Lenient judgement for Cologne police

Elisabeth Zimmermann
16 August 2003

Following an 11-day trial against six Cologne policemen, the presiding judge of the district court of Cologne pronounced judgement on July 25. On the evening of May 11, 2002, the accused policemen had so badly maltreated 31-year-old Stephan Neisius, during and after his arrest, that Nesius fell into a coma the same night and died two weeks later, on May 24.

The court found the policemen guilty of grievous bodily harm resulting in death and sentenced the six policemen to suspended sentences of between 12 and 16 months. If the judgement is ratified, the policemen will be dismissed but will not have to go to prison. Shortly after the judgement had been pronounced, their defence lawyers announced they planned to lodge an appeal.

The court's decision fell short of the demands made by the prosecuting attorneys. They had demanded a 36-month sentence for the duty officer of the Eigelstein police station in Cologne who was determined to bear the main responsibility for what occurred. For the other five accused policemen's sentences, between 14 and 24 months had been demanded. Normally, bodily injury leading to death is punished with sentences of between 3 and 15 years.

Stephan Neisius's death attracted attention throughout Germany last May. The 31-year-old had been arrested after neighbours had called the police because of a loud quarrel he was having with his mother. Both during his arrest and later in the Eigelstein police station, he was badly mistreated by the police. After his hands and feet were handcuffed, five or six policemen kicked and beat the defenceless man as he was lying on the ground. Still handcuffed, he was taken to hospital where a blood sample was to be taken. There he fell into a coma from which he never awakened.

After Neisius's arrest, friends and colleagues from the theatre group Gebäude 9 (Building 9) immediately made the facts public. The disclosure prevented this case of police brutality from being swept under the carpet as has been done so in many other instances.

Because of the publicity surrounding the incident, many other previous cases of infringement and maltreatment by police became public. In recent years, there have been 37 preliminary proceedings regarding cases in the Eigelstein police station alone. But so far, all had been abandoned because the victims couldn't produce evidence or witnesses for their mistreatment, or because the accused policemen had been covered for by colleagues and superiors.

Police officer Lars S., the principally accused policemen in the case of Stephan Neisius, had been accused of inflicting grievous bodily harm on 12 previous occasions. He has never been suspended from duty.

The entire case only went to court in the first place because of the testimony by a policeman and a woman police officer doing duty in Eigelstein police station on the night of Neisius's arrest. They reported their colleague's ruthless conduct against a defenceless victim to a superior officer the following day. They stuck to their statements despite attempts made by the defendants and their lawyers to intimidate and defame them.

During the trial, the events of May 11 were closely examined. Although the quarrel between Stephan Neisius and his mother was long over by the time police arrived at their flat, the policemen kicked down their door after it was not opened immediately. When they entered the flat, the mother was peacefully sitting on the sofa watching TV and was in no danger whatsoever, as neighbours who had called the police had feared. This, however, did not deter the policemen. They began to look for Stephan Neisius, who had retreated to his room and was in an agitated state following the forced entry by the police.

If the policemen had questioned the mother, she could have explained that her son required regular injections to thin his blood because of a thrombosis. (Some media outlets used reports of syringes lying about in the flat to portray Stephan Neisius as a drug addict.) The mother could also have told the policemen that her son had previously had a psychotic attack and, as a result, was easily excited.

Stephan Neisius's brother, who was joint plaintiff at the trial, asked if the police were not able to detect that his brother had psychological problems. Police radio messages made at the time indicate that this fact was known. In these messages, the police repeatedly speak of his brother as being "mad." The presiding judge also asked the police if they had not at any time considered consulting a doctor. Instead, the police used pepper spray against Neisius when he attempted to defend himself and then cuffed his hands and feet.

Stephan Neisius's mother, also a joint plaintiff, explained in her testimony how the police had brutally charged into her flat and then began beating her son. To this day, she cannot understand why the police forced entry into her flat. "There was no reason for this," she said. She described the maltreatment and handcuffing of Stephan in her flat, and how he lay on the ground "tied up like a parcel."

She related how Stephan cried: "Mother, mother, what are they doing to me? They are beating me to death!" She herself was paralysed by shock. "I repeatedly said, 'What do you do with people who are guilty? Do you beat them to death immediately?'" Her attempts to point out that her son was ill were simply ignored.

The two main witnesses for the prosecution, 23-year-old policewoman Andrea H. and 33-year-old policeman Alexander G.,

© World Socialist Web Site

told the court what they had witnessed in the Eigelstein police station on the evening of May 11, 2002. Both of them were working overtime, writing up a report on an operation. Andrea H. reported, “Suddenly somebody called ‘reception command’…. As a result of this, the radio operator came running followed by our supervising officer wearing civilian clothes.” She then heard a siren, “a babble of voices, muffled blows and screams.”

