



Press kit

Independent Commission of Inquiry on the Death of Roger Nzoy Wilhelm

Lausanne, November 10th 2023

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<https://www.nzoycommission.org>

Accompanying letter

Dear media representatives, Ladies and Gentlemen,

We are addressing you to draw attention to the homicide of Roger Nzoy Wilhelm and the related trial. The public prosecutor of the canton of Vaud wants to close the case. The scientific reports from our independent commission as well as the film from the scientific research organization *Border Forensics*, presented at the press conference on November 10th, 2023, highlight numerous inconsistencies and unanswered questions.

On August 30, 2021, Roger Wilhelm, a 38-year-old Zurich, was shot dead by a police officer at Morges station. The aftermath of this tragic incident is as shocking as it is worrying: Roger Wilhelm was left lying on his stomach for six and a half minutes, without the four police officers present providing him with first aid. However, on October 10, 2023, the Public Prosecutor's Office of the canton of Vaud announced that it intended to close the homicide procedure and not to enter into matters concerning the failure to render first aid therefore, not to bring the case before the courts.

Switzerland does not have an independent institution to investigate cases of police violence. In the Roger Nzoy Wilhelm affair, an independent civil society commission bringing together renowned scientists was created. This "Independent Commission of Inquiry on the Death of Roger Nzoy Wilhelm," which is composed of experts in the fields of medicine, psychology, law, and social sciences, has set itself the objective to investigate the medical, legal and socio-political circumstances of this death.

In this press kit, you will find the press release, information on the death of Roger Nzoy Wilhelm and the work of the Commission, as well as a transcription of the public statements made by the members of the Commission at the press conference on November 10th in Lausanne. Likewise, photos of Wilhelm are attached.

We believe it is the responsibility of the state and our society to investigate this death independently, effectively, and fully to drive necessary changes and prevent further deaths. We therefore urge you to pay attention to this case and its many social implications in order to provide the public with the necessary information.

We remain at your disposal for any additional information and any interview. We thank you for your attention and support on this important issue.

Yours sincerely,

The Independent Commission of Inquiry on the Death of Roger Nzoy Wilhelm

1. Press release: Independent Commission and Border Forensics criticize prosecution in Roger Nzoy Wilhelm homicide case and release overlooked evidence.

Lausanne, 10.11.2023

Zuricher Roger Wilhelm, aged 38, was shot dead by a police officer on August 30th 2021, at Morges train station. Wilhelm was left on his stomach for six and a half minutes, without the other police officers involved providing him with first aid. Despite this fact, on October 10th, 2023, the Public Prosecutor's Office of the canton of Vaud announced that it would not prosecute either the homicide or the failure to render aid.

Switzerland does not have an independent institution to investigate incidents of police violence, so an independent civil society review and investigation into this death case is urgent. An independent commission made up of scientists from the fields of medicine, psychology, law and social sciences as well as the scientific research organization *Border Forensics* are now examining the case themselves. The provisional results of this research were presented today in Lausanne in the presence of Evelyn Wilhelm and lawyer Ludovic Tirelli, in charge of the case. This work shows that the decision of the Public Prosecutor's Office must be urgently questioned.

Elio Panese, member of the *Border Forensics* research team, reconstructed down to the second the course of the homicide in Morges using a film. This film shows that Roger Wilhelm remained on the ground handcuffed for six and a half minutes while he had a gunshot wound to the back and made no movement other than breathing. This proves that the police officers involved neglected to take vital rescue and resuscitation measures. Dr. Martin Herrmann, who is one of the medical experts of the commission (FMH specialist in general surgery and traumatology), confirmed in his analysis that the necessary first aid measures had not been taken, although Roger Wilhelm, lying on his stomach, represented no threat to the police officers and that he was still making respiratory movements. The question to be clarified in court is: Could Roger Wilhelm's life have been saved by immediate first-aid measures taken by the police?

Udo Rauchfleisch, Professor Emeritus of clinical psychology and member of the commission, wrote a report based on psychiatric records, interviews with relatives, witness statements and video footage of the homicide of Roger Wilhelm. According to this report, the Vaud police were called to help a Black man who showed symptoms of psychosis. According to the expertise of Prof. Rauchfleisch, Roger Wilhelm was not in any way or at any time aggressive, but he was stressed and would have needed psychological help. Instead of helping, the four police officers increased Roger Wilhelm's psychological stress. He was considered a threat and was eventually shot dead. This is why another decisive question arises, which must be clarified in court: was the behaviour of the police officers adequate and was the use of firearms necessary and by the law?

