

BELGIUM

The death of Semira Adamu Justice still awaited

Semira Adamu, a 20-year-old Nigerian national, died on 22 September 1998 within hours of an attempt to deport her forcibly from Brussels-National airport: she had resisted five previous attempts to deport her following the rejection of her application for asylum in Belgium. It was alleged that gendarmes who escorted her onto a plane at Brussels-National airport subjected her to verbal abuse and pressed her face against a cushion. When she lost consciousness on board the plane, medical assistance was immediately sought and she was transferred to hospital where she died later on 22 September 1998. Subsequent autopsies and forensic tests apparently established that Semira Adamu died of a cerebral embolism caused by asphyxiation.

International law lays great emphasis on the need for prompt action in investigating possible human rights violations and similarly requires that judicial proceedings should not last for an unreasonable time. Some two years after the opening of a judicial investigation into the death of Semira Adamu its findings are still unknown and no one has as yet been brought to justice. An inquiry which AI addressed to the Minister of Justice in December 1999, in view of the 15 months which had by then elapsed since Semira Adamu's death, seeking news of the progress of the judicial investigation, remained without response at the time of writing.

AI is now expressing its concern to the Belgian authorities about the length of time which has elapsed without anyone being brought to justice in connection with the death of Semira Adamu and seeking confirmation of recent reported developments in the judicial proceedings, as well as replies to requests for information relating to alleged ill-treatment during forcible deportations which it addressed to the government in 1999 and which have remained without response.

In keeping with international standards, AI believes that all complaints of torture and ill-treatment should be promptly, impartially and effectively investigated by a body independent of the alleged perpetrators. The methods and findings of such investigations should be made public. During the investigation, those officials suspected of committing torture or ill-treatment should be suspended from active duty. When there is sufficient admissible evidence, suspects should be prosecuted. Those found guilty must be punished by sanctions commensurate with the seriousness of the offence. Complainants, witnesses and others at risk during such investigations and prosecutions should always be protected from intimidation and reprisals.

Within days of Semira Adamu's death the Minister of the Interior stated that she had been handcuffed and shackled during the deportation operation and confirmed that for a "certain", unspecified length of time a method of restraint known as the "cushion technique" was

used by escorting gendarmes. This dangerous restraint method -- authorized by the Ministry of the Interior at the time but suspended following Semira Adamu's death and now banned -- allowed gendarmes to press a cushion against the mouth, but not the nose, of a recalcitrant deportee to prevent biting and shouting. The Minister of the Interior resigned following the revelation, within days of the death, that one of the escorting gendarmes had been sanctioned in January 1998 for ill-treating a detained asylum-seeker. He acknowledged that the gendarmerie for which he carried overall responsibility was at fault in allowing the officer in question to continue to serve in a division responsible for carrying out forcible deportations.

A judicial investigation into the circumstances surrounding Semira Adamu's death was promptly opened by the Brussels Public Prosecutor's office in September 1998 and assigned to an investigating magistrate. A video of the deportation operation, made by the gendarmerie, was confiscated and three gendarmes were subsequently placed under judicial investigation in connection with possible manslaughter charges (*coups et blessures volontaires ayant entraîné la mort sans intention de la donner*). A disciplinary investigation was also opened in September 1998 but then suspended pending the outcome of the judicial investigation. Reportedly, after a period of extended sick leave, the three officers under investigation were assigned to duties away from the airport.

In September 1999 the Belgian Human Rights League, which had lodged a criminal complaint against persons unknown and constituted itself a civil party to the judicial proceedings opened after Semira Adamu's death, requested the relevant investigating magistrate also to investigate two former Interior Ministers in connection with possible manslaughter charges. It held them responsible for the introduction and implementation of the "cushion technique" as an authorized method of restraint during forcible deportations and argued that they thereby also bore responsibility for Semira Adamu's death.

In February 2000 it was reported that the investigating magistrate had concluded his investigation into Semira Adamu's death and that the dossier with the magistrate's findings was then returned to the Public Prosecutor's office for examination and the drawing up of any requests for criminal prosecutions. It has been reported that in October 2000 the Public Prosecutor's office will submit the dossier -- with any requests for criminal prosecution which the prosecutor may have decided to make -- to the *chambre de conseil* where, following a hearing, a judge will take the decision on prosecution.

Background

In a letter concerning the death of Semira Adamu which AI wrote to the Belgian Government on 25 September 1998¹, the organization urged that in their investigations the relevant authorities pay special heed to the principles established in international human rights instruments regarding the use of force by law enforcement officials.

Instruments invoked by AI included Principle 4 of the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials which stipulates that: "Law enforcement officials in carrying out their duty, shall, as far as possible, apply non-violent means before resorting to the use of force ...". Principle 5 states that: "Whenever the lawful use of force ... is unavoidable, law enforcement officials shall ... exercise restraint in such use and ... [shall] minimize damage and injury". The UN Code of Conduct for Law Enforcement Officials stipulates (in Article 3) that: "Law Enforcement Officials may use force only when strictly necessary and to the extent required for the performance of their duty".

