

**Observations**  
**by the Federal Government**  
**on the recommendations, comments and**  
**requests for information made by the CPT**  
**on the occasion of its visit to the**  
**detention/holding facilities at**  
**Frankfurt am Main Airport**  
**from 25 to 27 May 1998**

## **Introduction**

The Federal Government hereby submits their observations on the recommendations, comments and requests for information contained in the CPT's report on its visit to Frankfurt am Main Airport from 25 to 27 May 1998.

From 25 to 27 May 1998, a delegation of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) visited various detention/holding facilities at Frankfurt am Main Airport under the control of the Bundesgrenzschutz (Federal Border Guard, hereinafter BGS), as well as the Customs Service detention facilities.

The CPT report was adopted on 5 November 1998 and forwarded to the Federal Republic of Germany on 23 November 1998.

In agreement with the Federal states concerned (Bundeslaender) the Federal Government emphasizes the importance of preventing torture as well as cruel or inhuman treatment. They appreciate the CPT's third visit to the Federal Republic of Germany.

The Federal Republic of Germany, for their part, also wish to underline the excellent spirit of cooperation during the delegation's visit to Germany.

The Federal Government thank the CPT for its recommendations and are looking forward to continuing the dialogue with the CPT. They note with satisfaction that the delegation has not heard of any allegations of torture.

The following observations follow the report's layout. The recommendations, comments and requests for information are printed in italics, the observations by the Federal Government in standard type.

**Re II A. 2.: Ill-treatment of foreign nationals held under Asylum/Aliens legislation**

1. re paragraph 13:

The CPT requests

- *information about the outcome of the investigation proceedings being conducted against BGS officers for alleged severe ill-treatment of an Iranian national on 9 February 1998.*

The proceedings against BGS officers for alleged severe ill-treatment of an Iranian national are still pending. The crew of the relevant Lufthansa flight no. 600 to Tehran have, in the meantime, been examined as witnesses. At present, the final report is being prepared by the border authority in Frankfurt am Main (Grenzschutzamt). After receipt of the final report, the public prosecution office at Frankfurt am Main Regional Court will consider whether further investigations are needed or whether the proceedings can be terminated.

2. re paragraph 14:

The CPT requests

- *information concerning cases of alleged physical ill-treatment of two Turkish nationals by BGS officers at Frankfurt airport during removal proceedings.*

The investigation proceedings with respect to the Turkish national Z. D. – incident on 11 July 1997 (case no. 790 UJs 3219/97) – are still pending.

With respect to the case of Mr. A. T. – incident on 9 June 1997 – the public prosecution office at Frankfurt am Main Regional Court terminated the investigation proceedings on 9 November 1998 pursuant to section 170 (2) Code of Criminal Procedure because there is no sufficient ground for suspicion of commission of a criminal offence. The lawyer of the person injured has lodged an appeal from this decision; at present, the case records are with the public prosecution office at Frankfurt am Main Higher Regional Court where the appeal will be decided.

3. re paragraph 15:

The CPT requests

- *information about the outcome of the investigation proceedings initiated against BGS officers at the airport on suspicion of causing bodily harm during performance of their official duties (section 340 Criminal Code).*

Three of the five investigation proceedings which were still pending at the time of the visit have, in the interim, been terminated pursuant to section 170(2) Code of Criminal Procedure on the ground that there is no sufficient suspicion of a criminal offence; investigations with respect to the two remaining cases are still in progress.

Moreover, since mid 1998, two further investigation proceedings have been initiated against BGS officers at Frankfurt am Main airport on suspicion of causing bodily harm during performance of their official duties; one of these proceedings has, in the interim, been terminated pursuant to section 170(2) Code of Criminal Procedure.

4. re paragraph 17:

The CPT recommends

- *that on the BGS forms documenting the use of means of restraint, provision be also made for the recording of the use of a full-face motorcycle helmet and that the length of time for which any means of restraint is applied be duly recorded.*

The CPT's recommendation that the use of the full-face motorcycle helmet and the length of time for which any means of restraint is applied be also recorded on the forms documenting the removal procedure, was put into practice immediately after the CPT's visit.

5. re paragraph 18:

The CPT requests

- *information on the decision taken, as a result of the conclusion 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.*

The point raised by the CPT concerns an investigation proceeding being conducted against S. K. An indictment against this person was preferred before Frankfurt Local Court on 5 November 1998. S. K. was a student who pretended to be a medical practitioner although he had only studied medicine for a few terms. Thus he misled the officers involved. The court proceeding has not yet been conducted.

