the crime against humanity of enslavement are not diminished to less than criminal liability on the grounds of the crime against humanity through enslavement but do in fact constitute one offence together with it. The protective purpose of Section 223 StGB goes beyond that of Section 7(1), subparagraph 3 VStGB. The physical injuries were of course intended to make the women be obedient and reinforce the relationship of superiority and subordination, but they were not actually absolutely necessary in order to fulfil the criteria of a crime against humanity in accordance with Section 7(1), subparagraph 3 VStGB.

9.

With regard to Defendant A. having aided and abetted the rapes – which constitute one act – by I. B. for the aforementioned reasons to the detriment of co-Claimants X. and Y., Section 177(1), subparagraphs 1 and 3, Section 177(2), second sentence, subparagraph 1 StGB in the version applicable up

to 9 November 2016 and Section 177(1), Section 177(5), subparagraphs 1 and 3, Section 177(6), first sentence, second sentence subparagraph 1 StGB in the version applicable as of 10 November 2016, Section 27 StGB, criminal liability on the aforementioned grounds is diminished by way of the concurrence of laws to less than the penalised participation in the crime against humanity through rape in accordance with Section 7(1), subparagraph 6 VStGB, Section 27 StGB in the special context of the VStGB.

10.

The offence in count 4 constitutes an additional act of participation on the part of the Defendant as a member of IS realised as part of several offences committed by means of a single act (Section 52 StGB) within the meaning of Sections 129a and 129b StGB, since, as the Defendant has also admitted, it promoted the extermination of the Yazidi religion and culture pursued by IS.

Together with the other acts of participation which do not constitute another offence, (count 1) this is subject to a joinder of offences (see BGHSt 60, 308, paragraph 23 et seq.).

11.

In accordance with Section 264(1) StPO, the subject matter of adjudication was the (procedural) act designated in the bill of indictment, as determined based on the result of the proceedings.

That neither all the enslaved women nor the sexual acts and the acts of violence are mentioned in the bill of indictment was not an obstacle to conviction. The enslaved women known at the time and the specific treatment of them were described according to the knowledge available in the bill of indictment, whereby ascertainment in the course of further clarification of the facts of the case throughout the main hearing was already expected (see also p. 61 of the bill of indictment: 'at least three Yazidi women'). All acts occurred in the period to which the charge in count 4 of the bill of indictment relates. The periods in which the enslaved women were held in the home of the Defendant and I. B. largely overlap and were – as described – each part of the consistent attack by IS on the Yazidi civilian population. In consideration of the particular features of the present case, treating each of the individual cases of enslavement as individual procedural acts would have been a constrained division of consistent circumstances. That the acts were to the detriment of women not mentioned by name in the bill of indictment and the acts of violation form parts of the indicted act is ultimately apparent from the effect of several offences committed by one act of the crime against humanity and the offences in accordance with the Criminal Code. In principle, the existence of only one act in a substantive legal sense also means that there is only one procedural act.

12.

A procedural impediment on the basis of the transnational prohibition of double jeopardy laid out in Article 54 SDÜ (see BGHSt 59, 120-130 in this regard) on the grounds of the conviction of Defendant A. in Turkey does not arise, even though the subject matter of the judgment of 9 January 2019 that was handed down is (in parts) the same (procedural) act. Turkey is not party to the Schengen Agreement.

13.

In consideration of the requirement for the operative provisions of the judgment to be clear and comprehensible in accordance with Section 260(4), first and fifth sentences StPO, the Chamber refrained from stating the matter of a joinder of offences in the operative part of the judgment (see BGH, NSTZ 1996, 610, 611; judgment of 26 March 1997, 5 StR 127/07, juris; decision of 10 January 2006, 5 StR 525/05, juris).

## II. Defendants C. and B.

(...)

## E. Decision on the legal consequences

### I. Defendant A.

1.

Defendant A. committed the offences as both a juvenile and a young adult in accordance with Section 1(2) JGG.

In the periods in which counts 1 and 4 were committed from the beginning of January 2014 and September 2015 to 00/00/2016, the Defendant was a juvenile. After she turned 18 on 00/00/2016 and until the end of the act in October 2017, she was a young adult within the meaning of Section 1(2) JGG.

