



CPT/Inf (99) 10 [Part 1]

**Report to the German Government
on the visit to Frankfurt am Main Airport
carried out by the European Committee for
the Prevention of Torture and Inhuman or
Degrading Treatment or Punishment (CPT)
from 25 to 27 May 1998**

The German Government has agreed to the publication of the CPT's report and of its observations in response.

Strasbourg, 27 May 1999

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Copy of the letter transmitting the CPT's report

Strasbourg, 23 November 1998

Dear Mr Weckerling,

In pursuance of Article 10, paragraph 1, of the European Convention for the prevention of torture and inhuman or degrading treatment or punishment, I have the honour to enclose herewith the report to the Government of the Federal Republic of Germany drawn up by the European Committee for the prevention of torture and inhuman or degrading treatment or punishment (CPT) after its visit to Germany from 25 May to 27 May 1998. The report was adopted by the CPT at its 37th meeting, held from 2 November to 6 November 1998.

The CPT requests the German authorities to provide, within six months, a report setting out details of the measures adopted to implement the recommendations in this report, and their reactions and responses to the comments and requests for information made therein (the Committee's recommendations, comments and requests for information appear in bold in the text). It would be most helpful if the German authorities could provide a copy of their report in a computer-readable form.

I am at your entire disposal if you have any questions concerning either the CPT's report or the future procedure.

Finally, I would be grateful if you could acknowledge receipt of this letter.

Yours sincerely,

Ivan ZAKINE
President of the CPT

Mr Mathias WECKERLING
Ministerialrat
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I. INTRODUCTION

A. Dates of the visit, composition of the delegation and establishments visited

1. In pursuance of Article 7 of the European Convention for the prevention of torture and inhuman or degrading treatment or punishment (hereinafter referred to as "the Convention"), a delegation of the CPT carried out a visit to Frankfurt am Main Airport, Federal Republic of Germany, from 25 to 27 May 1998. The visit was one which appeared to the Committee "to be required in the circumstances" (cf. Article 7, paragraph 1 of the Convention).

2. The visit was carried out by the following members of the CPT:

- Mrs Ingrid Lycke ELLINGSEN, Head of the Delegation, First Vice-President of the CPT,
- Mrs Emilia DRUMEVA,
- Mr Ole Vedel RASMUSSEN.

They were assisted by:

- Mrs Sybille von MÜLMAN (interpreter),
- Mrs Susan FERGUSSON-GÜNTHER (interpreter),

and accompanied by Mrs Geneviève MAYER, Deputy Secretary of the CPT, and Mr Edo KORLJAN of the CPT's Secretariat.

3. The delegation visited various detention/holding facilities at the airport under the control of the Bundesgrenzschutz (Federal Border Guard, hereinafter BGS), as well as the Customs Service detention facilities.

B. Context of the visit

4. During 1997 and first half of 1998, the CPT received reports which were critical of the conditions under which immigration detainees were held at Frankfurt am Main Airport. Those reports also contained a series of allegations of ill-treatment of such persons; more particularly, allegations were made of the use of excessive force during the enforcement of removal orders. Certain allegations were also made that non-medically qualified staff had administered tranquillizers to the persons concerned.

In the light of the available information, the CPT considered that it was necessary to carry out an ad hoc visit to the airport, in order to verify the conditions of detention of immigration detainees, as well as to examine the removal procedures.

C. Consultations held by the delegation

5. In addition to meetings with BGS officials at the airport, the delegation met senior officials of the Federal Ministry of Interior, the Federal Ministry of Justice and the Ministry of the Environment, Energy, Youth, Family and Health of the Land of Hessen.

Further, it held discussions with the Chief Public Prosecutor and other representatives of the Frankfurt am Main Public Prosecution Service. A list of the national authorities and non-governmental organisations with which the delegation held consultations is set out in the Appendix to this report.

D. Co-operation encountered during the visit

6. The CPT welcomes the spirit of co-operation of the German authorities which prevailed throughout the visit. The delegation was well received by the airport authorities, who facilitated its movements and enabled it to have access to all restricted areas of one of the largest European airports. The Committee also wishes to record its gratitude to Mr Mathias WECKERLING, the CPT's liaison officer at the Ministry of Justice, for the considerable assistance he rendered before, during and after the visit.

