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Belgium

Alleged ill-treatment and verbal, including racist, abuse of Bernardin Mbuku and Odette Ibanda by Brussels police officers

July 2003

AI Index: EUR 14/002/2003



Bernardin Mbuku ©AI

Amnesty International is concerned by the alleged physical ill-treatment and verbal, including racist, abuse of Bernardin Mbuku and Odette Ibanda. The following account is based on a criminal complaint lodged by the couple, and by statements made to Amnesty International by Bernardin Mbuku.

Bernardin Mbuku-Iwangi-Sung and his wife Odette Ibanda Mavita, are both originally from Congo. Bernardin Mbuku became a naturalized Belgian citizen after completing his sociology studies in Belgium. He runs a Congolese cultural organization in the Anderlecht district of Brussels, the stated aims of which are to promote understanding between the various local communities, integrate Congolese young people into Belgian culture and undertake preventive action against school truancy and juvenile crime amongst young Congolese.

At around 1am on the night of 2-3 February 2003, two police officers presented themselves at the door of the family's third floor apartment where they and their two-year-old son were asleep. When Bernardin Mbuku answered the door, the officers informed him that

they had come to escort him to the police station to make a statement because he had caused a traffic accident in Anderlecht and then fled the scene. Bernardin Mbuku vehemently denied any knowledge of, or involvement in, any such accident but the police told him not to bother denying it and dragged him violently out of the apartment and then down several flights of stairs. His wife followed behind, scantily dressed, alarmed at what was happening.

Once in the street Bernardin Mbuku pointed out his car and protested that it showed no sign of having been involved in a recent accident but was told to be quiet and stop disturbing the peace. Four more police cars then arrived. Bernardin Mbuku and his wife were both arrested in the course of which they were subjected to physical ill-treatment and verbal, including racist, abuse. Bernardin Mbuku was thrown to the ground, handcuffed painfully tightly and put in a police vehicle. He was taken to the police station in a state of near nakedness as the scanty clothes he had been wearing when he rose from bed had been ripped by the police in the course of the violent arrest during which his glasses and watch were also broken. At the police station he was put in a police cell where he remained, handcuffed, for several hours. His wife, some five months pregnant at the time of the incident, had a coat put over her mouth, received a blow to her back and was thrown violently and in a state of near undress -- her nightclothes also having been torn by the police -- into a second police vehicle and taken to the police station. Their two-year-old son was left alone in the apartment.

During questioning, the police were apparently unable to inform Bernardin Mbuku either of the identity of the victim of the car accident in question, nor the make of the car, nor of any statement made by the victim. At around 4am the police drew up what was presented as a written record of the questioning of Bernardin Mbuku and Odette Ibanda. The couple said they believed their respective statements were being misrepresented by the police who asked Bernardin Mbuku to sign the record as accurate, even though he could not read it, his glasses having been broken in the course of arrest. Odette Ibanda refused to sign. By then it was around 4am and the police had picked up their son from the apartment and brought him into the police station. Odette Ibanda was told to leave with her son. When she asked how she could leave at that hour of the morning, in very cold temperatures with no money and a two-year-old child dressed in pyjamas and wrapped in a light blanket, the police told her it was not their problem.

Bernardin Mbuku was released at around 6 or 7am, still not understanding what he was being accused of. He spent three days in hospital as a result of the injuries suffered during his arrest which included a fractured arm and numerous contusions to his back. Interviewed by an Amnesty International delegate over a month after the incident, his arm was still in plaster and his wrists still bore the marks where he had been handcuffed: he, his wife and child were still suffering from disturbed sleep.

In February 2003 Bernardin Mbuku and Odette Ibanda lodged a formal complaint, supported by medical reports, with the Brussels judicial authorities accusing the police of assault and battery, acts of public indecency and acts of racism and xenophobia, and constituted themselves a civil party to the complaint, thus allowing them the possibility of eventually obtaining compensation for their alleged ill-treatment. A criminal investigation was opened and an investigating magistrate was appointed to the case.

The police, when contacted for a statement by the media within days of the incident, reportedly stated that, in view of relevant judicial proceedings, it could only confirm that a police intervention had taken place following a complaint made after an accident followed by

a flight from the scene. The police also indicated that a complaint was being pursued against Bernardin Mbuku for the assault and battery of a police officer in the course of his duties.

