

PUBLIC

AI INDEX: EUR 23/02/98
10 February 1998

GERMANY: THE ALLEGED ILL-TREATMENT OF GEORGE B.

George B. alleges that he was ill-treated by Reutlingen police officers on the evening of 30 September 1997, at approximately 6.30pm. Twenty-eight-year-old Nigerian George B. and a friend were stopped by three plainclothes police officers in the centre of Reutlingen and asked to identify themselves. In a written statement he has made to Amnesty International, George B. says that after he had shown the officers his driving licence, one of the officers told him to stand with his face to the wall and to take off his clothes. The Nigerian told the officer he was too embarrassed to undress in the street and that anyway, he was not well, having just visited a doctor.

While he was being dragged to the wall several other officers arrived on the scene. According to George B.'s written statement: "There was no further arguing, instantly [an officer] tried to strangle me with his baton from behind, some others kicked me down". He was then handcuffed, put in a car and taken to a nearby police station. There he was made to undress completely, in front of half a dozen officers. Shortly afterwards he was told to get dressed and leave. In his written statement George B. admits that he shouted at the officers because he was angry at the way they had treated him; they in turn reacted by telling him that if he didn't like the way he had been treated he should "go back to my country or report to Amnesty International or go to court. They called me *Neger* and *Scheißausländer* ('negro' and 'shitty foreigner')". After he had dressed, George B. noted that his cap was missing and refused to leave the station without it. The officers denied that he had had a cap. George B. states that in order to prevent being ejected, he lay on the floor of the station and wedged himself in the doorframe, whereupon an officer kicked him in the chest. He was later treated at Reutlingen Hospital where it was diagnosed that he had suffered a bruised lip, an abrasion of the left wrist, a sprained shoulder and suspected bruising of the chest (*Lippenprellung, Schürfung li. Handgelenk, Schulterdistorsion, Verdacht auf Thoraxprellung*).

Along with two friends George B. returned the same evening to the station. The Nigerian states that while he waited outside an officer came out and apologized for what had happened, saying that the blame for the situation lay partly with the police, who had treated him roughly, and partly with George B. himself because he had shouted and protested so much during the identity check.

In an article which appeared in the local newspaper *Schwäbisches Tagblatt* on 4 October 1997, police spokesman Bernhard Bauer stated that George B. had sought to prevent police officers from checking the identity of his friend after both men had been stopped by police in the

town. Officers had had to use force to take George B. to a police car and the detainee and two officers fell over. After the detainee refused to leave the station, officers were forced to carry and push him out. The police spokesman said that he knew nothing about George B. being kicked or insulted, but that the matter was being investigated and that: “If [an officer] has behaved incorrectly there will be consequences” (“*Wenn der Kollege sich falsch verhalten hat, wird das Konsequenzen haben*”).

In January 1998 Amnesty International called upon the German authorities to ensure that the investigation launched into George B.’s allegations of ill-treatment was carried out promptly and impartially.

Amnesty International’s information on this case is based on a written statement about his ill-treatment by George B.; a medical certificate issued by Reutlingen Hospital; an article in the *Schwäbisches Tagblatt*; and an interview with the alleged victim by Amnesty International.

Amnesty International’s concern

For several years Amnesty International has been receiving allegations that German police officers have used excessive or unwarranted force in restraining or arresting people, or have deliberately subjected detainees in their custody to cruel, inhuman or degrading treatment or punishment. The vast majority of the victims of ill-treatment have been foreign citizens, including asylum-seekers, or members of ethnic minorities. In many instances the alleged ill-treatment appears to have been racially motivated. Amnesty International published a 60-page document in May 1995 (*Federal Republic of Germany: Failed by the system - police ill-treatment of foreigners*, AI Index: EUR 23/06/95) and a 43-page report in July 1997 (*Federal Republic of Germany: Continuing pattern of police ill-treatment*, AI Index: EUR 23/04/97) summarizing the organization's concerns. In these reports Amnesty International concludes that cases of alleged police ill-treatment are not isolated incidents but amount to a clear pattern of abuse. Although criminal investigations have been opened into all the allegations of ill-treatment reported to it, many of the officers allegedly responsible have escaped prosecution.

The right not to be subjected to torture or cruel, inhuman or degrading treatment or punishment is recognized in Article 5 of the Universal Declaration of Human Rights and is enshrined in Article 7 of the International Covenant on Civil and Political Rights, in Article 3 of the European Convention for the Protection of Human Rights and Fundamental Freedoms and in Article 1 of the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture). Germany is a party to all these international human rights treaties. Acts of torture and cruel, inhuman or degrading treatment or punishment are also prohibited by German constitutional and criminal law. International human rights instruments also establish clear principles regarding the use of force by law enforcement officials. These include Principle 4 of the United Nations 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...”, and Principle 5 which 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”. These principles are reflected in section 5 (1) of the Police Law (“*Polizeigesetz*”) of Baden Württemberg which stipulates that in deciding which measures to use in tackling any given situation, law enforcement officials are to choose that which

“is likely to do least harm to the individual and to the public in general” (*“die den einzelnen und die Allgemeinheit voraussichtlich am wenigsten beeinträchtigt”*).

The Federal Republic of Germany is composed of 16 federal states or *Länder*. Each *Land* has its own elected parliament and government. The Minister of Justice in each *Land* government is responsible for the prosecuting authorities, whose duty it is to investigate criminal complaints, and the Minister of the Interior for the police. Reutlingen is in the *Land* of Baden-Württemberg.