

SWITZERLAND
ALLEGED USE OF EXCESSIVE FORCE BY
OFFICERS OF THE BERN MUNICIPAL POLICE

The case of Cemal Gömeç

Amnesty International is concerned by the death of Cemal Gömeç in a Bern hospital on 7 July 2001, four days after his arrest by officers attached to the Bern Municipal Police¹ and by reports that police officers used excessive force at the time of arrest.

Police officers were called to Cemal Gömeç's family apartment, in the Bethlehem district of Bern, on 3 July 2001 to investigate a reported violent domestic dispute. The man, a Turkish-Kurd, had apparently been living in Switzerland as a recognized refugee since 1992 and had a history of psychiatric illness. In the course of a four-hour standoff -- during which the 42-year-old man threatened anyone who came near with a knife -- officers attempted to disable him by repeatedly employing irritant sprays, repeatedly firing rubbers bullets at him and using a stun grenade. Officers overpowered him after repeatedly striking him with truncheons. A doctor called to the scene then injected him with a sedative drug after which he lost consciousness.

Amateur video footage broadcast on Swiss television within a few days of the incident pointed to the use of excessive force by police officers at the time of Cemal Gömeç's arrest. Shot by neighbours in an adjoining block of flats, the footage shows a group of officers surround the man on the balcony of the family apartment before striking him some 15 times, mainly in the region of his head, with what appear to be batons.

In line with international standards, Amnesty International believes that allegations of ill-treatment and excessive force should be promptly, impartially and effectively investigated by a body independent of the alleged perpetrators and that the methods and findings of such investigations should be made public. Amnesty International welcomed, therefore, the prompt opening of a criminal investigation into the incidents by the cantonal judicial authorities² and the subsequent ordering of autopsy and forensic examinations. The organization, while questioning whether the investigation, entrusted to the Bern Cantonal Police³, under the direction of a Bern investigating magistrate, meets the requirements of a fully independent inquiry, is asking for the cooperation of the relevant cantonal authorities in informing it of the progress and eventual outcome of the criminal investigation and of any

¹ *Stadtpolizei / Police de la ville*

² *Untersuchungsrichteramt Bern-Mittelland / Service de juges d'instruction III de Berne-Mittelland*

³ Two police forces operate in Bern - the Municipal and the Cantonal Police: complaints against one force may be investigated by the other force. The Municipal Police report to the city authorities, while the Cantonal Police report to the cantonal authorities.

further criminal or disciplinary proceedings arising from it. Amnesty International understands that the investigation was opened against persons unknown in connection with possible charges of causing death through negligence (manslaughter) and inflicting bodily harm⁴. Amnesty International is also seeking information about the training and guidelines -- in particular regarding methods of restraint -- which the Bern authorities provide to police officers involved in such operations.

According to a press release issued by the Bern judicial and cantonal police authorities on 11 July 2001, at approximately 7pm on 3 July 2001 officers of the Bern Municipal Police were called to Cemal Gömeç's apartment by neighbours who said that he was verbally and physically threatening his wife and three children, apparently first with a hammer and subsequently with a knife. His family was safely evacuated but he himself retreated to the apartment's narrow balcony, threatening anyone who came near him with a knife. During the ensuing four-hour standoff an acquaintance -- a Kurdish-speaking Turkish national -- attempted unsuccessfully to reason with him and persuade him to hand over the knife. Police attempted to remove him from the balcony by repeatedly employing irritant sprays and by repeatedly firing rubber bullets. In one attempt to dislodge him an officer was injured in the shoulder with the knife. Cemal Gömeç's psychiatrist was also on the scene at some point, reportedly called in initially by the family's landlady. According to unconfirmed press reports, the psychiatrist informed the police of Cemal Gömeç's longstanding psychiatric illness, including a history of severe panic attacks when faced with men in uniform, apparently linked to his experiences before fleeing Turkey: he advised them that his patient would never give himself up voluntarily to uniformed police officers and that Cemal Gömeç equated police interventions with torture.

The official press release of 11 July indicated that at approximately 10pm members of a special high security police unit (*Stern*) were called to the scene. They also attempted to arrest Cemal Gömeç, making use of a stun grenade and further use of irritant sprays. At just after 11pm, using batons, police officers succeeded in overpowering Cemal Gömeç on the balcony and then took him inside the apartment where he was pinned to the floor and, in view of his continued physical resistance, injected with what was later described as a normal dose of a sedative drug by an emergency doctor called to the scene. He then lost consciousness, suffered a cardiac arrest, was resuscitated by the doctor and admitted to the intensive care unit of the Insel Hospital in Bern where he died on 7 July 2001 without ever regaining consciousness.

