Human Rights Monitoring of Forced Returns in Europe

Forced-Return Monitoring Projects – Cooperation with the European Border and Coast Guard Agency, the European Union Agency for Fundamental Rights and Member States

October 2021

FReM
FORCED-RETURN
MONITORING

Human Rights Monitoring of Forced Returns in Europe

Forced-Return Monitoring Projects – Cooperation with the European Border and Coast Guard Agency, the European Union Agency for Fundamental Rights and Member States

October 2021

The contents of this Publication are the sole responsibility of its authors at ICMPD.

Contents

Acknowledgements

Foreword

In 2013, the International Centre for Migration Policy Development (ICMPD) was awarded the Forced-Return Monitoring project (FReM), co-funded through the European Return Fund – Community Actions 2012. ICMPD, together with the European Border and Coast Guard Agency (Frontex), the European Union Agency for Fundamental Rights (FRA) and eight Member States[1], implemented the project, later referred to as FReM I, from 2013 to 2015. The objective was to facilitate the transposition of Article 8(6) of Directive 2008/115/EC. In particular, a pilot pool of independent forced-return monitors available to the countries needing to implement a forced-return monitoring system was created, and guidelines and a training programme for forced-return monitoring were developed.

Following this, from 2016 to 2018, ICMPD, Frontex, FRA and fifteen Member States carried out the EU-funded Forced-Return Monitoring II project (FReM II)[2] to support Frontex in the implementation of Article 29 (pool of forced-return monitors) and Article 36 (training) of Regulation 2016/1624[3] in force at the time.[4] Building on the results of the FReM I project, the FReM II project supported Frontex in constituting the pool of forced-return monitors (Pool) within its structures, and Member States in improving their national forced-return monitoring systems.

The third and final EU-funded Forced-Return Monitoring III project (FReM III) which ran from 2018-2021[5], further contributed to a functioning EU Return System in line with Directive 2008/115/EC.

---

1 Austria, Bulgaria, Greece, Hungary, Luxembourg, Malta, Portugal and Switzerland. The project was co-funded by the Return Fund of the EU and the partner countries.

2 Austria, Bulgaria, Czech Republic, Finland, Germany, Greece, Hungary, Latvia, Luxembourg, Malta, The Netherlands, Portugal, Romania, Sweden and Switzerland. The project was co-funded by the Asylum, Migration and Integration Fund (AMIF) of the EU and the partner countries.

3 Regulation (EU) 2016/1624 of the European Parliament and of the Council of 14 September 2016 on the European Border and Coast Guard and amending Regulation (EU) 2016/399 of the European Parliament and of the Council and repealing Regulation (EC) No 863/2007 of the European Parliament and of the Council, Council Regulation (EC) No 2007/2004 and Council Decision 2005/267/EC.

4 At the time of the FReM II project, Regulation (EU) 2016/1624 was in force. Regulation (EU) 2019/1896, which entered into force in December 2019, covers the relevant provisions related to the pool of forced-return monitors in Article 51 and the training in Article 62.

5 Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Finland, Germany, Greece, Hungary, Italy, Latvia, Luxembourg, Malta, The Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Sweden and Switzerland. The project was co-funded by the Asylum, Migration and Integration Fund (AMIF) of the EU and the partner countries.

The project supported Frontex in increasing the operational and procedural effectiveness of the Pool and handed over the full management and implementation of all related activities to Frontex. FReM III also continued to support Member States to increase the effectiveness of forced-return monitoring at the national level.

This publication provides an overview of related developments in Europe and the Member States and Schengen Associated Countries[6] since: the release in 2005 of the "Twenty Guidelines on Forced Return" by the Council of Europe (CoE); the entry into force of the Return Directive (Directive 2008/115/EC) in 2008; and the establishment of the European Border and Coast Guard Agency in 2016 and subsequent constitution of the Pool in 2017. The publication also summarises the main outcomes and impact of the FReM projects and highlights efforts by the Member States at the national level.

---

6   Both referred to as Member States.

Abbreviations

AMIF	Asylum, Migration and Integration Fund of the European Union
CAP	Capability Programming Office at Frontex
CoE	Council of Europe
CPT	European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment
CRO	Collecting Return Operation
EC	European Commission
ECRet Division	European Centre for Returns Division at Frontex
EP	European Parliament
EU	European Union
FOSS	Frontex One-Stop-Shop – Frontex' platform for sharing information with Member States, Schengen-Associated-Countries and other designated partners
FAR	Frontex Application for Returns – an online tool to coordinate the organisation of forced-return operations; accessible only to Frontex and return-enforcing institutions in Member States; FAR is part of the Integrated Return Management Application (IRMA)
FRA	European Union Agency for Fundamental Rights
FReM	Forced-Return Monitoring – three projects led by ICMPD from 2013-2021 and co-funded by the European Union and the partner countries
FReMM	Development of a Forced-Return Monitoring System in the Republic of Moldova – a project led by ICMPD from 2020-2022 and funded by the Polish Ministry of the Interior and Administration
FRO	Fundamental Rights Office at Frontex
ICT	Information and Communication Technology Unit at Frontex
ICMPD	International Centre for Migration Policy Development

IFC	Information Fusion Centre at Frontex
JRO	Joint Return Operation
MS	Member State – in this document, the term Member States (MSs) includes Member States of the European Union (EU MSs) and countries associated with the implementation, application and development of the Schengen *acquis* (Schengen Associated Countries/SACs)
NRO	National Return Operation
The Pool	Pool of forced-return monitors managed by Frontex
RD	Return Directive (Directive 2008/115/EC)
RO	Return Operation
SEMM	Schengen Evaluation and Monitoring Mechanism of the European Union
TRU	Training Unit at Frontex

Partner Institutions of the Forced-Return Monitoring III Project

Implementing agency:

- International Centre for Migration Policy Development (ICMPD), Migration Dialogues and Cooperation Directorate, Programmes and Project Development Unit

Main donor:

- Directorate-General for Migration and Home Affairs of the European Commission:
  - Home C Migration, Asylum and Visa, Home C.1 Irregular Migration and Returns
  - Home E Home Affairs Funds, Home E.4 Union Actions and Procurement

Partner organisations:

- European Border and Coast Guard Agency (Frontex):
  - Fundamental Rights Office (FRO)
  - European Centre for Returns Division (ECRet Division)
  - Training Unit (TRU)
  - Capability Programming Office (CAP)
  - Information and Communication Technology Unit (ICT)
  - Information Fusion Centre (IFC)

- European Union Agency for Fundamental Rights (FRA), Technical Assistance & Capacity Building Unit

Partner countries and donors:

- Austria, Federal Ministry of the Interior
- Belgium, General Inspectorate of the Integrated Police
- Bulgaria, Ministry of Interior
- Croatia, Ombudsman for Children
- Cyprus, Ombudsman of Cyprus
- Czech Republic, Office of the Public Defender of Rights
- Finland, Non-Discrimination Ombudsman
- Germany, Federal Office for Migration and Refugees
- Greece, Greek Ombudsman's Office
- Hungary, Ministry of Interior
- Italy, National Guarantor for the Rights of Persons Deprived of Liberty
- Latvia, Ombudsman's Office of the Republic of Latvia
- Luxembourg, Ministry of Foreign and European Affairs
- Malta, Ministry for Home Affairs and National Security
- The Netherlands, Inspectorate of Justice and Security
- Norway, National Police Directorate
- Poland, Rule of Law Institute Foundation
- Portugal, Foreigners and Borders Service, Ministry of Interior
- Romania, Romanian National Council for Refugees
- Slovakia, Public Defender of Rights
- Sweden, Swedish Migration Agency
- Switzerland, State Secretariat for Migration

Chapter 1
Forced-Return Monitoring in Europe

1.1 Introduction

Forced-return monitoring is a tool for reinforcing observance of fundamental rights during forced-return operations. It is a way of verifying that those carrying out the forced-return operation uphold the fundamental rights of returnees throughout the entire process.

Monitors play a preventive role through their presence during forced-return operations and their observations and reports can help to ensure there is a greater level of accountability in the event of actions or omissions by officials carrying out the forced-return operation that contravene the EU Charter of Fundamental Rights, applicable international human rights law and national legislation. In other words, the presence of monitors observing and reporting on the forced-return operation acts as an additional safeguard and can mean that those responsible for carrying out the return operation can be held accountable for the actions they take, or fail to take, during the operation.

Forced-return monitors should be independent from the State and/or the organisation enforcing the return so that they are not bound by the orders of the officials carrying out the forced-return operation. The monitors are members of the national bodies of Member States that are responsible for forced-return monitoring in accordance with Article 8(6) of Directive 2008/115/EC (the Return Directive).
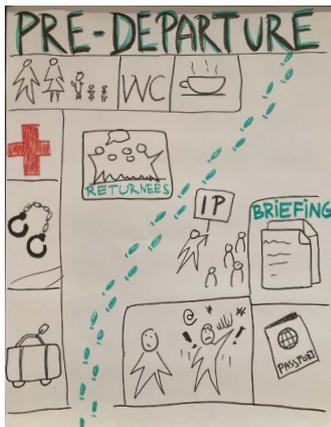
The role of monitors in the pool of forced-return monitors (Pool)[7] managed by Frontex, is to observe, analyse and report on whether the return operation was conducted in a humane manner, respectful of the dignity of the person and in compliance with fundamental rights.[8] They monitor the whole return operation from the pre-departure phase until the handover of the returnees in the third country of return.[9] The monitor of forced-return operations has no powers of intervention.

1.2 Background to forced-return monitoring in Europe

In 2004, **Council Regulation (EC) 2007/2004** led to the creation of the European Agency for the Management of Operational Cooperation at the EU External Borders (Frontex).[10] While at the time there was no explicit reference to monitoring forced-returns, this development nevertheless represents a milestone in the relevant institutional architecture that is in place today. Frontex plays a major role in implementing relevant EU legislation to return irregularly staying third-country nationals and since 2017 in line with Regulation (EU) 2016/1624[11], in supporting Member States to comply with the legal requirements for monitoring forced-returns.

---

7   The Pool was constituted in January 2017 in line with Article 29 of Regulation 2016/1624 in force at the time. Regulation (EU) 2016/1624 was subsequently repealed by Regulation (EU) 2019/1896, which entered into force in December 2019. The provisions that relate to the pool of forced-return monitors are contained in Article 51.

8   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".*

9   Article 50(5) of Regulation (EU) 2019/1896 states that *"[e]very 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 from the pre-departure phase until the handover of the returnees in the third country of return. […]".*

10   Council Regulation (EC) No 2007/2004 of 26 October 2004 establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union. https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1513171334865&uri=CELEX:32004R2007.

11   Regulation (EU) 2016/1624 of the European Parliament and of the Council of 14 September 2016 on the European Border and Coast Guard and amending Regulation (EU) 2016/399 of the European Parliament and of the Council and repealing Regulation (EC) No 863/2007 of the European Parliament and of the Council, Council Regulation (EC) No 2007/2004 and Council Decision 2005/267/EC.

In 2005, the **Council of Europe (CoE) published "Twenty Guidelines on Forced Return".[12]** The preamble to the Guidelines recalls *"that member states have the right […] to control the entry and residence of aliens on their territory"* as well as *"that, in exercising this right, member states may find it necessary to forcibly return illegal[13] residents within their territory"* and finally that there is a *"risk of violations of fundamental rights and freedoms which may arise in the context of forced return"*.

In order to prevent this risk, the Guidelines brought together relevant standards and good practices to support CoE Member States in drafting relevant national legislation. The Guidelines did not imply new obligations for CoE Member States, but went beyond the standard legal requirements by formulating recommendations to CoE Member States based on international and regional human rights law and good practice. For instance, Guideline 20 on monitoring and remedies recommends that Member States *"implement an effective system for monitoring forced returns"* and that a *"forced return operation should be fully documented"*. In addition, where *"the returnee lodges a complaint against any alleged ill-treatment that took place during the operation, [this] should lead to an effective and independent investigation within a reasonable time"*.

> *The forced return operation should be fully documented, in particular with respect to any significant incidents that occur or any means of restraint used in the course of the operation. Special attention shall be given to the protection of medical data.* (Guideline 20(3) of the CoE Twenty Guidelines on Forced Return)

Similarly, in November 2004 the European Council adopted a multi-annual programme known as **'The Hague Programme'** to strengthen freedom, security and justice in the EU. It foresaw the creation of an effective removal and repatriation policy, based on common standards, to return persons in a humane manner and with full respect for their fundamental rights and dignity. Between 2005 and 2007, the Commission launched preparatory actions on return management that served as the building blocks and learning experience for the creation of the **European Return Fund 2008-2013**, the precursor of the Asylum, Migration and Integration Fund (AMIF).[14]

---

12 Twenty Guidelines of the Committee of Ministers of Europe on Forced Return. https://www.coe.int/t/dg3/migration/archives/Source/MalagaRegConf/20_Guidelines_Forced_Return_en.pdf.

