

# Assessment of the Day-to-Day Operations and Management of the Pool of Forced- Return Monitors in Frontex

Report

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## Executive Summary

### Introduction

On 7 January 2017, the pool of forced-return monitors (hereinafter referred to as the Pool) was established by the European Border and Coast Guard Agency (Frontex), in line with Article 29 of the European Border and Coast Guard (EBCG) Regulation (EU) 2016/1624 in force at the time, and on the basis of the outcomes of the Forced-Return Monitoring I project (FReM I)<sup>1</sup>. The Pool is managed by Frontex and consists of monitors from the bodies of Member State responsible for carrying out forced-return monitoring activities in accordance with Article 8(6) of Directive 2008/115/EC. Since the Pool was established, the Forced-Return Monitoring projects (FReM II and III) have been supporting Frontex in institutionalising the Pool within the structure of the organisation.

The day-to-day coordination, including the deployment of monitors to specific forced-return operations, is largely handled to varying degrees by: the Capability Programming Office (CAP), the European Centre for Returns (ECRet) and the Fundamental Rights Office (FRO). Currently, the training of Pool monitors is conducted within the framework of the FReM III project, in close cooperation with the aforementioned Frontex Units as well as the Training Unit (TRU).

One of the aims of the FReM III project is to provide a final concept for the Pool's management structure and procedures, contributing to its sustainability, improved day-to-day management, transparency and independence. The Pool's operational and procedural effectiveness and efficiency will be enhanced by improved communication, information and reporting tools. The full conceptualisation of the approach for the management of the Pool and all the procedures and activities will be handed over to Frontex by the end of the FReM III project. As part of the project and in order to achieve this goal, an assessment of how the Pool currently functions was conducted in 2019.

### Methodology

The assessment of how the Pool of forced-return monitors is currently functioning is based on a multi-method study conducted between February and September 2019 as part of the FReM III project. The aim of the study is twofold. First, it aims to better understand and describe how the Pool currently operates and how it is managed. Second, it seeks to identify possible gaps and needs, as well as good practices in its operations and management, with a view to suggesting possible approaches that contribute to the Pool's sustainability, improved day-to-day management, transparency and independence.

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<sup>1</sup> FReM I was conducted from 2013 to 2015 by the International Centre for Migration Policy Development (ICMPD) in co-operation with Austria, Bulgaria, Greece, Hungary, Luxembourg, Malta, Portugal and Switzerland.



The study was designed to take into account the experience and views of two main groups of stakeholders involved in the Pool's current operations and management. It included semi-structured interviews with key Frontex personnel involved in the day-to-day operations and management and an online survey addressed to forced-return monitors who are nominated to the Pool. In addition, the study makes use of various reports that were produced during the FReM projects and available at the time of drafting, in particular: the Annual Lessons Learned Meeting (ALL) reports from the FReM I, FReM II and FReM III projects, the Good Practice Report on Fundamental Rights Compliance in Forced-Return Operations from FReM II and the Project Steering Group Meeting reports from FReM III.

Drawing from the assessment that was carried out, this report documents its main findings and recommendations and takes into account several factors: the Pool as it currently functions within Frontex, the suggestions from monitors' who are part of the Pool (as collected through the online survey), and relevant European legislation.

## **Main findings and recommendations**

### Nominations to the Pool

MSs are responsible for nominating monitors to the Pool<sup>2</sup>. Nominations are made by the national bodies responsible for conducting forced-return monitoring activities in accordance with national legislation transposing Article 8(6) of the Return Directive (2008/115/EC). In general, nominations are communicated to the CAP via the respective National Frontex Points of Contact (NFPOCs) in MSs. However, the national monitoring institutions can also send the nominations directly to the CAP.

While the process of nominating monitors to the Pool is one that is open and ongoing, respondents raised a number of issues they felt need addressing to improve this process. They are the:

1. Effectiveness and transparency of procedures in place for nominating monitors to the Pool;
2. Transparency regarding the criteria for nominating monitors to the Pool;
3. Monitors' limited monitoring experience at the time they are nominated to the Pool.

Considering the legal framework within which the Pool functions, in particular Article 51(2) of Regulation (EU) 2019/1896, the following is recommended to improve the current procedures for nominating monitors to the Pool:

1. Remind MSs, e.g. on a yearly basis, that providing nominations to the Pool is an ongoing process i.e. that the call is an open one and monitors can be nominated at any time;

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<sup>2</sup> For more details, see Section 4.2 *Monitors' nomination, by their respective Member States, to be part of the Pool* of this report.



2. Ensure that information about the nomination procedure is uploaded on to the communication, coordination and information platform;
3. Upload the general profile of a Pool monitor on to the communication, coordination and information platform;
4. Consider including the national nomination criteria in the respective national factsheets;
5. The National Monitoring Bodies (NMBs) should:
  - a. Continue using the opportunity of the training and other activities offered through the Pool to train their staff;
  - b. Continue nominating monitors to the Pool so they gain international experience;
  - c. Ensure that the monitors proactively use the opportunity of pilot monitoring missions to gain practical experience.

### Training of Pool monitors

In order to be eligible for deployment from the Pool, monitors need to undergo training on forced-return monitoring<sup>3</sup>. This training was developed within the framework of the FReM projects and is currently being delivered to Pool monitors as part of the FReM III project. Even if the monitors have not received the FReM training, they can still be nominated to the Pool. However, they can only be deployed once they have received this training which is currently offered once or twice a year.

Pool monitors considered the basic training to be extremely useful as it addresses a wide range of relevant topics and includes numerous practical sessions. Thus, it is a sound introduction to forced-return monitoring, providing both a theoretical and practical basis for the work of the Pool monitors. At the same time, 4.5 days of training is not considered sufficient to cover all the topics of concern to a monitor. In addition to their basic training, monitors require further support in their ongoing professional development.

Therefore, it is recommended that:

1. Monitors are provided with additional practical training possibilities, including a refresher course every three years;
2. Targeted training opportunities on specific topics of concern, including targeted training modules on monitoring forced-return by scheduled flights are organised on request and based on need;
3. The opportunity is maintained for monitors to exchange experiences with other stakeholders involved in returns (e.g. escorts);
4. Training content is made available online;
5. An e-learning platform is provided.

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<sup>3</sup> For more details, see Section 4.1 *Training of Pool monitors*.



### Monthly call for monitors

Monitors from the Pool can only be deployed based on a request made by a MS. The requesting MS – either the organising MS (OMS) or a participating MS (PMS) – indicates its need for a monitor in a specific return operation (RO) via the Frontex Application for Returns (FAR). The FAR system automatically sends notifications to the CAP regarding MSs' requests for monitors. CAP collects the requests for monitors and prepares a monthly call (i.e. a letter) for monitors for operations the following month which is sent to the NFPOCs of all MSs who contribute monitors to the Pool, with copies to the respective NMBs. The call requests the NMBs indicate which operations they would be available for and interested in nominating monitors to. MSs then usually have one week to respond to the call. The NMBs can nominate monitors to specific operations listed in the call. Soon after the one-week deadline, CAP gathers all the nominations, prepares an overview of the upcoming return operations that month and calls a meeting with ECRet and FRO. Based on a number of criteria, CAP, ECRet and FRO assign the available monitors to specific ROs. CAP informs MSs, via the NFPOCs, where each monitor has been assigned.

While the organisational aspect of the monthly calls functions well, monitors identified a couple of issues with the monthly call which need addressing. These are:

1. Insufficient information in the Frontex monthly call for the monitors and their institutions to decide whether they can monitor a specific RO listed in the call;
2. A general lack of communication/information shared with monitors at this stage.

Considering the limited operational information about an upcoming RO at the time Frontex sends the monthly call to the MSs, as well as the communication channels established under the EBCG Regulation that exist between Frontex and MSs, it is recommended that:

1. Information is shared on how the Pool functions, e.g. organise regular meetings during which all the procedures, workflows and responsibilities are explained to the monitors (including information on the FAR system and communication between the OMS, PMS and Frontex);
2. Information regarding requests for monitoring ROs by scheduled flights is shared, e.g. request by email, specific training for monitoring schedules flights etc.;
3. Monitors are informed about the procedures and limitations in the preparation of a Frontex-coordinated RO;
4. As much information as possible is included in the FAR when requesting monitors for upcoming ROs;
5. The individual monitors assigned to the ROs are included in any communication from an early stage onwards;
6. Information is duly shared with the monitoring bodies as well as information on the RO;
7. Monitors are informed about the general criteria used to assign monitors to specific ROs;
8. The selection criteria are shared via the web-based communication, coordination and information platform for Pool monitors;
9. This platform is used to improve communication with the monitors.





### Preparation for deployment

The responsibility for requesting a monitor lies with the MSs. When monitors are deployed in the framework of the Pool, they are deployed based on a request made by a MS. As explained above, the NMBs are responsible for nominating monitors to upcoming ROs, listed in the monthly call. However, the selection of monitors that have been nominated for ROs, and their subsequent deployment from the Pool, is made and coordinated by Frontex. In this sense, Frontex is responsible for selecting and coordinating the deployment, but the responsibility for requesting a monitor remains with the MSs.

With regard to preparation for deployment, some of the issues raised by respondents were similar to those regarding the monthly call for monitors:

1. Insufficient information on an upcoming RO;
2. Insufficient time between receipt of relevant operational information about an upcoming RO and the actual start of that RO;
3. Non-responsiveness or late response from the OMS's contact point.

To address these issues, it is recommended that:

1. The OMS regularly updates the information relevant for an upcoming RO on to the FAR as soon as possible, i.e. as soon as new information becomes available, it should be uploaded on to the FAR and shared with the monitor;
2. The OMS Escort Leader (EL) shares the Implementation Plan (IP) with the monitor as soon as it is available;
3. Standardised procedures for the MSs are put in place on how to communicate with the monitors in the Pool, including the kind of information to provide to them;
4. The standardised procedures in place are communicated to the monitors.

### Reporting and reimbursement of monitoring costs

Currently, Frontex provides monitors in the Pool with a reporting template in Excel and a guide to the reporting process. The template is not mandatory and at the moment, monitors/NMBs may choose the format for monitors' reports. In line with existing legal requirements, the monitors should submit a report on each forced-return operation to the Frontex Executive Director, the Frontex Fundamental Rights Officer and the relevant national authorities of all the Member States involved in a given operation. If necessary, the Executive Director and relevant national authorities should ensure appropriate follow-up<sup>4</sup>. To comply with Article 50(5) of the EBCG Regulation, ECRet also instructs the

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<sup>4</sup> According to Article 50(5) of Regulation (EU) 2019/1896, "[t]he forced-return monitor shall submit a report on each forced-return operation to the executive director, the fundamental rights officer and to the competent national authorities of all the Member States involved in the given operation. If necessary, appropriate follow-up shall be ensured by the executive director and competent national authorities respectively".



Pool monitors to send their monitoring reports<sup>5</sup> to ECRet which then uploads the reports on to the FAR so that the relevant national authorities of all the MSs involved in a given operation (the institutions enforcing the return decision) have access to the information.

Monitors identified two main issues regarding the reporting process of monitoring a forced-return operation through the Pool, namely that:

1. The monitoring template provided by FRO is not user-friendly for reporting. Rather, it is a check-list on what to monitor;
2. The overall communication and feedback to monitors regarding their monitoring reports needs improvement.

To address these issues, it is recommended that:

1. Monitors use the same reporting format;
2. The same reporting standards are applied by all monitors;
3. Training on the usage of the reporting tools is carried out;
4. Receipt of monitoring reports is acknowledged;
5. Monitors are given feedback about their reports;
6. Recommendations from monitoring reports are followed-up;
7. There is transparency regarding the monitoring recommendations;
8. Good practices are shared and replicated;
9. A newsletter is sent out periodically informing monitors about the ways in which their reports and recommendations have been used.

All costs related to participation in a forced-return operation, including the flight ticket to and from the hub/port of departure, accommodation, daily subsistence allowance (DSA), monitoring fee, insurance and any other related costs are either born directly by the requesting MS or reimbursed on an individual basis/agreement between the requesting MS and the monitoring body in line with the national rules governing the monitoring body in the respective MS.

Currently, there are two methods for financing the monitoring costs:

1. Primarily, all costs and mission arrangements related to monitoring the RO are borne directly by the requesting MS and Frontex reimburses the MS after the RO. An estimation of the costs must be sent by the NMB to the requesting MS before the RO.
2. Another option is that the monitoring institution covers the costs and mission arrangements based on a specific and direct agreement with the requesting MS. In this case, the monitor(s) and/or the respective monitoring body organises the flight ticket to/from the hub/port of

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<sup>5</sup> In addition to sending their monitoring reports to the Frontex executive director, the fundamental rights officer and to the competent national authorities of all the MSs involved in the given RO, the monitors are instructed to send their monitoring reports also to [FJRCC@frontex.europa.eu](mailto:FJRCC@frontex.europa.eu).



departure and the accommodation themselves and pre-pays all related costs. After the forced-return operation, all costs are submitted to the requesting MS for reimbursement. The requesting MS will then include these costs in their claim to Frontex for reimbursement.

With regard to reimbursement of monitoring costs, monitors identified three main issues:

1. Compensation for monitors' working time, i.e. salary for time spent while on mission and for writing the report after the mission;
2. Cumbersome reimbursement procedures;
3. Standardisation of monitors' fees, i.e. some monitors receive a monitoring fee, while others do not. Even though it is nationally regulated, some monitors were concerned about the unequal treatment.

To address these issues, it is recommended that:

1. All Pool monitors are informed and know about the rules for reimbursement;
2. A targeted workshop to discuss how to reach a possible standard monitoring fee for monitors is organised.

In addition to some issues regarding transparency of procedures put in place at different stages of the process, a few monitors also raised the issue of independence of the Pool. Article 51(1) of Regulation (EU) 2019/1896 stipulates that Frontex shall "[...]constitute a pool of forced-return monitors from competent bodies of the Member States who carry out forced-return monitoring activities in accordance with Article 8(6) of Directive 2008/115/EC[...]". The Pool, therefore, consists of independent monitors, from competent monitoring bodies in MSs and the nomination to the Pool and the individual oversight is within the competence of the monitors' home institutions.

However, a few monitors highlighted that there is a need for an "external, independent control mechanism" and suggested to "[...]place the Frontex Pool with an independent organi[s]ation that deals with deployment and payments ". Moreover, they suggested that "safeguarding the independence of monitors [...] should be further discussed and addressed" to "[avoid] [f]urther internalisation of the monitoring process [...]".



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## Acronyms and Clarification of Terms<sup>6</sup>

Acronym (if available)	Term	Definition
	Arrival phase	Covers the period starting from arrival in the country of return and ending when the returnee(s) are handed over to the national authority in the country of return.
BUT	Back-up team	A group of escorts (usually provided by the organising Member State) acting as support to the escorts of both organising Member State and participating Member State(s) (i.e. assisting if necessary, during violent incidents, or during lavatory procedures, etc.).
BUT-L	Back-up team leader	Leader of the back-up team.
	Briefing	A meeting organised before the in-flight phase, with all relevant participants, in particular the escort leaders, the back-up team leader, the monitor(s), doctors and the Frontex representative, to provide information about the latest developments regarding the implementation of the return operation.
	Coercive Measures	<ul style="list-style-type: none"> <li>- The use of coercive measures must be legal, necessary and proportional, not exceeding reasonable force, and with due respect for the returnee's rights, dignity and their physical integrity. The use of coercive measures takes appropriate account of the individual circumstances of each person, such as their vulnerable condition.</li> <li>- Coercive measures may be used only when strictly necessary on returnees who refuse or resist removal or in response to an immediate and serious risk of the returnee escaping, causing injury to themselves or to a third party, or causing damage to property.</li> <li>- Coercive measures likely to compromise or threaten the possibility of the returnees to breathe normally are prohibited. The relevant escort leader periodically</li> </ul>

<sup>6</sup> The terms are taken from the Guide for Joint Return Operations by Air coordinated by Frontex (2016) and complemented by terms and definitions from the Return Directive (Directive 2008/115/EC), the Code of Conduct for Return Operations and Return Interventions coordinated and organised by Frontex (2018), The European Border and Coast Guard Regulation (2019) and the FReM Guidelines and Monitoring Tools for Forced-Return Monitors (2015). In addition, the following websites were consulted:

<https://www.coe.int/en/web/cpt/faqs#what-is-the-cpt;>

<https://fra.europa.eu/en/about-fra;>

[https://frontex.europa.eu/about-frontex/organisation/structure/;](https://frontex.europa.eu/about-frontex/organisation/structure/)





		<p>reviews the continuing necessity and proportionality of deploying coercive measures, and particularly of applying means of restraint, when these are used for prolonged periods, based on a dynamic risk assessment.</p> <ul style="list-style-type: none"> <li>- The Organising Member State (OMS) and Frontex provide for a list of authorized restraints in the operational documents in advance of the Return Operation (RO) or Return Intervention (RI). Where applicable, this list must be distributed to the relevant Participating Member States (PMSs) prior to the RO or RI (see also further below: Implementation Plan). The use of sedatives to facilitate the removal is forbidden without prejudice to emergency measures under medical supervision to ensure flight security.</li> <li>- No PMS participants are required to use coercive measures not allowed under their national legislation even if those measures are accepted by the OMS and Frontex for that particular RO or RI (see also further below: Implementation Plan).</li> <li>- Returnees must not be threatened in order for them to board a means of transport. They must not be punished for not having done so without prejudice to sanctions provided for by applicable legislation.</li> </ul>
CRO	Collecting return operation	A return operation initiated by an organising Member State, with aircraft and escorts provided by a country of return and returnees handed over to them by the organising Member State/participating Member State on the territory of a Member State.
	Charter of Fundamental Rights of the European Union	Charter of Fundamental Rights of the European Union 2012/C 326/02.
	Council Decision 2004/573/EC	The Council Decision of 29 April 2004 on the organisation of joint flights for removals from the territory of two or more Member States of third-country nationals who are subjects of individual removal orders.
CoR	Country of Return	<ul style="list-style-type: none"> <li>-The country of origin of the third-country national; or</li> <li>- A country of transit in accordance with Community or bilateral readmission agreements or other arrangements; or</li> <li>- Another third country, to which the third country national concerned voluntarily decides to return and in which he or she will be accepted.</li> </ul>
CPT	European Committee for the Prevention of Torture	The CPT is a specialised independent monitoring body of the Council of Europe (CoE). It consists of independent, impartial experts such as lawyers, medical doctors, and specialists in prison or police matters. The



	and Inhuman or Degrading Treatment or Punishment	CPT visits places of detention in the Member States of the Council of Europe to see how persons deprived of their liberty are treated. Examples of places of detention are: police stations, prisons, juvenile detention centres, immigration detention centres, psychiatric hospitals, or social care homes.
	Debriefing	A meeting organised during the return-flight phase, with all relevant participants, in particular the escort leaders, the back-up team leader, the monitor(s), and the Frontex representative, in order to assess the implementation of the return operation. If necessary, doctors should also participate.
	Deployment	The use of something or someone in an effective way, placement or arrangement (as of military personnel or equipment) in position for a particular use or purpose.
	Embarkation airport	An airport where passengers from a national contingent embark on a return operation.
EL	Escort leader	Leader of the national escort team and responsible, within his/her team, for the adequate implementation of the return operation. He/she will be the highest authority/decision maker after the captain.
EO	Escort officer	The security personnel, including persons employed by a private contractor, responsible for accompanying the returnees, in particular during their transportation out of the Member State.
FAR	Frontex Application for Return	The FAR covers all return activities, from the expression of interest for pre-return activities and return (return operation) from a Member State (MS) in the rolling operational plan, up to the effective implementation of return operations.
Frontex	European Border and Coast Guard Agency	<p>European Border and Coast Guard Agency is the new name for the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union established by Regulation (EC) No 2007/2004. Its activities are based on the European Border and Coast Guard Regulation No 1896/2019.</p> <p>The Agency shall ensure European integrated border management at the external borders with a view to managing the crossing of the external borders efficiently. This includes addressing migratory challenges and potential future threats at those borders, thereby contributing to addressing serious crime with a cross-border dimension, to ensure a high level of internal security within the Union in full respect for fundamental</p>



		rights, while safeguarding the free movement of persons within it.
	Forced-return	The obligatory return of an individual to the country of origin, transit, or third country (i.e. country of return), on the basis of an administrative or judicial act.
FRA	European Union Agency for Fundamental Rights	The European Union established FRA to provide independent, evidence-based assistance and expertise on fundamental rights to EU institutions and Member States. FRA is an independent EU body, funded by the Union's budget.
	Head of Operation	The person appointed by the organising Member State as having the overall responsibility for a joint return operation. Where no particular person is appointed, the escort leader of the organising Member State is to be considered as the head of the joint return operation.
	Hub	An airport where organising Member State/participating Member State passengers gather and embark on a joint return operation or collecting return operation and from where the airplane will transport all participants and returnees to the country of return.
IP	Implementation Plan	<p>Prior to the implementation day of the joint return operation, Frontex draws up an Implementation Plan in cooperation with the organising Member State and distributes it to the participating Member State. The organising Member State and all participating Member State escort leaders are responsible for informing each joint return operation participant in his/her contingent about the content of the Implementation Plan, as well as the annexes, and for ensuring that they comply with the plan. This obligation is specified in each Implementation Plan.</p> <p>The Implementation Plan includes a list of authorised restraints and equipment permitted during the joint return operation that was decided by the organising Member State together with Frontex in accordance with its national legislation, international law and EU law, in particular the Charter of Fundamental Rights. However, no participating Member State should use coercive measures that its legislation does not allow, even if those measures are accepted by the organising Member State for that particular operation.</p> <p>The Implementation Plan has the following annexes available to all participants in the joint return operation: serious incident report template; code of conduct</p>



		applicable to all persons participating in Frontex operational activities; code of conduct for return operations and return interventions coordinated or organized by Frontex; complaint form for potential violations of fundamental rights; rules of the complaints mechanism; list of potential fundamental rights violations during operations.
	In-flight phase	Starts with the closure of the doors in the means of transportation (e.g. aircraft, bus, train, ship) used for the removal and ends with the arrival at the final destination (country of return or, in case of an unsuccessful return, back to the country of departure – in case of joint return operations back to the hub), including the transit via another country.
JRO	Joint Return Operation by Air	An operation aimed at the removal of irregularly present third-country nationals by air. The initiative for such an operation is to be taken by one Member State, which will invite the participation of others.
MS	Member State	A Member State of the European Union or a Country associated with the implementation, application and development of the Schengen acquis (Schengen Associated Country).
	Monitor	Refers to the person who observes a joint return operation in accordance with the effective monitoring system established by Member States pursuant to Article 8(6) of the Return Directive.
	Monitoring	“Monitoring” is a broad term describing the active collection, verification and immediate use of information to address human rights issues. Human rights monitoring includes gathering information about incidents, observing events, visiting sites, discussions with authorities to obtain information and to pursue remedies and other immediate follow-up (Office of the High Commissioner for Human Rights, United Nations). In this context, the return operation is observed, analysed and reported on whether it was conducted in a humane manner, respectful of the dignity of the person and in compliance with fundamental rights as enshrined in the EU Charter of Fundamental Rights and applicable international human rights law. The monitor of forced-return operations has no powers of intervention and thus should never intervene.
OMS	Organising Member State(s)	The Member State which is responsible for the organisation of a joint return operation.
	Participant	Any person, including escorts, monitors, interpreters and medical staff, taking part in a joint return operation, other than the returnee.



PMS	Participating Member State(s)	The Member State which participates in a joint return operation organised by the organising Member State.
	Pre-departure phase	According to the Annex of Decision 2004/573/EC, it is the period starting with transportation to the airport. It covers the period from leaving the (temporary) holding/detention facility until embarkation on the means of transportation (e.g. aircraft, bus, train, ship).
	Removal	The enforcement of the obligation to return, namely the physical transportation out of the Member State.
	Return	The process of a third-country national going back – whether in voluntary compliance with an obligation to return, or enforced – to his or her country of origin, or a country of transit – in accordance with Community or bilateral readmission agreements or other arrangements, or another third country, to which the third-country national concerned voluntarily decides to return and in which he or she will be accepted.
	Return decision	An administrative or judicial decision or act, stating or declaring the stay of a third-country national to be illegal and imposing or stating an obligation to return that respects Directive 2008/115/EC.
	Return Directive	Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals.
	Returnee	An irregularly staying third-country national who is the subject of a return decision issued by a Member State.
	Return-flight phase	The period starting after the handover procedure in the country of return until arrival at the airport of departure (hub in the case of joint return operations).
	Return operation	An operation that is coordinated by the European Border and Coast Guard Agency and involves technical and operational reinforcement being provided by one or more Member States under which returnees from one or more Member States are returned either on a forced or voluntary basis.
	Requesting Member State	The Member State requesting resources from the Pool, in this case requesting a forced-return monitor in the framework of the Pool
	Risk assessment	The organising Member State and each participating Member State carry out an individual and non-systematic risk assessment of their returnees (based on factors such as previous behaviour and removal history). Such assessment should be used to determine the number of escorts and ground staff and the size of the back-up team



		in order to ensure security during all the joint return operation phases, as well as for determining the possible use of coercive measures.
	Dynamic risk assessment	An ongoing risk assessment (see risk assessment above).
	Rolling operational plan	A rolling forecast for a joint return operation drawn up by Frontex on the basis of Member States' needs for assistance or coordination in order to provide the requesting Member States with the necessary operational support.
	Seating plan	Distribution of seats on a specific type of aircraft between all Member States taking part in a specific joint return operation.
TCN	Third-country national	Any person who is not a citizen of the European Union within the meaning of Art. 20(1) of Treaty on the Functioning of the European Union (TFEU) and who is not a person enjoying the Union right to free movement, as defined in Art. 2(5) of the Schengen Borders Code.
VD	Voluntary departure	In the context of the Union return acquis refers to the voluntary compliance with an obligation to return to a third country.
	Voluntary return	The assisted or independent return to the country of origin, transit, or third country, based on the free will of the returnee.
	Vulnerable person	Minors, unaccompanied minors, persons with disabilities, elderly people, pregnant women, victims of human trafficking, single parents with small children, persons with medical conditions, and persons who have been subjected to torture, rape, or other serious forms of psychological, physical, or sexual violence.



## Abbreviations

CAP – Capability Programming Office (Frontex)

DCP – Direct Contact Point

DSA – Daily Subsistence Allowance

EBCG – European Border and Coast Guard

ECRet – European Centre for Returns (Frontex)

FReM – Forced-Return Monitoring

FRO – Fundamental Rights Office (Frontex)

Frontex – European Border and Coast Guard Agency

ICMPD – International Centre for Migration Policy Development

NGO – Non-Governmental Organisation

NPM – National Preventive Mechanism

NMB – National Monitoring Body

NFPOC – National Frontex Point of Contact

OPCAT – Optional Protocol to the United Nations Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment

TRU – Training Unit (Frontex)



## Introduction

The Return Directive (Directive 2008/115/EC) is the main piece of EU legislation governing the procedures and criteria to be applied by European Member States (MSs) when returning irregularly staying third-country nationals (TCNs). The Return Directive stipulates that “Member States shall issue a return decision to any third-country national staying illegally on their territory” (Article 6(1)). Once that return decision has been issued, “Member States shall take all necessary measures to enforce the return decision if no period for voluntary departure has been granted [...] or if the obligation to return has not been complied with within the period for voluntary departure granted [...]” (Article 8(1)). At the same time, in cases where MSs “use — as a last resort — coercive measures to carry out the removal of a third-country national who resists removal, such measures shall be proportionate and shall not exceed reasonable force. They shall be implemented as provided for in national legislation in accordance with fundamental rights and with due respect for the dignity and physical integrity of the third-country national concerned” (Article 8(4)). Also, in order to comply with the provisions of Article 8(4), the Return Directive states that “Member States shall provide for an effective forced-return monitoring system” (Article 8(6)).

The Return Directive’s deadline for transposition into national law and practice was 24 December 2010. Some Member States and Schengen Associated Countries (both referred to as MSs)<sup>7</sup> had already established national forced-return monitoring systems by this deadline, while others were, or are still, in the process of aligning their national systems with the specific requirements set out in the Return Directive. MSs currently use a variety of systems. In a number of MSs, the duty to monitor forced-return operations lies with the National Preventive Mechanisms (NPM) that implement the Optional Protocol to the United Nations (UN) Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT); in other countries, non-governmental organisations (NGOs), internal police monitoring systems or the national ombudsperson (who can sometimes also be NPMs) are involved in monitoring forced-return operations.

Against this background, in 2011, the International Centre for Migration Policy Development (ICMPD), together with Matrix, conducted a “Comparative Study on Best Practices in the Field of Forced Return Monitoring”. Responding to the increasing importance and complexity of return flights organised by Frontex, one of the recommendations of this study was to establish “a pool of monitors across EU Member States” (Matrix & ICMPD, 2011: 41). In 2013, the same organisations conducted an “Evaluation on the application of the Return Directive (2008/115/EC)”. One of the evaluation’s

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<sup>7</sup> In this report, the term Member States (MSs) includes Member States of the European Union (EU MS) and countries associated with the implementation, application and development of the Schengen acquis (Schengen Associates Counties/SACs).





recommendations pointed to the need to harmonise forced-return monitoring systems in MSs and to address weaknesses of national monitoring systems (EC, 2013: 214).

In light of the above, ICMPD submitted a project proposal under the European Return Fund – Community Actions 2012, with the aim of supporting MSs in the implementation of Article 8(6) of the EU Return Directive. ICMPD was awarded the project and implemented the “Forced-Return Monitoring” (FReM) project – later referred to as FReM I – from 2013 to 2015, in co-operation with Austria, Bulgaria, Greece, Hungary, Luxembourg, Malta, Portugal and Switzerland. The objective was to facilitate the transposition of Article 8(6) of the EU Return Directive (2008/115/EC), which states that EU Member States are obliged to provide for an “effective forced-return monitoring system”. In particular, it aimed to create a pilot pool of independent forced-return monitors, available to the countries needing to implement a forced-return monitoring system.

Following this, the Forced-Return Monitoring II project (FReM II<sup>8</sup>) was carried out from 2016 to 2018, to support Frontex in the implementation of Article 29 (pool of forced-return monitors) and Article 36 (training of staff involved in return-related tasks) of the European Border and Coast Guard (EBCG) Regulation 2016/1624 in force at the time<sup>9</sup>. Building on the results of the FReM I project, its main objectives were to establish a pool of forced-return monitors (subsequently referred to as the Pool) within the European Border and Coast Guard Agency (Frontex) and support MSs in improving their national forced-return monitoring systems.

The current Forced-Return Monitoring project, known as FReM III, which runs until May 2021, is a direct follow-up to the FReM I and II projects and further contributes to a functioning EU Return System in line with Return Directive (2008/115/EC). The project’s main target group and direct beneficiaries are the monitoring bodies and institutions in the project partner countries responsible for effective forced-return monitoring in line with Article 8(6) of Return Directive (2008/115/EC). The relevant Frontex units such as the Fundamental Rights Office (FRO), the European Centre for Returns (ECRet), the Training Unit (TRU) and the Capability Programming Office (CAP) also benefit from the project. In addition, the project targets escort officers in MSs and forced-return monitoring bodies and institutions in selected third-countries. The project has two specific objectives – one targeting the Frontex Pool and one the national forced-return monitoring systems. Through the close involvement of the responsible institutions and units in both the MSs and Frontex in all activities, the relevant stakeholders directly benefit from the project. The project also takes a similar approach for third-country monitoring bodies and institutions and escort officers in MSs.

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<sup>8</sup> In partnership with Austria, Bulgaria, the Czech Republic, Finland, Germany, Greece, Hungary, Latvia, Luxembourg, Malta, the Netherlands, Portugal, Romania, Sweden and Switzerland as well as Frontex and FRA. The project was co-funded by the Asylum, Migration and Integration Fund (AMIF) of the EU.

<sup>9</sup> While this refers to Regulation (EU) 2016/1624, in force at the time of the implementation of the FReM II project, the most recent legal act, Regulation (EU) 2019/1896, foresees the pool of forced-return monitors in Article 51 and the training of monitors in Article 62. This regulation entered into force in December 2019.



Therefore, the FReM III project supports Frontex to further develop the Pool in line with EBCG Regulation (EU) 2019/1896 and MSs with targeted needs-based national activities, enhancing their monitoring capacity and enabling them to further implement the Return Directive.

In line with, Article 29 of the EBCG Regulation (EU) 2016/1624 in force at the time and on the basis of the outcomes of the FReM I project, the Pool was established within the Frontex' structures. On 7 January 2017 the Pool became operational. The Pool was supported and further strengthened through the FReM II project. The day-to-day management and deployment of monitors to specific forced-return operations is largely handled to varying degrees, by the Capability Programming Office (CAP), the European Centre for Returns (ECRet) and the Fundamental Rights Office (FRO). The Training Unit (TRU) is involved in all training-related activities<sup>10</sup>.

One of the aims of the FReM III project is to provide a final concept for the Pool's management structure and procedures, contributing to its sustainability, improved day-to-day management, transparency and independence. The Pool's operational and procedural effectiveness and efficiency will be enhanced by improved communication, information and reporting tools. The full conceptualisation of the approach for the management of the Pool and all the procedures and activities will be handed over to Frontex by the end of the FReM III project. In order to achieve this goal, an assessment of how the Pool currently functions was conducted in 2019 as part of the project.

The report at hand presents the findings of that assessment. The document is structured as follows: the **first chapter** provides background information concerning forced-return and the legal basis for the Pool. The **second chapter** presents the methodology that was used for the assessment. The **third chapter** describes how the Pool is currently managed and how it functions, summarising the main responsibilities of the Frontex units involved in its day-to-day administration. The **fourth chapter** presents the findings of the assessment and follows the operational logic for monitoring a return operation – from the nomination of monitors to the Pool, to preparations for their deployment, to monitoring and reporting. The **fifth chapter** summarises the main findings and recommendations. Annexes to this report present the quantitative data collected for the assessment and the main research tools employed.

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<sup>10</sup> Training activities for forced-return monitors who are deployed within the framework of the Pool are currently organised in the FReM III project.



## 1. Background

In 2015, there was a six-fold increase in illegal border crossings to the EU over the previous year, when almost 800 thousand and over one million illegal crossings were detected at EU land and sea borders respectively (European Parliament, n.a.). According to Eurostat data, in 2015 more than 2.1 million third country nationals (TCNs) were found to reside illegally in the EU-28. This was an almost threefold increase from 2014 (Eurostat, 2019). As a reaction to what was seen as a “migratory crisis [in 2015, but also in response to] terrorist attacks in several member states” (Council of the European Union, 2019a), the EU responded through a series of “concrete measures to safeguard Europe’s security” (Council of the European Union, 2019a). “A proposal for significantly enhancing the mandate of the European Agency for the Management of Operational Cooperation at the External Borders was presented [by the European Commission] in December 2015 and negotiated swiftly in 2016. The resulting regulation, Regulation (EU) 2016/1624 of the European Parliament and of the Council, entered into force on 6 October 2016” (Regulation (EU) 2019/1986). The process for the subsequent revision of the European Border and Coast Guard (EBCG) Regulation was launched in September 2018 (Frontex, 2019). On 8 November 2019, the Council of the European Union adopted the revised EBCG Regulation<sup>11</sup> which entered into force in December 2019. It provides for an even broader mandate for the European Border and Coast Guard Agency (Frontex), and a strengthening of the agency’s staff and technical equipment (Council of the European Union, 2019b). The new Regulation enhances the Frontex standing corps stating that it:

*“should gradually but swiftly reach the strategic target of having a capacity of 10 000 operational staff [...], with executive powers, where applicable, to effectively support Member States on the ground in their efforts to protect the external borders, to fight cross-border crime and to significantly step up the effective and sustainable return of irregular migrants” (Regulation (EU) 2019/1986).*

As mentioned previously, the principal EU legal act regulating return-related issues, including standards under Article 19 of the EU Charter of Fundamental Rights, is Return Directive (2008/115/EC). The Directive (2008/115/EC) speaks of “return” as a general term, which is defined in Article 3(3) as the process of a:

*“[...] third-country national going back – whether in voluntary compliance with an obligation to return, or enforced – to his or her country of origin, or a country of transit in accordance with Community or bilateral readmission agreements or other arrangements, or another third country, to which the third-country national concerned voluntarily decides to return and in which he or she will be accepted” .*

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<sup>11</sup> Regulation (EU) 2019/1896 of the European Parliament and of the Council of 13 November 2019 on the European Border and Coast Guard and repealing Regulations (EU) No 1052/2013 and (EU) 2016/1624.



The Return Handbook<sup>12</sup> which accompanies the Return Directive (2008/115/EC) and other elements of the EU return acquis provide practical commentary and guidance on implementation of each provision of the Directive and beyond.