Even when the Defendant was acting as a young adult, criminal law relating to young people was still consistently applicable to her in accordance with Section 105(1), subparagraph 1 in conjunction with Section 112, first and second sentences, and Section 104(1), subparagraph 1 JGG.

The overall assessment of the Defendant's character required in this regard, also taking the environmental factors into account, finds that in the period in which the offences were committed between 25 January 2016 and October 2017, her moral and intellectual development was equivalent to that of a juvenile.

When carrying out its assessment, the Chamber took into account in particular the fact that the Defendant was also still subject to strong developmental forces in the period in which the offences were committed (see in this regard, for example, BGH, judgment of 20 May 2014, 1 StR 610/13, NStZ 2015, 230 et seq. with further references). Even the Defendant's childhood and early youth were – including in accordance with the convincing remarks made in this regard by the youth psychiatry expert Z3 – characterised by disruptions to her development in the crucial areas of her life, family and school. Decisive in this respect were her conflicts with her strictly religious father, her mother's mental illness and the increase in responsibility associated with this that she took on in her younger years, and the confrontation between the rules in place in her Islam-focused family home on the one hand and the Western values practised in school on the other hand.

This led – in line with the corresponding comprehensible evaluation carried out by expert Z3 – to an inner conflict, which had a lasting effect on and resulted in a delay in the Defendant's development and learning as a young person. Following her return to Germany from a stay in Algeria with her relatives, the Defendant developed increasingly radical views which then grew even stronger. She ultimately began to neglect her other social contacts – which would have supported and promoted her development as a young person – and in autumn 2013, at the age of only 15 years old, instead decided to leave her family and travel to Syria, where she went through the rest of the development and learning typical of a young person.

Deviating from the usual development of values in a young person, the Defendant now focused fully on realities there, married I. B. – who was significantly older than her – according to Islamic rites as soon as she arrived in Syria, faced the impacts of the war at an early stage in her life and, in line with her radical Islamic beliefs, joined the ranks of the 'Islamic State' and committed herself solely to its values. During this time, she gave birth to three children and, even at such a young age, took on the role of mother prescribed to her by the organisation.

Overall, the Chamber has no doubt that there were development delays in the Defendant in accordance with Section 105(1), subparagraph 1 JGG which also existed during the time in which she was in Syria from 25 January 2016 to October 2017, particularly based on the significant inhibition of her personal development due to her living conditions. The Chamber also believes that the Defendant could subsequently still mature; in particular, she is successfully working towards continuing and completing her schooling and, as another process within her personal development, integrating herself into the existing value system (again).

2.

In accordance with Section 105(1), Section 17(2) JGG, a youth custodial sentence was to be imposed on Defendant A. due to the severity of the crime.



When doing so, the Chamber focused in its assessment on the inner component of the crime in particular and only took the external unlawful aspect of the offence into account insofar as conclusions regarding the Defendant's personality and the severity of the crime could be drawn from it (see also BGH, decision of 17 December 2014, 3 StR 521/14, NStZ-RR 2015, 155).

a) Within this framework, the Chamber also considered when determining the level of blame attributable to the Defendant the illegality of the act based on the potential legal penalties provided for in adult penal law; this is because the penal framework of general penal law retains its importance in the sense that it reflects the evaluation of the illegality of the offence (BGH, loc. cit.). It was therefore relevant whether the offence, if it were not to be evaluated in accordance with general penal law, would constitute a less severe case (BGH, decision of 5 February 2019, 3 StR 549/18, juris paragraph 9).

aa) When evaluating the illegality of the offence under adult penal law, the standard penal framework of Section 129a(1), subparagraph 1 StGB would be taken as the basis in count 1, which provides for a prison sentence of one to ten years. A mitigation of the penal framework in accordance with what is known as the 'follower clause' (*Mitläuferklausel*) of Section 129a(6) StGB in conjunction with Section 49 (2) StGB would not be considered in this case. The Defendant's guilt is not minor, nor are her contributory acts considered to be of subordinate importance:

In count 1, her confession is of course to be taken into account to her benefit, at least insofar as she is accused of activities for IS as a member through managing a household and supporting her husband. The time of the offence is already quite a long time ago. It should also be taken into account to her benefit that she now regrets travelling to Syria and carrying out activities for IS, and that the length of the main hearing – at considerably longer than one year and six months – was significant. The fact that she has not committed a crime before, combined with the fact that her behaviour in prison has not given rise to any objections and is generally considered positive, also speaks in her favour. It should also be taken into consideration that the Defendant is particularly sensitive to the pains of imprisonment. She is subject to extra, demanding security measures and has been separated from her three young children. Any detrimental consequences under family law included in the conviction should also be taken into account when making the assessment. Finally, the exceptional level of stress and stigma resulting from press publications regarding her work in her favour.

