

## About/Questions & Answers

### 4 July 2025 Hearing before the Cour de cassation (French Supreme Court)

#### On the legality of the arrest warrant against Bashar al-Assad in the Syrian Chemical Weapons case (question of personal immunity)

This document shares detailed information about the upcoming hearing before the French Cour de cassation, during which a panel of judges will hear arguments about whether former President of Syria Bashar al-Assad should be legally immune from prosecution for his alleged role in the August 2013 chemical weapons attacks on Adra, Douma, and Ghouta in Syria.

In brief:

- This hearing is an important moment for survivors and families of victims of chemical weapons in Syria, and possibly a milestone in accountability for the crimes committed by former President Bashar al-Assad against the Syrian people.
- The hearing will be held before the Plenary Assembly of the *Cour de Cassation* ('Court of Cassation/French Supreme Court'), representing the highest level of judicial review on immunity for international crimes, an issue of critical global importance.
- The hearing can be followed in person and will be available online (after the hearing).

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## 1. What is the Chemical Weapons case about?

In March 2021, survivors and non-governmental organizations (NGOs) filed a complaint in France calling on the authorities to investigate the August 2013 sarin gas attacks on Adra, Douma and Ghouta in Syria as war crimes and crimes against humanity.

In response, in April 2021, the French Specialized Unit for Crimes against Humanity and War Crimes of the Paris Judicial Court officially opened an investigation into these attacks.

Two investigating judges (juges d'instruction) are looking into the former Syrian government's alleged responsibility for the use of chemical weapons during the conflict as part of a pattern of deliberate, widespread and systematic attacks against civilians in areas held by opposition forces. The city of Douma and the Eastern Ghouta region - where the attacks were committed - were under the control of the opposition at the time.

On August 2013, the Syrian government allegedly targeted two neighbouring towns in the eastern suburbs of the Syrian capital. Chemical weapons, allegedly sarin-like nerve agents, first hit the industrial town of Adra at approximately 1:00 AM, and then the larger city of Douma at approximately 5:00 AM. Civilians in Douma sought shelter on building rooftops to avoid inhaling the toxic chemicals, which are heavier than air and tend to remain closer to the ground. Testimonies from survivors and doctors recall patients struggling to breathe and suffocating because of chemical exposure. Hospitals in Douma were rapidly overwhelmed with casualties. The chemical weapons attack on Douma injured more than 400 individuals, including many women and children. The chemical weapons attacks on Douma and the neighbouring town of Adra on 5 August 2013, constituted the largest chemical weapons attack in Syria at the time, and foreshadowed the devastation that would follow in Eastern Ghouta two weeks later.

In the early hours of 21 August 2013, more than a dozen chemical rockets loaded with sarin, a highly lethal nerve agent, struck the neighbourhoods of Ein Terma and Zamalka in Eastern Ghouta, near Damascus. When terrorised families scrambled in the middle of the night to reach their rooftops to avoid exposure to sarin, they were hit by mortar fire and other shelling by Syrian government forces. This forced them to flee from the rooftops to basements, where exposure to sarin killed many children, women, and men. First responders and medical personnel were also harmed as they tried to rescue victims. Attacks on nearby medical facilities were carried out to coincide with the chemical attacks, which severely limited the emergency medical response. The chemical attacks resulted in more than a thousand deaths and thousands of serious injuries. The 21 August 2013 chemical weapons attack is the deadliest one committed during the Syrian conflict and has been widely condemned by the international community.

## 2. What are chemical weapons and how was the former Syrian government involved?

Chemical weapons are *“toxic chemicals and their precursor as well as munitions and devices, specifically designed to cause death or other harm through the toxic properties of those toxic chemicals”* - as defined by the Convention on the Prohibition of the Development, Production, Stockpiling, and Use of Chemical Weapons and on their Destruction (the Chemical Weapons Convention, or CWC), which entered into force in April 1997.

Sarin - the chemical used in the August 2013 attacks at the center of this case - is specifically classified as a Schedule 1 chemical under the Chemical Weapons Convention, which includes chemicals that have few, if any, uses outside of chemical warfare. Sarin is a nerve agent used to kill civilian populations.

