

Statement of the International Independent Commission on the Death of Oury Jalloh – on the new radiological report analysis

The radiological report, prepared by the University Clinic at the Goethe University in Frankfurt, provides an analysis of medical reports and computer tomographic scans from 2005, and lends crucial scientific observations that will have a profound impact on how we view the Oury Jalloh case. The report, presented to members of the International Independent Commission on the Death of Oury Jalloh by Prof. Dr. Bodelle from the University Clinic at Goethe University, reveals that Jalloh sustained his bone fractures while he was still alive. This raises three types of questions—scientific questions, factual questions related to the timeline of events leading to Jalloh’s death, and questions around the investigation into the case.

First, the report raises scientific questions. Previous reports solely mention a fracture of Jalloh’s nose. The new scientific report shows that Jalloh also suffered the fracturing of septum, anterior base of the skull, and ribs. It further indicates that the soft tissue around the serious bone injuries that Jalloh sustained was inflamed, indicating that the fracturing of Jalloh’s nose, his septum and rib took place while he was still alive and that these fractures were caused by some external force. This undermines the assumption that the broken bones were due to Jalloh’s body being damaged in transport after his death.

Second, the report’s findings raise related questions about the timeline of events leading to Jalloh’s death. The report notes that the injuries Jalloh sustained, if he sustained them while alive, would have meant that he was likely bleeding from the nose and in the upper respiratory tract, was in substantial pain, and potentially finding it difficult to breathe, possibly suffering from impaired motor ability, and possibly unconscious. It is clear from these assertions that at least one or more of these injuries should have signalled the need to get Jalloh medical attention. Instead, despite being in substantial pain, he was affixed to a mattress at his ankles and wrists, and laid on his back, which is a prone position for choking (aspirating) on his own blood, if he was indeed bleeding from his nose.

Lastly, the implications for this analysis on the previous medical analysis are vital. The recent report was conducted using the medical examiner’s report, computer tomographic images, and photographs from 2005. This means that the basic material from which its conclusions were drawn were available since the beginning of the trial. Once it became known that Jalloh had sustained broken bones, it seems a reasonable expectation for the investigation to determine to what degree of probability the injuries occurred while Jalloh was alive, whether they seemed to be self-inflicted injuries, and whether these questions have a bearing on the types of charges brought in his particular case. There were two different opportunities to do this during the trial, first the report of Prof. Dr. Kleiber from Jan. 2005 and second the report of Prof. Dr. Bratzke from

April 2005, but these opportunities were not utilized. This was in part because the presumption was that they could not rule out that the bone-break injuries, which they only described as a simple fracture of the nasal bone, happened after Jalloh's death. However, this seems to be a scientific mistake, since as Prof. Dr. Bodelle's analysis asserts, the CT scans reveal that changes in the soft tissue around his injuries lead to the conclusion that he was indeed alive. It seems to the Commission that all one needed to do, effectively, was examine the CT scans properly. During the investigation and trials, these issues seem to have been either misunderstood or willfully ignored.

This report by Prof. Dr. Bodelle is currently the best and only comprehensive scientific analysis of Jalloh's broken-bone injuries, and it concludes that he was injured already before his death, that the injuries were caused by external force, and that Jalloh's physical state should have signaled the need for medical attention and prevented him from being bound in four point restraints. In addition, the independent medical reports submitted to the commission from independent forensics experts in the UK as well as the expert from the Würzburg commission by the prosecution of Dessau-Roßlau in February 2017, suggest he was not breathing when he burned, given the normal stress hormone level in his urine and the lack of carbon monoxide in his lifeblood. Considering all these 3 reports together, we get an overall picture of the circumstances of his death that leave a clear case to be answered.

If no other evidence in this case should be a persuasive reason to interrogate the circumstances of Jalloh's death, the scientific evidence should.

This is also the reason why we observe the recent decision by the Upper Regional Court of Naumburg, which declined to re-open the special prosecutorial investigation into the Jalloh case, with great concern. The decision does not consider Prof. Dr. Bodelle's medical report because he did not collect the data but rather interprets pre-existing data. However, this is immaterial to the validity of Prof. Dr. Bodelle's scientific input and the conclusions of his report. Furthermore, the basis for the judgment relies on a series of scientific conclusions and factual suggestions that seem impossible or implausible.

First, it relies only on the heat shock theory, established in medical testimony during the trial, to explain the lack of soot in Jalloh's lungs and low stress hormone levels. This theory suggests that Jalloh lit a fire that burned quickly until it reached his nose, and then he moved around very quickly and created bursts of air that fed the flames, which he then essentially snorted, dying instantly. Even if this were plausible, his rapid movement would have ostensibly been triggered by fear or pain, which would have raised his stress hormone levels. Given that the heat shock theory is internally inconsistent, the special investigation should investigate evidence of the possibility that Jalloh was burned while unconscious or dead. Together with the new CT scan analysis this leaves open important scientific questions which should be taken up by investigation.

Second, the OLG Naumburg decision claims that a second lighter could have existed in the cell but could have been lost after the event. This presupposition has several implications. On one hand, as there is absolutely no physical or testimonial evidence of a second lighter, the suggestion creates unnecessary confusion and is not based on the facts established in the case. On the other hand, if the OLG Naumburg has reason to believe that such a vital component of the evidence was lost and has no way of knowing whether this has happened, it casts serious doubt on the integrity of the forensic investigation, including the chain of custody. Therefore, if this supposition is to hold any weight, then the indictment goes beyond mere investigatory quality, it goes to the heart of the matter: if a second lighter could be removed without being noticed, then logically the first lighter could be added without being noticed.

Given the conclusions of the recent radiological report and the inconsistent reasoning of the decision by the Upper Regional Court of Naumburg, the International Independent Commission on the Death of Oury Jalloh is left with even more questions that require a more thorough-going investigation than has thus far been afforded.