Gaps and Needs Analysis of the National Monitoring Systems in Twenty-Two European Union Member States and Schengen Associated Countries

Report

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Acknowledgements

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Executive summary

Introduction

The effectiveness of the EU return system is a cornerstone of the EU overall migration policy. The EU Return Directive (hereinafter: Directive 2008/115/EC or RD) is the main piece of EU legislation governing the procedures and criteria to be applied by EU Member States (MSs) when returning irregularly staying third-country nationals (TCNs). The Return Directive obliges MSs to issue return decisions to any illegally staying third-country national (Art. 6(1) RD); and take all necessary measures to enforce that decision (Art. 8(1) RD) in cases where the TCN concerned does not voluntarily depart from the territory of the MS. When enforcing return decisions, Art. 8(4) RD states that: "where Member States use — as a last resort — coercive measures to carry out the removal of" a TCN, they "shall be proportionate", "shall not exceed reasonable force" and "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". Furthermore, Article 8(6) states that "**Member States shall provide for an effective forced-return monitoring system**". This provision is the legal foundation on which the FReM projects have built on.

The overall objective of the FReM III project is to contribute to a functioning EU Return System in line with the 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. The second specific objective aims at increasing the effectiveness of forced-return monitoring in MSs, based on the specific national needs. In order to plan for the activities to be as targeted as possible, a gaps-and-needs analysis was conducted within the FReM III project, the results of which are documented in this report. The aim of the analysis is to identify the needs of the partner countries and the type of tailored support that can best be offered within the framework of the FReM III project but also beyond.

Methodology and structure of the report

This report is based on secondary data analysis i.e. desk research including information from various available sources and relevant reports of previous FReM projects, and primary analysis of data collected through a targeted survey of relevant National Monitoring Bodies (NMB) from all 22 FReM III partner states[2].

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

The report is structured as follows: Chapter 2 provides background information on the FReM projects, including the current FReM III project; Chapter 3 describes the methodology and data used for the report; Chapters 4 to 9 present the results of the gaps and needs analysis of the national forced-return monitoring systems of the 22 FReM III partner states, addressing the following areas:

- Monitoring mandates;

- Capacity to monitor human rights compliance during forced-return operations;

- Training for forced-return monitors;

- Preparedness and deployment of monitors;

- Monitoring and reporting;

- Summary of gaps and needs in all the above-mentioned areas.

Main findings

As regards the **general monitoring mandate**, limitations in existing legal mandate in certain partner states has been identified as a major gap not allowing NMBs to observe all stages of a return operation. In other MSs, the fact that monitors can only observe and not intervene where they observe a serious human rights violation, is seen as a limitation. Furthermore, in many MSs limited funding of NMBs was highlighted as a major issue. As a consequence, institutionalisation of an adequate standardised profile of a forced-return monitor as well as increased institutional funding have been identified as means to address the mentioned gaps.

With regard to the **institutional capacity to monitor forced-return**, NMBs´ restricted legal monitoring mandate and limited communication between institutions, particularly between the return enforcing institution and the NMB, have been indicated as important gaps which need to be addressed. Even where a clear monitoring mandate exists, the institutional capacity of some NMBs to actually monitor forced-return is affected by the limited funding, which might also lead to a limited number of monitors being available for monitoring returns. Lack of adequate and insufficient training for monitors is another gap. The recommendations to address the mentioned gaps focus on the need for increased and formalised institutional cooperation as well as having a stable source of (increased) funding to also fund more trainings.

The existing gaps in terms of **the preparedness of monitors** are often the lack of sufficient time to prepare for a monitoring mission after receiving first information about an upcoming return operation. Lack of sufficient information at the disposal of monitors regarding upcoming returns further hinders the preparedness of monitors. To address some of these issues, the extension of preparation time as well as sharing more information have been stressed as possible solutions.

Similar to the gaps regarding monitors' preparedness, **the deployment of monitors** is affected, among others, by inter-institutional communication between the return enforcing institution and the NMBs and here too, a better communication (also in terms of the content communicated to NBMs) is one of the means to fill the gap.

With regard to the **monitoring process**, the identified gaps in certain MS are: lack of an interpreter, lack of specific monitoring guidelines and lack of/late receipt of information about the returnees. The means to fill these gaps are the presence of an interpreter during the return process as well as putting in place of monitoring guidelines.

As regards the major gaps in the **process of writing and submitting a monitoring report,** lack of a reporting template, the absence of recommendations from monitoring reports, and unclear and limited use of and follow-up to monitoring reports by return enforcing institutions have been highlighted. As a result, there is a need for standard operation procedures for information sharing and improved collaboration and communication between the monitoring institution and the return enforcing institution. In addition, monitors need to have access to previous monitoring reports and there is also a need for more institutional discussion and reflection on the recommendations from monitors' reports.

The most common gap in the process of **following-up on monitoring reports** is the lack of any such follow-up. Collaboration and information-sharing between the institutions conducting the monitoring, but also between return enforcing institutions and NMBs have also been mentioned as a notable gap. One suggested solution is to establish a formal follow-up procedure, particularly with regard to the recommendations from the monitoring reports.

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Abbreviations

CNRR - Romanian National Council for Refugees

EBCG Regulation – European Border and Coast Guard Regulation

FRM – Forced-Return Monitoring

FRA – European Union Agency for Fundamental Rights

FReM – Forced-Return Monitoring project

GDPR – General Data Protection Regulation

ICMPD – International Centre for Migration Policy Development

IGAI - General Inspectorate of Home Affairs (Portugal)

MS – Member State

NCPT – National Commission for the Prevention of Torture

NMB – National Monitoring Body

NPM – National Preventive Mechanism

NRO – National Return Operation

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

RO – Return Operation

SAC – Schengen Associated Country

TCN – Third Country National

1. Introduction

1.1 The European and national legal context for forced-return monitoring

The EU Return Directive (hereinafter: Directive 2008/115/EC or RD) is the main piece of EU legislation governing the procedures and criteria to be applied by EU Member States (MSs) when returning irregularly staying third-country nationals (TCNs). The Return Directive obliges MSs to issue return decisions to any illegally staying third-country national (Art. 6(1) RD); and take all necessary measures to enforce that decision (Art. 8(1) RD) in cases where the TCN concerned does not voluntarily depart from the territory of the MS in line with Art. 7 RD. When enforcing return decisions, Art. 8(4) RD states that:

> "*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*".

Furthermore, Article 8(6) states that "Member States shall provide for an effective forced-return monitoring system". The Return Directive's deadline for transposition into national law and practice was 24 December 2010. Some EU Member States and Schengen Associated Countries (MSs)[3] had already established national forced-return monitoring (FRM) systems by this deadline, while others were, or are still in the process of aligning their national systems with the specific requirements set out in the Return Directive. States currently use a variety of systems. In a number of countries, the duty to monitor forced-return operations lies with the National Preventive Mechanisms (NPMs) that implement the Optional Protocol to the United Nations (UN) Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT); in other countries, non-governmental organisations (NGOs), internal police monitoring systems or the national ombudsperson are involved in monitoring forced-return operations[4].

Since the 2015 peak in arrivals of asylum seekers and irregular migrants, the effectiveness of the EU return policy to return illegally residing TCNs and the increasing rate of return has been a political priority (Diaz Crego, 2019). In September 2018, the European Commission proposed a targeted recasting of the Return Directive aiming to "notably reduce the length of return procedures, secure a

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[3] In this report, the term Member States (MSs) includes Member States of the European Union (EU MS) and countries associated with the implementation, application and development of the Schengen acquis (Schengen Associated Countries/SACs).

[4] See Section 4.1 *National institutions mandated to monitor forced-return* for more on national monitoring mandates.

better link between asylum and return procedures and ensure a more effective use of measures to prevent absconding" (EC, 2018).

In line with Regulation (EU) 2016/1624 on the European Border and Coast Guard[5] that entered into force on 6 October 2016, the European Border and Coast Guard Agency (Frontex) established a pool of forced-return monitors on 7 January 2017. The pool brings together forced-return monitors from Member States, who are nominated (via the National Frontex Point of Contacts) by the national bodies responsible for carrying out forced-return monitoring activities in accordance with Article 8(6) of Directive 2008/115/EC. At the request of MSs, these monitors are deployed to Frontex-coordinated return operations. Where Frontex is not involved, the monitoring of national returns is governed by the legislation of each MS.

According to the European Parliament's impact assessment, "the creation of national return monitoring systems which are compatible with a central system managed by the European Border and Coast Guard (EBCG), is likely to increase the alignment of standards with the EBCG Regulation, as it enables better compliance by the EBCG with its tasks under the latter instrument" (EPRS, 2019: 17).

Currently, Frontex is governed by Regulation (EU) 2019/1896 of 13 November 2019 on the European Border and Coast Guard. This regulation reinforces the agency's mandate and increases its capabilities compared to Regulation (EU) 2016/1624 and the European Border and Coast Guard Standing Corps (the EU's first uniformed service).

