

EXTERNAL

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GREECE: Death of Lütfi OSMANCE allegedly following ill-treatment by police officers while in custody

At about 1am on 14 January 1996 police officers from Vyrona police station, Athens, detained 40-year-old Lütfi Osmance at the entrance of an apartment block at 90 Maditou Street after a resident had reported seeing someone acting suspiciously. According to articles published by the newspapers *Eleftherotypia* and *Ta Nea* on 16 January, Lütfi Osmance was drunk, vomiting and suffering from stomach pains when he was arrested. At 8am on the day of his arrest he was taken to hospital where he was diagnosed as suffering from epigastric pains, due to consumption of a large quantity of alcohol, and displaying symptoms of heart attack. The doctor ordered his discharge from hospital. At midday Lütfi Osmance was brought before the prosecutor of Athens Criminal Court who ordered that he should be remanded in custody. The same evening at 10pm Lütfi Osmance was found dead in a cell of Vyrona police station. The official cause for his death was reported as being a heart attack.

However, according to the autopsy report, Lütfi Osmance's head and face bore marks of beatings. He had ruptured blood vessels and bruises around his right eye and had an open wound on his right eyebrow. These injuries had not been observed by the doctor who had examined Lütfi Osmance during his visit to the hospital in the morning which implies that the injuries were inflicted on him *after* his return to police custody. This was confirmed by the fact, that according to the forensic doctor who carried out the autopsy, the wound on Lütfi Osmance's right eyebrow had been recently inflicted. The forensic doctor emphasized that although the beatings could not have resulted in the death of a healthy person, they could have contributed to causing Lütfi Osmance's heart attack as his body had been weakened by the large quantity of alcohol he had consumed.

On 26 January Amnesty International wrote to the Prime Minister expressing its grave concern about Lütfi Osmance's death urging the minister to ensure that a thorough and impartial investigation be carried out into it. Amnesty International also requested to be informed of steps taken in this connection as well as the progress and outcome of the investigation. No reply had been received by the end of June 1996. Amnesty International is renewing its call on the Greek authorities to conduct a thorough and impartial investigation, to bring to justice those responsible and to ensure that the family receives fair and adequate compensation, as required by international law and standards.

The Greek Constitution and national law specifically prohibit the use of ill-treatment or torture.

Article 7, paragraph 2, of the Greek Constitution states that: “[T]orture, any bodily maltreatment, impairment of health or the use of psychological violence, as well as any other offence against human dignity, are prohibited and punished as provided by law”.

Under Article 137 of the Greek Penal Code the prescribed penalty, in principle, for someone found guilty of torture is between three years’ to life imprisonment. The penalty is of at least 10 years in the most serious cases and life imprisonment if the victim dies. A prison sentence of three to five years applies in less serious cases. Persons convicted of torture are automatically deprived of their political rights and dismissed from their jobs.

International Standards

Greece ratified the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in 1988. In doing so, it expressly undertook to prevent torture taking place within its territory by undertaking to educate and train law enforcement officers, to ensure that its competent authorities would proceed to a prompt and impartial investigation of cases where there are reasonable grounds to believe that an action of torture has been committed, to ensure that victims of torture would have the right to compensation or, where a death had occurred as a result of an act of torture, the victim’s dependants would be entitled to compensation and that those responsible for the torture would be punished by appropriate penalties.

Article 2, Paragraph 1, of this Convention states that: “ *Each State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction*”.

Greece also ratified the European Convention for the Protection of Human Rights and Fundamental Freedoms in November 1974. Article 3 of the Convention states that: “*No one shall be subjected to torture or to inhuman or degrading treatment or punishment*”. Greece ratified in 1991 the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment which not only prohibits the practice of torture and other cruel, inhuman or degrading treatment or punishment but also sets up a system of regular inspections of places of detention by the European Committee for the Prevention of Torture. Greece is legally bound to observe the provisions of this treaty.

United Nations standards require the authorities to conduct a thorough, prompt and impartial investigation of such a death in custody (United Nations Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions, adopted by the UN Economic and Social Council on 24 May 1989 in resolution 1989/65 and endorsed by the UN General Assembly on 15 December 1989 in resolution 44/162). These Principles also provide detailed rules for conducting such investigations, which include:

- A strict control by Government including a clear chain of command over all officials responsible for the apprehension, arrest, detention, custody and imprisonment as well as those officials authorized by law to use force and firearms.

- Government ensuring that detainees held in custody have accurate information about their custody and whereabouts, and that such information is promptly made available to their relatives or lawyers or other persons of confidence.

- A thorough, prompt and impartial investigation, by an independent commission of inquiry or similar procedure, of all suspected cases of extra-legal, arbitrary and summary executions, including cases where complaints by relatives or other reliable reports suggest unnatural death in the above circumstances. The purpose of the investigation shall be to determine the cause, manner and time of death, the person responsible, and any adequate autopsy, collection and analysis of all physical and documentary evidence, and statements from witnesses.

- A written report shall be made within a reasonable period of time on the methods and findings of such investigations. The reports shall be made public immediately and shall include the scope of the inquiry, procedures and methods used to evaluate evidence as well as conclusions and recommendations based on findings of fact and on applicable law. The report shall also describe in detail specific events that were found to have occurred, and the evidence upon which such findings were based, and list of the names of witnesses who testified, with the exception of those whose identities have been withheld for their own protection. The Government shall, within a reasonable period of time either reply to the report of the investigation, or indicate the steps to be taken in response to it.

- Ensuring that families and dependants of victims are given fair and adequate compensation within a reasonable period of time.