The death of Roger Wilhelm must be placed in the context of other homicides of Black people by the police in Switzerland. In the case of Mike Ben Peter, who died on February 28, 2018 following a police intervention, the prosecutor in charge of the investigation, who is also handling the case of Roger Nzoy Wilhelm, surprisingly requested the acquittal of the police officers involved during the trial. Me Brigitte Lembwadio Kanyama, member of the

Commission's legal group, severely criticized the treatment of deaths occurring following police interventions in the canton of Vaud. In all cases, the people killed were Black people. Lawyer Philip Stolkin, a member of the Commission's legal group, stressed that the public prosecutor's office should be able to carry out its investigation regardless of the skin colour of the victim, and the fact that a person suspected of having committed an offence is used by a public law entity.

According to another member of the commission group, lawyer David Mühlemann, from a human rights perspective, the public prosecutor's office is obliged to investigate such exceptional deaths independently, effectively, and comprehensively: "What is at stake is nothing less than public confidence in the state's monopoly on violence." By wanting to close the case, the public prosecutor is preventing the possibility of an investigation that complies with human rights. This is why the Commission urges the Vaud Public Prosecutor's Office to open an investigation into the Roger Nzoy Wilhelm affair and bring the matter to court.

List of speakers

M^e Ludovic Tirelli, lawyer Elio Panese, Border Forensics

M^e Brigitte Lembwadio, lawyer Lic. in law Philip Stolkin, lawyer

Maïna Aerni, jurist

David Mühlemann, jurist

Yosina Koster, jurist

Claske Dijkema, social scientist

Dr. Martin Hermann, surgeon

Prof. em. Udo Rauchfleisch, psychologist

Evelyn Wilhelm, plaintiff and sister of Roger Nzoy Wilhelm

You can find more information on: <https://nzoycommission.org/>

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2. Description of the Roger Nzoy Wilhelm case

Roger Nzoy Wilhelm stood out for his kind and helpful character, his deep religiosity, and his creativity. He often made music, wrote song lyrics and maintained close relationships with a large group of friends and acquaintances in Zurich. Additionally, Nzoy was actively involved in Streetchurch, a Reformed church in Zurich, and was preparing to take on a new professional challenge in elderly care.

On 30.08.2021 he took the train from Zurich to Geneva. On the way back, he got off at Morges. There, he went to a railway track next to disused trains to pray. The Vaud police received an emergency call to help a man who did not seem to be feeling well. A person who spoke to him at Morges train station shortly before police arrived said he was not aggressive in any way. Police records indicate that it was clear to all those interviewed that Roger Wilhelm was behaving anxiously and confusedly and was in psychological distress. He needed help.

The death of Roger Wilhelm is part of a series of incidents of massive violence – sometimes fatal – against racialized people in Switzerland. In the canton of Vaud alone, Hervé Mandundu, Mike Ben Peter and Lamin Fatty have died in recent years following police interventions. In none of these cases of homicides of Black people have the police officers involved been convicted. The family and friends of Roger Wilhelm have instructed lawyer Ludovic Tirelli to file a complaint against the police officers involved for homicide and failure to render aid. The Public Prosecutor's Office of the canton of Vaud, which was responsible for the Roger Nzoy Wilhelm case, intends to issue a dismissal order in this case. The Public Prosecutor's Office is competent to investigate cases of police violence, although there is a strong interdependence between these two institutions.

The prosecutor in charge of the case also led the investigation in the case of Mike Ben Peter, who died on February 28, 2018 following a police intervention. In this case, he requested – as prosecutor – the acquittal of the police officers involved in court. In the case of Roger Nzoy Wilhelm, he announced on October 10, 2023 that he wanted to close the investigation into the accusation of homicide and not enter the matter of the failure to render aid. In this context, the prosecutor refers only to articles 319 et seq. of the Code of Criminal Procedure (CCP/StPO), without providing additional information or explanations. This article of law stipulates that a prosecutor can terminate a procedure if the elements constituting the offence are not met or if supporting facts prevent an offence from being brought against the accused. However, this is not the case in the Wilhelm affair, because many questions remain unanswered, such as: was the behaviour of the police officers adequate? Was the use of firearms necessary and legal? Could Roger Wilhelm's life have been saved by immediate first-aid measures taken by the police? What is the connection between this case and other cases of police killings? Why is the legal treatment of police homicide cases so difficult? What role do racialization and other social inequalities play during police interventions on the one hand and in the legal treatment and judgment of cases on the other?

3. History and approach of the commission

The Independent Commission of Inquiry on the Death of Roger Nzoy Wilhelm is examining in depth the legal and police procedure, the investigation files, and the related judicial evidence, and analyses them in order to establish, where appropriate, counter-expertise. The commission observes the legal process and compares the Roger Wilhelm case to other death cases. The commission works on a voluntary basis.

