

EXTERNAL

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@THE ALLEGED ILL-TREATMENT OF MAKREM BEN MOUSSA

The information on this case is based on statements made by Makrem Ben Moussa on 18 and 20 May 1995 in a criminal complaint he has lodged with the Bochum prosecuting authorities; on a press statement issued by the Recklinghausen police on 22 May 1995; on newspaper reports; and on medical evidence. Makrem Ben Moussa is a 20-year-old Tunisian national who entered Germany in 1993 to apply for political asylum.

Makrem Ben Moussa was arrested by police in the town of Oer-Erkenschwick in the *Land* of North-Rhine/Westphalia after going to the social security office to collect his monthly benefit payment just before midday on 4 May 1995. Although he did not yet know it, his application for asylum had been rejected and a deportation order had been issued against him. He was taken to a police station and asked to empty the contents of his pockets - which included a small clasp knife - onto the counter behind him and to remove his belt. Fearing detention and possible deportation, Makrem Ben Moussa panicked. He grabbed the knife and, making threatening gestures at the police officers, backed his way towards the station exit. As he went he tried to cut his arms. Once he was in the exit airlock, the officers trapped him inside by locking the inner and outer doors. Makrem Ben Moussa kicked in the glass outer door and fled into the street, pursued by the officers.

Accounts of what then happened vary. According to Makrem Ben Moussa, he ran about one hundred metres, colliding, as he went with a passer-by, stopped, turned around, threw away the knife he was holding and held out his hands towards the onrushing officers. He alleges that the officers secured his hand and feet with handcuffs and threw him to the floor. One officer then commenced to kick him in the mouth and all over his body. Another officer struck him on the body with his baton. He was then put into a police car, bleeding from the nose and mouth. An officer allegedly told him to stop spitting blood and punched him in the face.

According to the police version of events, Makrem Ben Moussa did not give himself up, but instead grabbed a passer-by by the neck, taking him hostage. The passer-by struck out at the Tunisian with the motorbike helmet he was carrying and Makrem Ben Moussa continued his escape. When the officers caught up with him, he allegedly threatened them with the knife again. One of the officers therefore struck out at him with the torch he was carrying, hitting him in the face. Makrem Ben Moussa fell to the ground and an officer pinned his arm to the ground with his foot in an attempt to make him drop the knife. When he failed to release the knife, the officer struck Makrem Ben Moussa's hand with the torch.

Makrem Ben Moussa was taken back to Oer-Erkenschwick police station where he alleges that officers refused to give him a glass of water in order for him to rinse the blood and broken teeth from his mouth. At 12.30pm he was seen by a doctor who confirmed that he was fit to be detained. It is not clear what, if any, medical treatment he was given at this time. At about 3.30pm the doctor was called again after an interpreter who had been asked by the police to assist with the questioning of the detainee refused to participate when he saw the state the

detainee was in and the blood on the floor of his cell. This time the doctor ordered that Makrem Ben Moussa be taken immediately to Recklinghausen Hospital. Nurses at the hospital were reported to have been shocked when they saw the condition he was in. Because it was believed that he may attempt suicide he was later ordered to be detained in the psychiatric ward of St Laurentius Hospital in Waltrop. A medical certificate issued by this hospital on 22 May 1995 records that Makrem Ben Moussa's injuries included a fracture to the right fibular¹, bruising to the skull and extensive damage to his mouth - three front teeth had been knocked out and another five damaged.

According to the press statement issued by the Recklinghausen police, Makrem Ben Moussa is currently the subject of a criminal investigation for resisting state authority (*Widerstand gegen die Staatsgewalt*) and for attempting to inflict serious bodily harm (*versuchte gefährliche Körperverletzung*) on officers. The press statement went on to say that the broken leg suffered by Makrem Ben Moussa could only have occurred when he kicked the station door in. Sufficient evidence to justify launching an investigation into alleged assault by the police officers only emerged, the statement continued, after a television report about the incident was broadcast on 21 May 1995.

Makrem Ben Moussa is currently in pre-expulsion detention after escaping from the psychiatric ward of St Laurentius Hospital. The authorities have made it clear that he will not be deported until the investigations into the above incident are complete.

Amnesty International is urging the German authorities to investigate thoroughly, speedily and impartially the allegations of ill-treatment made by Makrem Ben Moussa.

¹The outer of the two bones between the knee and the foot.