More specifically, Council Decision 2004/573/EC sets out the rules for organising return flights for third-country nationals who are the subject of removal orders. In the context of operations coordinated by Frontex, the Guide for Joint Return Operations (JRO) by air provides operational guidance for the implementation of JROs<sup>13</sup>. Regulation (EU) 2016/1624 made the return of irregular migrants a priority area for the work of Frontex by enabling the Agency to considerably scale up the support it provides to the MSs and to develop new activities in the field of (forced-)returns. This was further enhanced by Regulation (EU) 2019/1986. Article 50(1) of this Regulation states that:

*“Without entering into the merits of return decisions, which remain the sole responsibility of the Member States, the Agency shall provide Member States with technical and operational assistance and shall ensure the coordination or the organisation of return operations, including through the chartering of aircraft for the purpose of such operations and organising returns on scheduled flights or by other means of transport. The Agency may, on its own initiative and with the agreement of the Member State concerned, coordinate or organise return operations”.*

Article 51(1) states that:

*“the Agency shall, after taking due account of the opinion of the fundamental rights officer, constitute a pool of forced-return monitors from competent bodies of the Member States who carry out forced-return monitoring activities in accordance with Article 8(6) of Directive 2008/115/EC and who have been trained in accordance with Article 62 of this Regulation”.*

In other words, the Regulation states that the Pool shall be managed and coordinated by Frontex.

Frontex is the EU Agency charged with ensuring coherent European integrated border management.<sup>14</sup> The Frontex Management Board is composed of representatives of the heads of the border authorities of the relevant MSs and two members of the European Commission<sup>15</sup>. The Management Board, among

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<sup>12</sup> Annex to the Commission Recommendation establishing a common “Return Handbook” (legally non-binding) to be used by Member States’ competent authorities when carrying out return-related tasks (EC C(2017) 6505).

<sup>13</sup> According to information shared with the FREM project team, the Guide for Joint Return Operations is currently under revision and will become a guide for return operations and interventions.

<sup>14</sup> For more information on the origin and tasks of Frontex, visit: <https://frontex.europa.eu/about-frontex/origin-tasks/> (accessed 30 November 2019).

<sup>15</sup> According to Article 101(1) of Regulation (EU) 2019/1896, “[w]ithout prejudice to paragraph 3, the management board shall be composed of one representative of each Member State and two representatives of the Commission, each with a right to vote”.



other responsibilities, appoints the Executive Director who manages Frontex and the Deputy Executive Directors who assist the Executive Director<sup>16</sup>.

Return-related matters are currently among the responsibilities of the:

- European Centre for Returns (ECRet) which is part of the Operational Response Division;
- Capability Programming Office (CAP) and the Training Unit (TRU) which are part of the Capacity Building Division;
- Independent Fundamental Rights Officer (FRO) who reports directly to the Management Board.

Chapter 3 of this report, on the *Current Structure and Management of the Pool in Frontex*, describes the functions of each of these Units with regard to the Pool and the ways they cooperate to ensure the Pool functions.

Table 1 below shows the total number of return-operations coordinated and co-financed by Frontex in 2018 and 2019, as well as the number of monitored operations.

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<sup>16</sup> For more information on the organisational structure of Frontex, visit: <https://frontex.europa.eu/about-frontex/organisation/structure/> (accessed 23 November 2019). In Regulation (EU) 2019/1896, the functions and powers of the executive director are specified in Article 106. Furthermore, according to Article 107(3), “The executive director shall be assisted by three deputy executive directors”.



Table 1: Frontex-coordinated and co-financed forced-return operations in 2018 and 2019

	2018		2019	
	Forced-return operations	Monitored operations	Forced-return operations	Monitored operations
	140 JROs*	133 monitored	63 JROs	62 monitored
	67 CROs**	67 monitored	64 CROs	64 monitored
	138 NROs***	30 monitored	203 NROs	134 monitored
<b>TOTAL ROs</b>	<b>345</b>	<b>230 monitored</b>	<b>330</b>	<b>260 monitored</b>

Source: Data for 2018 is from the Sixth Annual Report of the Frontex Consultative Forum on Fundamental Rights (Frontex 2019: 39) and data for 2019 was obtained through a direct request for data submitted to Frontex.

NOTES: \* JROs – return operations in which two or more Member States jointly return third country nationals by using the same means of transportation.

\*\* CROs – return operations in which means of transport and the escorts are provided by the country of return. CROs can be implemented as joint or national return operations.

\*\*\* NROs – return operations carried out by a single Member State.

In 2018, Frontex coordinated 345 return operations by charter flights returning 12.245 third-country nationals. The top five organising member states (OMSs) in 2018 were Germany, Italy, France, Austria and Spain. In 2018, these MSs organised 322 return operations, which constitutes over 93% of the total number of Frontex-coordinated return operations organised in 2018. In 2018, 38 different third countries of return were reached which is an increase of 19% compared to 2017. The top five third countries of return in 2018 were Albania, Tunisia, Georgia, Serbia and Kosovo<sup>17</sup>. Four new destinations were reached for the first time: Belarus, Burkina Faso, Guinea-Bissau and Senegal. Fifty percent of returnees were returned via joint return operations (JROs), 30% via national return operations (NROs) and 20% via collecting return operations (CROs). Regarding the Frontex project on returns by

<sup>17</sup> This designation is without prejudice to positions on status, and is in line with UNSCR 1244/1999 and the ICJ Opinion on the Kosovo declaration of independence.



scheduled flights<sup>18</sup>, between 8 December 2017 and 10 June 2019, a total of 2.490 operations took place returning 3.423 third-country nationals from 21 MSs.<sup>19</sup>

In 2018, in almost 67% of the Frontex-coordinated return operations, at least one monitor was present (230 out of the 345 return operations). In 2017, monitors were present in 55% of return operations. Of the operations conducted in 2018, 100% of CROs were monitored (67 out of 67); 95% of JROs were monitored (133 out of 140); and 22% of NROs were monitored (30 out of 138). The majority of CROs were organised by Germany and France – both countries remain the main beneficiaries of the Pool. Overall, 119 return operations (34%) were monitored by monitors from the Pool, 78 return operations (23%) by national monitors and 34 (10%) were monitored by both monitors from the Pool and national monitors.<sup>20</sup>

In 2019<sup>21</sup> Frontex coordinated 330 return operations by charter flights returning 10.903 third-country nationals. The top five OMSs in 2019 were Germany, Italy, France, Austria and Spain. These MSs organised 306 return operations, which constitutes over 92% of the total. Forty different third countries of return were reached which is an increase of 5.3% compared to 2018. The top five third countries of return were Albania, Tunisia, Georgia, Nigeria and Afghanistan. Four new destinations were reached for the first time: Angola, Ethiopia, Kenya and Mauritania. Twenty percent of returnees were returned in JROs, 58% in NROs and 22% in CROs. The only MSs organizing CROs were Germany and France.

In almost 79% of the return operations coordinated by Frontex, at least one monitor was present (260 out of the 330). This is an increase compared to 2018, when monitors were present in only 67% of operations. In 100% of CROs (64 out of 64), 98% of JROs (62 out of 63) and 66% (134 out of 203) of NROs, there was at least one monitor present. Overall, 55.4% of return operations (183 out of 330 operations) were monitored by monitors from the Pool. Germany and France were the main Member States requesting monitors from the Pool.

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<sup>18</sup> In 2017, Frontex implemented a number of activities with the aim of assisting MSs to carry out returns by scheduled flights. Based on the outcome of a survey completed by MSs, “a pilot project was developed in order to assist MSs with the booking and purchase of flight tickets at special conditions for escorted returnees(s) and unescorted returnee(s) to Algeria and Morocco” (Council of the European Union, 2018: 21). The pilot project was extended beyond 2017, so that “by the end of 2018, 17 MSs had participated in the pilot project returning 1.476 third-country nationals to 49 destinations” (EP, 2019: 28)

<sup>19</sup> Statistics presented by ECRet at the 1st Annual Lessons Learned Meeting, held in the framework of the FReM III project on 25-26 June 2019 in Bratislava, Slovakia.

<sup>20</sup> Statistics presented by ECRet at the 1st Annual Lessons Learned Meeting, held in the framework of the FReM III project on 25-26 June 2019 in Bratislava, Slovakia.

<sup>21</sup> Data on the ROs coordinated or financed by Frontex in 2019 and the first half of 2020 was received through a direct request for statistics from Frontex.



As regards the Frontex mechanism to support returns by scheduled flights, throughout 2019 a total of 3613 flights took place returning 4776 third-country nationals from 25 MSs to 81 different destinations (34 of which were reached for the first time). The top five OMSs were Belgium, Austria, Poland, Denmark and Portugal, which organised in total 71% of all operations. The majority of the returnees were unescorted, 3.728 (78%), while 893 (19%) were escorted and 155 (3%) were voluntary departures. The top 5 countries of return were Albania, Morocco, Georgia, Serbia and Ukraine.

In the first half of 2020, Frontex coordinated 72 return operations by charter flights returning 2.489 third-country nationals. The top five OMSs were Germany, France, Italy, Austria and Spain. These MSs organised 68 return operations, which constitutes over 94% of the total. Nineteen different third countries of return were reached. The top six countries of return were Albania, Tunisia, Georgia, Serbia, Nigeria and Afghanistan. Twenty percent of returnees were returned in JROs, 56% in NROs and 24% in CROs. The only MSs organizing CROs were Germany and France.

In almost 82% of the return operations by charter flights coordinated by Frontex in the first half of 2020, at least one monitor was present (59 out of the 72 return operations). In 100% (14 out of 14) of CROs, 100% (13 out of 13) of JROs and 71% (32 out of 45) of NROs, there was at least one monitor present. Overall, 55.5% of return operations (40 out of 72 operations) were monitored by monitors from the Pool. Germany and France were the main MSs requesting monitors from the Pool.

During the first half of 2020, Frontex supported and coordinated the procedures for 1.126 scheduled flights, returning 1.671 third-country nationals from 25 MSs to 69 different destinations (three of which were reached for the first time). The top five OMSs were Belgium, Sweden, Austria, Denmark and Portugal, which carried out nearly 70% of all operations. Out of the 1.671 third country nationals returned, 1.149 (69%) were unescorted, 231 (14%) were escorted, while 156 (9%) were voluntary departures and 135 (8%) were voluntary returns, (based on the new mandate of the Agency which allows the support of voluntary returns in addition to voluntary departures). The top five countries of return were Albania, Ukraine, Georgia, Morocco and Serbia.





## 2. Methodology and Description of Data

The assessment of how the Pool currently functions is based on a multi-method study conducted between February and September 2019 as part of the Forced Return Monitoring III (FReM III) project. The aim of the study is twofold. First, it aims to better understand and describe how the Pool currently operates and how it is managed. Second, it seeks to identify possible gaps and needs, as well as good practices in its operations and management, with a view to suggesting possible approaches that contribute to the Pool's sustainability, improved day-to-day management, transparency and independence.

The study was designed to take into account the experience and views of two main groups of stakeholders involved in the Pool's current operations and management. It included semi-structured interviews with key Frontex personnel involved in the day-to-day operations and management of the Pool, and an online survey addressed to forced-return monitors who have been nominated to the Pool. In addition, the study makes use of various reports that were produced during the FReM projects and available at the time of drafting, in particular, the Annual Lessons Learned Meeting (ALL) reports from the FReM I, FReM II and FReM III projects, the Good Practice Report on Fundamental Rights Compliance in Forced-Return Operations from FReM II and the Project Steering Group Meeting reports from FReM III.

The remaining part of this chapter describes in detail the methods developed for this study, the data collected, and a timeline of the activities that were carried out for the assessment.

### 2.1 Desk research

In addition to European legislation relevant to forced-return and forced-return monitoring, the majority of documents consulted in the drafting of this report were developed in the context of the FReM projects, particularly FReM II and FReM III:

- 1) Annual Lessons Learned (ALL) Meeting Reports

The main objectives of the FReM Annual Lessons Learned meetings are to provide opportunities for participants to exchange experiences and good practices for implementing and monitoring forced-return operations and to increase their knowledge of specific subject areas. The agenda for these meetings is determined by input from the FReM partner countries and organisations. Various stakeholders participate in these meetings, including: forced-return monitors of the relevant national bodies who carry out forced-return monitoring activities, monitors who are members of the Pool, stakeholders from return-enforcing institutions (escorts and escort leaders), representatives from the Frontex Consultative Forum, the EU Agency for Fundamental Rights (FRA), representatives from the Frontex Units that are currently involved in the Pool, as well as the FReM project team of the International Centre of Migration Policy Development (ICMPD).



The research for this assessment involved studying the Annual Lessons Learned reports to make use of the experiences shared by various stakeholders during these meetings, including information about: the way the Pool currently functions and how it is managed, the gaps, and the mitigating strategies that have been developed to improve the current flow of information in the Pool.

2) Good Practice Report on Fundamental Rights Compliance in Forced-Return Operations (The Good Practice Report)

The FReM II project team at ICMPD drafted the Good Practice Report in line with the discussions held during a workshop on Good Practices Concerning Fundamental Rights Compliance in Forced-Return Operations (27-28 February 2018, Riga, Latvia). The report also takes into consideration good practices and experiences from other project activities from both the FReM I and II projects. The Good Practice Report also summarises the legal basis for forced-return and forced-return monitoring in Europe and the provisions for safeguarding fundamental rights in forced-return operations. It was mainly used as background information for this report, particularly the parts relating to the legal basis for monitoring forced-returns.

3) Project Steering Groups (PSG) meeting reports

At the time of drafting this report, two PSG meetings took place within the framework of the FReM III project. While these meetings are procedural project meetings aimed at taking stock of achievements from a workplan perspective, they bring together a variety of stakeholders who also present and discuss concrete issues regarding the operations and management of the Pool. The information within the PSG reports that related to the operations and management of the Pool was used in this report, particularly the input from the national forced-return enforcing institutions, the NMBs and the Frontex Units involved in matters of return.

## **2.2 Semi-structured interviews**

The FReM project team at ICMPD designed semi-structured interview guidelines as an exploratory tool to collect relevant information based on the expert knowledge of key Frontex personnel involved in the Pool's operations and management. The interview guidelines were designed to address general issues (questions that were addressed to all interview partners), as well as specific topics covering the remit of individual Units in Frontex (See Annex 1). The interviews were conducted on 4 and 5 April 2019 at the Frontex premises in Warsaw by two ICMPD staff members – a long-standing member of the FReM project team and a researcher from the Research Unit of ICMPD. Interview participants



provided their informed consent to participate in the study by signing a GDPR-compliant<sup>22</sup> form, developed by ICMPD. The interviews were recorded for the purpose of summarising the discussions. The audio files are currently stored in ICMPD's secure folders. Access to the files is restricted to FReM team members only. Once the assessment has been completed and this report is successfully submitted, the audio files will be deleted.

The data collected through the semi-structured interviews informed each section of this report, particularly Chapter 3 (*Current Structure and Management of the Pool in Frontex*) and Chapter 4 (*Assessment of How the Pool Currently Functions*). Chapter 3 was shared with the Frontex staff members who were interviewed to make sure the data collected on the current structure of the Pool was accurately reported.

### 2.3 Online survey

In addition to qualitative semi-structured interviews conducted with relevant Frontex staff members, the FReM team developed an extensive questionnaire for an online survey of monitors nominated to the Pool. The questionnaire contains 111 targeted questions (both closed and open questions). Some are filter questions, which means that not everyone who participated in the online survey received every question. Some of the questions addressed those monitors who reported they had a particular type of experience (e.g. attended further training, were aware of nominations to the Pool rejected by Frontex etc.). In other words, if monitors answered "yes" to a specific question, they were asked related follow-up questions; if they answered "no", the survey immediately jumped to the next set of questions (See Annex 2). The final version of the questionnaire included comments and suggestions from two FReM III Project Steering Group members – a representative from the Fundamental Rights Agency (FRA) and a representative from the European Commission DG Home. In addition, the online survey was tested by two experienced monitors, one from Luxemburg and one from Greece and their comments were included in the final version dispatched to all Pool monitors in June 2019. Data was collected until early September 2019. Following a process of data cleaning, the aggregated data was analysed in October and November 2019. The current report was drafted between December and February 2020. It then went through a series of internal reviews between March and June 2020.

The survey was dispatched to 68 monitors from 22 MSs who were part of the Pool in June 2019<sup>23</sup>. Of these, three were not reached either because they were on maternity leave or because they no longer

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<sup>22</sup> This refers to Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation).

<sup>23</sup> For more information on how monitors are becoming Pool monitors, see FReM III (2019), 1<sup>st</sup> Annual Lessons Learned Meeting Report as well as Chapter 3. *Current Structure and Management of the Pool in Frontex* from the report at hand.



work with the respective national monitoring institution. Thus, the survey reached 65 monitors, 43 of whom participated in the survey. Table 2 (below) shows the number of monitors the survey was sent to and the number of those who replied per country.

The online survey was programmed and dispatched through the SoSci Survey<sup>24</sup> platform. Each monitor received a personalised code to access the online survey. This gave the FReM team the possibility of following up with anyone who had not replied by the deadline. Data was collected and stored in ICMPD secure folders, in compliance with GDPR requirements. The data in this report is aggregated. The answers provided to some open questions, such as those regarding NMBs, contain the name of institutions which could be associated with specific countries and are therefore considered to be (potential) identifiers. In all such instances, answers to open questions have been summarised.

Table 2: Survey replies overview

Country	No. of monitors addressed in each county	No. of monitors who participated in the survey
Austria	9	8
Belgium	2	1
Bulgaria	2	1
Czech Republic	3	3
Germany	4	3
Denmark	3	1
Spain	2	0
Finland	2	1
Greece	8	5
Croatia	2	2
Hungary	2	1
Iceland	1	1

<sup>24</sup> SoSci Survey is a reliable tool for online survey implementation, which offers the features required by the complexity and comprehensiveness of the questionnaire developed for the Pool of forced-return monitors (see Annex 2). For more information on SoSci Survey, visit: <https://www.socisurvey.de/> (accessed 30 November 2019).



Country	No. of monitors addressed in each county	No. of monitors who participated in the survey
Italy	2	1
Luxembourg	2	2
Latvia	1	0
Malta	2	1
Netherlands	7	7
Portugal	2	1
Romania	2	0
Slovakia	2	1
Slovenia	2	1
Sweden	3	2
<b>TOTAL 22 countries</b>	<b>TOTAL 65 Monitors</b>	<b>TOTAL 43 Monitors replied</b>

Source: ICMPD, own compilation



## 2.4 Timeline of activities

	Feb 19	Mar 19	Apr 19	May 19	Jun 19	Jul 19	Aug 19	Sep 19	Oct 19	Nov 19	Dec 19	Jan 20	Feb 20	Mar 20	Apr 20	May 20	Jun 20	Jul 20	Aug 20	Sept 20	Oct 20	
Desk research																						
Semi-structured interviews (development and implementation)																						
Survey (development and implementation)																						
Data cleaning and analysis																						
Report (drafting, reviewing, editing)																						



## **2.5 Discussion on the methodological limitations and mitigating strategies employed**

From a methodological perspective, a potential limitation and the mitigating strategies employed are worth noting. The multi-method study on which this assessment is based has been carried out by the FReM III project team at ICMPD. Members of this team have been involved in the development and implementation of activities aimed at supporting the Pool under review. This limitation has been addressed by involving the ICMPD Research Unit that had not been part of the project previously. Furthermore, the methodology was developed (see Annexes) to collect factual information about how the Pool currently functions and many of the issues raised by the research participants have already been voiced in various meetings organised in the course of the FReM projects, particularly the Annual Lessons Learned meetings.



### 3. Current Structure and Management of the Pool in Frontex<sup>25</sup>

#### 3.1 Legal basis

Article 51 of Regulation (EU) 2019/1896 (EBCG Regulation) stipulates that Frontex “shall constitute a pool of forced-return monitors from competent bodies of the Member States (MSs) who carry out forced-return monitoring activities in accordance with Article 8(6) of Directive 2008/115/EC and who have been trained in accordance with Article 62 of this Regulation”. As mentioned in the introduction, on 7 January 2017 the Pool of forced-return monitors became operational, in line with the EU legislation<sup>26</sup> in force at the time and on the basis of the outcomes of the FReM I project. The day-to-day management and deployment of monitors to specific forced-return operations is largely handled to varying degrees, by the Capability Programming Office (CAP), the European Centre for Returns (ECRet) and the Fundamental Rights Office (FRO). The Training Unit (TRU) is involved in all training-related activities.

The remaining sections of this chapter summarise the current workflow within Frontex for the day-to-day operations and management of the Pool, as well as the responsibilities of each of the three Units.

#### 3.2 Current workflow within Frontex for the operations and management of the Pool

Before the Pool became operational, the Frontex Management Board determined the profile and the number of forced-return monitors to be made available to the Pool, from the national bodies responsible for carrying out forced-return monitoring activities (Frontex, 2016). On 6 December 2016, the Management Board decided the profile of forced-return monitors for the Pool and set the initial number for the size of the Pool at 50<sup>27</sup>. At the end of 2016, Frontex published an open call for nominations to the Pool that was sent to all MSs. As of 7 January 2017, the Pool became operational in line with the EBCG Regulation. By the beginning of April 2017, the objective had been met with a total number of 57 monitors from 19 MSs. In June 2019, 68 monitors from 22 MSs were part of the Pool. At that time, of the 22 contributing MSs, roughly ten countries offered monitors for deployment.

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<sup>25</sup> Information used to draft this chapter comes from interviews with Frontex staff members involved in the day-to-day operations of the Pool, as well as from relevant documents developed in the context of FReM II and FReM III projects (as described in the section 2.1 *Desk research* from Chapter 2. *Methodology and Description of Data*).

<sup>26</sup> At that time, this was stipulated in Article 29 of Regulation (EU) 2016/1642, which in December 2019 was replaced by Regulation (EU) 2019/1896.

<sup>27</sup> For more information, see the FReM III 1<sup>st</sup> Annual Lessons Learned Meeting report, from the meeting held in Bratislava on 25 – 26 June 2019.





As of August 2020, 83 monitors from 23 MSs are part of the Pool. In 2020, ten MSs deployed monitors in the framework of the Pool. The call for monitors to the Pool is open, as the nomination of monitors to the Pool is part of an ongoing process (i.e. MSs can continuously nominate monitors to the Pool).

Frontex communicates with MSs on all matters related to its activities through the National Frontex Point of Contacts (NFPOCs). The NFPOCs are appointed by the MSs on the basis of Article 13 of Regulation (EU) 2019/1896, according to which: “Each Member State shall appoint a national contact point for communication with the Agency on all matters pertaining to the activities of the Agency, without prejudice to the role of the national coordination centres”<sup>28</sup>.

### **Nominating monitors to the Pool**

MSs are responsible for nominating monitors to the Pool<sup>29</sup>. Nominations are made by the national bodies that carry out, or that may carry out, forced-return monitoring in accordance with national legislation transposing Article 8(6) of Return Directive (2008/115/EC). In general, nominations to the Pool are communicated to the CAP via the respective NFPOCs in MSs. However, the monitoring institutions responsible can also send the nominations directly to the CAP.

### **Training of monitors**

In order to be eligible for deployment from the Pool, monitors need to undergo training on forced-return monitoring<sup>30</sup>. This training was developed within the framework of the FReM projects and is currently being delivered to Pool monitors as part of the FReM III project. Even if monitors have not yet received the FReM training, they can still be nominated to the Pool. However, they can only be deployed once they have received this specific training which is currently offered once or twice a year.

### **Monitoring carried out by monitors from the Pool**

Monitoring carried out by monitors from the Pool means that a MS is monitored at their request by a monitor from another MS. It is important to note that the monitor from the Pool requested by a MS to participate in monitoring a RO, monitors that specific contingency, not the entire operation; other participating Member States (PMS) may agree that the same monitor also monitors the RO on their behalf<sup>31</sup>. A requesting MS can be either the OMS or a PMS; in practice it is usually the OMS that requests a monitor from the Pool. The concept of monitoring from within the Pool has not yet reached what might be described as a “European-wide” monitor, where a whole return operation, i.e. every

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<sup>28</sup> The NFPOCs already appointed by MSs have been assigned on the basis of Article 23 of Regulation (EU) 2016/1624 (in force before December 2019).

<sup>29</sup> For more details, see Section 4.2 *The nomination of monitors, by their respective Member States, to be part of the Pool* of this report.

<sup>30</sup> For more details, see Section 4.1 *Training of Pool monitors* of this report.

<sup>31</sup> Article 16(4) of the Code of Conduct for Return Operations and Return Interventions Coordinated or Organised by Frontex (2018) specifies that “[w]hen feasible and subject to prior agreement between the MS concerned, forced-return monitors may also monitor on behalf of other MS taking part in [a return operation].”



contingency of the RO, is monitored by a (number of) monitor(s) who submit a joint report detailing the whole operation. At the moment, monitors submit their reports covering the specific contingency which they have been asked to monitor.

### **Requests for monitors by Member States**

According to its mandate, Frontex should make forced-return monitors available at the request of MSs. Monitors from the Pool can, therefore, only be deployed at the request of a MS. Each month, MSs inform Frontex (ECRet) about the upcoming ROs they have scheduled. When MSs want to request monitors for one of these operations, they fill in the relevant information on the Frontex Application for Returns (FAR) online form<sup>32</sup>. MSs can request monitors for: Collecting Return Operations (CROs), Joint Return Operations (JROs), as well as National Return Operations (NROs).

A JRO is an operation in which two or more MSs jointly return TCNs by using the same means of transportation. The initiative for such an operation is taken by one MS (the organising MS), who invites the participation of other MSs (participating MSs). A CRO is a return operation, in which the aircraft and escorts are provided by the country of return and the returnees are handed over to them by the OMS/PMS on the territory of a MS. According to Article 50(3) of Regulation (EU) 2019/1896, MSs and the Agency should ensure that at least one monitor is present in every CRO.

When a MS fills in the FAR online form for a planned return operation, they are asked to select either “Yes” or “No” to the question: “Will you provide a monitor?” If the MS knows that the national monitoring system is not providing a monitor for that specific RO and selects “No”, the form offers the option of requesting a monitor from the Pool. In cases where the MS selects “No” and does not request a monitor from the Pool, ECRet knows that that particular operation will not be monitored<sup>33</sup>. However, as the process of organising a RO can take weeks (e.g. from four to six weeks), MSs can also request a monitor from the Pool at a later stage. If that does not happen, and there is no national monitor present, that operation will not be monitored. However, depending on the mission, other contingencies may be monitored, in that particular operation, i.e. participating MSs might have a national monitor to monitor their national contingency. Immediately after the MS has filled in the request for monitors in the FAR, ECRet either approves or rejects it.

### **Monthly call for monitors sent by Frontex to Member States**

The FAR system automatically sends notifications to the CAP regarding MSs’ requests for monitors. This is an automated process. CAP collects the requests for monitors and, usually by the 11<sup>th</sup> of each

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<sup>32</sup> The Frontex Application for Returns (FAR) is an online tool to coordinate the organisation of forced-return operations and is accessible only to Frontex and return enforcing institutions in MSs. FAR is a part of the Irregular Management Application (IRMA) and is managed by the European Centre for Returns (ECRet).

<sup>33</sup> This does not include Collecting Return Operations which, according to Article 50(3) of Regulation (EU) 2019/1896, have to be monitored.



month, prepares a monthly call (i.e. a letter) for monitors for operations taking place the following month which is sent to the NFPOCs of all the MSs who contribute monitors to the Pool with copies to the respective NMBs. In some countries, in addition to the CAP communication, the NFPOCs forward the call to their NMBs. The call requests the NMBs to indicate which operations they would be available for and interested in nominating monitors to. MSs then have one week to respond to the call, via the NFPOCs. The monthly call for monitors includes general information about the ROs, e.g. the type of operation, the destination, date of the RO, airport of departure (if known at the time of the call), etc. The NMBs can nominate monitors to specific operations listed in the call.

### **Decision by Frontex to assign nominated monitors to specific return operations**

Soon after the one-week deadline, CAP gathers all the nominations, prepares an overview of the upcoming return operations that month and calls a meeting with ECRet and FRO. The objective of the meeting is for staff from all three units to go through each request and nomination to decide which monitors to assign to which operation(s).

### **The following criteria are used for assigning monitors to specific operations:**

1. The operations to be covered are prioritised as follows:
  - a) CROs, where at least one monitor should be present;<sup>34</sup>
  - b) JROs;
  - c) NROs.
2. The country of return is also a consideration in the process of assigning monitors. The experiences of representatives from Frontex, and those of OMSs and PMSs in relation to the country of return, as well past monitoring reports detailing issues that have arisen from previous return operations to specific countries of return are among factors that are taken into account in the decision-making process.
3. The availability of the monitors nominated to ROs listed in the call.
4. Other criteria also considered are that the:
  - a) Skills and specific experience of the available monitors should match the particular RO.
  - b) Language(s) that the monitor speaks should ideally match the language(s) spoken by the returnees.

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<sup>34</sup> According to Article 50(3) of Regulation (EU) 2019/1896, “[a]t least one Member State representative, and one forced-return monitor from the pool established under Article 51 or from the monitoring system of the participating Member State, shall be present throughout the entire [collecting] return operation until arrival at the third country of return”.



- c) The “fairness” principle should be applied, according to which the planned ROs should be fairly distributed among the available monitors and all monitors should be assigned as equally as possible to operations.

At this meeting, ECRet, CAP and FRO agree which monitors to assign to which return operation. CAP records these decisions<sup>35</sup> and officially lets MSs know, via the NFPOCs, where each monitor has been assigned. If NMBs have nominated several monitors to the same RO and there are others taking place that month where no nomination has been made, CAP contacts the relevant NMBs to ask whether they can nominate monitors to those ROs instead. To date, NMBs have shown flexibility and have usually responded positively to these requests.

### **The response from Frontex to national nominations to specific return operations (in the monthly call for monitors)**

After the monitors have been assigned to the specific ROs and CAP has informed the NMBs, ECRet emails the operational details to the monitors. The email contains information on the flight schedule, the contact details of the main contact for the operation (the Escort Leader/EL), financial rules etc. If monitors request additional support (e.g. visa support letter, information on vaccinations etc.), ECRet usually refers them to the requesting MSs. If their specific request is not addressed by the requesting MS, ECRet offers support. This is done on a case-by-case basis. If there are changes in the schedule, ECRet contacts the monitors.

If a monitor, other than the one who was assigned to a particular RO is needed, ECRet informs CAP who then contacts the NMBs for another nomination (outside of the monthly call). This can be the case if e.g. the monitor who has been assigned to the RO falls ill and cannot be deployed.

### **Submission of monitoring reports**

In line with Article 50(5) of Regulation (EU) 2019/1896<sup>36</sup>, monitors’ reports from ROs coordinated or organised by Frontex are submitted to the Frontex Executive Director, the Fundamental Rights Officer and the relevant national authorities of all the MSs involved in that particular operation (institutions enforcing the return decision). The latter is done by ECRet via the FAR. Once ECRet uploads the reports on to the FAR, they are available to all the MSs involved in that operation. In the majority of cases,

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<sup>35</sup> CAP keeps a record of which monitor has been assigned to which RO, as well as records of the monitors that were nominated for the monthly call who were not assigned to a particular RO in that monthly call (based on the criteria mentioned above), if that is the case.

<sup>36</sup> Article 50(5) of Regulation (EU) 2019/1896 states that “[t]he forced-return monitor shall submit a report on each forced-return operation to the executive director, the fundamental rights officer and to the competent national authorities of all the Member States involved in the given operation. If necessary, appropriate follow-up shall be ensured by the executive director and competent national authorities respectively”.



Frontex does not receive all the national monitors' reports of ROs organised by MSs where no monitors from the Pool were deployed.

### **3.3 Responsibilities of the Units involved in the daily operational activities and management of the Pool<sup>37</sup>**

As noted above, responsibility for the operational activities and management of the Pool lies mainly with the CAP, the ECRet, the FRO and the TRU. The following paragraphs provide a brief overview of the roles and main tasks of each unit.

#### **3.3.1 Capability Programming Office (CAP)**

The CAP is the interface between the MSs and Frontex. As explained above, the CAP is in contact with the MSs for all issues relating to the nomination of monitors to the Pool or receipt of nominations to the monthly call. The CAP is also in charge of maintaining a database of monitors that includes their: names, contact details, language(s) spoken, other specific expertise, etc., as well as ensuring that it is up to date. In April 2019, one staff member was responsible for CAP's tasks related to the Pool, with two other staff members as back-up. CAP's main tasks in the day-to-day management of the Pool are as follows:

- Maintaining a database that contains all the relevant information on the Pool members (names, contact details, countries, institutions, training, language skills, participation in meetings/workshops organised for the Pool, number of deployments from the Pool, special qualifications, etc.) which functions as the central tool for the administration of the Pool;
- Preparing calls for monitors to be deployed to a RO (the calls include several requests) and coordinating with the NFPOCs once a request from a MS – be it the OMS or a PMS – has been received;
- Selecting monitors to be deployed to ROs, based on predefined criteria and in coordination with ECRet and FRO.

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<sup>37</sup> Data used for this section comes from the *Forced-Return Monitoring. Background Reader*, written as part of the FReM II project (Frontex, FRA and ICMPD, 2018), and from semi-structured interviews with key Frontex staff involved in the day-to-day functioning of the Pool (see Chapter 2 on *Methodology and Description of Data*).



### 3.3.2 The European Centre for Returns (ECRet)

The ECRet is responsible for coordinating the deployment of monitors from the Pool. ECRet communicates with MSs on the issues involved with the deployment, such as the schedule of a RO or questions from monitors. In addition, when the date of a RO is approaching and information in the FAR indicates that a specific RO does not have a monitor, ECRet asks the MS, via the FAR, to consider requesting a monitor from the Pool. In this way, ECRet proactively encourages MSs to deploy monitors in all their ROs. ECRet's main tasks in the day-to-day management of the Pool are summarised as follows:

- Communicating, via FAR, with the MSs regarding their requests for monitors;
- Coordinating with CAP regarding MSs' nominations of monitors for deployment to ROs;
- Selecting monitors to be deployed to ROs, based on predefined criteria and in coordination with CAP and FRO;
- Communicating with monitors about basic operational details related to the RO and establishing contact between the monitor and the Escort Leader (EL)/head of operation;
- Receiving the monitors' reports and distributing them after a RO via the FAR to the relevant national authorities of all MSs involved in a given operation;
- Participating in training-related activities as experts and trainers.

### 3.3.3 Fundamental Rights Office (FRO)

The FRO is an independent body that reports to the Frontex Management Board. In general, the FRO monitors all Frontex activities, provides preventive and protective measures, supports all the activities organised or coordinated by Frontex with training materials on fundamental rights it has developed, provides observations on operational plans, evaluation reports and support with drafting strategic documents. The FRO is the main coordinator for Frontex' serious incident reporting<sup>38</sup> related to alleged

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<sup>38</sup> The incident reporting refers to any incident of a sensitive or public interest nature which occurs during the course of an operation (occurrence, natural or caused by human action) which may affect or be relevant to the Frontex mission, image, the safety or the security of participants in Frontex coordinated activities, including violations of Fundamental Rights or infringements of the Frontex Codes of Conduct (Code of Conduct applicable to all persons participating in Frontex operational activities and Code of Conduct for Return Operations and Return Interventions coordinated or organised by Frontex). Such incidents are reported via the OMS escort leader to the Crisis Focal Point that activates the Serious Incident Reporting (SIR) procedure by informing the Frontex Situation Centre (FSC) and the Frontex Operational Team as follows: by phone within 2 hours after knowledge of the incident to the Senior Duty Officer of the FCS and in writing within 48 hours after knowledge of the incident by using the SIR template to be sent to the FSC [fsc@frontex.europa.eu](mailto:fsc@frontex.europa.eu) and in Cc to [FJRCC@frontex.europa.eu](mailto:FJRCC@frontex.europa.eu).



violations of fundamental rights and the main handler of the Frontex complaints mechanism<sup>39</sup>. At the time of drafting this report, two staff members of the FRO team were dedicated to analysing the complaints and identifying whether a complaint is admissible or not. Depending on the result, the decision is sent to national authorities or to the Frontex Executive Director or, where inadmissible, is communicated to the complainant. The FRO's role, particularly with regard to enforcement, is very limited.

If a MS does not request a monitor in the FAR and has no monitor deployed in a RO, the FRO does not/cannot follow-up with the MS as it is the responsibility of MSs to request a monitor. According to information shared with the FReM III team in April 2019, FRO staff in the performance of their monitoring tasks can be present as observer in Frontex forced-return operations. Due to the lack of resources, in the recent past, FRO joined few ROs. As a result, the "Fundamental Rights Officer's Observations to Return Operations" report that the FRO presents to the Management Board twice a year is largely based on the monitor reports that the FRO receives and analyses.

