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Response to the report presented by the CDU parliamentary group in Hessen on 25 August 2017

Last year, Forensic Architecture was invited by the People's Tribunal "Unravelling the NSU Complex" to investigate the circumstances of Halit Yozgat's murder by the neo-Nazi organisation the National Socialist Underground (NSU), on 6 April 2006. In particular, we were asked to examine the testimony of Andreas Temme, an agent of Hessen's domestic secret service who, for reasons which remain unknown to this day, was present at the crime scene.

Initially, Temme did not report himself to the police as a witness and still maintains that he did not hear the shots, did not smell gunpowder residue, and did not see Yozgat's body, although he was seated just metres away, when he moved through the scene of the crime just a few minutes after the killing.

Our investigation arrived at the clear conclusion that Temme must have perceived the incident and we presented our results at the People's Tribunal on 18 May 2017. We have subsequently also presented our investigation, in video and text form, at documenta.14 in Kassel, just a few hundred yards from the internet cafe in which Halit Yozgat was murdered. We were also invited to submit our preliminary results to the Bundestag's second parliamentary inquiry. Finally, we recently submitted our final report to the Hessen parliamentary inquiry.

On 25 August 2017, Andreas Temme went before the Hessen parliamentary inquiry and was confronted with the video of our investigation. We hoped this would be an important milestone in understanding the murder of Halit Yozgat and, indeed, it has proven to be so in an unexpected way.

On the same day, the Hessen CDU and its parliamentary secretary Mr Holger Bellino, presented a 40-page report to other members of the parliamentary inquiry. This report attacked the methods and conclusions of our investigation, and was clearly intended to discredit Forensic Architecture's work and to prevent us from engaging with this case.

Since this document has been commented upon in local press, since it is a particularly troubling document, and since it does bring to light information relevant to our investigation, we feel it is important to respond to it and the allegations brought forth by Mr. Bellino.

Mr Bellino's accusations

Mr. Bellino's statements at the Hessen parliamentary inquiry, as well as an interview he gave to the Frankfurter Rundschau and a blog post on his web page made damaging simplifications of our report and propagated intentional falsehoods in regards to Forensic Architecture and other aspects of the history of the case.

In his interview on 24 August 17, he accuses us of "confusing login data"¹, despite the fact that we used the police records available to us, and claims that our experiment did not take the plastic bag into consideration, although we clearly explained in our report that we had done so.

The real-scale model which we built in Berlin's Haus der Kulturen der Welt was in fact fitted with carpet (black), contrary to Mr Bellino's suggestion, and the original crime scene had no curtains, again contrary to what was suggested by Mr Bellino.

Another example of Mr. Bellino's intentional propagation of falsehoods is his post² on his official CDU website on 28 August 2017, which falsely contends that the lawyers for the Yozgat family found our analysis "worthless", in contradiction with the way in which the story was reported in the Frankfurter Rundschau.³

As academic researchers, we always welcome serious peer review of our work. We cannot, of course, consider Mr Bellino's criticisms as a serious or well-intentioned peer review and we are naturally led to wonder about his motivation for such consistent falsehoods concerning our contribution to this nationally-important case.

Forensic Architecture's credentials

Because Mr. Bellino repeatedly refers to Forensic Architecture as an "artist group", it is important that we clarify, once more, who we are.

Forensic Architecture is a multidisciplinary research agency based at Goldsmiths, University of London. We are funded by the European Research Council (ERC), following the most rigorous peer-evaluation process by the highest research funding body of the EU. We are subject to the ethical and scientific standards of both the EU and the University of London. We have produced evidence for numerous human rights investigations and for national and international courts. Our team includes architects, scholars, programmers, investigative journalists, scientists, lawyers and, indeed, artists and filmmakers. In this investigation, we have also collaborated with a team of internationally-reputable experts and scientists in the fields of ballistics, acoustics, and fluid dynamics. The credentials of everyone involved in this project were included in our report.