- *information as to whether, under current procedures, the administration of tranquillizers to a foreigner subject to a removal order is authorized, and if so, under which conditions.*

The administration of medicines for the purpose of the removal is not authorized. If medicines need to be taken from a medical point of view and cannot be self-administered by the person to be removed, the removal will be effected in the company of a medical practitioner.

### **Re II.A.3.a.: Holding conditions in Transit Building C182**

Preliminary remarks:

Asylum seekers in the facilities are catered for and looked after by the Airport Social Service (Flughafensozialdienst – FSD), an organization formed by the Frankfurt am Main Protestant Regional Association and the Frankfurt am Main "Caritas" Association. Expenditures are reimbursed by the Land Hessen. At first, reimbursement took place without admitting legal responsibility. In its decision of 25 February 1999 in the case of Flughafen AG (Airport) (with Land Hessen as intervener) v. the Federal Republic of Germany, the Federal Court of Justice found that Land Hessen has to bear the costs of accommodating and catering for asylum-seeking foreigners in the transit facilities.

1. re paragraph 21:

- *Condition of the communal/dining room*

The room was last thoroughly refurbished in January 1997 by workmen of the competent Hessen institution for initial reception located in Schwalbach (HEAE). This institution took the initiative in further rearranging and redecorating the room.

2. re paragraph 25:

The CPT recommends

- *to verify the ventilation in Transit Building C 182.*

Ventilation is a structural problem of the accommodation facilities. This imperfect situation could be improved only at very high costs. In view of the new premises planned, the expenditure would not be justifiable.

- *to provide a sufficient number of padlocks, thus enabling the persons accommodated there to lock the cupboards.*

A basic set of such locks had been available, but once the shortage that had occurred in the meantime had been reported, remedial action was taken immediately.

- *to provide very young children accommodated in the Building with furniture adapted to their age.*

On 22 December 1998 the Airport Social Service (FSD) was given four travel cots by the HEAE Schwalbach. Highchairs were also provided.

- *to review the present food arrangements in order better to cater for the specific dietary habits of the persons concerned.*

Due to the pending decision of the Federal Court of Justice with respect to the obligation to bear the costs, there had been a delay in the invitation of tenders concerning food.

New tenders (for food supplies, meals, serving of meals) will soon be invited. The FSD, which is the organization in charge of looking after the persons accommodated in the airport facility, will be consulted with respect to their needs. On the basis of an agreement dated 9 December 1998 the FSD is authorized to order an appropriate amount of supplementary food items in addition to the standard food supply, if need be, to cater for the persons accommodated in the airport facility.

- *to 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.*

The staff of the HEAE Schwalbach children's playroom usually provide hourly playroom activities twice a week in the airport facility. Presently, together with the FSD, the actual need for toys is being assessed and consideration is being given to providing reading material in various languages. For receiving television a satellite receiver has been installed.

3. re paragraph 26:

The CPT requests

- *full information on the plans to build new premises for the accommodation of foreigners subject to the airport procedure.*

The present facilities in the Buildings C 182/183 used to accommodate foreigners seeking asylum pursuant to section 18a Asylum Procedure Act have been regarded from the very beginning as a temporary emergency measure. Removal of the facility to the area of the former airbase premises is now being envisaged. The specific planning has already started.

At the initiative of the Federal Ministry of the Interior a working group has been established to improve the overall conditions of the airport procedure; the first working group meeting took place on 4 March 1999. The aim is to find a better and permanent solution for the accommodation of asylum seekers at Frankfurt airport. Present plans focus on a building located on the former premises of the US Air

Base, which could be available in one year's time after rebuilding and which is well-suited as a facility for improved accommodation.

At present, the Federal Ministry of the Interior and the Land Hessen are coordinating the layout of the rooms.

4. re paragraphs 29 and 30:

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;*
- *that steps be taken to ensure a regular presence of a nurse at the Transit Building holding facility.*

Problems arising from a lack of medical screening on arrival have not come to our attention so far. Where an illness is suspected the persons concerned are examined in the airport clinic. At present, consideration is being given on how the problem of a "regular presence of a medical doctor/a nurse" can be solved in a reasonable and needs-oriented manner. There has been the suggestion of having a medical doctor/a nurse come to the airport facility daily, or three times a week. A final decision will be made after the arrangement has been tested over a period of several months.

