

# Verdict due in German terror trial

## Justice at the behest of the secret services

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A German court is scheduled to render a verdict today in the case against Moroccan student Abdelghani Mzoudi, who is accused of aiding the hijackers that carried out the September 11 terrorist attacks in New York City and Washington. The trial in the Hamburg Higher Regional Court (OLG) has entered its sixth month.

The verdict should have been delivered on January 22, but at the last minute, the Federal Prosecutor's Office announced it had a new witness, whereupon the court said it would hear the new prosecution evidence. Another delay is possible, as lawyers representing relatives of September 11 victims have sought a stay of the verdict in order to hear new evidence.

Mzoudi is accused of being an accomplice to murder in 3,066 cases and of membership in a terrorist organisation. The Federal Prosecutor's Office is demanding a sentence of 15 years' imprisonment. The accused was a friend of Mohammed Atta, one of the suicide pilots on September 11, 2001. He procured apartments for Atta's Hamburg group and provided other support.

These facts are not denied by Mzoudi. However, to be found guilty of being an accomplice to murder, it must be demonstrated that he was involved in the September 11 plans of the killers, as his attorney Guel Pinar has continually stressed. According to the defence, the support provided by Mzoudi was in a series of "neutral actions," which did not imply that he was aware of the intentions of the group. "Being an accomplice to murder, however, presupposes knowledge of the planned killing," said Pinar.

So far, the prosecution has provided no proof that Mzoudi had any such knowledge. The most important witnesses, who could provide relevant testimony, are in US custody, and Washington has denied the German court access to them. Moreover, statements provided by the witnesses to the US authorities are being kept secret or handed over to the German security services on condition they are kept under lock and key. These are then passed on to the court anonymously, a scrap at a time.

The US government—and in particular Attorney General John Ashcroft—is urging that Mzoudi and other members of the group around Atta be found guilty. The Bush administration has no interest, however, in the German court uncovering the background to the September 11 attacks or obtaining a clear picture of the events that preceded them. Washington's position is backed by German interior minister Otto Schily, who also presides over the Federal Criminal Investigation Office (BKA). If Ashcroft and Schily had their way, justice would be reduced to an agency at the

behest of the intelligence services, a marionette that dances to tune of government and the secret services.

In the first Hamburg terrorist trial one year ago, the court went along with this charade and sentenced Moroccan student Mounir Al-Motassadeq to 15 years in prison, even though the charges and evidence hardly differed from the Mzoudi case.

During the trial against Mzoudi, however, things went too far for the chief judge, Klaus Rühle. The security services kept introducing new information, resulting in the case taking ever-new turns. Finally, on December 11, 2003, the judge lifted the arrest warrant against the accused. "The judges had finally had enough of only being fed with fragments of evidence," commented the *Süddeutsche Zeitung*.

The Federal Supreme Court confirmed the lifting of the arrest warrant, and Mzoudi's acquittal was generally expected on January 22—until the BKA produced a last-minute witness.

The trial took a turn last autumn, when the president of the Federal Office for the Protection of the Constitution (as Germany's secret service is disingenuously called), Heinz Fromm, gave testimony on September 11 that exonerated Mzoudi. He reported secret service information, according to which the attacks in the US were not planned "by a handful of Muslim students living in Hamburg," but at the highest level by the Al Qaeda leadership in Afghanistan.

According to the *Frankfurter Rundschau*, judge Rühle reacted with the words, "Then Mounir Al-Motassadeq should have been acquitted." However, he continued to reject a defence request for the release of Mzoudi from custody, but endeavoured to establish whether and to what extent he was actually involved in the planning of the terrorist attacks.

But all attempts to obtain testimony from Al Qaeda members in US custody were categorically rejected by the American authorities. Rühle was also unable to use written testimony that American investigators had provided to the German authorities. Gag orders were issued by the Federal Chancellery and the Justice Ministry. According to the US authorities, the records of the interrogations were released only for "political evaluation," not for court hearings.

While some of the media, such as newsweekly *Der Spiegel*, have had access to these documents, and were able to employ them in their reporting, the Hamburg court was unable to use them. The conflict between the Hamburg court and the US authorities intensified, with the Federal Chancellery and Justice Ministry

maintaining the blockade.