13 Academic and policy debates on migration agreed on the use of the term "irregular" instead of "illegal" when referring to the legal status of a person.

14 https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=LEGISSUM%3A2301_2.

The general objective of the Return Fund was to support the efforts of the Member States to improve the management of return in line with Article 3, 2(b), of Decision 575/2007/EC[15], which states that *"enforced return operations [shall be implemented] [...] in full compliance with humanitarian principles and respect for [the] [persons'] dignity"*. This also includes *"return programmes and national level measures that ensure the fair and effective application of the common standards on return."*[16] The Fund contributed to the financing of technical assistance for initiatives of the Member States or the Commission, with a total budget of 676 M €.[17]

> *Member States shall provide for an effective forced-return monitoring system.* (Article 8(6) of Directive 2008/115/EC)

In 2008, the main piece of EU legislation governing the procedures and criteria to be applied by Member States when returning irregularly staying third-country nationals entered into force. **Directive 2008/115/EC**, known as the **Return Directive**[18], stipulates that Member States "shall issue a return decision to any third-country national staying illegally on their territory" (Article 6(1)). Once the 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 Member States *"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)).

In order to comply with the provisions of Article 8(4), the Return Directive also 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 (Article 20).[19] Some EU Member States and Schengen Associated Countries had already established national forced-return monitoring systems by this deadline, while others were, or are

---

15 Decision No 575/2007/EC of the European Parliament and of the Council of 23 May 2007 establishing the European Return Fund for the period 2008 to 2013 as part of the General Programme 'Solidarity and Management of Migration Flows'.

16 https://eur-lex.europa.eu/legal-content/EN/LSU/?uri=CELEX:32007D0575.

17 https://euroalert.net/programme/574/european-return-fund.

18 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. https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32008L0115&from=EN.

19 Directive 2008/115/EC.

still in the process of aligning their national systems with the specific requirements set out in the Return Directive.

Under the European Return Fund, a **Comparative Study on Best Practices in the Field of Forced Return Monitoring**[20] was published in 2011.[21] Its recommendation regarding the need to establish a pool of monitors across Member States was an important consideration in the development of the Forced-Return Monitoring (FReM) projects. The study also suggested that *"[j]oint return operations that cover a big group of returnees should be monitored by several monitors"* and that these monitors *"[...] should draft a common monitoring report (per return operation), addressed to Frontex [...]"*[22]. Moreover, it highlighted the importance of transparency in the forced-return monitoring process and recommended that *"[i]n the interest of transparency Frontex should report annually to the European Parliament on the findings of monitors and actions it has taken as a result of their findings."*[23]

> *[j]oint return operations that cover a big group of returnees should be monitored by several monitors.*
>
> *[i]n the interest of transparency Frontex should report annually to the European Parliament on the findings of monitors and actions it has taken as a result of their findings.*
>
> (Comparative Study on Best Practices in the Field of Forced Return Monitoring)

Regarding the national monitoring systems in place at the time, the Study found that by 2011, *"of the Member States which provided relevant information, 61% report that they either already have a monitoring system in place or are about to put one into place. A further 18% indicate that they have initiated legislation with the aim of putting a monitoring system in place"*.[24]

---

20 Matrix & ICMPD (2011), Comparative Study on Best Practices in the Field of Forced Return Monitoring. Comparative study on practices in the field of return of forced return monitoring. Final report - Publications Office of the EU (europa.eu). Matrix is a consultancy firm based in London, UK.

21 The study analysed existing forced-return monitoring practices and institutions in Member States and put forward specific recommendations, which were reflected in subsequent European Commission documents.

22 Matrix & ICMPD, 2011: 9 and 41.

23 Matrix & ICMPD, 2011: 9 and 41.

24 Matrix & ICMPD, 2011: 23.

Amendments in 2011 to the Frontex Regulation[25] led to the creation of a **Fundamental Rights Officer**[26] and a **Consultative Forum**[27] within Frontex.[28] In 2013, the **Evaluation on the Application of the Return Directive (2008/115/EC)** was published. One of the evaluation's recommendations pointed to the need to harmonise forced-return monitoring systems in Member States and to address weaknesses in national monitoring systems.[29]

Between 2013 and 2015, the International Centre for Migration Policy Development (ICMPD), Frontex, the EU Agency for Fundamental Rights (FRA) and eight Member States[30] implemented the first **Forced-Return Monitoring project (FReM)** that was co-funded by the EU Return Fund. The project aimed to support the implementation of Article 8(6) of the Return Directive, taking into account the above-mentioned recommendations from the study and evaluation.[31] The FReM project produced the first guidelines for forced-return monitoring and a comprehensive training manual for forced-return monitors in Europe. It also established and trained a pilot pool of independent forced-return monitors, available to the countries needing to implement a forced-return monitoring system and developed a draft framework for the management of such a pool. At the end of 2014, two training courses were organised in Vienna where for the first time, 20 monitors from across Europe were trained based on the same standards.

---

25 Council Regulation (EC) No 2007/2004 of 26 October 2004 establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union. https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1513171334865&uri=CELEX:32004R2007.

26 Article 26a(3) of Regulation (EU) No 1168/2011 states that *"[a] Fundamental Rights Officer shall be designated by the Management Board and shall have the necessary qualifications and experience in the field of fundamental rights. He/she shall be independent in the performance of his/her duties as a Fundamental Rights Officer and shall report directly to the Management Board and the Consultative Forum. He/she shall report on a regular basis and as such contribute to the mechanism for monitoring fundamental rights."*

27 Article 26a(2) of Regulation (EU) No 1168/2011 states that *"[a] Consultative Forum shall be established by the Agency to assist the Executive Director and the Management Board in fundamental rights matters. The Agency shall invite the European Asylum Support Office, the Fundamental Rights Agency, the United Nations High Commissioner for Refugees and other relevant organisations to participate in the Consultative Forum. On a proposal by the Executive Director, the Management Board shall decide on the composition and the working methods of the Consultative Forum and the modalities of the transmission of information to the Consultative Forum. […]".*

28 See Article 26a (Fundamental Rights Strategy) of Regulation (EU) No 1168/2011 of the European Parliament and of the Council of 25 October 2011 amending Council Regulation (EC) No 2007/2004 establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union. https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A32011R1168.

29 Evaluation on the application of the Return Directive (2008/115/EC), EC, 2013, p. 214.

30 Austria, Bulgaria, Greece, Hungary, Luxembourg, Malta, Portugal and Switzerland.

31 Comparative Study on Best Practices in the Field of Forced Return Monitoring (2011) and Evaluation on the Application of the EU Return Directive (2013).

The **Schengen Evaluation and monitoring mechanism (SEMM)** established in October 2013, added the area of return in 2014. The SEMM has a two-part purpose: *"1. [t]o verify that Member States have completely applied the Schengen acquis"* and *"2. [t]o determine whether Member States have met the necessary conditions to allow for the application of all components of the Schengen acquis"*.[32] In the field of return *"the SEMM draws upon the Return Directive and numerous international legal standards particularly related to detention, return and non-refoulement. The SEMM assesses both objectives of EU return policy, namely the effectiveness of national return systems and the application of fundamental rights safeguards"*[33]. In the same year, the EU Agency for Fundamental Rights (FRA) published its first yearly update on the forced-return monitoring systems that EU Member States had set up in line with Article 8(6) of the Return Directive.[34] Since then, the yearly update has provided an overview of how national forced-return monitoring systems are operating.[35]

Overview of Forced-Return Monitoring Systems in EU Member States 2015-2019
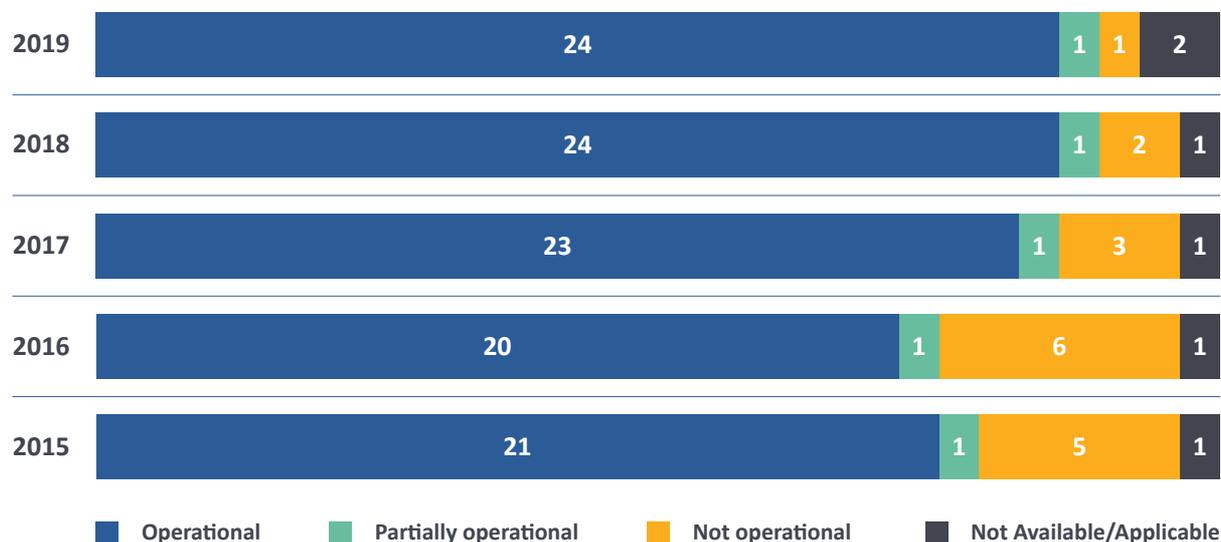
Source: FRA data, own calculation

32 European Parliament (EP) (2020), The State of Play of Schengen Governance: An assessment of the Schengen evalua-tion and monitoring mechanism in its first multiannual programme. https://www.europarl.europa.eu/RegData/etudes/STUD/2020/658699/IPOL_STU(2020)658699_EN.pdf, p. 19.

33 EP (2020), https://www.europarl.europa.eu/RegData/etudes/STUD/2020/658699/IPOL_STU(2020)658699_EN.pdf, p. 51.

34 https://fra.europa.eu/en/publication/2020/forced-return-monitoring-systems-2020-update (17 May 2021).

35 The update describes the different indicators for an effective forced return monitoring system, including the organisation respon-sible for monitoring forced return, the number of operations monitored in a given year, the phases of return operations which were monitored, the number of staff trained and working as monitors, and whether the monitoring body issued public reports about their monitoring activities. https://fra.europa.eu/en/publication/2020/forced-return-monitoring-systems-2020-update.

In the **Return Handbook** published in 2015, the European Commission provided guidance to national authorities on standards and procedures for implementing the Return Directive. The Return Handbook was later revised as part of the European Agenda on Migration (2015) and published in September 2017.[36] In the revised handbook, the European Commission clarifies that monitoring needs to be carried out by *"[...] organisations/bodies different and independent from the authorities enforcing return ("nemo monitor in res sua")"*. The Return Handbook also provides guidance related to the activities that need to be monitored, specifying that monitoring should be *"[...] covering all activities undertaken by Member States in the respect of removal – from the preparation of departure, until reception in the country of return or in the case of failed removal until return to the point of departure. It does not cover post-return monitoring, i.e. the period following reception of the returnee in a third country"*.

While the Handbook emphasises that the *"mere existence of judicial remedies in individual cases or national systems of the supervision of the efficiency of national return policies cannot be considered as a valid application of Article 8(6) of the Return Directive"*, it also clarifies that *"Article 8(6) of the Return Directive does not imply a subjective right of a returnee to be monitored"*. The revised Return Handbook of 2017 also refers to the monitoring of Frontex-coordinated return operations, specifically the areas and activities that require monitoring and the reporting obligations of all monitors observing return operations, as described in further detail below.[37]

The **Guide for Joint Return Operations (JRO) by Air coordinated by Frontex** that Frontex published in May 2016[38] provides operational guidance for the implementation of return operations. The document also highlights the Agency's obligation to put in place an effective mechanism to monitor respect for fundamental rights in all Frontex-coordinated activities. It also strongly encourages Member States to

---

36   https://ec.europa.eu/home-affairs/sites/default/files/what-we-do/policies/european-agenda-migration/20170927_recommendation_on_establishing_a_common_return_handbook_annex_en.pdf.

37   https://ec.europa.eu/home-affairs/sites/default/files/what-we-do/policies/european-agenda-migration/20170927_recommendation_on_establishing_a_common_return_handbook_annex_en.pdf (p. 42-43).

38   https://frontex.europa.eu/assets/Publications/General/Guide_for_Joint_Return_Operations_by_Air_coordinated_by_Frontex.pdf

organise the presence of a monitor during all phases of a return operation and provides guidance regarding their participation and support that should be provided to them.

