

### 13 years of administration of emetics in Bremen

From the perspective of police and the public prosecutor's office, the administration of emetics from 1991 to 2004 served the purpose of securing evidence. The police arrested persons whom they suspected of dealing drugs. In police custody an emetic, a substance to induce vomiting, was given to them. This was supposed to establish whether the suspects had swallowed small packages of drugs to hide them. From the very beginning, critics and people who had been subjected to this procedure pointed out how degrading and dangerous to health it was.<sup>1</sup>

Emetics had been used since the beginning of the 1990s. The Bremen police forensic medical examiner Karl-Heinz Männche was the first practitioner in Germany who administered emetics to suspects on his own initiative.<sup>2</sup> The procedure was contentious and most federal states did not use it. It is estimated that from 1991 to 2004, emetics were administered in over 1,600 cases – several hundred in Hamburg, but the majority in Bremen. Here, emetics were administered more than 1,000 times.<sup>3</sup> So, for a period of 13 years, emetics were administered on average every four to five days. The administration of emetics in the city of Bremen was “routine procedure of evidence preservation”, as the former mayor, Henning Scherf, worded it in 2004.<sup>4</sup>

During the debate, a distinction is often made between voluntary and forced administration of emetics. But the so-called “voluntary administration” of emetics took place in an extremely coercive environment. In many cases, the suspect was tied with hands and feet to a chair, while a police officer put the emetic syrup to their lips. If the suspect refused to take the liquid voluntarily, it would then be forcibly administered.<sup>5</sup> In this case, a tube is inserted through the nose and the

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1 In 1995, the general practitioner Dr. Streicher from Gröpelingen came forward because more and more patients that had been given emetics saw him in his practice. In *taz bremen*, Streicher called the consequences of the issuing of emetics “torture” (issue 28<sup>th</sup> of April 1995) and he also achieved that the Medical Association was looking into the administration of emetics. In his contribution to the written report of the public hearing 'Who was involved in the killing of Laye Condé?', which took place in June 2014 on the marketplace in Bremen, Streicher (p. 22) named typical medical symptoms: “long lasting vomiting, diarrhoea, at times bloody vomiting, stomach ache”. Equally, in 1995 the brochure “police that make you vomit” was published by the Anti-racism Office in Bremen. The brochure documents many reports from people affected. They talk about diarrhoea lasting several weeks, cardiac problems, kidney pain, and most of all, of the degrading nature of the procedure of the emetic administration.

2 As can be read in the contribution by the Hamburg physician Wilfried Scharenberg, “Side effect: death?”, published in 2002 in the *Hamburger Ärzteblatt*. The article by Matthias Brettner in the hearing report 'Who was involved in the killing of Laye Condé?', mentioned above, gives an overview of the beginnings of emetics being administered. A 1993 press release by Dr. Männche suggests that the trial of different emetics happened in a „trial-and-error“-procedure (the press release can be found in the above-mentioned brochure of the Anti-racism Office Bremen, pp. 118ff.).

3 The number 400 for 1992 was given by the acting Chief of Police Lüken in the *Weser-Kurier* on the 18th of March 1995; in 1995, according to a submission of the Deputation of the Interior from the 11<sup>th</sup> of December 1995 there were 47 administrations of emetics; for 1996 no data can be found. The numbers for 1997-2004 are printed in the answers by the Senate to a brief inquiry submitted by Bündnis '90/Die Grünen from the 17<sup>th</sup> of March 2005 – printed papers 16/621. There, the total sum of incidents of emetic administration of the prior 8 years amounts to 820. That means for the period from 1992-2004 – excluding figures for 1996 – the total number of administrations of emetics amounts to 1267.