The role of Frontex in monitoring returns, "is helping EU member states meet the requirement for all return flights to be monitored to make sure that all returnees are treated with dignity and that their rights are respected. [Frontex provides] monitors from [its] pool of experts and cover[s] the cost of participation of national monitors". In 2019, 272 flights had monitors on board, including 199 experts provided by Frontex. (Frontex, 2020: 14)

1.2 Structure and aim of the report

As mentioned above, Article 8(6) of the EU Return Directive states that Member States shall provide for an effective forced-return monitoring system. The gaps and needs analysis of national monitoring systems presented in this report **assesses** the effectiveness of the national forced-return monitoring systems of the FReM III partner countries with a view to identifying ways in which these systems could be made more effective for the purposes of monitoring national returns. Effectiveness can be measured by the capacity to produce a desired result or output. Therefore, it is important to define

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[5] It is worth mentioning that Regulation 2019/1896 did not greatly alter the monitoring-related mandate of Frontex.

the purpose of forced-return monitoring in such a way so as to further measure whether the national FRM systems are effective as currently functioning.

The objective of forced-return monitoring is to **document human rights compliance** during the removal with a view to **increasing transparency and accountability** in the removal process, where the fundamental rights of returnees and principles could be at stake. Forced-return monitoring creates **an evidence base for any alleged violations.** It is not, **however,** a replacement for an individual's right to an effective remedy. Rather, it can be used as **a corrective mechanism for systemic flaws**. Against this background, it is crucial that forced-return monitoring systems are **independent and impartial**.[6]

The annual survey that the European Union Agency for Fundamental Rights (FRA) publishes shows that the capacity to monitor forced-return operations in some MSs does not always correspond to the degree of effectiveness required in the Return Directive.[7] Therefore, further targeted support is needed to enhance the monitoring capacity in MSs, especially for their national operations.

The overall objective of the FReM III project is to contribute to a functioning EU Return System in line with 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. The second specific objective is aimed at increasing the effectiveness of forced-return monitoring in MSs, based on the specific national needs. In order to plan for the activities to be as targeted as possible, a gaps-and-needs analysis was conducted within the FReM III project, the results of which are documented in this report. The aim of the analysis is to identify the needs of the partner countries and the type of tailored support that can best be offered within the framework of the FReM III project but also beyond.

This report is based on secondary data analysis i.e. desk research including information from various available sources and relevant reports of previous FReM projects, and primary analysis of data collected through a targeted survey of relevant National Monitoring Bodies (NMBs) from all 22 FReM partner states[8].

The report is structured as follows: Chapter 2 provides background information on the FReM projects, including the current FReM III project; Chapter 3 describes the methodology and data used for the

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[6] For further information on the role of forced-return monitoring see: Frontex/FRA/ICMPD, Forced-Return Monitoring, Background Reader, 2018.

[7] For the most recent overview, see https://fra.europa.eu/en/publication/2020/forced-return-monitoring-systems-2020-update (Accessed 11 August 2020).

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

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- Monitoring mandates;

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- Monitoring and reporting;

- Summary of gaps and needs in all the above-mentioned areas.

2. Background

In 2011, the International Centre for Migration Policy Development (ICMPD), together with Matrix, conducted a "Comparative Study on Best Practices in the Field of Forced Return Monitoring". The study found that at that time, "17 [EU] Member States either already have a monitoring system in place or are about to put one into place. Another five Member States have initiated legislation with the aim of putting a monitoring system into place" (Matrix & ICMPD, 2011: 6).

After the first study on best practices conducted in 2011, ICMPD submitted a project proposal under the European Return Fund – Community Actions 2012, with the aim of supporting MSs in the implementation of Article 8(6) of the EU Return Directive. ICMPD was awarded the project and implemented the "Forced-Return Monitoring" (FReM) project – later referred to as FReM I – from 2013 to 2015, in co-operation with Austria, Bulgaria, Greece, Hungary, Luxembourg, Malta, Portugal and Switzerland. The objective was to facilitate the transposition of Article 8(6) of the Return Directive (2008/115/EC), which states that EU Member States are obliged to provide for an "effective forced-return monitoring system". In particular, it aimed to create a pilot pool of independent forced-return monitors, available to the countries needing to implement a forced-return monitoring system. Moreover, the FReM I project established guidelines and a comprehensive training framework for forced-return monitoring.

Following the initial project, the Forced-Return Monitoring II project (FReM II[9]) was implemented from 2016-2018 to support the implementation of the European Border and Coast Guard (EBCG) Regulation 2016/1624 in force at the time, in particular Article 29 (pool of forced-return monitors) and Article 36 (training of staff involved in return-related tasks)[10]. Building on the results of the FReM I project, and in line with the EU legislation in force at the time, its main objectives were to establish a pool of forced-return monitors within Frontex and support MSs in improving their national forced-return monitoring systems.

The current Forced-Return Monitoring project known as FReM III, which runs until May 2021, is a direct follow-up to these projects and contributes further to a functioning EU Return System in line with the Return Directive (2008/115/EC). Among other things, MSs are supported with targeted needs-based national activities, enhancing their monitoring capacity, and enabling them to further implement the

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

[10] While this refers to Regulation (EU) 2016/1624, in force at the time of the implementation of the FReM II project, the new Regulation (EU) 2019/1896 stipulates the pool of forced-return monitors in Article 51 and the training of monitors in Article 62. Regulation (EU) 2019/1896 entered into force in December 2019.

Return Directive. The gaps and needs analysis of national monitoring systems presented in this report aims to identify ways of making MSs' systems for monitoring national returns more effective.

3. Methodology and description of data

This gaps and needs analysis of the monitoring capacity of FReM III partner countries is based on information gathered through primary and secondary data collection methods between August 2019 and March 2020[11]. As stated above, the main aim of this analysis is to identify the needs of the partner countries and the tailored support that can best be offered within the framework of the FReM III project but also beyond.

3.1 Methodology

Desk research
Secondary data analysis involved reviewing and consulting various publications, including: reports by international organisations and EU agencies on monitoring forced returns, EU and national legal documents on return, existing studies on monitoring of returns in MSs, relevant documents from previous FReM projects etc.

Online survey
In addition to reviewing existing resources and information on monitoring forced-retun, a survey[12] was developed and distributed to representatives of institutions in charge of monitoring forced returns in all FReM III partner countries[13]. The questionnaire was sent out electronically using the online tool SoSciSurvey[14].

The online survey included a total of 95 questions, 42 of which were open-ended. However, participants did not necessarily all receive the same number of questions, since the flow of the questionnaire and relevance of the questions was governed by the use of filter questions. The survey was divided into ten sections under the following headings:

- National forced-return **monitoring mandate**;
- National **institutional capacity** to monitor human rights compliance during forced-return operations;
- **Funding** of monitoring forced-return operations;
- **Mechanisms for payment** of monitoring activities;
- **Training** for forced-return monitors;
- **Deployment** of forced-return monitors;

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[11] The online survey was active between August and December 2019. A follow-up phase was implemented between January and March 2020 to receive replies from all FReM III partner countries.
[12] See Annex 1.
[13] These countries are: Austria, Belgium, Bulgaria, Czech Republic, Germany, Denmark, Spain, Finland, Greece, Croatia, Hungary, Iceland, Italy, Luxembourg, Latvia, Malta, the Netherlands, Portugal, Romania, Slovakia, Slovenia, and Sweden.
[14] For more information on the survey tool, see: https://www.soscisurvey.de/ (Accessed 3 April 2020).

- **Preparedness** of monitors;
- **Monitoring process**;
- Writing and submitting **monitoring reports**;
- **Follow-up** of monitoring reports.

Prior to the data collection phase, the questionnaire was reviewed by two members of the FReM III Project Steering Group. Based on the feedback received and further in-depth discussions within the FReM III project team, the questionnaire was adapted and programmed into an online survey which was then piloted with two experienced national monitors. During the pilot phase, special attention was paid to the structure of the online survey including: the order of sections and relevance of the questions in each section; clarity of the questions; and the technical and logical functionality of the online tool, including its filter questions.

The online survey sample was aimed primarily at NMBs from all 22 FReM III partner countries. Representatives of NMBs were contacted through personalised emails and given a personalised link and password. This allowed respondents to pause and continue the survey as time allowed. Access to the survey was provided through a personalised code allowing the FReM III project team to follow up with anyone who had not replied by the deadline. To comply with the General Data Protection Regulation (GDPR)[15], data was collected and stored in ICMPD secure folders. The data in this report is partially anonymised; countries are mentioned, but the names of respondents are not.

In order to optimise and increase the response rate, two rounds of personalised follow-up emails were sent out. As a third measure, there were individual follow-up emails and telephone conversations with countries that had not replied after the two reminder emails. This thorough and personalised approach resulted in 24 responses from 22 countries. In two of the countries, two different respondents completed the survey. In one country several organisations are involved in monitoring forced-returns, while in the other, a response was provided by both the return enforcing institution and the monitoring institution. In these cases, the responses were combined.