By contrast, it must be taken into account to the Defendant's detriment that she acted with a firm radical religious motive and supported the ideology and actions of IS with complete conviction until she fled Syria. Finally, the particular danger posed by IS, the terrorist organisation of which the Defendant was a member during the period of her offences and whose aims she promoted, must be taken into account. The long duration of her membership of IS from January 2014 to October 2017 also works against her, as does that fact that through her behaviour, she helped I. B. with activities that were of particular importance to the organisation in his capacity as a 'procurement officer', among other things.

Overall, the conditions laid down in Section 129a(6) StGB are therefore not met.

bb) In count 4, the penal framework for the crime against humanity through enslavement causing death in accordance with Section 7(1), subparagraph 3, Section 7(3) VStGB was taken as the basis for the application of adult penal law. This lays out a prison sentence of no less than ten years, or a life sentence.

A less severe case in accordance with Section 7(4) VStGB would not apply, because the offence overall, including all subjective aspects and the perpetrator personally, does not deviate from the average which, empirically, is found to occur to such a great extent that the application of the exemption penal framework would be necessary.

To the Defendant's advantage, it must be taken into account here that she largely admitted the external circumstances of the offence, has since demonstrated an understanding of the unjustness of it and acknowledges the gross injustice to which the co-Claimants were generally subjected. As the offence began in September 2015, parts of it were now a long time ago.

The fact that the Defendant was not the dominant force behind the enslavement of the Yazidi women and girls also works in her favour; the Chamber is confident that this was her adult accomplice, I.B.

The other considerations as regards imputation in her favour as already mentioned in this regard in count 1 under 2. a.aa must also be taken into consideration.

However, the sometimes considerable lengths of time for which the Yazidi women and girls – with the exception of M8 and M7 – were each enslaved by the Defendant in accordance with count 4, and the fact that M1 and M2 were very young victims, do not work in the Defendant's favour. The fact that the Defendant did not just exploit the labour of co-Claimant X. and girl M1 herself but also provided it to third parties for domestic work is also to her detriment. It must also be taken into account to her disadvantage that the offence lasted a long time, approximately two years (September 2015 to October 2017), as well as the fact that a total of seven women and girls were victims of this and suffered significant emotional and physical harm as a result of the offence. The Defendant also committed other offences by this act. Finally, the particular danger posed by IS, the aims of which she furthered by enslaving the Yazidis, must be taken into consideration to her detriment.

Due to the tremendous aggravating factors, the assessment required did not find that the application of the standard penal framework would be disproportionate and the application of the exemption penal framework would be necessary.

b) Insofar as it is primarily the inner aspects of the Defendant's offence that must be taken into account in accordance with Section 17(2), Alternative 2 JGG in respect of the severity of blame, it is crucial to take into consideration that she committed the offences over a considerable period of time with an already firmly established radical religious motive, carried out the serious act of enslaving the Yazidi women and girls under count 4 with considerable criminal energy, and considered both their sexual exploitation and the exploitation of their labour to be religiously justified and ideologically necessary. The Defendant remained firmly convinced and supported the ideology and actions of IS up until she fled Syria.

The overall assessment required therefore justifies the assumption of the severity of blame under count 1 and count 4.

3.

At the time of sentencing, the Chamber could not identify with the necessary certainty any damaging leanings, namely major deficiencies in her predisposition or upbringing, which already existed prior to the offence but also still exist at the time of sentencing and would give rise to fears of further offences without further education (see BGH, decision of 6 February 2018, 3 StR 532/17, juris paragraph 5).

In prison, the Defendant has begun to address her crimes and has already made considerable educational and personal developments, which illustrates how she has begun to distance herself from the mindset and inner beliefs which led to the crime.