The former Syrian government has admitted to possessing chemical weapons as early as July 2012. Under diplomatic pressure in response to the attacks at Eastern Ghouta, it acceded to the Chemical Weapons Convention in October 2013.

At the heart of Syria's chemical weapons program lies the Scientific Studies and Research Center (SSRC), a program responsible for the development and production of conventional and non-conventional weapons and delivery systems, including chemical weapons and their ammunition.

The United Nations Mission to Investigate Allegations of the Use of Chemical Weapons in the Syrian Arab Republic, established by the Secretary-General on 21 March 2013 (UN Mission), was present in Syria at the time of the attack, visited and took samples from some of the attack sites, and found "*clear and convincing*" evidence that sarin was used in the Eastern Ghouta attack in August 2013.

Following the chemical attacks on Eastern Ghouta on August 21, 2013, and Syria's accession to the Chemical Weapons Convention, the Organization for the Prohibition of Chemical Weapons (OPCW) adopted procedures for the destruction of Syria's chemical weapons program. The decision was endorsed by the United Nations Security Council in Resolution 2118 taken the same year but was not implemented by the Syrian government.

In addition to the UN Mission, the UN-OPCW Joint Investigative Mechanism (JIM), established in 2015, concluded, in several reports, that the government was responsible for the use of chlorine and sarin in different attacks during the conflict.

Subsequent investigations by the OPCW's Independent Investigation Team (IIT) determined that specific Syrian officials were involved in sarin attacks in 2017, and that the sarin used in the Eastern Ghouta attack and subsequent sarin attacks had the same chemical signatures, indicating they all came from Syrian government production facilities.

### 3. What is the status of the case?

Following the filing of the complaint and civil party applications, in April 2021 an investigation was officially opened, and two investigating judges were appointed.

The original complaint and supporting evidence were developed by the [Syrian Center for Media and Freedom of Expression](#) (SCM), [Syrian Archive](#) (a program of the NGO Mnemonic), and the [Open Society Justice Initiative](#), which, along with individual victims, joined the investigation as civil parties. [Civil Rights Defenders](#) (CRD) and [Physicians for Human Rights](#) (PHR).

Dozens of testimonies from victims and witnesses of the attacks as well as subject-matter experts have been collected. Hundreds of pieces of documentary evidence have been filed. Those include declassified intelligence reports, contributions from international organisations, analysis of open-source information and photos and videos that support the alleged responsibility of the Syrian government in carrying out these attacks.

According to French law, an arrest warrant may be issued if there is serious or consistent evidence making it likely that this person could have participated in the commission of an offence. Furthermore, the person must be a fugitive or reside outside of France and be accused of an offence punished by imprisonment.

The volume and detail of the evidence convinced the judges that there is serious or corroborating evidence making it likely that *inter alia* the following individuals took part in the planning and execution of these attacks and bear individual criminal responsibility for the crimes:

- Bashar al-Assad, then President of the Syrian Arab Republic and head of the armed forces,
- Maher al-Assad, then *de facto* leader of the 4<sup>th</sup> Armoured Division,
- General Ghassan Abbas, then Director of Branch 450 of the SSRC, and General Bassam al-Hassan, then Presidential Advisor for Strategic Affairs and liaison officer between the Presidential Palace and the SSRC.

The investigating judges **therefore determined that the proper response to the victims and the evidence presented was the issuance of international arrest warrants for the identified individuals for complicity in crimes against humanity and war crimes.** In the French judicial system, an arrest warrant means that the investigative judge gives an order to law enforcement to find and bring the cited person before him or her. The arrest warrants are to be disseminated both at the European and international level through Europol and Interpol.

#### 4. Why will there be a hearing before the Plenary Formation of the Cour de cassation (French Supreme Court) on 4 July 2025?

Following the issuance of the arrest warrants, on December 23, 2023, the National Anti-Terrorism Prosecutor's Office (PNAT) filed an appeal before to the Investigating Chamber of the Paris Cour d'appel (Court of Appeals), calling for the nullification of the arrest warrant issued for Bashar al-Assad.

##### 4.1 Procedure before the Court of Appeals

The PNAT indicated publicly to the Agence France Presse that the arrest warrant for Bashar al-Assad "*does not correspond to the legal analysis of the National Anti-Terrorism Prosecutor's Office on the immunity rationae personae enjoyed by Heads of State*".