In October 2016, **Regulation (EU) 2016/1624**[39] entered into force establishing the European Border and Coast Guard Agency. The month before it came into force, ICMPD, Frontex, FRA and fifteen Member States[40] launched the **Forced-Return Monitoring II project (FReM II)** that was co-funded by the EU AMIF fund and the partner countries. The project ran until October 2018 and supported Frontex to establish the Pool within the Agency; equipped the Pool with a comprehensive training and reporting framework; and supported Member States to further build and strengthen their national forced-return monitoring systems through targeted national activities. Between 2017 and 2018, the project organised three training courses for monitors in Schiphol, Lisbon and Prague and trained 57 monitors from across Europe. In 2016, to bridge the gap between the FReM I and FReM II projects, FRA, together with Frontex and ICMPD, organised one training course for monitors in Vienna during which 22 monitors were trained.

On 7 January 2017, the pilot pool that had been developed under the first FReM project became the **pool of forced-return monitors (Pool)**. It was constituted within Frontex in line with Article 29 of Regulation (EU) 2016/1624 and became operational shortly afterwards. The first return operation monitored by a monitor from the Pool was at the end of January 2017. This followed training for the Pool that was organised on 16-20 January 2017 in Schiphol, in The Netherlands as part of the FReM II project.

> *The Agency shall, after consulting the fundamental rights officer, constitute a pool of forced-return monitors from competent bodies who carry out forced-return monitoring activities in accordance with Article 8(6) of Directive 2008/115/EC […].* (Article 29(1) of Regulation (EU) 2016/1624)

On 6 December 2016 and before the Pool became operational, the Frontex Management Board determined the profile of forced-return monitors for the Pool and set the initial number for the size of the Pool at 50. At the end of 2016, Frontex published an open call for nominations to the Pool that was sent to all Member States. By the beginning of April 2017, the objective had been met with a total number of 57 monitors from 19 Member States.[41]

---

39 Regulation (EU) 2016/1624 of the European Parliament and of the Council of 14 September 2016 on the European Border and Coast Guard and amending Regulation (EU) 2016/399 of the European Parliament and of the Council and repealing Regulation (EC) No 863/2007 of the European Parliament and of the Council, Council Regulation (EC) No 2007/2004 and Council Decision 2005/267/EC.

40 Austria, Bulgaria, Czech Republic, Finland, Germany, Greece, Hungary, Latvia, Luxembourg, Malta, The Netherlands, Portugal, Romania, Sweden and Switzerland.

41 Nominations of monitors to the Pool is part of an ongoing process (i.e. Member States can continuously nominate monitors to the Pool).

In 2017, in line with the Agency's enhanced mandate and the creation of the Pool, the Frontex Fundamental Rights Officer (FRO) published the first **"Fundamental Rights Officer's Observations to return operations"** covering the second semester of 2016. Since then, the FRO has published a report every six months based on its analysis of the monitoring reports that monitors have submitted and its own observations. The FRO presents the findings to the Executive Director of Frontex and the Frontex Management Board. In its bi-annual observations, the FRO also compiles trends, identifies good and bad practices and provides recommendations that are annexed to the Frontex Executive Director's evaluation reports.

Number of CROs, JROs and NROs coordinated by Frontex broken down per type of operation and per year

Year	2017			2018			2019			2020			2021[42]			Total
Type of operation	CRO	JRO	NRO	CRO	JRO	NRO	CRO	JRO	NRO	CRO	JRO	NRO	CRO	JRO	NRO	
No. of returns	38	153	150	67	139	139	64	142	124	36	38	151	35	43	133	
Total		341			345			330			225			211		1.459

Source: data provided by the ECRet Division to ICMPD in August 2021

Number of return operations coordinated by Frontex, total number of monitors participating in CROs, JROs and NROs and monitoring coverage in % per year

Year	2017			2018			2019			2020			2021[43]			Total
Type of operation	CRO	JRO	NRO	CRO	JRO	NRO	CRO	JRO	NRO	CRO	JRO	NRO	CRO	JRO	NRO	
No. of returns	38	153	150	67	139	139	64	142	124	36	38	151	35	43	133	1.459
Monitoring coverage in %[44]	100.0%	85.0%	13.3%	100.0%	95.0%	22.3%	100.0%	99.3%	44.4%	100.0%	92.1%	45.7%	100.0%	74.4%	27.8%	
No. of monitors	42	187	26	85	188	46	64	212	73	38	57	87	36	57	45	1.243

Source: data provided by the ECRet Division to ICMPD in August 2021

---

42 Data provided by the ECRet Division in August 2021.
43 Data provided by the ECRet Division in August 2021.
44 Monitoring coverage in % of total number CROs, JROs and NROs in the respective year.

In 2018, the legally binding **Code of Conduct for Return Operations and Return Interventions Coordinated or Organised by Frontex** was updated. It set out standardised procedures and principles to be followed in all Frontex-coordinated operations.[45] In September 2018, the process for the revision of Regulation (EU) 2016/1624 was launched. In December 2018, ICMPD, Frontex, FRA and twenty-two Member States[46] launched the **Forced-Return Monitoring III project (FReM III)** that was also co-funded by the AMIF and the partner countries.

This final project was crucial in further contributing to the sustainability, day-to-day management and independence of the Pool. Through FReM III, the monitors received new communication and reporting tools that facilitate cooperation with Frontex and especially the analysis of the monitoring reports by the FRO. In 2019 and 2021, the project organised three training courses for monitors in Oslo, Rome and Schiphol and trained 48 monitors from across Europe.

On 8 November 2019, the Council of the European Union adopted **Regulation (EU) 2019/1896**, which entered into force in December 2019. The Regulation provided for an even broader mandate for Frontex.[47] Article 29 became Article 51 (pool of forced return monitors). The main change from the previous regulation is the provision relating to the contribution of personnel to the Pool, in particular that **fundamental rights monitors** employed as statutory staff of the Fundamental Rights Office become part of the Pool.[48] With Regulation (EU) 2019/1896, FRO's observations included in the evaluation report from the Frontex Executive Director, are now not only submitted to the Frontex management board, but also to the European Parliament, the Council, and the Commission. In line with Article 50 (7), 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."* As of 2021, the FRO publishes the **Annual Report of the Fundamental Rights Officer**[49] providing an overview of their activities

---

45 https://frontex.europa.eu/assets/Key_Documents/Code_of_Conduct/Code_of_Conduct_for_Return_Operations_and_Return_ Interventions.pdf.

46 Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Finland, Germany, Greece, Hungary, Italy, Latvia, Luxembourg, Malta, The Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Sweden and Switzerland.

47 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: https://eur-lex.europa.eu/legal-content/en/ TXT/?uri=CELEX%3A32019R1896.

48 Regulation (EU) 2019/1896 Article 51(2): *"[…] Member States shall be responsible for contributing to the pool by nominating forced-return monitors corresponding to the defined profile, without prejudice to the independence of those monitors under national law, where national law so provides. The Agency shall also contribute fundamental rights monitors as referred to in Article 110 to the pool. […]"*. The first fundamental rights monitors started their deployment at air, land and sea borders in 2021.

49 https://frontex.europa.eu/assets/Key_Documents/FRO_reports/FRO_Annual_Report_-_2020.pdf.

and an update on the status of implementation of fundamental rights in the Agency's activities in line with its Fundamental Rights Strategy – including within forced-returns.[50]

As part of the FReM III project, ICMPD published the **"Assessment of the Day-to-Day Operations and Management of the Pool of Forced-Return Monitors in Frontex"** based on the work it carried out between 2019-2020. In December 2020, ICMPD also published a **"Gaps and Needs Analysis of the National Monitoring Systems in Twenty-Two European Union Member States and Schengen Associated Countries"**. In its assessment of the Pool, ICMPD made the following recommendations, some of which could still be addressed within the FReM III project.

In 2020, the **monitor profile** was brought into line with the provisions of Regulation (EU) 2019/1896 and in the last quarter of 2020, Frontex published another open call for nominations to the Pool. By August 2021, 23 Member States had contributed 80 monitors to the Pool.[51]

---

50 Regulation (EU) 2019/1896 Article 109 (4): *"The management board shall lay down special rules applicable to the fundamental rights officer in order to guarantee that the fundamental rights officer and his or her staff are independent in the performance of their duties. The fundamental rights officer shall report directly to the management board and shall cooperate with the consultative forum. The management board shall ensure that action is taken with regard to recommendations of the fundamental rights officer. In addition, the fundamental rights officer shall publish annual reports on his or her activities and on the extent to which the activities of the Agency respect fundamental rights. Those reports shall include information on the complaints mechanism and the implementation of the fundamental rights strategy."*

51 Data provided by the CAP in August 2021.

Nominations of monitors to be part of the Pool

- Ensure more effectiveness and transparency of procedures for nominating monitors to the Pool
- Ensure more transparency regarding criteria for nominating monitors to the Pool
- Ensure that monitors with more experience are nominated to the Pool

Training of monitors

- Ensure more frequent training and provide more practical training
- Provide training on drafting monitoring reports
- Ensure further specific training

Monthly calls for monitors

- Include more information in the Frontex monthly call for monitors and ensure that the individual monitors are involved in the communication from early stages onwards
- Ensure that a sufficient number of monitors are nominated to all ROs listed in the monthly call
- Ensure transparency in the selection of monitors for specific ROs

Preparation for deployment

- Information on upcoming ROs should be updated regularly
- Ensure that the implementation plan is shared with the monitor as soon as it is available
- Develop standardised procedures for the MSs on how to communicate with the monitors

Reporting after monitoring a return operation in the framework of the Pool

- Ensure that monitors use the same reporting format and apply the same reporting standards
- Provide training on the use of the reporting tools
- Ensure effective communication and feedback to monitors on their monitoring reports