In April 2019, FRO did not have a staff member dedicated to dealing with ROs and return-related activities. One staff member has been covering this area, among other tasks they are responsible for. FRO's main tasks in the current management of the Pool are as follows:

- Drafting bi-annual observations based on its analysis of the monitoring reports that have been submitted, including its own observations and the Consultative Forum's observations and recommendations. The findings from the monitoring reports are presented by the FRO to the Executive Director and the Frontex Management Board. The FRO analyses these monitoring reports and compiles trends, identifies good and bad practices and provides recommendations that are annexed to the Executive Director's evaluation reports<sup>40</sup>. The FRO report is not public;
- Drafting policy reports/providing observations relating to fundamental rights compliance in returns operations;
- Selecting monitors to be deployed to ROs, based on predefined criteria and in coordination with CAP and ECRet;
- Developing and updating relevant training material, templates, forms etc.;

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<sup>39</sup> The complaints mechanism lays down the procedures to be followed whenever a person makes a complaint regarding the fact that s/he was directly affected by the actions of staff involved in a Frontex activity, and considers her/himself to have been the subject of a breach of her/his fundamental rights.

While the purpose of the serious incident reporting is to ensure that Frontex prevents/appropriately answers fundamental rights violations, the purpose of the complaints mechanism is to monitor and ensure the respect for fundamental rights in operational activities (Presentation of the Frontex' Mandate in Return Operations and Management of the Pool, Rome 11 November 2019).

<sup>40</sup> In line with Article 50 (7) of EBCG Regulation 2019/1896, the executive director transmits "[...]every six months a detailed evaluation report to the European Parliament, to the Council, to the Commission and to the management board covering all return operations conducted in the previous semester, together with the observations of the fundamental rights officer."





- Participating in training-related activities as experts and trainers;
- Handling possible complaints submitted via the complaints mechanism.

### 3.3.4 Training Unit (TRU)

The main elements of the FReM III project are training and capacity building for monitoring forced-returns. One of the aims of the FReM III project is to provide a final conceptualisation of the approach for the management structure and procedures for the Pool, contributing to its sustainability, improved day-to-day management, transparency and independence. The Pool's operational and procedural effectiveness and efficiency will be enhanced by improved communication, information and reporting tools. The full conceptualisation of the approach for the management of the Pool and all the procedures and activities (including the training activities) will be handed over to Frontex by the end of the FReM III project in May 2021.<sup>41</sup>

TRU's main task is to set common standards across Europe for border and coast guard education and training. The topic of forced-return monitoring belongs to the operational training sector which runs several training programmes: forced-return escort leader training, readmission training, escort officer training, return specialist training and force-return monitor training. In short, the TRU develops and delivers training programmes in order to implement common standards across the European Union. In April 2019, the TRU had one staff member acting as the Activity Manager for forced-return monitor training activities. This member of staff coordinates with the FReM III project team in planning the training activities, including the activities in the Train-the-Trainers programme<sup>42</sup>. The representative from TRU attends all the planning meetings for training activities in FReM III. The unit plays an active role in the development of training materials, specifically related to the methodology.

The FReM III project will continue to deliver all the training for monitors in the Pool until the end of May 2021 when the project ends and Frontex takes over all related activities.

To sum up, in coordination and close cooperation with ECRet and FRO, TRU's main tasks for the day-to-day management of the Pool are the following:

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<sup>41</sup> The International Centre for Migration Policy Development (ICMPD) manages the FReM III project in cooperation with 22 partner countries: Austria, Belgium, Bulgaria, Croatia, Cyprus, the Czech Republic, Finland, Germany, Greece, Hungary, Italy, Latvia, Luxembourg, Malta, the Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Sweden and Switzerland as well as Frontex and the European Union Agency for Fundamental Rights (FRA). Through the close involvement of the institutions and units responsible in both the MSs and Frontex in all the activities, the relevant stakeholders directly benefit from the project. The project also takes a similar approach for third-country monitoring bodies/institutions and escort officers in MSs.

<sup>42</sup> The Training-of-Trainers (TOT) activities are particularly relevant for ensuring the continuity and sustainability of training after the completion of the FReM III project.





- Designing courses (including face-to-face training, e-learning, webinars, workshops, etc.) in line with the Sectoral Qualifications Framework (SQF) and their periodic revision;
- Developing assessment methods for courses;
- Developing and updating course content;
- Accreditation of courses;
- Organising and implementing training for monitors (basic training course, refresher training<sup>43</sup> via e-learning, etc.);
- Organising and running various events for monitors (e.g. Annual Lessons Learned meetings, targeted workshops, etc.).

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<sup>43</sup> The refresher course is under development and will be part of an e-learning platform.



## 4. Assessment of How the Pool Currently Functions

This chapter presents the analysis of the data gathered through the online survey of the monitors from the Pool and through the semi-structured interviews conducted with key Frontex staff members. The structure of this chapter follows the operational logic of activities carried out in relation to a RO monitored by monitors deployed from the Pool. These are:

1. Training of monitors;
2. Nomination of monitors to the Pool;
3. Monthly call for monitors;
4. Preparation of deployment;
5. Monitoring and reporting.

The chapter is divided into sections covering each of these areas of activity. Each section is structured as follows:

1. Introduction to the area of activity;
2. Description of these areas of activity as experienced by monitors, including good practices (using the data collected through the online survey);
3. Monitors' suggestions as to how each area of activity could be improved (using relevant data collected through the online survey);
4. Description of how the issues identified by research participants are currently being addressed, if at all, in the framework of the Pool;
5. Suggestions for ways forward.

These suggestions for ways forward take account of several factors:

1. The legal framework within which the Pool currently functions;
2. The different stages of the process of a return operation and how the relevant information can be made available/provided during these stages;
3. Monitors' experiences of the different stages of a return operation (as reported in the survey);
4. The experience of Frontex staff currently responsible for how the Pool operates day-to-day (as reported in the semi-structured interviews).



## 4.1 Training of Pool monitors

### 4.1.1 How the training is currently conducted

According to Article 51(2) of Regulation (EU) 2019/1896<sup>44</sup>, Member States are responsible for nominating monitors to the Pool. In order to be eligible for deployment, monitors need to undergo a basic training on monitoring forced-returns. All training activities for forced-return monitors who are deployed through the Pool are currently organised within the framework of the FReM III project which runs until May 2021.<sup>45</sup> Within the FReM III project, the following training activities are being implemented:

- Basic training for forced-return monitors (4.5 days);
- Pilot monitoring missions;
- Training of trainers (ToT) for monitors of the Pool (3 days) with the emphasis on becoming a trainer who is able to provide basic training for forced-return monitors;
- Participation of monitors in Frontex escort leader courses (5 days);
- Targeted thematic workshops on a specific topic.

In summary, the main target group/direct beneficiaries of the training and capacity building activities organised within the FReM III project are forced-return monitoring bodies in MSs, forced-return monitoring bodies in selected third countries, and forced-return escorts in MSs. By the time the FReM III project is completed, all training activities will be transferred to Frontex, with the TRU being the main unit responsible for these activities.

The basic training equips participants with the overall ability to carry out forced-return monitoring. It lasts for 4.5 days and follows the four phases of a forced-return operation, highlighting the different responsibilities of participants in the operation, especially those of the escort leader, the escort officers, and the monitor. The training builds in complexity over the 4.5 days to allow for gradual learning. The methodologies used include interactive presentations, group work, question & answer sessions, various simulations, a role-play and videos.

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<sup>44</sup> “Member States shall be responsible for contributing to the pool by nominating forced-return monitors corresponding to the defined profile” (Regulation (EU) 2019/1896).

<sup>45</sup> In addition, in the FReM III project, a training on fundamental rights and forced-return monitoring is being developed for return enforcing institutions in MSs, contributing to a harmonisation of standards in this field and eventually to fundamental rights sensitive and dignified forced-return procedures. Monitors of relevant third countries participating in Collecting Return Operations (CROs) will also receive training in forced-return monitoring, contributing to the smooth implementation of CROs in line with international fundamental rights and principles.



Day 1 focuses on the acquisition of the necessary theoretical knowledge. It covers: the legal framework related to forced-returns; the role and mandate of Frontex; the different types of return operations and the phases involved in each type of operation; how the Pool of forced-return monitors functions; the fundamental rights potentially at risk of being infringed during a forced-return operation. Information about the role and mandate of the Council of Europe's (CoE) European Committee for the Prevention of Torture (CPT) and its main recommendations concerning forced-return operations has also been introduced. Days 2, 3 and 4 are dedicated to learning about the role and mandates of escort officers, escort leaders and monitors. The learning is supported by simulation exercises aimed at acquiring the skills and competencies needed to monitor a forced-return operation which includes taking accurate notes in order to write comprehensive and impartial monitoring reports. Day 4 is also devoted to the importance of being aware of the impact that observing forced-returns may have on the individual monitor and on the strategies that may help to safeguard their physical and mental health. On the last day of the training, participants do a self-assessment test and receive feedback on the notes taken by participants during the simulation exercises.

Even if the national monitors have not received the FReM training, monitors can still be nominated to the Pool. These monitors will then be trained at the next possible opportunity and can, after they have received the training, also be deployed from the Pool.

The section of the online survey for Pool monitors on forced-return monitoring training included questions on the following<sup>46</sup>:

- The FReM training for forced-return monitors;
- Participation in further training and activities;
- The need for further training;
- Suggestions for improving the existing training.

#### **4.1.2 How monitors perceive the training**

All 43 monitors who participated in the online survey attended the FReM training for forced-return monitors<sup>47</sup>. The majority of monitors (40 out of 43 respondents) consider the FReM training to be extremely helpful (21 monitors) or moderately helpful (19 monitors) for their job as a monitor (Chart 1 below).<sup>48</sup>

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<sup>46</sup> For the exact questions included in the survey, see Annex 2: Questionnaire for Monitors Nominated to the Pool.

<sup>47</sup> One monitor responded, however, that they had not been deployed yet.

<sup>48</sup> The questions on monitors' experience of their training addressed their perspective on the usefulness of the training for the job as a monitor (see Annex 2) not their satisfaction with how the training offered had been conducted or organised.



Chart 1: According to your experience, how helpful was the FReM training for forced-return monitors for your job as a monitor?



■ Extremely helpful ■ Moderately helpful ■ Not answered ■ Not Applicable ■ Somewhat helpful

*NOTE: Scale fully labelled 1. Not helpful at all, 2. Slightly helpful, 3. Somewhat helpful, 4. Moderately helpful, 5. Extremely helpful*

Respondents who rated the usefulness of the FReM training at the higher end of the scale explained their choice by referring to the wide range of relevant topics addressed in the training, as well as the practical part of the training (e.g. simulation of various real-life situations). Below are some of the comments written by the respondents:

- “The training enhanced participants’ knowledge on key points of monitoring, including knowledge regarding vulnerable groups, human rights, the use of restraint measures and writing the monitoring report”;
- “The training is very comprehensive; it covers both theoretical issues and practical rehearsals”;
- The “training was very practical, though not lacking in the necessary theory that is needed for this kind of task”;
- “It was very good to see how Frontex wants to do their job – with regard to returning irregularly staying TCNs – with respect to human dignity”;
- “The training provided theoretical and legal background, valuable information about restraints and techniques used by escorts, the opportunity to learn actively through mock scenarios and to discuss with key stakeholders (Frontex FRO, a CPT member etc.)”;
- “The training offered a theoretical basis as a starting point”;
- “Since I followed the joint flight return officer course in 2008 and since 2012 [I] performed the monitoring at national level, a large part of the course was familiar matter.  
For a newcomer, however, this is a very good course.”

Explaining the ratings at the other end of the scale, monitors wrote:

- “It is difficult to translate theory into practice”;



- “The training was too short in regard to the complexity of the job (of a monitor)”;
- “There are things missing, especially in treating special cases”.

In addition, one monitor mentioned that between the training and the first operation they were deployed to, nine months had passed, during which time the monitor said they had forgotten some of the training content.

Of the 21 respondents who said they participated in further activities organised for monitors after the FReM training, 16 participated in *Annual Lessons Learned meetings*, 11 in a *Workshop on reporting* and seven in *Pilot and monitoring missions* (Chart 2 below).

Chart 2: Did you participate in further training (following the FReM training)? If yes, in what other training did you participate?



*NOTE: Selection, Yes/No Question. Multiple choice from 5 predefined options, with possibility to insert text under Other. The category Training of trainers comes from the answers included under Other*

Regarding the need for further training following the basic FReM training for forced-return monitors, 24 monitors consider they need further training, while 19 answered that they do not. See Chart 3: Did you participate in further training? (Annex 3).

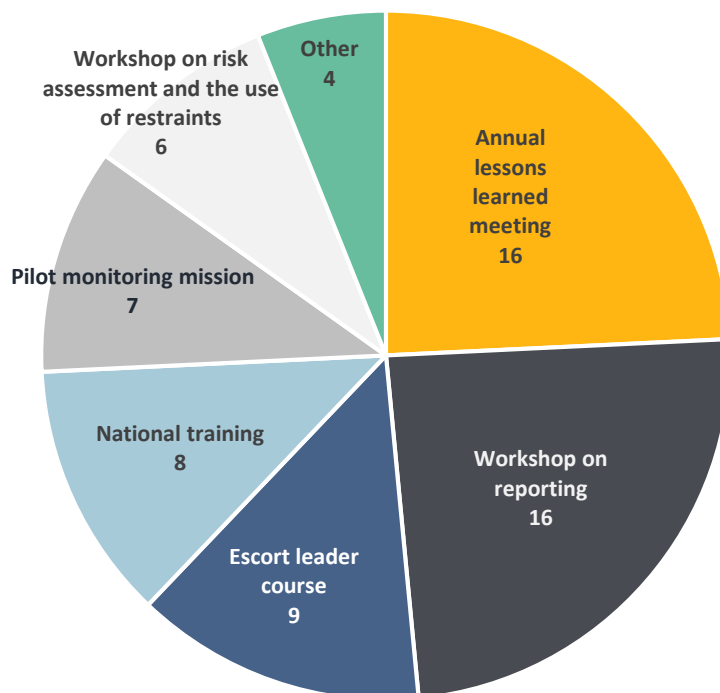
When asked to select from a predefined list, the kind of further training that should be offered (Chart 4 below), 16 respondents selected *Workshop on reporting* and *Annual Lessons Learned meetings*, followed by nine for the *Escort leader course*, eight for *National training* and seven for *Pilot monitoring*



*mission*. Six respondents filled in *Workshop on risk assessment and the use of restraints* in the text box dedicated to *Other* types of training. The remaining four answers inserted in the text box for *Other* were:

- “Workshop on human rights”;
- “Workshop on SOPs and checklists, workshop with Escorts, [Escort Leader] and [Back-up Team Leader], workshops on exchange of experiences amongst all monitors”;
- Follow up of recommendations;
- Escort training course (dedicated to participants other than the escort leader) and workshop on how to manage children during return operations.

Chart 4: What kind of further training should be offered?



*NOTE: Multiple choice from 5 predefined options, with a text box to insert answers under Other. The category Workshop on risk assessment and the use of restraints comes from the answers included under Other*

### **Issues identified and suggested ways forward**

This section brings together monitors’ feedback from the survey about the forced-return training available to them as members of the Pool, including good practices and main issues. It includes their suggestions for improving the training currently available, describes how the issues they raise are currently addressed and suggests possible ways forward.



Regarding the feedback from the monitors, it is worth mentioning that most of them rated the basic training as helpful or extremely helpful. Moreover, they underlined the usefulness of the basic training for their work as a monitor. In relation to training in general, the issues they raised were the following:

1. The frequency of the training sessions offered;
2. The need for more practical training;
3. The need for more training on writing monitoring reports;
4. Further specific training needed.

With regard to the frequency of training sessions offered, monitors suggested having: a periodic refresher course every three years; the opportunity to exchange experiences with other stakeholders involved in returns (e.g. escorts); e-learning and downloadable training content.

To address the need for more practical training, monitors suggested increasing the frequency of the practical session already offered and for the practical training offered to go into greater detail on areas such as: how to observe a location where there are many returnees, discussion of specific cases from previous JROs/NROs and CROs, etc.

Monitors suggested that the need for more training on writing monitoring reports should be addressed through specific topics included in the training, such as how the reporting template should be used and concrete examples of monitoring reports of previous return operations.

With regard to further specific training needed, monitors suggested both topics to include in future training sessions and ways to organise these sessions. The following topics for future training sessions were mentioned:

1. Risk assessment;
2. The use of restraints;
3. Exchange of experiences;
4. Introduction to countries' specific rules and regulations.

On the organisation of future training, monitors suggested that the sessions be conducted in conditions that more closely resemble real-life situations (e.g. a full plane is more difficult to observe) and that courses are offered according to the monitoring experience of participants.

Many of the issues raised by monitors in the Pool are being addressed through various future activities or are already in the training provided:

- Although a refresher course does not exist yet, it will be developed in the framework of work package 4 of the FReM III project and will be accessible in the future via the Frontex Aula Training Platform;





- The possibility to exchange experiences with other stakeholders involved in forced-return is currently being offered in the Annual Lessons Learned meetings as well as specific workshops;
- Currently, the basic 4.5-day training includes simulations of various real-life situations but, apart from the Frontex escort leader course and pilot monitoring missions, no further practical training sessions are offered after the basic training;
- Currently, the monitoring report template as well as how the reporting template is intended to be used is covered in the basic training for forced-return monitoring. In addition:
  - The submission and use of reporting tools are covered in e.g. the Annual Lessons Learned meeting or specific workshops;
  - Work package 2 of the FReM III project, a communication, coordination and information platform for monitors is being developed that will enable monitors to exchange information about their experience in writing monitoring reports i.e. peer support;
  - The overall reporting process is being revised and reporting tools including an application are under development, taking into account the feedback from monitors that will support monitors in their reporting;
  - A training on the reporting process and the reporting tools will be conducted once finalised.
- Three of the relevant topics for future training sessions – risk assessment, the use of restraints and exchange of experiences - are covered in the basic training. In addition, a variety of workshops organised in the framework of the FReM III project offer the possibility for sharing monitoring experiences. Although an introduction to the rules and regulations of each country is beyond the scope of the training offered to Pool monitors, 15 country factsheets have been developed so far in the FReM III project (with another seven being developed) with basic information on each country’s monitoring system;
- When it comes to how to organise future training sessions, it is worth noting that the training already offered to Pool monitors is evaluated by participants after each course and their suggestions for improvements are taken into consideration when organising subsequent trainings.

#### Suggested ways forward:

1. Ensure continuity and further development of the FReM III training activities already conducted/planned;
2. Develop a face-to-face refresher course, including practical exercises (in addition to the online training currently under development in work package 4);
3. Continue the practice of yearly Annual Lessons Learned meetings and specific workshops based on demand i.e. specific topics of relevance;
4. A refresher course (“e-learning platform for forced-return monitors”) will be one of the courses available to monitors. There are also plans to feature/make available the training material of the basic training on the Frontex Aula Training Platform;



5. Offer more practical training sessions for those monitors who have already participated in the basic training e.g. by ensuring a face-to-face refresher course as suggested above (e.g. every 3 years);
6. Develop video tutorials with different real-life scenarios (i.e. movies) to support the theoretical general refresher training;
7. Ensure continuous training on reporting and the related tools;
8. Address the feedback from monitors in training and update relevant material accordingly;
9. Conduct additional specific training on topics raised, such as: risk assessment, the use of restraint measures, etc.;
10. Ensure that the basic training is sustainable and training continues to be offered to Pool monitors including after the end of the FReM III project;
11. Ensure that the suggestions made by monitors are included in the recommendations to Frontex for future training.

Table 3 below summarises the main issues monitors raised and their suggestions for addressing them. In addition, the table describes how each of these issues is currently addressed, if at all, and presents suggested ways forward.



Table 3: Issues raised and suggestions for improving the training of monitors in the Pool

Training of monitors in the Pool			
Issue raised by monitors	Suggested action by monitors	How this issue is currently addressed	Suggested ways forward (based on the Assessment)
The frequency of training sessions	<ol style="list-style-type: none"> <li>1. Periodic refresher course (e.g. every 3 years);</li> <li>2. Exchange experiences with other stakeholders involved in return operations;</li> <li>3. E-learning and downloadable training content.</li> </ol>	<ol style="list-style-type: none"> <li>1. A refresher course (“e-learning platform for forced-return monitoring” does not exist at the moment, but one will be developed in work package 4 of the FReM III project and will be accessible in the future via the Frontex Aula Training Platform;</li> <li>2. The possibility to exchange experiences with other stakeholders is being offered in the Annual Lessons Learned meetings, specific workshops, etc.</li> <li>3. The Frontex Aula Training Platform will include, among other things, downloadable training material for forced-return monitors.</li> </ol>	<ol style="list-style-type: none"> <li>1. Ensure continuity and further development of the FReM III training activities already conducted/planned;</li> <li>2. Develop a face-to-face refresher course, including practical exercises (in addition to the online training currently under development in work package 4);</li> <li>3. Continue the practice of yearly Annual Lessons Learned meetings and specific workshops based on demand i.e. specific topics of relevance;</li> <li>4. A refresher course (“e-learning platform for forced-return monitors”) will be one of the courses available to monitors, but there are also plans to feature/make available the training material of the basic training on the Frontex Aula Training Platform.</li> </ol>



Training of monitors in the Pool			
Issue raised by monitors	Suggested action by monitors	How this issue is currently addressed	Suggested ways forward (based on the Assessment)
The need for more practical training	<ol style="list-style-type: none"> <li>1. More practical training sessions;</li> <li>2. Practical training offered to be more in-depth (e.g. how to observe/monitor a number of returnees on a plane; discuss specific cases from previous JRO/NRO and CRO etc.)</li> </ol>	Currently, the basic 4.5-days training includes simulations of various real-life situations, but apart from the Frontex escort leader course and pilot monitoring missions, no further practical training sessions are offered after the basic training.	<ol style="list-style-type: none"> <li>1. Offer more practical training sessions for those monitors who have already participated in the basic training e.g. by ensuring a face-to-face refresher course as suggested above (i.e. every 3 years);</li> <li>2. Develop video tutorials with different real-life scenarios (i.e. movies) to support the theoretical general refresher training.</li> </ol>
The need for more training on writing monitoring reports	<p>Trainings on monitoring should include:</p> <ol style="list-style-type: none"> <li>1. How the reporting template should be used;</li> <li>2. Concrete examples of monitoring reports of</li> </ol>	<p>Currently, the monitoring report template as well as how the reporting template is intended to be used is covered in the basic training for forced-return monitoring.</p> <p>In addition:</p> <ul style="list-style-type: none"> <li>- the submission and use of reporting tools are covered in e.g. the Annual Lessons Learned meeting or specific workshops;</li> </ul>	Ensure continuous training on reporting and the related tools.



Training of monitors in the Pool			
Issue raised by monitors	Suggested action by monitors	How this issue is currently addressed	Suggested ways forward (based on the Assessment)
	previous return operations.	- in Work package 2 of the FReM III project, a communication, coordination and information platform for monitors is being developed that will enable monitors to exchange information about their experience in writing monitoring reports i.e. peer support; the overall reporting process is being revised and reporting tools including an application are under development taking into account the feedback from monitors that will support monitors in their reporting. A training on the reporting process and the reporting tools will be conducted once finalised.	
Further specific training needed	<p>The relevant topics for future training sessions:</p> <ol style="list-style-type: none"> <li>1. Risk assessment;</li> <li>2. The use of restraints;</li> <li>3. Exchange of experiences;</li> </ol>	In order to be eligible for deployment from the Pool, all nominated monitors undergo the same basic training on forced-return monitoring. Points 1-3 suggested as relevant for future training are covered in this basic training. In addition, in the FReM III project, there are other types of workshops and meetings (e.g. ALL meetings) during which such	<ol style="list-style-type: none"> <li>1. Address the feedback from monitors in training i.e. update relevant material accordingly.</li> <li>2. Conduct additional targeted training on the topics raised (e.g. risk assessment, the use of restraint measures etc.).</li> <li>3. Ensure that the basic training is sustainable and training continues to be offered to Pool</li> </ol>



Training of monitors in the Pool			
Issue raised by monitors	Suggested action by monitors	How this issue is currently addressed	Suggested ways forward (based on the Assessment)
	<p>4. Introduction to countries' specific rules and regulations.</p> <p>Suggestions on the organisation of future training:</p> <ol style="list-style-type: none"> <li>1. Practical training sessions to take place in conditions closer to the real situation (e.g. white noise, more returnees etc.);</li> <li>2. Consider offering different courses for various levels of monitoring experience (since not all participants have the same level of experience).</li> </ol>	<p>topics are discussed and experiences of monitoring are exchanged.</p> <p>With regard to point 4, the general training cannot cover country-specific information as this goes beyond the scope of the training. However, 15 factsheets have been drafted to date for all project partner countries; another seven factsheets will be drafted, as well as two factsheets for two third-countries that conduct collecting return operations. The factsheets contain basic information on the relevant stakeholders, national forced-return framework and monitoring system including the legal framework, provisions related to the use of restraints and the complaint mechanism of each country.</p> <p>Furthermore, trainings already offered to Pool monitors are evaluated by participants after each training and their suggestions for improvements are taken into consideration when organising</p>	<p>monitors including after the end of the FReM III project.</p> <ol style="list-style-type: none"> <li>4. Ensure that the suggestions made by monitors are included in the recommendations to Frontex for future training.</li> </ol>



Training of monitors in the Pool			
Issue raised by monitors	Suggested action by monitors	How this issue is currently addressed	Suggested ways forward (based on the Assessment)
		subsequent trainings. The suggestions from the Assessment will be addressed in the training programme for future training.	

Source: ICMPD, own compilation



### 4.1.3 Monitors' suggestions for improving the training

Respondents offered suggestions for improving the training of forced-return monitoring in the text box provided in the online survey. These are summarised below. Where quotes are used, the exact answer is reproduced:

1. Suggestions on the frequency of training sessions:
  - Two respondents suggested that a periodic refresher course (one of them recommended every 3 years) should be offered. In addition, one of them suggested “exchange opportunities with the other members from the Pool and the escorts, pilot missions, including support for newcomers, E-Learning and downloadable content”. Another respondent suggested “arranging meetings with peers and experts more frequently”.
2. The need for more practical training:
  - “More attention to tasks connected to pool of monitor[s], for instance how do you obtain relevant information from the OMS/PMS, how do you observe a plane containing perhaps 40 returnees etc.”;
  - “Covering the entire process, more practical sessions/role play, more experience-based sessions on basis of real-life examples”;
  - “Some more practical information, case-studies, role-play etc. could be added to the training”;
  - “More practice/more examples”;
  - “Discuss JRO/NRO and CRO cases which have already been done”;
  - “A final exercise in which a JRO is imitated (possibly only the pre-departure and departure phase) and in which the monitor observes and draws up a report”;
  - “Including a session on handling of vulnerable groups with practical examples, and a practical session/mock on reporting”;
  - “More detailed classes and practical role plays on risk assessment and the use of restraints should be offered”.
3. The need for more training on writing monitoring reports:
  - “Perhaps [what] should be discussed [is] the handling of the forms of the monitoring report”;
  - “More time on the use of reporting tools”;
  - “More practice in filling in the monitor reporting template. Learning more on how and under what conditions the monitor approaches the returnees and communicates with them”;
  - “Writing an example of the monitoring report, based on the observation and notes taken during given cases (simulations or videos)”.
4. Type of training needed/considered useful:





- “More monitors should be given the opportunity to participate in the annual lessons learned meeting. Workshops on risk assessment, the use of restraints, escort methods to de-escalate a critical situation, Training material (e.g. videos) used by Frontex or on national police level could be made available to the monitors to study at home (e.g. use of restraints)”;
  - “Forced-return monitors should have more knowledge about the use of restraints and their ability to assess certain risks should also be improved”;
  - “Exchange of experience workshops”;
  - “The need for a) procedures followed by different countries and b) treatment of special case[s]”;
  - “Maybe an introduction to the country-specific rules and regulations, conditions etc. beforehand might be helpful”; “discuss the experience with other monitors and to study about the national rules of different countries”.
5. General suggestions for the current training offered to monitors:
- “My only suggestion is that it would be great if there could be some white noise during the in-flight simulations which would make it harder to hear the conversation as that is the case when on board of the plane. Also, the handover simulation was happening in quite a big room with easy access to good view. However, in my experience the handover is the most difficult situation to monitor as it happens at the entrance of the plane and there is movement of many people. It is challenging to see all what is happening and also not being in [the] way of escorts. Preparing the new monitors for this, might be a good thing”;
  - “Preferably, ample attention is paid to the minimum curriculum for the students. The knowledge, experience and background of the course participants can differ to such an extent that there is insufficient guarantee that following the training will lead to a sufficiently uniform method of inspection and reporting”;
  - Another respondent suggested “to make groups of participants according to the level of experience with forced return monitoring”.
6. Other:
- “Trained monitors should be informed about follow-up trainings”;
  - One respondent finds it useful that monitors who have practical experience are used as trainers on the courses.
  - “Monitors should be awarded a document confirming their successful completion of initial training and pilot mission. They should also be given a badge to wear on missions (but only valid when accompanied by a letter of authorisation from Frontex for that mission) as well as their monitor vest. The aim is to give them a firm status as trusted agents and to make them proud of it. It would be good to make this an annual ceremony.”



## 4.2 The nomination of monitors, by their respective Member States, to be part of the Pool

### 4.2.1 How nomination to the Pool works in Frontex

According to Article 51(2) of Regulation (EU) 2019/1896<sup>49</sup>, MSs are responsible for nominating monitors to the Pool. In practice, this is done by MSs through their NFPOCs or NMBs which send nominations to the CAP in Frontex. As mentioned in Chapter 3 of this report, the call for monitors is an ongoing process, i.e. it is an open call and MSs can nominate monitors to the Pool at any time. CAP is in contact with the MSs and is in charge of maintaining the database of monitors, ensuring that the name, contact details, monitors' expertise etc. is up to date.

The following sub-section includes monitors' experience of being nominated to the Pool, looking at both the initial nomination by their respective MSs and the response of Frontex to the nomination.

It is important not to confuse this nomination to the Pool with the nomination and deployment to specific forced-return operations, which will be covered in further detail in sections 4.3. *Monthly call for monitors* and 4.4 *Preparation for deployment* of this report.

The following themes related to the nomination of monitors to the Pool were addressed through the survey<sup>50</sup>:

1. National institutions mandated to nominate monitors to the Pool;
2. National requirements for nomination to the Pool;
3. Suggestions for improving nomination to the Pool.

### 4.2.2 How nomination to the Pool is perceived/experienced by monitors

#### Nomination of monitors, by their respective MSs, to be part of the Pool

According to 27 of the 43 respondents (who answered this specific question), the NMBs nominate national monitors to the Pool. For more information, see Annex 3:

Chart 5: According to your knowledge, which institutions in your country may nominate national monitors to the Frontex Pool? (Annex 3).

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<sup>49</sup> "Member States shall be responsible for contributing to the pool by nominating forced-return monitors corresponding to the defined profile" (Regulation (EU) 2019/1896).

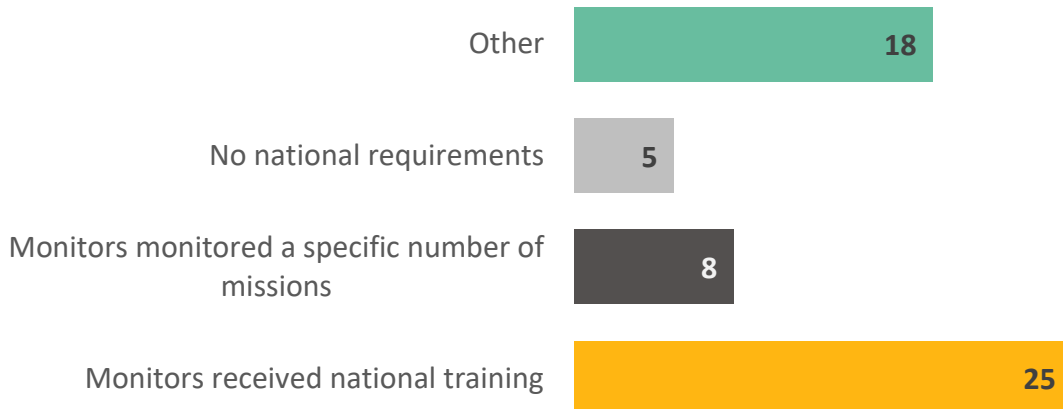
<sup>50</sup> For the exact questions included in the survey, see Annex 2: Questionnaire for Monitors Nominated to the Pool.



Regarding the national requirements for a monitor to be nominated to the Pool (Chart 6 below), most respondents (25) selected, from a predefined list of options, that *monitors received national training* and eight also highlighted that *monitors must have monitored a specific number of missions*. Under *Other*, the following requirements were listed:

- “Monitors are experienced in monitoring (national) return operations, monitors are sufficiently fit, monitors master the English language sufficiently and preferably some other European languages”;
- “FRONTEX-training plus one operation as a trainee”;
- “Receiving the FReM training”
- “To do the ICMPD training of 1 week, then 1 mission under supervision”;
- Three respondents wrote that another national requirement to be nominated to the Pool is to be a member of the national monitoring body.

Chart 6: According to your knowledge, what are the national requirements for this nomination (to the Pool)?



NOTE: Multiple choice from 4 predefined options, with text box to insert answer under *Other*

Those who answered that a national requirement to be nominated to the Pool is that *monitors must have monitored a specific number of missions* were further asked in the online survey<sup>51</sup> to indicate the number of forced-return operations that a monitor needed to have monitored before being nominated to the Pool. These were the answers provided:

- “Ideally at least 5. However, in reality one is nominated after one training flight”;
- “At least five”;

<sup>51</sup> For the exact formulation and sequence of questions, see Annex 2: Questionnaire for Monitors Nominated to the Pool.



- “Specifically, you need some level of experience which varies from person to person”;
- “Minimum 3”;
- “5 to 10”;
- “In order to get to know the job at least 15 forced return operations are required to be able to be nominated to the Pool”.

Some monitors indicated when they were nominated to the Pool. For their answers, see Annex 3: Chart 7: When were you nominated to the Pool? (Annex 3).

### **Issues identified and suggested ways forward**

This section brings together monitors’ feedback from the survey about the initial nomination by their MS to be part of the Pool. It includes a summary of the issues identified by monitors and their suggestions for addressing them. It also describes how these issues are currently addressed and suggests possible ways forward.

Issues raised by monitors:

1. Effectiveness and transparency of procedures in place for nominating monitors to the Pool;
2. Transparency regarding the criteria for nominating monitors to the Pool;
3. Monitors’ limited monitoring experience at the time they are nominated to the Pool.

To address the issue of effectiveness and transparency of procedures, monitors suggest that national institutions should be more active in nominating monitors to the Pool and that Frontex should send an early reminder to MSs for nominating monitors to the Pool.

To address transparency regarding criteria for nominating monitors to the Pool, respondents suggested that MSs make their respective national criteria more transparent and clearer.

Monitors suggested that limited monitoring experience should be addressed through the following measures:

1. Monitors should be required to have more experience before being nominated to the Pool;
2. Independent monitors should also be eligible for nomination to the Pool.

With regard to the effectiveness and transparency of procedures, it is important to note that legally, responsibility for nominating monitors to the Pool remains with the MSs. Frontex sent out the initial



call for monitors at the end of 2016. The call for monitors has remained open since then, as the nomination of monitors to the Pool is an ongoing process<sup>52</sup>.

Regarding the transparency of criteria for nominating monitors to the Pool, it should be noted that while Frontex developed a general profile for Pool monitors which was endorsed by the Frontex Management Board, different national criteria apply.

With regard to the issue of monitors' experience of monitoring before being nominated to the Pool, it is worth noting that NMBs are responsible for nominating monitors to the Pool from the national bodies who carry out forced-return monitoring activities in accordance with Article 8(6) of the Return Directive. In some national contexts, monitoring experience is one of the criteria for being eligible for nomination, but, as mentioned above, NMBs in the different MSs do not apply the same national criteria. To ensure the independence and correct application of Return Directive Article 8(6), monitors nominated to the Pool have to be part of the respective national monitoring system and cannot be independent persons/agencies i.e. to ensure independence of the Pool.

Suggested ways forward:

1. Remind MSs that providing nominations to the Pool is an ongoing process, i.e. that the call is an open one and monitors can be nominated at any time; for instance, send a yearly reminder to MSs to nominate monitors to the Pool;
2. Ensure that information about the nomination procedure is uploaded on to the communication, coordination and information platform;
3. Upload the general profile of a Pool monitor on to the communication, coordination and information platform;
4. Consider including the national nomination criteria in the respective national factsheets;
5. The NMBs should:
  - a. Continue using the opportunity of the training and other activities offered through the Pool to train their staff;
  - b. Continue nominating monitors to the Pool so that the monitors gain "international" experience;
  - c. Ensure that the monitors proactively use the opportunity of pilot monitoring missions to gain practical experience.