An unsigned document is academically without value

The document that Mr Bellino presented as a critique of our work is **unsigned**. It is universally acknowledged that scientific or forensic reports *must be signed* to be seriously engaged with.

When the report suggests that our methodology is faulty and that we do not have the adequate credentials to undertake forensic investigations, it is natural that we ask for the credentials of those criticising our work.

It would be out of the ordinary for us to seriously and critically engage with a document that is not authored.

¹ <http://www.fr.de/rhein-main/nsu-morde-raetseln-ueber-temmes-anwesenheit-a-1337839>

² <http://holger-bellino.de/aktuelles/erkenntnisgewinn-der-heutigen-sitzung-des-nsu-untersuchungsausschusses/>

³ <http://www.fr.de/rhein-main/nsu-experte-wird-nicht-vor-gericht-geladen-a-1274515>

At Forensic Architecture, we are used to unfounded and politically-motivated critiques of our work. We must emphasise, however, that such criticism usually comes from governments that routinely violate human rights, such as the governments of Syria or Russia, when we expose these violations. We did not expect the same kind of response from a major German political party.

The fact this document, despite its misunderstandings and methodological shortcomings, is written in the language of a state agency raises some understandable suspicions as to whether the author of this document is not, in fact, the office of Mr. Bellino, but is instead another party that prefers to act anonymously through the CDU. It is for this reason that it becomes immediately essential that the personal identity of its author is revealed.

New data from the CDU report

Despite its substantial methodological shortcomings, the CDU report does reveal some information that is relevant to our investigation. The unnamed authors of this document have access to police reports which are not presently in the public domain, which sheds new light on aspects of our work.

As stated in the methodology section of our report, Forensic Architecture's investigation relied solely on material available in the public domain. This included a limited selection of police documents that were leaked in 2015.

The CDU brought forth previously undisclosed data from a report of the 2008 BAO Bosphorus investigation. We have now reviewed this data and, if correct, we can assess the implications of this information for the conclusions rendered by our own investigation.

The new data includes more precise timings for the computer log-ins and log-outs and phone calls made by the other witnesses to the murder. If correct, they allow only for one of the scenarios we considered in our report and in our video: the scenario in which Temme was still logged in at PC-2, in the internet cafe's back room, when the murder of Halit Yozgat took place (which we called "Scenario 3").

Based on our assessment that Temme was still in the back room of the internet cafe at the time of the murder, we are pleased to say that we, the CDU, the court in Munich, and the 2008 police investigation are all in agreement.

Scientific and forensic experiments

Scenario 3, in which Temme was seated at PC-2 when Yozgat was killed, was in fact the main focus of our investigation. Our investigation of this possible scenario hinges upon our scientific and forensic experiments.

In this regard, the CDU report is particularly troubling, as it attempts to refute and discredit the conclusions we have arrived at in collaboration with internationally-reputable experts in the fields of ballistics, fluid dynamics, and sound analysis.

The CDU report does not provide a single expert testimony that challenges our conclusions. The critique they articulate appears at some points to be based on a misunderstanding of particular elements of our work.

Unsupported arguments: the psychology of perception and Temme's 'obstructed' view

The CDU report obfuscates more than it clarifies. However, after 43 pages, it is clear that the CDU report agrees that it *was possible* for Temme to have heard the shots and to have seen the body of Halit Yozgat.

Despite this, the CDU report subsequently criticises our own conclusion — that Temme *did* hear the shots. The report does this by means of a very unusual argument.

The CDU wants us to agree that although the shots which killed Yozgat were *audible* from where he sat, Temme still *might not have heard* them. They refer us to arguments relating to the ‘psychology of perception’, though we note that they do not put forward specific arguments, scientific opinions, or expert testimony in this regard.

Of course, we recognise that psychological factors routinely play a part in perception. For this purpose, we would like to examine a qualified psychological opinion that describes the kind of psychological condition Temme was in that would have led him to have missed such loud shots. We invite the Hessen CDU group to supply such a report.