3.2 Methodological limitations

The methodology employed is not without limitations. Firstly, the survey was not conducted anonymously. Participants are known to the FReM III project team, as they and their respective organisations have participated in various FReM activities, prior to the survey. The possible bias arising

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[15] This refers to the General Data Protection Regulation, Regulation (EU) 2016/679 of the European Parliament and the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and the free movement of such data, and repealing Directive 95/46/EC. Available at: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32016R0679 (Accessed 22 June 2020).

from this is worth noting. One way in which this limitation has been addressed is through partially anonymising the replies (e.g. respondents' identity is not disclosed in this report).

Second, the structured format of gathering data in the form of a questionnaire has the advantage of enabling comparisons of the operational procedures of monitoring forced-return missions across countries. At the same time, the structural approach leaves little room for individualisation and for going into greater depth on specific differences in the processes and contexts of particular countries. To mitigate this limitation, a wide range of open-ended questions, as well as space for (additional) comments have been included in the questionnaire.

4. National forced-return monitoring mandates

4.1 National institutions mandated to monitor forced-return

While a legal analysis of national monitoring systems is beyond the scope of this report, the information collected shows that there is no harmonised institutional approach for monitoring forced returns in the countries covered by this report. In almost half of the countries surveyed, forced-return monitoring is being conducted by the Ombudsperson, as per its legal mandate, or an NGO, following agreement with the institution mandated to make the decision on this issue. This is the case in Austria, Bulgaria, Cyprus, Czech Republic, Greece, Finland, Croatia, Latvia, Poland, Romania and Slovakia. In other countries surveyed, the monitoring mandate is assigned to the country's National Preventive Mechanism (NPM) in line with the Optional Protocol to the Convention against Torture (OPCAT). This is the case, for instance, in Switzerland, Italy, and Malta. Finally, there are MSs where the monitoring falls under the mandate of the executive branch of government or the office of the prosecutor (see details in Table 1 below).

Table 1: Type of institution mandated to monitor forced-returns, by country

	Ombudsperson	NGO	NPM	Executive branch of government	Office of the Prosecutor
AT	✓ *	✓	✓		
BE				✓	
BG	✓				
CH			✓		
CY	✓				
CZ	✓				
DE[16]					
EL	✓				
FI	✓				
HR	✓ **	✓	✓		

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[16] The German NPM is not formally assigned with the mandate from the EU return directive. Therefore, all monitoring activities are legally based on the OPCAT-mandate.

	Ombudsperson	NGO	NPM	Executive branch of government	Office of the Prosecutor
HU					✓
IT			✓		
LU				✓	
LV	✓	✓***			
MT			✓		
NL			✓	✓****	
NO					
PL		✓			
PT				✓	
RO		✓			
SE				✓ *****	
SK		✓		✓	

Source: own compilation; data collected from MSs that participated in the Gaps and Needs survey developed in the framework of the FReM III project. For the exact questions included in the survey, see Annex 1.

NOTES:

* In Austria, the Volksanwaltschaft (Ombudsman) also acts as a National Preventive Mechanism. The private NGO is operative until 31.12.2020 when it will be nationalised by a federal agency called *Bundesagentur für Betreuungs- und Unterstützungsleistungen* (BBU), reporting to Ministry of Interior.

** The General Ombudsman is the National Preventive Mechanism. The General Ombudsman is the National Preventive Mechanism and the Ombudsman for Children has the mandate to monitor forced returns.

*** Primarily the Ombudsperson, as well as associations or foundations, if mandated.

**** In the Netherlands, the inspectorate also acts as NPM.

***** The Swedish Migration Agency has the official mandate for the forced return monitoring.

Table 2: National legal provisions governing the forced-return monitoring mandate of relevant institutions as described by the participating MSs

	Summary of the national legal provisions governing the forced-return monitoring mandate of relevant institutions	Institution(s) officially mandated to monitor forced returns	Place and general role in the national institutional context
AT	According to § 10 of the Implementing Ordinance of Aliens Police Act (Fremdenpolizeigesetz-Durchführungsverordnung), tasks of the human rights monitor during removals are as follows: (1) In the case of deportations which the Federal Ministry of the Interior has organised or co-organised or in the case of return operations pursuant to Article 28 of Regulation (EU) No 1624/2016 on the European Border and Coast Guard, OJ L 251, 16.9.2016 p. 1, as amended, a human rights observer must be present starting with the contact talk. The human rights observer shall be responsible for monitoring the return operation until the arrival of the alien in the state of origin, unless the flight is scheduled. (2) The human rights observer shall, within one week, draw up a report on the course of the return operation and submit it to the Federal Minister of the Interior. The Federal Minister of the Interior shall forward the report in anonymised form to the Ombudsman within three weeks of receipt. (3) The Federal Minister of the Interior shall be responsible for selecting the human rights observers. Legal persons may also be entrusted with the tasks under paras. 1 and 2.	*Verein Menschenrechte Österreich* (VMÖ): monitors all chartered return operations (all chartered ROs have to be monitored – obligatory) *Volksanwaltschaft* (Ombudsman): can monitor all kinds of return operations (by choice) *The Federal Agency for Reception and Support Services* will be responsible for the human rights monitoring from 1.1.2021	*Verein Menschenrechte Österreich* (VMÖ): private, reporting to the MOI/BFA. *Volksanwaltschaft* (Ombudsman) acting also as a National Preventive Mechanism (OPCAT), reporting to national parliament; The VA (Ombudsman) also receives all individual HRO reports (VMÖ reports on FRM).
BE	(1) According to the Royal Decree of 20/07/2001 on the working and personnel of the AIG, in the frame of forced returns monitoring, the AIG has a general mission of control and monitoring on all Belgian police services, hence including the work of the Airport Federal Police service that conducts forced return operations. (2) The Royal Decree of 19/06/2012 on access to the territory, stay, establishment and forced return of foreigners, reminds that the control and	The General Inspectorate of the federal and local police (AIG – *Algemene Inspectie-Inspection Générale*)	*N/A*

	Summary of the national legal provisions governing the forced-return monitoring mandate of relevant institutions	Institution(s) officially mandated to monitor forced returns	Place and general role in the national institutional context
	monitoring of forced returns is executed by the AIG exclusively, as an independent control organ.		
BG	Foreigners in the Republic of Bulgaria Act, Art. 39a (New, SG 42/01; prev. text of Art. 39a – SG 23/13) (*)) The compulsory administrative measures imposed to the foreigners according to this Act are: 1. revoking the right of stay in the Republic of Bulgaria; 2. (amend. - SG 97/16) return to country of origin, country of transit crossing or a third country; 3. expulsion; 4. (amend. – SG 23/13); (*), suppl. – SG 70/13 (*)) prohibition to enter and reside on the territory of Member States of the European Union; 5. prohibition to leave the Republic of Bulgaria. (2) (new – SG 23/13) In the implementation of administrative coercive measures under para 1, items 1 and 2 shall be monitored by the Ombudsman of the Republic of Bulgaria or by authorized officials from its administration as well as by representatives of national or international no0n-governmental organizations.	Ombudsman of the Republic of Bulgaria	Ombudsman of the Republic of Bulgaria is an independent national body
CH	Art. 71a bis of the Federal Act on Foreign Nationals and Integration: (1) The Federal Council shall regulate the procedure and the responsibilities for supervising deportation procedures and international return interventions. (2) It may delegate tasks relating to the supervision of deportation procedures and international return interventions to third parties.	The National Commission for the Prevention of Torture (NCPT) monitors all forced return operations on charter flights. Since 2019, in certain cases, the NCPT also observes the pre-departure phase in the framework of return operations by commercial flights.	The NCPT is an independent Swiss national commission set up to ensure that the rights of persons deprived of their liberty are respected. The NCPT is the National Preventive Mechanism (NPM) of Switzerland, according to the Optional Protocol to the Convention Against Torture (OPCAT), set up to ensure, through regular visits and ongoing dialogue with the authorities, that the rights of persons deprived of their liberty are respected
CY	Alien and Immigration Law. Under Decision no 74.333, dated 4 December 2012 of the Council of Ministers, the Commissioner for Administration and the Protection of	The Cypriot Ombudsman	The Cypriot Ombudsman is an Independent Official of the Republic appointed by the President after a simple majority approval from the