Table 4 below summarises the main issues monitors raised and their suggestions for addressing them. In addition, the table describes how each of these issues is currently addressed, if at all, and presents suggested ways forward.

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<sup>52</sup> Section 3.2 of this report.



Table 4: Issues raised and suggestions for improving monitors' nomination to the Pool

Initial nomination of monitors, by their respective MSs, to be part of the Pool			
Issue raised by monitors	Suggested action by monitors	How this issue is currently addressed	Suggested ways forward (based on the Assessment)
Effectiveness and transparency of procedures in place for nominating monitors to the Pool	<ol style="list-style-type: none"> <li>1. National institutions should be more active in nominating monitors to the Pool;</li> <li>2. Frontex should send a yearly request/reminder to national institutions for nominating monitors to the Pool.</li> </ol>	Legally, responsibility for nominating monitors to the Pool remains with the MSs. Frontex holds annual bilateral negotiations (ABN) with all MSs during which, among other things, they negotiate the human resource contribution to the Pool. Frontex sent out the initial call for monitors at the end of 2016. The call has remained open since then, as the nomination of monitors to the Pool is an ongoing process (Section 3.2 of this report).	<ol style="list-style-type: none"> <li>1. Remind MSs that the call to the Pool is open and that monitors can be nominated at any time;</li> <li>2. Send a yearly reminder to MSs to nominate monitors to the Pool;</li> <li>3. Ensure that information about the nomination procedure is uploaded on to the communication, coordination and information platform.</li> </ol>
Transparency regarding criteria for nominating monitors to the Pool	MSs to make their respective national criteria more transparent and clearer.	Different national criteria apply. Frontex developed a general profile of a Pool monitor which was endorsed by the Frontex Management Board.	<ol style="list-style-type: none"> <li>1. Upload the general profile of a Pool monitor on to the communication, coordination and information platform;</li> <li>2. Consider including the national nomination criteria in the respective national factsheets.</li> </ol>



Initial nomination of monitors, by their respective MSs, to be part of the Pool			
Issue raised by monitors	Suggested action by monitors	How this issue is currently addressed	Suggested ways forward (based on the Assessment)
Monitors' limited monitoring experience at the time they are nominated to the Pool	<ol style="list-style-type: none"> <li>1. Monitors should have more experience before being nominated (e.g. at least 5 ROs monitored before nomination);</li> <li>2. Independent monitors should also be eligible for nomination to the Pool (e.g. human rights practitioners and relevant NGO organisations willing to be part of the Pool).</li> </ol>	<ol style="list-style-type: none"> <li>1. NMBs are responsible for nominating monitors to the Pool from bodies who carry out forced-return monitoring activities in accordance with Article 8(6) of the Return Directive. In some national contexts, monitoring experience is one of the criteria for being eligible for nomination, but NMBs in the different MSs do not apply the same national criteria; Frontex developed a general profile of a Pool monitor which was endorsed by the Frontex Management Board.</li> <li>2. To ensure the independence and correct application of the Return Directive Article 8(6), monitors nominated to the Pool have to be part of the respective national monitoring system and cannot be independent persons/agencies.</li> </ol>	<p>The NMBs should:</p> <ol style="list-style-type: none"> <li>1. Continue using the opportunity of the training and other activities offered through the Pool to train their staff;</li> <li>2. Continue nominating monitors to the Pool so that they gain "international" experience;</li> <li>3. Ensure that the monitors proactively use the opportunity of pilot monitoring missions to gain practical experience.</li> </ol>

Source: ICMPD, own compilation



### The response from Frontex to the national nominations to the Pool

This section of the survey included specific questions about the response Frontex sends to the nominating institutions, regarding the monitors they have nominated to the Pool. For this stage of the process, the questions addressed:

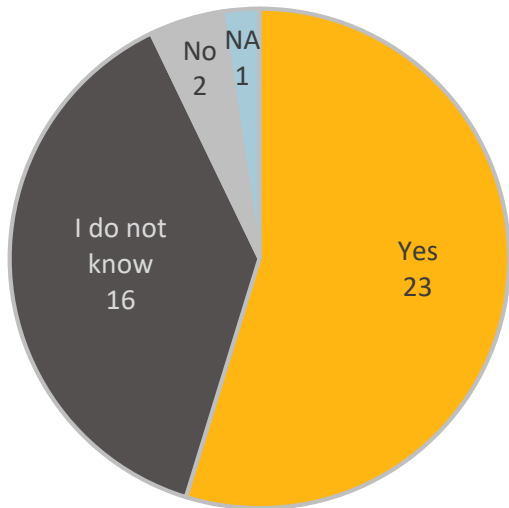
1. Respondents' knowledge of the communication (including its content) between Frontex and the national nominating institutions;
2. Whether nominations to the Pool were rejected by Frontex;
3. Suggestions for improving the communication between Frontex and the nominating institutions.

With regard to the question about the communication between Frontex and national nominating institutions, 23 monitors who participated in the survey responded that the nominating institution receives an answer from Frontex regarding the acceptance/non-acceptance of the national nominations (Chart 8 below). Half of the respondents (21 out of the 42 who answered this question) did not know whether Frontex rejected national nominations to the Pool (Chart 9 below). Of the three respondents who said that national nominations to the Pool were rejected by Frontex, one reported they did not know the reason Frontex gave for rejecting the nomination, while another wrote that no reason was provided by Frontex.



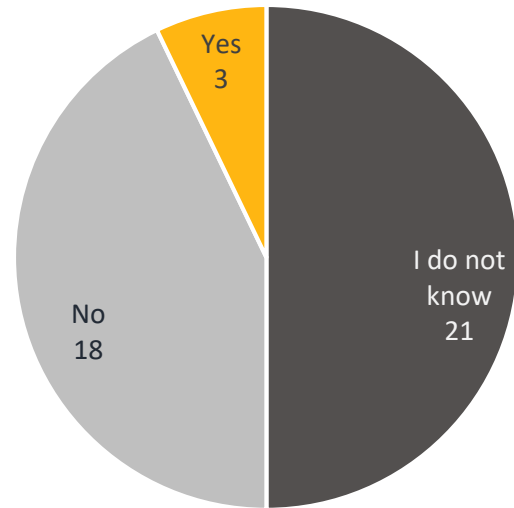


Chart 8: According to your knowledge, does the institution that nominates national monitors to the Pool receive an answer from Frontex with regard to the acceptance/non-acceptance of national nominations to the Pool?



NOTE: Selection, Yes/No Question

Chart 9: According to your knowledge, were any national nominations to the Pool rejected by Frontex?



NOTE: Selection, Yes/No Question

The section of the survey on monitors' nomination to the Pool included the following open question: *According to your knowledge, what additional information does Frontex share with the institution that nominates monitors, when confirming the national nomination(s) to the Pool?* (See Annex 2) Most respondents (19 out of the 34 who answered this question) said that they did not know what information Frontex shared with the national institutions that nominate monitors. Of the 19, three provided the same explanation, saying that as monitors, they are part of the national monitoring institutions and are therefore not party to the communication that is directly between the NFPOC and Frontex.

### **Issues identified and suggested ways forward**

This section brings together monitors' feedback from the survey about the answer provided by Frontex to the nominating institutions, regarding the monitors they have nominated to the Pool. It includes a summary of the issues identified by monitors and their suggestions for addressing them. It also describes how these issues are currently addressed and suggests possible ways forward.

With regard to the response from Frontex to the national nominations to the Pool, monitors identified two issues:

1. Transparency regarding the content of the communication between Frontex and the NMBs;



2. Transparency regarding the way in which the communication between Frontex and nominating national institutions is organised.

To increase transparency regarding the content of the communication between Frontex and NMBs, monitors suggested that the criteria for nomination to the Pool also be communicated to the monitors.

To increase transparency regarding the way in which the communication is organised, monitors suggested that the nominated monitors are copied in to the communication between Frontex and the national institutions.

Common to both of the issues identified, and the monitors' suggestions for addressing them, is the fact that Frontex communicates with MSs through the NFPOCs and the NMBs, and not directly with the monitors.

Suggested ways forward:

1. Monitors should be informed about the communication from the national monitoring institutions to Frontex and the response from Frontex regarding the national nominations;
2. Where possible and relevant, copy monitors in to the correspondence.

Table 5 below summarises the main issues monitors raised and their suggestions for addressing them. In addition, the table describes how each of these issues is currently addressed, if at all, and presents suggested ways forward.



Table 5: Issues raised and suggestions for improving communication from Frontex regarding national nominations to the Pool

<b>Communication from Frontex regarding national nominations to the Pool</b>			
<b>Issue raised by monitors</b>	<b>Suggested action by monitors</b>	<b>How this issue is currently addressed</b>	<b>Suggested ways forward (based on the Assessment)</b>
Transparency regarding the content of the communication between Frontex and the NMBs	Criteria for monitors' nominations to the Pool to be communicated to monitors.	Communication is between Frontex (CAP) and the NFPOCs and/or the NMBs.	Monitors should be informed about the communication from the national monitoring institutions to Frontex and the response from Frontex regarding the national nominations.
Transparency regarding the way in which the communication between Frontex and nominating national institutions is organised.	Nominated monitors to be copied in to the communication between Frontex and national institutions.	In general, Frontex communicates with national institutions through the NFPOCs and the NMBs, and not directly with monitors.	Copy monitors in to the correspondence.

Source: ICMPD, own compilation



### 4.2.3 Monitors' suggestions for improving the process of monitors' nominations to the Pool

Monitors' suggestions for improving nominations to the Pool addressed two main issues: criteria for nomination and procedures in place for nomination. Regarding nomination criteria, monitors suggested that more emphasis should be placed on monitors' experience of monitoring and monitors' skills:

- "More than one training flight – at least 5 – should be mandatory";
- "Monitors must first have national experiences before they are notified, preferably having experienced a national charter";
- "The focus should be on language skills and experience";
- "It is necessary that the pool monitors have national training and experience, possibly within the framework of an independent mechanism".

With regard to the procedures in place for nominating monitors to the Pool, monitors suggested the following:

- "The national authorities should be active, including the national monitoring institutions";
- "National monitoring bodies can set their own criteria according to the national standards. A yearly request could be sent by the managers of the EU pool to the national bodies for new nominations/ confirmation of the existing ones";
- "Make the criteria clear, so independent monitors can also apply";
- "The procedure on nomination should be more transparent";
- "The nomination of experienced human rights practitioners (working in the Ombudsman's Office and in NGO organizations) willing to be a part of the Pool".

Monitors were further asked to provide suggestions for improving the communication between Frontex and nominating institutions. In general, their replies covered two main issues: the content of the communication and concrete ideas about what this communication should include; and suggestions for improving the way in which the communication between Frontex and nominating national institutions is formulated. The following answers cover both these issues:

- "Transparency and communication to the national institution and the monitors, with respect to the justification for rejection. More information and communication regarding the process of nomination and the criteria in different MSs to be made available";
- "To be determined focal points of the both sides to improve the communication and to define/ prepare uniform criteria that candidates of monitoring must answer".



Suggestions addressing the content of the communication between Frontex and nominating national institutions<sup>53</sup> included the recommendation that 1) this communication should contain confirmation of nominations, and 2) it should include specific information about the profile of a Pool monitor:

- “I know way too little about the quantity and quality of this info exchanged. We are not ever informed about this. It would be good if the level and field of experience were taken [into] account, as their specific qualities. i.e. languages, mental health knowledge etc.”;
- “1. a confirmation, 2. information concerning practical and legal issues, such as what is the legal basis of assessment in various MS, insurance matters, who pays what, who has the authority to instruct the monitor, what information can you expect to receive from the OMS/PMS”;
- “It should be given Information on why a national Nomination has been rejected”;
- “Because I don't have knowledge on this matter, I cannot suggest on anything. That being said, I believe Frontex should inform the national institution(s)/ national monitoring bodies any time there is a rejection of a nomination”;
- “If the monitor was selected or rejected due to specific knowledge/training”;
- “More practical issues regarding the operations”.

Suggestions addressing the way in which the communication between Frontex and nominating national institutions is organised included the following:

- “I think Frontex should do all the coordination”;
- “No suggestions. I think the communication should in the first place go between Frontex and the national institutions. The monitor perhaps in cc.”;
- “Periodic meetings or interviews are required on an annual basis between the two institutions. It's necessary to share standards on the skill and activities required”.

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<sup>53</sup> The authors of this report consider that these comments would fit better under another section of the report – nominations for deployment to specific return operations. Since respondents wrote these suggestions under this section – nominations to the Pool – for accuracy, they are included here.



### 4.3 Monthly call for monitors

This sub-section includes monitors' experience of the monthly call for monitors to the Pool related to the steps preceding deployment, as follows:

- The Frontex call for monitors sent to MSs on a monthly basis;
- The response of national institutions to the specific Frontex calls for monitors (sent to Member States on a monthly basis);
- The response from Frontex to national nominations to specific forced-return operations (in the framework of the monthly call for monitors).

#### 4.3.1 How the Frontex monthly call works

Currently, monitors from the Pool can only be deployed on the basis of a request by a MS. The requesting MS – either the organising MS (OMS) or a participating MS (PMS) – indicates its need for a monitor in a specific RO via the FAR.

When a MS fills in the FAR for a planned return operation, they are asked to select either “Yes” or “No” to the question: “Will you provide a monitor?” If the MS knows that the national monitoring system is not providing a monitor for that specific RO and selects “No”, the form offers the option of requesting a monitor from the Pool. In cases where the MS selects “No” and does not request a monitor from the Pool, ECRet knows that that particular operation will not be monitored<sup>54</sup>. However, as the process of organising a RO can take weeks (e.g. from four to six weeks), MSs can also request a monitor from the Pool at a later stage. If that does not happen, and there is no national monitor present, that particular operation will not be monitored.

Monitoring carried out by monitors from the Pool means that a MS is monitored at their request by a monitor from another MS. It is important to note that the monitor(s) from the Pool requested by a MS to participate in monitoring a RO, monitor one specific contingency in the operation, not the entire operation; other PMS may agree that the same monitor(s) also monitor the RO on their behalf.<sup>55</sup> A requesting MS can be either the OMS or a PMS; in practice it is usually the OMS that requests a monitor from the Pool. The concept of monitoring within the Pool has not yet reached what might be described as a “European-wide” monitor, where a whole return operation, i.e. the entire RO is monitored by a

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<sup>54</sup> With the exception of CROs which, according to Article 50(3) of Regulation (EU) 2019/1896, have to be monitored.

<sup>55</sup> Article 16(4) of the *Code of Conduct for Return Operations and Return Interventions Coordinated or Organised by Frontex* (2018) specifies that “[w]hen feasible and subject to prior agreement between the MS concerned, forced-return monitors may also monitor on behalf of other MS taking part in [a return operation].”



(number of) monitor(s) who submit a joint report detailing the whole operation. At the moment, monitors submit their reports covering the specific contingency they have been asked to monitor.

### **Monthly call for monitors sent by Frontex to Member States**

The FAR system automatically sends notifications to CAP regarding MSs' requests for monitors. This is an automated process. CAP collects the requests for monitors and, usually by the 11<sup>th</sup> of each month, prepares a monthly call (i.e. a letter) for monitors for operations taking place the following month which is sent to the NFPOCs of all the MSs who contribute monitors to the Pool, with copies to the respective NMBs. The call requests the NMBs to indicate which operations they would be available for and interested in nominating monitors to. MSs then have one week to respond to the call, via the NFPOCs. The monthly call for monitors includes general information about the ROs, e.g. the type of operation, the destination, date of the RO, airport of departure (if known at the time of the call), etc. The NMBs can nominate monitors to specific operations listed in the call.

### **Decision by Frontex to assign nominated monitors to specific return operations**

Soon after the one-week deadline, CAP gathers all the nominations, prepares an overview of the upcoming return operations that month and calls a meeting with ECRet and FRO. The objective of the meeting is for staff from all three units to go through each request and nomination to decide which monitors to assign to which operation(s).

### **The following criteria are used for assigning monitors to specific operations:**

1. The operations to be covered are prioritised as follows:

- a) CROs, where at least one monitor should be present;<sup>56</sup>
- b) JROs;
- c) NROs.

2. In addition to this principle, the country of return is also a consideration in the process of assigning monitors. The experiences of representatives from Frontex, and those of OMSs and PMSs in relation to the country of return, as well past monitoring reports detailing issues that have arisen from previous return operations to specific countries of return are among factors that are taken into account in the decision-making process.

3. The availability of monitors from the Pool.

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<sup>56</sup> According to Article 50(3) of Regulation (EU) 2019/1896, “[a]t least one Member State representative, and one forced-return monitor from the pool established under Article 51 or from the monitoring system of the participating Member State, shall be present throughout the entire [collecting] return operation until arrival at the third country of return”.



4. Other criteria also considered are that the:

- a) Skills and specific experience of the available monitors should match the particular RO.
- b) Language(s) that the monitor speaks should ideally match the language(s) spoken by the returnees.
- c) The “fairness” principle should be applied, according to which the planned ROs should be fairly distributed among the available monitors and all monitors should be assigned as equally as possible to operations.

At this meeting, ECRet, CAP and FRO agree which monitors to assign to which ROs. CAP records these decisions<sup>57</sup> and officially lets MSs know, via the NFPOCs, where each monitor has been assigned. If NMBs have nominated several monitors to the same RO and there are others taking place that month where no nomination has been made, CAP contacts the relevant NMBs to ask whether they can nominate monitors to those ROs instead. To date, NMBs have shown flexibility and have usually responded positively to these requests.

**The response from Frontex to national nominations to specific return operations (in the monthly call for monitors)**

After the monitors have been assigned to the specific ROs and CAP has informed the NMBs, ECRet emails the operational details to the monitors. The email contains information on the flight schedule, the contact details of the main contact for the operation (the Escort Leader/ EL), financial rules etc. If monitors request additional support (e.g. visa support letter, information on vaccinations etc.), ECRet usually refers them to the requesting MSs. If their specific request is not addressed by the requesting MS, ECRet offers support. This is done on a case-by-case basis. If there are changes in the schedule, ECRet contacts the monitors.

If a monitor, other than the one who was assigned to a particular RO is needed, ECRet informs CAP who then contacts the NMBs for another nomination (outside of the monthly call). This can be the case if, e.g. the monitor who has been assigned to the RO falls ill and cannot be deployed.

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<sup>57</sup> CAP keeps a record of which monitor has been assigned to which RO, as well as records of the monitors that were nominated for the monthly call who were not assigned to a particular RO in that monthly call (based on the criteria mentioned above), if that is the case.





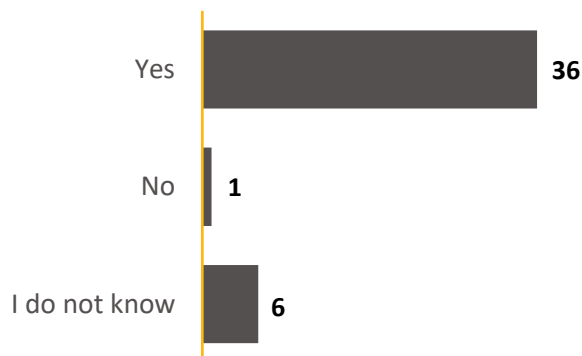
### 4.3.2 How the monthly call is perceived/experienced by monitors

#### The monthly call for monitors from Frontex to Member States

As mentioned above, CAP collects the requests for monitors and, usually by the 11<sup>th</sup> of each month, prepares a monthly call (i.e. a letter) for monitors for operations the following month which is sent to the NFPOCs from all the MSs who contribute monitors to the Pool, with copies to the respective NMBs.

The majority of monitors (36 out of 43) answered that their institution receives the monthly call for monitors that Frontex sends to MSs (Chart 10 below). Of the 39 monitors who answered the question on *how the Frontex call for monitors is forwarded in the national context* (Chart 11 below), 12 responded that the monthly call is sent directly to the NMB, seven wrote that the call is first sent to the NFPOC, then shared with the NMB or the monitors, while three said that the call is sent to both. Seventeen respondents provided other answers.

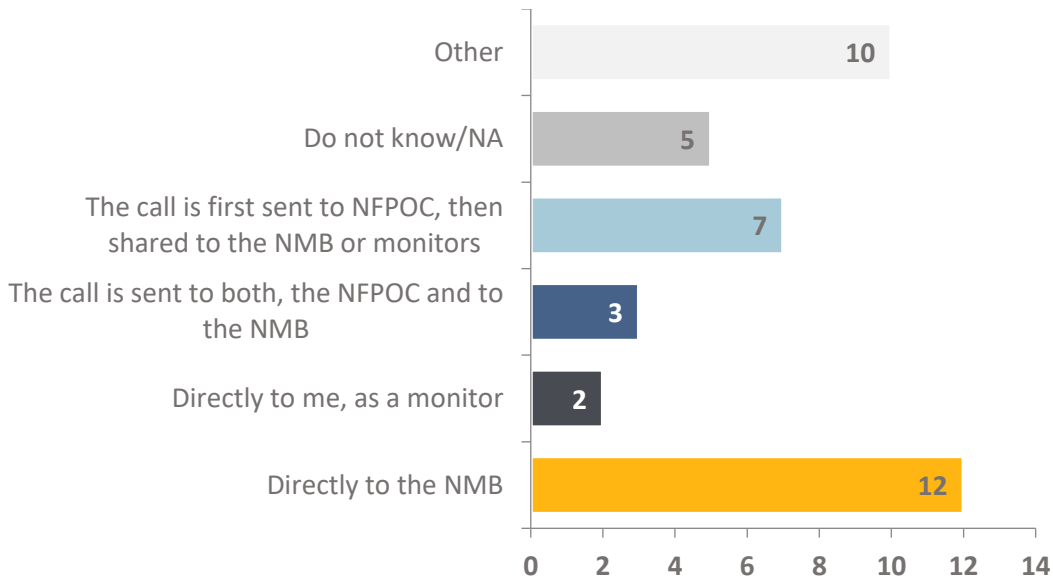
Chart 10: According to your knowledge, is your institution receiving the call for monitors that Frontex sends to the Member States on a monthly basis?



NOTE: Selection, Yes/No Question



Chart 11: According to your knowledge, how is the Frontex call for monitors forwarded in the national context (i.e. who is the initial call sent to and how/ to whom is it distributed further)?



*NOTE: Open question, categories were elaborated based on answers written by respondents*

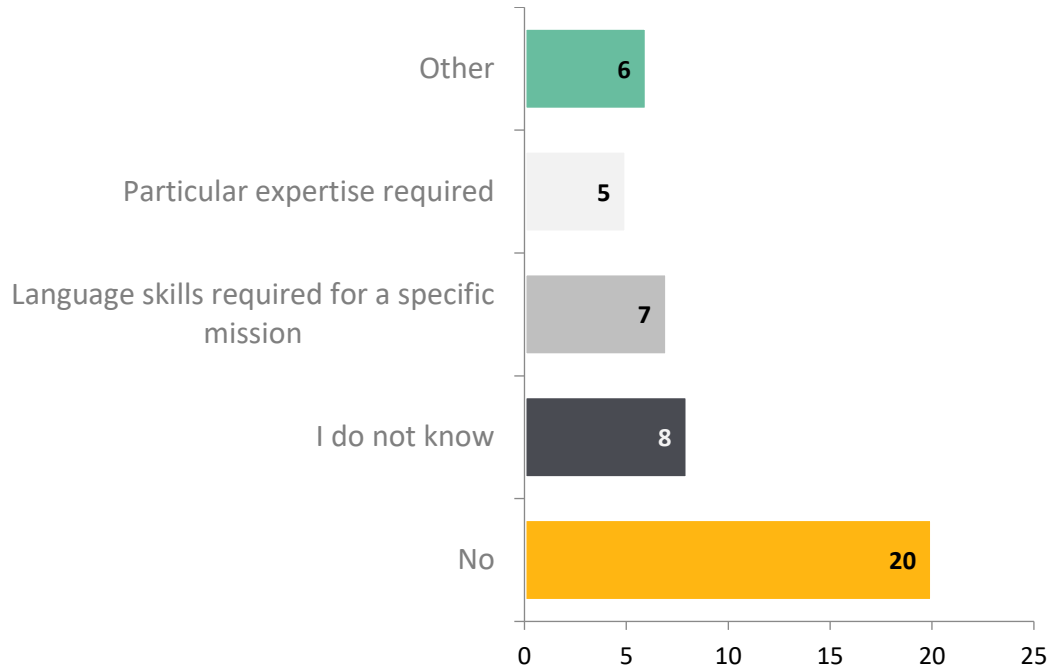
Under *Other*, respondents wrote:

- “We get an ‘open call’ for monitors approx. around the 20<sup>th</sup> of the month previous to the month for which we are asked to express our availability”;
- “By mail monthly”;
- “It is sent to the Managing Director of our Institution and then distributed to all Monitors of our institution”;
- “In my country the national institution sent the information to the designated monitors”.

When asked about the particular requirements for the specific ROs included in the call, 20 monitors responded that no specific requirements are included (Chart 12 below).



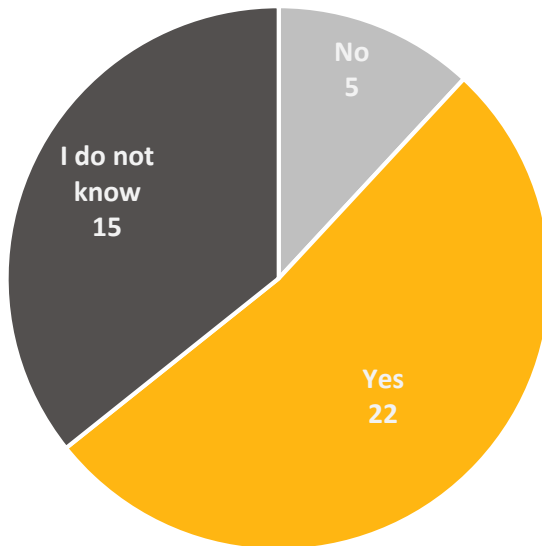
Chart 12: According to your knowledge, does the Frontex call for monitors mention specific requirements for specific Return Operations included in the call?



NOTE: Multiple choice from 5 predefined options, with text box to insert answer under Other

Under *Other* (Chart 12 above), two monitors wrote that visa requirements are included in the Frontex call for monitors, while two others said that the requirements refer to monitors’ eligibility for deployment (e.g. must have done the FReM training and one mission under supervision) and underlined the importance of including all the requirements mentioned in the monthly call – particular expertise required for the upcoming return operations, e.g. language skills, experience with vulnerable groups etc. One respondent, who answered that no requirements are included, wrote, “Missing are the POE (airports), visa requirements, duration (1 or 2 days? ca. ETD & ca. ETA) etc.”

Chart 13: According to your knowledge, did your institution receive a call for monitors from Frontex outside the monthly call for monitors (i.e. additional calls)



NOTE: Selection, Yes/No Question

Even though the usual procedure is for monthly calls to be sent to all the MSs that contribute to the Pool, in some cases Frontex addresses specific requests for monitors to certain NMBs. Twenty-two monitors reported that their institution received a call for monitors from Frontex outside the monthly call (see chart on the left). These monitors were further asked to describe the way their respective institution processed the call outside the monthly call for monitors. Seven wrote that the call (outside the monthly call) is processed in the same way as the monthly call. Three monitors described a procedure where the national institution that receives the call for monitors outside the monthly call tries to nominate the most suitable monitors in terms of skills and experience for the ROs in question:

- “Depending on the destination and useful language skills to communicate with escorts & returnees a proper monitor is asked immediately. If this monitor is not available [then] nomination is offered to all other monitors”;
- “The Monitoring Body is sending a request to the most appropriate monitor for this specific mission. The choice depends on language skills and experience of the monitor. Should this monitor not be available, the Monitoring Body is asking other monitors if they are interested in participating. Once a suitable monitor is found, the nomination is sent to Frontex”;
- “Availability of the monitor with best qualifications for this operation (e.g. languages spoken) will be proved, then the availability of other monitors. The most suitable monitor will be offered”.

Another seven respondents described various steps of the process:

- “I check the dates of return flights to see if I am able to take a part of it”;
- “This was on one occasion in the past 30 months. I was called and asked by phone if I could attend for a -extra- mission”;
- “Urgent call from FRONTEX for additional operation that specific month was immediately disseminated to the address list of all Monitors (...and I did the flight)”;
- “Forwarded mail”;
- “Frontex sends the calls directly to my institution and me”;



- “According to the availability of monitors for a specific mission, outside of monthly calls are either accepted or denied”;
- “Additional calls are always based on individual availability of the monitors nominated from the Pool. They received directly the call, so they are relatively free to join or not”.

### **Issues identified and suggested ways forward**

This section brings together monitors’ feedback from the survey about the call for monitors that Frontex sends to the MSs on a monthly basis. It includes a summary of the issues identified by monitors and their suggestions for addressing them. It also describes how these issues are currently addressed and suggests possible ways forward.

Monitors identified two main issues with regard to the Frontex monthly call for monitors:

1. Insufficient information in the Frontex monthly call for monitors, for them and their institutions, to decide whether they can monitor a specific RO from the monthly call;
2. A general lack of communication/information shared with monitors at this stage.

To address the first issue, monitors suggested that the Frontex monthly call should contain more specific information to help monitoring bodies decide whether to respond to the call and monitors to prepare for deployment. They suggested the call should indicate:

3. The airport/city where an operation will start;
4. Whether a visa is required;
5. The time the RO will start;
6. The length of the RO.

As a solution to the second issue raised, monitors suggested that they should be informed which ROs are being monitored and the reasons why others are not monitored.

With regard to the monthly call, CAP collects the requests for monitors made by MSs in the FAR. As the monthly call is sent weeks in advance of an upcoming RO, some of the relevant details are not yet available. Some details are only known shortly before the mission starts. For instance, the airport/city where the operation will start can be communicated earlier, while the time the operation will start is not known at the time the monthly call goes out.

With regard to communication with the monitors at this stage, it is important to note that Frontex communicates with MSs through the NFPOCs. Frontex copies the NMBs in to communications relating to monitoring forced returns. Although they have been nominated to the Pool, communication with individual monitors remains the responsibility of the respective nominating institutions. If needed, ECRet communicates directly with monitors at a later stage (e.g. questions on preparation for deployment, changes in the schedule of an operation etc.).



Suggested ways forward:

1. Inform monitors about procedures and limitations in the preparation of a Frontex-coordinated RO;
2. Ensure that as much information as possible is included in FAR when requesting monitors for upcoming ROs and that new information is shared with the nominated monitor as soon as it becomes available;
3. Ensure that the individual monitors are continuously involved in the communication from an early stage onwards;
4. Ensure that information is duly shared with the monitoring bodies as well as information on the RO as such.

Table 6 below summarises the main issues monitors raised and their suggestions for addressing them. In addition, the table describes how each of these issues is currently addressed, if at all, and presents suggested ways forward.



Table 6: Issues raised and suggestions for improving communication regarding the Frontex monthly calls for monitors sent to Member States

Frontex calls for monitors sent to Member States on a monthly basis			
Issue raised by monitors	Suggested action by monitors	How this issue is currently addressed	Suggested ways forward (based on the Assessment)
Insufficient information included in the Frontex monthly call for monitors	<p>The Frontex monthly call should contain more specific information to help monitoring bodies decide whether to respond to the call and monitors to prepare for deployment:</p> <ul style="list-style-type: none"> <li>- Indicate the airport/ city where an operation will start;</li> <li>- whether a visa is required;</li> <li>- the starting time of a RO;</li> <li>- the length of the RO.</li> </ul>	<p>Frontex (CAP) collects the requests for monitors made by MSs in the FAR. As the monthly call is sent weeks in advance of an upcoming RO, some of the relevant details are not yet available. Some details are only known shortly before the mission. For instance, the airport/ city where the operation will start can be communicated earlier, while the start time is not known at the time the monthly call goes out.</p>	<ol style="list-style-type: none"> <li>1. Inform monitors about procedures and limitations in the preparation of a Frontex-coordinated RO;</li> <li>2. Ensure that as much information as possible is included in FAR when requesting monitors for upcoming ROs and that new information is shared with the nominated monitor as soon as it becomes available.</li> </ol>
Overall communication/ information shared with monitors	<p>Inform monitors which ROs are monitored and the reasons why others are not monitored</p>	<p>Frontex communicates with MSs through the NFPOCs. Frontex copies the NMBs in to communications relating to monitoring forced returns. Although they have been nominated to the Pool, communication with individual monitors remains the responsibility of the respective</p>	<ol style="list-style-type: none"> <li>1. Ensure that the individual monitors are continuously involved in the communication from an early stage onwards.</li> </ol>



Frontex calls for monitors sent to Member States on a monthly basis			
Issue raised by monitors	Suggested action by monitors	How this issue is currently addressed	Suggested ways forward (based on the Assessment)
		nominating institutions. If needed, ECRet communicates directly with monitors at a later stage (e.g. questions on preparation for deployment, changes in the schedule of an operation etc.).	<ol style="list-style-type: none"> <li>2. Ensure that information is duly shared with the monitoring bodies as well as operational information on the RO as such.</li> </ol>

Source: ICMPD, own compilation





## National institutions' responses to the specific Frontex calls for monitors sent to Member States on a monthly basis

The majority of respondents (33 out of 43) reported that the NMBs decide if monitors should be nominated for a particular Frontex call for monitors. For more information see:

Chart 14: Which national institution decides if monitors should be nominated for a particular Frontex call for monitors? (Annex 3)

The remaining 10 respondents wrote that various ministries (e.g. Justice, Interior, Foreign Affairs) make that decision. With regard to how the decision to nominate monitors for the monthly call is made (Chart 15 below), the most common criterion is the *availability of monitors* (selected by 37 respondents), followed by the *availability of a particular monitor who fits the requirements of the call* (selected by 13 respondents). *Institutional interest* was selected by five monitors; of these, three added:

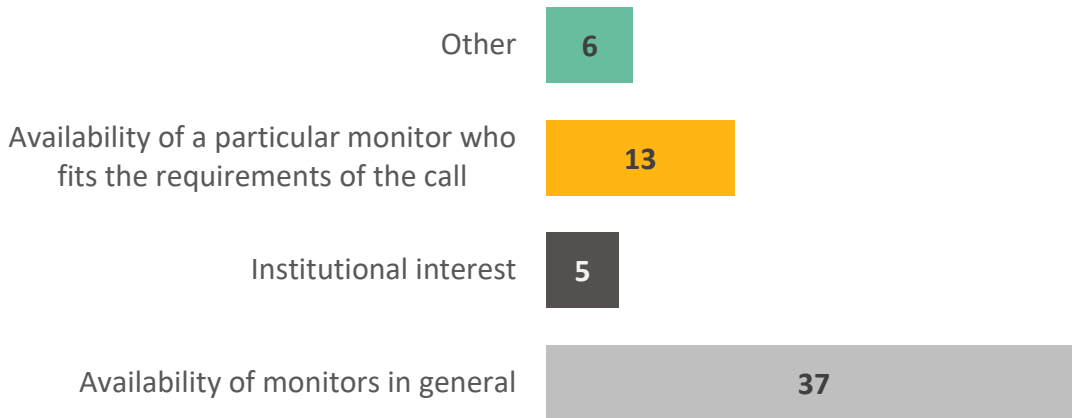
- “Sometimes it feels they wish to keep some monitors in reserve for ‘just in case’ situations”;
- “To provide a forced return monitor for a return operation on a European level”;
- “To control the national monitors”.

Under *Other* (Chart 15 below) four monitors wrote:

- “All matches between operations and at least 1 monitor's availability for the specific date are submitted to FRONTEX. However, more Monitors have been available than have been picked by FRONTEX recently (there should be not one single unaccompanied flight anymore...)”;
- “To keep experienced monitors operational with RO-expertise with different OMS and destinations”;
- “The call sent not just few days before the deadline, because we must ask the General Prosecutor's permission to participate in any return operation”;
- “Workload of the monitor, money, willingness of the leaders of the office to contribute in that respective time”.