After a closed hearing before the Investigating Chamber, the Paris Court of Appeals confirmed in a historic 26 June 2024 [decision](#), that the arrest warrant for the then President Bashar al-Assad was valid. According to the decision:

*"insofar as it seems obvious that Syria will never prosecute Bashar al Assad for these crimes, that it will never waive the personal immunity of its President, and insofar as no international courts have jurisdiction, Syria not being a party to the Rome Statute, it must be said that the arrest warrant issued for Bashar al Assad is not tainted by any nullity"*.

The court determined that personal immunity was limited due to both the nature of the offences (crimes against humanity and war crimes) and the conduct of the then-Head of State. More specifically, the court found that given his apparent responsibility for the chemical attacks against his own population in August 2013, Bashar al-Assad did not behave as a Head of State and had therefore excluded himself from personal immunity.

Moreover, the court emphasized that the international community has upheld the values of humanity over personal immunity, which shall not equate to impunity, and recalled that in the present case, the United Nations Security Council called for the prosecution of those responsible for the chemical weapons attacks in Syria, without ever mentioning any immunities that could prevent prosecution.

## 4.2 Referral before the Cour de Cassation

Following the Court of Appeals decision, on 2 July 2024, the General Prosecutor's office announced that it had referred the case to the Cour de cassation - France's highest court - considering:

*"that it is necessary that the position taken by the Investigating Chamber of the Paris Court of Appeals on the question of the personal immunity of a sitting Head of State for offences of this nature be examined by the highest court of the judiciary".*

The Cour de cassation will sit in [Plenary Assembly](#) on 4 July 2025 to hear the case.

The French authorities have an obligation to implement and request the dissemination of the arrest warrants while the procedure before the Cour de Cassation is ongoing.

## 5. Why is the Cour de cassation convening a Plenary Assembly?

The Plenary Assembly of the Cour de cassation is formed by 19 judges, including the Presidents of all 6 chambers. It only meets at the request of the presiding judge of a determined Chamber when the question to be tackled is particularly sensitive or complex, or when the decision could lead to a change in the established case law. Its decisions carry more weight in the French justice system. In this case, it could set a precedent on the question of immunities and international crimes.

### 5.1 What will be the scope of the Cour de Cassation hearing on 4 July 2025?

The 4 July 2025 hearing will examine two cases:

- the validity of the arrest warrant for Bashar al-Assad and the applicability of personal immunities, and
- the case of the former governor of the Syrian Central Bank, Adib Mayaleh (André Mayard) and the applicability of functional immunities in cases concerning international crimes.

Functional and personal immunity of State representatives is a matter of practice and is not governed by any international convention, except for diplomatic and consular agents:

- personal immunity (*immunity ratione personae*) protects certain high-ranking state officials—such as heads of state, heads of government, and foreign ministers—from any legal proceedings (civil or criminal) in foreign or international courts whilst they are in office,
- functional immunity (*immunity ratione materiae*) applies to all state officials for acts carried out in their official capacity, shielding them from prosecution even after they leave office.

The jurisprudence on which crimes these immunities apply to is evolving.

It is therefore up to domestic jurisdictions - whose practice constitutes customary international law - to set its rules. For more than twenty years, international and national case law has been gradually evolving, allowing immunities to be waived in case of prosecutions for genocide, crimes against humanity and war crimes, given the international law principle of criminal liability for international crimes. Moreover, the use of chemical weapons is regarded in international law as an absolute prohibition: a crime for which there can be no immunity for any person, regardless of their political status (this concept is known in legal terms as a “*peremptory*” prohibition, or by the Latin term *jus cogens*).

Hence, the decision of the Cour de Cassation will determine the scope of the principle of personal immunity and whether Bashar al-Assad could benefit from it. The decision has the potential to be a landmark for accountability for the gravest crimes and a major step for the victims of the chemical attacks.

The Plenary Assembly will focus on answering the following legal questions through two distinct cases being heard on the same day:

On personal immunity (Bashar al-Assad case):

- At what point should we assess the personal immunity enjoyed by heads of state, which prevents them from being prosecuted in the criminal courts of a foreign country?
- Can such immunity be waived when the alleged acts constitute crimes against humanity or war crimes?