II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

A. Foreign nationals held under Asylum/Aliens legislation

1. Introduction

7. At the time of the visit, there were several holding/detention facilities for immigration detainees at Frankfurt am Main Airport. Those located in Inspectorates Nos. 2 and 3 were used to accommodate foreigners subject to a removal order and awaiting its implementation. Another facility, in Inspectorate No. 4, was designed for unaccompanied minors. Further, the delegation visited the main holding facility located in Building C182. This facility accommodated foreigners requesting asylum at the airport who either came from a State considered to be a safe country of origin or who did not possess a valid document for entry to German territory (Section 18a of the Asylum Procedure Act-Asylverfahrensgesetz - AsylVfG).

In the course of its visit, the delegation focused its attention on the above-mentioned categories of immigration detainees.

8. A foreigner subject to a removal order brought to the airport from within Germany was usually held for a short period (a matter of hours) in a specific detention facility located in Inspectorate 2.

9. In principle, foreigners who had requested asylum on arrival at the airport and who were subject to Section 18a of the Asylum Procedure Law, could spend up to three weeks in Building C182. This period included the time needed for the Federal Agency for the Recognition of Foreign Refugees (Bundesamt für die Anerkennung ausländischer Flüchtlinge, hereinafter Bundesamt) to take its decision and for the foreigner to make use of the appeals procedure. However, it appeared that, on occasion, foreigners could stay for much longer periods in Building C182 whilst awaiting the enforcement of a removal order. The delegation was informed that, in one recent case, a woman from Eritrea had stayed there with her child for six months. On 27 March 1998, she was finally authorised to enter Germany because of her medical condition.

10. The CPT was told on more than one occasion that persons placed in Building C182 are not deprived of their liberty during the initial period of up to three weeks, *inter alia* because they enter the asylum procedure of their own free will and are free to leave the building at any moment by taking an international flight of their choice. This opinion was based on a Constitutional Court decision of 14 May 1996, which stipulated that the presence of asylum seekers in locations intended for their accommodation in the transit area of airports, during the procedure under Section 18a AsylVfG, does not constitute a deprivation or limitation of their liberty within the meaning of Article 2, paragraph 2, second sentence and Article 104, paragraphs 1 and 2 of the German Basic Law (Grundgesetz).

As regards persons who spent longer than three weeks in Building C182, BGS officials indicated that they stayed there on a voluntary basis and signed a statement to this effect. Any foreigner whose asylum request had been rejected and who refused to sign the above-mentioned statement would be placed in a detention facility in Inspectorate 3 and might subsequently be transferred to a detention centre within Germany, in the event of the enforcement of the removal order being subject to a significant delay.

The delegation was informed that the procedure described above had been developed following certain recent decisions of the Oberlandesgericht (Higher District Court) in Frankfurt. In those decisions, the court had ruled that a stay in Building C182, after the completion of the airport procedure, constituted a deprivation of liberty in accordance with the spirit of German law, having regard to the particular living conditions in that building.

11. For its part, the CPT has always maintained that a stay in a transit or "international" zone can, depending on the circumstances, amount to a deprivation of liberty within the meaning of Article 5(1)(f) of the European Convention on Human Rights, and that consequently such zones fall within the Committee's mandate (cf. 7th Annual Report of the CPT - CPT/Inf (97) 10). The judgement delivered on 25 June 1996 by the European Court of Human Rights in the case of **Amuur against France** can be considered as vindicating this view.

In any event, the German authorities raised no objections to the CPT's delegation visiting Building C182 and interviewing both persons in respect of whom the asylum procedure had not yet been completed and persons who had remained in the building after completion of that procedure.

2. Ill-treatment

12. Persons interviewed by the delegation in the different holding/detention areas of the airport made no allegations of ill-treatment by members of the BGS. Further, there was no other evidence to suggest that the persons concerned had been ill-treated. In one case, the delegation also observed the enforcement of a removal order. This passed off without incident and the means of restraint employed during the transport to the plane (plastic handcuffs) were unexceptionable.