4 This quote is taken from evidence given before the Bremen District Court on the 16<sup>th</sup> of September 2013.

5 The Bremen District Court points out the connection between ‘voluntary’ and forced administration of emetics in its judgement from the 4<sup>th</sup> of December 2008, p. 10. Additionally, it quotes on page 12 a final report of a symposium of

emetic substance Ipecacuanha plus several litres of water are pumped into the stomach. As early as the mid-1990s, the Anti-racism Office in Bremen and Amnesty International stressed that the administration of emetics goes hand in hand with long lasting health risks such as vomiting lasting for days, diarrhoea and kidney pain. Additionally, according to statements by the persons affected, during the course of the procedure, use of considerable physical violence was applied, such as the forcible opening of the jaw and beatings.<sup>6</sup> Early on, there were court rulings about this procedure. In 1996, the Higher Regional/District Court in Frankfurt ruled that the use of emetics represented an attack on the dignity of the individual.<sup>7</sup> In Bremen, however, authorities agreed that the administration of emetics was indispensable. The Bremen state government, under Mayor and State Senator Henning Scherf, disallowed discussion of the topic in the senate.<sup>8</sup> The Bremen Medical Chamber declared itself not responsible. It did not comment clearly on the use of emetics,<sup>9</sup> which have been administered since 1995 by the Ärztliche Beweissicherungsdienst - the medical office for the preservation of evidence, led by Michael Birkholz. The procedure was routinely used by the Bremen police. There was a room at the police station that had been specifically set up for the purpose of emetic administration and contained a specially designed stretcher to which the suspects were strapped. The Bremen judiciary fended off complaints about this method of securing of evidence. Questions of proportionality, health risks or human dignity did not play any role in Bremen from a legal point of view. This did not change even after the administration of emetics claimed its first casualty in 2001 in Hamburg. Nineteen year old Achidi John from Nigeria collapsed during the forced administration. The physician who carried out the procedure initially assumed that he had only faked his collapse and failed to initiate life-sustaining interventions.<sup>10</sup> A few days later, Achidi John died from the consequences of the emetic administration. Following his death, a broad debate took place in Bremen. The Green Party, which, as a part of the government at

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prosecutors, police and forensic examiners from Bremen, Hamburg and Frankfurt, which states clearly that the enforcement of the administration of emetics is seen as ineffective without the threat of force.

6 This is stated clearly in the chapter about Bremen of amnesty international's 1997 Country Report 'Germany'. Many cases are also documented in the above-mentioned 1995 brochure by the Anti-racism Office Bremen.

7 The Frankfurt Higher District Court's judgement dates from the 11<sup>th</sup> of October 1996 and can be found in the *Neuen Juristischen Wochenschrift* 1997.

8 This became clear in a 1995 letter by mayor and Senator of Justice Scherf to Senator of Health Wischer, which was read out on the 9<sup>th</sup> of April 2013 at the hearing of the District Court Bremen. In 1995, Wischer had raised concerns against the emetic procedure. Scherf states in his letter, there were "no doubts about the legitimacy". The Senator of Health had "no authority" to give instructions to the prosecution, nor was she to make any statements. All communications were to be agreed with him.

9 The ambiguous attitude is evident in a written statement by the President of the Medical Chamber, Auerswald, from November 1996. The initial statement reads: "From a medical perspective, the administration of emetics against the will of the person cannot be justified. The Medical Chamber Bremen is fundamentally opposed to the use of force in connection with medical procedures." In the following paragraph, however, Auerswald states: "In as far as physicians are legally obliged to participate in the securing of evidence (i.e. the administration of emetics), they do not violate the medical code of practice."

10 The Hamburg forensic practitioner Prof. Püschel states according to the *Hamburger Abendblatt* of the 10<sup>th</sup> of December 2001 that Achidi John had not been given the immediate medical attention required after his collapse: "The colleagues observed him for two to three minutes. Sometimes people fake death."

the beginning of the 1990s had introduced the administration of emetics, now filed an application with the Bremische Bürgerschaft (Parliament of Bremen) in December 2001, requesting that this procedure be stopped immediately. The government coalition of SPD (Social Democrats) and CDU (Christian Democrats), however, rejected the application unanimously, because a “re-thinking would not be necessary”.<sup>11</sup> The Green Party whip Matthias Güldner commented on this before the Bremen Parliament:

“Should a similar incidence happen in Bremen after this decision of parliament, at least we know, that it could have been prevented. You could have accepted this application today.”<sup>12</sup>

The administration of emetics was supported until the end by almost all authorities in politics, judiciary, police and medicine. As late as February 2004, the chief legal administrator at the time, Ulrich Mäurer, thanked the executors with the following words:

“Through completing this unsavoury task, officers and physicians paved the way for the offenders to be brought to justice.”<sup>13</sup>

The administration of emetics to Laye Condé was also justified by the Senator of the Interior, Thomas Röwekamp: “extremely criminal individuals have to expect physical disadvantages”.<sup>14</sup> Shortly afterwards, in January 2005, more than 1,000 people protested for an end to the administration of emetics. In the following years, anti-racist initiatives commemorated the death of Mr Condé. On the anniversary of his death, January 7th, protests and rallies were held in his memory.