	Summary of the national legal provisions governing the forced-return monitoring mandate of relevant institutions	Institution(s) officially mandated to monitor forced returns	Place and general role in the national institutional context
	Human Rights (Ombudsman) has been entrusted to establish and operate an effective mechanism to monitor the returns of irregular staying third-country nationals.		Parliament. The person appointed serves for a six-year term that can be renewed. The Forced-Return Monitoring Mechanism was set up on June 1st 2018 and became operational on January 1st, 2019.
CZ	Legislation transposing the Return Directive	Public Defender of Rights (and the employees of the Office of Public Defender of Rights)	N/A
DE	Administrative Order of the Federal Ministry of Justice (Federal Bulletin, No. 182, p. 4277) Germany signed the Optional Protocol on 20 September 2002 and implemented it in domestic law with the acceptance statute dated 26 August 2008 (BGBl. II 2008, No. 23). The Federal Agency for the Prevention of Torture was established on 20 November 2008 by an Administrative Order of the Federal Ministry of Justice (Federal Bulletin, No. 182, p. 4277) and took up office on 1 May 2009.	National Agency for the Prevention of Torture (Wiesbaden only) Monitors at the airport are individuals paid by the church charity	N/A
EL	Law 3907/2011 transposing the Return Directive:Article 23 paragraph 6 of Law 3907/2011 appointed the Greek Ombudsman as the external monitoring mechanism for forced returns, and the Independent Authority carries out random checks at all levels of the process that follow the issuing of a decision for the return of a third-country national. The competence of the Ombudsman was fully activated with the issue of Joint Ministerial Decision 4000/4/57-xi (Government Gazette B 2870/24.10.2014) whereby the arrangements are specified for external monitoring of returns. The JMD provides for a stable flow of data from all competent services for forced re-turns and readmissions.	The Greek Ombudsman is mandated as the national mechanism for monitoring the return of third country nationals.	The Greek Ombudsman is an Independent Authority sanctioned by the Constitution of Greece of 6 April 2001 (Article 101A). It has been in operation since October 1, 1998 and provides its services free of charge
FI	Aliens Act 152b, Section 152b (1341/2014) Overseeing the enforcement of removals from the country: It is the duty of the Non-Discrimination	Non-Discrimination Ombudsman	The Non-Discrimination Ombudsman is an autonomous and independent authority, administratively connected to the Ministry of Justice

	Summary of the national legal provisions governing the forced-return monitoring mandate of relevant institutions	Institution(s) officially mandated to monitor forced returns	Place and general role in the national institutional context
	Ombudsman to oversee the enforcement of removals from the country at all their stages.		
HR	The Aliens Act stipulates that the Ministry of Interior will ensure monitoring of forced returns for which purpose it can make agreements with state bodies, international organisations or NGOs. Ombudsman Act: The general Ombudsman may at any time, without prior notice, inspect places where persons deprived of their liberty are located, places where persons with restricted freedom of movement are located and places where certain groups whose rights and freedoms the Ombudsman protects are located or reside Law on National Preventive Mechanism: According to this law general Ombudsman is authorised to perform unannounced visits to bodies or institutions and inspections of premises where persons deprived of their liberty are held Ombudsman for Children Act: The Ombudsman for Children has the right to access all the premises (institutions) and inspect the manner of caring for children who reside or are temporarily or permanently placed with natural and legal persons and other legal entities.	The official mandate to monitor forced returns resides with the Ombudsman office (as National Preventive Mechanism) and with the Ombudsman for Children, for monitoring return involving children. In practice, these two institutions monitor reception centres and pre-return phase. Croatian Legal Centre (HPC) is monitoring ROs in the in-flight phase and at the borders based on a 2-year agreement between the HPC and the MoI. HPC is the only institution monitoring flights; However, most of the monitoring done by HPC is also only during the pre-return phase as, they have very few flights to monitor.	General Ombudsman is the National Preventive Mechanism HPC is the NGO mandated to monitor forced return based on an agreement with MoI. It is the NGO that usually deals with issues regarding migrants and that provides legal help/advice to asylum seekers and aliens.
HU	Act II of 2007 on the Admission and Rights of Third-Country Nationals Art. 65 (9)	Office of the Prosecutor General. Office of the Prosecutor General is an independent body, supervising the legality of the execution of punishments and measures, and makes an annual report to the Parliament every year. It has a controlling function, and is an independent body from the government. The Office oversees the deportation procedure and	It should be explained here what the place of PG in the overall system is; i.e. to whom it reports, etc.

	Summary of the national legal provisions governing the forced-return monitoring mandate of relevant institutions	Institution(s) officially mandated to monitor forced returns	Place and general role in the national institutional context
		supervises the legality of the execution of the forced return operation. The institution has a legal protection function.	
IT	National legislation transposing the Return Directive	National Guarantor for the rights of persons detained or deprived of liberty	*N/A*
LU	National legislation transposing the Return Directive	Ministry of Foreign Affairs – Immigration Department	The Department of Integration of the Ministry of Foreign Affairs is the authority for all questions related to immigration, free circulation within the EU and also deals with applications for asylum. It is also responsible for organising the voluntary and forced returns of migrants. Since October 2019 it is also responsible for the reception centre facilities
LV	1) Section 50.7 of the Immigration Law; 2) Guidelines of forced return monitoring (issued by Ombudsman of the Republic of Latvia); 3) Agreement between the Ombudsman of the Republic of Latvia and the State Border Guard regarding cooperation in forced removal. The removal process shall be observed by the Ombudsman. The Ombudsman is entitled to involve associations or foundations in the observation of removal process, the purpose of operation of which is related to the observation of the process. Upon involving associations or foundations in the observation of the removal process, the Ombudsman shall evaluate the competence of the association or foundation for performing the relevant activity and shall agree on the stage of the removal process referred to in	Primarily, the Ombudsman of the Republic of Latvia, as well as associations or foundations if they are entitled by Ombudsman. Until now, the Ombudsman has not delegated and engaged any non-governmental organisation in the observation of forced expulsions	Ombudsman of the Republic of Latvia is independent in his or her activities and is governed exclusively by the law. No one has the right to influence the Ombudsman in the performance of his or her functions and tasks. The Ombudsman shall monitor closed-type institution, such as prisons, detention centres, psycho-neurological hospitals and other

	Summary of the national legal provisions governing the forced-return monitoring mandate of relevant institutions	Institution(s) officially mandated to monitor forced returns	Place and general role in the national institutional context
	Paragraph two of Section 50.7 Immigration Law, which the association or foundation shall be authorised to observe. The Ombudsman may involve one association or foundation in the observation of each stage of the removal process referred to in Paragraph two of Section 50.7. The Ombudsman may not involve an association or foundation in the observation of the removal process, which has violated the condition referred to in Paragraph four of this Section 50.7. The Ombudsman shall inform the State Border Guard regarding associations and foundations, which are authorised to observe the relevant stage of the removal process.		
MT	The Monitoring Board for Detained Persons ("MBDP" or "the Board") was established in 2007, "to act as the body of persons responsible for a National Preventive Mechanism for the prevention of torture, as provided for in the Optional Protocol to the United Nations Convention" (Legal Notice 266 of 2007). The Regulations provide further that the Board shall "satisfy itself as to the treatment of detainees, the state of detention centres premises and the administration of the detention centres". In 2012, the Regulations establishing the Board were revised to include the monitoring of "proceedings relating to the involuntary return of illegally staying third country nationals in accordance with the provisions of the Immigration Act and of the Common Standards and Procedures for Returning Illegally Staying Third Country Nationals Regulations.	Monitoring Board for Detained Persons	Monitoring Board for Detained Persons is bound by law to submit an annual report to the minister responsible for Home Affairs, which is laid down in parliament render such document public
NL	The mandate is arranged by the "legal regulation regarding the monitoring of forced return" (regeling van de staatssecretaris van Veiligheid en Justitie van 13 december 2013 / regeling toezicht terugkeer vreemdelingen)	Inspectorate of Justice and Security The Inspectorate of Justice and Security (Inspectie Justitie en Veiligheid, hereinafter IJenV) of the Dutch Ministry of Justice and Security (Ministerie van Justitie en Veiligheid, hereinafter JenV) monitors the situation of third-country nationals. Part of this is the supervision of the return of third-country nationals to their country	The Inspectorate of Justice and Security (Inspectie Justitie en Veiligheid, hereinafter IJenV) of the Dutch Ministry of Justice and Security (Ministerie van Justitie en Veiligheid, hereinafter JenV) reports to the Secretary of State (of Justice and Security).