5. re paragraph 31:

The CPT recommends

- *that the necessary steps be taken to establish a psychiatric and psychological service adapted to the needs of persons accommodated in Transit Building C182.*

With respect to persons staying for a short period of time, usually there is no need for psychological or psychiatric support. Persons with psychological peculiarities will be taken to a special hospital for psychological or psychiatric treatment and will

therefore leave the airport facility during that period of time. Useful social support (even in extreme cases) is provided by the FSD through their own specialist staff.

6. re paragraph 32:

The CPT requests

- *information on the medical procedure followed in cases where persons are on hunger strike.*

In cases of hunger strike, the question as to whether medical and/or psychological help has to be called in, is decided in cooperation with the FSD, which monitors the situation in the airport facility 24 hours a day and is thus able, in case of problems, to step in immediately and arrange for the necessary medical and/or psychological help to be provided (including interpreters). In the past, this procedure has proved effective, even in extreme situations (massive hunger strike). Therefore, this procedure will also be followed in the future.

**Re II.A.3.b.: Holding conditions in the Inspectorates**

**Re II.A.3.b.i.: Detention facility for unaccompanied minors**

Re paragraph 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 and that such minors be provided with access to television/radio.*

The CPT requests

- *information on the rules concerning contact with the outside world for unaccompanied minors (access to telephone, right to visits and correspondence).*

The minors accommodated in BGS Inspectorate 4 (BGS I 4) at Frankfurt am Main Airport are given the opportunity, accompanied by the persons looking after them or by BGS police officers, to go to a sports hall located on the premises of the US Army. If there is no such opportunity, they can, together with the staff on duty, either move about in the area of the terminal or go to the area of Transit III (outdoor area).

In addition, minors are given the opportunity to use the television set in the offices of BGS I 4. If they wish, they are allowed to have visitors. These contacts are made on an informal basis. If need be, minors are assisted by BGS staff in making such contacts. Where necessary, the official telephone may be used for this purpose to make short calls. In this connection, it is worth mentioning that minors are paid some pocket money pursuant to section 3(1), fourth sentence, of the Asylum Seekers' Benefits Act. The costing unit is the Hesse institution for the initial reception of refugees.

**Re II A. 3. b. ii.: Detention facilities for aliens awaiting the enforcement of a removal order**

Re paragraph 35: Detention facility in Inspectorate 2:

The CPT requests

- *to be informed of the precise arrangements concerning the provision of food for persons held in Inspectorate 2.*

There are no arrangements for providing food in BGS I 2 for persons to be returned because of the shortness of their stay which normally does not exceed 2 hours. If the transportation command of the Land Police requests early transfer to the BGS, they have to contact the BGS in advance. In this context the details – including regulation of the provision of food by the Land Police – will be arranged.

If the persons to be returned are already on the premises of the BGS and ask for food, they will be given food against payment. If their flight is delayed, the BGS will organise food by means of vouchers provided by the airline. In urgent cases, the BGS will provide food themselves. The costs will be borne by the competent aliens authority.

Re paragraph 36:

The CPT requests

- *information concerning the implementation of plans to build additional detention facilities inter alia designed to accommodate families awaiting their flight.*

In the autumn of 1998, the facilities of BGS1 2 for the purpose of return were enlarged. Inter alia, a separate room to accommodate families has been made available and is being used accordingly.

Re paragraph 38: Detention facilities in Inspectorate 3:

The CPT recommends

- *to improve the ventilation in the cells in Inspectorate 3.*

Improvement of the ventilation is not possible due to structural conditions. However, other options are being examined in order to comply with this recommendation.

- *to 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.*

The cases of persons held in the detention facilities of the Federal Border Guard's Office at Frankfurt am Main Airport are exclusively cases of detention, i.e. not of imprisonment. According to the applicable law the period of detention may only last until the end of the following day (maximum 48 hours). So far experience has shown that the duration of detention normally does not exceed a maximum of 10 hours. Arrangements for outdoor exercise have therefore not been necessary so far.