On functional immunity (Adib Malayeh case):

- Can functional immunity be set aside when the alleged acts constitute crimes against humanity or war crimes?

## 5.2. What is the Syrian Central Bank Adib Mayaleh (André Mayard) case about?

Adib Mayaleh, Franco-Syrian citizen, was indicted on 20 December 2022 for complicity in crimes against humanity and war crimes, laundering the proceeds of crimes against humanity and war crimes, and participation in a group formed to plan crimes against humanity. He challenged his indictment by arguing that he benefited from functional immunity for the acts executed within his official functions.

However, on 5 June 2024, the Investigating Chamber of the Court of Appeal ruled that those international crimes cannot be covered by the principle of immunity and grant impunity to perpetrators of such crimes.

Adib Mayaleh referred this decision to the Cour de cassation.

Nota Bene: Adib Mayaleh was placed under the status of assisted witness in May 2024.

### **5.3. What are the consequences of the December 2024 fall of the Bashar al-Assad regime on the current case?**

On 8 December 2024, the Assad government collapsed, resulting in Bashar al-Assad fleeing Syria after more than a decade of violent repression against the Syrian population and after more than half a century of Assad family rule.

In doing so, as a former head of state, he can no longer rely on the personal immunity which, until the collapse of the regime and according to the French General Prosecutor's Office, allegedly tainted the arrest warrant. The appeal before the Cour de cassation should therefore be moot.

Despite these considerations, the Prosecutor's office maintained its appeal before the Cour de cassation.

### **6. How can you attend the hearing?**

The hearing will take place on 4 July 2025, from 9.30 am at the Cour de cassation. The hearing is public and anyone can attend. It will be broadcast from 2pm on the Cour de cassation's website for those wishing to view it online.

**For onsite attendance**, registration is required, but has unfortunately already closed. Those who have registered are advised to arrive 45 minutes in advance at the public entrance at 8 boulevard du palais, 75001 Paris.

**For online attendance**, registration for the broadcast can be done through this [link](#).

### **7. When will the Cour de cassation deliver its decision?**

The Cour de cassation will give its decision on the 25 July 2025.

### **8. Can the Cour de cassation decision be challenged?**

The Cour de cassation is the court of last resort in France. Therefore, its decisions cannot be challenged before any other French jurisdiction.

### **9. If the international arrest warrant is confirmed, could it lead to a trial of Bashar al-Assad in France?**

Should Bashar al-Assad or the other suspects be taken into French custody, they could be tried in France. This would most likely happen if they were arrested in a foreign country and extradited.

Alternatively, under French law, if an individual who is subject to an arrest warrant resides abroad and cannot be arrested, the issuance of an arrest warrant can lead to their indictment before a court of law.

Therefore, they could be tried *in absentia* if the court determines that it is in the interests of the administration of justice, and if the accused have been notified of the proceedings and have declined to exercise their right to be present. If convicted, the accused persons have the possibility to challenge the conviction and request a new trial.

#### **10. Is the second arrest warrant issued in France for Bashar al-Assad linked to this case?**

On 21 January 2025 - after Bashar al-Assad had fled Syria - two French investigating judges with the Specialized Unit for Crimes against Humanity and War Crimes of the Paris Judicial Court issued a second arrest warrant charging him with complicity in war crimes.

The charges concern a 7 June 2017 attack in which the former Syrian government targeted the southern part of the city of Deraa with barrel bombs launched from helicopters. This attack killed a Franco-Syrian citizen, Salah Abou Nabbout. In total, six arrest warrants were issued for six former senior Syrian army officials on account of their alleged involvement in this fatal attack.

Despite certain common elements, this second arrest warrant is not linked to the arrest warrant issued in the chemical weapons case. Both arrest warrants are separate and enforceable only in respect to those distinct sets of facts and charges.

#### **11. What about the other three arrest warrants issued in the chemical weapons case in November 2023?**

The Prosecutor's Office has not challenged the other three arrest warrants for Maher al-Assad, Ghassan Abbas and Bassam al-Hassan, thus implicitly accepting that there are exceptions to the principle of functional immunity when international crimes have been allegedly committed.