13. However, during the visit, the delegation did receive, from other sources, an allegation of severe physical ill-treatment of an Iranian national on 9 February 1998, during the removal procedure at the airport. It was alleged that, whilst in the detention facilities at Inspectorate 2, the person concerned was punched in the shoulder, kicked on the buttocks and had his genitals squeezed, while handcuffed in the back. After being placed in the plane, he had apparently tried to run away and was again apprehended. It is alleged that he was then carried to a police van by policemen, thrown on the floor of the van, punched in the abdomen and struck by an elbow. He was subsequently transferred to the Offenburg Clinic where he was treated.

The delegation received a copy of the relevant medical report. It contained the foreigner's allegations of ill-treatment by the police at the Frankfurt Airport and noted that he displayed a fracture of the right transverse process of the 3rd lumbar vertebra (diagnosed by an X-ray) and a contusion of the right side of the thorax. The anamnesis also recorded heavy pain on palpation of the right part of the thorax, contusion, swelling and severe pain on palpation of the right flank, and swelling of the left thumb.

In this case, a complaint of ill-treatment was lodged against BGS officers. By letters of 14 September and 28 October 1998, the German authorities have provided the CPT with a copy of certain elements of the file (a complaint addressed to the Head of the BGS at the airport, the declaration of the foreigner containing a description of the alleged ill-treatment) and indicated that an investigation by the Prosecutor is ongoing. **The CPT looks forward to being informed in due course about the outcome of this investigation.**

14. The delegation met the Chief Public Prosecutor of Frankfurt am Main in order to discuss the case referred to in paragraph 13 as well as earlier such cases about which the CPT had received information. The delegation was informed *inter alia* about the outcome of the investigations (and received copies of relevant judicial proceedings) in the case of a Nigerian national, Mr Kola BANKOLE, who died at the airport during the enforcement of a removal order in 1994. It had been concluded that there was insufficient evidence to bring charges against the BGS officers concerned. Criminal proceedings had been brought against the emergency services doctor for failure to lend assistance, but had subsequently been discontinued.

The delegation was told that two other cases concerning allegations of physical ill-treatment by BGS officers at Frankfurt airport during removal procedures were still under investigation. One of the cases concerned a Turkish national who was allegedly pulled by his hair, thrown to the floor, beaten on the chest and kidneys while handcuffed in the back, and had his head banged against the wall by officers at the airport on 11 July 1997. In the second case, it was alleged that a Turkish national was hand and footcuffed, beaten and kicked by BGS officers prior to his planned deportation, on 9 June 1997.

In the above-mentioned letters, the German authorities indicated that, in the first case, the investigations were still ongoing and that, in the second case, the Public Prosecutor's Office will shortly conclude its investigation. **The CPT trusts that in due course it will receive the relevant information concerning those cases.**

15. More generally, the delegation was informed that during 1997 and the first half of 1998, a total of 8 investigations had been initiated against BGS officers at the airport on suspicion of causing bodily harm during performance of their official duties (Section 340 of the Criminal Code). Three of the cases had been terminated in accordance with Article 170, subsection 2 of the Code of Criminal Procedure (dismissal of the complaint due to lack of evidence). The other five cases were still being investigated by the Public Prosecutor's Office in Frankfurt.

The CPT would like in due course to be informed by the German authorities of the outcome of those proceedings.

16. The CPT recognises that it will often be a difficult task to enforce a removal order in respect of a foreign national who is determined to stay on a State's territory. Law enforcement officials may on occasion have to use force in order to effect such a removal. The circumstances may be such that injuries are sustained by the person concerned (and by police officers) without this being the result of an intention to inflict ill-treatment. However, no more force than is reasonably necessary should be used. It would, in particular, be entirely unacceptable for persons subject of an removal order to be physically assaulted as a form of persuasion to board a means of transport or as a punishment for not having done so.

The CPT has received a copy of an internal instruction, dated 21 January 1998, given to all BGS officers assigned to the enforcement of removal orders. It reminds them of the need to respect the principle of proportionality when using force, prohibits certain means of coercion (gagging of the mouth, use of adhesive tape on the face) and notifies them that "removals should not be enforced at any cost" ("keine Rückführung um jeden Preis"). All such BGS officers signed the document, attesting that they have been informed of its contents.

The CPT greatly welcomes this instruction.

17. As far as authorised means of restraint are concerned, the delegation was informed that when enforcing a removal order, BGS officers could use the same ones as employed by other police forces: manual control, plastic/metal handcuffs and footcuffs, adhesive straps.