Re paragraph 42:

The CPT recommends

- *to revise the right of access to a lawyer accordingly.*

The regulation in section 18a (1) of the Asylum Procedure Act aims at enabling an asylum seeker to explain the reasons for his flight as soon as possible without being influenced by third parties, if possible. In its decision of 14 May 1996 – 2 BvR 1516/93 – the Federal Constitutional Court found this regulation to be in accordance with the constitution and stated the following:

„The constitution does not require the applicant – in derogation of section 18a (1), fifth sentence, Asylum Procedure Act – to be given an opportunity, prior to being heard by the Federal Office, to contact a person of his own choice authorized to practice law and to be informed of this possibility, nor does it require the hearing to be held only after the applicant has been able to use this opportunity. Parliament attached special importance to the fact that the applicant initially explains the reasons for his flight spontaneously and coherently without being influenced by third parties. It is appropriate for Parliament to attach special importance to such statements so that the credibility of the applicant and the credibility of his statements can be assessed.“

As far as we know, through the Social Service at the airport, the asylum seeker can make sure that he obtains the services of a lawyer, unless this has been done by other persons, e.g. relatives. When the lawyer contacts the BGS to announce a meeting with his client the BGS will first ask the asylum seeker whether he is actually being, or wants to be, represented by this lawyer. If the answer is positive, the lawyer can at any time meet his client in the transit area. These meetings are held in the rooms of the social service or of the BGS. These meetings are of course not attended by any representative of the authorities involved in the proceedings.

Re paragraph 44:

#### The CPT requests

- *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.*

The procedure before the administrative court after a negative decision by the Federal Office for the Recognition of Foreign Refugees under the so-called “airport

proceedings“, based on the Asylum Procedure Act in the version promulgated on 27 July 1993 (Federal Law Gazette I page 1361), last amended by the Act of 29 October 1997 (Federal Law Gazette I page 2584) – AsylVfG – and the Rules of the Administrative Courts in the version promulgated on 19 March 1991 (Federal Law Gazette I page 686), last amended by the Act of 22 December 1997 (Federal Law Gazette I page 3224) – VwGO – is as follows:

In the case of asylum seekers from a safe country of origin and of those without a valid passport or surrogate passport the decision on entry is first postponed (section 18a (1), first and second sentences, AsylVfG). These persons are immediately given the opportunity to lodge an asylum application with the airport branch office of the Federal Office. There they should immediately be heard in person (section 18a (1), third and fourth sentences, AsylVfG). Subsequently they are immediately given the opportunity to contact a person of their choice authorized to practice law, unless they have previously made sure that they obtain the services of a lawyer (section 18a (1), fifth sentence, AsylVfG). If the Federal Office informs the border office that it is not able to decide the case within a short time or has not taken a decision on the asylum application within two days after the date of its being filed, the asylum seeker is permitted to enter the country (cf. Section 18a (6) nos. 1 and 2 AsylVfG). The same applies if the Federal Offices recognizes the applicant as a person entitled to asylum or finds that there are obstacles to deportation as specified in section 51 (1) of the Aliens Act (prohibition of deportation to countries where the applicant's life or liberty is in jeopardy on grounds of his race, religion, nationality, membership of a certain social group, or political conviction) or considers the application as (simply) unfounded. If, however, the Federal Office turns down the application as manifestly unfounded, the asylum seeker is refused leave to enter (section 18a (3), first sentence, AsylVfG) and, as a precautionary measure, notified of the fact that he will be deported should he enter the country (section 18a (2) AsylVfG). The notifications of the refusal of asylum and refusal of leave to enter are served by the border authority (section 18a (3), second sentence, AsylVfG).

Within three days after the date of service the asylum seeker may file an application for being granted temporary relief with the locally competent administrative court (section 18a (4), first sentence, section 18a (5), first sentence, AsylVfG). The application may also be filed with the border authority and the applicant must be informed thereof (section 18a (4), second and third sentences, AsylVfG). Where an application is filed in due time, the refusal of leave to enter cannot be enforced prior to the court decision (section 18a (4), seventh sentence, AsylVfG).

The application for being granted temporary relief is decided by a judge sitting alone (section 76 (4) AsylVfG). He is to decide on the basis of the files without hearing the asylum seeker again (section 18a (4), fifth sentence, AsylVfG). The duty of the judge sitting alone to investigate ex officio is restricted (section 18a (4), sixth sentence, in conjunction with section 36 (4), second sentence, AsylVfG). He may leave unconsidered the production of facts and evidence in accordance with section 18a (4), sixth sentence, in conjunction with section 36 (4), third sentence, AsylVfG. He may grant temporary relief only if „there are serious doubts as to the legality of the administrative act against which a complaint has been filed“ (section 18a (4), sixth sentence, in conjunction with section 36 (4), first sentence, AsylVfG).