Amnesty International believes that prompt, thorough and impartial investigations, with the scope, methods and findings made public, serve to safeguard the interests of genuine victims of ill-treatment, as well as to protect the reputations of police officers who may be the subject of unfounded accusations of ill-treatment. The organization welcomed, therefore, the opening of a criminal investigation and the appointment of an investigating magistrate. Amnesty International is asking for the cooperation of the relevant authorities in informing it of the progress and eventual outcome of the criminal investigation and of any further criminal and disciplinary proceedings arising from it.

The organization is also urging that the investigation pay special heed to the principles established in international human rights instruments regarding the use of force by law enforcement officials, including the UN Code of Conduct for Law Enforcement Officials, which stipulates that officials “may use force only when strictly necessary for the performance of their duty”.

BACKGROUND INFORMATION

In recent years, Amnesty International has received numerous allegations that Belgian police officers have subjected people – a high proportion of them foreigners and non-Caucasian Belgian nationals – to physical and psychological ill-treatment, including racist abuse. Reported incidents have taken place in police cells, on the streets or during deportation of unauthorized immigrants and rejected asylum-seekers.

A number of fundamental safeguards against ill-treatment in police custody are absent in Belgium. People deprived of their liberty have no right of access to a lawyer upon arrest and during questioning, no right to have relatives or a third party notified of the fact and place of their detention, and no explicit rights of access to a doctor and to be informed of their rights. In some cases people face difficulties in making a formal complaint about their treatment by police officers and fear repercussions if they do so. Where formal complaints are lodged, judicial and administrative investigations are invariably launched but sometimes appear to be lacking in thoroughness, are frequently unduly protracted, often inconclusive and rarely result in criminal sanctions against police officers. In a number of instances where officers have been brought to justice and convicted, the punishment has been nominal.

A number of victims of alleged ill-treatment have reported that, instead of having their rights explained to them, they have been kept in a state of ignorance, unsure how long they will be detained and, in some cases, instructed to or coerced into signing pieces of paper, the significance or content of which was not clear to them or which they considered to contain an inaccurate record of events and the police interview. They have left the police station after hours of detention, physical and psychological ill-treatment, still unaware of the reason for their detention or its legal justification and sometimes without the fact of their detention apparently being recorded.

On 6 and 7 May 2003 the United Nations (UN) Committee against Torture examined Belgium’s initial report on its implementation of the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. In April 2003, prior to that examination, Amnesty International submitted a briefing to the Committee which focused on the organization’s concerns relating to ill-treatment of Belgian and foreign nationals by police officers, illustrated by individual case histories.

Amnesty International's briefing, published in May 2003 under the title *BELGIUM before the UN Committee against Torture: alleged police ill-treatment*, AI Index: EUR 14/001/2003, includes a foreword which provides a summary of the UN Committee against Torture's conclusions and recommendations, issued in Geneva on 14 May 2003. It also includes a set of Amnesty International recommendations aimed at remedying present inadequacies in safeguards against ill-treatment and preventing the ill-treatment of detainees by police officers, and reflecting the Committee's recommendations in this area.

Amnesty International is calling on the incoming Belgium government to address as a matter of priority the sets of recommendations drawn up by the UN Committee against Torture and by Amnesty International.

Anyone wishing further details about allegations of ill-treatment by law enforcement officers in Belgium should consult the following Amnesty International publications:

- **Article in *the Wire - Belgium's record on torture under scrutiny of UN*** (AI Index: NWS 21/006/2003), July 2003;
- ***Belgium before the UN Committee against Torture: alleged police ill-treatment*** (AI Index: EUR 14/001/2003), May 2003
[<http://web.amnesty.org/library/Index/ENGEUR140012003>];
- ***Amnesty International Report 2003: Belgium*** (AI Index: POL 10/003/2003), May 2003;
- ***Amnesty International Concerns in Europe and Central Asia, July – December 2002: Belgium*** (AI Index: EUR 01/002/2003);
- ***Amnesty International Concerns in Europe: January – June 2002: Belgium*** (AI Index: EUR 01/007/2002).

The above publications, as well as further information on Amnesty International's concerns in Belgium, are available online at <http://www.amnesty.org>

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