Reimbursement of monitoring costs

- Ensure that all Pool monitors are informed and know the rules for reimbursement
- The reimbursement procedures should provide for a uniform compensation for monitors' working time including a standardised monitoring fee
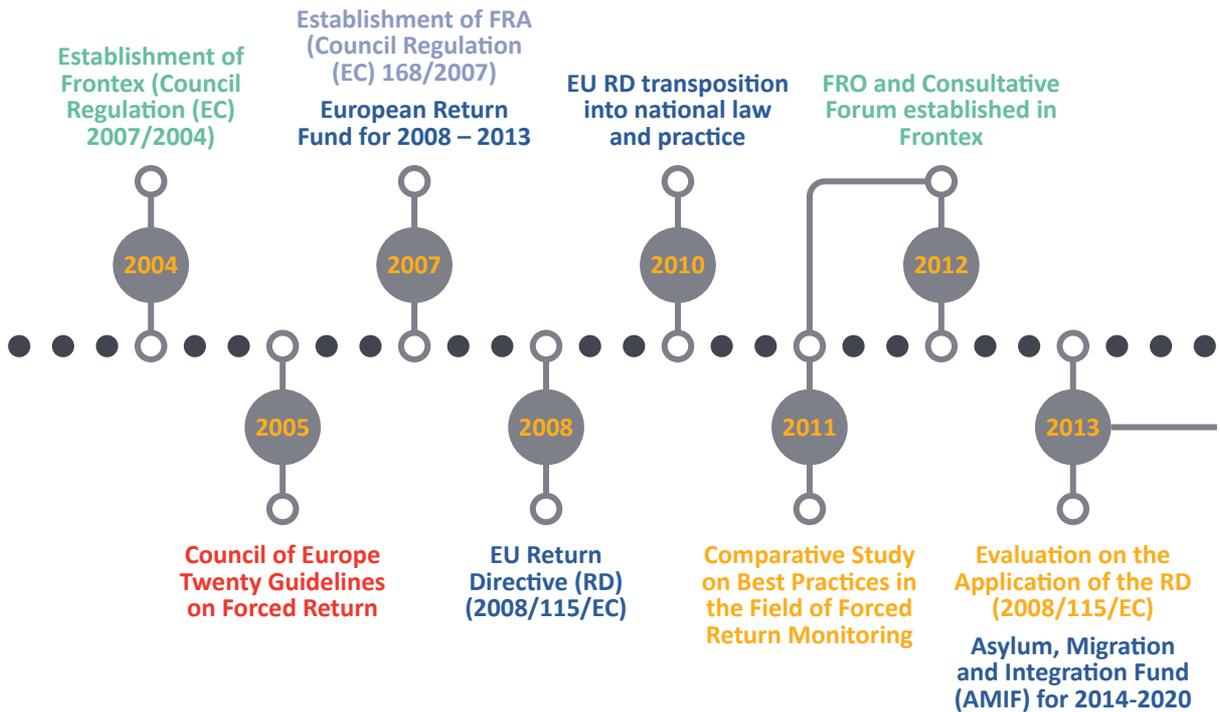
[Our country] has built up an excellent relationship with the [police authorities of other countries] leading to monitoring missions by [our] monitors even outside the official FRONTEX Pool of Forced Return Monitors.
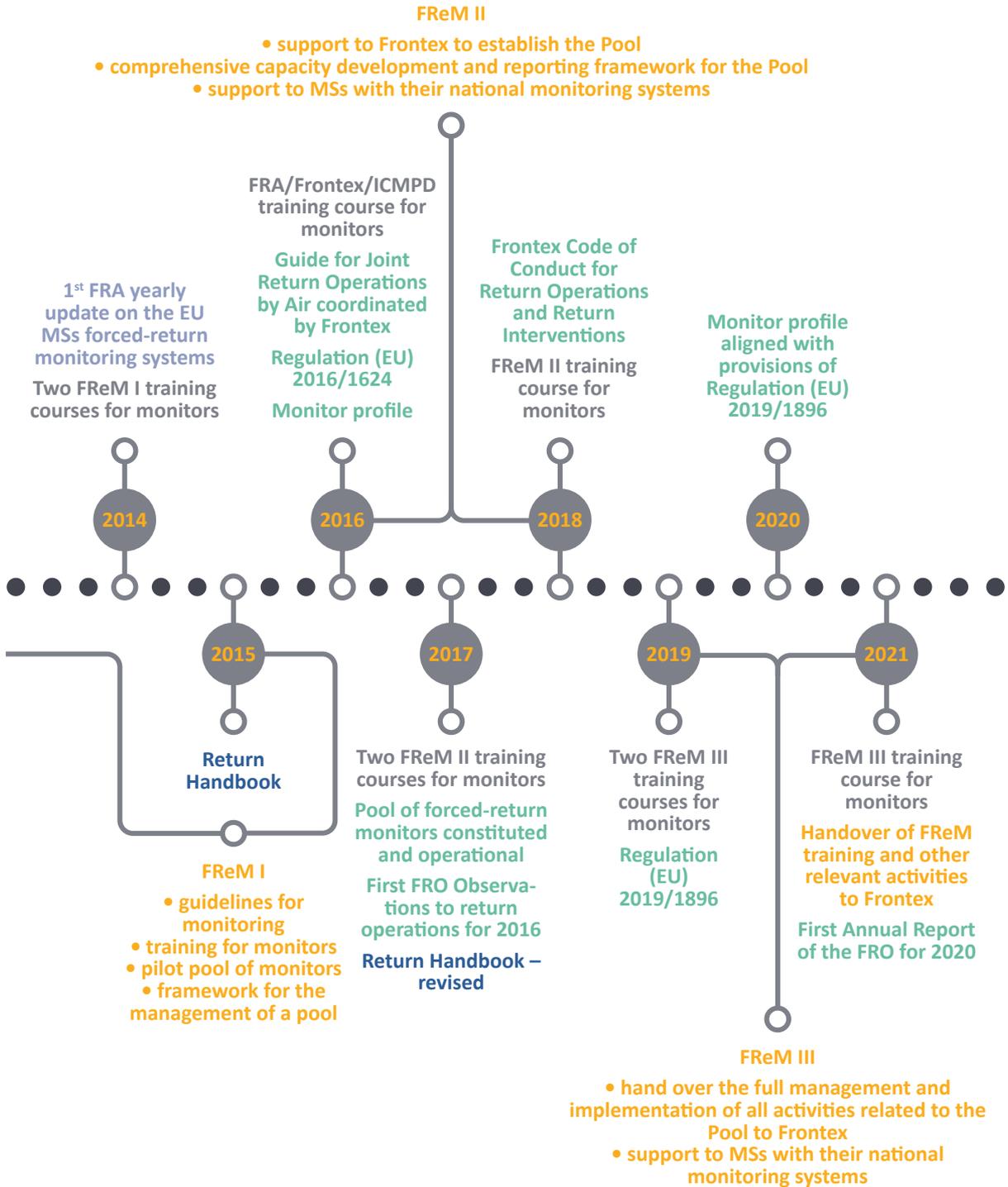
The existence of the FRONTEX Pool of Forced Return Monitors facilitates [our country's] participation in FRONTEX Joint Return Operations (JROs) and Collecting Return Operations (CROs).[52]

The timeline on the following two pages visualises the relevant events and milestones related to the development of forced-return monitoring in Europe. European Border and Coast Guard Agency (Frontex) legislation and activities are highlighted in turquoise; European Union legislation in dark blue; activities of the European Union Agency for Fundamental Rights (FRA) in light blue; publications and projects by the International Centre for Migration Policy Development (ICMPD) in yellow; training activities for forced-return monitors in grey; and the Council of Europe (CoE) guidelines in red.

---

52 The quotes included in this chapter were shared by project focal points as part of their contribution to this document.

1.3 Timeline

Establishment of Frontex (Council Regulation (EC) 2007/2004)

Establishment of FRA (Council Regulation (EC) 168/2007)

European Return Fund for 2008 – 2013

EU RD transposition into national law and practice

FRO and Consultative Forum established in Frontex

2004

2007

2010

2012

2005

2008

2011

2013

Council of Europe Twenty Guidelines on Forced Return

EU Return Directive (RD) (2008/115/EC)

Comparative Study on Best Practices in the Field of Forced Return Monitoring

Evaluation on the Application of the RD (2008/115/EC)

Asylum, Migration and Integration Fund (AMIF) for 2014-2020

FReM II
- support to Frontex to establish the Pool
- comprehensive capacity development and reporting framework for the Pool
- support to MSs with their national monitoring systems

FRA/Frontex/ICMPD training course for monitors

Guide for Joint Return Operations by Air coordinated by Frontex

Regulation (EU) 2016/1624

Monitor profile

Frontex Code of Conduct for Return Operations and Return Interventions

FReM II training course for monitors

1st FRA yearly update on the EU MSs forced-return monitoring systems

Two FReM I training courses for monitors

Monitor profile aligned with provisions of Regulation (EU) 2019/1896

2014

2016

2018

2020

2015

2017

2019

2021

Return Handbook

Two FReM II training courses for monitors

Pool of forced-return monitors constituted and operational

First FRO Observations to return operations for 2016

Return Handbook – revised

Two FReM III training courses for monitors

Regulation (EU) 2019/1896

FReM III training course for monitors

Handover of FReM training and other relevant activities to Frontex

First Annual Report of the FRO for 2020

FReM I
- guidelines for monitoring
- training for monitors
- pilot pool of monitors
- framework for the management of a pool

FReM III
- hand over the full management and implementation of all activities related to the Pool to Frontex
- support to MSs with their national monitoring systems

Chapter 2
The Pool of Forced-Return Monitors

2.1 Introduction

On 4 December 2019, Regulation (EU) 2019/1896 of 13 November 2019 on the European Border and Coast Guard[53] (Regulation (EU) 2019/1896) entered into force. Article 51(1) requires that the European Border and Coast Guard Agency (Frontex) *"[…] after taking due account of the opinion of the fundamental rights officer, [to] 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."* Regulation (EU) 2019/1896 also specifies that the "*Member States shall be responsible for contributing [monitors] to the pool by nominating forced-return monitors corresponding to the defined profile.*"[54] These monitors have to be members of "*[…] competent bodies of the Member States who carry out forced-return monitoring activities in accordance with Article 8(6) of Directive 2008/115/EC […]*"[55].

While the 2019 regulation required Frontex to set up a pool of forced-return monitors, it had in fact already been constituted within the Agency on 7 January 2017 in line with Article 29 of Regulation (EU) 2016/1624 in force at the time.[56] It had become operational shortly afterwards, following the training organised for the Pool in January 2017 during the FReM II project. Since then (2017-2021), all the CROs (100%) coordinated by Frontex have been monitored; over the same period, monitors were present in an average of 90% of JROs and an average of 30% of NROs.[57] With the

---

53 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 (https://eur-lex.europa.eu/eli/reg/2019/1896/oj).
54 Article 51(2).
55 Article 51(1).
56 Regulation (EU) 2016/1624 was then repealed by Regulation (EU) 2019/1896, which entered into force in December 2019 and covers the relevant provisions related to the pool of forced-return monitors in Article 51.
57 Own calculation of percentage according to data provided by the ECRet Division in August 2021.

exception of CROs, where the presence of a monitor is mandatory[58], Regulation (EU) 2019/1896 does not clearly specify the obligation that monitors are present in all forced-return operations.

Before the Pool became operational, the Frontex Management Board determined the monitor profile for the Pool and the number of forced-return monitors to be made available to the Pool. On 6 December 2016, the Management Board adopted the profile and set the initial number for the size of the Pool at 50. At the end of 2016, Frontex published an open call for nominations to the Pool that was sent to all Member States. By the beginning of April 2017, the objective had been met with a total number of 57 monitors from 19 Member States. In 2020, the monitor profile was aligned with the provisions of Regulation (EU) 2019/1896 and Frontex published another open call for nominations to the Pool. By August 2021, a total number of 80 monitors had been nominated to the Pool by 23 Member States.[59] National monitoring bodies nominate monitors to the Pool for each upcoming operational year. However, in principle, nominations of monitors to the Pool is part of an ongoing process (i.e. Member States can continuously nominate monitors to the Pool).

Monitoring carried out by monitors from the Pool means that a Member State is monitored at their request by a monitor from another Member State from the pre-departure phase until the handover of the returnees in the third country of return. It is important to note that the monitor from the Pool requested by a Member State monitors that specific Member State, not the entire operation; however, other participating Member States may agree that the same monitor also monitors the return operation on their behalf.[60]

---

58   In line with Article 50(3) of Regulation (EU) 2019/1896 *"[…] At 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 return operation until arrival at the third country of return."*

59   Data provided by the CAP in August 2021.

60   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]."*

Pool of Forced Return Monitors, August 2021	
Country	**Number of Monitors**
Austria	10
Belgium	3
Bulgaria	1
Croatia	3
Czech Republic	3
Denmark	6
Finland	4
Germany	4
Greece	11
Hungary	2
Iceland	1
Italy	2
Latvia	2
Lithuania	2
Luxembourg	3
Malta	1
The Netherlands	7
Poland	1
Portugal	3
Romania	2
Slovakia	2
Sweden	6
Switzerland	1
Grand Total	**80**

2.2 Management of the Pool

The main Frontex entities involved in the operational activities and management of the Pool are: the **European Centre for Returns Division (ECRet Division)**; the **Capability Programming Office (CAP)** and the **Training Unit (TRU)** which are part of the Capacity Building Division; and the **Fundamental Rights Officer (FRO)** who reports directly to the Management Board.

The CAP is the interface between the Member States and Frontex. It is in contact with the Member States for all the issues related to the nomination of monitors to the Pool or receipt of nominations to the call for monitors that they issue on a monthly basis and in which they ask monitoring bodies to nominate monitors for deployment to specific operations based on Member States' requests.[61] CAP, the ECRet Division and FRO jointly select monitors for deployment. The ECRet Division coordinates the actual deployment of monitors and the FRO is among the main recipients of the monitors' reports. Based on the monitors' observations, it analyses the fundamental rights compliance of Frontex-coordinated return operations. While the TRU organises training and capacity development activities for the Pool, the ECRet Division and FRO contribute with expertise and as trainers.

In addition to these stakeholders, the **Information and Communication Technology Unit (ICT)** maintains a web-based reporting application for the Pool and the **Information Fusion Centre (IFC)** maintains a web-based communication platform for the Pool on the Frontex One-Stop-Shop (FOSS)[62]. The Secretariat handles the overall coordination; the FRO hosts the Secretariat.

---

61 Usually by the 11th of each month, CAP prepares a monthly call (i.e. a letter) for monitors for operations taking place the following month.
62 FOSS is the Agency's platform for sharing information with Member States, Schengen-Associated-Countries and other designated partners.

Illustration of the workflow from nomination to deployment of monitors in the Pool

Member States

Request for Monitors by MS

Participating MS | Organising MS

nominate

Frontex Application for Returns (FAR)

Meeting with European Centre for Returns (ECRet) & **Fundamental Rights Office (FRO)**

Criteria for assignment of monitors

- **Operation -** 1) CRO 2) JRO 3) NRO
- **Country of Return**
- **Availability of Monitors**
- **Other -** Skills/Experience, Language, Fairness

Monitoring RO

Training

Members of NMBs

Call for Monitors

- **FAR** automatically sends notifications to the Capability Programming Office (CAP)
- **CAP collects the requests** for monitors and prepares a monthly call (CAP)
- The call is sent to the **National Frontex Point (NFPOC) of Contacts from** all MSs contributing to the Pool
- NFPOCs **forward the call to the NMBs** of their respective MSs & **inform Frontex about the monitors' availability**
- NMBs can nominate monitors to **specific operations** listed in the call

Pool of monitors

List of up-to-date contacts of monitors from MS

Reporting

Monitors' **reports** are sent to the **Frontex Executive Director, the Fundamental Rights Officer** and the **relevant national authorities of all the MSs involved**

Decision is communicated to MS **via NFPOCs**

Automated email from FAR with the operational details to monitors:

- flight schedule
- contact details of main contact person(s) in MS
- financial rules

Information of the call includes

- **Type of operation**
- **Destination**
- **Date** of the RO
- Hub **of departure**

Chapter 3
Activities for the Pool of Forced-Return Monitors[63]

3.1 Introduction

Building on the monitoring guidelines and the training for forced-return monitoring established during the FReM I project (2013-2015), ICMPD, Frontex, FRA and Member States conceptualised, organised and implemented numerous capacity-development activities for the Pool, as well as activities for the national monitoring systems in the FReM II and FReM III projects (2016-2021). Moreover, monitors from across Europe received various reporting, communication and information tools to help them in their work. Through the different events, the relevant stakeholders were able to build a comprehensive network among themselves. This not only contributed to enhancing the capacity of monitors to monitor and report on forced-return operations, but also helped build the capacity of their respective national monitoring bodies, return enforcing institutions and relevant Frontex units.