A decision has been given when the operative provisions of the decision have been signed by the judge and are available at the registry of the chamber of the administrative court (section 18a (4), seventh sentence, in conjunction with section 36 (3), ninth sentence, AsylVfG). If the application is rejected, the refusal of leave to enter is enforceable; the administrative court, however, must later state the reasons for its decision in this case as well (section 122 (2), second sentence, VwGO). If the court has not taken a decision on the application within two weeks, the applicant shall be permitted to enter the country (section 18a (6), no. 3, AsylVfG).

In the framework of accelerated administrative court proceedings in the case of entry by air within the meaning of section 18a AsylVfG the following principles have to be observed according to constitutional court decisions (essentially: BVerfG judgment of 14 May 1996 – 2 BvR 1516/93 – [BverfGE 94, page 166 et seqq.]):

- In temporary relief proceedings the administrative court has to review the assessment of the Federal Office for the Recognition of Foreign Refugees that the claim for recognition as a person entitled to asylum was manifestly unfounded.
- Effective relief sought before the administrative courts (Article 19 (4) Basic Law) in the airport proceedings requires the Federal Office and the border authority to make arrangements so that judicial relief is not made unreasonably difficult or even frustrated by prevailing circumstances (in particular isolation of the asylum seeker in the transit area, particularly short time limits, language problems). Inter

alia, an applicant not represented by a lawyer must be given the opportunity to take advantage of counselling in matters of asylum law in order to be able to assess the prospects of success of any legal remedy. It further ensues from Article 19 (4) and Article 103 (1) of the Basic Law that the asylum seeker must have the opportunity to influence the decision of the administrative court by stating the reasons which he asserts for his application for temporary relief. Therefore, the court – if the asylum seeker so requests – has to extend the time limit so that he can state the reasons for his application which must be lodged within three days.

- Section 18a (4), fifth sentence, of the AsylVfG provides that decisions on applications under section 80 (5) of the VwGO should in principle be issued in writing. This is to rule out the practice sometimes observed in the past by which the accelerated proceedings were conducted together with the proceedings on the main issue as a sort of accelerated overall proceeding. This provision is supplemented by section 36 (3), fifth sentence, of the AsylVfG, which is to ensure that the decision on the application is given without delay. As a rule, the decision should be given within one week after expiry of the time limit for leaving the country specified in section 36 (1) of the AsylVfG. This period of time is necessary and normally sufficient for the court to decide on the application for suspension of deportation. The decision can be given quickly as the administrative files are already available to the court when the application is received, the extent of the examination is limited and the reasons for the decision need not be submitted in writing within one week. If, by way of exception, it is not possible to decide within one week on account of special circumstances, the time limit may be extended, on each occasion, by another week. This must be decided by the chamber by means of an order. This, however, does not affect the competence of the judge sitting alone for the decision on the merits. Irrespective of the time limits for the decision it is ensured by section 18a (4), seventh sentence, AsylVfG that refusal of leave to enter is not enforced prior to the court decision.
- In temporary relief proceedings (section 18a (4) and (5) in conjunction with section 36 (4) AsylVfG) the administrative courts have to examine whether possible breaches of procedural rules justify serious doubts as to the legality of the decision given by the authority. An error in the proceedings of the Federal

Office may therefore be a reason for the administrative court to hear the applicant in person, which is not prohibited by section 18a (4), fifth sentence, AsylVfG.

- „Serious doubts“ within the meaning of Article 16a (4), first sentence, of the Basic Law exist where there are essential grounds for believing that the act concerned is not likely to withstand legal review. The meaning of „serious doubts“ must be determined independently in the context of the totality of Article 16a of the Basic Law. The decisive factor is not an inner sense of doubt - however qualified - whose intensity is not measurable. What does count is the weight of the factors causing the doubts. Therefore, the judicial review must lead to the result that at the time of the administrative court's decision there could not be any reasonable doubt as to the correctness of the actual findings of the Federal Office for the Recognition of Foreign Refugees and that according to established legal opinion, given the facts of the case, the turning down of the asylum application was even imperative. In addition, the administrative court must explain why the applicant's submission in the accelerated proceedings cannot affect the rejection of the asylum application as manifestly unfounded. To the extent that the asylum seeker's submission is not limited to merely a general contradiction regarding the conditions in his home country, but contains concrete allegations justifying the assumption of political persecution contrary to the presumption of Article 16a (3), first sentence, of the Basic Law, these facts must be taken note of and appraised by the administrative court seized of the case. In addition, section 53 (1) and (4) of the Aliens Act in conjunction with the provisions of the Convention for the Protection of Human Rights and Fundamental Freedoms of 4 November 1950 (Federal Law Gazette 1952 II page 686) provide protection against deportation if there is a concrete danger of inhuman treatment. Such protection also applies in cases where a decision has to be given in the airport proceedings on whether the conditions of section 53 of the Aliens Act are fulfilled (section 31 (3) AsylVfG).
- Any asylum seeker whose application has been rejected and whose recourse to the administrative court has not been successful either, may lodge an application against the last-instance decision of the administrative court (section 80 AsylVfG) with the Federal Constitutional Court for issuance of a temporary injunction pursuant to section 32 of the Law on the Federal Constitutional Court in the version promulgated on 11 August 1993 (Federal Law Gazette I page 1473) –