After the death of Laye Condés, the administration of emetics was initially suspended in Bremen. In North-Rhine Westphalia, a person that had been subjected to the method had taken legal action against this procedure as early as 2000 – before the two fatalities – before the European Court of Human Rights. In July 2006 the Court ruled that the practice of administration of emetics was a breach of Article 3 of the European Convention on Human Rights.<sup>15</sup> This articles states:

“No one shall be subjected to torture or cruel, inhuman or degrading treatment or punishment.”

This ruling marked the end of the forced administration of emetics in Germany. During the 13 years of the administration of emetics, only one person responsible was brought to trial – the medical examiner who had conducted the fatal forced procedure against Mr. Condé. The legal proceedings against the doctor only began in 2008. The course of the proceedings is unprecedented in Germany:

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11 The quote is taken from the *taz bremen* of the 11<sup>th</sup> December 2001.

12 The full contribution of Güldner as well as the full debate can be found in the minutes 15/1028 of the meeting of the Bremen state parliament on the 13<sup>th</sup> of December 2001.

13 This quote can be found in the newspaper *Die Welt* from the 27<sup>th</sup> of February 2004.

14 These are the words of the Senator of the Interior Röwekamp in a live interview in the TV show *buten & binnen* on the 5<sup>th</sup> of January 2005.

15 ECtHR judgement of 11th of July 2006, reference number 54810/00.

in three trials in total, the accused physician was acquitted twice, both judgements were annulled by the Federal Court. The second time, the Federal Court described the Bremen acquittal as “almost bizarrely wrong”.<sup>16</sup>

In 2013, the trial against the medical examiner was finally dropped during the third attempt of prosecution, with no official verdict; he had to pay a compensation payment of €20,000 to the family of Laye Condé. The Federal Court, and later the District Court in Bremen, found that more persons had been responsible, but their actions had already become time-barred.<sup>17</sup> After the long-running trial, politicians and police have changed their position on the 13 years of administration of emetics. Chief of Police Lutz Müller apologized in 2013 to the family of Laye Condé for his death,<sup>18</sup> as did Mayor Jens Böhrnsen a year later.<sup>19</sup> In 2014, the Bremen Senator of the Interior, Ulrich Mäurer, called the decision to administer emetics in retrospect “a mistake”.<sup>20</sup>

Chief of Police Lutz Müller finally put up a portrait drawing of Laye Condé in his office, because in his opinion every officer should deal with the meaning of Mr. Condé’s death. Lutz Müller sums up his position with the following statement:

“No one is supposed to die or be inflicted with long-lasting damage in police custody – full stop.”<sup>21</sup>

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16 This quote is taken from the oral reasoning of judgement by the president of the 5<sup>th</sup> BGH Criminal Division, Clemens Basdorf, 11<sup>th</sup> of June 2012.

17 Corresponding explanations can be found in the BGH judgement of the 29<sup>th</sup> of April 2010 as well as in the Bremen Regional Court’s decision of the 31<sup>st</sup> October 2013, which finally terminated the proceedings against the accused physician.

18 It can be found in the *taz bremen* from the 5<sup>th</sup> of January 2014. The Chief of Police also apologised in the brochure “The death of Laye issued by Condé“, issued by the Chief of Police on the occasion of the 10<sup>th</sup> anniversary of the death of Laye Condé.

19 See *Weser-Kurier* 8<sup>th</sup> of January 2014.

20 The Bremen Senator of the Interior wrote this in his contribution to the brochure published by the Chief of Police, p. 5.

21 This quote is taken from an interview of the Chief of Police with the *taz bremen* and can be found in the issue 9<sup>th</sup> of May 2015.