	Summary of the national legal provisions governing the forced-return monitoring mandate of relevant institutions	Institution(s) officially mandated to monitor forced returns	Place and general role in the national institutional context
		of origin or another country where entry is guaranteed. This also includes the enforced repatriation and the return operation which is carried out in terms of that framework. This review framework contains the standards which the Inspectorate reviews in respect of this return operation in which departing third-country nationals are escorted by the Royal Military Constabulary (Koninklijke Marechaussee, hereinafter KMar) to their destination country. The mandate of the Inspectorate covers all types and phases of the return operation and there are no particularities in this respect. Where the monitor detects a situation in which the safety of the returnee, the staff, or possibly other passengers is seriously compromised, the monitor will inform the escort leader.	
NO	-	No mandate defined so far	-
PL	Art. 333. 7. Law on Foreigners of 12 December 2013 authorises the Minister of Interior Affairs to issue a regulation on informing NGO's about the return operations and the way of reporting on the conducted operations. REGULATION OF THE MINISTER OF INTERNAL AFFAIRS of 18 April 2014 ON THE PRESENCE OF REPRESENTATIVES OF NON-GOVERNMENTAL ORGANIZATIONS IN THE CONDUCT OF ACTIONS CONNECTED WITH THE LEADING OF A FOREIGNER TO THE BORDER OR TO THE AIRPORT OR SEASTATE OF THE COUNTRY OF COUNTRY specifies the details of the statutory right of NGO's. On the basis of this Regulation four organisations have applied to participate in the monitoring missions. Their representatives have been invited to the trainings of the monitors.	Various NGOs: The Rule of Law Institute, Fundacja Multiocalenie, Helsińska Fundacja Praw Człowieka, and the Centrum Pomocy Prawnej im. Haliny Nieć	All of the monitoring institutions are independent NGO's.

	Summary of the national legal provisions governing the forced-return monitoring mandate of relevant institutions	Institution(s) officially mandated to monitor forced returns	Place and general role in the national institutional context
	Monitors are following Guidelines concerning presence of the representatives of Non-Governmental Organisations participating in the return operations		
PT	Decree-Law 58/2012, of March 14th, amended by Decree-Law 146/2012, of July 12th Art. 180.º-A, par. (4), subpar. (c) of Act 23/2007, of July 4th, as amended by Act 29/2012, of August 9th Ministerial Order (MO) 11102/2014, of August 25th, (Official Gazette, Series II, of September 2nd) MO 10728/2015, of September 16th (Official Gazette, Series II, of September 28th)	General Inspectorate of Home Affairs – IGAI (Inspeção-Geral da Administração Interna) General mandate of IGAI is to ensure high level functions of audit, inspection and oversight regarding all entities, services and bodies which answer to, or whose activity is legally supervised or regulated by the member of the Government responsible for the area of home affairs, in particular to investigate all accounts of serious violations of citizens' fundamental rights.	IGAI is a State-directed administration service of selective control, characterised as an external and independent body, in a context of technical and operational autonomy, regarding the security forces and services comprised within the Ministry of Home Affairs.
RO	The general legal aspects related to monitoring of forced-returns are stipulated in the Government's Emergency Ordinance nr. 194/20011. It specifies that monitoring of forced-returns may be conducted by national or international organisations, or non-governmental organisations which carry out activities in the field of migration. -The national legislation specifically stipulates the fact that the reports which follow a monitoring mission shall be sent to the Romanian Ombudsman Institution. -The forced return monitoring activities are carried out within the framework of a "common procedure" agreed upon by all parties directly involved namely the General Inspectorate for Immigration, the General	Since 2011, the Romanian National Council for Refugees (CNRR), a non-governmental organisation and public utility foundation with over 20 years of expertise in the field of migration and asylum has been implementing projects aimed at monitoring the forced-return operations organised by Romanian authorities	Romanian National Council for Refugees (CNRR), a non-governmental organisation and public utility foundation.

	Summary of the national legal provisions governing the forced-return monitoring mandate of relevant institutions	Institution(s) officially mandated to monitor forced returns	Place and general role in the national institutional context
	Inspectorate of Romanian Border Police and the Romanian National Council for Refugees (as monitoring body)		
SE	The Swedish Migration Agency's mandate is specified in the agency's appropriation directions (and spending authorisation) stated by the Ministry of Justice (Förordning (2019:502) med instruktion för Migrationsverket). The directions stipulates that the Swedish Migration Agency is responsible for coordinating and implementation of monitoring of forced return operations according to Directive 2008/115/EC on common standards and procedures in Member States for returning illegally staying third-country nationals and Regulation (EU) 2016/1624 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.	Swedish Migration Agency (official mandate).	The Swedish Migration Agency is governed by the Swedish Ministry of Justice.
SK	Legislation transposing the Return Directive and Act no. 404/2011 Coll. of 21 October 2011 on the Residence of Aliens and on Amendments to Certain Acts, as amended	Ministry of Interior of SR in cooperation with NGOs or UNHCR	Ministry of Interior of the Slovak Republic is a central body of state administration

Source: Own compilation, based on replies to the Gaps and Needs survey developed in the framework of FReM III project.

It is worth noting that in most countries (see Table 3), the NMB reports to the Parliament and/or the Ministry of Interior, with fewer reporting to the Ministry of Justice.

Table 3: Institutions to which the National Monitoring Body reports, by country

	National Parliament	Ministry of Interior	Ministry of Justice	National Ombudsperson	Other	Total no. of reporting lines
AT	✓	✓				2
BE		✓				1
BG				✓		1
CH			✓		✓	2
CY	✓			✓		2
CZ	✓					1
DE	✓	✓	✓			3
EL	✓					1
FI	✓				✓	2
HR		✓				1
HU					✓	1
IT	✓	✓				2
LU					✓	1
LV		✓			✓	2
MT		✓				1
NL			✓		✓	2
NO					✓	1
PL					✓	1
PT		✓				1
RO		✓		✓		2
SE			✓			1
SK		✓				1

	National Parliament	Ministry of Interior	Ministry of Justice	National Ombudsperson	Other	Total no. of reporting lines
Total	**7**	**10**	**4**	**3**	**8**	

Source: own compilation; data collected from MSs that participated in the Gaps and Needs survey developed in the framework of the FReM III project. For the exact question included in the survey, see Annex 1.

4.2 Gaps and needs in the general monitoring mandate

Participating MSs reported various limitations in the general monitoring mandate, such as a general lack of funds for monitoring forced-returns (Bulgaria, Czech Republic, Poland), the limited legal mandate (Sweden, Germany) or the limited mandate of a monitor who can only act as an observer and cannot intervene.

5. National institutions' capacity to monitor human rights compliance during forced-return operations

5.1 Types of return operations recently monitored

In 2017, the most frequent means of transportation for monitored NROs were charter and commercial (scheduled) flights. Of the 13 MSs who answered this question, 12 reported that they had monitored NROs by charter flights and seven had monitored NROs by commercial flights. Other frequently used means of transportation were buses (six MSs), trains (four MSs), ferries (six MSs) or other means of transportation (five MSs). The range of transport used varies hugely between the MSs surveyed. As such, Germany, Hungary, Italy, and Luxembourg referred to charter flights as the sole means of transportation, whereas Latvia, Norway and Poland used up to six different means of transportation for monitored return operations in 2017 (Figure 1).

Figure 1: Types of monitored NROs that took place in 2017, by means of transportation, per country
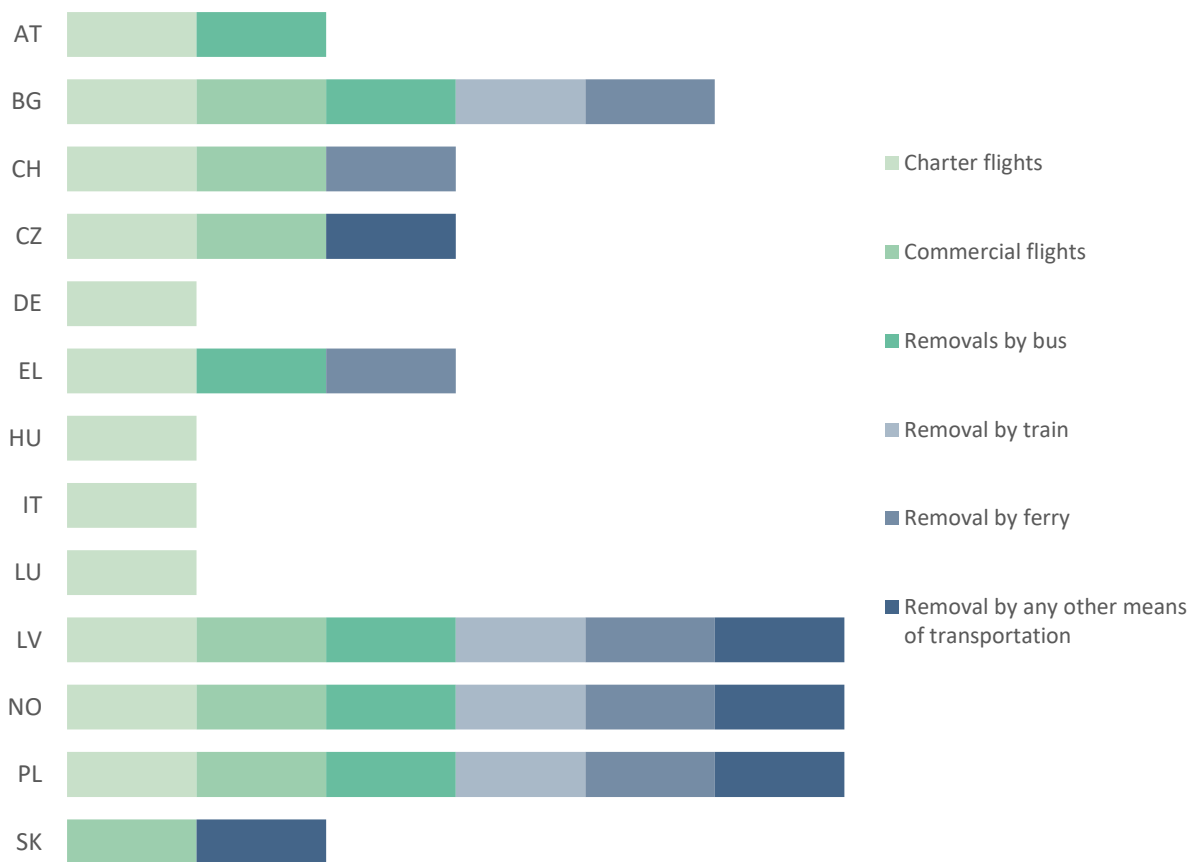
(NOTE: Multiple choice from 6 predefined options)

