

# German court reopens case over arson attack on refugees

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Memories are still fresh of the refugee house in the north German town of Lübeck, which went up in flames two and a half years ago, forcing desperate men, women and children to jump from windows. On the night of January 17, 1996, ten people, including seven children and youth, died horribly in the flames.

There was considerable evidence at the time indicating that the deed was the work of extreme right-wing youth. The police and legal authorities, however, did everything in their power to cover up evidence which led in this direction. Instead they tried to pin the blame on one of the victims, young Lebanese Safwan Eid, who had barely managed to escape the flames. Following a seven-month trial, he was acquitted on June 30 last year because of lack of evidence and the case appeared to have been put in the files marked 'unsolved'. Now the case is being reopened.

On July 24 the German federal Court of Justice (BGH) decided to revoke the acquittal of Safwan Eid and accept an appeal made by a joint plaintiff, the family El-Omari, who lost their 17-year-old son in the blaze.

The timing and grounds given for the judges' ruling in Karlsruhe casts an illuminating light on political relations in Germany.

Safwan Eid was arrested two days after the fire as a 'main suspect' after a first aid worker claimed that Eid had made a 'confession' to him on the way to the hospital. According to the first aid worker, Eid said: 'We did it.' Eid continually denied the allegation and stated that all he had said was: 'They did it'--meaning neo-nazis. The first aid worker's statement was the only one by a witness tendered by the state prosecution.

Lacking any evidence, the local court in Lübeck ordered a questionable bugging operation to record conversations between Safwan Eid and members of his family. In the tapes, it was claimed, Eid said he acknowledged his 'mistake'. What he meant by 'mistake' was not clear. In any event, the court refused to accept the tapes as evidence.

In its decision, the BGH criticised the local court of Lübeck for disallowing the record of the tapes as evidence. The judges claimed that the recorded discussions could have provided further evidence pointing to Eid's guilt. The BGH's decision contradicted even the federal attorney's office which stated that

a prosecution of Eid based on unclear statements from the tapes was not possible. There is no reliable transcription of the tapes.

When the regional court decided not to use the tapes, a new law allowing widespread bugging operations by the state had not been passed. According to the court, a court visiting room had a status similar to a private dwelling and was protected by Article 13 of the constitutional law. The BGH is now calling into question precisely this legal point.

The BGH decision makes clear the significance of the 'bugging law,' passed this year with the support of the Social Democratic Party (SPD). If discussions carried out in a prison visiting room, or, as is now possible, in a private home can be bugged and tendered as evidence, then fundamental rights, such as the right of an accused person and witnesses to remain silent, exist only on paper.

Another element of the BGH decision is worth noting. Only a few months ago, the Lübeck attorney's office was forced to reopen its investigation into the four extreme right-wing youth from the village of Grevesmühlen, who were questioned directly after the arson attack and released.

The immediate reason for reopening the investigation is the publication, in one of Germany's major magazines, of statements by one of the four men, Maik Wotenow, confessing that he and his former friends carried out the attack.

On 22 February Maik Wotenow had already described what had happened to the authorities at the prison where he was serving time for property offences. On the following day he made an almost identical statement to the Lübeck criminal police. Three days later, however, he denied everything.

A few weeks ago, Wotenow repeated his confession, under oath, to the news magazine *Der Spiegel* (13 July 1998) and provided even more precise details. He also explained why he had withdrawn his earlier confession: 'When the man from the Lübeck criminal police didn't believe me, then I said he should find out the truth. I thought they were not interested in my confession.... I had the feeling they didn't want to know anything about it.'

Exactly! For some time there has been overwhelming evidence for an investigation into Maik Wotenow and his former acquaintances René Burmeister, Dirk Techentin and Heiko Patynowski. But the attorney's office has continually

rejected a demand by prominent lawyers sitting on an international commission for such an investigation.

Substantial evidence pointing to the involvement of these young men has been disregarded as insignificant or simply hushed up for months by the investigating authorities. The fact that three of the suspect youth had singed hair and eyebrows at the first interrogation, normally regarded as an indication of arson, was ignored.

Furthermore, the investigators virtually provided the suspects with an alibi--which, as it turned out, was full of holes. According to police, they saw the youths at a filling station, which they said was 15 kilometres from the scene of the fire. In fact, it was only six kilometres away and the youth did have sufficient time to drive to the filling station from the home of the asylum seekers once the fire broke out.

Investigators ignored the opinion of a fire expert at Eid's trial indicating that the cause of the blaze was a small fire which smouldered over a long period of time. The evidence indicated that the youth could have carried out the act of arson before the visit to the filling station. The investigators never challenged the claim by the youth, that they had merely stolen a car and were 'accidentally' in the area.

Mike Wotenow, who has not hidden his hostility to foreigners, explained to *Der Spiegel* magazine that this latter story had been agreed in order to divert attention from the youth. They had planned the deed two days before the fire. His friends had told him that they had had 'stress' from the inhabitants of the refugee house in connection with drug dealing. As a result they wanted to teach them a lesson. The stolen car, in which Dirk Techentin was supposed to drive back to Grevesmühlen, was part of the plan.

Mike Wotenow said that while he had been the lookout behind the house, Patynowski and Burmeister entered the house. 'Whether they wanted to attack certain people or immediately set the house on fire, I don't know,' he said. They drove to Lübeck railway station and to the filling station garage 'so that people could see us.'

He explained that they drove past the burning house once again and witnessed the catastrophe. 'There were very many injured, the whole time there was yelling and people were crawling about. In front of the house a dead person lay on the street, the body was still steaming.'

Even after Wotenow's confession, the attorney's office carried out its investigation very sluggishly. Schultz, the chief attorney of Lübeck, claimed the confession was untrustworthy. Before the investigation had properly begun, he indicated in a press statement that the opinion of the attorney's office was: 'Nothing will come out of it.' There has been no extensive interrogation of Wotenow's fellow prisoners or of his former accomplices.

The attorney's office adopted completely different standards in its investigation of Safwan Eid. All evidence pointing towards Eid's innocence was swept under the table. The prosecution relied solely on the statement of the first aid helper

who, as it later emerged, also had connections to right-wing circles.

There was evidence that the fire originated outside the house. One resident heard a rattle of the windows at the entrance and an explosion. Francoise Makudila was heard crying for help from the second floor and screaming: 'Come quickly, we are being attacked in the house by nazis.' But these comments were tossed aside by investigators. Makudila, who was from Zaire, was unable to testify herself as she and her five children died in the flames.

The state attorney concocted an absurd theory that Safwan Eid set fire to the part of the house in which his own family was sleeping, as a result of a family squabble, and then went to sleep in the top floor of the same building. The evidence of an independent fire expert, Professor Ernst Achilles, who demonstrated that the fire had been set in the wooden entrance to the house, was rejected. Floor tiles, which could have proven whether Achilles' argument was correct, disappeared in a mysterious manner.

Finally the death of Sylvio Amoussou, a young man from Togo, whose burned body tied up with rope was found in the entrance of the house, was never properly investigated. The autopsy revealed that he had not died from smoke inhalation or burns. He had neck wounds which possibly resulted from strangulation. A clue linking his German girlfriend to the Lübeck red light district was never followed up by the investigating authorities.

Following the BGH decision the trial of Safwan Eid is to be reopened. Right at the point when Wotenow's confession may have led to the real culprits, attention is once again being diverted to the young man from Lebanon.

The new trial of Safwan Eid does, however, dovetail with the current political requirements of the SPD and the CDU in the run-up to the national elections. Both parties are campaigning on law-and-order issues and are seeking to outdo one another with calls for more drastic policies against immigrants.

See Also:

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