#### **12. In what ways can the issuance of international arrest warrants against Bashar al-Assad, Maher al-Assad, Ghassan Abbas, and Bassam al-Hassan in this chemical weapon case facilitate the investigation, arrest, or prosecution of other suspects who remain at large in Syria or neighbouring countries for related offences?**

The international arrest warrants for Bashar al-Assad, Maher al-Assad, Ghassan Abbas, and Bassam al-Hassan can facilitate the investigation, arrest, or prosecution of other suspects, having established a clear legal precedent for individual criminal responsibility in the chemical weapons attacks.

This strengthens the legal basis for pursuing other actors involved in similar offences, including within the same command structure.

The warrants also increase political and legal pressure on neighbouring countries to take action against suspects who remain at large.

**13. Are there procedural mechanisms that allow the French investigating judges to obtain and admit evidence that became available after the regime collapse, including witness statements, documents, audio-visual materials, or site inspections into the ongoing judicial investigation of the August 2013 chemical weapons attacks?**

French investigative judges have procedural mechanisms to obtain and admit newly accessible evidence. Given that the investigation is currently ongoing, new evidence can still be admitted into the case.

If the investigation is closed and new information comes to light, under the French Code of Criminal Procedure, judges can reopen or expand investigations to include new evidence such as witness statements, documents, audio-visual materials, or site inspections.

**14. Why is this case being investigated in France?**

Some States, including France, have extraterritorial jurisdiction laws, which allow national prosecutors and courts to investigate and prosecute international crimes when committed abroad. The principle of extraterritorial (or universal) jurisdiction is also enshrined in a number of international treaties, allowing states to prosecute individuals for serious international crimes, such as genocide, war crimes or torture, regardless of where the crime was committed. In the present case, a civil party complaint was filed in France on 1 March 2021, before the Specialised Unit for Crimes against Humanity and War Crimes of the Judicial Tribunal in Paris, seeking a criminal investigation for the August 2013 chemical weapons attacks, alleging that these attacks constitute war crimes and crimes against humanity.

The criminal complaint was filed with a civil party application of the Syrian Center for Media and Freedom of Expression (SCM), and victims' testimonies of the chemical attacks, based on evidence collected by SCM, Syrian Archive, and the Open Society Justice Initiative.

France's Specialised Unit for Crimes against Humanity and War Crimes was created in 2013 and is composed of prosecutors and investigating judges who have special expertise in the investigation and prosecution of international crimes.

They work closely with a specialised police unit (OCLCH). Around 160 cases are pending, at different stages of the proceedings, before this Specialised Unit and relate to alleged crimes in more than fifteen (15) countries.

Of these, [around 16 cases](#) relate to events in Syria, covering crimes committed by both the regime and non-state armed groups such as ISIS.

**15. What is a judicial investigation (“instruction” or “information judiciaire” in French) and how long can it last?**

In the French procedural system, there are two types of investigations:

- Preliminary investigations (*“enquêtes préliminaires”*), conducted by police officers under the supervision of a Prosecutor.

- Judicial investigations (“*instruction*” or “*information judiciaire*”), conducted by an investigating judge. They be opened by the Prosecutor at the end of a preliminary investigation, or through the filing of a civil party complaint by victims and/or NGOs.

During the judicial investigation, all parties (civil parties, defendants, Prosecutors) have the right to access the case file and may request collection of evidence, for example through the hearing of witnesses and experts or through the implementation of technical measures.

Depending on the complexity of the case and for criminal charges, on average, the judicial investigation takes several years (often 2 to 3 years).

If there is enough evidence towards the end of the investigation, the investigating judge (*juge d’instruction*) issues an order (*ordonnance de renvoi*) to refer the case to the competent court, which is the Paris Cour d’assises.

#### **16. Are there other complaints related to chemical weapons attacks in Syria?**

Complaints relating to the chemical weapons attacks in Al-Ghouta in 2013 and Khan Shaykhun in 2017 were submitted to the authorities in Germany on 6 October 2020, and in Sweden on 19 April 2021. These complaints included a wide range of evidence and information.

NGOs have continued to submit extensive new evidence to the investigative authorities in France, Germany, and Sweden, including a large collection of witness testimonies, visual evidence, and information about the chains of command of the entities suspected of carrying out the attacks.