In line with Article 62 of Regulation (EU) 2019/1896, monitors in the Pool need to undergo training such as the course for forced-return monitors. They can be nominated to the Pool either before or after they have done the course, but can only be deployed once they have been trained and successfully passed the assessment. In addition, other capacity development activities for monitors in the Pool in the form of workshops or meetings are an integral part of the monitors' continuous professional development.

---

63 The quotes included in this chapter were shared by participants in project activities and by project focal points as part of their contribution to this document.

3.2 Training and Capacity Development

As well as developing monitoring guidelines, reporting and communication tools and a management framework for the Pool, the FReM projects also contributed to a large extent to supporting monitors' training and capacity development needs. As such, throughout the projects, a number of training and other learning initiatives were conducted. These activities are also included in the overall training concept that provides a framework for training and continuous professional development of Pool monitors.

Training of Trainers

During the FReM II and FReM III projects, part of the training for forced-return monitors included a training of trainers component. The 3-day training of trainers is aimed at training active and experienced members of the Pool to become trainers specifically for the course for forced-return monitors. Three training of trainers courses were conducted during the FReM projects in Malta, Vienna and Berlin. In total, 22 trainers were trained, many of whom later conducted the courses for forced-return monitors, training dozens of monitors from across Europe.

I acquired new skills and got to try them also.

[The training] allowed me to discover what I was lacking and what to improve.

It was a great opportunity to focus on training methods and procedures.

The training skills acquired through the FReM Training of Trainers courses was a valuable asset for raising awareness on the role of [the] human rights monitor in forced returns in training courses organized by law enforcement bodies and external monitoring agencies at a national and European level [...].

Course for Forced-Return Monitors

9 The cornerstone of the training for forced-return monitors was set under FReM I with the creation of a comprehensive training programme and material that was carefully designed, tested and revised over the years under FReM II and FReM III. The course for forced-return monitors aims to equip monitors with the skills and knowledge to be able to monitor and report on forced-return operations in an impartial manner. The training provides an introduction to forced returns and return operations and the respective role and mandate of monitors. It also covers aspects such as the human rights that are most at risk in forced returns, the role of the escort officers and escort leaders, the use of coercive measures, and reporting principles and responsibilities. The training also includes a number of simulations and other interactive sessions. Based on this concept, nine courses for forced-return monitors took place between 2014-2021. Over the years, a total of 147 monitors have been trained. Three members of the Frontex Consultative Forum participated in the FReM III training in Rome (2019) and one member of the CoE Committee for the Prevention of Torture (CPT) participated in part of FReM III training in Oslo (2019). Since the training course in Lisbon (2017), a member of the CPT has delivered one training session in the course.

Monitors trained in 2014-2021

Year	2014 FReM I	2016 FRA/Frontex/ ICMPD Training	2017 FReM II	2018 FReM II	2019 FReM III	2021 FReM III
Monitors	20	22	36	21	41	7[64]
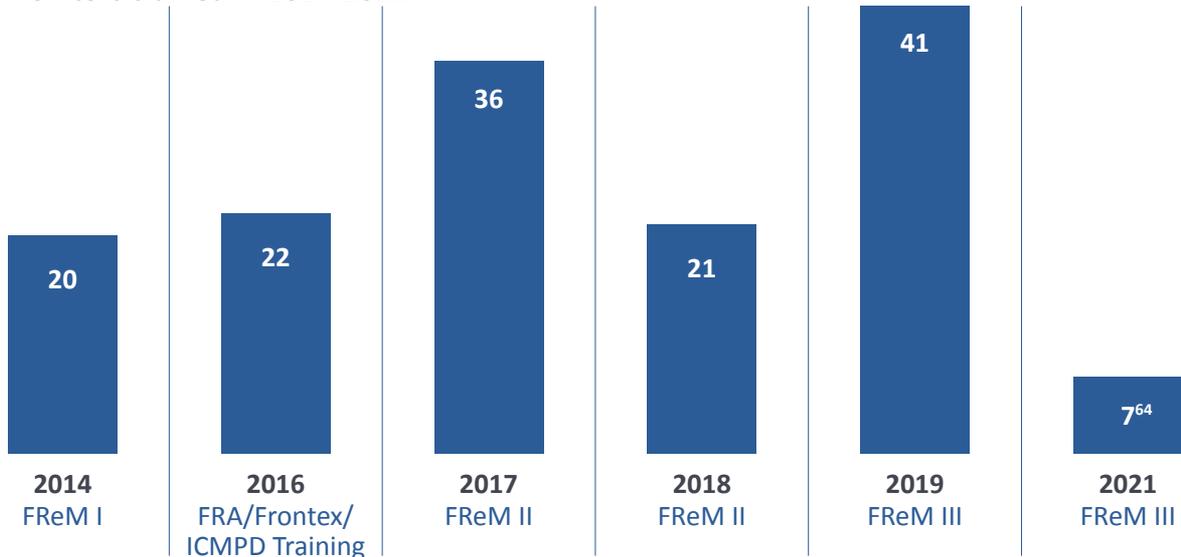
Source: own compilation

---

64 Overall, seven forced-return monitors and one fundamental rights monitor from FRO were trained.

The training for forced return monitors helped to enhance the forced return monitoring abilities of [our office] on the national level.

Simulations [were the most useful because] this kind of training remains in mind much better, it clarifies the situation, the problems that might occur.

The mock-up sessions created a realistic picture that is needed when hearing the theory.

There were certain topics which until now where grey areas but now they are more clear.

There are so many new things that I have learned here.

Pilot Monitoring Missions

52 To support further practical training needs, a total of fifty-two pilot monitoring missions were organised during the course of the three projects, during which a trainee monitor accompanied an experienced monitor in a return operation. Among the main mentors supporting the trainee monitors were monitors from Greece, Luxembourg and The Netherlands. Pilot monitoring missions provide the opportunity for trainee monitors to see how an operation is carried out. It gives them the chance to ask a trained and a skilful monitor for advice and information, and learn what to do through first-hand experience. Pilot monitors also submit a report to the Frontex Fundamental Rights Office.

> *The mission was successful, calm, professional and well organised.*
>
> *[There was] [s]mooth and crisp communication with both the people from ICMPD and the Escort Leader of the [Organising Member State], by emails beforehand and with the Organizing Escort Leader during the operation.*
>
> *It was the best way to complement the monitor training held [some time ago].*

Participation of Pool monitors in the Frontex Course for Escort Leaders in Forced Return Operations

Another component of the training to support further professional advancement of monitors from the Pool is their participation in the Frontex course for escort leaders in forced return operations. In this course, monitors from the Pool participate as trainers, actively engage with the future escort leaders, but also deepen their knowledge of additional aspects that are relevant to their work. Frontex organised **13** these courses and the FReM II and FReM III projects facilitated the participation of thirteen monitors in the course.[65] Over the years, thirteen monitors from Austria, Belgium, Croatia, Czech Republic, Finland, Greece, Hungary, Latvia, Luxembourg, Romania and Sweden benefitted from and contributed to this course.

---

65 The outbreak of COVID-19 meant that as of March 2020, participation in the course for monitors was not possible.

[…] I learnt a lot of new things from [the] point of view of E[scort] L[eaders] and escorts. It`s a very good experience for me!

The opportunity to participate in the course for E[scort] L[eaders] will improve my work as a monitor from the Pool of forced-return monitors.

Great opportunity for forced-return monitor to present the role of monitor to escort leaders and to understand the role of an escort leader during the return operation. After the training monitor can better understand the whole process of organiz[ing] and managing return operation[s].

Annual Lessons Learned Meetings

To further foster a continuous learning environment, strengthen the network among stakeholders and enable professional growth, annual lessons learned meetings were organised bringing together different stakeholders involved in forced-return operations. During these meetings, participants exchanged experiences, good practices and information about the challenges they faced when carrying out and monitoring forced-return operations. Between 2014-2021, five annual lessons learned meetings took place in Luxembourg, Athens, Helsinki, Bratislava and online[66], with a total of 283 participants. The Frontex Consultative Forum was invited to and attended these events.

5

For me, events like this are the opportunity to tackle difficult and somewhat unknown or unforeseeable issues from a more practical perspective and with the benefit of getting to know the experience and the approached solutions shared by clearly more experienced colleagues.

66 In FReM III, the second Annual Lessons Learned Meeting was organised in four online sessions, each on different dates and covering different topics.

Hearing from other countries' colleague's experiences may broaden our own perspective of work.

It was an important opportunity to point out and discuss problems, difficulties, unsolved issues regarding the operation of the EU pool of monitors, bringing together all stakeholders' views.

Workshops

Four different workshops were organised throughout the FReM II and FReM III projects to enhance monitors' and other relevant stakeholders' knowledge of specific subjects. As such, workshops were organised on reporting (2017, Athens; 2019, Vienna), good practices related to fundamental rights compliance (2018, Riga) and on children in forced-returns (2020, online). The Frontex Consultative Forum was invited and attended some of these events.

4

Number of Workshop Participants

FReM II Workshop on Reporting	28
FReM II Workshop on Good Practices	40
FReM III Workshop on Reporting	19
FReM III Thematic Workshop on Children	56
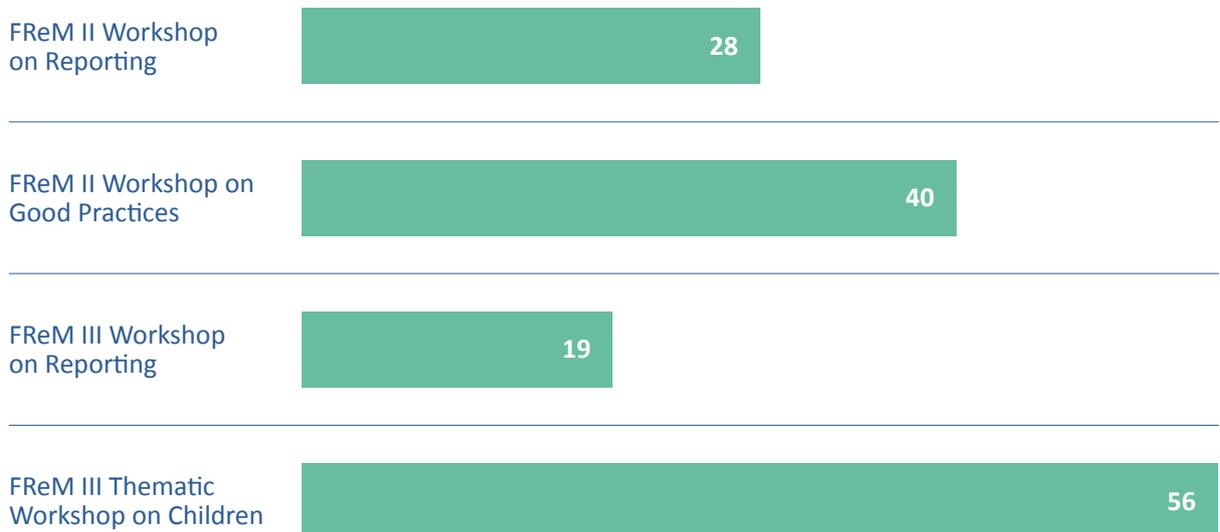
> *I got some other perspectives to my work [...].*
>
> *The fact that experienced monitors as well as knowledgeable speakers and expert partakers were present and shared views, concerns and good practices, alerted me to aspects and risks that would hardly occur to me that could happen, thus inducing me to be on the lookout and be particularly attentive to situations where fundamental rights, particularly those all-encompassing depth applicable (above all human dignity) can be at stake or even be jeopardized.*
>
> *The workshop felt like an upgrading session that I needed for quite some time.*
>
> *Particularly useful for our office was the Thematic Workshop on children in forced return operations as well as the draft checklist for monitors published afterwards.*

Online course for monitors

An online course for monitors was also developed within the framework of FReM III. Monitors from the Pool can access it at any time to refresh their knowledge about specific aspects relevant to forced-return monitoring and gain new skills and knowledge of specific thematic issues. The course is available to the monitors from the Pool on the Frontex Aula Training Platform. Stakeholders from the Frontex TRU, FRO, ECRet Division, CAP as well as from FRA, the Platform for International Cooperation on Undocumented Migrants (PICUM), Belgium, Czech Republic, Denmark and Lithuania tested the platform before it was finalised.

