

AMNESTY INTERNATIONAL

Public Statement

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Austria: Court delivers verdict in the case of Cheibani Wague

On 9 November 2005, the Higher Criminal Court in Vienna delivered its verdict in the criminal case against six police officers, three paramedics and an ambulance doctor charged with involuntary manslaughter in connection with the death of Cheibani Wague, a Mauritanian citizen, on 16 July 2003. The ambulance doctor and one police officer were given a suspended sentence of seven months imprisonment; the other defendants were acquitted. Amnesty International had repeatedly expressed deep concern about the circumstances surrounding the death of Cheibani Wague while being restrained by police officers and paramedics, and at what appeared to be subsequent failures to conduct a prompt, independent and impartial investigation aimed at bringing those responsible to justice.

Police officers and paramedics were called following a dispute between Cheibani Wague and another man in a Vienna park. Cheibani Wague was subsequently arrested and was forcibly restrained. Video footage of the incident, taken by a local resident who was present, showed six police officers as well as three paramedics surrounding Cheibani Wague as he lay handcuffed, face-down on the ground, apparently unconscious. The video showed three paramedics standing or leaning on his legs, while six police officers stood or leaned on his upper body, including his shoulders and back. The video footage also showed that a doctor who was present watched Cheibani Wague being treated in this manner without taking any action.

Cheibani Wague was restrained in this position for approximately four-and-a-half minutes before somebody apparently realized that he was no longer breathing. However, the video footage shows that no one took measures to resuscitate him once this was discovered. Cheibani Wague died at the scene of the arrest on the night of 15 to 16 July 2003. The autopsy report indicated a lack of oxygen to the brain and irreversible failure of the circulatory system as the causes of death. An investigation into Cheibani Wague's death was opened immediately; however none of the police officers involved was suspended through this process.

During a press conference at Vienna International Airport on 23 July 2003, Ernst Strasser, the Minister of the Interior, reported that the President of the Vienna Police did not think it necessary to initiate disciplinary proceedings. The Minister said that the police officers 'had the right of loyalty', implying that he thought they should remain immune from further investigation.

Austrian criminal procedure has three parts: the initial hearing, pre-trial investigation (*Voruntersuchung*), and trial. An investigative judge is responsible for the pre-trial investigation; and the public prosecutor leads the trial stage. In this case, the investigative judge delegated pre-trial questioning to the Bureau of Internal Investigations (BII), which is within the Ministry of the Interior. Pre-trial questioning began on or around 18 July 2003, but trial hearings did not begin until 19 July 2005. Amnesty International is concerned at this long delay between the pre-trial investigation and the trial hearings, and

urges the Austrian Government to conduct an inquiry into the possible reasons for this delay. In any trial, long delays have negative implications for the consideration of evidence and the establishment of the truth.

Apparent deficiencies in police training came to light at the trial stage. The police officers involved in the incident testified during the trial that they were not aware of the fact that immobilizing a person face down on the ground, handcuffing his arms and legs pressing his face and chest against the ground and having nine persons standing or leaning on him and keeping him in that position for some minutes could put that person's ability to breathe - and thus his life - at risk.

Even after this fatal incident, the Austrian authorities did not take immediate steps to advise all law enforcement officers about the dangers of this kind of restraint method. Rather, according to reports, it was only some two years after Cheibani Wague's death that measures were instituted to remedy these training deficiencies.

Amnesty International calls on the Austrian authorities to ensure that independent and impartial investigations are initiated promptly into all allegations of ill-treatment by the police, and every case of death in custody.

Amnesty International further urges the authorities to ensure that law enforcement official suspected of involvement in such cases is suspended from duty pending the outcome of the investigation; that those responsible for any misconduct are brought to justice within a reasonable time in proceedings that meet international standards of fairness; and that government officials refrain from making public statements which may be deemed to pre-judge the outcome of any investigation and possible proceedings. Amnesty International requests that the Austrian authorities conduct an inquiry into the reasons for the lengthy delay between the pre-trial investigation and the trial hearings in this case.

Further, the Austrian authorities should ensure that all law enforcement officials and other state agents receive training on safe and effective restraint techniques and the dangers inherent in restraining a person face down.