4.

The youth custodial penalty to be imposed was – consistently in accordance with Section 31(1), first sentence JGG – to be determined in accordance with the penal framework of six months to ten years provided for in Section 105(3), first sentence and Section 18(1), first sentence JGG. In this regard, the basis of the assessment, which is necessary for the educational impact on the Defendant, was Section 18(2) JGG. However, the Chamber has taken into account that the educational aspects are still only of lesser importance given the Defendant's age (BGH, decisions of 20 August 2015, 3 StR 214/15, NStZ 2016, 101 et seq.; of 5 April 2017, 1 StR 76/17, NStZ-RR 2017, 231; judgment of 29 November 2017, 2 StR 460/16, juris paragraph 17 et seq.).

Because the crimes involved are particularly serious crimes, it is not just educational aspects that must be taken into consideration but also the necessity of adequate redress of the harm caused (see, for youth custodial sentences of more than five years, BGH, decision of 7 October 2019, 1 StR 206/19). Finally, the significance of the illegality of the crime must be weighed up against the impacts of the penalty on the Defendant's subsequent development.

To the Defendant's advantage, the circumstances stated during examination of Section 17(2), Alternative 2 JGG must be allowed for within the context of the need for education and the severity of

blame. This also applies for the aggravating criteria already listed there, insofar as they enable conclusions to be drawn as regards the Defendant's personality and level of blame. There is a need for education particularly because of the fact that the crimes were committed with a firm radical religious motive. In this respect, the long period of time over which the Defendant became radicalised and was exposed to the ideology of IS and intensively pursued this must be taken into account. By contrast, the duration and course of the imprisonment so far are positive factors.

The severity of blame as described and thus the punitive purpose of adequate redress of the harm caused require a sensitive youth custodial sentence of significantly more than five years (see, for youth custodial sentences of more than five years, BGH, decision of 7 October 2019, 1 StR 206/19). The Defendant also bears an extraordinarily high amount of blame due to the long period of time over which the crimes were committed and the danger posed by the organisation IS, which she has acknowledged, in accordance with count 1 and also the established enslavement of the seven women and girls with the associated physical injuries and the death of the girl M2, for which she is jointly responsible, as well as her aiding and abetting of the sexual assaults committed by I. B. in enforcing her ideological beliefs in accordance with count 4. This applies even considering the Defendant's personal background, the aforementioned mitigating circumstances and the fact that she acted together with I. B., who is being prosecuted separately.

In the overall assessment required, it must also be taken into account that a heavy youth custodial sentence could make it difficult for the Defendant to achieve the *Abitur* and would be detrimental to her contact with her children.

After considering all the aforementioned factors concerning the need for education and redress of the crimes and also taking into account the Defendant's personality, bearing in mind the impacts of the penalty on her continued development, the Chamber considers an (aggregate) youth custodial sentence of

### **six years and six months**

to be necessary but also adequate for the crimes determined.

5.

The period of imprisonment served by the Defendant in Turkey from 23 February 2018 until her deportation on 21 September 2018 is to be deducted from the youth custodial sentence imposed in accordance with Section 52a(1), first sentence JGG and Section 51(4), second sentence and Section 51(1), first sentence StGB in conjunction with Section 2(2) JGG.

a) There are no apparent educational reasons or other reasons that could render deviation from this necessary in accordance with Section 52a, second sentence JGG.

b) Following her arrest in Turkey on 23 February 2018 until 6 March 2018, the Defendant was initially held in military police custody. She was then moved to an immigration detention centre until 6 September 2018. Finally, until she was deported to Germany on 21 September 2018, she was held in a Turkish prison.