The 11 July press release stated that "Although it is very probable that the death was the result of the events of 3 July 2001, that still has to be confirmed through further examinations."⁵ The preliminary findings of the autopsy and forensic examinations, entrusted to the Institute of Forensic Medicine attached to Bern University, confirmed the presence of traumatic injuries caused by a blunt instrument to Cemal Gömeç's face, head, trunk and limbs, of fractures to his face and of superficial injuries to his trunk and one arm, caused by the impact of rubber bullets. There was no evidence of fractures to the skull and of internal injuries. The forensic specialists concluded that the injuries

⁴ *fahrlässiger Tötung und Körperverletzung / Homicide par négligence et lésions corporelles.*

⁵ "Dass der Tod ... eine Folge des Ereignisses vom Dienstag, 3 Juli 2001 darstellt, ist höchst wahrscheinlich, muss aber durch zusätzliche Untersuchungen noch verifiziert werden / Si il est très vraisemblable que le décès ... est consécutif aux événements du 3 juillet 2001, cela doit toutefois encore être vérifié au cours d'examens supplémentaires".

suffered by Cemal Gömeç "were not the direct or indirect cause of his death"⁶. They found that he suffered a cardiac arrest following his arrest and, despite resuscitation by the doctor, permanent brain damage could not be prevented and this led to his death several days later. The forensic experts believed that the cardiac arrest could have been triggered by one, or a combination of the following: stress, an existing illness, medication or the restraint methods employed. Further forensic tests were needed in order to establish the precise cause of death.

According to the 11 July 2001 press release, in the context of the criminal investigation opened on 4 July, numerous interviews of police officers involved in the arrest promptly took place and a number of objects

-- in particular, equipment used by the police during the operation -- was seized.

As well as seeking the cooperation of the relevant Bern authorities in supplying the organization with copies of the relevant forensic reports, when available, Amnesty International is also seeking assurances that the examining magistrate is participating directly in interviewing relevant police officers involved in, and witnesses to, the incidents. Amnesty International is also urging that the inquiry pay special heed to the principles regarding the use of force and firearms by law enforcement officials established in international human rights standards. These stipulate that force should be used only as a last resort, in proportion to the threat posed, and should be designed to minimize damage or injury.⁷

BACKGROUND INFORMATION

Earlier this year, in the context of its concerns about deaths during forcible deportation operations under police escort and persistent allegations of use of excessive force and degrading treatment during such operations in Switzerland, Amnesty International called on all cantons to review police restraint techniques as well as relevant guidelines and training for police and medical personnel.⁸ The organization considers it relevant to recall some of its specific recommendations relating to methods of restraint. Among other things, the organization said that cantonal authorities need to ensure that:

- escorting officers have clear instructions that no more force should be used ... than is reasonably necessary, in line with international standards on the use of force by law enforcement officials;

⁶ *"Diese Verletzungen haben den Tod jedoch weder direkt noch indirekt herbeigeführt / Ces blessures n'ont pas provoqué directement ou indirectement la mort..."*.

⁷ Principle 4 of the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials 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". Article 3 of the UN Code of Conduct for Law Enforcement Officials stipulates that: "Law Enforcement Officials may use force only when strictly necessary and to the extent required for the performance of their duty".

⁸ See *Switzerland: Urgent need for reform following death during forcible deportation* (AI Index: EUR 43/06/2001, issued 29 June 2001) and *Switzerland - Death during forcible deportation: an exchange of correspondence following the death of Samson Chukwu* (AI Index: EUR 43/005/2001, issued May 2001).

- methods of restraint impeding respiration and involving a significant risk for life are banned and appropriate guidelines are in place to minimize risk of positional asphyxia⁹;
- any administration of sedative drugs is in accordance with purely medical criteria in line with Principle 5 of the UN Principles of Medical Ethics¹⁰;
- any use of irritant sprays aimed at temporarily disabling an individual is subject to strict guidelines and limitations on its use.

Anyone wishing further details relating to AI's concerns about allegations of ill-treatment by law enforcement officers in Switzerland should consult the following publications:

- < Public document - *Amnesty International Concerns in Europe: January - June 2001, Switzerland* (AI Index: EUR 01/003/2001), September 2001;
- < Press release - *Switzerland: Urgent need for reform following deaths during forcible deportation* (AI Index: EUR 43/06/2001), 29 June 2001;
- < Public document - *Amnesty International Report 2001, Switzerland*, June 2001;
- < Public document - *Switzerland: Death during forcible deportation: an exchange of correspondence following the death of Samson Chukwu* (AI Index: EUR 43/005/2001), May 2001.

⁹ According to experts, positional asphyxia arises from use of neck-holds which restrict breathing or when a person is laid on their stomach during restraint and/or transportation: this position compromises a person's ability to breathe. Additionally handcuffing a person behind their back also restricts a person's ability to breathe. Any weight applied to the back in this position (such as pressure by a law enforcement officer, including an attempt to keep a person still) increases breathing difficulty further. A 'natural reaction' to oxygen deficiency is increased physical struggle. In the face of such a struggle a law enforcement official is likely to apply additional pressure/compression to subdue the restrained person, yet further compromising the restrained person's ability to breathe.

¹⁰ "It is a contravention of medical ethics for health personnel, particularly physicians, to participate in any procedure for restraining a prisoner or detainee unless such a procedure is determined in accordance with purely medical criteria as being necessary for the protection of the physical or mental health or the safety of the prisoner or detainee himself, of his fellow prisoners or detainees, or of his guardians, and presents no hazard to his physical or mental health." Principle 5 of the UN Principles of Medical Ethics (Adopted by the United National General Assembly on 18 December 1982).