Capacity Development of Forced-Return Monitors in Third Countries

In 2018, FReM II supported the project "Regional Support to Protection-Sensitive Migration Management in the Western Balkans and Turkey" (IPA II)[67] with a training course for forced-return monitors from the Western Balkan countries.

The FReM III project with support from the Frontex FRO and ECRet and experts from Austria, Czech Republic, Greece and Romania developed a standardised training course for forced-return monitors

---

67 Implemented and lead by Frontex, and involving the European Asylum Support Office (EASO), the International Organization for Migration (IOM) and the Office of the United Nations High Commissioner for Refugees (UNHCR).

3 with a four-day training programme, an implementation guide for the trainers, and various training materials for participants and trainers. Together with experts and trainers from the EU and respective third countries, the FReM III project organised two training courses for stakeholders from Georgia, the Republic of Moldova and Ukraine. The training material is also available in the respective national languages.

In December 2020, as a spin-off from FReM, ICMPD launched the "Development of a Forced-Return Monitoring System in the Republic of Moldova" (FReMM) project. The project runs for 15 months and is funded by the Ministry of the Interior and Administration of the Republic of Poland. It supports the relevant institutions in the Republic of Moldova with targeted activities to build a solid basis for a national forced-return monitoring system.

Fundamental Rights Training for Escort Officers

Escort officers must be fully conversant with fundamental rights protection and the application of these rights; they should also be fully aware of the role of forced-return monitors in return operations and the information and support that they require before, during and after an operation. The "Training for Escort Officers in Member States: An Introduction to Fundamental Rights and Forced-Return Monitoring" developed under FReM III, trains escort officers on these issues. The training was developed with the TRU, FRO and ECRet Division in Frontex and with experts from Austria, Belgium, Czech Republic, Cyprus, Greece and Romania. In total, thirteen escort officers and monitor trainers[68] were trained to deliver this training course.

Charter of Fundamental Rights of the EU (2012)

European Convention of Human Rights (1950)

Universal Declaration of Human Rights (1948)

---
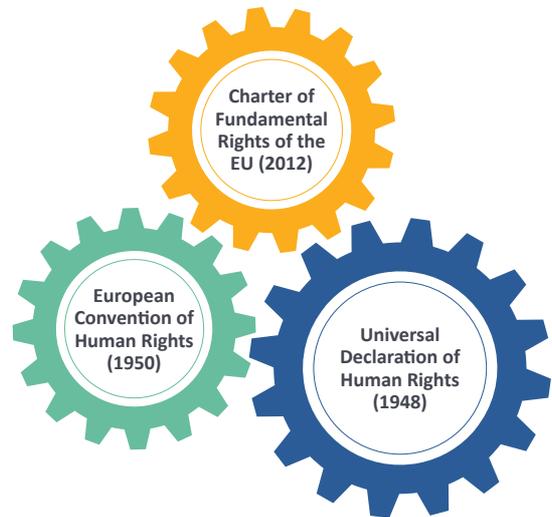
68 Participants were from Belgium, Bulgaria, Czech Republic, Estonia, Germany, Greece, Hungary, Ireland, Luxembourg, Romania and Sweden.

3.3 Other Activities

Country Factsheets

In order to be able to monitor forced-return operations involving countries other than their home country, monitors from the Pool need to be well informed about the national forced-return procedures and monitoring mechanisms that operate in other Member States. A series of short country factsheets were compiled that provide precise information to help the monitors from the Pool acquaint themselves with the relevant information prior to their participation in a forced-return operation. Factsheets were compiled for three third countries (Georgia, Ukraine, Moldova) and for twenty-two Member States and Schengen Associated Countries (Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Finland, Germany, Greece, Hungary, Italy, Latvia, Luxembourg, Malta, The Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Sweden and Switzerland). All FReM III partner countries and the relevant stakeholders in Georgia, the Republic of Moldova and Ukraine actively participated in this exercise.

Information Note on the Pool

The information note on the Pool is a document for monitors in the Pool that shall facilitate their work by providing concise operational information about the Pool, in particular the procedures for nomination to the Pool and the deployment of monitors to specific return operations.

Reporting System for the Pool

Under FReM III, the Frontex ICT unit, FRO and a monitoring expert from Luxembourg set up a web-based reporting system for the Pool consisting of a central system with a database for the FRO and a progressive web application for Pool monitors. The system enables monitors to write their monitoring reports online and/or off-line and allows them to use both their office computers and their mobile devices. They submit their report online through the same web application to a central server in Frontex. The FRO sees what reports are due, reviews them when they arrive and follows them up, as necessary. Monitors from Czech Republic, Finland, Italy, The Netherlands, Romania and Sweden helped test the system and provided other advice.

Communication Platform for the Pool

With the support of the Frontex IFC, FRO and monitors from Greece, Poland and Romania, the FReM III project set up a communication platform for monitors in the Pool to facilitate the exchange of information among monitors. The platform is hosted on the Frontex-One-Stop-Shop (FOSS)[69] and enables monitors to:

- download the monthly calls for return operations;
- view and upload events in the calendar (via the FRO);
- raise various work-related issues via a discussion forum;
- download general information and background documents relevant to their work;
- upload documents (via the FRO) that they wish to share;
- access information about how the Pool functions.

---

69 FOSS is the Agency's platform for sharing information with Member States, Schengen-Associated-Countries and other designated partners.

Pool Assessment

As part of FReM III, from 2019-2020, ICMPD conducted an assessment of the Pool based on a multi-method study. The assessment aimed to:

- better understand and describe how the Pool operates and how it is managed;
- identify possible gaps and needs, along with good practices, in its operations and management;
- contribute to improving the Pool's day-to-day management, sustainability, transparency and independence.
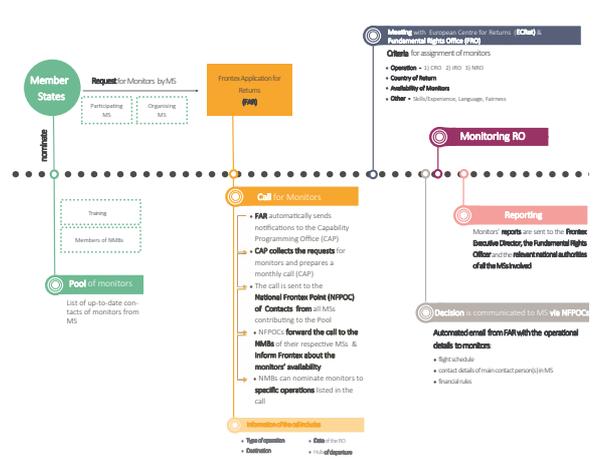
To see the full illustration of the workflow from nomination to deployment of monitors in the Pool, please refer to Chapter 2.2.

Chapter 4
National Activities in the Field of Forced-Return Monitoring[70]

4.1 Introduction

By the FReM III project (2018-2021), a total of twenty-two partner countries were co-funding and participating in the project. The cooperation began, however, in 2013 when the first FReM project was launched with eight partner countries: Austria, Bulgaria, Greece, Hungary, Luxembourg, Malta, Portugal and Switzerland. By the time the FReM II was launched in the second half of 2016, six additional countries including, Czech Republic, Finland, Latvia, The Netherlands, Romania and Sweden, had joined the project. A few months later in 2017, Germany also decided to participate and in 2018, when ICMPD, Frontex, FRA and the FReM II partner countries designed the last FReM project, another seven countries confirmed their interest in joining the project. These were Belgium, Croatia, Cyprus, Italy, Norway, Poland and Slovakia. Throughout the years, stakeholders from other countries, such as Denmark, Estonia, Iceland, Lithuania, Slovenia and Spain, participated in and contributed to numerous project activities; most of them nominated monitors to the Pool.

From 2018-2020, the FReM II and III projects supported Member States with targeted needs-based national activities to enhance their monitoring capacity. The project team together with the Member States, conceptualised and partially implemented several activities focusing on training, but also on knowledge exchange through workshops or meetings. Over the years, FReM II and FReM III developed concepts for six activities for Austria, Bulgaria, Germany and Portugal.[71] In addition, eight activities were carried out in Cyprus, Greece, Latvia, and Sweden.[72]

---

70 The quotes included in this chapter were shared by project focal points as part of their contribution to this document.
71 Concepts for the following activities were developed: a training course for Austria; a coordination meeting for Bulgaria; a workshop and a training course for Germany; a workshop and a training course for Portugal.
72 The following activities were implemented: a training course in Cyprus; a training course in Greece; targeted expert support, a training course and a roundtable in Latvia; a coordination meeting, a workshop and a training course in Sweden.

Even though we could not implement the national activity for [our country] for good reasons, the preparations for the activity were very useful for us.

[We] have implemented the forced return monitoring mechanism during this period […] and the workshop you organised in order for us to get started was much appreciated and helped us plan the implementation.

As part of FReM III, from 2019-2020, ICMPD conducted a "Gaps and Needs Analysis of the National Monitoring Systems in Twenty-Two European Union Member States and Schengen Associated Countries". The mixed-method study aimed to identify needs and provide recommendations to support the fostering of effective forced-return monitoring by the Member States.

The Gaps and Needs Analysis Report was truly revealing for us.

Thanks to the increased expertise we have strengthened our contacts with the [authority in our country] responsible for return operations and have pointed at the loopholes in our monitoring system.

Outside the framework of the FReM projects, the monitoring bodies in Member States were active at the national level and implemented various projects and other activities. Moreover, in 2018 a number of Ombudsman/National Preventive Mechanism institutions in several Member States founded the so-called "Nafplion mechanism". This initiative, supported by the CoE, has created an independent mechanism for the external control of forced returns of third country nationals at European Union level. The mechanism, expected to become operational in 2022, is intended to complement the monitoring mechanism of the Pool managed by Frontex.

4.2 Overview of Developments in Member States[73]

By the time Directive 2008/115/EC entered into force, **Austria** had already established a national forced-return monitoring system and had acquired the relevant expertise and experience in monitoring forced-returns. Austria therefore played a vital part in establishing the guidelines and training for monitors within the FReM I project. The Austrian monitoring body and return enforcing institution trained the first monitors in Vienna based on a standardised training concept. Overall, thirteen FReM I-III events took place in Austria, among them two training courses for monitors, one training of trainers and several other meetings and workshops. The Austrian monitors also benefitted from training activities organised within the projects and have been among the most active monitors in the Pool since it was set up in 2017. Moreover, Austria made use of the training concept and profile of monitors developed for the Pool when it set up a new monitoring system run by the Federal Agency for Reception and Support Services (Bundesagentur für Betreuungs und Unterstützungsleistungen) since 2021.

In addition to Austria, Bulgaria, Greece, Hungary, Luxembourg, Malta, Portugal and Switzerland were also among the first countries to join the FReM projects. The Ministry of Interior of **Bulgaria** supported the development of the first monitoring guidelines and training framework from the very first FReM I project. Overall, four monitors from Bulgaria – among them colleagues from the Ombudsman's Office – and one monitor-trainer, benefitted from capacity development activities. In addition, colleagues from the return enforcing institution contributed their knowledge and experience in several meetings and workshops; one of the colleagues also attended the fundamental rights training for escort officers.

> *Within and through the project many important contacts with other countries, FRA, Frontex and others could be established, and valuable knowledge and experience could be shared.*

In **Greece**, the Greek Ombudsman has been the national forced-return monitoring body since 2014. The Office monitors national return operations by air or joint return operations with other countries. It also monitors forced-removal operations by land, sea or air to bordering countries, pursuant to readmission agreements. The Office also visits pre-removal centres or other administrative detention facilities for third-country nationals. A large number of Greek monitors were trained during the FReM projects; some of them also contributed as trainers, both in national

---

73 The information in this chapter is non-exhaustive. It is based on information that the FReM III project team received from the partner countries and other information that was shared with the FReM III project team throughout the duration of the project.

training and training for the Pool. Greece is also among the main contributors to the Pool and among other meetings, it hosted one of the FReM II annual lessons learned meetings for monitors and return enforcing institutions and a workshop on reporting in Athens.

The Office of the Prosecutor General is the body responsible for forced-return monitoring in **Hungary**. With the support of the Ministry of Interior that also co-funded all the FReM projects, the Hungarian monitors were able to benefit from training and capacity development activities and other events from the very first FReM I project. Among other meetings, Hungary hosted the workshop in FReM I, which laid the basis for the future monitoring guidelines. They also hosted the FReM II workshop to discuss and agree the structure of the country factsheets and the information they should contain. Over the years, twenty-five country factsheets were published.

In **Luxembourg**, the Luxembourg Red Cross is the body responsible for forced-return monitoring and is also allowed to monitor the detention (holding) facilities. All the monitors work as volunteers for the Red Cross; different people are responsible though for forced-return monitoring and detention centre monitoring. Monitoring is an integral part of Luxembourg's return policy. Every year, the country's monitoring activities at the national and European (Pool) level are presented during the consular meeting in Luxembourg. In 2021, three monitors were members of the Pool. The reporting system for the Pool was developed with expertise from Luxembourg. Moreover, the training concept for the Pool was developed during a FReM II workshop for the Pool in Luxembourg.

