

Court acquits police officers implicated in asylum-seeker's death

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Four years ago, asylum-seeker Oury Jalloh burned to death in the cellar of the Dessau police station, in the state of Saxony. Jalloh was shackled to a bed when he died.

Only after a concerted public campaign, and the initiatives of attorneys employed by relatives of the deceased, did the judiciary finally launch a trial two years later against two police officers alleged to be responsible for the death of the 23-year-old asylum-seeker from Sierra Leone.

After a 60-day trial, the court handed down its judgement last Monday, with the presiding judge acquitting the two police officers. The judgement resulted in tumult in the court and left speechless those observing the trial.

With remarkable candour, the presiding judge delivered his own devastating comment on the scandalous judgement: "This has nothing to do with the rule of law."

The judge, Manfred Steinhoff, declared that the trial had failed because of the determination of the police authorities to do everything possible to cover up the involvement of police officers in the burning death of Oury Jalloh.

This was not due to any lack of evidence or witnesses. An editorial in the *Berliner Zeitung* concluded with the following: "The police—the very authorities that are supposed to uphold the rule of law—have undermined the legal process, in the end preventing the conviction of the accused."

If one were to believe the police accounts, the young African was arrested on the morning of January 7, 2005, because he had harassed two women in order to use their mobile phone. He was then taken to the Dessau police station because he was very drunk, where a doctor took a blood sample, which the young man resisted. He was "searched thoroughly" by the police officers before being placed in a cell in the building's basement, where he was shackled to a bed with his arms and legs outstretched.

According to the public prosecutor, the following then occurred: Patrol group leader Andreas S., 48, and leading patrol officer Beate H., 39, were sitting upstairs in the police station. A video camera allowed them to observe the corridor in front of the cells, but there were no cameras

inside the cells, on budgetary grounds. Over the course of the morning, the cell in which Jalloh lay bound was checked twice.

At 10:30 a.m., Beate H. switched on the intercom system. According to the report of the investigation, she justified this on the grounds that even a person being kept in a cell should have the opportunity to be heard. And indeed, Oury Jalloh's cries and calls for assistance could not be missed. The reaction of Andreas S. consisted of turning down the volume on the intercom system. Beate H. is said to have turned the volume back up. At 11:45 a.m., she decided to check the cell. When Jalloh complained about his shackles being too tight, she answered saying she had no authority to do anything and went back upstairs again.

At 12:00 noon, the smoke alarm in Jalloh's cell went off. Beate H. described what then happened. Patrol group leader Andreas S. switched off the alarm. But the alarm immediately started again. He picked up the cell key and switched off the alarm a second time. She asked him to hurry up. At this instant, the smoke detector sounded from the corridor in front of the cells.

Andreas S. then started to move downstairs, telling a colleague to come with him. When the two officers opened the cell door, dense black smoke poured out. Andreas S. turned round and ran back upstairs, calling for a fire extinguisher. His colleague grabbed a blanket and ran into the cell, where he saw a man lying burning on the mattress. He was unable to determine whether he was still alive; he was also unable to release him as he did not have the keys. Oury Jalloh was burned alive.

Questions remain why the police officers risked the life of the African asylum-seeker through their ignorant behaviour and, above all, how the fire started. The investigation and witness testimony regarding these issues are both contradictory and dubious.

As is so often in the case in attacks on foreigners, right-wing extremist violence, or offences committed by the police, from the start the public prosecutor excluded the consideration of any far-right or political implications.

The asylum-seeker support organisation PRO ASYL has also pointed to this fact. The press statement of December 9, 2008, from the national refugee charity Arbeitsgemeinschaft für Flüchtlinge e.V. was titled “The death of Oury Jalloh remains unpunished.”

According to this statement, “The court quickly accepted the public prosecutor’s unproven thesis that Oury Jalloh, bound hand and foot to a fireproof mattress, started the fire himself. Not only was this unproven, alternative scenarios, including intervention by some third party, were also insufficiently investigated. From the start, the public prosecutor and the court did not want to think the unthinkable. Early on in the proceedings, the court concentrated on the minutes after the outbreak of the fire, however it had developed, and thus on the question of whether the prompt action of the principal accused Andreas S. might still have saved Oury Jalloh.”

The public prosecutor revealed that the charred remains of a lighter were found in the fire debris in the cell. Another of the accused, Hans-Ulrich M., claims not to have found this when he searched the arrested man. Then on the 54th (!) day of the trial, another police officer emerged as a witness, who said he heard from a colleague that Hans Ulrich M., after he had helped put Jalloh into the cell, was missing his lighter. Hans Ulrich M. then said this was indeed what had happened.

To support the thesis that Jalloh had killed himself, the court had a police officer of Jalloh’s size shackled in exactly the way he had been. This showed that it was possible, albeit involving enormous acrobatic efforts, to remove a lighter from the trouser pockets or from inside the underwear, and then set fire to the “highly flammable” mattress. He only needed to hold the lighter underneath it for long enough.

This was the kind of hypothesis upon which the accused Hans-Ulrich M. and Andreas S. were finally acquitted.

Even court testimony from forensic pathologists had no influence on the judgement. According to this testimony, even had Oury Jalloh not been burned to death by the still unresolved issue of the fire, the stress position in which he was shackled meant he may well have suffered heart failure or have suffocated on his vomit.

In its press statement, PRO ASYL reaches a striking conclusion: The court failed to fully clarify what had happened “not least because it confronted a wall of silence on the part of the police witnesses and a plethora of failures in the investigation, which in their entirety permitted the conclusions that on that day, anything was possible in cell number 5 in the Dessau police station. In his verbal findings, the presiding judge found clear words to describe these conditions—against this background, due process of law was not possible. The acquittals in Dessau are indications of a

crisis in the rule of law.”

The behaviour of the Dessau police and public prosecutor is not an isolated occurrence. It recalls the worst instances of arbitrary police actions, in which its corporate attitudes, contradictions, cover-ups, failed investigations, sloppiness, and untenable hypotheses are a commonplace.

During the trial of the neo-Nazis who murdered the Mozambican Alberto Adriano in Dessau in the summer 2000, it was revealed that the Dessau police regularly went “hunting” for Africans in the city park. Claiming there was suspicion of drug dealing, Africans were publicly stripped and searched. At that time, a preliminary investigation was mounted into three policemen who had beaten and kicked an 18-year-old African at the police station.

Xenophobic and right-wing extremist attitudes are not only common among police officers in Dessau. A new study by the Friedrich Ebert Foundation came to the conclusion that 40 percent of officials in Saxony Anhalt held anti-foreigner attitudes. Similar results were found in other German states. For years, there have been numerous violent attacks by police officers against foreigners, asylum-seekers and the homeless. According to one study, in 2004 in Berlin only 7 out of 766 cases of bodily injury caused by the police resulted in charges being laid. Only two of these cases ended with a conviction.

It should also not go unmentioned that the far right had positioned people in the Dessau courtroom throughout the recent trial. Their presence not only constituted a tremendous provocation against Jalloh’s friends and defence team, the attendance of these neo-Nazis was obviously intended to bolster the police as well. Neo-Nazi web sites attacked the proceedings as a “show trial” organised by the “left” against upstanding German police officers.



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