The transcript of the interrogation of Ramzi Binalshibh stirred up further controversy. According to these records, Binalshibh belonged to the close circle around Atta and had detailed knowledge of the Hamburg group. He left Germany after the September 11 attacks and was later arrested in Pakistan and handed over to the US. The American authorities, however, have always refused to allow the German court to question him.

Finally, on December 11, just hours before the court finished hearing evidence, a three-page fax was received at the court from the BKA. In it, the BKA claims that an unidentified informant had provided credible evidence that, apart from Atta and the two other terrorist pilots, only Ramzi Binalshibh was involved in the preparation and implementation of the attacks. The four had “excluded other persons as accessories,” according to the BKA fax.

The court assumed that the “unidentified informant” referred to had to be Ramzi Binalshibh himself, and lifted the arrest warrant against Mzoudi the same day.

It still remains a matter of speculation as to why the BKA sent this exculpatory fax and who was responsible for its dispatch.

US attorney general Ashcroft is said to have reacted furiously to the handing over of this information. He told the international press that it was incomprehensible how a man inside Atta’s closest circle, who can be proved to have supported terrorists, can be released from detention. He added glibly that fortunately the United States has a judicial system that protects national security as well as the rights of the accused. It would have been more honest to say the US has a judicial system that sacrifices the rights of the accused to “national security.”

In an interview with the paper *Junge Welt*, Mzoudi’s defence lawyer Guel Pinar said, “There must have been someone in the German state apparatus who could not reconcile things with his or her conscience, and allow a document which could exonerate Mzoudi to remain locked away.”

However, there could also be another explanation to account for the BKA sending the fax. It is possible that Ashcroft and Schily, who were in constant close contact during the trial, were no longer interested in securing Mzoudi’s conviction. This would mean Mzoudi disappearing for years inside the German prison system, outside the reach of the American security apparatus.

Just before the planned judgment was pronounced, *Spiegel Online* reported plans to immediately deport Mzoudi to Morocco in a lightning action following his acquittal. There it would have been easy for the CIA to lay their hands on him, since his extradition to the US following an acquittal would not have been possible under German law. According to *Spiegel Online*, Schily had previously reached an agreement with the right-wing Hamburg interior senator Dirk Nockeman about what would happen to Mzoudi. A lawyer, who represents victims of the September 11 attacks, had already procured the plane tickets.

It would not be the first time that Schily had collaborated with Ashcroft via “expedited official channels,” in order to hand over terrorist suspects—against whom the German justice system was unable to prove any punishable offence—to the American security apparatus.

A prime example is the case of Hayder Zammar. A Syrian, who possesses a German passport and lived in Hamburg, Zammar was suspected of being Atta’s contact man to Osama bin Laden. Legally, however, nothing could be proved against him. When he requested a new German passport in November 2001, in order to travel to Syria, German authorities are believed to have informed the CIA. Zammar was arrested at the airport when he arrived. Since then, he has been held at Far-Falastin prison near Damascus, where he has been interrogated and tortured.

Publication of the plans to deport Mzoudi meant this was no longer an option. Mzoudi’s lawyers reacted with an application for asylum, which should make a rush deportation more difficult.

This could explain why the BKA then presented a further surprise witness at the last minute, in order to forestall an acquittal and adjourn the trial for 30 days, as the Federal Prosecutor’s Office requested.

The anonymous witness is said to have assured two BKA officials that Mzoudi was directly involved in the preparation of the September 11 attacks, providing “logistics.” According to *Spiegel Online*, the witness is an extremely dubious figure, the Iranian “Hamid Reza Zakeri,” who is thought to have worked as a double agent for the Iranian secret service and the CIA. He is well known to Western secret services and is considered to be a gossip and windbag who cannot tell truth from fiction.

The double agent did have some politically explosive things to say, however. According to *Spiegel Online*, he warned the American authorities in 2001, “Something would happen around September 10, 2001”. Moreover, he claimed that Iran was involved in the September 11 attacks.

The final outcome of the Hamburg trial remains to be seen. Only one thing seems to be clear: It will not contribute much to uncovering the truth about the September 11 attacks.



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