Figure 2 below displays the types of NROs carried out in 2018, by means of transportation. Flights were used by all 11 MSs who provided an answer to this question. All those who responded used commercial (scheduled) flights, whereas eight MSs indicated the use of charter flights. Buses, trains and ferries were used to a lesser extent; three MSs indicated the use of buses and trains, while four indicated that ferries were also used.

Figure 2: Types of NROs that took place in 2018, by means of transportation, per country

Legend:
- Charter flights
- Commercial flights
- Removals by bus
- Removal by train
- Removal by ferry
- Removal by any other means of transportation
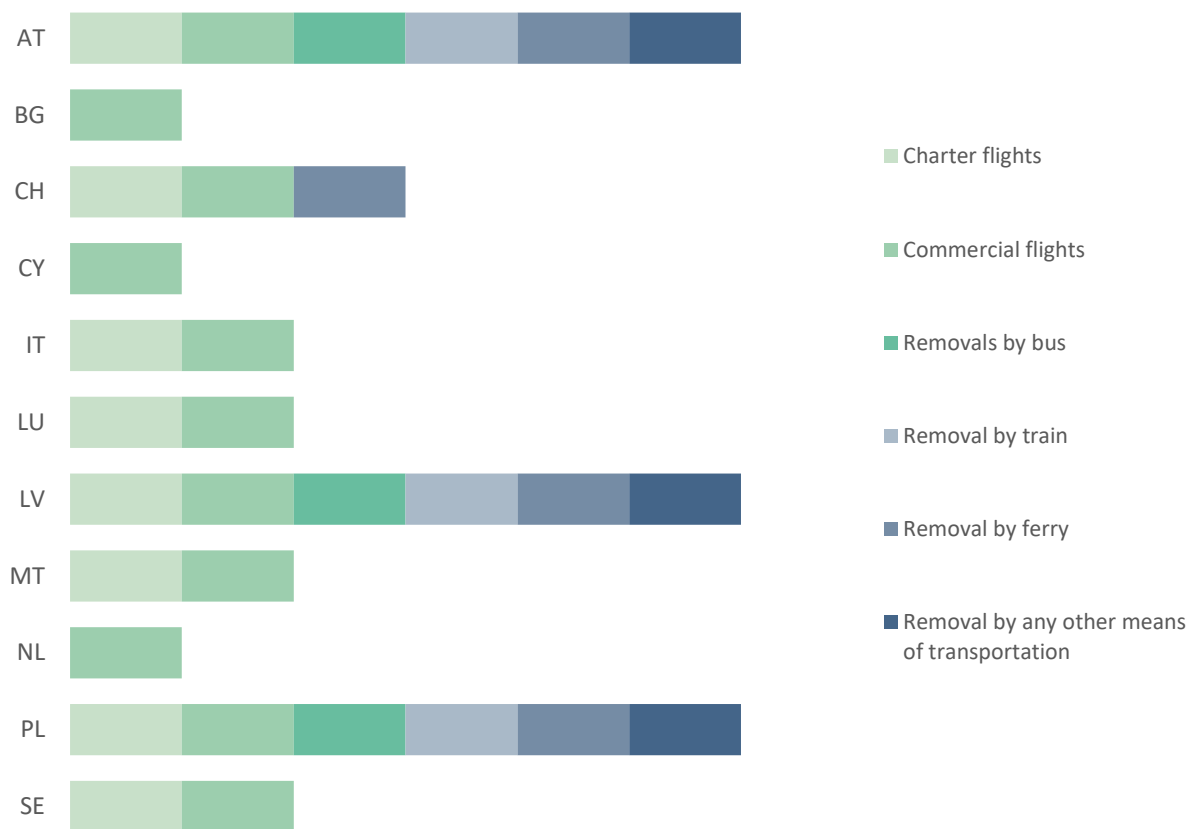
(NOTE: Multiple choice from 6 predefined options)

5.2 The resources of National Monitoring Bodies

The number of monitors working for NMBs varies between two (Bulgaria, Germany, Slovakia) and 25 (Italy) (Table 4). In addition, whether the contracted monitors work on a full-time or a part-time basis, as well as how much time they can allocate to forced-return operations, differed from one MS to another.

Table 4: Number of monitors working for the National Body monitoring forced-returns, per country (2019)

Country	No. of monitors	Further information regarding the number of monitors
AT	10	-
BE	7	-
BG	2	-
CH	15	- In addition to own monitoring staff, outside specialists (9 in total as of 2019) are deployed by the Commission in cases of forced repatriation monitoring - Outside specialists are deployed on the basis of their availability, location and according to the principle of rotation
CY	5	- Part-time monitors 3 officers work on the field and 1 senior officer is leading the unit - Only 2 have been fully trained
CZ	3	When the AMIF funding discontinued in 2019 one full-time employee moved to other areas of work (still within the NPM department)
DE*	2	All monitors work voluntarily and are supported by a full-time secretariat
EL	14	-
FI	4	All monitors work part-time as monitors and all are trained
HR	*No answer*	-
HU	3	-

Country	No. of monitors	Further information regarding the number of monitors
IT	25	• None of the monitors can devote their time fully to forced return monitoring operations. Rather, all of the monitors are engaged in other (monitoring) activities • 11 monitors come from the Regional Guarantor Bodies that are part of the National Monitoring Network of the National Guarantor • All monitors are trained
LU	12	• All monitors work voluntarily
LV	11	• All of the monitors received training • Four monitors are actively and regularly engaged in forced return monitoring
MT	4	• Two monitors are trained by ICMPD, FRONTEX and FRA, while another two are trained to monitor the Inland pre-departure phase
NL	10	• Two monitors work full-time. However, alongside monitoring forced return operations, they are engaged in other (monitoring) activities • Eight monitors are so-called external monitors who work on a part-time basis (self-employed)
NO	*No answer*	-
PL**	5	• All five monitors received training • All five monitors work on a full-time basis. However, monitoring activities are not included in their current working contracts • In addition to the five full-time monitors, monitors who are voluntarily participating in return operations are sometimes deployed
PT	5	-
RO	5	-
SE	3	• In 2018 and beginning of 2019 there was one additional monitor (in total 4 forced-return monitors)

Country	No. of monitors	Further information regarding the number of monitors
SK	2	-
Total	147	

Source: own compilation; data collected from MSs that participated in the Gaps and Needs survey developed in the framework of the FReM III project.

NOTES:

* Response from the National Agency for the Prevention of Torture.

** Response from the Rule of Law Institute.

5.3 Standardised profile of a forced-return monitor

In the majority of MSs surveyed, no specific forced-return monitor profile is in place and where there is one, the criteria the MSs use differ substantially. Twelve MSs answered that no standard profile exists, while ten MSs responded that in their national system, there is a standard profile. These ten were further asked to select from a predefined list all the criteria that fit a standard profile of a monitor. All of them selected previous work experience. Fewer selected that monitors needed to have a university degree or communication skills as relevant. Table 5 below gives an overview of the answers provided to a set of questions[17] on the standard profile of a monitor.

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[17] For the exact wording of the questions included in the survey, see Annex 1.