BVerfGG – allowing him to enter the country pending the proceedings on the main issue or at least to stay in the airport pending the decision on the constitutional complaint. However, due to section 18a (4), seventh sentence, in conjunction with section 36 (3), ninth sentence, AsylVfG, the Federal Constitutional Court, like the foreigner himself, often does not know the reasons for the decision of the administrative court before the foreigner has to leave Germany. In addition, there is often not enough time for the Federal Constitutional Court to decide on the constitutional complaint itself or on the application pursuant to section 32 BVerfGG prior to the foreigner's departure. In such situations the Federal Constitutional Court will normally ask the competent authorities informally to suspend enforcement of the refusal of leave to enter in order to have sufficient time for a decision.

Re paragraph 45:

The CPT recommends

- *to take measures to extend training in recognising victims of torture and ill-treatment and in interviewing techniques to all officials concerned.*

The situation of traumatised refugees is taken into account by the Federal Office by employing case workers with special tasks, especially regarding the subject groups „hearing of victims of torture and traumatised persons“ and „hearing of women who suffered from gender-specific persecution“. These officials have undergone training in legal issues as well as introductory training in psychological issues relating to these subjects. The psychological training focused in particular on the subject „possibilities of recognising traumatisation, medical examination and recognition of traumas“. 39 case workers have been appointed and trained for each of the two subject groups. It is their task to carry out the questioning of traumatised persons and, if necessary, refer the case to another official. These specialised officials have a high degree of sensitivity as regards the special situation of traumatised persons and take this into account both in establishing the facts and in the decision-making.

The introductory psychological training and the legal training regarding these subjects will in future be offered to all case workers of the Federal Office. This is to

ensure that Federal Office practice takes into account the situation of traumatised refugees.

Re paragraph 46:

The CPT requests

- *comments on the efficiency with which information is gathered about whether persons may be at risk and about countries which are regarded as safe,*
- *information on any monitoring or follow-up carried out following a decision concerning removal/expulsion of a foreign national from Germany.*

The Federal Office makes use of all available sources of information in considering whether a foreign national to be deported will be at risk of being subjected to torture or ill-treatment in the country of destination.

In the G 2 group of the Federal Office – information, analysis, library – the following units deal with the gathering and evaluation of information:

- Unit G 2.1 analysis of Central, Eastern and Southern Europe
- Unit G 2.2 analysis of Islamic states
- Unit G 2.3 analysis of non-Islamic Africa and other states
- Unit G 2.4 analysis of Turkey
- Unit G 2.5 transmission of information, documentation, library
- Examination group for the evaluation of decisions.

Hence, the specially trained officials of the Federal Office can, when preparing their decisions, consult a comprehensive information and documentation data base. They have at their disposal, among other things, reports from amnesty international and other human rights organisations, from scientific institutes, surveys of court decisions and numerous other sources of information as well as reports from the German Foreign Office. The evaluation of all these sources of information will then give a meaningful overall picture.

Since, prior to deportation, the Länder interior authorities and the administrative courts examine whether the person concerned may be at risk of being subjected to political persecution or inhuman treatment after his return, the German authorities in principle do not carry out any monitoring once the foreigner has returned to his country of origin – last but not least because of the high number of returns (over 64,000 in 1997). If, however, German authorities receive concrete indications from the deported person, his family or third parties that a deported person after his return to his home country – contrary to the assessment of the interior authorities and the administrative courts – has been subjected to ill-treatment or other forms of treatment in violation of human rights, the German Foreign Office will look into the matter and ask the German missions abroad to investigate the facts. If necessary, the Foreign Office will intervene with the authorities of the host country to see to it that deported persons are treated in conformity with human rights.

The request for monitoring a deported asylum seeker is normally made by the competent aliens authority or directorate of the Federal Border Guard to the Foreign Office and the mission abroad. In a few cases the Federal Office has itself requested such monitoring.