AI also pointed out that the Belgian Government is responsible for ensuring that deportations are carried out - in accordance with international standards - in a manner which respects the human rights of the individual being deported.

AI noted that in December 1998, in response to the organization's request for information about any tests conducted by the multi-disciplinary team which the Ministry of the Interior had reportedly commissioned in previous years to study the use and potential risks of the "cushion technique", the new Minister of the Interior confirmed that a "multidisciplinary study group ... inquired into the use of the cushion. However, this evaluation did not happen on the basis of preliminary tests, except for the conclusion of the fact that the cushion had been repeatedly used without any problems since 1990." Amnesty International also noted that in October 1998 the government's representatives indicated to the UN Human Rights Committee that Semira Adamu's death was not the first to occur following use of the cushion during forcible deportations. They referred to the death of a Moroccan national in 1982 and a Zairean in 1987 (it appears, however, that the first case involved use of adhesive tape, rather than a cushion, to cover the mouth). In response to an AI query as to whether detainees due to be forcibly deported were subject to medical examination prior to deportation, the Minister indicated that such examinations had not been carried out systematically prior to forcible deportations.

In October 1998 the use of the "cushion technique" was banned pending the outcome of an evaluation of the instructions and techniques relating to forcible deportations which the government entrusted to an independent commission, led by Professor Vermeersch, a moral philosopher. The Vermeersch Commission published its findings in January 1999. It recommended, among other things, that certain restraint methods be definitively banned during

¹ The text of the letter is reproduced in *Belgium - Correspondence with the government concerning the alleged ill-treatment of detained asylum-seekers* (AI Index: EUR 14/01/99)

forcible deportations, including “in particular, anything obstructing normal respiration (for example, adhesive tape, cushion on the mouth), and all forced administration of pharmacological products (except by doctors in urgent situations which would naturally mean the termination of the attempted deportation)”. AI urged the government to adopt the commission’s recommendation in its entirety. Basing its position on the expert opinions of internationally recognized forensic pathologists, AI underlined its own opposition to the use of materials and methods which could block the airways.

New internal guidelines issued in July 1999 to gendarmes escorting deportees apparently largely reflected the commission’s recommendations. However, a request which AI addressed to the Minister of Interior in December 1999, seeking a copy of the guidelines, remains without response at the time of writing.

In a positive development, AI noted and welcomed provisions contained in a decree issued by the Minister for Transport in April 2000 which, among other things, explicitly banned the use of methods of restraint involving the full or partial obstruction of the airways of an individual being deported under escort as well as the use of sedative or other drugs to subdue such a person against their wishes. The decree also directs that a doctor or an independent observer should accompany any group of more than four individuals (excluding any children under 12 accompanying them) being forcibly deported under gendarmerie escort. AI understands that this decree followed discussions between the Ministry of Transport and the Belgian Cockpit Association whose members had, for a three-month period in 1999, refused to carry passengers being forcibly deported under gendarme escort because of incidents, including incidents of alleged ill-treatment, and security problems arising on board such flights.

AI notes with regret that at the time of writing the Minister of Interior had made no response to a letter which the organization addressed to him in December 1999. Among other things, in view of its opposition to the use of any materials or methods which could block the airways of a deportee, AI had sought information on any steps taken to ascertain the veracity of, and the Minister’s comments on, persistent claims made in the course of 1999 of gendarmes making use of heavily padded gloves to cover the mouths of deportees, thus blocking the airway. The gloves apparently form part of the standard equipment issued to gendarmes participating in forcible deportations, to protect their hands from the possibility of bites or other injuries by individuals violently resisting deportation. AI made similar inquiries with regard to claims that, in preparation for deportation, some individuals were placed face down on the floor in restraints, with their hands and ankles bound together from behind, sometimes left in this position for prolonged periods, and then carried by the restraints. Such allegations described a restraint method reminiscent of “hog-tying”, a highly dangerous procedure which can restrict breathing and lead to death from positional asphyxia, especially when applied to an individual who is agitated.

AI's concern at the lack of response to its December 1999 inquiries has been exacerbated by continuing reports of alleged ill-treatment during deportation operations in 2000.

Further details relating to Amnesty International's concerns in the case of Semira Adamu and the alleged ill-treatment of detained asylum-seekers in Belgium may be found in the publications listed below.

◦ *Amnesty International Concerns in Europe, January - June 2000: Belgium* (AI Index: EUR 01/03/00). Available in French under the title *Belgique - Résumé des préoccupations d'Amnesty International en Europe : Janvier - juin 2000* (EUR 01/03/00 ÉFAI).

◦ *Belgium, Amnesty International Report 2000/Belgique, Amnesty International Rapport 2000*.

◦ *Amnesty International Concerns in Europe, July-December 1999: Belgium* (AI Index: EUR 01/01/00). Available in French under the title *Belgique - Résumé des préoccupations d'Amnesty International : Juillet - décembre 1999* (EUR 01/01/00 ÉFAI).

◦ *Belgium - Correspondence with the government concerning the alleged ill-treatment of detained asylum-seekers* (AI Index EUR 14/01/99).