> *The project itself also allowed the participants to network and establish contact with other monitoring bodies and that has already facilitated exchange of information and best practices with other countries.*

The Ministry for Home Affairs and National Security in **Malta** was among the first supporters of the FReM projects. In particular, the Monitoring Board for Detained Persons, the body responsible for forced-return monitoring, contributed to the projects with their knowledge and experience. The first monitor-trainers were trained in Malta and over the years, six monitors from Malta benefitted from the course for forced-return monitors. Among other meetings, Malta hosted in FReM I a workshop during which the framework for the management of a pool of forced-return monitors was elaborated. A few years later, this framework served as the basis for the organisational structure and operational workflows for the Pool managed by Frontex.

In **Portugal,** the Inspectorate General of Home Affairs is the body responsible for forced-return monitoring. Their participation was facilitated through the Foreigners and Borders Service of the

Ministry of Interior. Four monitors were trained during the projects and several colleagues from the return enforcing institution benefitted as observers in various training activities. One of the courses for forced-return monitors was hosted in the premises of the Foreigners and Borders Service and since then, they have provided a trainer who together with experts from other Member States and Frontex, trained dozens of monitors from across Europe.

> *The targeted working meetings organised throughout the duration of FReM programme promoted fruitful discussions between all parties on operational and strategic issues. [This] set the basis for continuous improvement of the implementation of forced returns' monitoring mechanism.*

In **Switzerland,** the National Commission for the Prevention of Torture (NCPT) has been monitoring all forced returns by charter flight (known as special flights), since July 2012. More than 350 such operations have been monitored since then. In addition to its members, the Commission has a team of four observers who are currently responsible for monitoring the returns. Three monitors from Switzerland were trained during the FReM projects. In 2021, one of the monitors also became a member of the Pool. In June 2019, the Commission decided to monitor forced returns on commercial flights on an ad hoc basis focusing exclusively on monitoring the transport to the airport and the organisation of the flight at the airport, which are considered the most sensitive phases. Since April 2019, the Commission has been collaborating with the Ombudsperson Institution of the Republic of Kosovo*[74] within the framework of a Memorandum of Understanding. The aim of this cooperation is to ensure effective monitoring of returned persons even after their arrival in the country of return.

In the FReM II project, the number of FReM partner countries increased to fifteen. Czech Republic, Finland, Latvia, The Netherlands, Romania and Sweden participated at the start of the project, while Germany officially joined a few months later. In **Czech Republic**, forced-return monitoring is carried out by the employees of the Office of the Public Defender of Rights. From 2016-2019, they implemented an AMIF-funded project on forced-return monitoring and through their participation in FReM II and III, the Public Defender's office gained access to the relevant materials that were subsequently translated for use at the national level. This facilitated the spread of good practices in the field of forced returns and the capacity development of the Czech monitoring body. The Czech monitors benefitted from various training activities organised within the FReM II and III projects. Most importantly, the knowledge they acquired enabled them, together with

---

74 * 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.

other experts, to train dozens of monitors from across Europe, including one training course during FReM II that they hosted in Prague. The Office of the Public Defender of Rights was also an active contributor to the training for third-country monitors and drafted the checklist for forced-return monitors regarding the rights of children returned with their family during forced-return operations coordinated by Frontex. At the national level, the participation in the FReM projects inspired the drafting of a dedicated complaints form for returnees.

> *Overall, FReM projects gave us incredible know-how in the field, we could network and we became a solid player with expertise.*

Since 2014, the Office of the Non-Discrimination Ombudsman in **Finland** has been implementing different AMIF-funded projects in the field of forced-return monitoring. The last one in 2020-2021, focused specifically on identifying and considering vulnerability in the preparation and execution of removals from the country. Their expertise was taken into account when the checklist for forced-return monitors regarding the rights of children returned with their family during forced-return operations coordinated by Frontex was being developed. Among other materials, the Office of the Finnish Non-Discrimination Ombudsman has developed training material for the escort officers from the Police. They also hosted one of the FReM II annual lessons learned meetings for monitors and return enforcing institutions in Helsinki and contributed as trainers in various activities.

The Ombudsman's Office in **Latvia** in cooperation with the State Border Guard implemented an EU-funded project with the aim of improving the forced-return monitoring mechanism in the country. During the project, the Office of the Latvian Ombudsman developed material and held several seminars on identifying victims of human trafficking and ensuring children's rights in forced-return operations for representatives of the State Border Guard, non-governmental organisations, institutions acting as legal representatives for unaccompanied minors and other relevant actors. The Latvian Ombudsman's Office benefitted from the FReM II and FReM III projects through various national activities but also from the activities that were targeted at the monitors in the Pool. They also hosted the FReM II workshop on good practices, which resulted in the Good Practice Report on Fundamental Rights Compliance in Forced-Return Operations.

The Inspectorate for Justice and Security, the monitoring body in **The Netherlands,** and the Royal Netherlands Marechaussee have been supporting the capacity development of monitors from the Pool since the Pool was established. They hosted the first FReM II training course that facilitated the swift operationalisation of the Pool and provided trainers for the event. They hosted another training course during FReM III. The Inspectorate has monitored forced-returns since 2014. In the

past few years, they have increasingly observed that that the government bodies carrying out the returns are actively managing foreseeable risks and as a rule, carry out the return process in a careful, safe and humane manner. Following extensive consultation with all the organisations concerned, including civil society organisations, the Inspectorate has decided to continue working on a risk-based approach, where the internal reports of the targeted organisations will form a chief element of the monitoring, with less on-site checks. The Dutch monitors have been using a dedicated reporting App for a few years. Among other things, this has served as a basis for the development of the new reporting system for the Pool. The Inspectorate was also among the institutions that provided Sweden with advice when it established its own national monitoring system.

> *It was very helpful to be able despite Corona to participate in workshops and training activities. We can use the knowledge that we gained for building up our extended monitoring system [in our country].*

The Romanian National Council for Refugees is the body responsible for forced-return monitoring in **Romania.** It has actively been supporting developments in the field of forced-return monitoring in Europe since the FReM II project. Even though it has just two monitors in the Pool, they have been regularly monitoring Frontex-coordinated operations since the Pool was established in 2017. One of them was also part of the trainer team that trained dozens of monitors from across Europe. Together with monitors from the Czech and Greek Ombudsmen's Offices and experts from Austria and Frontex, the Romanian National Council for Refugees developed the training programme for forced-return monitors from third-countries.

In 2018, the Swedish Migration Agency was tasked by the Swedish Government to establish the national forced-return monitoring system in **Sweden.**[75] A few national activities to support the Swedish Migration Agency – including a workshop and a national training course – were organised and implemented during FReM II with the support of experts from Austria, Germany, Greece, The Netherlands and the Frontex FRO. The implementation of the national forced-return monitoring system has entailed a new kind of cooperation with different authorities in Sweden in the new field of forced-return monitoring. Among other developments, an independent Advisory Forum was set up that includes civil society organisations. While the monitors of the Swedish Migration Agency monitor and report on forced returns, the Forum makes the recommendations to the authorities responsible for carrying out the returns.

---

75 Based on an amendment to the Regulation on an Instruction for the Swedish Migration Agency adopted by the Government that entered into force on 1 January 2018.

Germany joined the FReM II project in 2017, a few months after its launch. In 2017, the Federal Office for Migration and Refugees (BAMF) was tasked by the Federal Ministry of the Interior, Building and Community (BMI) to set up a monitoring system, providing monitors to the Pool. The entity responsible has been operational since 2018. All German monitors coordinated by the BAMF were trained through the FReM II and III projects and four are active members of the Pool. Concepts for several national activities for Germany were developed in FReM III and even though they could not be implemented, the preparations were helpful in the country's endeavours to set up a national monitoring system. Among other activities, the FReM II final conference was hosted in October 2018 by the BAMF in Nuremberg.

With the launch of the last FReM III project, the number of partner countries increased to twenty-two. The new countries included Belgium, Croatia, Cyprus, Italy, Norway, Poland and Slovakia. As had already happened during the previous projects, other Member States that were not part of the project participated in certain project activities such as training activities and annual lessons learned meetings.

The General Inspectorate of the Federal Police and the Local Police, under the Ministry of Security and Internal Affairs and the Ministry of Justice monitors forced returns in **Belgium.** Several monitors from Belgium benefitted from the courses for forced-return monitors organised during FReM II and III; two were also trained as trainers. Like The Netherlands, the Belgian monitoring body developed a computer program to automate the national forced-return monitoring reports. The General Inspectorate actively exchanges information with institutions such as the escort division of the Belgian federal police and the Belgian immigration office within the country, but also at the request of the German Federal government, shared knowledge and experience about legislating for and organising a national monitoring body. The General Inspectorate also participates and contributes to the so-called "Commission Bossuyt", the third national commission in Belgium on the evaluation of the national policy concerning voluntary and forced returns, commissioned by the national government.

> *Instrumental in the success of this new endeavour [to establish establishing a National Forced-Return Monitoring Mechanism] has been the financial support the Office receives from the [AMIF] of the EU and the support, knowledge and information that the Mechanism has also been receiving through the FReM-III project from its very early stages and even after becoming fully operational.*

In **Croatia**, the monitoring was carried out until 2021 by the Croatian Law Centre, a non-governmental organisation. The General Ombudsman's Office as the National Preventive Mechanism and the

Ombudsman for children also have the mandate to monitor forced returns. Overall, six monitors from Croatia were trained during the FReM projects; some also benefitted from pilot monitoring missions and one was also trained as a trainer. Colleagues from the return enforcing institution participated in and contributed to several project events with their knowledge and experience.

In June 2018, the Office of the Commissioner for Administration and the Protection of Human Rights embarked on a project to establish the National Forced-Return Monitoring Mechanism in **Cyprus**. At the beginning of January 2019, the first official monitoring of a forced-return operation took place. Since then, the Mechanism has monitored 266 or 51% of the notifications for forced-returns they have received. In order to be able to resolve issues in a timely and efficient manner, the Mechanism established a cooperation system involving regular meetings with the return enforcing institution. This cooperation was further facilitated through a national training course that was organised with the support of FReM III in 2019 for participants from the Mechanism and the return enforcing institution. The discussions and activities that took place during a workshop in Nicosia laid the basis for the fundamental rights training of escort officers that was subsequently developed.

In **Italy**, the National Guarantor for the Rights of Persons Deprived of Liberty has been implementing the AMIF-funded "Implementation of a forced return monitoring system" project that ended in February 2020; the follow-up project runs until September 2022. Throughout the project, the Office of the National Guarantor organised several multi-disciplinary training courses, various workshops, a conference and other activities. It created an IT platform for the digitalisation and management of forced-return monitoring and a checklist for monitors that should not only facilitate the work of the national monitors, but also streamline it. To support the continuous capacity development of their staff, the Office of the National Guarantor also developed monitoring guidelines and multilingual short film and video animation tutorials. The most relevant contents were also summarised in a leaflet, a lighter format, that is available in English and Italian. Within the FReM III project, the Office of the National Guarantor has supported various activities. They shared their feedback and expertise regarding the Pool's reporting system and, more specifically, provided feedback and shared their expertise during two of the four online annual lessons learned meetings in 2021. In 2019, the Office of the National Guarantor and the Italian State Police hosted the second FReM III training course in Rome.

