

SWITZERLAND

Death during forcible deportation: an exchange of correspondence following the death of Samson Chukwu

Samson Chukwu, a 27-year-old Nigerian asylum-seeker, died in a detention centre attached to Crêtelongue penitentiary, Granges (Canton of Valais), in the early hours of 1 May 2001, at the start of a forcible deportation operation. At the time of writing the exact cause of death remains unknown. Following the death Amnesty International had an exchange of correspondence with the Valais authorities. Against the background of Samson Chukwu's death and several other deaths which have occurred in Europe, including Switzerland, in recent years following the use of dangerous methods of restraint during forcible deportation operations, and in view of persistent allegations of use of excessive force by police officers during deportations from Switzerland, Amnesty International emphasized that it is essential for all cantonal governments to review police restraint techniques and the relevant guidelines and training for police and medical personnel involved in deportation operations. The organization indicated some of the safeguards it believes should be taken into account,

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It was reported that the death of Samson Chukwu occurred in the early hours of 1 May 2001, within approximately an hour of the start of an operation to deport him forcibly to Nigeria under police escort. Officers attached to the Valais Cantonal Police were to escort him from Granges to a specially-chartered flight carrying other Nigerian deportees leaving from Zürich-Kloten airport. A first attempt to deport Samson Chukwu in March 2001 was apparently abandoned after he refused to board a regular passenger flight departing from Zürich-Kloten airport.

According to the information which reached Amnesty International following the death, two police officers of the Valais special intervention squad entered Samson Chukwu's cell at around 2am on 1 May to carry out the deportation by force and a struggle ensued. The police officers, with the assistance of a prison officer, apparently subdued Samson Chukwu and handcuffed him behind his back while he lay on the floor, reportedly face-down. It was said that subsequently the officers noted that the detainee had lost consciousness and stopped breathing and that they then attempted artificial respiration and called for emergency medical assistance. A doctor and two ambulance paramedics arrived on the scene but their efforts to revive Samson Chukwu were unsuccessful and his death was officially registered.

In its letter to the Valais authorities, Amnesty International outlined the reports it had received and welcomed the prompt opening of a judicial inquiry into the death under the direction of an investigating magistrate, as well as the news that an initial autopsy had been ordered and entrusted to the Lausanne Institute of Forensic Medicine. According to statements attributed to the investigating magistrate, the initial autopsy carried out on 1 May apparently found no signs of assault or traumatic injury on the deceased and was unable to establish the exact cause of death: therefore, further forensic tests were ordered, the results of which were not expected for several weeks. Amnesty International also welcomed reports that the investigating magistrate had proceeded promptly to the questioning of the police officers involved in the deportation operation, of relevant prison personnel and of Samson Chukwu's cell-mate.

Amnesty International sought the cooperation of the Valais authorities in informing the organization of the eventual findings of the forensic tests and judicial investigation and of any further criminal or disciplinary proceedings arising from it.

Amnesty International's letter recalled that the death of Samson Chukwu was not the first case of an asylum-seeker having died after being restrained during forcible deportation from Western Europe, or from Switzerland itself. Since 1993 Amnesty International has been aware of the deaths of six other individuals during or immediately following forcible deportations from Austria (Marcus Omofuma in 1999), Belgium (Semira Adamu in 1998), Germany (Kola Bankole in 1994 and Aamir Ageeb in 1999), Switzerland (Khaled Abu Zarifa in 1999) and the United Kingdom (Joy Gardner in 1993). All the cases have been accompanied by the use, shortly before death, of dangerous methods of restraint impeding the respiration of the deportee.

As in the deaths above, Amnesty International urged that, in their investigations into the current death, the relevant Valais authorities pay special heed to the principles established in international human rights instruments regarding the use of force by law enforcement officials. These include 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". Finally, 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".

Amnesty International also expressed the firm hope that the investigation into the death of Samson Chukwu would also take into account the risks posed by the use of dangerous restraint techniques which can lead to death from positional asphyxia.

Positional asphyxia, also known as restraint asphyxia, has been defined by the (US) National Law Enforcement Technology Centre “as death as a result of body position that interferes with breathing”.¹ According to experts, it 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. Factors which may increase dangers of positional asphyxia include: obesity; enlarged heart; alcohol and drug use or other things that impede the ability to breathe including, for example, the presence of chemical agents. Guidelines to minimize the risk of positional asphyxia include restraining a person other than by lying them on their stomach and monitoring the restrained person’s breathing and health.

In its letter Amnesty International stated that:

“In view of the deaths which have occurred in recent years following the use of dangerous methods of restraint during forcible deportation operations, and in view of persistent allegations of use of excessive force by police officers acting as escorts during deportation operations from Switzerland, Amnesty International believes that it is essential for all cantonal governments to review police restraint techniques and the relevant guidelines and training for police and medical personnel involved in deportation operations in their cantons, in order, *inter alia*:

· to ensure that those methods of restraint impeding respiration and involving a significant risk for life are banned and that the appropriate guidelines are in place to minimize risk of positional asphyxia;

¹ *Positional Asphyxia - Sudden Death*, National Law Enforcement Technology Centre, (a US national Institute of Justice Program), June 1995

- **to ensure that any administration of sedative drugs is in accordance with purely medical criteria in line with Principle 5 of the UN Principles of Medical Ethics²;**
- **to ensure that any use of irritant sprays aimed at temporarily disabling an individual are subject to strict guidelines and limitations on their use;**
- **to ensure that during deportation operations all deportees are provided regularly with food and drink, have ready access to toilets and are treated with respect for their human dignity.”**

The organization said that it would welcome assurances that regulations and guidelines in the Canton of Valais already incorporated such safeguards, as well as copies of the relevant directives. In the event of no such safeguards being in place, then Amnesty International urged an immediate review and appropriate amendments, as outlined above.

Amnesty International emphasized that, unless governments enact regulations to provide safeguards which ensure that a deportee’s physical safety and inherent dignity is respected, then there is no guarantee that tragic deaths like those which have occurred in recent years will not recur.

Response of the Canton of Valais

In a prompt response to Amnesty International’s letter, the Head of the Valais Canton’s Department for the Economy, Institutions and Security indicated “how much the tragic death of this Nigerian national asylum-seeker deeply touched our cantonal authorities and the concerned services” and confirmed the immediate opening of a judicial inquiry, including the carrying out of an autopsy to establish the exact cause of death.

He said that “Carrying out deportations is one of the most ungrateful missions entrusted to our police staff” and indicated that they were reluctant to carry out such missions, especially when obliged to escort individuals who had committed no crimes in Switzerland.

² “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)

He also stated that there was nothing to lead to “the conclusion that the police officers in charge of the escort of M. Chukwu overstepped the bounds of their power or made a disproportional use of force.”

He pointed out that “The unpleasant task to organise the departure of all individuals being forced to leave Switzerland falls to the cantons” and added that “all possible effort” was made beforehand “to persuade the person concerned to cooperate with the organisation of his departure.”

He thanked Amnesty International for the guidelines relating to the conduct of forcible deportations indicated in its letter and stated his intention of transmitting them to the different services concerned “in order to make them more aware of the risks inherent in the execution of these deportation operations.”

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The above exchange of correspondence was copied, for information, to the relevant Valais Central investigating magistrate, to the Federal Department for Justice and Police and to the Federal Office for Refugees.