Table 5: Elements of a standard profile of a forced-return monitor, by country

Country	Previous work experience	University degree	Foreign languages at a working level	Communication skills	Resilience	Self-control	Other	Comments
AT	Social work in detention centres, voluntary return counselling, legal counselling of migrants & asylum seekers		✓		✓	✓		
BE								So far, this service is the only one in BE that has, by law, accreditation to monitor FRO's.
BG								
CH	Migration, Justice, Health, Police, Social field	✓	✓		✓	✓		
CY	Officers of the Ombudsman Office with human rights and human rights related experience.	At least a Bachelor's degree in Law or Social Sciences.	✓	✓	✓	✓	Professionalism, reliability, sensitivity	
CZ								
DE								
EL	Human Rights		✓	✓	✓			Monitors are Ombudsman permanent staff, at the level of senior investigator; special courses are provided to all monitors regarding forced returns

Country	Previous work experience	University degree	Foreign languages at a working level	Communication skills	Resilience	Self-control	Other	Comments
FI								
HR								
HU	Monitoring experience of deprivation of liberty in prisons, in jails	✓	✓	✓	✓	✓		
IT	Monitoring areas of deprivation of liberty from a specialised and independent public body at national or regional level			✓	✓	✓		
LU								
LV		✓	✓				Specially skills, e.g. worked with children	
MT			✓	✓		✓		
NL	Different work experience, e.g. as a policeman, Royal Marechaussee, but also a medical, psychological background.			✓	✓		Reporting skills	
NO								

Country	Previous work experience	University degree	Foreign languages at a working level	Communication skills	Resilience	Self-control	Other	Comments
PL	At least one year of experience of work with migrants.	Law/European Studies/EU Law	✓	✓	✓	✓	Completed a training organised by the Border Guard Headquarters	All of the RLI monitors fulfil this standard but this is just internal practical understanding of the qualities that the monitor should have.
PT								
RO	Migration/asylum/fundamental rights	Law/equivalent experience in the field of migration				✓		Out of the 5 monitors – 2 have been trained within the framework of FReM projects and have been nominated to the pool, while the other 3 monitors exclusively monitor national return operations/activities
SE								
SK	More than 10 years social work in detention centres, voluntary return counselling, assistance after release		✓	✓	✓	✓	Many years of experience, experience of integration	2 monitors have been trained within the framework of FReM projects and have been nominated to the pool and at the same time they are also national return monitors

Source: own compilation; data collected from MSs that participated in the Gaps and Needs survey developed in the framework of the FReM III project.

NOTES: multiple choice from a predefined list of options, with the possibility to insert text under: *Previous work experience*, *University degree* and *Other*. No respondent selected the option *Post-graduate degree* and therefore, it is not included in the table. For the list of questions included in the survey, see Annex 1.

With regards to sources of funding for the national FRM bodies, the results of the survey show that national forced-return monitoring is funded by a range of diverse sources, including EU-funding. Most respondents who answered this question (ten out of 21) declared that the main source of funding for their institution's monitoring activities comes from national budget funds specifically allocated for their institutions. In fewer countries (five out of 21), the main source of funding comes from an EU fund (such as the AMIF fund). Table 6 below shows the main sources of funding for forced-return monitoring in the countries surveyed.

Table 6: Main source of funding for forced-return monitoring activities for your institution, by country

Country	National Budget Specifically Allocated to a Given Institution	EU-Funding (e.g. AMIF)	Other	Comments
AT			✓	Fee per half day (up to 4h) or full day (up to 12h) plus refunding of travel expenses
BE			✓	The AMIF fully finances two full-time monitors. The other five, who work part-time as monitors, are paid by the NMB.
BG	✓			
CH	✓			
CY	✓	✓		
CZ			✓	From 01.11.2016 to 31.10.2019, the main source of funding was from AMIF. As of 1.11.2019 the activity will be funded by the national budget
DE	✓			
EL		✓		
FI		✓		
HR		✓		
HU	✓			

Country	National Budget Specifically Allocated to a Given Institution	EU-Funding (e.g. AMIF)	Other	Comments
IT		✓		
LU			✓	Voluntary
LV	✓			
MT	✓			
NL	✓			
NO			✓	Not decided on
PL			✓	Reimbursement of travel costs by the Border Guard
PT				
RO			✓	When, following the risk analysis, it was considered necessary, monitoring was also carried out outside the framework of the AMIF funded projects (gap between projects), the cost being covered by the NMB.
SE	✓			
SK	✓			In year 2017 financed only by NGO budget, from 2018 by national budget
Total	10 responses (specific budget)	5 responses (AMIF)	7 (other type of budget)	

Source: own compilation; data collected from MSs that participated in the Gaps and Needs survey developed in the framework of the FReM III project.

NOTES: multiple choice from a predefined list of options, with the possibility to insert text under *Other*. For the list of questions included in the survey, see Annex 1.

Figure 3: What types of costs are budgeted for in your institution's yearly budget for forced-return monitoring?
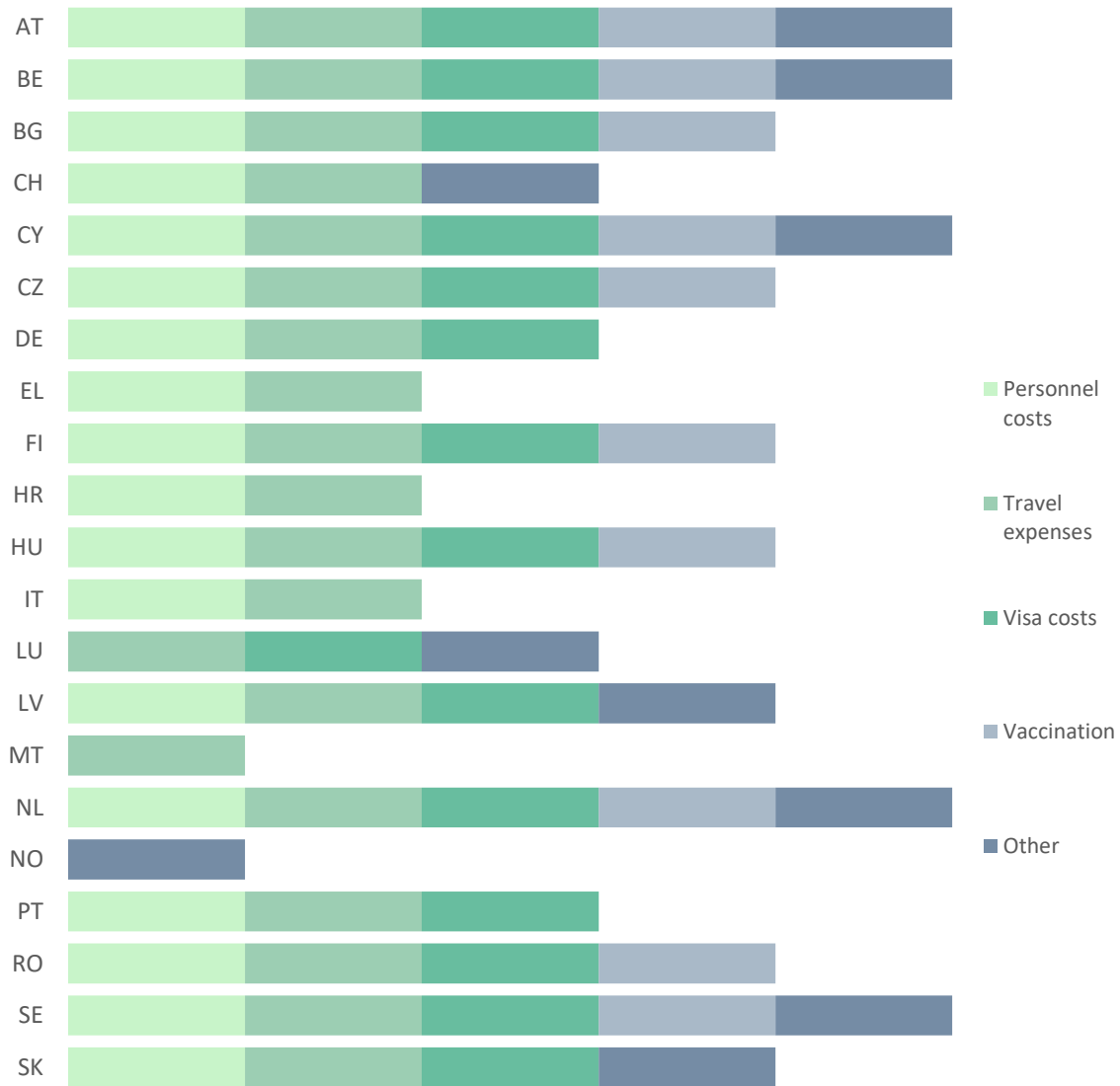
(NOTES: Multiple choice from 5 predefined options, with the possibility to include text under Other. For exact question included in the survey, see Annex 1.)

For nearly all of the countries surveyed, personnel costs were included in the institution's yearly budget for forced-return monitoring (Figure 3 above). Only three MSs indicated that the yearly budget does not include this cost. Furthermore, with one exception, every country budgets for travel expenses. In addition, in 15 of the 21 MSs who answered this question, visa costs were also included in the institutional budgets. Vaccinations were less frequently accounted for with only half of the MSs' institutions including it in their budget. Other costs budgeted for included:

- Technical and electronic equipment, infrastructure;
- Interpreters;
- Diplomatic passports and access pass to airports;
- Flexible use of funds, i.e. a global budget with the NMB deciding how to use it;
- Travel insurance;
- Annual training or meeting for sharing experiences;
- Accommodation.