Further, BGS officers assigned to enforcement of removal orders could exceptionally use a full-face motorcycle helmet (without a visor). The CPT received copies of the detailed internal instructions of the BGS on the use of this means of restraint. It noted in particular that use of the full-face helmet is only authorised when there is a risk of self-injury by a deportee or of BGS officers being bitten. Moreover, the use of a full-face helmet can only be authorised by a senior BGS officer, and anyone to whom it is being applied had to be permanently supervised, with a view to verifying that his respiratory functions were not hindered.

The delegation noted that the use of means of restraint was generally well documented, including on a specific form. However, the latter form did not make provision for the recording of any use of a full-face helmet. **The CPT recommends that this lacuna be filled and that the length of time for which any means of restraint is applied be duly recorded.**

18. Finally, the CPT wishes to stress that any provision of medication to persons subject to a removal order must only be done on the basis of a medical decision and in accordance with medical ethics.

In this connection, **the CPT looks forward to receiving in due course information on the decision taken, as a result of the conclusion** (announced by the German authorities in their letter of 28 October 1998) **of the investigation by the Public Prosecutor's Office of Frankfurt am Main, concerning *inter alia* allegations that tranquillizers had been administered by a non-medically qualified person to foreigners subject to a removal order.**

More generally, **the CPT would like to be informed whether, under current procedures, the administration of tranquillizers to a foreigner subject to a removal order is authorised, and if so, under which conditions.**

3. Holding conditions

a. Transit Building C182

i) *conditions of stay*

19. Transit Building is a two-storey construction, with a capacity of 114 places: 70 places in the main holding facility on the first floor, and a reserve capacity of 44 places on the ground floor. At the time of the visit, 56 persons, including 3 children of pre-school age, were being accommodated in the Building. Most of them had been there for between one to two weeks; however, at the time of the delegation's visit, certain of the persons concerned had been in the building for more than a month.

With the exception of the outdoor exercise periods (cf. paragraph 23 below), the above-mentioned persons were kept locked in the Building, which was guarded by members of the BGS.

20. The main holding facility had 10 multi-occupancy bedrooms, 9 of them ranging in size from 22 to 25 m² (with 6 beds) and one bedroom of 45 m² (with 10 beds). Such an occupancy rate is acceptable, bearing in mind in particular that the rooms were never locked and were used primarily for sleeping purposes.

Both natural light and artificial lighting were satisfactory. However, the delegation heard complaints from persons held in the Building, as well as from other sources, to the effect that the ventilation left something to be desired, especially in the summer. The delegation itself noted that the rooms were rather stuffy.

In addition to beds, the rooms were equipped with chairs and cupboards. However, not all cupboards could be locked (because of a lack of padlocks) and, as a result, many of the persons concerned chose to keep their valuables with them. Further, no specific arrangements had been made to provide very young children with appropriate furniture (i.e. high chairs, cots, etc.).

There was ready access to sanitary facilities, which comprised four showers, washbasins and separate lavatories for men and women. These facilities were in a satisfactory state of cleanliness and repair. However, in view of the capacity of this main facility, the number of showers appeared to be somewhat limited.

21. During the day, persons accommodated in the Building had access to a communal/dining room. This room was spacious and equipped with a TV and a table tennis board. However, the room was poorly decorated and in a dilapidated state; it gave an impression of austerity and neglect.

22. Several complaints were heard about the quality and lack of variety of food. The delegation observed that, although the food provided was sufficient in quantity, it was rather monotonous in nature, and little account was taken of the dietary habits of the persons concerned.

23. On a more positive note, arrangements for outdoor exercise were very good. All persons accommodated in Building C182 were offered one hour of outdoor exercise, twice a day, in an area located some 15 minutes drive from the Building. The area was spacious, and equipped with wooden tables and benches.

24. There were few other activities on offer. Persons accommodated in the Building had access to only a very limited number of newspapers and magazines, and had no access to books, unless they are brought by visitors. Similarly, no toys, drawing materials or books adapted to their age were available for children kept in the building. Further, there was only one table tennis board and one TV for all of the persons accommodated. It might be added that the television received only German-speaking channels, a language which the majority of persons did not understand. Not surprisingly, for many of the persons concerned playing cards constituted the principal source of distraction.

