

# Germany: New evidence incriminates the police in death of African refugee

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Nine years after the death of Oury Jalloh, a new report by a fire expert has refuted claims by the German police and judicial authorities that the African asylum seeker accidentally burned himself to death.

Maksim Smirnou, an Irish fire investigator, writes in his final report that the fire at the police station in Dessau could only have been caused by the use of some sort of flammable material and extensive tampering with a fireproof mattress. The report concluded that Oury Jalloh must have been murdered.

Despite two court hearings into the death of Oury Jalloh, a citizen of Sierra Leone, no clarification of the actual course of events has been forthcoming until now. In the first court case, police officers accused of involuntary manslaughter were acquitted. On appeal, police unit leader Andreas S. was sentenced to a fine of €10,800, because he ignored the fire alarm for several minutes and turned down an intercom speaker, which clearly relayed the sound of crackling fire.

The officers at the police station either failed to remember anything of relevance to the court case, or gave obviously prearranged and virtually identically worded statements. For their part, the public prosecutor and judges saw no need to penetrate this wall of silence and willingly played along with the ruse, adhering only to the hypothesis that Oury Jalloh had set himself on fire. Issues involving disappearing evidence, shoddy investigative work and conflicting statements from witnesses were consistently and deliberately dismissed. A suspicion that the policemen themselves may have been responsible for the death of the asylum seeker was never allowed to surface.

From the beginning, the many inconsistencies in the case made the alleged self-immolation of Oury Jalloh the most unlikely cause of his death.

The only event hitherto unchallenged is that, on the morning of the January 7, 2005, Oury Jalloh, in a drunken condition, was seized by police in Dessau. He refused to comply with a request to verify his identity because, being an asylum seeker, he had to report regularly to the police, and his personal details must already have been known. An emergency doctor, who was called to the scene, found a blood alcohol level of nearly 3 percent, but said Jalloh was fit to undergo detention. He was then taken to a cell in the basement of the police station and there, bound hand and foot, was strapped to a fireproof mattress.

Two hours later, the fire alarm went off, and then the spluttering sounds of fire were heard from the intercom system. But Andreas

S., the section leader, ignored this at first. Only when the smoke alarm in the ventilation shaft sounded did Andreas S., together with another police officer, enter the cell block. But the heat and heavy smoke prevented them from freeing Jalloh from his bonds in the cell. He was thus left in the flames to die an agonising death.

Afterwards, police investigators swiftly concluded that Oury Jalloh had set fire to himself in his cell. The fact that such a finding was predetermined is clearly evident from the sound track of a video recording made by an investigator during the first inspection of cell after the tragedy: "I'm now in the basement, where a black African citizen set himself on fire in a detention cell...the first cell on the right was occupied by the black African and this is where he set himself on fire".

On the same day the event took place, investigators settled on a version of what had happened: self-immolation. Investigations later carried out by the public prosecutor and the court led to the same conclusion. Elaborate reports were issued, attempting to explain how Oury Jalloh was acrobatically able to conjure a cigarette lighter from his pocket in order to burn the seams of his mattress so that he could open up its fireproof covering. According to the police and judiciary, it would then have been possible for him to ignite the mattress's combustible padding. But how could a highly intoxicated person, whose hands and feet had been tightly strapped, do such a thing? This question has remained unanswered until now.

Moreover, no investigation was made into the actual course of the fire; only a theory of how it broke out was simulated on a computer. Light has now been shed on what really happened only due to the efforts of the Initiative in Memory of Oury Jalloh. It raised donations to finance a new report in order to clarify the issues.

Appointed as an expert witness, Irish thermal physicist Maksim Smirnou reconstructed the cell, included a fireproof mattress, and used a pig's carcass to simulate a human body. But after even more than half an hour, he was able to elicit only a mild smouldering of part of the mattress padding, which also produced a small quantity of white smoke.

This finding strikingly contradicts the scene of the fire's aftermath, recorded on video film, which showed an almost completely burnt-up mattress and a severely charred corpse. The police had also reported a heavy build-up of smoke and intense heat. However, Smirnou was able to generate something similar only by using a large amount of a combustive agent. He had to

pour several gallons of gasoline over the mattress to finally reproduce something like the degree of destruction caused by the fire in the cell, as recorded on the video film.