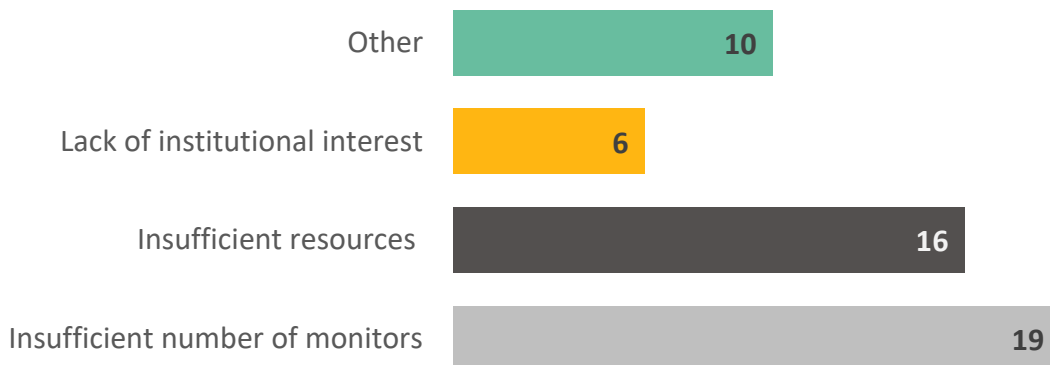
Chart 15: Which national institution decides if monitors should be nominated for a particular Frontex call for monitors?



NOTE: Multiple selection of 4 predefined options, with text box to insert answer for the options: Institutional interest and Other

As mentioned above, monitors consider the *availability of monitors in general* to be the most common factor contributing to a MS’s positive decision to nominate monitors to a monthly call. Correspondingly, an *insufficient number of monitors* was selected by most respondents (19) to be one of the factors contributing to a negative answer to the monthly call (Chart 16 below).

Chart 16: According to your knowledge, what are the main factors contributing to a negative answer to the Frontex call for monitors?



NOTE: Multiple choice from 4 predefined options, with text box to insert answer under Other

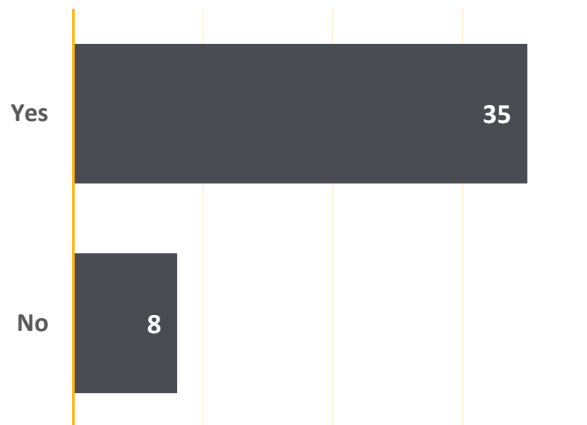


Under *Other*, the main factors contributing to a negative answer to the Frontex call for monitors are several other issues which can be attributed to the larger challenge of insufficient resources, such as monitors’ work load (including their responsibility to monitor NROs), cumbersome procedures for reimbursing monitors or no reimbursement at all:

- “a. heavy weekly workload with readmissions and national ROs, b. cumbersome fiscal procedures for reimbursement of expenses/ accommodation/DSA<sup>58</sup> of the monitor, c. no reimbursement/ management cost for the institution dispatching the monitor”;
- “No direct communication and access to Frontex data and network. Everything must be done through the Immigration Department”;
- “Their availability”;
- “Monitors are having other obligations (plus national operations)”;
- “Other work responsibilities of the monitors that need to be done for the institution. Unwillingness of the institution to pay for the monitor's time spent on the operation”.

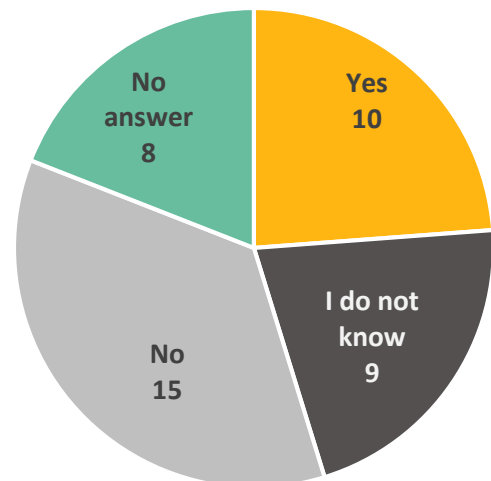
The majority of respondents (35 out of 43) stated that their respective institutions decide whether monitors are nominated for a particular Frontex call (Chart 17 below). When asked whether their institutions/organisations ever decided not to respond to a particular call, 10 monitors report that this had already happened in their institution, while 15 stated that this was never the case (Chart 18 below).

Chart 17: Is it your institution that decides if monitors are nominated for a particular Frontex call?



NOTE: Selection, Yes/No Question

Chart 18: According to your knowledge, did your institution/ organisation decide not to nominate monitors for a particular call?



NOTE: Selection, Yes/No Question

<sup>58</sup> Daily subsistence allowance.

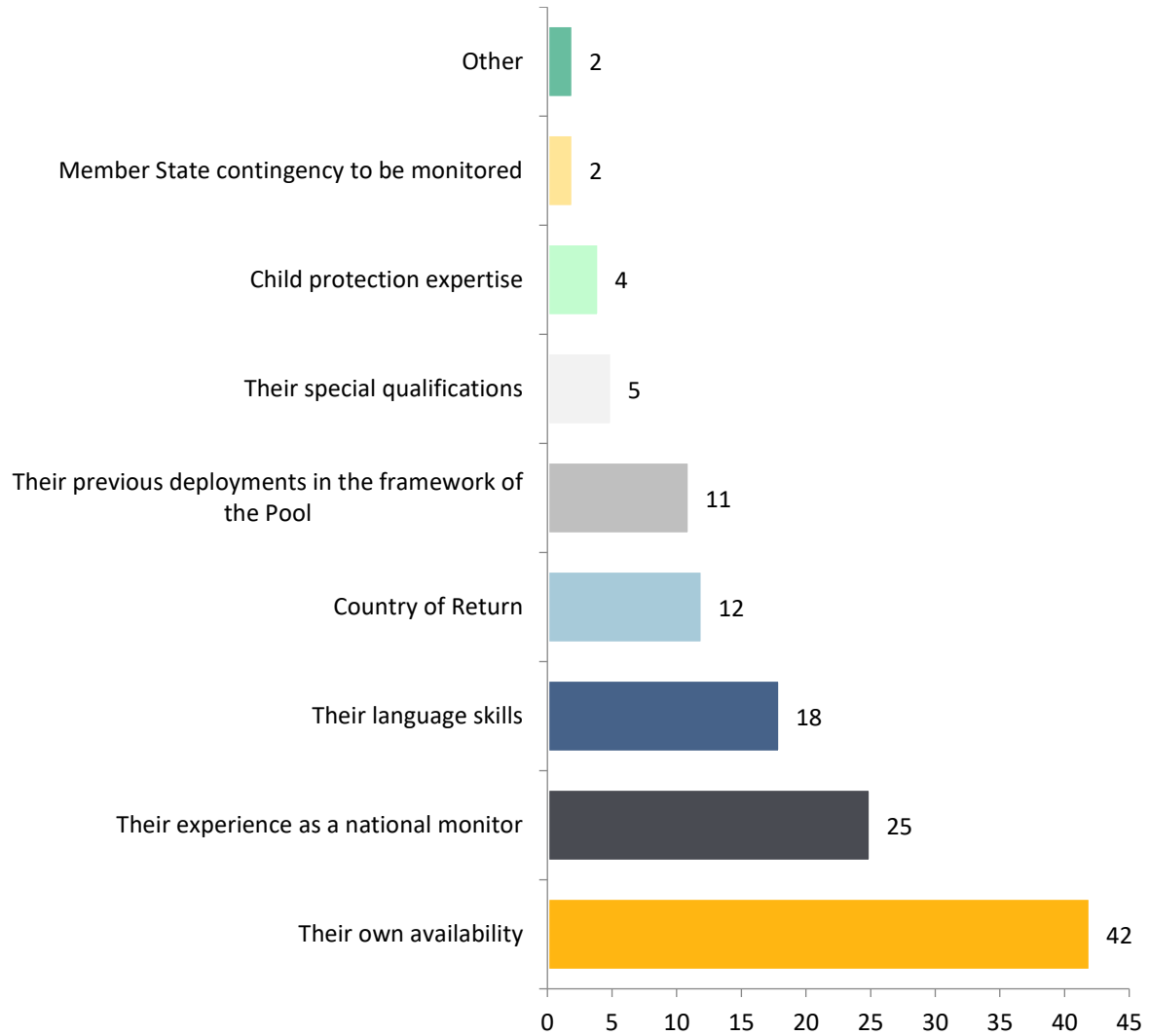


When asked what would be needed for their institution to increase its rate of positive answers to monthly calls for monitors, three monitors wrote that a higher or a sufficient number of monitors is needed to increase an institution's rate of positive answers to the Frontex calls. Another four respondents wrote that compensation is an issue, with two suggesting that there is a need, in addition to the direct reimbursement of expenses (e.g. accommodation, daily subsistence allowance – DSA, fee of the monitor etc.) for a “compensation of the institution for the [deployment] of its employees”. One monitor mentioned that institutions should be given more time to respond to the Frontex call. Two other monitors wrote:

- “(A) Independence, transparency and accountability of monitoring in the context of [the] Frontex pool and (B) Uniform, transparent and attractive remuneration”;
- “Funny question... but maybe we/ they/ our institution should take more pride in attributing to the task Frontex wants to fulfil by providing monitors that are well trained and well-motivated”.

Consistent with the major factors contributing to a positive decision to nominate monitors, the *monitor's availability* was selected by almost all the respondents (42) as the reason for a particular monitor being nominated for a specific Frontex call (Chart 19 below). Other criteria selected (the question was a multiple-choice question) were: *the experience as a national monitor* (selected by 25 monitors), a monitor's *language skills* (selected by 18), the *country of return* (12) and *their previous deployments in the framework of the Pool* (11). Two respondents selected *Other* (Chart 19 below) with one monitor writing “visa requirements”.

Chart 19: What are the criteria according to which a particular monitor is nominated (by your respective national institution) for a specific Frontex call?



NOTE: Multiple choice from 9 predefined options, with text box to insert answer under Other

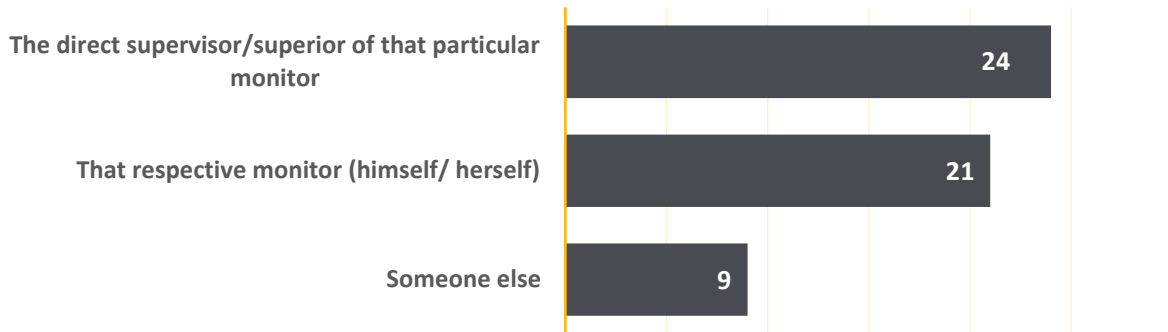
In most cases, the decision whether to nominate a particular monitor (to a specific forced-return operation in a particular month) belongs to *the monitor's direct supervisor/superior* (option selected by 24 respondents). According to 21 respondents, it is the *monitor himself/herself* who decides, while nine consider that *someone else* (other than the monitors and the monitor's supervisor) decides (Chart 20 below). Under the option *someone else*, several respondents mentioned their respective NMBs. Others commented as follows:

- “The secretarial assistant who answer the involved mails”;
- “I think Frontex”;
- “Head of Returns Unit, Min[istry of] Foreign Affairs”;



- “Necessary approval from the direct supervisor and the Head of the institution”.

Chart 20: According to your knowledge, who decides whether a particular monitor is nominated to a forced-return operation in a particular month?

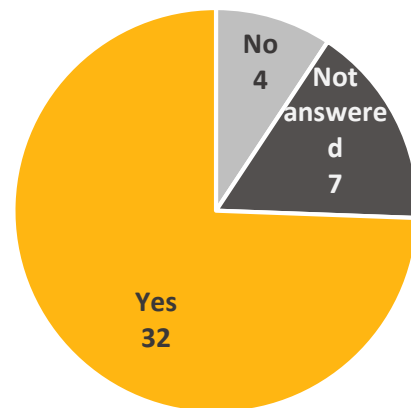
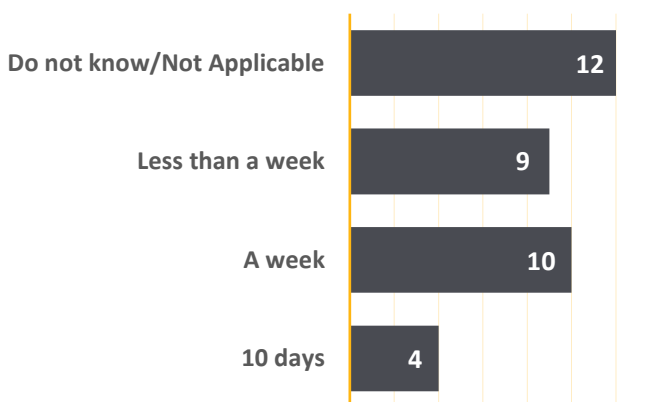


NOTE: Multiple choice from 3 predefined options, with text box to insert answer for the option Someone else

Regarding the length of time monitors’ institutions have for replying to the Frontex call for monitors, 10 wrote that their institutions have *a week*, nine that they have *less than a week* and four said *10 days* (Chart 21 below). The majority of monitors (32 out of 43) consider this length of time sufficient (Chart 22 below). Those who replied that they thought the time was insufficient (four respondents) were further asked to indicate the length of time they thought would be sufficient for their institution to have to reply to the Frontex call. They wrote: seven, 14, 15 and 20 calendar days respectively.

Chart 21: According to your experience, how long does your institution usually have to answer a Frontex call for monitors?

Chart 22: According to your experience, is this time sufficient?



NOTE: Chart elaborated from answers inserted in a text box, no predefined options were provided

NOTE: Selection, Yes/No Question



### **Issues identified and suggested ways forward**

This section brings together monitors' feedback from the survey regarding the responses from the national institutions to the Frontex monthly call for monitors. It includes a summary of the issues identified by monitors and their suggestions for addressing them. It also describes how the issues are currently addressed and suggests possible ways forward.

With regard to the answers given by their national institutions to the Frontex call for monitors, monitors raised two main issues:

1. As with the issue of communication over nominations to the Pool, some monitors consider that they are insufficiently informed about the response from their national institutions to the specific monthly calls for monitors from Frontex;
2. Insufficient number of monitors nominated to ROs in the monthly calls.

To address the issue of communication, monitors suggested the following:

1. Inform monitors about the selection criteria for nominating monitors to specific monthly calls;
2. Copy the nominated monitors in to the communication with Frontex.

To address the second issue, monitors suggested the following:

1. Increase financial support to cover both monitors' costs of monitoring (e.g. DSA, monitoring fees etc.) and reimburse/compensate institutions for making their employees available. In other words, even though NMBs can be reimbursed for salary costs (and DSAs), monitors suggested increasing the financial support they receive;
2. Create a culture of respect for monitors and acknowledge the importance of the work of both the monitors and the institutions who nominate monitors to the monthly calls.

Regarding the overall communication with monitors, it is relevant to note that communication between MSs and Frontex is via the NFPOCs and the NMBs. Frontex does not communicate directly with monitors at this stage, as it is the responsibility of NMBs to communicate with the monitors.

Regarding the insufficient number of monitors nominated to the ROs in the monthly call, it should be noted that it is the responsibility of MSs to make monitors available for deployment to the Pool. The actions suggested by monitors address the reimbursement of monitoring costs and incentives to contribute to the Pool. Regarding the former, currently Frontex supports MSs to ensure that ROs are monitored. Frontex reimburses monitoring costs incurred by the national institutions who make the monitors available and the institutions then reimburse the monitors. Therefore, monitors are reimbursed in each national system, on the basis of their national system's rules. Even though NMBs can be reimbursed for salary costs (and DSAs), monitors suggested increasing the financial support.



Recommended ways forward must take into account the current EU legal framework. EU legislation states that it is the responsibility of MSs to ensure an effective monitoring system is in place. Moreover, it is the responsibility of MSs to make monitors available for deployment to the Pool. Against this background, one possible way forward is to organise a meeting/workshop on the way the Pool functions and discuss possible solutions on how to resolve the issue of monitoring fees.

Table 7 below summarises the main issues monitors raised and their suggestions for addressing them. In addition, the table describes how each of these issues is currently addressed, if at all, and presents suggested ways forward.





Table 7: Issues raised and suggestions for improving the answers provided by national institutions to the Frontex monthly call for monitors

Answers from national institutions to the Frontex monthly calls for monitors			
Issue raised by monitors	Suggested action by monitors	How this issue is currently addressed	Suggested ways forward (based on the Assessment)
Communication with monitors	<ol style="list-style-type: none"> <li>1. Inform monitors about the selection criteria for nominating monitors to specific monthly calls.</li> <li>2. Copy the nominated monitors in to the communication with Frontex</li> </ol>	Frontex communicates with MSs through the NFPOCs and the NMBs. At this stage, Frontex does not communicate directly with monitors. It is the responsibility of NMBs to communicate with the monitors.	<p>Consider taking up this issue in the overall management concept of the Pool. FReM III contributes to improving the overall information exchange between monitors/ communication with monitors through the development of the web-based communication, coordination and information platform for monitors of the Pool. In the future, the monthly call could be published there as well.</p> <p>Ensure reasons for the selection of monitors to specific operations are communicated to the NMBs.</p>
Insufficient number of monitors nominated to ROs in the monthly calls	<ol style="list-style-type: none"> <li>1. Increase financial support to cover both the monitors' costs of monitoring (e.g. DSA, monitoring fees etc.) and reimburse/ compensate institutions for making their employees available. Create a culture of respect for a monitor and acknowledge the importance of the</li> </ol>	It is the responsibility of MSs to make monitors available for deployment to the Pool. However, regarding costs of monitoring, it is Frontex that supports MSs to ensure return operations are monitored. Frontex reimburses monitoring costs incurred by the national institutions who make the monitors available and the institution then reimburses the monitors. Therefore, each	<p>EU legislation states that it is the responsibility of MSs to ensure an effective monitoring system is in place. Moreover, it is the responsibility of MSs to make monitors available for deployment to the Pool.</p> <ol style="list-style-type: none"> <li>1. Organise a meeting/ workshop on the way the Pool functions and discuss</li> </ol>



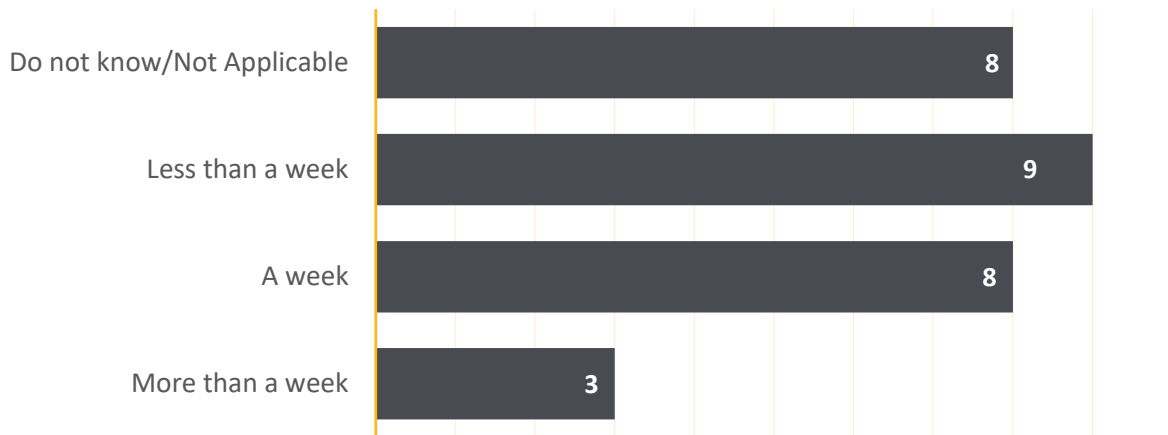
Answers from national institutions to the Frontex monthly calls for monitors			
Issue raised by monitors	Suggested action by monitors	How this issue is currently addressed	Suggested ways forward (based on the Assessment)
	work of both individual monitors and the institutions who nominate monitors to monthly calls.	national system reimburses their employees according to their own national rules.	<p>possible solutions on how to resolve the issue of monitoring fees etc.</p> <p>2. Ensure that all monitors are financially compensated for their work in the Pool; and that the Pool becomes fully institutionalised in order to ensure that roles and responsibilities are clear for all the stakeholders involved.</p>

Source: ICMPD, own compilation



**The answer from Frontex to national nominations to specific forced-return operations (in the monthly call for monitors)**

Chart 23: According to your knowledge, after your institution answered to a Frontex call (monitors were nominated), within which time-frame does your institution receive an answer from Frontex?



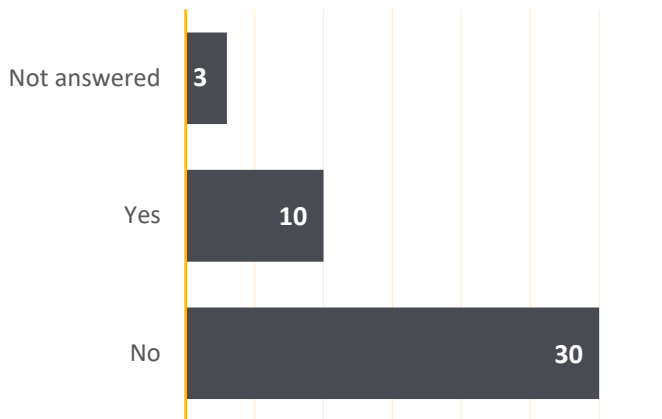
*NOTE: Chart elaborated from answers inserted in a text box, no predefined options were provided*

Similar to the length of time institutions have to answer the Frontex call for monitors, nine of the 28 respondents who answered this question indicated that they receive an answer from Frontex in *less than a week* and eight respondents said *a week* (Chart 23 above).

About a quarter of the monitors participating in the survey (10 out of 43) reported that they are familiar with the selection procedure that Frontex uses to allocate monitors to particular operations (Chart 24 below). They were further asked to describe this procedure. Of the seven monitors who provided an answer, one mentioned that “after collecting all nominations, a clearing meeting of [...], FRO and ECRet allocates the monitors”, and four others mentioned that criteria include:

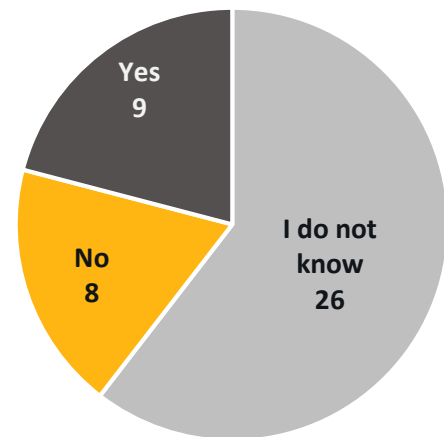
- “language skills and other specific skills and distribution between singular monitors”;
- “Firstly, how many monitors were nominated for one specific operation. Furthermore, language skills, how often which monitor flies on operations, etc.”;
- “Frontex sends back the exact nomination, after I have to write to the national authority and ask information about the following return operation's details”;
- “Our organisation gets an email from Frontex and the manager forwards us this call. Each monitor decides for the flights according to language skills”.

Chart 24: Are you acquainted with the selection procedure according to which Frontex allocates nominated monitors to particular forced-return operations?



NOTE: Selection, Yes/No Question

Chart 25: According to your knowledge, were any nominations to a specific call for monitors rejected by Frontex?



NOTE: Selection, Yes/No Question

Nine of the 43 respondents reported that nominations to a specific call for monitors were rejected by Frontex (Chart 25 above). While most indicate that they were not informed about the grounds for nominations being rejected by Frontex<sup>59</sup>, some provide the following possible reasons:

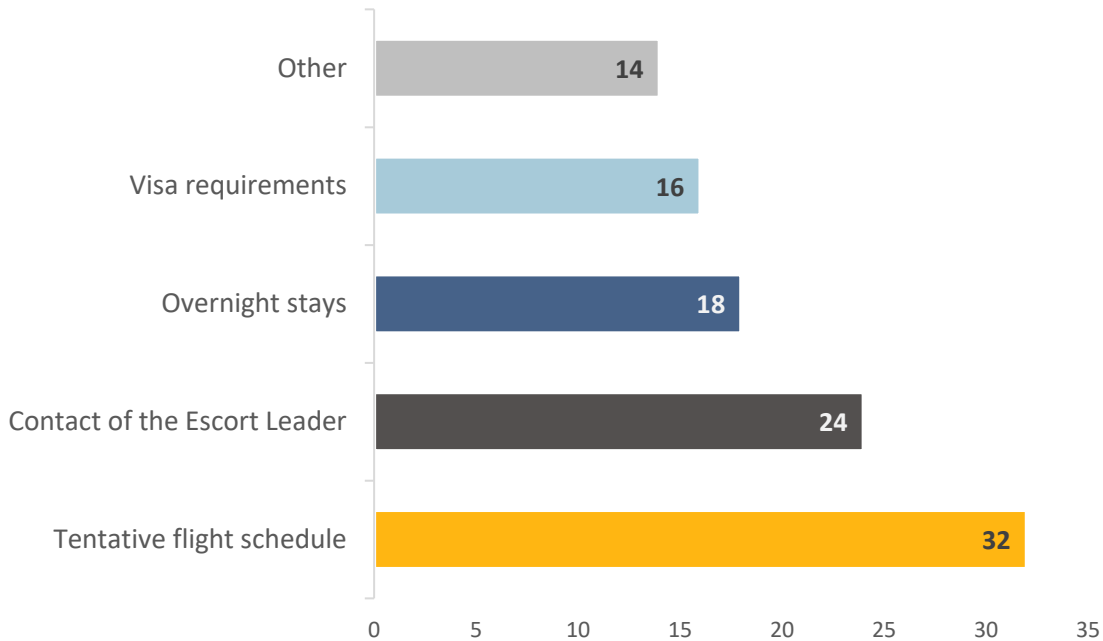
- Other monitors were available;
- The flight was cancelled;
- Preference of other monitors due to their language skills or proximity of residence to the organising country.

In answer to the question asking what information is contained in the Frontex response to the national institutions who nominate monitors to specific ROs, most respondents (32 out of 43) indicated that it includes the tentative flight schedule, while 24 respondents indicated that it includes the contact details of the Escort Leader (Chart 26 below).

<sup>59</sup> For the exact wording of this open question see the section on the Frontex answer to national nominations to specific forced-return operations (in the framework of a monthly call for monitors) in Annex 2: Questionnaire for Monitors Nominated to the Pool.

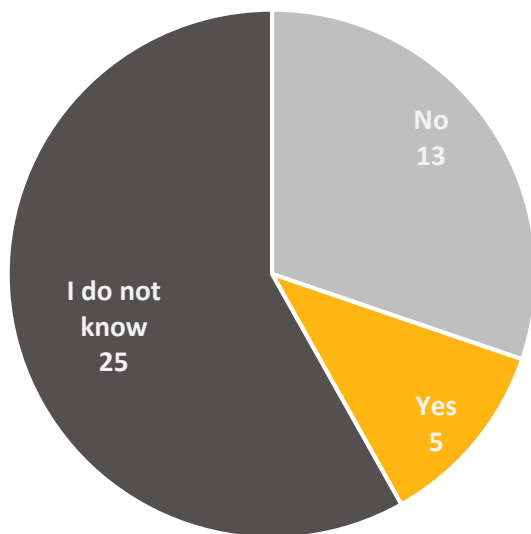


Chart 26: When the answer from Frontex to your institution/ organisation's nominations is positive, what information does Frontex' answer usually contain?



NOTE: Multiple choice from 5 predefined options, with possibility to insert text under Other

Chart 27: According to your knowledge, did Frontex request your institution to nominate monitors for specific forced-return operations for which the institution did not nominate monitors in its initial answer?



Only five out of 43 respondents reported that their institution received a request from Frontex to nominate monitors for additional return operations than the one(s) they had offered monitors for (Chart 27). According to one respondent, an additional request was made when another monitor cancelled at short notice. One monitor mentioned that additional requests are processed in the same way as the usual requests are in the monthly call.

NOTE: Selection, Yes/No Question



### **Issues identified and suggested ways forward**

This section brings together monitors' feedback from the survey about the answer from Frontex to national nominations of monitors to specific ROs (in the context of a monthly call). It includes a summary of the issues identified by monitors and their suggestions for addressing them. It also describes how these issues are currently addressed and suggests possible ways forward.

Regarding the answer from Frontex to the national nominations of monitors to specific ROs, monitors raised the following issues:

1. Insufficient information/late communication on upcoming ROs;
2. Transparency regarding monitors' nomination to specific ROs.

To address the first issue, monitors suggested the following actions should be taken:

3. Share the name of the OMS escort leader earlier;
4. Share complete and up-to-date information with the monitor 2-3 days before the mission (and not the evening before).

To increase transparency regarding monitors' nomination to specific ROs, they suggest the following:

1. Inform monitors about the selection criteria used for nominating monitors to specific operations;
2. Inform monitors about the grounds for rejecting a nomination to a RO from the monthly call, if there are any.

Currently, when the monthly call goes out, ECRet communicates the operational details to the monitors who have been assigned to specific ROs via email. The email contains information about the flight schedule, the contact details of the main contact for the operation (EL), financial rules etc. Where monitors request additional support (e.g. visa support letter, information on vaccination etc.), ECRet usually refers them to the requesting MS(s).

With regard to the transparency regarding monitors' nomination to specific ROs, this relates to the MSs' responsibility. After monitors have been made available for upcoming ROs (in the monthly call), Frontex notifies the respective NMBs which monitors have been selected for which ROs listed in the call. This is based on a number of criteria, including: monitors' availability, their experience of monitoring and specific skills (required by particular ROs), countries of return, etc.<sup>60</sup> CAP keeps a record of which monitor has been assigned to which RO, as well as records of the monitors that were nominated for the monthly call but were not assigned to a particular RO in that monthly call (based on the criteria mentioned above), if that is the case. At the 2019 Annual Lessons Learned meeting, Frontex informed participants that they keep records of the deployments by MSs and of the monitors, but do

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<sup>60</sup> See section 4.3 *Monthly call for monitors* of this report.



not keep records of why a monitor was selected for an operation. Frontex also told participants that they only inform those monitors that were selected for the ROs, but do not get back to the monitors who were not selected.

Suggested ways forward:

1. Organise a meeting on how the Pool works where all the procedures, workflows and responsibilities are explained to the monitors (including information on the FAR system and communication between the OMS, PMS and Frontex);
2. Inform monitors how the Pool functions;
3. Inform monitors about the general criteria used to assign monitors to specific ROs;
4. Share the selection criteria via the web-based communication, coordination and information platform for Pool monitors. Consider using this platform to improve communication with the monitors.

Table 8 below summarises the main issues monitors raised and their suggestions for addressing them. In addition, the table describes how each of these issues is currently addressed, if at all, and presents suggested ways forward.



Table 8: Issues raised and suggestions for improving the answer from Frontex to national nominations to specific operations (listed in the monthly call)

The answer from Frontex to national nominations to specific forced-return operations (in the monthly call for monitors)			
Issue raised by monitors	Suggested action by monitors	How this issue is currently addressed	Suggested ways forward (based on the Assessment)
Insufficient information/late communication on upcoming ROs	<ol style="list-style-type: none"> <li>Share the name of the OMS Escort Leader (EL) earlier;</li> <li>Share complete and up-to-date information with the monitor 2-3 days before the mission and not the evening before.</li> </ol>	<p>ECRet communicates operational details to the monitors that have been assigned to specific ROs via email. The email contains information on the flight schedule, the contact details of the main contact for the operation (EL), financial rules etc. Where monitors request additional support (e.g. visa support letter, information on vaccination etc.), ECRet usually refers them to the requesting MSs.</p> <p>Not all the information is available 2-3 days before the mission.</p>	<p>Organise a meeting on how the Pool works where all procedures, workflows and responsibilities are explained to the monitors (including information on the FAR system and communication between the OMS, PMS and Frontex).</p> <p>Emphasise the importance of sharing information with the respective monitors as soon as it is available.</p>
Transparency regarding monitors' nomination to specific ROs	<ol style="list-style-type: none"> <li>Inform monitors about the selection criteria used for nominating monitors to specific operations.</li> <li>Inform monitors about the grounds for rejecting a nomination to a RO from the monthly call, if there are any.</li> </ol>	<p>The availability of monitors nominated to the Pool remains the responsibility of MSs. After monitors have been made available for upcoming ROs (in the monthly call), Frontex informs the respective NMBs which monitors have been selected for which RO listed in the call. This is based on a number of criteria, including: monitors'</p>	<ol style="list-style-type: none"> <li>Inform monitors how the Pool functions;</li> <li>Inform monitors about the general criteria used to assign monitors to specific ROs;</li> <li>Share the selection criteria via the web-based communication, coordination and information platform for Pool monitors. Consider using this</li> </ol>





The answer from Frontex to national nominations to specific forced-return operations (in the monthly call for monitors)			
Issue raised by monitors	Suggested action by monitors	How this issue is currently addressed	Suggested ways forward (based on the Assessment)
		<p>availability, their experience of monitoring and specific skills (required by particular ROs), countries of return etc. (See Section 4.3.1). CAP keeps a record of which monitor has been assigned to which RO, as well as records of the monitors that were nominated for the monthly call but were not assigned to a particular RO in that monthly call (based on the criteria mentioned above), if that is the case.</p> <p>During the 2019 Annual Lessons Learned meeting, Frontex informed participants that they keep records of deployments by MSs/SACs and monitors, but do not keep records of why a monitor was selected for an operation. Frontex also told participants that they only contact the monitors that were selected, but do not get back to the monitors who were not selected.</p>	<p>platform to improve communication with the monitors.</p> <p>4. Inform the respective monitors also about non-selections.</p>

Source: ICMPD, own compilation



**Experience with monitoring**

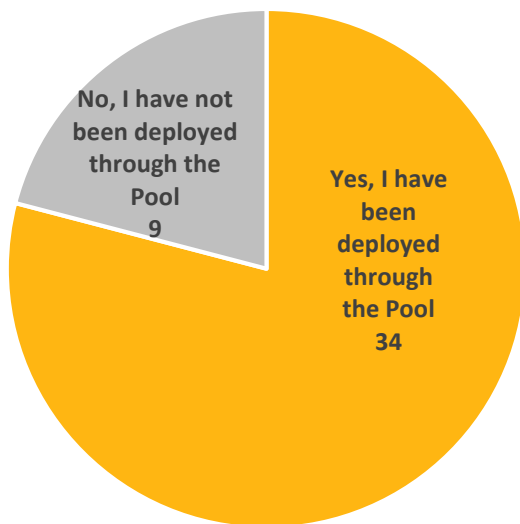
This section of the survey sent to monitors nominated to the Pool included questions related to the following themes:

- Previous deployment in general i.e. not only related to deployment through the Pool;
- ROs monitored in the past, through the Pool;
- ROs monitored on behalf of other countries, outside the framework of the Pool.

The majority of monitors who filled in the survey have been deployed through the Pool (34 out of 43) (Chart 28 above). Those that have been deployed through the Pool were further asked about the types of return operations they had monitored so far. In addition to JROs (monitored by 25 respondents), CROs (by 25) and NROs (by 24) (Chart 29 above), under *Other* two respondents mentioned:

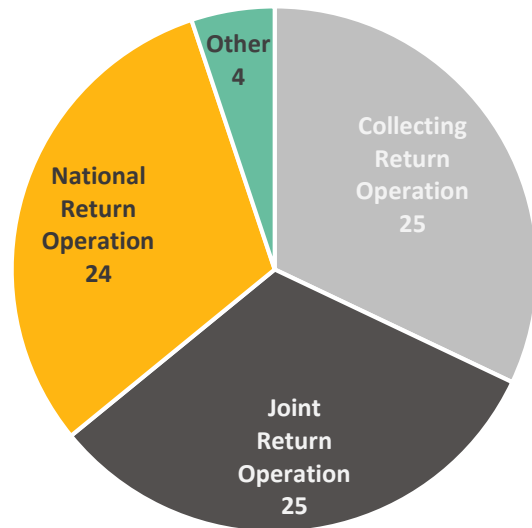
- Pilot monitoring mission (JRO);
- National Return Operations not coordinated by Frontex.

Chart 28: Have you been deployed through the Pool?



NOTE: Selection, Yes/No Question

Chart 29: What types of return operations did you monitor in the framework of the Pool?