It is made up of specialists from the fields of law, medicine, psychology and social sciences. The commission considers that it is urgent to shed light on these deaths and to establish monitoring of police action by civil society.

The objectives of the Commission can be summarized in four points:

1. The complete elucidation of the circumstances which led to the death of Roger Nzoy Wilhelm at Morges station on August 30th, 2021.
2. The complete examination of police and legal procedure, investigation files and the administration of evidence by the courts. This involves determining whether the investigation met the criminal procedural requirements for death investigations, or to what extent the investigation was deficient: how was the scene secured? Were the witnesses properly questioned or were they pressured? How did the forensic examination take place?
3. The aim is to examine whether the investigation into the case of Roger Nzoy meets the human rights requirements for an effective and independent investigation in the event of an exceptional death and what are the structural obstacles to the elucidation of police abuses.
4. Putting into perspective the circumstances which led to the death of Roger Nzoy Wilhelm in the historical and social context in Switzerland.

The Independent Commission is inspired by the Independent International Commission for Establishing the Truth About the Death of Oury Jalloh. Oury Jalloh was beaten and burned by police in Dessau prison. The commission not only revealed serious shortcomings in the handling of the Oury Jalloh case, but also revealed systematic discrimination, a cover-up of evidence by the police and the prosecution, as well as other homicides committed by the police in the same station.

The independent commission of experts hopes to contribute through its work to preventing further homicides. The commission will support the case until it is clarified, if necessary, all the way to the European Court of Human Rights in Strasbourg.

4. Press statements (in original language and translation where needed)

Elio Panese, Border Forensics

Border Forensics has been investigating the death of Roger 'Nzoy' Wilhelm for several months. By cross-referencing the evidence to which we had access and mobilizing spatial, visual and temporal analysis methods, we are developing a precise and verifiable reconstruction of the facts leading to his death on August 30th, 2021.

While our investigation is still ongoing, we are publishing preliminary analysis on the events that occurred between the moment when Roger 'Nzoy' Wilhelm received a third and final shot, and the moment when a cardiac massage was provided to him by a nurse witness to the scene. Our analysis demonstrates that while Roger 'Nzoy' Wilhelm was lying on the ground with a gunshot wound, police officers at the scene prioritized security handlings – such as handcuffing and various security searches – for nearly of 6 and a half minutes rather than carrying out rescue and resuscitation measures.

All the elements of our analysis are visible in a video that we are presenting today and which will be given to the Public Prosecutor's Office of the Canton of Vaud.

In order to continue our investigation into all the events leading to the death of Roger 'Nzoy' Wilhelm, it is necessary for the Public Prosecutor's Office of the Canton of Vaud to include in the file all useful and missing means of evidence.

Martin Herrmann, Dr med. FMH Specialist in General Surgery and Traumatology

The 4 officers present on site did not undertake any rescue or resuscitation measures for at least 4:30 minutes, while the person lying down made respiratory and chest movements, without posing a threat. They did not carry out first aid measures in a timely manner.

Udo Rauchfleisch, Prof. em. für Klinische Psychologie Universität Basel

Allen befragten Personen war aufgrund des verwirrten, ängstlichen Verhaltens von Roger Nzoy Wilhelm klar, dass er psychisch krank war. Als der Zeuge vor Ort mit ihm alleine gesprochen hat, war er ruhig und in keiner Weise aggressiv. Dadurch, dass sich ihm dann 4 Polizist:innen näherten, geriet Roger Nzoy Wilhelm in Panik.

Es ist eine Grundregel für den Umgang mit psychisch kranken, psychotischen Personen, dass eine Konfrontation mit mehreren Personen unbedingt vermieden werden muss und sich nur eine Person dem Kranken nähern und beruhigend auf ihn einwirken soll. Wären die Polizist:innen so vorgegangen, wäre die Situation nicht eskaliert.

(Translation) Udo Rauchfleisch, Professor Emeritus of Clinical Psychology, Basel University

It was clear to all interviewees that Roger Nzoy Wilhelm was mentally ill due to his confused, anxious behaviour. When the witness spoke to him alone at the scene, he was calm and not aggressive in any way. The fact that 4 police officers then approached him caused Roger Nzoy Wilhelm to panic.

It is a basic rule for dealing with mentally ill, psychotic people that a confrontation with several people must be avoided at all costs and that only one person should approach the patient and have a calming effect on him. If the police had acted in this way, the situation would not have escalated.