Furthermore, cyanide was discovered during Jalloh's autopsy. Smirnou explains in his report that cyanide develops from prussic acid, which typically forms during the use of fire accelerants. He also had to peel off a large part of the mattress's fireproof covering in order to expose sufficient combustible padding—a feat that would have been impossible for a person strapped to the bedding.

Further questions are raised by the cigarette lighter, which police and judicial statements allege Jalloh used to set fire to himself. The lighter had initially not appeared on the list of evidence, but it suddenly and magically turned up a few days later. The officers claimed they discovered it under Jalloh's corpse.

But the charring of the lighter simply doesn't accord with other post-fire evidence. Virtually no fire damage would have occurred under Jalloh's securely clamped body. In addition, neither fibre residues from the mattress or Jalloh's clothes, nor traces of Jalloh's DNA were found on the lighter. There is no evidence that the lighter came into contact with Jalloh's clothes or the mattress.

The Jalloh family's attorney, Gabriele Heinecke, also pointed to a further anomaly that has so far evaded the attention of the court. She said: "We have reliable information that Oury Jalloh had no epinephrine in his body, and so was not in a state of stress when he died. But one would certainly expect that he would have experienced stress, if he had set himself on fire and was conscious of the extreme pain of the burning. So we believe it is highly probable he was unconscious when the fire started and when it spread. He was still alive, he was still breathing, there was carbon in his lungs, he swallowed carbon; but we are convinced he was not conscious. This means he could not have been the person who started the fire".

The Initiative in Memory of Oury Jalloh has now filed a criminal charge with the prosecutor general against unknown police officers for the murder of Oury Jalloh. It did so because it is apparent that moves were made from the outset to cover up the murder of Oury Jalloh. This is the only possible explanation for the disappearance of important evidence such as operation schedules, custody protocols, the handcuffs and video recordings.

No attempt was made to pursue eyewitness testimony that police officers Hans-Ulrich M. and Udo S. had again been with Jalloh in the cell around 11:30—half an hour before the outbreak of the fire—and that a pool of liquid had been seen in front of the cell before the fire occurred.

The fact that Oury Jalloh had been severely mistreated by the police before he was put into the cell had also gone largely unnoticed by the court. A second autopsy revealed that Jalloh's nose had been broken and eardrum ruptured. Moreover, the Dessau police officers were known for their racist brutality, which had particularly been levelled against asylum seekers from Africa.

Instead of elucidating the sequence of events, the police did everything possible to silence the Initiative in Memory of Oury Jalloh and its founder Mouctar Bah, who had doubted the official version from the start.

In December 2005, flimsy reasons were produced to deprive Bah

of the license for his telecafé, and he was subsequently allowed to work there only as an employee. Later, a search was made of Bah's house, after he was accused of dealing in trousers stolen from a fashion boutique. But the boutique declared that no trousers were missing from the store. The same telecafé was subjected to a drug raid in December 2009. The police later had to admit that the operators and employees of the café themselves had drawn official attention to drug trafficking on the street.

Despite this seemingly overwhelming evidence, the judiciary continues to stonewall. Folker Bittman, chief public prosecutor for Dessau, did speak of "very serious, surprising and sometimes shocking findings", and announced the commissioning of a new report. However, he also warned that "the basic arguments in Smirnou's report (were) certainly not proven". According to Bittman, "no fire accelerant was found at the scene, and we must therefore continue to assume that no third party was involved".

In other words, the integrity of the police is to be viewed as above suspicion, just as the court's ongoing conduct in the case.

The UK *Guardian* newspaper has drawn parallels between these proceedings and the case of National Socialist Underground (NSU) terror group. According to the *Guardian*, the investigating authorities failed in both these cases to investigate racist motives in possible homicide. The police consistently neglected to exercise the necessary diligence in an investigation involving a victim of an ethnic minority.

But these cases are not about neglect on the part of officials. In the case of the NSU terror cell, the German secret service infiltrated dozens of its operatives into its milieu and was undoubtedly well informed of, or even involved in the NSU's crimes. In the case of Oury Jalloh, powerful evidence points towards the police as those responsible for starting the fire.

In both cases, important files disappeared or evidence was suppressed. But the judiciary refuses to budge from its official accounts, claiming that the state forces had nothing to do with the murders.



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