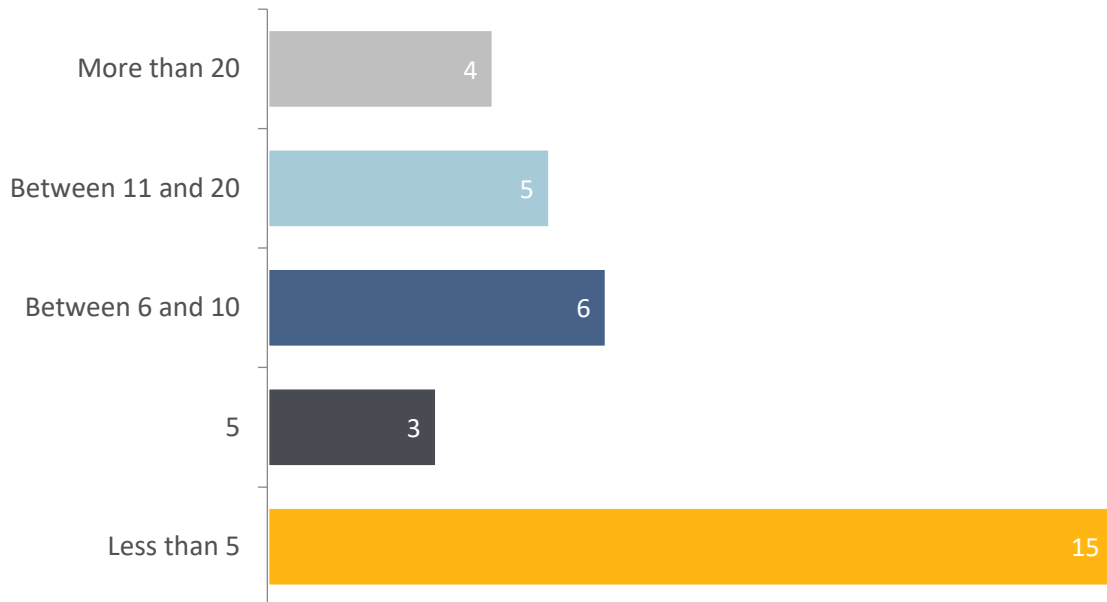


NOTE: Multiple choice from 4 predefined options, with possibility to insert text under *Other*



Charts 30 – 32 below show the answers the monitors provided to several open questions regarding their experience of monitoring through the Pool. As the categories shown in these three charts are based on monitors’ written answers and only some of them provided estimated numbers, the figures should not be taken as definitive. The charts are intended to show a general picture of the estimated number of monitors that have monitored fewer Pool operations (less than 10), as opposed to the number of monitors that have monitored more operations (more than 10). Against this background, it is worth noting that more than a third of the 43 respondents had monitored less than five ROs through the Pool. Only a few monitors declared they had monitored more than 20 ROs through the Pool.

Chart 30: How many return operations did you monitor in the framework of the Pool in total?

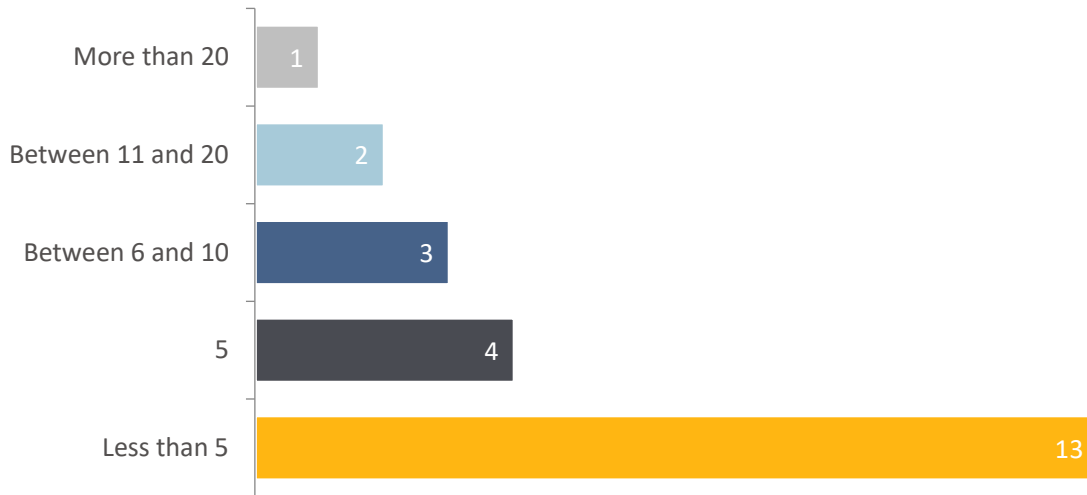


*NOTE: Chart elaborated from answers inserted in a text box, no predefined options were provided*



When asked about the number of ROs monitored in 2018, only one replied that they had monitored more than 20. The majority that replied to this question had monitored less than five.

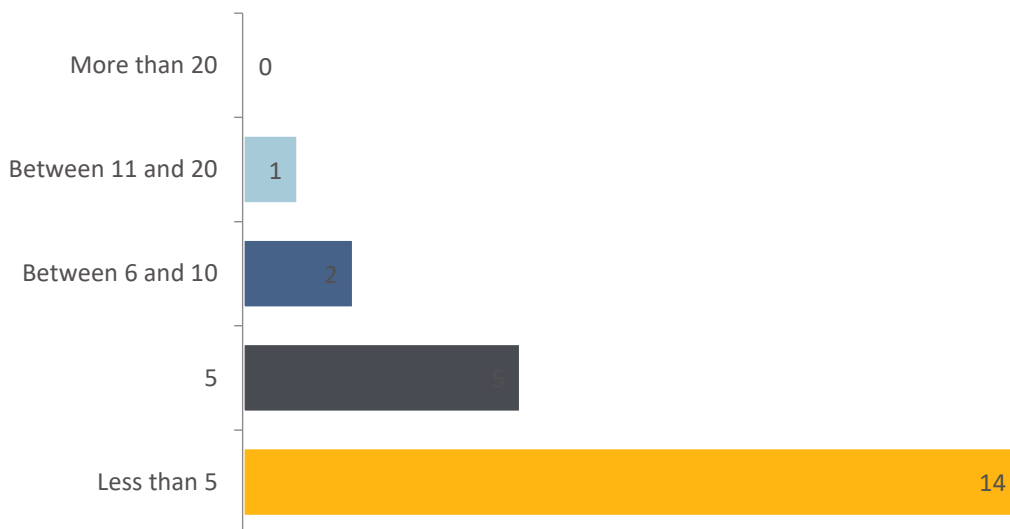
Chart 31: How many return operations did you monitor in the framework of the Pool in 2018?



*NOTE: Chart elaborated from answers inserted in a text box, no predefined options were provided*

When asked the same question for the year 2019, again a majority that replied to this question had monitored less than five.

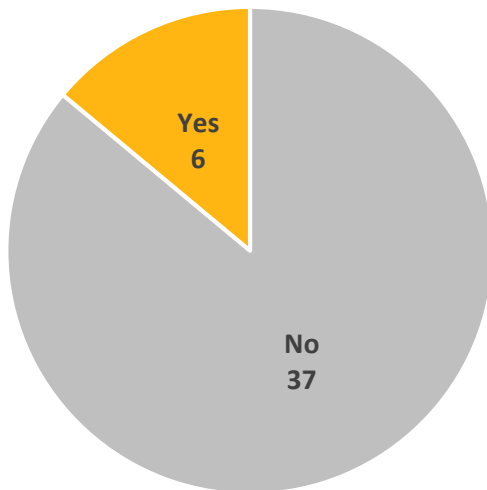
Chart 32: How many return operations did you monitor in the framework of the Pool in 2019?



*NOTE: Chart elaborated from answers inserted in a text box, no predefined options were provided. Answers cover January – August 2019*



Chart 33: Have you acted as a monitor for another country outside of the framework of the Pool?



Of the 43 monitors, six answered that they had monitored operations for a country other than their own outside the Pool.

*NOTE: Selection, Yes/No Question*

### 4.3.3 Monitors' suggestions for improving the monthly call for monitors

#### Suggestions for improving the way Frontex sends out the monthly call for monitors to MSs

When asked about ideas for improving the way Frontex sends out the monthly call for monitors to MSs, four monitors suggested that information on ROs should be sent directly to monitors, rather than to monitoring bodies only:

- "Information shared simultaneously with the institutions and the nominated monitors, e.g. via a web platform";
- "Frontex sends the questions to a single point of contact. It would be more practical to receive the mail directly";
- "Send the monitors a mail of return operations directly and have them respond directly to Frontex";
- "I don't know what information the national institution forwards to Frontex. Why is the approved monitor not contacted directly by Frontex"?

Two other monitors had suggestions about the content of the communication from Frontex to MSs (in calls for monitors outside the monthly call):

- "FRONTEX should only ask for operations they in the end are willing to appoint a monitor on. For July for example, we were asked, on which of eleven operations we were available and learned afterwards that only two operations will have a monitor with them";



- “More information about the whole operation (duration of operation – overnight stay in another country)”.

### **Suggestions for improving the process of answering the monthly call for monitors from Frontex**

Of the 15 monitors who provided concrete suggestions for improving this process, eight suggested that more information should be provided in the initial call. Specifically, the following type of information was suggested:

- The number of returnees;
- The specifics of the group of returnees (e.g. size of the group of returnees, vulnerabilities);
- The visa and vaccination requirements to allow enough time to obtain them;
- The overall expected length of the mission;
- PMSs.

Two monitors wrote that the information provided by Frontex in the monthly call was sufficient, so no additional information was needed.

In addition, monitors wrote that there is a need for:

1. The selection criteria of monitors to be communicated;
2. Sharing the EL’s contact details earlier;
3. Copying the monitors individually;
4. More information in the Implementation Plan;
5. More time given to MSs to answer the Frontex call;
6. “The monthly call by Frontex should include the starting airports to be able to decide whether it is possible to reach the airport in every case”.

### **Suggestions for improving the answer from Frontex to national nominations to the monthly call**

Of the 29 monitors who answered the open question about suggestions for improving this stage of the process, 12 did not have any suggestions. The other 17 monitors offered several suggestions, as summarised:

1. Eight monitors suggested that more operational information, provided earlier, could lead to improvements. Specifically, they mentioned:
  - More information on the number of returnees and the characteristics of the group of returnees;
  - The flight schedules;
  - The number of overnight stays, if any;
  - The name and contact details of the EL or the OMS. One monitor wrote that, ideally, the name of the EL be provided in the answer from Frontex to the national nomination;
  - The name and contact details of the Frontex representative;



- Specific visa requirements, if any.
2. Three monitors mentioned the need for transparency. They suggest that more information about the nomination process at Frontex is shared with the monitors. They wrote:
    - “Which operations are covered by whom (Name of the Monitor or at least country/organization), which operations remain uncovered?”;
    - “The nomination process in Frontex is a bit unclear, e.g. how many applicants to a certain operation, if several applications to the same operation, which is the criteria for the nomination. Which operations are conducted without monitors, because of no applications?”;
    - “a. Monitors not nominated to specific operations should be informed.  
b. The reasons for rejection should be explained.  
c. Criteria and decision for nomination per operation should be documented, transparent and accessible”.
  3. One monitor suggested, in addition to transparency:
    - “Continuity: Besides the monthly call there may [be] more operations after the deadline in the meantime which could be disseminated to the Member States immediately in order to cover more flights than only 2/3 in 2018 and 4/5 in semester 1 of 2019” and “Completeness: Name, email and cell phone of EL plus BTL (at least 2 options), Implementation Plan, (planned and ca.) no. of returnees + m/f + kids etc., schedule for ALL contingents of PMS and related Information (separate Monitor, no. of returnees + m/f + kids etc.), route to special terminal etc.”
  4. One monitor suggested that Frontex manages all monitors directly.
  5. Finally, three monitors indicated that they receive all the information they need, either from the EL or from their national authority. One of them provided the following feedback: “I am overall satisfied with the level of cooperation between Frontex and our monitoring institution. I never have to wait a long time to get further information when needed. I always get a swift answer from the Frontex colleagues. I use this opportunity to complement them on their high level of professionalism”.



## 4.4 Preparation for deployment

### 4.4.1 How preparation for deployment works in Frontex

Where a national monitor is deployed to monitor a return operation, Frontex is not directly involved, as national monitoring is the responsibility of MSs. Where monitors are deployed from the Pool, the responsibility for requesting a monitor lies with the MSs and nominating a monitor lies with the NMB. However, the selection of nominated monitors for ROs requested by MSs and the subsequent deployment of monitors from the Pool, is made and coordinated by Frontex as explained in the previous chapter. In this sense, Frontex is responsible for selecting and coordinating the deployment, but the responsibility for requesting a monitor remains with the MSs<sup>61</sup>.

### 4.4.2 How monitors experience preparation for deployment

When asked who the main point of contact for basic operational details is, once a decision has been taken that a particular monitor will be deployed to a specific RO, 25 of the respondents selected the *Escort Leader/ Head of Operation*. Only three monitors selected their *National Monitoring Body* as the main point of contact (Chart 34 below). The seven respondents who selected *Other*, mentioned the following:

- “Contact Person of OMS”;
- “The monitor of the pilot JRO”;
- “National institution of the OMS”;
- “The main point of contact is an element from the organising Member State, appointed by FRONTEX”;
- “Probably ECRet”;
- “Our manager”;
- “Contact person of the OMS”.

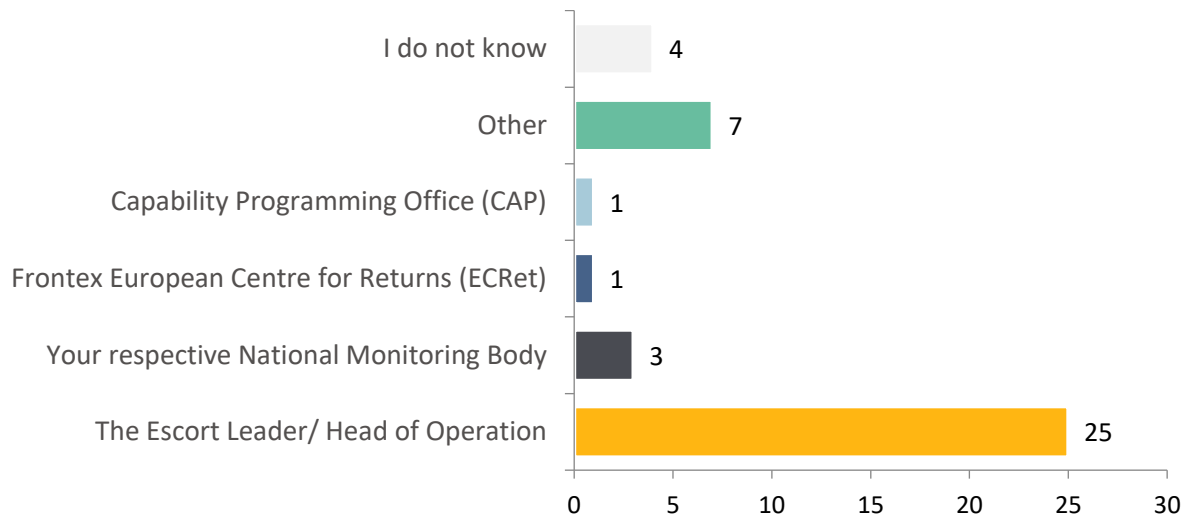
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<sup>61</sup> According to Article 50(3) of Regulation (EU) 2019/1896, “[a]t least one Member State representative, and one forced-return monitor from the pool established under Article 51 or from the monitoring system of the participating Member State, shall be present throughout the entire [collecting] return operation until arrival at the third country of return”.





Chart 34: After it was decided that you (as a monitor) will be monitoring a particular forced-return operation, who is your main point of contact for basic operational details related to the upcoming forced-return operation?



NOTE: Multiple choice from 5 predefined options, with possibility to insert text under Other

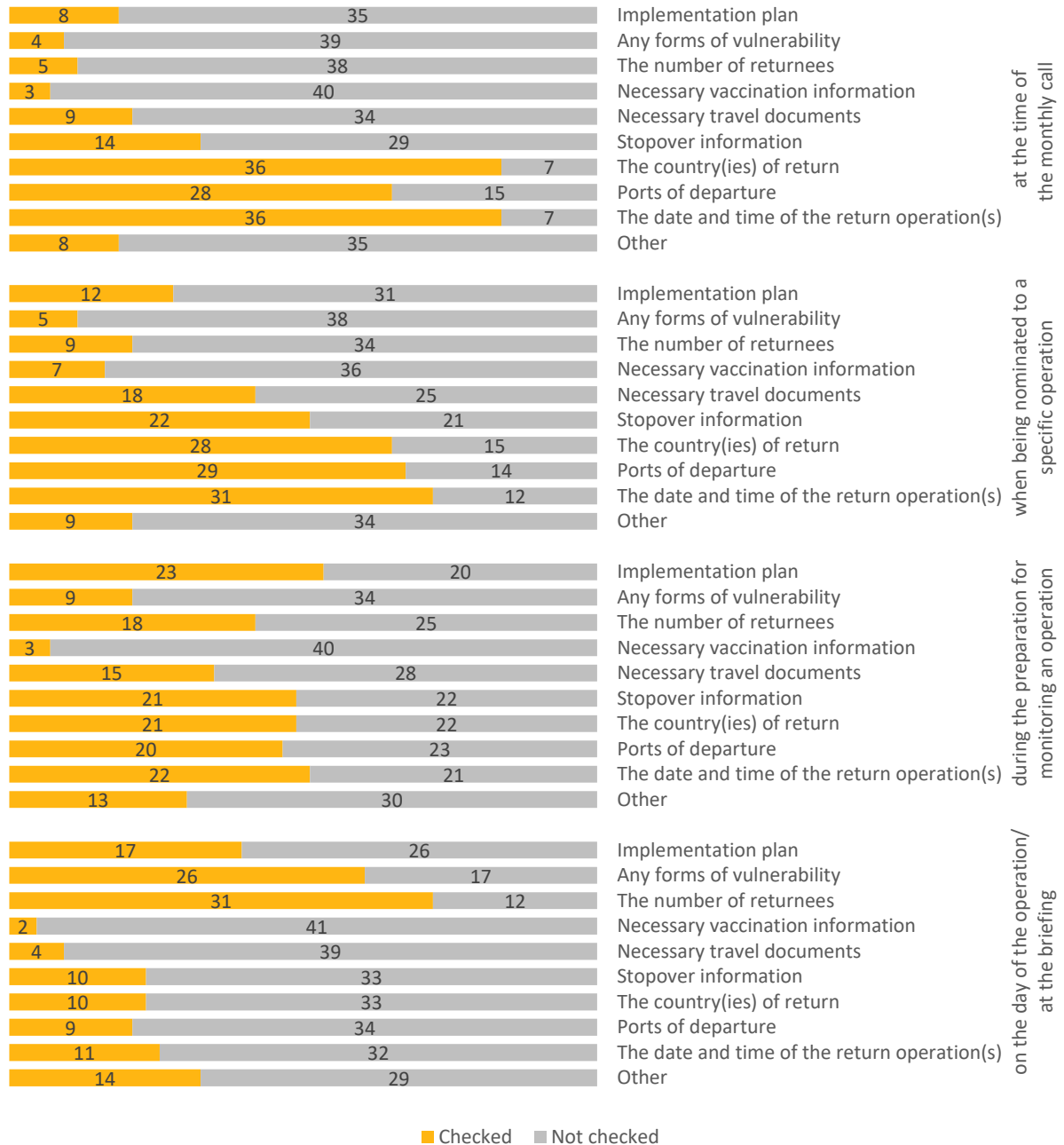
Chart 35 below shows the information a monitor usually receives at each of the following stages of the process, from the time of the monthly call to the day of the operation:

- At the time of the monthly call;
- On being nominated to a specific operation;
- During preparation for monitoring (after the decision has been taken that they will be monitoring a particular operation);
- On the day of the operation/at the briefing.

Taking two examples – *Countries of return* and *Number of returnees* (Chart 35 below), one can see that a large majority of respondents (36 out of 43) indicated that they receive information about the *Countries of return*, at the time of the monthly call, rather than on the day of the operation. In other words, information regarding the countries of return is the sort of information most monitors receive early in the process i.e. at the time of the monthly call. The opposite is true for the number of returnees. This type of information is rarely received at the time of the monthly call (only five monitors selected this option). More often, it is received as monitors are preparing for an operation (18 monitors), on the day of the operation or at the briefing (31 monitors). To sum up, Chart 35 provides an overview of the type of information monitors receive from the time of the monthly call to the day of the operation.



Chart 35: According to your experience, what information do you usually receive? (upon the monthly call, upon being nominated to a specific operation, during the preparation for monitoring and on the day of the operation/ at the briefing)



NOTE: Multiple choice, 10 predefined options, with possibility to insert information in a text box if Other is selected

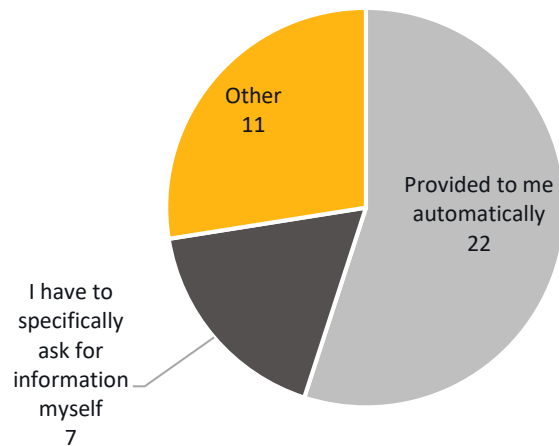
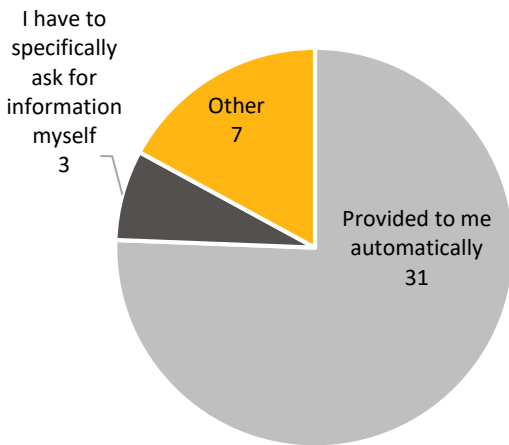
Monitors were also asked whether the information was provided to them automatically or whether they had to ask for particular types of information. Charts 36 – 39 provide an overview of their answers about each stage of the process (monthly call, nomination to a specific operation, during the preparation and on the day of the operation). Regarding the information provided to monitors at the



time of the monthly call, a majority replied that they usually receive it automatically (31 of the 41 who answered this question). Only three of them indicated that they have to specifically ask for it themselves (Chart 36 below). On being nominated to a specific forced-return operation, 22 monitors reported that the information they usually receive is provided automatically whereas seven said that they have to specifically ask for it (Chart 37). Finally, the information monitors usually receive on the day of the forced-return operation/at the briefing is less likely to be provided to them automatically at this stage of the process (18 of the 36 who answered the question). Nine monitors indicated they have to specifically ask for it themselves (Chart 39).

Chart 36: How is the information you usually receive upon the monthly call for monitors provided to you?

Chart 37: How is the information you receive upon being nominated to a specific forced-return operation provided to you?

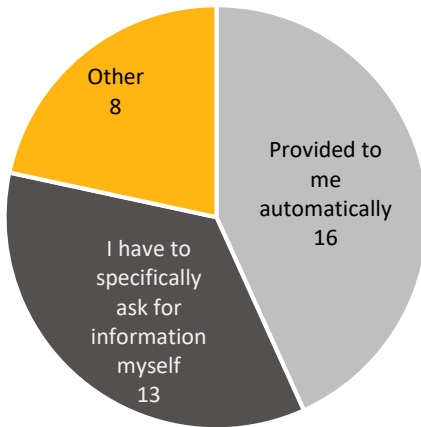


*NOTE: Multiple choice from 3 predefined options, with the possibility to insert text for all options*

*NOTE: Multiple choice from 3 predefined options, with the possibility to insert text for all options*

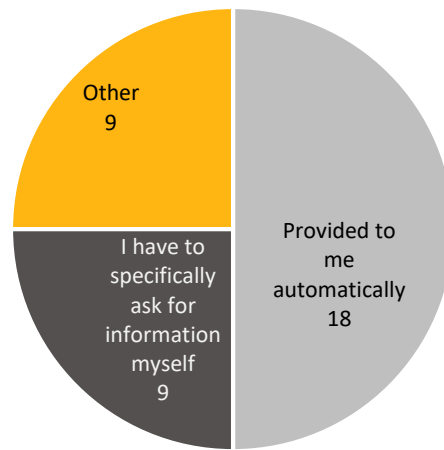


Chart 38: How is the information you usually receive during the preparation for monitoring a forced-return operation provided to you?



*NOTE: Multiple choice from 3 predefined options, with the possibility to insert text for all options*

Chart 39: How is the information you usually receive on the day of the forced-return operation/at the briefing provided to you?



*NOTE: Multiple choice from 3 predefined options, with the possibility to insert text for all options*

More than half of respondents (26) consider they have enough time to familiarise themselves with all the information they receive about an upcoming RO. For more information see Annex 3:

Chart 40: According to your experience, do you have enough time to get acquainted with all information you receive about an upcoming forced-return operation? (Annex 3)

Almost half of all the monitors who participated in the survey (21) consider the information they receive in advance is sufficient for them to be effectively deployed to an upcoming RO. See Annex 3:

Chart 41: According to your experience, is the information you receive in advance sufficient for you to be effectively deployed to an upcoming forced-return operation? (Annex 3)

Those who answered that the information they receive is not sufficient for them to be effectively deployed were further asked about the kind of information they need in order for this to be the case. Seven of the 18 monitors who thought the information was insufficient, indicated that they needed information about the number and characteristics of returnees (e.g. vulnerability) in advance, e.g. at least a few days before the operation. Eight of them indicated that they would need the Implementation Plan, including Annex I<sup>62</sup> and Annex II<sup>63</sup>, with complete and correct data, one or two days before the flight.

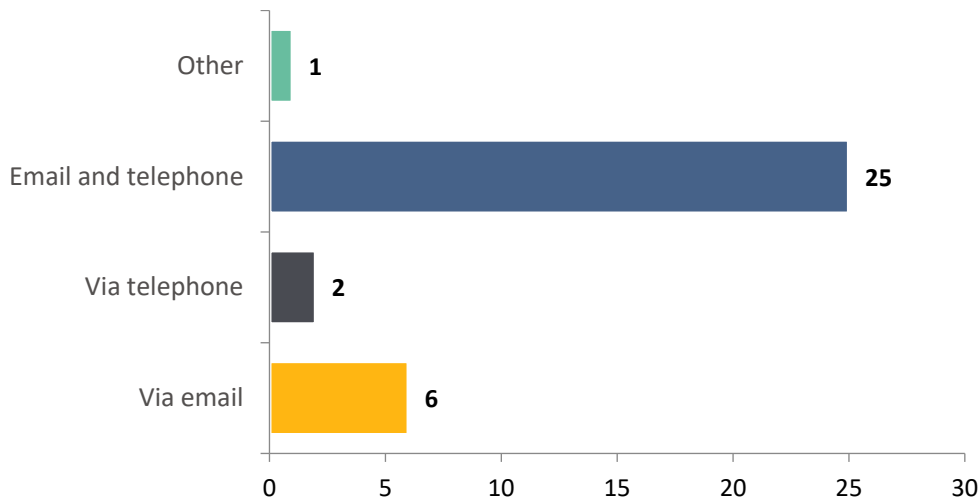
<sup>62</sup> Annex I of an IP includes the RO's operational overview.

<sup>63</sup> Annex II includes the list of relevant contacts.



Most monitors make personal contact with the EL when they are preparing for deployment. Twenty-five indicated that they get in contact with the EL by *email and telephone* and six by *email only*. Two monitors said they get in contact by *telephone* and one monitor wrote (under *Other*) that they contact the EL by telephone if they have not replied to the email (Chart 42 below).

Chart 42: How do you usually make personal contact with the escort leader?



NOTE: Selection from 4 predefined options, with possibility to insert text for option Other

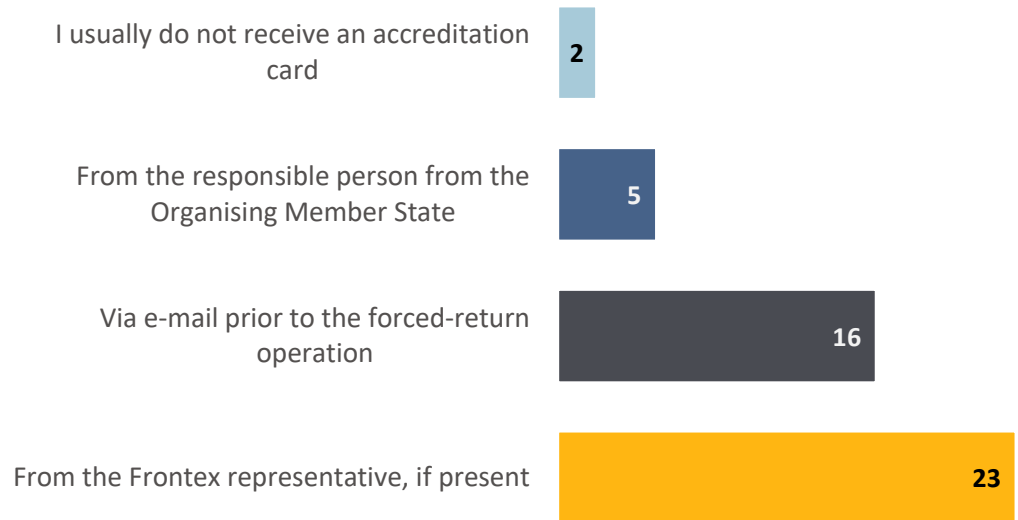
Monitors reported that they usually receive the accreditation card:

- Either on the day of the operation, from the Frontex representative (if present) or the representative of the OMS;
- Or via email, prior to the operation (Chart 43 below).

However, a few monitors indicated that they received the accreditation card by email either too late, i.e. too close to the operation when there was not enough time to print it, or they did not receive it at all.



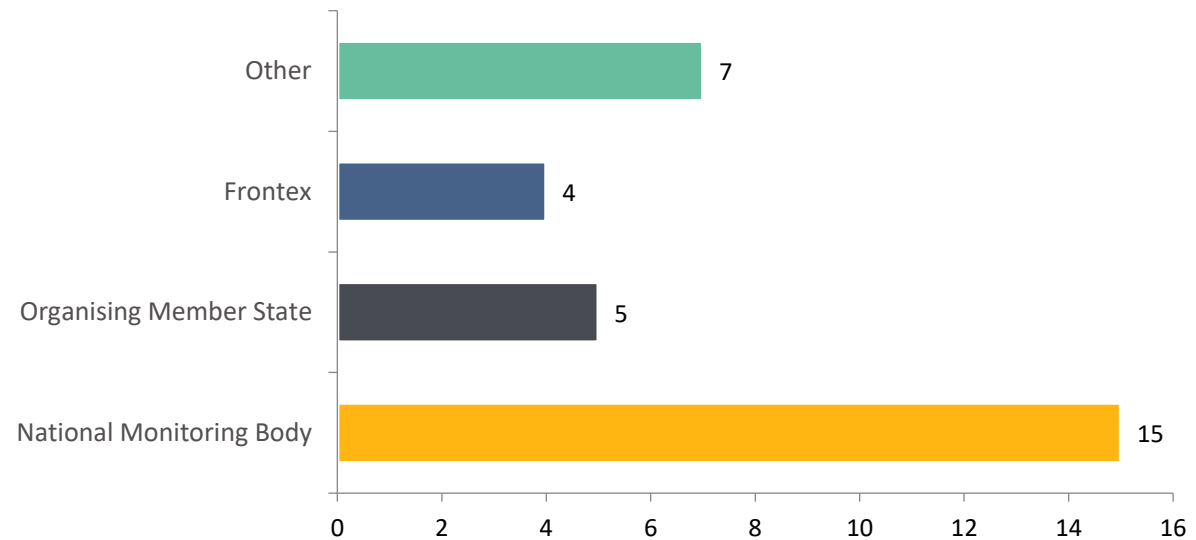
Chart 43: According to your experience, from whom do you receive the accreditation card?



NOTE: Multiple choice from 4 predefined options

Where monitors need a visa, the NMBs offer them support in obtaining one, as well as the OMS and sometimes Frontex (Chart 44 below). One monitor wrote that their manager supports them with obtaining a visa, while another wrote that the Ministry of Foreign Affairs from their country offers support with obtaining a visa, when needed.

Chart 44: According to your experience, who supports you with obtaining a visa, when needed?

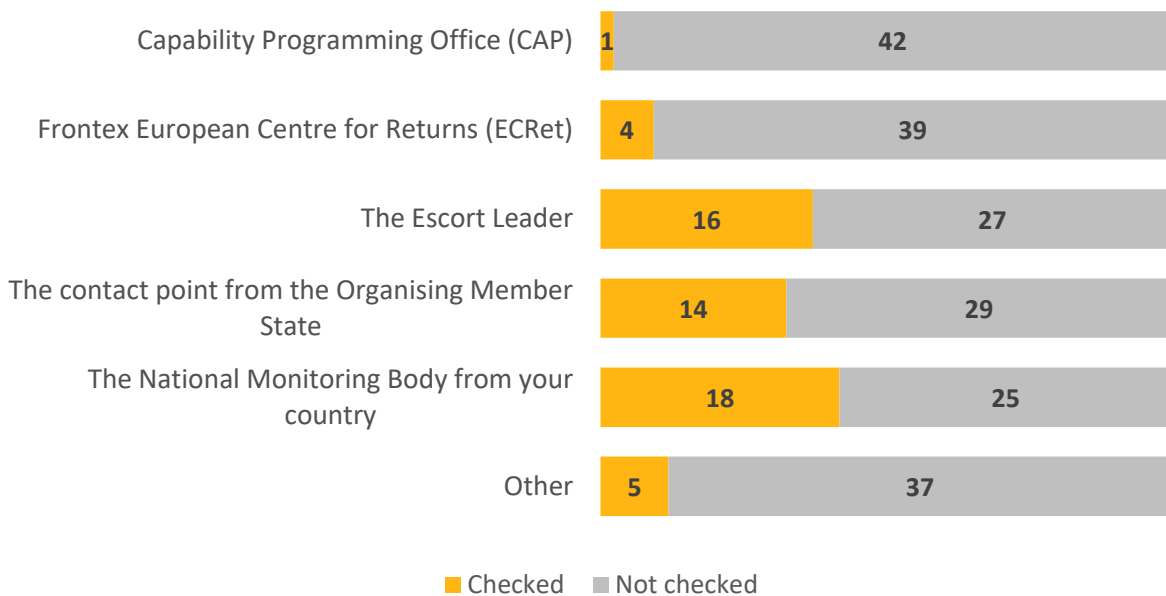


NOTE: Selection from 4 predefined options, with the possibility to insert text under Other



Eighteen of the respondents indicated that their NMB is the first point of contact if they need assistance due to any last-minute changes, 16 selected the EL and 14 indicated that the contact point is from the OMS (Chart 45 below).

Chart 45: According to your experience, in case of last minute changes to the schedule of a forced-return operation to which you are deployed (be it a CRO, JRO or NRO), who is your first point of contact in case you need assistance (e.g. with travel, visa, insurance etc.)?



NOTE: Multiple selection from 6 predefined options, with the possibility to insert text for all options

More than a half of respondents who answered this particular question (19 from 33) are satisfied or very satisfied with the support they are given when changes in the schedule of an operation to which they are being deployed have occurred. While none of the respondents said they were very dissatisfied with the support given, seven were dissatisfied and another seven were neither satisfied nor dissatisfied (Chart 46 below). At the lower end of the satisfaction scale, monitors wrote that:

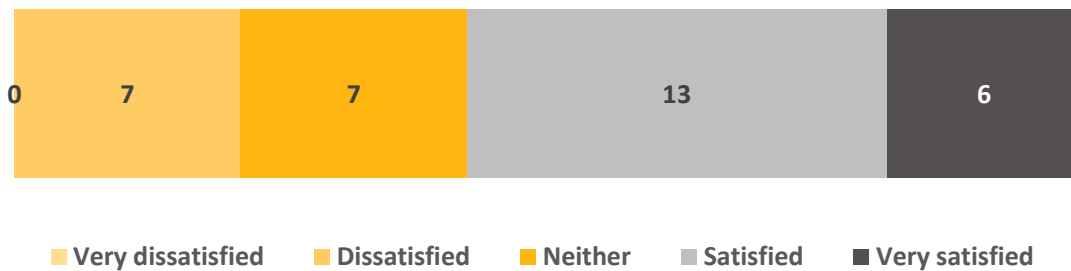
- “Learning about cancellation of operations after arrival at the airport is unprofessional. Neither FRONTEX nor national bodies are bothering to inform - forgetting the Monitor”;
- “Bad experience during one operation, where the flight was delayed for more than 7 hours. No detailed information on further procedure was provided”.