> *The biggest benefit of participating in the project was development of new skills of [our] staff that is equipped to serve as monitors. [...] The possibility to take part in this project has helped us to develop new skills, for which we are very grateful.*
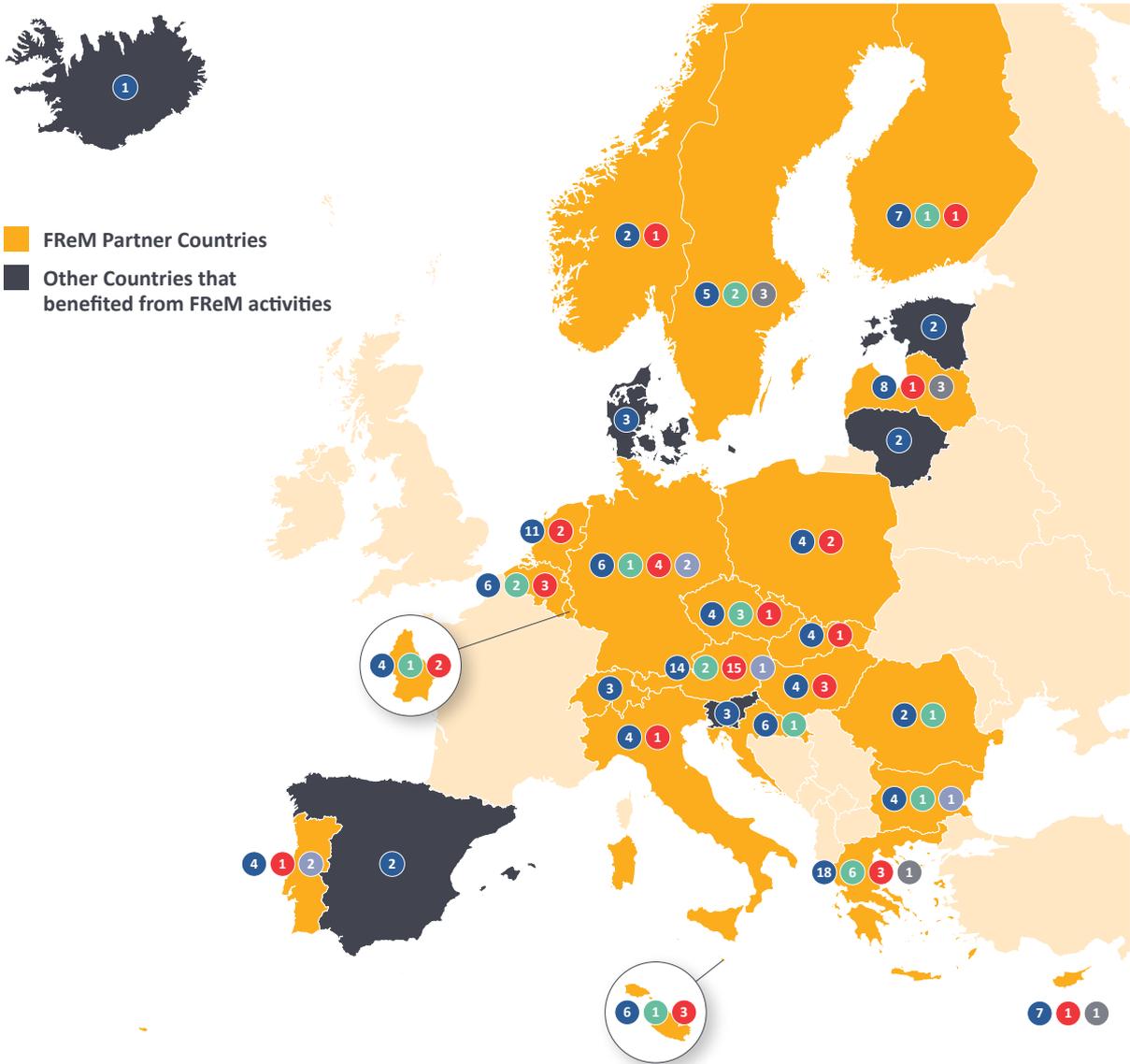
The Norwegian Ministry of Justice and Public Security has appointed the Supervision Board of the Norwegian detention centre at Trandum to conduct forced-return monitoring in **Norway**. It is not operating yet as various issues regarding capacity and financing still need clarifying. Nevertheless, the National Police Directorate was an active partner in the FReM III project. They hosted the first FReM III training in Oslo in 2019 and also provided trainers. They also co-organised the thematic workshop on children in forced-returns that resulted in a checklist for forced-return monitors regarding the rights of children returned with their family during forced-return operations coordinated by Frontex. This checklist was presented by the FReM III project in the framework of the European Migration Network Return Expert Group meeting and made available to Member States.

During the FReM III project, the Rule of Law Institute which is one of the national monitoring bodies in **Poland,** has gained the capacity and skills to conduct forced-return monitoring missions. Four monitors were trained during the project. This increased expertise not only facilitated the implementation of various other projects, but also helped to strengthen the Rule of Law Institute's contact with the return enforcing institution. In June 2021, the Polish Council of Ministers announced a new draft of the Law on Foreigners transferring responsibility for monitoring forced returns to the Ombudsman's Office. This will empower the main human rights body in the country to conduct forced-return monitoring. The new law has not yet been adopted by the Polish parliament. Together with monitors from Greece and Romania, the Rule of Law Institute supported the development of the communication platform for the Pool.

In **Slovakia**, the Slovak Humanitarian Council is the body responsible for forced-return monitoring. However, any complaints including those that relate to forced-return operations, can be submitted to the Office of the Public Defender of Rights. As a partner of the FReM III project, the Office has launched its own initiative to monitor forced returns in Slovakia after their employee had received training via the FReM III project. It has also developed its own handbook on monitoring forced-returns for other employees who were not able to benefit from the FReM training courses. In 2019, the Office of the Public Defender of Rights hosted the FReM III annual lessons learned meeting during which participants reviewed and discussed the reporting process and tools for the Pool among other things. The feedback from the meeting facilitated the further development of the reporting system for the Pool.

> *During the project we have developed several connections either with partners on national level, as well as among other stakeholders, that we will benefit from even after the project ends.*

Legend:

FReM Partner Countries

Other Countries that benefited from FReM activities

- Number of monitors trained per country
- Number of trainers trained per country
- FReM project events organised in the country[76]
- National activities developed within FReM II/FReM III
- National activities implemented within FReM II/FReM III

76 During FReM III, events were also planned in Bulgaria (project steering group meeting), Croatia (annual lessons learned meeting), Romania (training of trainers), Sweden (training for monitors) and Switzerland (project steering group meeting). Due to the outbreak of COVID-19, the training of trainers was cancelled. The training for monitors was organised in a Frontex partnership academy in The Netherlands instead and the other events took place remotely via video conferencing.

Main FReM I-III Data

Project	Duration	Overall Objective	Partner Countries	Approximate Budget	Donor	Main Highlights
Forced-Return Monitoring I (FReM I)	2013-2015 (26 months)	Further strengthen the quality of the European return system in line with the human rights standards and best practices, thus supporting the implementation of Article 8(6) of the Return Directive.	Austria, Bulgaria, Greece, Hungary, Luxembourg, Malta, Portugal, Switzerland (8)	600.000 EUR	EU Return Fund and partner countries	• Monitoring guidelines • Monitoring training • Pilot monitoring missions • Pilot pool of monitors • Framework for a European Pool of Forced Return Monitors
FReM II	2016-2018 (26 months)	Contribute to a functioning EU Return System in line with the EU Return Directive (2008/115/EC), protecting the fundamental rights of returnees through independent and transparent forced-return monitoring based on a common European approach and harmonised procedures.	Austria, Bulgaria, Czech Republic, Finland, Germany, Greece, Hungary, Latvia, Luxembourg, Malta, The Netherlands, Portugal, Romania, Sweden, Switzerland (15)	1.1 mill EUR	EU AMIF fund and partner countries	• Pool of monitors • Information note on the Pool • Training concept for monitors • Pool of trainers • Monitoring training • Pilot monitoring missions Country factsheets for monitors • Report on good practices in forced-returns

Project	Duration	Overall Objective	Partner Countries	Approximate Budget	Donor	Main Highlights
FReM III	2018-2021 (37 months)	Contribute to a functioning EU Return System in line with the Return Directive, guaranteeing and protecting the fundamental rights of returnees through independent and transparent forced-return monitoring based on a common European framework, standards, good practices and harmonised procedures.	Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Finland, Germany, Greece, Hungary, Italy, Latvia, Luxembourg, Malta, The Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Sweden, Switzerland (22)	2 mill EUR	EU AMIF fund and partner countries	• Organisational structure and operational workflows for the Pool • Assessment of the Pool • Gaps & Needs Assessment in Member States • Communication platform for the Pool • Web-based reporting App for the Pool • Online course for monitors • Monitoring training • Pilot monitoring missions Monitoring training for third-countries • Checklist for forced-return monitors regarding the rights of children returned with their family during forced-return operations coordinated by Frontex • Fundamental rights training for escort officers

Annex II
Forced-Return Operations Coordinated by Frontex and Monitoring Coverage from 2017-2021

The data below was provided by the European Centre for Returns Division (ECRet Division) to ICMPD in August 2021.

Number of CROs, JROs and NROs coordinated by Frontex broken down per type of operation and per year

Year	Type of operation	No. of returns
2017	CRO	38
	JRO	153
	NRO	150
2018	CRO	67
	JRO	139
	NRO	139
2019	CRO	64
	JRO	142
	NRO	124
2020	CRO	36
	JRO	38
	NRO	151
2021	CRO	35
	JRO	43
	NRO	133
Grand Total		**1459**

Number of CROs, JROs and NROs monitored by the Pool only broken down per type of operation and per year

Year/Type of operation	No. of returns
2017	
CRO	30
JRO	57
2018	
CRO	50
JRO	68
2019	
CRO	64
JRO	80
NRO	23
2020	
CRO	35
JRO	16
NRO	48
2021	
CRO	34
JRO	6
NRO	28
Grand Total	**539**

Number of CROs, JROs and NROs monitored by national monitors only broken down per type of operation and per year

Year/Type of operation	No. of returns
2017	
CRO	5
JRO	69
NRO	20
2018	
CRO	5
JRO	42
NRO	31
2019	
JRO	45
NRO	32
2020	
CRO	1
JRO	12
NRO	21
2021	
CRO	1
JRO	23
NRO	9
Grand Total	**316**

Number of CROs, JROs and NROs monitored by both Pool and national monitors broken down per type of operation and per year

Year/Type of operation	No. of returns
2017	
CRO	3
JRO	4
2018	
CRO	12
JRO	22
2019	
JRO	16
2020	
JRO	7
2021	
JRO	3
Grand Total	**67**

Total number of monitors involved in CROs, JROs and NROs per year

Year/Type of operation	No. of monitors
2017	
CRO	42
JRO	187
NRO	26
2018	
CRO	85
JRO	188
NRO	46

Year/Type of operation	No. of monitors
2019	
CRO	64
JRO	212
NRO	73
2020	
CRO	38
JRO	57
NRO	87
2021	
CRO	36
JRO	57
NRO	45
Grand Total	**1243**

Total monitoring coverage in % in CROs, JROs and NROs broken down per type of operation and per year

Year/Type of operation	% monitored
2017	
CRO	100.0%
JRO	85.0%
NRO	13.3%
2018	
CRO	100.0%
JRO	95.0%
NRO	22.3%

Year/Type of operation	% monitored
2019	
CRO	100.0%
JRO	99.3%
NRO	44.4%
2020	
CRO	100.0%
JRO	92.1%
NRO	45.7%
2021	
CRO	100.0%
JRO	74.4%
NRO	27.8%

Number and nationalities of Pool monitors deployed in CROs, JROs and NROs per year

Nationality of monitor	CRO	JRO	NRO	Total
2017				
Austria	10	14		24
Croatia		1		1
Czech Republic	2	2		4
Finland		2		2
Greece		1		1
Hungary	2	2		4
Latvia		2		2
Luxembourg	5	7		12
Malta	1	1		2
Portugal	5	11		16

Nationality of monitor	CRO	JRO	NRO	Total
Romania	5	5		10
The Netherlands	3	13		16
2018				
Austria	27	41		68
Czech Republic	3	4		7
Denmark		1		1
Finland		1		1
Germany	1	10		11
Italy	4			4
Latvia		2		2
Luxembourg	3	6		9
Malta	1	1		2
Portugal	13	6		19
Romania	2	9		11
The Netherlands	10	13		23
2019				
Austria	38	42		80
Belgium	1			1
Croatia		1		1
Czech Republic		2		2
Denmark	1	1		2
Finland	1			1
Germany	5	3	23	31
Hungary	2	1		3
Iceland		2		2
Latvia		1		1
Luxembourg		12		12

Nationality of monitor	CRO	JRO	NRO	Total
Malta		2		2
Portugal	11			11
Romania	1	3		4
Slovakia		1		1
Sweden	1	3		4
The Netherlands	3	38		41
2020				
Austria	29	14	30	73
Croatia			1	1
Czech Republic			1	1
Germany	1	4	5	10
Iceland			1	1
Italy		1		1
Luxembourg	3	5	7	15
Portugal	1		1	2
Romania		1		1
Slovakia	1			1
Sweden			1	1
The Netherlands	2	4	6	12
2021				
Austria	5		4	9
Czech Republic			1	1
Germany		3	10	13
Iceland		1		1
Italy	3		2	5
Luxembourg	13	4	5	22
Poland	2	1	1	4

Nationality of monitor	CRO	JRO	NRO	Total
Portugal			1	1
Romania	7		1	8
Grand Total	**228**	**305**	**101**	**634**

Human Rights Monitoring of Forced Returns in Europe

Forced-Return Monitoring Projects – Cooperation with the European Border and Coast Guard Agency, the European Union Agency for Fundamental Rights and Member States

October 2021

This publication provides an overview of developments in human rights monitoring of forced returns in Europe and Member States since: the release in 2005 of the "Twenty Guidelines on Forced Return" by the Council of Europe (CoE); the entry into force of the Return Directive (Directive 2008/115/EC) in 2008, and the establishment of the European Border and Coast Guard Agency in 2016 and subsequent constitution of the Pool in 2017. The publication also summarises the main outcomes and impact of the FReM projects and highlights efforts by the Member States at the national level.

"Special thanks to [the project team] for making this project so efficient, organized and truly useful."