She and her colleague Alexander G. ran to the security door system of the police station. “There was a man lying on the ground, his hands and feet tied,” she recounted. “Standing around him were the radio operator, our supervising officer and four other policemen. The man lying on the ground was being kicked and beaten by these people. I witnessed several kicks to the face; the last one hit him so hard that the head was twisted sharply backward. I witnessed several punches going to the head. Then they grabbed his feet and dragged him out. When he reached the threshold, he began to bleed. He cried: ‘Now you have broken my nose as well. That’s going to be expensive.’”

Alexander G. confirmed his colleague’s testimony. He could also confirm the identity of the men who had beaten and kicked Stephan Neisius at the police station security door. In addition, he also witnessed how the mistreatment continued after the man had been dragged to a prison cell. “Four colleagues were standing around him. Personally, I only knew D. The man standing to the left of him hit him on the head. Another policeman kicked him in the side twice. D. hit him with his fist and another policeman kicked him in the side. Then the brutally beaten victim was taken away by two medics.”

Alexander G. and Andrea H. agreed to institute legal proceedings. Alexander G. told the court, “For me, these were typical SS methods, beating up somebody who is tied down.” Both were aware of that they may be accused of denial of assistance themselves, and can anticipate angry reactions from fellow policemen because of the widespread esprit de corps within the German police force.

On the one hand, it is remarkable that the case of Stephan Neisius resulted in a trial and the sentencing of the offending policemen. On the other, however, the sentence passed is shockingly lenient considering the brutality that resulted in Stephan Neisius’s death. The judgement made by the court includes some statements that serve to exonerate the offenders and at the same time involve obvious contradictions.

For example, the judge made severe accusations against the hospital to which Stephan Neisius was brought to have a blood sample taken, and then used this point to reduce the sentence of the accused officers. Presiding Judge Terhorst claimed that if the doctors had given the man a sedative, instead of exciting him even more by taking blood, he would probably still be alive.

This argument disregards the fact that without the severe injuries resulting from the beating by the police, Neisius wouldn’t have been in a life-threatening situation in the first place. Mistakes made by the doctors are another issue that cannot possibly serve to support the case of the accused policemen. The report also mentions that a doctor in the casualty unit wanted to give Neisius a sedative but was prevented from doing so by the policemen who had brought him to hospital. They insisted that a blood sample should be taken instead.

A forensic doctor who examined Stephan Neisius while he was still in a coma found many broken ribs, haematomas on his forehead and abrasions on his face. In her post-mortem, the doctor concluded that all these injuries may well be the result of being beaten up and kicked, as the two police officers testified. At the same time, she explained in her report that these injuries could also be the result of falling during transport or could be caused by the resuscitation attempts after he had lost consciousness.

Other reports attempt to prove that the injuries resulting from the maltreatment were not the cause of Sephan Neisius’s death. Instead he had “died because of the use of force, combined with his increased excitement at being fixated, face down, for over an hour.” “A psychosis, which had taken place during the evening, was subsequently exacerbated. Being tied face down had caused a lack of oxygen in the brain resulting in death,” one report stated.

Even if this were true, it does not support the case of the accused policemen, but actually increases their offence, as they apparently maltreated a defenceless, ill person for so long that he eventually fell into a coma. The court did reach the conclusion that the death “was also caused by bodily injuries.”

In his opinion, Judge Terhorst declared that courts take into account the fact that during difficult police operations “sometimes unnecessary beatings take place,” an opinion that most likely reflects the typical attitude of the German courts.

On June 23, the newspaper *Frankfurter Rundschau* reported about police officer Lars S.: “Just after the trial had begun, on Tuesday the court quoted the criminal police record of one of the accused: many criminal proceedings had already been initiated against him, but all were abandoned lacking sufficient evidence. But once in April 2001, Lars S. was fined by the Cologne district court because, among other things, while identity checking a black African person, he had yelled at him, ‘Shut your trap. Or do you want to go to hospital, you pisser?’”

Foreigners and refugees, who, because of the state’s policies of deterrence, are often victims of abuse and discrimination have little chance to win a case in a German court. The case of 30-year-old Aamir O., who died of suffocation during an attempt to deport him to Sudan on May 28, 1999, is an example. No disciplinary measures were initiated against the German border policemen who had violently pressed down the head of the restrained victim. In February 2002, an attempt was made to institute legal proceedings, but as of now no date has been set for the trial to begin.

To contact the WSWS and the Socialist Equality Party visit:

wsws.org/contact

© World Socialist Web Site