At the higher end of the scale, monitors wrote that the support given is often fine, that they are usually informed in good time or that so far, everything has been well arranged. One monitor wrote:

- “In my experience, when there are changes to the schedule of a forced-return operation I am either previously contacted about said changes by the organizing Member State main

contact point, or if an unforeseeable event occurs I am immediately contacted by the Escort Leader (NROs and JROs) or by the organizing Member State main contact point (CROs)".

Chart 46: How satisfied are you with the support you are given in case of changes in the schedule of a forced-return operation to which you are deployed?



NOTE: Scale fully labelled, form 1 (Very dissatisfied) to 5 (Very satisfied)

More than half of the monitors who answered this particular question (26 out of 38) are either satisfied or very satisfied with the way they are usually informed about an upcoming forced-return operation (Chart 47 below). Alongside their rating, three monitors mentioned that:

- “All necessary information is available in time”;
- “There is enough time to decide whether to nominate [a] monitor. All the relevant information is provided”;
- “The necessary information is provided and can be changed on request. For example, the flights to the organising country”.

One respondent commented about the relevance of the information a monitor receives, saying: “Information about [a] planned RO and also the decision about [an] upcoming RO enables [institutions] to make plans for other activities of the monitor”. Another wrote: “[I selected] satisfied, as the Implementation Plan is often incomplete and late, otherwise it would be very satisfied”.

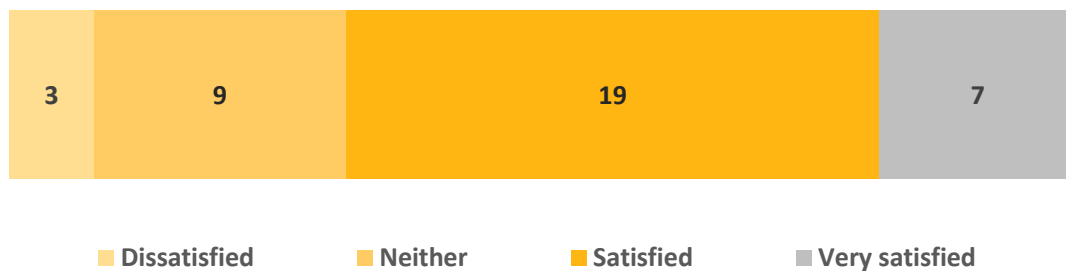
At the lower end of the satisfaction scale, monitors wrote:

- “The time limit for answering is quite short”;
- “Always putting energy in retrieving basic information is boring”;
- “The information about the returnees, special needs, vulnerable cases, risk assessment is usually given very late and by request”;
- “From my experience, sometimes I have to insist with the organizing Member State main contact point to receive information I have requested, culminating in sometimes only receiving previously requested information in the day before an operation itself.”;
- “Did not receive information on numbers of returnees, vulnerable Groups and meeting Place until the day of the operation and implementation plan late in the afternoon the day of the operation.”;



- “This improved when our institution was contacted directly by ECRet and not through NFPOC”;
- “I had no unpleasant experience, but there have been sometimes delays with sending [the] implementation plan or meeting information”.

Chart 47: How satisfied are you with the way you are usually informed about an upcoming forced-return operation?



NOTE: Scale fully labelled, form 1 (Very dissatisfied) to 5 (Very satisfied))

### Issues identified and suggested ways forward

This section brings together monitors’ feedback from the survey regarding the preparation for deployment to a specific RO. It includes a summary of the issues identified by monitors and their suggestions for addressing them. It also describes how these issues are currently addressed and suggests possible ways forward.

Monitors identified three main issues regarding their preparation for deployment to a specific RO:

1. Insufficient information on an upcoming RO;
2. Insufficient time between receipt of relevant operational information about an upcoming RO and the actual start of that RO;
3. Non-responsiveness or late response from the OMS’s contact point.

To address the first of these issues, monitors suggested the following:

1. Include more information in the monthly call;
2. Send a complete Implementation Plan (IP) on an upcoming RO (with both Annex I and Annex II).

To address the issue of insufficient time, monitors suggest that the IP is made available to them 1-2 days before the RO, not on the day of the RO. Moreover, monitors suggest that non-responsiveness or late response from the OMS can be addressed through common standards and procedures for MSs to communicate with the monitors in the Pool.



At the moment, information on upcoming ROs in the monthly call is taken from the information made available by MSs in the FAR. Not all of the relevant information is available at this stage (See Table 5). How complete an IP is for an upcoming RO is the responsibility of the OMS. Communicating relevant operational information about an upcoming RO to the monitors assigned to monitor that RO is currently the responsibility of MSs. With regard to how responsive the OMS contact point is, it is important to mention that ECRet puts the monitor assigned to a particular RO in contact with the requesting MS (OMS). It is then the monitor's responsibility to maintain contact with the OMS EL for details of that RO.

Suggested ways forward:

1. Ensure that the OMS regularly updates the information relevant for an upcoming RO in the FAR as soon as possible, i.e. as soon as new information becomes available, it should be uploaded on to the FAR and shared with the monitor;
2. Ensure that the OMS/ EL shares the IP with the monitor as soon as it is available. This information can then be forwarded by ECRet to the monitors nominated to that particular RO;
3. Put in place standardised procedures for the MSs on how to communicate with the monitors in the Pool, including the kind of information to provide to them;
4. Inform monitors about the standardised procedures in place.

Table 9 below summarises the main issues monitors raised and their suggestions for addressing them. In addition, it describes how each of these issues is currently addressed, if at all, and presents suggested ways forward.



Table 9: Issues raised and suggestions for improving the preparation of deployment to a specific forced-return operation (listed in the monthly call)

<b>Preparation of deployment to a specific forced-return operation (after a monitor has been assigned to a specific RO from the monthly call)</b>			
<b>Issue raised by monitors</b>	<b>Suggested action by monitors</b>	<b>How this issue is currently addressed</b>	<b>Suggested ways forward (based on the Assessment)</b>
Insufficient information on an upcoming RO	<ol style="list-style-type: none"> <li>1. Include more information in the monthly call.</li> <li>2. Complete IP on an upcoming RO.</li> </ol>	<p>Information on upcoming ROs in the monthly call is taken from the information made available by MSs in the FAR. Not all relevant information is available at this stage (See Table 5).</p> <p>How complete an IP is for an upcoming RO is the responsibility of the OMS and depends on the information available.</p>	<p>Ensure that the OMS regularly updates the information relevant for an upcoming RO in the FAR as soon as possible, i.e. as soon as new information becomes available, it should be uploaded in the FAR and shared with the monitor</p>
Insufficient time between receipt of relevant operational information about an upcoming RO and the actual start.	Make the IP available 1-2 days before the RO, not the day the RO starts.	This is currently the responsibility of the OMS and relates to the point above on availability.	Ensure that the OMS/ EL shares the IP with the monitor as soon as it is available.
Non-responsiveness or late response from the OMS contact point	Establish common standards and procedures for MSs to communicate with the monitors	ECRet puts the monitor assigned to a particular RO in contact with the requesting MS (OMS). It is then the monitor's responsibility to maintain contact with the OMS EL for details of that RO.	<ol style="list-style-type: none"> <li>1. Put in place standardised procedures for the MSs on how to communicate with the monitors in the Pool, including the kind of information to provide to them.</li> <li>2. Inform monitors about the standardised procedures in place.</li> </ol>

Source: ICMPD, own compilation



#### 4.4.3 Monitors' suggestions for improving the information exchange procedure about an upcoming forced-return operation

More than half of the respondents (24 out of 43) provided concrete suggestions aimed at improving the current information exchange procedure on upcoming forced-return operations. One monitor suggested having a Pool administration office:

- “As with the escort staff, there should be an administration that takes care of the monitor from A to Z, meaning all the necessary paperwork, visa, travel booking, and that the monitor should not have to do some or all these administrative tasks himself”.

Another monitor suggested that “common procedures should be adopted and applied [by] the MSs, and if this is not possible, the procedures should be facilitated by Frontex”. Nine monitors wrote that the information on the upcoming operation should be shared earlier. Some of their specific suggestions are as follows:

- “Earlier contact with the EL”;
- “Minimum 3 weeks advance warning of mission where visa is required. Monitors may have to travel in person to another city or country to obtain visas. Alternatively provide volunteers with multi-entry visas”;
- “To share all the relevant information and documents before the return operation and not just on the spot”;
- “More information in advance”;
- “The implementation plan should be sent more than a day before (or the day of the operation) so the monitor can get familiar with it in advance”.

Of the nine respondents who wrote that information should be shared earlier, six said that the Implementation Plan, with the correct information (e.g. presence of an interpreter, the name of the EL, presences of medical staff etc.) should be made available 1-2 days before the flight, not just on the day. One monitor wrote that “sometimes the name and data of the monitor are missing [from the Implementation Plan], so the EL has no possibility to make contact with the monitor”.

The role of monitors and how they are regarded in the process of return is also considered important:

- “Putting the Monitor into the process: automatically in the loop for info exchange, respecting the Monitor inside all procedures and planning checklists would be helpful”;
- “Send it directly to the pool monitors so that they can respond directly”;
- “Could monitor[s] get the same information as escort leaders?”;
- “Clear instructions to the OMS on how many Days ahead they should provide the monitor with the information and to describe the information exchange in the report to be able to follow up”.



Other suggestions are as follows:

- “From my experience, what can be improved in the current information exchange procedure is the promptness with which the organizing Member State main contact point answers information requests. I also consider that, should the implementation plan and corresponding annexes be concluded at this point, they are directly sent by FRONTEX at the time of monitor nomination”;
- “Consider to add two monitors to a specific JRO when the flight plan or number of returnees require this. Frontex could make standards about this.”<sup>64</sup>.

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<sup>64</sup> This was written by a monitor as a suggestion to improve the nomination process – the initial nomination of individual monitors to be part of the Pool – but it applies rather to monitors’ nomination to monthly calls and to deployment, and is, therefore, included here.



## 4.5 Reporting framework and reimbursement of monitoring costs

### 4.5.1 How the reporting framework and the reimbursement of monitoring costs work in Frontex

#### Reporting

According to Article 50(5) of Regulation (EU) 2019/1896, “[e]very return operation organised or coordinated by [Frontex] shall be monitored in accordance with Article 8(6) of Directive 2008/115/EC”. The same article stipulates that “[t]he forced-return monitor shall submit a report on each forced-return operation to the executive director, the fundamental rights officer and to the competent national authorities of all Member States involved in the given operation”. In line with these legal requirements, the monitors submit their reports from ROs coordinated or organised by Frontex to the Frontex Executive Director, the FRO and the ECRet<sup>65</sup> who uploads the reports on to the FAR to provide access to the relevant national authorities of all the MSs involved in a given operation (the institutions enforcing the return decision). For ROs organised by MSs – charter and scheduled flights that are entirely organised by MSs where no monitors from the Pool are deployed – Frontex does not usually receive the national monitors’ reports.

Monitors’ reports<sup>66</sup>, including their observations and recommendations, are the main outputs/results of their monitoring activities. FRO analyses these reports and uses the analysis to draft a report twice a year: the so-called “observations to return operations”. Currently, the FRO’s report is structured around several pillars, such as: basic needs, pre-departure phase, vulnerable groups etc. These observations are presented to the Frontex Management Board. In addition to receiving and analysing all the monitoring reports, FRO is the main contact for serious incident reporting and the main handler of the complaints mechanism. The incident reporting refers to any incident of a sensitive or public interest nature which occurs during the course of an operation (occurrence natural or caused by human action) which may affect or be relevant to the Frontex mission, image, the safety or the security of participants in Frontex coordinated activities, including violations of Fundamental Rights or infringements of the Code of Conduct for Return Operations and Return Interventions coordinated or organised by Frontex. The complaints mechanism lays down the procedures to be followed whenever a person makes a complaint regarding the fact that they were directly affected by the actions of staff involved in a Frontex activity, and consider themselves to have been the subject of a breach of their fundamental rights.

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<sup>65</sup> In addition to sending their monitoring reports to the Frontex executive director, the fundamental rights officer and to the competent national authorities of all the MSs involved in the given RO, the monitors are instructed to send their monitoring reports also to [FJRCC@frontex.europa.eu](mailto:FJRCC@frontex.europa.eu).

<sup>66</sup> Currently, monitors use different reporting tools (see further below in this section and Chart 50 in Annex 3: Survey Data).



### **Reimbursement of monitoring activities**

Reimbursement for monitoring activities is done via the national enforcing institutions, i.e. the national enforcing institution is reimbursed by Frontex and monitors can claim any monitoring-related costs such as the monitoring fee, visa fee, insurance fee, travel etc. In this case, Frontex reimburses government bodies, not individuals, and the respective national institutions reimburse the monitors.

All costs related to the participation in a forced-return operation, including the flight ticket to and from the hub/port of departure, accommodation, daily subsistence allowance (DSA), monitoring fee, insurance and any other related costs are always reimbursed on an individual basis/agreement between the requesting MS and the monitoring body, in line with the national rules governing the monitoring body in the respective MS. The insurance needs to be covered by the monitoring body, but the costs can be claimed from the requesting MS, who in return will be reimbursed by Frontex.

Once the monitor has been selected for an operation, the monitor or the responsible monitoring body needs to submit the estimated costs of their participation to the requesting MS. This needs to be done prior to the return operation. In order to ensure that both the amount and nature of the costs sent to the MS/Frontex are in line with the national rules of the monitor's home country, all related information also needs to be copied to its DCP and the NFPOC.

The requesting MS includes the estimated costs of the monitor's participation in the estimated budget that is sent to Frontex. After the forced-return operation, the MS reimburses the monitoring body's costs. Frontex then reimburses the MS.

There are two methods for financing the monitoring costs:

1. Primarily, all costs and mission arrangements related to monitoring the RO are borne directly by the requesting MS and Frontex reimburses the MS after the return operation. The requesting MS organises the flight ticket to and from the hub/port of departure and the accommodation for the monitor(s). Following the return operation, the monitor submits all the remaining costs (e.g. insurance, monitoring fee, etc.) estimated before the forced-return operation, to the MS for reimbursement.
2. Another option is that the monitoring institution covers the costs and mission arrangements based on a specific and direct agreement with the requesting MS. In this case, the monitor(s) and/or the respective monitoring body organises the flight ticket to and from the hub/port of departure and the accommodation themselves and pre-pays all the related costs. After the forced-return operation, all the costs are submitted to the MS for reimbursement. The estimated costs have to be submitted to the requesting MS prior to the forced-return operation.

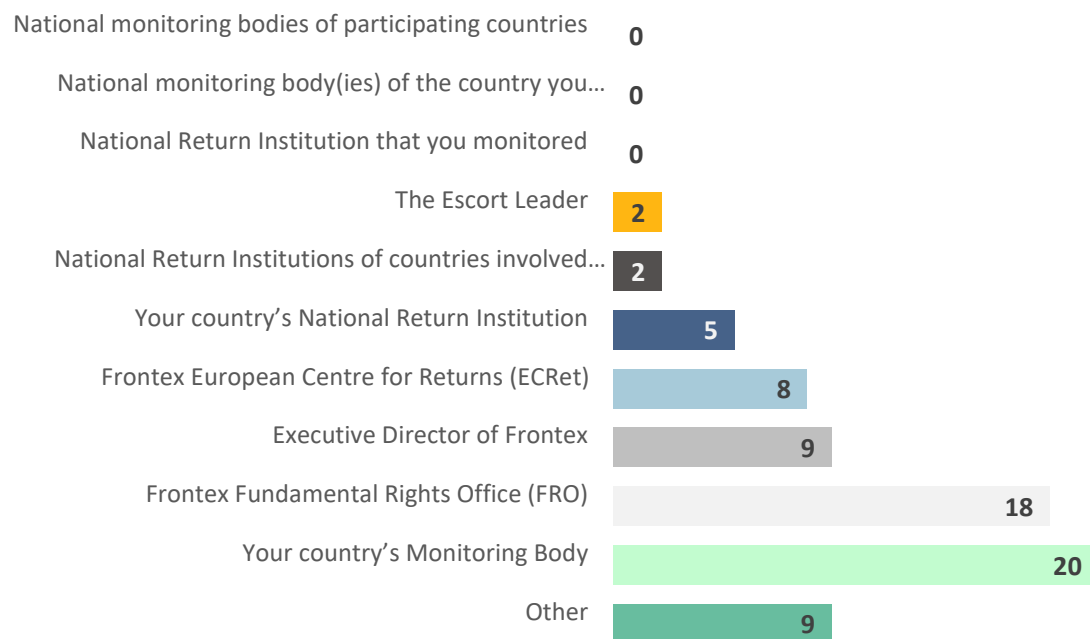


## 4.5.2 How monitors experience/perceive the reporting framework and the reimbursement costs

### Reporting after monitoring a forced-return operation through the Pool

Most respondents reported that they usually send their monitoring reports from an operation monitored through the Pool to their respective NMBs (20 respondents selected this option), to the FRO in Frontex (18), the Executive Director (nine) and to ECRet (eight) (see Chart 48 below). None of the monitors selected: *National monitoring bodies of participating countries*, *National monitoring body(ies) of the country you monitored* and *National Return Institution of the country you monitored* that were provided as possible options.

Chart 48: To whom do you usually send your written report from the forced-return operation you monitored in the framework of the Pool?



NOTE: Multiple choice from a predefined list of 11 options, with the possibility to insert text under Other

Four of those who selected *Other* wrote that the NMB sends the report to OMS, Frontex, FRO, FJRCC and the national authorities.

Of the 37 monitors who answered the question “*In what language do you usually submit the report?*”, 34 answered that they write the reports in English. One of the 34 responded that they write





the report in English for Frontex and in their national language for an NRO. Only two monitors answered that they write the report in their national language only.

The large majority of monitors reported that they use a template to draft the report (33 out of 43 respondents) (Chart 49 in Annex 3). Of the 33, most of them (22 monitors) use the template provided by the FRO, while 11 use a national template (Chart 50 in Annex 3). For more information see:

Chart 49: Do you usually use a template to draft a monitoring report? (Annex 3)

Chart 50: What reporting template do you usually use when drafting a monitoring report? (Annex 3)

Almost half of the respondents (19 out of the 33 who answered this particular question) are either satisfied or very satisfied with the template they are using (Chart 51 below). Monitors are satisfied because:

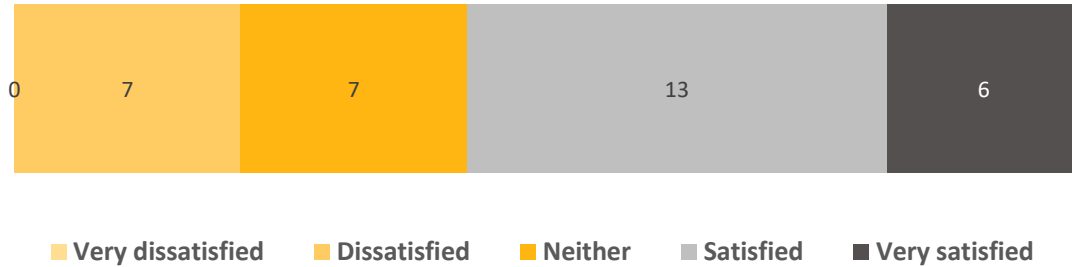
- “It’s logical, so no phase of the RO could be missing, has space for individual description and comment, one case could be described very well and in the whole”;
- “Clearly structured and easy to understand”;
- “The template I am currently using to write my reports is [the] one initially used by FRO, to which I make changes according to the type of operation described, (i.e. different number of Member States, description of vulnerable persons, should there be any, type of operation - JRO, NRO or CRO, use of coercive measures). I use my own modified template because I believe it to be more adaptable to the different environments of operations”.

Those less satisfied explain their answers as follows:

- “The template [provided by FRO] is too complex, not easy to fill-in, not fit to use on a tablet, sometimes repetitive, important information [according to some monitors] is missing (not on the front page or no space to be inserted)”;
- “There are some issues with the amount of the information that is put in the report. Also, there are some sections that would be editable, but they are locked. However, the Frontex template helps recognizing the issues that may come up during the operation.”;
- “If you monitor an operation with more than maybe thirty returnees, it is clear that you cannot be at the same time at all places where there are returnees. Therefore, you cannot answer questions: “were there... 'yes' or 'no' ” honestly. The question should be “have you seen/ experienced...”.



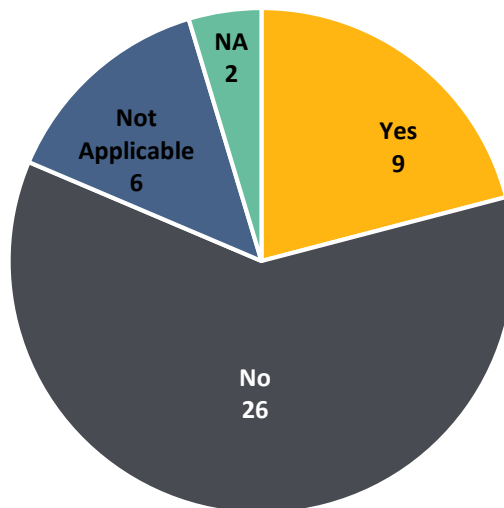
Chart 51: How satisfied are you with the template you are using?



NOTE: Scale fully labelled, from 1 (Very dissatisfied) to 5 (Very satisfied)

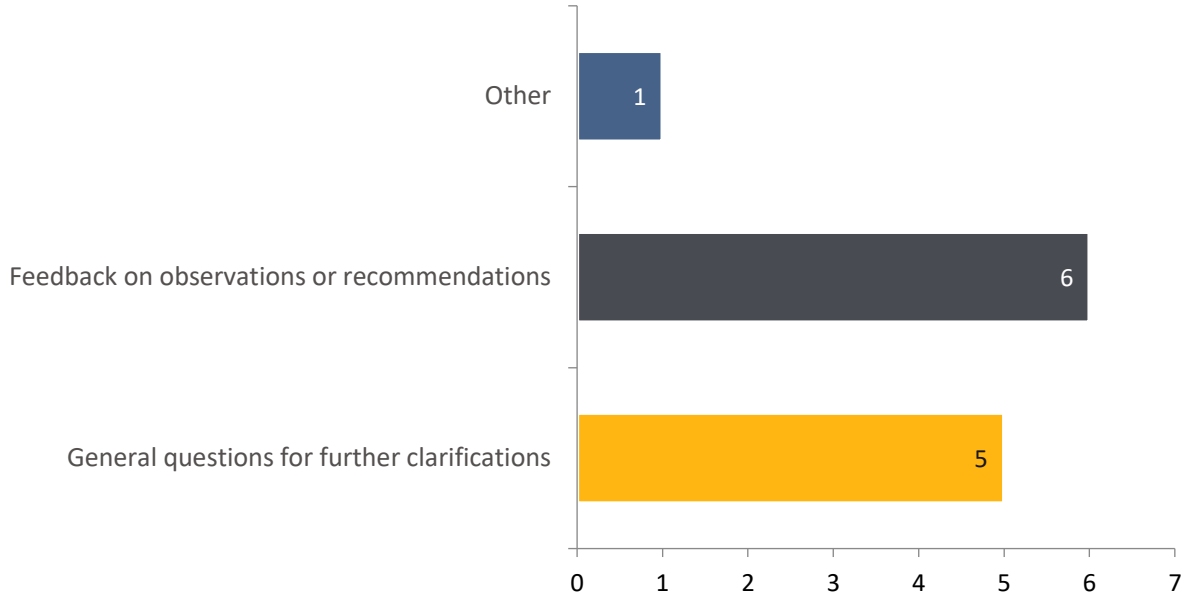
A few monitors reported that they received feedback on their reports from operations monitored through the Pool (Chart 52 below). Of those who did, six reported that they received feedback on their observations and recommendations, while five received general questions for further clarification (Chart 53 below). The monitors reported that they received feedback from the FRO, from the EL or from their respective NMB (Chart 54 below).

Chart 52: Did you receive any feedback on your reports from forced-return operations monitored in the framework of the Pool?



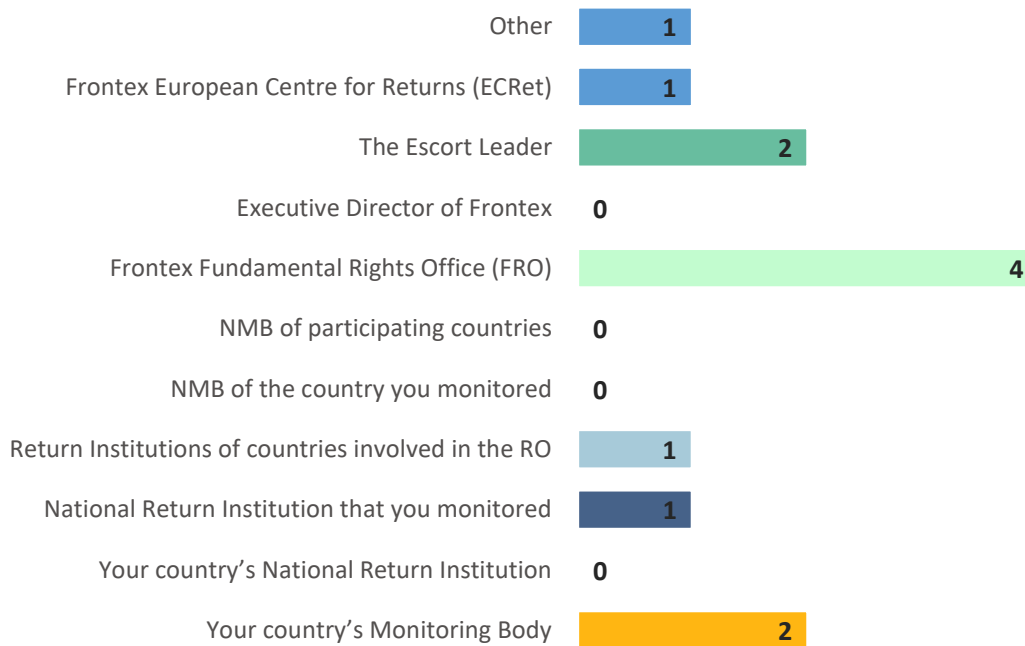
NOTE: Selection, Yes/No Question

Chart 53: What type of feedback did you receive?



NOTE: Multiple choice from 3 predefined options, with the possibility to enter text under Other

Chart 54: From whom did you receive feedback?



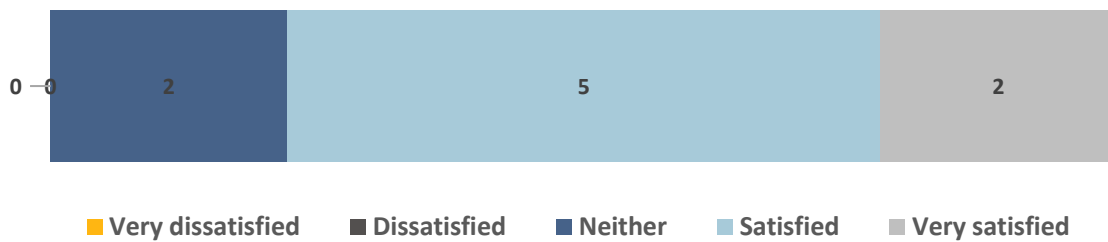
NOTE: Multiple choice from 11 predefined options



The few monitors that received feedback were asked to rate their satisfaction with the feedback they had received so far (Chart 55 below). Monitors explained their ratings as follows:

- “It is good”;
- “Supportive and proactive attitude demonstrated by the national monitoring body’s head”;
- “From my experience, if no more feedback is given, I believe my reports to be sufficient and FRO to be in agreement with my recommendations and/or suggestions. Furthermore, my recommendations and/or suggestions are featured in the semi-annual FRO communications to my National Monitoring Body leaders.”.

Chart 55: How satisfied are you, in general, with the feedback you received so far on your monitoring reports?



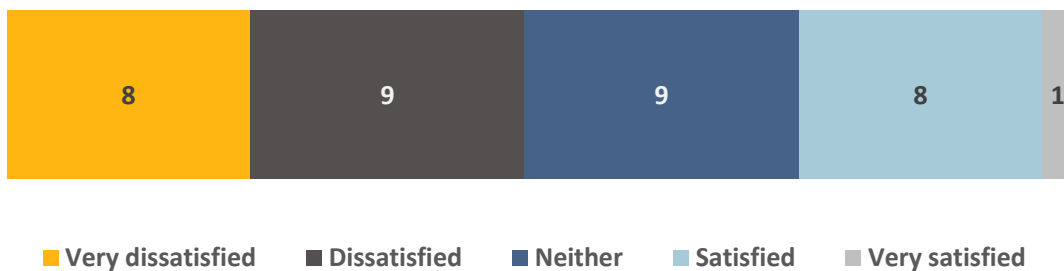
NOTE: Scale fully labelled, form 1 (Very dissatisfied) to 5 (Very satisfied)

A few of the monitors are satisfied (eight) or very satisfied (one) with the communication process regarding the monitoring reports they send to Frontex (Chart 56 below). All 24 monitors who wrote a comment explaining the rate of satisfaction on a scale from 1 (*Very dissatisfied*) to 5 (*Very satisfied*), indicated that they received no comments from Frontex about their reports. One wrote that “feedback is more than welcome”, while a few others mentioned they do not receive “even a confirmation of receipt” from Frontex. Two monitors wrote:

- “There is no reaction from Frontex, so it is unclear what the priorities and focus points from Frontex are”;
- “I lack the feedback that the report was well received and whether or not it has been drafted according to the Frontex's wishes.”.



Chart 56: How satisfied are you with the communication process regarding your monitoring reports sent to Frontex?



NOTE: Scale fully labelled, from 1 (Very dissatisfied) to 5 (Very satisfied)

With regard to ways in which the communication process on the monitoring reports sent to Frontex could be improved, monitors suggested Frontex send feedback on their written reports, underlining that:

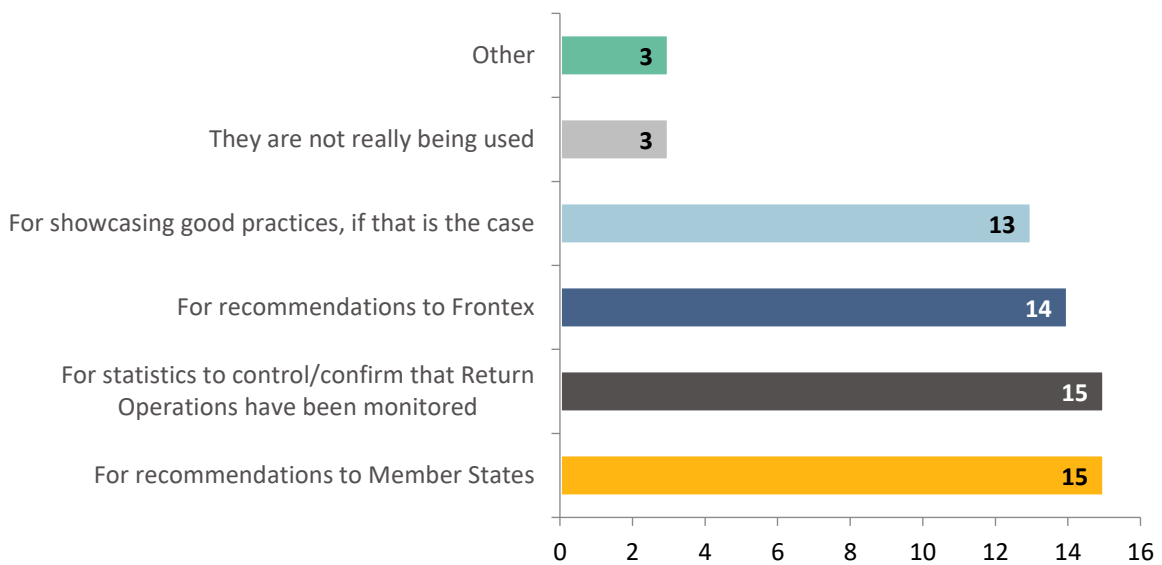
- “To continue growing as a monitor it is important to know how Frontex assesses the report”;
- “Feedback about serious observations (maybe my perception or Interpretation was wrong?) would be nice as well as general feedback to all Monitors about further tackling of the reported issues, consequences, info @all about serious situations reported from one colleague disseminated to everybody, solved problems/Lessons Identified/Lessons Learned/misunderstanding/misperceptions disseminated to everyone in order to prevent other colleagues to fall in the same trap or to repeat mistakes or to report unnecessarily...”;
- “It is not necessarily the feedback to a single report, but the feedback about findings, upcoming problems and improvements of the forced return monitoring in general and in a timely manner. The regular 6-month-overview by FRO is good, but takes too long. A monthly newsletter to the monitors could be an additional tool”;
- “I would like to know whether some of our suggestions were implemented”;
- “I would welcome a higher level of transparency in dealing with monitoring reports”;
- “I would suggest sending an automatic response when the report is received by Frontex”;
- “The report will be sent to the Inspectorate within 5 days but we never know how and when it is sent to Frontex. Suggestion: let the monitor know witch changes have been applied and on which date it has been forwarded”.

Monitors reported that, to their knowledge, their monitoring reports are used for making recommendations to MSs, for statistics (to control/confirm that ROs have been monitored), for recommendations to Frontex, as well as for sharing good practices (Chart 57 below). A few monitors are either satisfied (6) or very satisfied (3) with the way their reports are being used (Chart 58 below). Most of them report that they have insufficient information to comment on this issue. Some monitors wrote:



- “We do not have any information regarding the use of the reports, no feedback, no follow-up. Member states should be informed. There is a lack of transparency and accountability”;
- “I know that FRO is summing up the observations twice a year in general level. Otherwise I don't know how they are used, e.g. how the best practices are distributed”;
- “There has been a situation when the OMS EL asked the monitor directly for the report as the Frontex have not send it to them”.

Chart 57: According to your knowledge, how are your monitoring reports being used?



NOTE: Multiple choice from 6 predefined options, with the possibility to enter text under Other

Chart 58: How satisfied are you with the way your monitoring reports are being used?



NOTE: Scale fully labelled, from 1 (Very dissatisfied) to 5 (Very satisfied)



### Issues identified and suggested ways forward

This section brings together monitors' feedback from the survey regarding reporting after monitoring a RO. It includes a summary of the issues identified by monitors and their suggestions for addressing them. It also describes how these issues are currently addressed and suggests possible ways forward.

Monitors identified two main issues with regard to reporting after monitoring a forced-return operation in the framework of the Pool, namely:

1. The monitoring template provide by FRO;
2. The overall communication with monitors regarding their monitoring reports.

Monitors suggested that the monitoring template should be revised in order to:

1. Make it easier to use (e.g. restructure, with pre-filled sections);
2. Leave more space for the narrative report.

With regard to the overall communication with monitors about their reports, they suggest the following:

1. Provide confirmation of receipt of the monitoring report;
2. Inform monitors about the ways in which their reports and recommendations are being used.

Currently, Frontex provides monitors in the Pool with a reporting template in Excel and a guide to the reporting process. The template is not mandatory and monitors may choose the format for their reports. The reporting process and reporting tools (e.g. template) are currently being revised (in work package 2 of the FReM III project) to streamline and enhance them to allow for more efficient quality management. Specifically, a reporting application is under development that will enable monitors to draft and submit their reports electronically – all in the same format. To facilitate FRO's analysis of the conclusions and observations in the monitoring reports, the reporting application will be connected to a database.

Following a return operation, ECRet uploads the monitoring report on to the FAR so that all the MSs involved in the respective RO have access to the reports. Recommendations are communicated:

- In the framework of Frontex training activities;
- In regular DCP meetings;
- In addition, urgent issues are raised with the respective MS via email.

FRO and ECRet have regular meetings to discuss issues raised in the monitoring reports.

Suggested ways forward:



1. Ensure that monitors use the same reporting format;
2. Ensure that the same reporting standards are applied by all monitors;
3. Ensure training on the usage of the reporting tools is carried out;
4. Acknowledge receipt of monitoring reports;
5. Provide monitors with feedback about their reports;
6. Ensure follow-up to the monitoring reports i.e. recommendations;
7. Ensure overall transparency of monitoring recommendations;
8. Ensure good practices are shared and replicated;
9. Establish a newsletter that is sent out periodically informing monitors about the ways in which their reports and recommendations have been used.

Table 10 below summarises the main issues monitors raised and their suggestions for addressing them. In addition, it describes how each of these issues is currently addressed, if at all, and presents suggested ways forward.