25. In the light of the above-mentioned remarks, **the CPT recommends that the German authorities:**

- **verify the ventilation in Transit Building C182;**
- **provide a sufficient number of padlocks, thus enabling the persons accommodated there to lock the cupboards;**
- **provide very young children accommodated in the Building with furniture adapted to their age;**
- **review the present food arrangements in order better to cater for the specific dietary habits of the persons concerned;**
- **seek to offer a better range of activities to the persons accommodated in the Building by, in particular, providing a wide variety of reading material in an appropriate range of languages and diversifying the means of recreation offered (board games, etc.). The specific needs of children should also be taken into account.**

26. Finally, the delegation was informed that the German authorities plan to build new premises for the accommodation of foreigners subject to the airport procedure. The CPT would welcome such a development. Indeed, it was difficult in the current building - inter alia because of its physical location - to offer fully satisfactory living conditions to persons staying there. **The CPT would like to receive full information on the German authorities' plans in this respect.**

ii) contact with the outside world

27. Persons staying in the Transit Building were authorised to write letters, to telephone and to receive visits. Visits could take place from 8.00 am to 8.00 p.m. every day, provided they had been notified to the BGS in advance. The visiting facility does not call for any comments.

At the time of the CPT's visit, asylum seekers were not allowed to receive visits from their relatives/friends prior to a decision of the Bundesamt on the asylum request. This issue was raised by the delegation at the end of the visit and, by letter of 14 September 1998, the German authorities informed the CPT that "the provision under which third parties are not allowed to visit asylum seekers staying in the transit area before the Federal Agency for the Recognition of Foreign Refugees has reached a final decision on the asylum request has now been revoked". The CPT welcomes this decision.

iii) health care

28. Persons accommodated in the Transit Building had access on request to the airport clinic, which was well staffed and equipped. Further, in case of need, such persons could be transferred without delay to the University Hospital in Frankfurt. Medication was provided free of charge.

29. However, asylum seekers admitted to the Transit Building were not automatically seen by a member of health care staff.

For its part, the CPT wishes to stress that particular attention should be paid to the physical and psychological state of health of foreign nationals held in Transit Building C182. They may well have experienced difficult situations and even have been subjected to torture or other forms of ill-treatment. Further, medical screening on arrival would also be advisable in terms of preventive medicine.

Consequently, the CPT recommends that all asylum seekers be medically screened on their arrival at the Transit Building; such screening could be carried out by a doctor or a fully qualified nurse reporting to the doctor.

30. There was no regular presence of a qualified nurse at the Transit Building holding facility. One of the consequences of this was that the procedure of delivery of medication was not totally satisfactory.

The CPT considers that, in view of both its capacity and the profile of the persons placed there, the Transit Building holding facility should benefit from the regular presence of a qualified nurse. In addition to medical screening on arrival, this nurse could be in charge of the distribution of medication. Further, the regular presence of a nurse would enable foreigners who should be referred to a medical doctor or who are in need of psychological support, to be identified at an early stage.

Therefore, the CPT recommends that steps be taken to ensure a regular presence of a nurse at the Transit Building holding facility.

31. It should also be noted that no staff qualified to provide psychiatric or psychological care visited the Transit Building holding facility. In this respect, the delegation observed that certain persons accommodated showed signs of stress and appeared to be in need of psychological support.

The CPT recommends that the German authorities take the necessary steps to establish a psychiatric and psychological service adapted to the needs of persons accommodated in Transit Building C182.

32. The delegation was told by staff at the airport clinic that they were from time to time confronted with persons on hunger strike; there had been six such cases during the first five months of 1998. **The CPT would like to be informed of the precise medical procedure followed in such cases.**

b. Inspectorates

i) detention facility for unaccompanied minors

33. As already indicated (see paragraph 7 above), unaccompanied minors are held in Inspectorate 4. At the time of the visit, a fifteen-year old boy, who had arrived four days previously, was being accommodated there. The Inspectorate's holding facility comprised three rooms of approximately 18 m², each well lit and equipped. Toys and some reading material were available for minors. However, unlike at Transit Building C182, there was no provision for outdoor exercise on a regular basis.

34. The CPT recommends that measures be taken immediately to ensure that minors held in Inspectorate 4 for 24 hours or more are offered at least one hour of outdoor exercise per day. It also invites the German authorities to provide such minors with access to television/radio.