The periods of imprisonment were each instigated by the crime and also – due to the Interpol notice for arrest of which the Turkish authorities became aware as well as the national arrest warrant and the documented contact with the German authorities regarding the repatriation of the Defendant – the international search being conducted by the German authorities (see, with regard to the requirements, BGH, decision of 5 August 2020, 3 StR 231/20, juris margin no .11; also the decision of 1 July 2021, 3 StR 473/20, juris paragraph 10 et seq.). In the present case, the period of detention undertaken was also attributable to the German criminal proceedings in particular because of the existing knowledge of the criminal prosecution in Germany and the agreed repatriation to Germany in consultation with the German authorities, in spite of the subsequent conviction in absentia in Turkey. In the case of 'removal by extradition' assumed here, the requirement laid down in Section 51(1), first sentence and Section 51(3), second sentence StGB for functional procedural consistency between the foreign prison

and the German criminal proceedings is (by way of exception) specifically met here (see BGH, decision of 5 August 2020, loc. cit., with further references).

c) The overall examination of the restrictions described as required in accordance with Section 51(4), second sentence StGB justifies the deduction of the Turkish imprisonment for all the periods from 23 February to 21 September 2018 at a ratio of 1:1.

aa) The Chamber assumed in this regard that based on the description provided by her, which the Chamber took as its basis, the Defendant was subjected to similar conditions through her entire period of imprisonment in Turkey. In particular, the Chamber specifically took into account that throughout the Defendant remained with her daughters, was provided with a lawyer – who also visited her and represented her rights – and was allowed to have contact with her family and the German authorities. The Defendant and her children also received medical care.

bb) The applications made by Defendant A.'s defence in its closing statement, namely for deduction at a lower ratio of 1:2 for the periods of imprisonment undertaken in Turkey, for a Turkish press article provided to be translated and read out as an official document, and for expert reports to be obtained, were not admitted.

The applications do not provide any specific acts or circumstances that could be proven directly with the aforementioned evidence. They do not therefore constitute (conditional) applications for evidence in accordance with Section 244(3), first sentence StPO.

The investigation obligation laid down in Section 244(2) StPO requires neither the translation and presentation of the Turkish press article provided nor the obtainment of an expert report.

The determination of the deduction ratio laid down in Section 51(4), second sentence StGB is subject to judicial discretion. Defendant A. provided an extensive and detailed description of the period of imprisonment she served in Turkey, including in response to the Chamber's additional questions. Even according to the oral substantiation of the application, the Turkish press article provided does not relate to Defendant A.'s individual case but instead contains general remarks regarding, among other things, prison conditions in Gaziantep; however, no conclusions as regards the Defendant's specific case could be drawn from this.

The obtainment of an expert report is also not necessary in this regard, especially as it is not clear whether it could yield any different findings in a material sense as regards the individual circumstances of the foreign imprisonment described by the Defendant and also taken as a basis by the Chamber.

## **II. Defendant C.**

(...)

## **IV. Compensation on the grounds of procedural delays**

(...)

## **F. Costs**

### **I. Defendant A.**

In accordance with Section 74, Section 104(1), subparagraph 13 and Section 109(2), first sentence, Section 112, first and second sentences JGG, the Chamber has refrained from imposing Defendant A.'s costs and expenses on her.

As Defendant A. – who is to be sentenced under criminal law relating to young people – is still completing her schooling, does not have any assets of her own and is not initially expected to attain any regular income as a result of the (aggregate) youth custodial sentence imposed, the burden of the costs – which is not small – would be an obstacle to the Defendant having a socially integrated life in

the future (see BGH, decision of 11 October 2016 - 4 StR 145/16, StV 2017, 717 et seq. with further references).

Exercising its discretion on these grounds – including in consideration of the significance of the crimes for which the Defendant is being sentenced and the tremendous consequences of these crimes for the co-Claimants – the Chamber has also refrained from imposing on the Defendant the (considerable) necessary expenses arising from the civil action on educational grounds, Section 472(1), first and third sentences StPO, Section 74 JGG (see BGH, decision of 24 October 2018, 4 StR 314/18, StraFo 2019, 75-77; and of 10 March 2021, StB 32/20, juris paragraph 11). There is no legal basis for covering these using public funds (by way of exception) as requested in the civil action application, regardless of the limited cost risk on the grounds of Section 397a(1) StPO and Section 53(2) RVG anyway (see also OLG Hamm, decision of 9 November 1962, 1 Ss 1362/62, NJW 1963, 1168; MüKoStPO/Maier, 1st edition 2019, StPO, Section 472 paragraph 7 to 10).

## II. Defendants C. and B.

## III. (...)

Issued

K.,  
Senior Court Secretary (*Justizobersekretär/in*)  
as Registrar (*Urkundsbeamter/in*) of the Court Registry.