



Trial of Majdi NEMA before the Paris Criminal Court for complicity in war crimes and participation in a group formed to prepare war crimes

What are the facts behind the case?

Majdi Nema, alias Islam Alloush, former high official of the group Jaysh Al Islam («The Army of Islam»), was arrested on 29 January 2020 in Marseille, and then indicted by the French War Crimes Unit of the Paris Judicial Tribunal for war crimes, torture and enforced disappearance, and complicity in these crimes. He was placed in pre-trial detention.

This arrest marked the start of the first judicial investigation into crimes committed in Syria by the Islamist rebel group. Mainly active in Eastern Ghouta, on the outskirts of Damascus, Jaysh Al Islam has been regularly accused of committing international crimes against civilian populations living under its control from 2013 until 2018.

Several reports filed into the case and corroborating testimonies collected during the investigation point to grave crimes committed by the group, such as the systematic use of torture in prisons, extra-judicial executions, enforced disappearances, attacks on the civilian population, and using them as human shields.

The French investigating judges and the Paris Court of Appeal have found that the group is responsible for the enforced disappearances of Razan Zaitouneh, human rights lawyer, co-founder of the Local Coordination Committees (LCC) and member of SCM, of Wael Hamada, human rights defender, and of their colleagues Samira Al-Khalil, political activist, and Nazem Al Hammadi, human rights lawyer. All were kidnapped in December 2013 from the joint offices of the Violations Documentation Centre (VDC) and Local Development and Small Projects Support (LDSPS) in Douma.

On 26 June 2019, in response to the victims' call for justice, the International Federation for Human Rights (FIDH), the Syrian Center for Media and Freedom of Expression (SCM), and the Ligue des droits de l'Homme (LDH) filed a complaint against Jaysh Al Islam for the crimes committed in Syria. This legal action was taken in direct support of the victims' demands, and ever since, our organizations have been accompanying the victims and their families in their quest for justice.

In November 2019, Majdi Nema, alias Islam Alloush, a former high official of Jaysh Al Islam, travelled to France to follow a training.

French authorities became aware of his presence on French territory and arrested him. He has been in pre-trial detention ever since.

The civil parties in the case include five victims, alongside the three organizations.

What are the charges held against Majdi Nema?

Majdi Nema was a spokesperson for the Jaysh Al Islam group at least between 2013 and 2016, when the rebel group was rampant in the Eastern Ghouta region, which it occupied, and particularly in the town of Douma. Numerous reports and testimonies collected during the investigation attribute to Jaysh Al Islam acts of torture, enforced disappearances and war crimes committed during this period.

In January 2020, Majdi Nema was indicted for the war crimes of willful killings, willful causing of great suffering, abducting and sequestration, intentional attacks against the civilian population and enlistment of children, and complicity in these crimes, as well as complicity in torture and enforced disappearances, and participation in a group formed to prepare war crimes.

In July 2023, the investigating judges of the Paris war crimes unit ordered Majdi Nema's trial before the Paris criminal court on the same charges.

The defense appealed this decision.

On 20 November 2023, the Investigating Chamber of the Paris Court of Appeal confirmed the existence of sufficient charges against Majdi Nema for his involvement in the war crime of enlisting minors and for participating in a group formed to prepare war crimes.

However, without calling into question the responsibility of Jaysh al-Islam in the commission of these crimes, the judges ruled out the other three offenses for which Majdi Nema had been indicted, namely complicity in enforced disappearances, and complicity in the war crimes of willful killings, wilfully causing great suffering, or serious injury to body or health, and deliberate attacks against civilians.

With regard to the offense of enforced disappearance, the Investigating Chamber stated that «it is clear from the information and the numerous testimonies gathered that Jaysh al-Islam must be considered responsible for the disappearance of the four human rights defenders.» However, the judges considered that the criterion of being an agent of the State or an individual acting with the authorization, support, or acquiescence of the State, within the meaning of the United Nations Convention against Enforced Disappearances, from which the offense is defined in French law, was not met in the case of the Jaysh al-Islam group.

Therefore, Majdi Nema will be tried for complicity in the war crime of conscription of minors and for participating in a group formed to prepare war crimes.

Why was the case filed in France and not in Syria or before the ICC?

Despite the gravity and scale of crimes perpetrated in Syria since the brutal repression of the March 2011 uprising that led to more than thirteen years of conflict, avenues for victims and their families to obtain justice and redress have long been limited.

Syria has not ratified the Rome Statute and, despite attempts to obtain a resolution from the UN Security Council to refer the situation to the ICC, Russia and China's repeated vetoes have prevented the ICC from opening an investigation on Syria.

With the path to the ICC blocked, and no real prospect of independent justice and accountability inside Syria, victims have turned towards other countries - such as Germany, Sweden, France and Spain - to investigate cases based on what is known as extraterritorial or universal jurisdiction. Since 2012, Syrian lawyers, individuals and organizations as well as international human rights organizations have launched cases in these countries to obtain investigations on torture, crimes against humanity and/or war crimes charges.

In the Majdi NEMA case, victims of the Islamist rebel group Jaysh Al Islam were unable to bring their case before the Syrian courts. Therefore, they sought legal redress from the French judicial authorities for the atrocities they had suffered at the hands of the group. SCM, FIDH and LDH assisted and supported them in this process.

After nearly 54 years of terror under the rule of the al-Assads, the fall of Bashar al-Assad on 8 December 2024 has opened the way to new prospects for justice in Syria. However, in line with the demands of Syrian civil society, these prospects can only be fulfilled with the establishment of independent and lasting judicial institutions and the adoption of a legal framework that complies with international law and guarantees the right to a fair trial.

These institutions must be part of a comprehensive transitional justice process and address human rights violations committed by all parties to the conflict, as well as redress and compensation for the victims, in order to prevent the recurrence of violations in the future.

What criteria apply in France for initiating investigations into crimes perpetrated in Syria?

French courts traditionally have jurisdiction over acts committed on French territory or abroad by a French perpetrator or against a French victim.

However, in the case of «international» crimes (genocide, war crimes, crimes against humanity, torture, enforced disappearance), the French legislator has adopted several texts enabling victims who cannot hope to obtain justice in their own country to have access to justice.

Regarding crimes against humanity, genocide and war crimes committed abroad, the French Parliament adopted a law on 9 August 2010, incorporating the Rome Statute into French law. This law, modified by the 23 March 2019 Law and the 20 November 2023 Law, grants French courts jurisdiction to judge the perpetrators of these crimes if the following conditions are met:

- The suspect resides in France,
- The suspect is not subjected to any extradition request or prosecution from an international or national court
- Prosecutions can only be initiated at the request of the French prosecutor.

The double criminality requirement, initially set out in the 9 August 2010 Law, has been abolished for the crime of genocide in 2019, and for war crimes and crimes against humanity in 2023.

On 1 January 2012, a specialized unit for prosecuting crimes against humanity and war crimes was created in Paris. This unit now consists of a team of five prosecutors, three independent investigating judges and a team of specialized investigators, working exclusively on international crimes cases. At present, the French unit is conducting 85 preliminary investigations and 79 judicial investigations relating to international crimes committed outside French territory, of which approximately 10 concern crimes committed in Syria

How will the trial take place in France?

Majdi NEMA will be tried by the Paris Criminal Court from 29 April to 26 May 2025. The Criminal Court will be composed of three judges and six jurors drawn by lot from the electoral roll.

The trial will be public.

During the trial, the parties and witnesses will be heard by the court.

At the end of the trial, the jury will withdraw to deliberate. The verdict will be delivered on the same day. Majdi NEMA faces a sentence of twenty years of imprisonment.