M^e Brigitte Lembwadio Kanyama, Attorney at Law

Our country still prohibits ethnic statistics, as is practised in the United States, for example. Thus, only media coverage and some data collected by the associations make it possible to reach this conclusion; for around 10 years, French-speaking Switzerland (and the Canton of Vaud in particular) has experienced several deaths of people following interventions by the police and it is clear that in almost 100% of cases, people deceased are racialized Afro-descendants.

In all known cases, the lawyers of the plaintiff parties report investigations carried out without conviction by the competent authorities. Proposals of proof are arbitrarily rejected. As if the allegorical scales of justice were immediately tilted to a certain side.

If this turns out to be correct, there is serious cause for concern, knowing that the usual precautions and proportionality advocated by police regulations are valid for all interventions, whatever the origin or even the antecedents of the person concerned.

The members of this Commission found that it is urgently important and necessary that the death of Roger Wilhelm is not yet another case where justice is done to advance, without worrying about the factual elements which make it possible to direct the matter differently. investigation.

Lic. iur. Philip Stolkin, Rechtsanwalt

Nach einem Todesfall bedarf es einer klaren und vollständigen Untersuchung. Wir setzen voraus, dass die Staatsanwaltschaft Waadt unabhängig von der Hautfarbe des Opfers und dem öffentlich-rechtlichen Anstellungsverhältnis des Täters in der Lage ist, ihre Untersuchung durchzuführen.

Die vorschnelle Einstellung und Nichtanhandnahme des Verfahrens indes beunruhigt uns sehr. Und lässt erhebliche Zweifel an einer rechtsstaatlich korrekten Untersuchung aufkommen. Ungute Beispiele im Fall Mike Ben Peter sind bis in die Deutschschweiz vorgedrungen und beunruhigen uns erheblich.

(Translation) Lic. en law Philip Stolkin, Attorney at Law

After a death, a clear and complete investigation is required. We assume that the Vaud public prosecutor's office is able to carry out its investigation regardless of the victim's skin color and the perpetrator's public employment status.

However, the hasty discontinuation and non-implementation of the procedure worries us greatly. And raises considerable doubts about a legally correct investigation. Bad examples in the Mike Ben Peter case have reached German-speaking Switzerland and are causing us considerable concern.

Claske Dijkema, Social Scientist

The social sciences have shown that human beings act according to preconceived mental schemes. In our society, the body of a Black man is associated with immigration and illegality, and induces alarm. Conversely, for a racialized person this encounter is not neutral either. It raises alarm because the police is associated with identity checks, which are much more frequent for racialized people than for white people.

Knowing these patterns, it is significant that the first observation P3 communicates in response to the ambulance service's request for more details about the situation is that Roger Wilhelm is a man of Color. Nothing more is said about his state of health, where he has been injured, or his psychological state. Throughout, the person is approached from a safety angle, whereas this is a person who needs to be kept safe, who needs care. The only concern is for the safety of those present at the station, and of the police themselves.

David Mühlemann, Jurist

Für einen Rechtsstaat gibt es nichts Schlimmeres, als wenn ein fürsorgebedürftiger Mensch in seinen Händen zu Tode kommt. Wie wir heute mehrfach betont haben, muss der Tod von Roger Nzoy Wilhelm vollständig aufgeklärt werden. Die Untersuchung muss sich gemäss dem Europäischen Gerichtshof für Menschenrechte auf eine gründliche, objektive und unparteiische Analyse aller relevanten Elemente stützen. Hierzu gehört insbesondere auch die Tatrekonstruktion von *Border Forensics*, die wir heute gesehen haben. Untersucht werden müssen auch strukturelle Faktoren oder Muster in der Polizeiarbeit, die zum Todesfall beigetragen haben könnten.

Es geht dabei auch darum, künftige ähnliche Todesfälle zu verhindern. Dieser Fall muss deshalb zwingend öffentlich verhandelt und aufgeklärt werden. Auf dem Spiel steht nichts weniger als das Vertrauen der Öffentlichkeit in das Gewaltmonopol des Staates.

(Translation) David Mühlemann, Jurist

There is nothing worse for a constitutional state than when a person in need of care dies at its hands. As we have emphasized many times today, the death of Roger Nzoy Wilhelm must be fully investigated. According to the European Court of Human Rights, the investigation must be based on a thorough, objective and impartial analysis of all relevant elements. This particularly includes the crime reconstruction by Border Forensics, which we saw today. Structural factors or patterns in police work that may have contributed to the death must also be examined.

It is also about preventing similar deaths in the future. This case must therefore be heard and clarified publicly. At stake is nothing less than the public's trust in the state's monopoly on violence.

5. Pictures Roger 'Nzoy' Wilhelm