On that point, we would like to note that in the proceedings of the Hessen parliamentary inquiry on 15 September 17, Gerhard Frese of the BAO Bosphorus also concluded that, in his opinion, Temme *must have heard* the shots and *must have seen* the body – aligning his opinion, in fact, with ours.

A second argument presented by the CDU report against our conclusion is related to the possibility that the body of Halit Yozgat was hidden from Temme’s view by a swivel chair. Again, the CDU document provides no evidence for the position of the chair in Temme’s line of sight and we have seen no other evidence to support their assessment.

Given its persistent use of negative, apparently unqualified opinions and a number of frankly ludicrous, hair-splitting comments that cast unreasonable doubt on a responsible investigation, we can only conclude that, by presenting such a report at the state parliamentary inquiry, the CDU is interested primarily in obfuscating and interrupting the investigation into Halit Yozgat’s death.

Conclusions

1. There is much more we could say in relation to the CDU report and, in time, we hope to publish a comprehensive response to the document both point-by-point and as a whole, as we do not believe such a tendentious and cynical document should be allowed to stand uncontested. However, for now let us only say that **this document makes no positive effort** to shed any further light on the tragic circumstances of Halit Yozgat’s murder. Its aim is to obstruct the investigation and discredit thorough and evidenced attempts to understand the truth of 6 April 2006.
2. We note with interest that as far back as 2014 Mr. Bellino expressed his scepticism for any further investigations or parliamentary inquiries into the NSU. At the 22 May 2014 sitting of the Hessen Landtag, he conveyed his doubts that any further examination was likely to generate new findings. In light of the events that have unfolded since 25 August 2017, we are forced to see this report as an extension of the desire to see new information come out of the current inquiry. In this context, we find the appearance of this unauthored and tendentious report highly troubling, and we consider this kind of behaviour unbecoming of a major political party.
3. We further note that a substantial detail brought to light by the current inquiry concerns the historic proximity of the Hessen CDU to the state’s police and security services. We are well aware that Holger Bellino, Volker Bouffier, and the Hessen CDU as a whole are tired of talking about BBQs, working groups, and the uncomfortable questions raised by these affairs. We do not believe the time has yet come, however, to finish talking about such topics. Given the behaviour of current CDU in producing such a report, we are inclined to view it in the context and lineage of closeness between the Hessen CDU and the state security services. We do not believe that preventing the further disclosure of such close relationships is a good enough reason to discontinue the investigation into a case of such obvious national concern.
4. It should be concerning to every citizen of Hessen that such a report, which cites no expert witness and no methodology, should be used to disrupt the efforts of independent investigators to reach the truth of a nationally significant matter. We believe that the Yozgat family, the citizens of Hessen and Germany, as well as European civil society in general, deserve more from their elected representatives.

Demands

With the above in mind, we make the following demands:

1. To the CDU, we say: it is imperative that you reveal the author of this report and their professional credentials. No further engagement with the report is possible or meaningful until that is made clear.
2. To the parliamentary inquiry we say: invite us to present and debate our report in person, on the basis of the scientific methodologies that were used in its creation. Allow us to answer your questions directly and to address head-on the scepticism of some members of the inquiry.
3. To the Hessen security services, to the Interior Ministry, and to Mr Volker Bouffier, we say: you owe the Yozgat family an explanation for the presence of your employee, Mr Temme, at the scene of their son's murder. The parliamentary inquiry has revealed that the domestic security service (the *Landesamt fuer Verfassungschutz*) conducted an internal review of its actions in regard to right wing extremism. This should be made public. Explain to the Yozgat family and their fellow citizens how so many mistakes were made and explain to them why you protect your agents ahead of the public.
4. In four days' time, Angela Merkel will visit Hessen and, in a week, she will possibly be returned as Chancellor. To her, we say: deliver on your promise to the families of the NSU victims and in particular to the Yozgat family to reveal the full truth concerning these crimes and bring the perpetrators to justice. It is unacceptable, in light of your promises, that members of your own party, the CDU, should be acting to obstruct the investigation of the death of a German citizen in this way.

Sincerely,

Forensic Architecture