Table 10: Issues raised and suggestions for improving the process of reporting after monitoring a forced-return operation through the Pool

Reporting after monitoring a forced-return operation through the Pool			
Issue raised by monitors	Suggested action by monitors	How this issue is currently addressed	Suggested ways forward (based on the Assessment)
Monitoring template provided by the FRO	<p>The monitoring template to be revised in order to:</p> <ol style="list-style-type: none"> <li>1. Make it easier to use (e.g. restructured, with pre-filled sections);</li> <li>2. Leave more space for the narrative report.</li> </ol>	<p>Frontex provides monitors with a reporting template in Excel and a guide to the reporting process. The template is not mandatory and currently the monitors may choose the format for their reports.</p> <p>The reporting process and the reporting tools (e.g. template) are currently being revised (in work package 2 of the FReM III project) to streamline and enhance them to allow for more efficient quality management. Specifically, a reporting application is under development to enable monitors to draft and submit their reports electronically – all in the same format. To facilitate FRO’s analysis of conclusions and observations from the monitoring reports, the reporting application will be connected to a database.</p>	<ol style="list-style-type: none"> <li>1. Ensure that monitors use the same reporting format;</li> <li>2. Ensure that the same reporting standards are applied by all monitors;</li> <li>3. Ensure training on the usage of the reporting tools.</li> </ol>
Overall communication with monitors regarding their monitoring reports	<ol style="list-style-type: none"> <li>1. Provide confirmation of receipt;</li> <li>2. Inform monitors about the ways in which their reports and recommendations are being used.</li> </ol>	<p>Following the return operation, ECRet uploads the monitoring report on to the FAR, so that all MSs involved in the respective RO have access to the reports.</p> <p>Recommendations are communicated:</p> <ul style="list-style-type: none"> <li>- In the framework of Frontex training activities;</li> <li>- In regular DCP meetings;</li> </ul>	<ol style="list-style-type: none"> <li>1. Acknowledge receipt of monitoring reports;</li> <li>2. Provide monitors with feedback about their reports;</li> <li>3. Ensure follow-up to the monitoring reports i.e. recommendations;</li> </ol>



Reporting after monitoring a forced-return operation through the Pool			
Issue raised by monitors	Suggested action by monitors	How this issue is currently addressed	Suggested ways forward (based on the Assessment)
		<p>Urgent issues are raised with the respective MS via email.</p> <p>FRO and ECRet have regular meetings to discuss issues raised in the monitoring reports.</p>	<ol style="list-style-type: none"> <li>4. Ensure overall transparency of monitoring recommendations;</li> <li>5. Ensure good practices are shared and replicated;</li> <li>6. Establish a newsletter that is sent out periodically informing monitors about the ways in which their reports and recommendations have been used.</li> </ol>

Source: ICMPD, own compilation

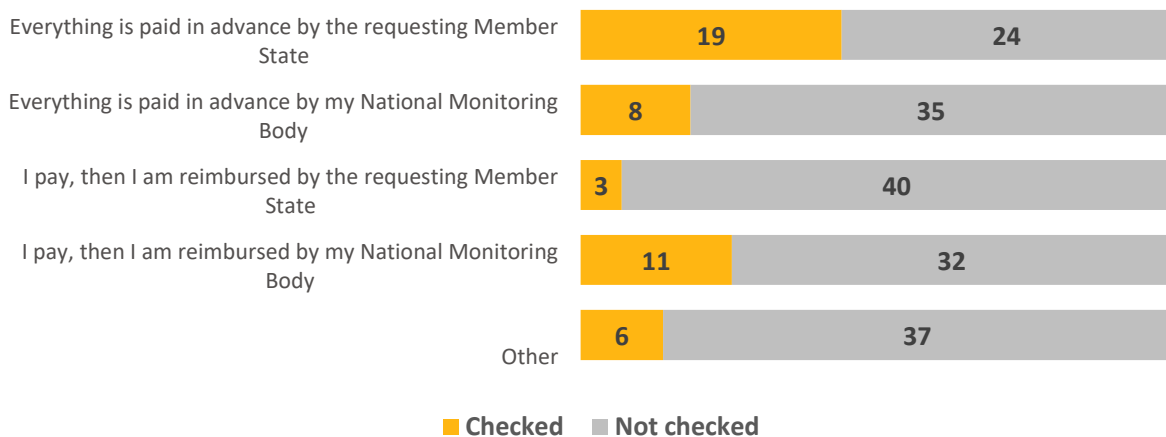


**Reimbursement of costs of monitoring missions**

Almost half of the total number of respondents (19 out of 43) reported that travel costs for return operations (be it CROs, JROs or NROs) are paid in advance by the requesting Member State (Chart 59 below). Under *Other*, monitors mentioned:

- “Tickets are paid in advance by the OMS, other costs I pay myself, then my National Monitoring Body reimburses me”;
- “My national institution pays and it is reimbursed by MS”;
- “Everything is paid in advance by the requesting MS. I only have to pay for my meals and they will be reimbursed by my National Monitor Body”;
- “Some costs paid in advance by country XX: flights and hotels”;
- “I pay, then my NMB is requesting reimbursement from the requesting MS, the requesting Member State reimburses my NMB, and finally my NMB reimburses me”;
- “ICMPD (Pilot mission)”;
- “I paid for taxes, food, hotel in two cases, and were [then] reimbursed after [a] rather lengthy procedure and time”.

Chart 59: According to your experience, how are your travel costs being covered, for monitoring: Collecting Return Operations, Joint Return Operations and National Return Operations, respectively?

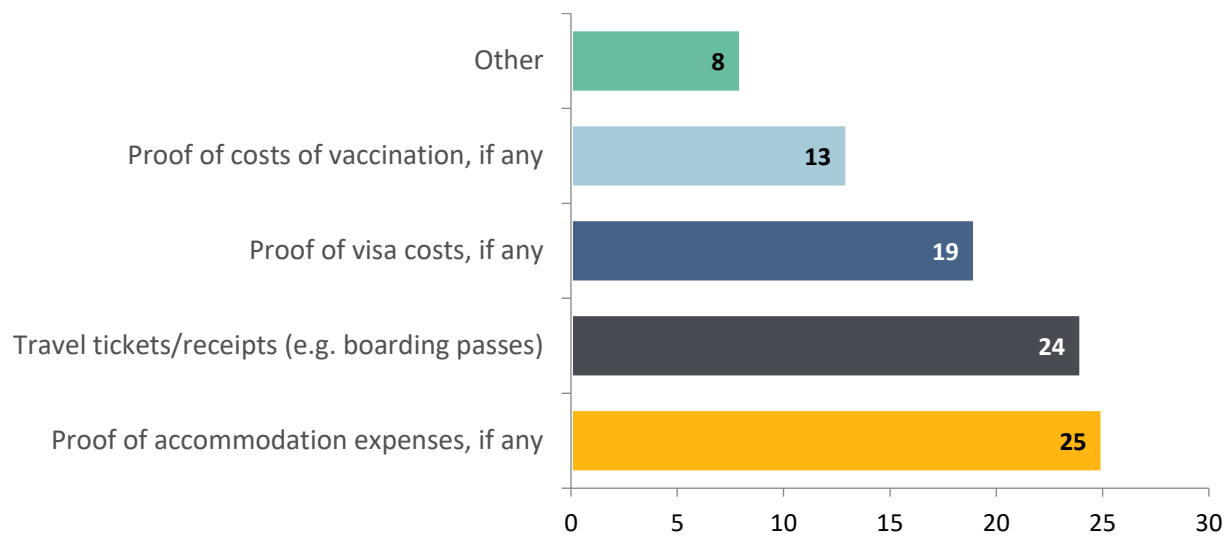


NOTE: Multiple choice from 5 predefined options, with the possibility to enter text for all options



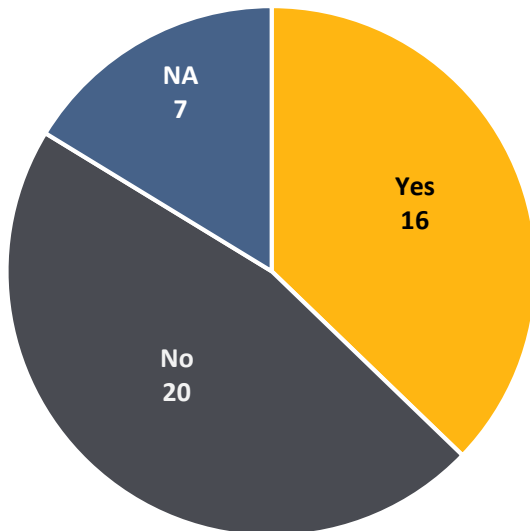
With regard to the documents they have to submit to get their monitoring costs reimbursed (Chart 60 below), 25 monitors reported that they have to submit proof of expenses (e.g. proof of accommodation, visa costs, costs of vaccination etc.) as well as proof of travel (boarding passes). Under *Other* monitors mentioned that they have to submit invoices (for meals, transportation or accommodation). One monitor mentioned: “I must submit a statement, written by my National Monitoring Body, with all the cost-support expenses during a RO”.

Chart 60: According to your experience, what documents do you need to submit for the reimbursement of monitoring costs?



NOTE: Multiple choice from 5 predefined options, with possibility to enter text under *Other*

Chart 61: Do you charge a monitoring fee?



Some of the monitors reported that they also charge a monitoring fee, while for others, monitoring in the Pool is remunerated through their regular salary from the NMB. Most fees range from 200 EUR to approximately 250 EUR per day of the operation and about 125 EUR per report. Other monitors report:

- “40, reduced 33 % tax later, so around 28 [EUR]”;
- “according to the contract with the Mol: 12,62 EUR per hour”.

The monitors who said they charged a monitoring fee (see chart 61) indicated that most monitoring fees are covered on the submission of a claim (including invoices) to the respective NMBs which, in some cases, is refunded by the OMS or by Frontex.

NOTE: Selection, Yes/No Question

The majority of respondents to this question (23 out of 36) are satisfied or very satisfied with the process of reimbursing travel costs (Chart 62 below), as:

- “It usually works within less than two weeks”;
- “I usually get my money within a month. Then I pay 50 percent tax on it”;
- “Never had issues with reimbursement of monitoring costs”.

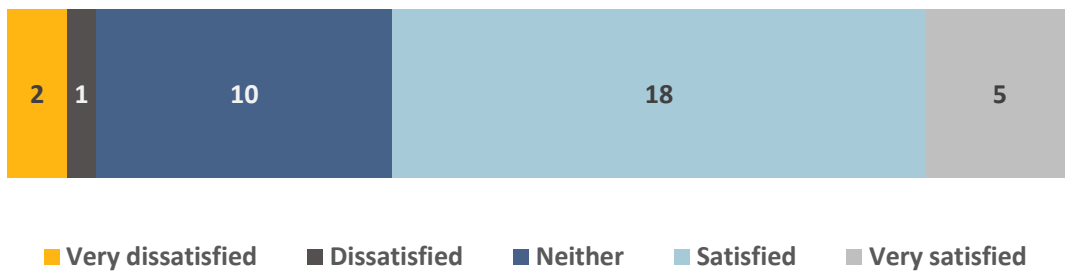
At the other end of the scale (less satisfied monitors wrote):

- “Monitors need to pay in advance. Also, so far, the monitors who participated from my NMB (in 2017, 2018) did not yet receive the DSA for the missions. Procedures must be re-examined, corrected and facilitated, if Frontex wishes to have monitors from public bodies serving as NMB institutions in the EU pool”;
- “Our daily fee is not the same, they apply the national rules for the daily costs, but we are work[ing] for other countries in the missions, where the daily fee is higher than our[s], it is not unified for all the monitors”;
- “At times, there has been an accentuated delay in the reimbursement of the of monitoring costs, concerning only one organizing Member State, which is now regularized, and that we hope will not happen again”;
- “It is time consuming and I have the impression that there are differences in the various countries on the daily fee. Harmonisation is required”;
- “I didn't receive any daily allowances yet, since 2018....”;
- “Requesting country always pre-pays the cost of travel, accommodation etc. If some additional cost is endured, then it is always duly reimbursed. However, my institution is



hesitant to send its monitors on the missions due to the fact that the institution still pays for the time spent on the travel AND for the time spent writing the report”.

Chart 62: How satisfied are you with the process of reimbursement of monitoring costs (travel, accommodation, visa, vaccination if needed etc.) for the return operations you monitored?



NOTE: Scale fully labelled, from 1 (Very dissatisfied) to 5 (Very satisfied)

### Issues identified and suggested ways forward

This section brings together monitors’ feedback from the survey regarding the reimbursement of costs for monitoring a RO through the Pool. It includes a summary of the issues identified by monitors and their suggestions for addressing them. It also describes how these issues are currently addressed and suggests possible ways forward.

With regard to reimbursement of monitoring costs, respondents identified three main issues:

1. Compensation for monitors’ working time (e.g. salary for time spent while on mission and for writing the report after the mission);
2. Cumbersome reimbursement procedures;
3. Standardisation of monitors’ fees (some monitors report that applying a monitoring fee is not standardised, i.e. some monitors receive a monitoring fee while others do not. Even though it is nationally regulated, some monitors were concerned about the unequal treatment).

To address the first issue, monitors suggested that national institutions should be reimbursed for the time the monitor spends away from their regular job.

To address the issue of cumbersome reimbursement procedures, monitors suggested that they are re-examined, corrected and standardised to ensure transparency and fairness (e.g. monitoring costs that were not paid prior to a RO (any NMB-supported costs) to be reimbursed directly by Frontex). Finally,



monitors suggested standardising the monitors' fee (e.g. a European rate for monitoring or the Frontex daily fee for all monitors).

Regarding the time monitors work, it is important to note that making monitors available to the Pool is currently the responsibility of MSs. Monitors are reimbursed in line with national rules, i.e. the monitor will be reimbursed according to their NMB's rules on reimbursement. Regardless of how the costs are covered (whether by the monitoring body directly or via the OMS), Frontex reimburses all costs related to the monitoring mission (e.g. ticket, visa costs, vaccination, DSA etc.).

Currently, there are two methods for financing the monitoring costs (Section 4.5.1 above):

1. Primarily, all costs and mission arrangements related to the monitoring the RO are borne directly by the requesting MS and Frontex reimburses the MS after the return operation.
2. Another option is that the monitoring institution covers the costs and mission arrangements based on a specific and direct agreement with the requesting MS. In this case, the monitor(s) and/or the respective monitoring body organises the flight ticket to/from the hub/port of departure and the accommodation themselves and pre-pays all related costs. After the forced-return operation, all costs for reimbursement are submitted to the MS.

Currently, some monitors charge a monitoring fee, while for others, monitoring through the Pool is remunerated through their regular salary by their respective institutions (usually the NMBs). Reimbursements are made in line with the respective national rules.

Suggested ways forward:

1. Ensure that all Pool monitors are informed and know the rules for reimbursement;
2. Organise a targeted workshop to discuss how to reach a possible standard monitoring fee for monitors.

Table 11 below summarises the main issues monitors raised and their suggestions for addressing them. It describes how each of these issues is being addressed, if at all, and presents suggested ways forward.



Table 11: Issues raised and suggestions for improving the process of reimbursing costs of monitoring return operations through the Pool

Reimbursing costs of monitoring missions			
Issue raised by monitors	Suggested action by monitors	How this issue is currently addressed	Suggested ways forward (based on the Assessment)
Compensation for monitors' working time	National institutions to be reimbursed for the time the monitor spends away from their regular job.	Making monitors available to the Pool is currently the responsibility of MSs. Monitors are reimbursed in line with national rules, i.e. the monitor will be reimbursed according to their NMB's rules on reimbursement. Regardless of how the costs are covered (whether by the monitoring body directly or via the OMS), Frontex reimburses all costs related to the monitoring mission (e.g. ticket, visa costs, vaccination, DSA etc.)	<ol style="list-style-type: none"> <li>1. Ensure that all Pool monitors are informed and know the rules for reimbursement;</li> <li>2. Organise a targeted workshop to discuss how to reach a possible standard monitoring fee for monitors.</li> </ol>
Cumbersome reimbursement procedures	Reimbursement procedures to be re-examined, corrected and standardised in order to ensure transparency and fairness (e.g. monitoring costs that were not paid prior to a RO (any NMB-supported costs) to be reimbursed directly by Frontex).	<p>There are two methods for financing the monitoring costs (Section 4.5.1 above):</p> <ol style="list-style-type: none"> <li>1. Primarily, all costs and mission arrangements related to monitoring the RO are borne directly by the requesting MS and Frontex reimburses the MS after the return operation.</li> <li>2. Another option is that the monitoring institution covers the costs and mission arrangements based on a specific and direct agreement with the requesting MS. In this case,</li> </ol>	See above





Reimbursing costs of monitoring missions			
Issue raised by monitors	Suggested action by monitors	How this issue is currently addressed	Suggested ways forward (based on the Assessment)
		the monitor(s) and/or the respective monitoring body organises the flight ticket to/from the hub/port of departure and the accommodation themselves and pre-pays all related costs. After the forced-return operation all costs for reimbursement are submitted to the MS.	
Standardisation of monitors' fees	Standardising the monitors' fee (e.g. a European rate for monitoring or the Frontex daily fee for all monitors).	Currently, some monitors charge a monitoring fee, while for others, monitoring through the Pool is remunerated through their regular salary, by their respective institutions (usually the NMBs). Reimbursements are done in line with the respective national rules.	See above

Source: ICMPD, own compilation



### **4.5.3 Monitors' suggestions to improve the overall process of reporting and reimbursing monitoring costs**

#### **Monitors' suggestions for improving the overall reporting process**

Suggestions from monitors for improving the overall reporting process can be clustered around four main areas: transparency regarding how the monitoring reports are shared and used; the reporting template; overall communication with monitors regarding their monitoring reports; and the need for further training on reporting.

#### **Transparency:**

- There should be a transparent procedure to ensure accountability and follow up”;
- “Monitors should be informed about the results”.

#### **The reporting template:**

- “Concentrate on important questions and ask them in a way they can be answered honestly and truthfully. And give feedback”;
- “More open space for how the operation went”;
- “Make the report easier to work with”;
- “Starting not with an empty template but having all already available information put in place (or automatically filled in later) via connecting tools/automatic data exchange, slimming the report into ‘as slim as possible but as much as necessary’”;
- “I would suggest a user-friendlier template, suitable to be adapted to the different environments and operations, that can be filled in an easier and quicker way”;
- “I would welcome a higher level of transparency of the procedure”;
- “Improving the template, sending feed backs to the monitors about their reports and the relevant recommendations”;
- “Unlocking the report template”.

#### **Communication:**

- The need for feedback on the monitoring reports was mentioned by several monitors;
- “A monthly newsletter to the monitors by FRO would be welcomed”;
- “To have an annual meeting or workshop about the feedbacks of the reports”.

#### **Further training**

- “Organize return meetings for pool monitors and discuss already done return operations”.



### **Monitors' suggestion for improving the current process of reimbursing monitoring costs**

Regarding the current process of reimbursing costs/ covering the expenses of monitoring a RO through the Pool, monitors mainly suggest having a more transparent, uniform and fair process for reimbursement costs:

1. Transparency and fairness:

- There should be a uniform, transparent and attractive method of paying monitors' expenses and fees.
- Introduce a European rate for monitoring, so that differences between the MSs disappear.
- Pay monitors an equal fee.
- Use the Frontex daily fee for all monitors.

2. Other suggestions:

- "I believe that monitoring costs that have not been paid in advance (any National Monitoring Body-supported costs) by the organizing Member State could, perhaps, be reimbursed directly by FRONTEX."
- "It would be easier to go on more operations if the national institution was reimbursed for the time monitor spends outside of his/her regular job".



## 4.6 Transparency and independence

The issues of transparency and independence are concerns raised by some respondents with regard to the fact that the Pool is situated within Frontex. The criticism relates to the fact that forced return operations which are coordinated or organised by Frontex are also monitored by monitors from a Pool that is managed by Frontex. Even though stakeholders generally consider the current monitoring system through the Pool as a sufficient internal control mechanism, some respondents emphasised that it cannot be seen as a sufficient and systematic external, independent monitoring system.

The discussion goes back to the general debate concerning the definition of “effective”, originating from Art. 8(6) of the Return Directive which states, that “*Member States shall provide for an effective forced-return monitoring system*”. As the word “effective” is not defined or further clarified in the Return Directive, it has led to different interpretations among MSs with regard to what can be considered a truly effective monitoring system. Some stakeholders argue that for a monitoring system to be effective, it must be external and functionally independent of the institutions enforcing returns that are being monitored.

Consequently, respondents to the survey<sup>67</sup> criticising the current system suggest to add an external, independent and effective monitoring mechanism to the present monitoring system to ensure transparency and independence. In summary, they listed the following concerns regarding the independence of the Pool:

- “Frontex would be better served by an external, independent control mechanism”;
- “Perhaps it is an idea to place the Frontex Pool with an independent organization that deals with deployment and payments”;
- “Safeguarding the independence of the monitors of the ROs is crucial. It should be further discussed and addressed. The current scheme has several faults, which are pointed out throughout the FReM project meetings, annual lessons learned and workshops. Further internalisation of the monitoring process should be avoided”;

Another issue raised by the monitors was the fact that Frontex seldom receives the monitoring reports from ROs that are coordinated or organised by Frontex and where there are no monitors deployed from the Pool or also national monitors monitor the RO. It would be beneficial for Frontex to also receive reports from national monitors in order to ensure that good practices are collected and issues raised are followed up. In this regard, it needs to be emphasised that Article 50(5) that outlines the monitoring and reporting obligations relates to all ROs coordinated or organised by Frontex.<sup>68</sup>

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<sup>67</sup> These were the answers to the following question: *Please add any other comment/suggestion you might have (which you did not mention before) for improving your work as a member of the Frontex Pool of monitors* (See Annex 2: Questionnaire for Monitors Nominated to the Pool).

<sup>68</sup> Every return operation organised or coordinated by the Agency shall be monitored in accordance with Article 8(6) of Directive 2008/115/EC. The monitoring of forced-return operations shall be carried out by the forced-return monitor on the basis of objective and transparent criteria and shall cover the whole return operation



## 5. Main Findings and Recommendations

On 7 January 2017, the pool of forced-return monitors (further referred to as the Pool) was established within the structures of the European Border and Coast Guard Agency (Frontex) in line with Article 29 of EBCG Regulation (Regulation (EU) 2016/1624 in force at the time) and on the basis of the outcomes of the Forced-Return Monitoring I project (FReM I). The Pool is managed by Frontex and consists of monitors from the National Monitoring Bodies (NMBs) of Member States (MSs) responsible for carrying out forced-return monitoring activities in accordance with Article 8(6) of Directive 2008/115/EC. Since the Pool was established, the Forced-Return Monitoring projects (FReM II and III) have been supporting Frontex in institutionalising the Pool within structure of the organisation.

The day-to-day coordination, including the deployment of monitors to specific forced-return operations, is largely handled to varying degrees by: the Capability Programming Office (CAP), the European Centre for Returns (ECRet) and the Fundamental Rights Office (FRO). Currently, the training of Pool monitors is conducted within the framework of the FReM III project, in close cooperation with the aforementioned Frontex Units, as well as the Training Unit (TRU).

One of the aims of the FReM III project is to provide a final concept for the Pool's management structure and procedures, contributing to its sustainability, improved day-to-day management, transparency and independence. FReM III is the last project to support Frontex with the Pool's development. The full conceptualisation of the approach for the management of the Pool and all the procedures and activities will be handed over to Frontex by the end of the FReM III project. In order to prepare the grounds for the handover, in 2019, an assessment of how the Pool currently functions was conducted as part of the project. This chapter summarises the main findings of this assessment and presents the related recommendations.

### 5.1 Nomination of monitors to the Pool

According to Article 51(2) of Regulation (EU) 2019/1896<sup>69</sup>, MSs are responsible for nominating monitors to the Pool. In practice, this is done by MSs through their NFPOCs or NMBs which send nominations to CAP, in Frontex. The call for monitors is an ongoing process, i.e. it is an open call and MSs can nominate monitors to the Pool at any time. CAP is in contact with the MSs and is in charge of maintaining the database of monitors, ensuring that the name, contact details, monitors' expertise

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from the pre-departure phase until the handover of the returnees in the third country of return. The forced-return monitor shall submit a report on each forced-return operation to the executive director, the fundamental rights officer and to the competent national authorities of all the Member States involved in the given operation. If necessary, appropriate follow-up shall be ensured by the executive director and competent national authorities respectively.

<sup>69</sup> "Member States shall be responsible for contributing to the pool by nominating forced-return monitors corresponding to the defined profile" (Regulation (EU) 2019/1896).



etc. is up to date. MSs are responsible for nominating monitors to the Pool from the bodies responsible for carrying out forced-return monitoring activities in accordance with Article 8(6) of the Return Directive. Some MSs have monitoring experience as one of the criteria for being eligible for nomination, but not all NMBs in the different MSs apply the same criteria. The Frontex Management Board decided the general profile of a Pool monitor. To ensure the independence and correct application of Return Directive Article 8(6), monitors nominated to the Pool have to be part of a MS' national monitoring system and cannot be independent persons/agencies willing to be monitors.

While the process of nominating monitors to the Pool is one that is open and ongoing, respondents raised a number of issues they felt need addressing to improve this process. They are the:

1. Effectiveness and transparency of procedures in place for nominating monitors to the Pool;
2. Transparency regarding the criteria for nominating monitors to the Pool;
3. Monitors' limited monitoring experience at the time they are nominated to the Pool.

Considering the legal framework within which the Pool functions, in particular Article 51(2) of Regulation (EU) 2019/1896, the following is recommended to improve the current procedures for nominating monitors to the Pool:

1. Remind MSs, e.g. on a yearly basis, that providing nominations to the Pool is an ongoing process, i.e. that the call is an open one and monitors can be nominated at any time;
2. Ensure that information about the nomination procedure is uploaded on to the communication, coordination and information platform;
3. Upload the general profile of a Pool monitor on to the communication, coordination and information platform;
4. Consider including the national nomination criteria in the respective national factsheets;
5. The NMBs should:
  - a. Continue using the opportunity of the training and other activities offered through the Pool to train their staff;
  - b. Continue nominating monitors to the Pool so that they gain "international" experience;
  - c. Ensure that the monitors proactively use the opportunity of pilot monitoring missions to gain practical experience.

## 5.2 Training of monitors

In order to be eligible for deployment from the Pool, monitors need to undergo training on forced-return monitoring<sup>70</sup>. This training is currently organised within the framework of the FReM III project,

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<sup>70</sup> For more details, see Section 4.1 *Training* of this report.



together with the TRU; representatives of the FRO and ECRet are among the experts delivering the training content.

Pool monitors considered the basic training to be extremely useful for their job as a monitor, as it addresses a wide range of relevant topics and includes numerous practical sessions. Thus, it is a sound introduction to forced-return monitoring, providing both a theoretical and practical basis for the work of the Pool monitors. At the same time, 4.5 days of training is not considered sufficient. In addition to their basic training, monitors require further support in their ongoing professional development.

Therefore, it is recommended that:

1. Monitors are provided with additional practical training possibilities, including a refresher course every three years;
2. Targeted training opportunities on specific topics of concern, including targeted training modules on monitoring forced-return by scheduled flights are organised on request and based on need;
3. The opportunity is maintained for monitors to exchange experiences with other stakeholders involved in returns (e.g. escorts);
4. Training content is made available online;
5. An e-learning platform is provided.

### **5.3 Monthly call for monitors**

Monitors from the Pool can only be deployed based on a request made by a MS. The requesting MS – either the OMS or a PMS – indicates its need for a monitor in a specific RO via the FAR. The FAR system automatically sends notifications to the CAP regarding MSs' requests for monitors. This is an automated process. CAP collects the requests for monitors and, usually by the 11<sup>th</sup> of each month, prepares a monthly call (i.e. a letter) for monitors, for operations in the following month, which is sent to the NFPOCs of all MSs who contribute monitors to the Pool, with copies to the respective NMBs. In some countries, the NFPOC forwards the call to the NMB in its MS.

The call requests the NMBs indicate which operations they would be available for and interested in nominating monitors to. MSs then usually have one week to respond to the call. The monthly call for monitors includes general information about the ROs, such as: the type of operation, the destination, date of the operation, airport of departure (if known at the time of the call), etc. The NMBs can nominate monitors to specific operations listed in the call. Soon after the one-week deadline, CAP gathers all the nominations, prepares an overview of the upcoming return operations that month and calls a meeting with ECRet and FRO. Based on a number of criteria, CAP, ECRet and FRO assign the available monitors to specific ROs. CAP informs MSs, via the NFPOCs, where each monitor has been assigned. After the monitors have been assigned to the specific ROs and CAP has informed the NMBs, ECRet emails the operational details to the monitors. The email contains information on the flight



schedule, the contact details of the main contact for the operation (the EL), financial rules etc. If monitors request additional support (e.g. visa support letter, information on vaccinations etc.), ECRet usually refers them to the requesting MSs. If their specific request is not addressed by the requesting MS, ECRet offers support. This is done on a case-by-case basis. If there are changes in the schedule, ECRet contacts the monitors.

While the organisational aspect of the monthly calls functions well, monitors identified a couple of issues with the monthly call which need addressing. They are:

1. Insufficient information in the Frontex monthly call for monitors and their institutions to decide whether they can monitor a specific RO listed in the monthly call;
2. A general lack of communication/information shared with monitors at this stage.

Considering the limited operational information about an upcoming RO at the time Frontex sends the monthly call to the MSs, as well as the communication channels established under Regulation (EU) 2019/1896 that exist between Frontex and the MSs, it is recommended that:

1. Information is shared on how the Pool functions, e.g. organise regular meetings during which all the procedures, workflows and responsibilities are explained to the monitors (including information on the FAR system and communication between the OMS, PMS and Frontex);
2. Information regarding requests for monitoring ROs by scheduled flights is shared, e.g. request by email, specific training for monitoring scheduled flights needed etc;
3. Monitors are informed about the procedures and limitations in the preparation of a Frontex-coordinated RO;
4. As much information as possible is included in the FAR when requesting monitors for upcoming ROs;
5. The individual monitors assigned to the ROs are included in any communication from an early stage onwards;
6. Information is duly shared with the NMBs as well as information on the RO;
7. Monitors are informed about the general criteria used to assign monitors to specific ROs;
8. The selection criteria are shared via the web-based communication, coordination and information platform for Pool monitors;
9. This platform is used to improve communication with the monitors.

#### **5.4 Preparation of deployment**

The responsibility for requesting a monitor lies with the MSs. When monitors are deployed from the Pool, they are deployed based on a request made by a MS. As explained above, the NMBs are responsible for nominating monitors to upcoming ROs. However, the selection of monitors that have been nominated for ROs requested by MSs and their subsequent deployment from the Pool, is made





and coordinated by Frontex. In this sense, Frontex is responsible for selecting and coordinating the deployment, but the responsibility for requesting and nominating a monitor remains with the MSs<sup>71</sup>.

With regard to preparation for deployment, some of the issues raised by respondents were similar to those regarding the monthly call for monitors:

1. Insufficient information on an upcoming RO;
2. Insufficient time between receipt of relevant operational information about an upcoming RO and the actual start of that RO;
3. Non-responsiveness or late response from the OMS's contact point.

To address these issues, it is recommended that:

1. The OMS regularly updates the information relevant for an upcoming RO on to the FAR as soon as possible, i.e. as soon as new information becomes available, it should be uploaded on to the FAR and shared with the monitor;
2. The OMS EL shares the IP with the monitor as soon as it is available;
3. Standardised procedures for the MSs are put in place on how to communicate with the monitors in the Pool, including the kind of information to provide to them;
4. The standardised procedures in place are communicated to the monitors.

## **5.5 Reporting and reimbursement of monitoring costs**

According to Article 50(5) of Regulation (EU) 2019/1896, “[e]very return operation organised or coordinated by [Frontex] shall be monitored in accordance with Article 8(6) of Directive 2008/115/EC”. The same article stipulates that “[t]he forced-return monitor shall submit a report on each forced-return operation to the executive director, the fundamental rights officer and to the competent national authorities of all Member States involved in the given operation”. ECRet uploads the reports on to the FAR to provide access to the relevant national authorities of all the MSs involved in a given operation (the institutions enforcing the return decision).

Currently, Frontex provides monitors in the Pool with a reporting template in Excel and a guide to the reporting process. The template is not mandatory and, at the moment, monitors may choose the format for their reports. The reporting process and the reporting tools (e.g. template) are currently being revised to streamline and enhance them to allow for more efficient quality management.

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<sup>71</sup> According to Article 50(3) of Regulation (EU) 2019/1896, “[a]t least one Member State representative, and one forced-return monitor from the pool established under Article 51 or from the monitoring system of the participating Member State, shall be present throughout the entire [collecting] return operation until arrival at the third country of return”.



Monitors identified two main issues regarding the reporting process of monitoring a forced-return operation, namely that:

1. The monitoring template provided by the FRO is not user-friendly for reporting. Rather, it is a check-list on what to monitor;
2. The overall communication and feedback to monitors regarding their monitoring reports needs improvement.

To address these issues, it is recommended that:

1. Monitors use the same reporting format;
2. The same reporting standards are applied by all monitors;
3. Training on the usage of the reporting tools is carried out;
4. Receipt of monitoring reports is acknowledged;
5. Monitors are given feedback about their reports;
6. Recommendations from monitoring reports are followed up;
7. There is transparency surrounding the monitoring recommendations;
8. Good practices are shared and replicated;
9. A newsletter is sent out periodically informing monitors about the ways in which their reports and recommendations have been used.

All costs related to participation in a forced-return operation, including the flight ticket to and from the hub/port of departure, accommodation, DSA, monitoring fee, insurance and any other related costs are either born directly by the requesting MS or reimbursed on an individual basis/agreement between the requesting MS and the monitoring body in line with the national rules governing the monitoring body in the respective MS.

Once the monitor has been selected for an operation, the monitor or the responsible monitoring body needs to submit the estimated costs of their participation to the requesting MS. This needs to be done prior to the return operation. In order to ensure that both the amount and nature of the costs sent to the MS/Frontex are in line with the national rules of the monitor's home country, all related information also needs to be copied to its DCP and the NFPOC.

The requesting MS includes the estimated costs of the monitor's participation in the estimated budget that is sent to Frontex. After the forced-return operation, the MS reimburses the monitoring body's costs. Frontex then reimburses the MS.

There are two methods for financing the monitoring costs:

1. Primarily, all costs and mission arrangements related to the monitoring the RO are borne directly by the requesting MS and Frontex reimburses the MS after the RO. An estimation of the costs must be sent by the NMB to the requesting MS before the RO.
2. Another option is that the monitoring institution covers the costs and mission arrangements based on a specific and direct agreement with the requesting MS. In this case, the monitor(s) and/or the respective monitoring body organises the flight ticket to and from the hub/port of



departure and the accommodation themselves and pre-pays all the related costs. After the forced-return operation, all costs are submitted to the requesting MS for reimbursement. The requesting MS will then include these costs in their claim to Frontex for reimbursement.

With regard to reimbursement of monitoring costs, monitors identified three main issues:

1. Compensation for monitors' working time, i.e. salary for time spent while on mission and for writing the report after the mission);
2. Cumbersome reimbursement procedures;
3. Standardisation of monitors' fees, i.e. some monitors report that applying a monitoring fee is not standardised – some monitors receive a monitoring fee, while others do not. Even though it is nationally regulated, some monitors were concerned about the unequal treatment.

To address these issues, it is recommended that:

1. All Pool monitors are informed and know about the rules for reimbursement;
2. A targeted workshop to discuss how to reach a possible standard monitoring fee for monitors is organised.

## **5.6 Transparency and independence**

In addition to some issues regarding transparency of procedures put in place at different stages of the process, a few monitors also raised the issue of independence of the Pool. Article 51(1) of Regulation (EU) 2019/1896 stipulates that Frontex shall “[...]constitute a pool of forced-return monitors from competent bodies of the Member States who carry out forced-return monitoring activities in accordance with Article 8(6) of Directive 2008/115/EC[...]”. The Pool, therefore, consists of independent monitors, from competent monitoring bodies in MSs and the nomination to the Pool and the individual oversight is within the competence of the monitors' home institutions.

However, a few monitors highlighted that there is a need for an “external, independent control mechanism” and suggested to “[...]place the Frontex Pool with an independent organi[s]ation that deals with deployment and payments “. Moreover, they suggested that “safeguarding the independence of monitors [...] should be further discussed and addressed” to “[avoid] [f]urther internalisation of the monitoring process [...]”.



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### **Annex 1: Guidelines for Semi-Structured Interviews**

Available as a separate document

### **Annex 2: Questionnaire for Monitors Nominated to the Pool**

Available as a separate document

### **Annex 3: Survey Data**

Available as a separate document