Further, **the CPT would like to receive detailed information on the rules concerning contact with the outside world for unaccompanied minors (access to telephone, right to visits and correspondence).**

ii) *detention facilities for aliens awaiting the enforcement of a removal order*

35. The detention facility in Inspectorate 2 possessed two large waiting rooms (respectively of 25 m² and 35 m²). They were equipped with benches and adequately lit. There were also two other cells of approximately 6 m², equipped with a platform and a mattress, with adequate ventilation and artificial light. These cells were designed for persons whom BGS officers had reason to believe could become violent during the enforcement of a removal order.

Given the short period during which persons are held in Inspectorate 2 (cf. paragraph 8), the above-mentioned facility can be described as adequate. Nevertheless, having regard to the conflicting information received by the delegation, **the CPT would like to be informed of the precise arrangements concerning the provision of food for persons held in Inspectorate 2.**

36. The delegation was informed that there are plans to build additional detention facilities, inter alia designed to accommodate families awaiting their flight. **The CPT welcomes the existence of these plans and trusts that their implementation will be given a high priority.** In this connection, the delegation observed that the detention facilities in Inspectorate 2 could become very overcrowded, as a result of which the persons concerned, including families with children, could overflow into a corridor area and a neighbouring office.

37. In Inspectorate 3, the delegation found four cells designed for foreigners coming from Transit Building C182, whose asylum request had been rejected and who had refused to sign the statement to the effect that they would voluntarily stay in the Transit Building.

Consultation of the relevant registers showed that persons were not normally held in these cells for more than one night. However, stays of up to four days in the cells, which is the maximum length of detention according to the Law of the Federal Border Guard (Bundesgrenzschutzgesetz), were not unknown.

38. The cells in question were of an acceptable size (6m²) for single occupancy. There was no access to natural light, but the cells had adequate artificial lighting. Ventilation was poor; the delegation noted that it was very stuffy inside the cells. The in-cell equipment was sufficient, there was a sleeping platform with mattress, blanket, bed linen and a pillow. Further, persons had ready access to separate toilet and washing facilities.

The CPT recommends that the German authorities:

- **improve the ventilation in the above-mentioned cells;**
- **ensure that anyone held for more than 24 hours in one of these cells is offered at least one hour of outdoor exercise per day.**

4. Fundamental safeguards against ill-treatment of persons during the airport procedure

39. Immigration detainees (whether asylum seekers or not) should - in the same way as other categories of persons deprived of their liberty - be entitled, as from the outset of their detention, to inform a person of their choice of their situation and to have access to a lawyer and a doctor. Further, they should be expressly informed, without delay and in a language they understand, of all their rights and the procedure applicable to them.

The issue of the rights of immigration detainees granted under the usual ("in-land") procedure by virtue of the Aliens Act and the Asylum Procedure Act was addressed in the CPT's reports on its previous visits to Germany (CPT/Inf (93) 13, Appendix III, paragraphs 25-26, and CPT/Inf (97) 9, paragraphs 40-42 and pages 89-90).

During the 1998 visit, the delegation focused its attention on the rights granted to asylum seekers under the airport procedure.

40. Regarding the information provided to asylum seekers on the procedure applicable to them, the delegation noted that written explanations in a wide range of languages were given to them at the outset of the procedure. It should also be recalled that asylum seekers were allowed to make telephone calls, thus being able to inform a person of their choice of their situation. As far as the right of access to a doctor is concerned, reference is made to paragraphs 28 to 31 above.

41. Concerning the right of access to a lawyer, Section 18 a (1) of the AsyVfG expressly stipulates that after the hearing by the Bundesamt, the asylum seeker should have without delay the possibility to contact a lawyer of his/her choice. In this connection, the delegation observed that a list of practising lawyers was at the disposal of asylum seekers. Further, lawyers had ready access to Transit Building C182. In this respect, the CPT was very pleased to receive confirmation from the German authorities that, since its visit to Frankfurt Airport, a contract has been concluded between the Bundesamt and the Frankfurt Lawyers Association in order to organise a legal advice bureau for asylum seekers, in accordance with a Constitutional Court decision of 14 May 1996.

42. While welcoming these measures, the CPT would nevertheless like to emphasise that the right of access to a lawyer should apply throughout the whole airport procedure, including at the first hearing with the Bundesamt. Moreover, the right of access to a lawyer should include both the right to speak with a lawyer in private and to have him/her present during interviews with all authorities concerned.

The CPT recommends that the right of access to a lawyer be revised accordingly.

43. The risk of immigration detainees being ill-treated in the countries which the CPT visits, whether at the time of apprehension, while detained, or in the context of a removal, is not the only subject of interest to the Committee. Indeed, the prohibition of torture and inhuman or degrading treatment or punishment englobes the obligation not to send a person to a country where there are substantial grounds for believing that he/she would run a real risk of being subjected to torture or ill-treatment.

In this connection, it is of paramount importance that the decision-making process as a whole offers suitable guarantees against persons being sent to countries where they run a risk of torture or ill-treatment. The applicable procedure should offer the persons concerned a real opportunity to present their cases, and the officials entrusted with handling such cases should be provided with appropriate training and should have access to objective and independent information about the human rights situation in other countries. Further, in view of the potential gravity of the interests at stake, the Committee considers that a decision involving the removal of a person from a State's territory should be appealable before another body of an independent nature prior to its implementation.

44. Under the airport procedure, an asylum seeker is first interviewed by the Bundesamt. After the hearing, the Bundesamt has to make a decision on the asylum request within two days. If the application is rejected as manifestly ill-founded, the asylum seeker will be notified in writing of the decision. The person concerned is also informed in writing of the possibility to lodge an appeal against the decision with the nearest administrative court within three days. During this stage of the procedure, the person cannot be removed from the country and the administrative court has fourteen days in which to make a decision on the appeal.

In this connection, the CPT would like to receive full information on the procedure before the administrative court when considering appeals against negative decisions of the Bundesamt, and, in particular, if the asylum seeker has the right to be heard by the Court.

45. With regard to the training of the officials entrusted with handling asylum requests, the delegation was told that three out of ten officials concerned have received specific training in recognising victims of torture/ill-treatment and in interviewing techniques. **The CPT recommends that the German authorities take measures to extend such training to all officials concerned.**

46. More generally, in their response to the report on the CPT's second visit, the German authorities gave an account of the legal provisions ensuring that the persons are not sent to countries where they run a risk of torture or ill-treatment.

However, the delegation heard from several sources that the efficiency with which the relevant authorities gathered information about whether persons may be at risk and about countries which are regarded as safe could be enhanced. It is also noteworthy that the delegation was informed by representatives of the Bundesamt that contacts with UNHCR were less frequent than had been the case in the past.

The CPT would like to receive the comments of the German authorities on this subject, as well as information on any monitoring or follow-up carried out by the German authorities following decisions concerning removal/expulsion of a foreign national from Germany.

B. Customs Service detention facilities at Frankfurt am Main Airport

47. In the course of the visit to Frankfurt am Main Airport, the delegation also examined the detention facilities used for persons apprehended on suspicion of having smuggled drugs.

The conditions within these new facilities do not call for any particular comment by the CPT.

APPENDIX

List of the national authorities and non-governmental organisations
with which the delegation held consultations

Federal authorities

- Mr Walter SPERNER, Inspekteur des Bundesgrenzschutzes, Ministry of Interior
- Mr KAHNERT, Leitender Polizeidirektor, BGS, Ministry of Interior
- Mr Udo HANSEN, Leitender Polizeidirektor, BGS, Ministry of Interior
- Mr Jurgen REIMANN, Leitender Polizeidirektor, BGS, Ministry of Interior
- Mr KLEMANN, Polizeioberrat, BGS, Ministry of Interior

- Mr MÜLLER, Ministerialrat, Aliens Department, Ministry of Interior

- Mr Mathias WECKERLING, Ministerialrat, Ministry of Justice

Land of Hessen authorities

- Mr HUMMEL, State Ministry of the Environment, Energy, Youth, Family and Health
- Mr RACKY, State Ministry of the Environment, Energy, Youth, Family and Health

Public Prosecutor's Office at Frankfurt am Main

- Mr Hubert HARTH, Chief Public Prosecutor, and other representatives of the Public Prosecutor's Office at Frankfurt am Main

Non-governmental organisations

- Pro-Asyl