The mechanisms for payment of monitoring activities works roughly at two levels, as shown by respondents' answers[18]. The first is at the individual level, with reimbursement for costs being given directly to monitors or employees. The other is at the institutional level and the framework of national rules and legislation governing payment mechanisms in each country. In the former, it became evident that in all cases, costs are either covered upfront or monitors are reimbursed after a particular return operation. Commonly and more specifically, these costs were associated with travel activities, i.e. flight or tickets, accommodation, visa, meals. In most cases, travel costs and associated expenses were either covered by the ministry responsible or by the monitoring institution directly (Austria, Bulgaria, Cyprus, Finland, Greece, Hungary, Italy, Latvia, the Netherlands, Portugal and Switzerland).

Respondents' suggestions for FRM costs

Respondents were further asked to provide information regarding the types of costs they thought should be included in their institutions' budgets. Alongside the costs that are accounted and budgeted for, there are other costs that monitors perceive as relevant to their work which they thought should be included in the annual budget. For example, in relation to staff costs, the need to differentiate between rates was mentioned. In particular, monitors suggested having different rates for so-called extra costs, such as weekend and night hours or overtime.

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[18] For the exact wording of the question included in the survey, see Annex 1.

5.4 Training of forced-return monitors

This section provides insight into various topics related to the national training available to forced-return monitors. Respondents were first asked whether their respective institutions provide training to forced-return monitors. Survey participants who said that their institution does provide training, were then asked a further series of questions related to the types of training offered, the resources used for delivering training and were also asked for their suggestions for improving the methods of training currently used.

Table 7 below shows the countries where NMBs provide training for monitors, indicating whether the training offered is theoretical, practical or includes elements of both. Around half of all survey participants (12) indicated that training is provided to forced-return monitors. In every case bar one, respondents indicated that this included both theoretical and practical training.

Table 7: Does your institution provide training to forced-return monitors? If yes, what type? (e.g. theoretical, practical)

Country	Training	Theoretical training	Practical training
AT	Yes	✓	✓
BE	Yes	✓	✓
BG	No		
CH	Yes	✓	✓
CY	Yes	✓	
CZ	No		
DE*	No		
EL	Yes	✓	✓
FI	No		
HR	No		
HU	No		
IT	Yes	✓	✓
LU	Yes	✓	✓

Country	Training	Theoretical training	Practical training
LV	Yes	✓	✓
MT	No		
NL	Yes	✓	✓
NO	No		
PL	No		
PT**	No		
RO	Yes	✓	✓
SE	Yes	✓	✓
SK	Yes	✓	✓
	12 provide FRM training	12 provide theoretical training	11 provide practical training

Source: own compilation; data collected from MSs that participated in the Gaps and Needs survey developed in the framework of the FReM III project.
NOTES:
* Response from the National Agency for the Prevention of Torture.
** Response from the Rule of Law Institute.
For the list of questions included in the survey, see Annex 1.

Regarding the content of the training provided to monitors by their institution, respondents indicated the following topics:

- *Introduction to return operations, including types and phases of return operations*;
- *Fundamental rights applicable in return operations*;
- *Specific rights and needs of vulnerable persons*;
- *The role, mandate and responsibilities of monitors.*

Moreover, in roughly half the countries surveyed (Figure 4 below), the training course *Theoretical and Practical Introduction to the Use of Force and Means of Restraint,* including *the Principle of Proportionality* was offered. Additionally, training courses on *Techniques and Tools of Monitoring* were provided in a majority of countries (nine of the 11 who answered this question). Eight out of the 11 MSs stated that courses on *Drafting and Submitting Monitoring Reports* and *How to Follow Up on Monitoring Reports* were provided. The training on *Simulation of Real Situations* was offered in eight

MSs. Training on *National Complaint Mechanisms* and *Psychological Preparedness* were only provided in four and three MSs respectively, out of 11 for which a response was provided.

Figure 4: What are the topics covered by the training?

- EU return acquis
- Introduction to return operations, including types and phases of return operations.
- Fundamental rights applicable (at risk) in return operations
- Specific rights and needs of vulnerable persons
- Theoretical and practical introduction to the use of force and means of restraint – also the principle of proportionality
- The Role, Mandate & Responsibilities of Escorts
- The Role, Mandate & Responsibilities of Monitors
- Techniques and tools of monitoring
- Drafting and submitting monitoring reports
- Follow-up of monitoring reports/
- National complaint mechanism
- Simulations of real situations
- Psychological preparedness
- Other

(NOTES: Multiple choice from 14 predefined options, with the possibility to include text under Other. For the exact wording of the question included in the survey, see Annex 1.)

Of the 11 survey participants who answered that their institution provides FRM training, four indicated that a manual on forced-return was used in the training, while seven responded that no manual was provided. Among the seven, some indicated that a manual was needed, emphasising that it would be useful for the training their institution provided. One noted that "in order for the national systems for monitoring forced return to be comparable at a European level, the basic terms of reference for monitors and their basic knowledge should be common".

When asked whether it is required for a monitor to be trained in forced-return monitoring before being deployed to an NRO, 12 respondents indicated that it was a requirement, while six responded that it was not. Of the 12, two said that there is a set schedule for training monitors (once a year or before the first deployment), while the other ten replied that no such schedule exists for the training of monitors.

Six respondents reported that apart from training on forced-return monitoring other types of training are available, such as: escort officer training, security training (both available in Sweden), peer-to-peer exchange (available in the Czech Republic, Greece and Luxemburg) and legal training (provided in Sweden).

Respondents' suggestions for national training

Respondents were further asked about the components they thought would improve the training experience. One of the most important elements appeared to be the provision of (more) practical training (Austria, Romania, Sweden, Latvia and Italy), in particular practical training on the use of force and means of restraint. Scenario exercises were thought to be a good way of practicing these issues. Another suggestion for improving the training included report writing and drafting skills. Generally, meetings that allow for discussion and for sharing experiences appeared to be a greatly welcomed proposition. In particular, respondents expressed the wish for both facilitated exchanges between member states, as well as including more national perspectives on legislation(s) and legal examples and national practices (Sweden, Finland, Greece and Hungary). Other ideas for improvements include: training on human rights, training in participating in expulsions, training in identifying vulnerabilities and specialised refresher trainings.

Three respondents mentioned that monitors from their countries attended the FReM training. One respondent mentioned that this training is a good basis for national training on monitoring forced-returns.

5.5 Gaps and needs regarding institutional capacity for monitoring forced-returns

At the end of each major section of the survey, respondents were asked (in two open-ended questions) to identify, in their own words, the institutional gaps and needs in a particular area of forced-return monitoring. Two major themes were identified with regards to the limitations of institutional capacity and capabilities to monitor human rights compliance in forced-return operations. First, respondents from seven MSs mentioned the limited amount of funding available. One mentioned the lack of permanent funding for monitoring forced-returns, while another indicated that monitoring forced-returns in their country is done on a voluntary basis.

Second, and in some cases related to the limited funding, the number of (operational) monitors was mentioned by respondents from five MSs. The fact that monitors work on a part-time basis on monitoring forced-returns was mentioned by two other respondents.

Third, respondents from three MSs mentioned that the lack of adequate and sufficient training was a clear institutional limitation. Alongside these limitations, other issues raised were:

- The extent of the mandate, e.g. monitors not being involved in activities taking place in the reception facilities or monitors not present in all return operations;
- Inter-institutional communication or communication with the monitors.

In order to increase the institutional capacity of NMBs, respondents recommend the following:

- Increase in (permanent) funding (respondents from six MSs);
- Provision of training (respondents from four MSs);
- Increase the number of monitors (four MSs);
- Establish an adequate profile of a monitor (mentioned by respondents from two MSs);
- Increase the actual number of the operations monitored (mentioned by respondents from two MSs);
- Enhance the legal mandate of monitors to perform their respective (monitoring) work;
- Better protection of the rights of monitors;
- Better communication between the enforcing institution and the NMB, including through strengthened partnership agreements that determine long-term cooperation in the field of return monitoring.

6. Preparedness and deployment of monitors

6.1 Deployment of monitors

Regarding the deployment of monitors, one can theoretically distinguish between legal provisions (mandates) and established practices. In more than half of the countries surveyed (15 out of the 22), there is no legal provision stipulating that all return operations have to be monitored (Table 8 below). In only three of the countries (Bulgaria, Hungary and the Netherlands) there is such a legal provision. However, in four other countries, there are legal provisions stipulating that monitoring particular types of return operations is mandatory (Austria, Belgium, Luxemburg and Norway).

Table 8: Summary of legal provisions and established practice for monitoring ROs, by country

Country	Legal provision to monitor all ROs?	Even if the monitoring of all ROs is not covered by law, is there an established practice to monitor all ROs?
AT	Certain types only: ROs by charter flights (air) or by charter buses (land)	No
BE	Certain types only: Special flights, families with children	Certain types only: Special flights, families with children"
BG	Yes	-
CH	No	Yes, but certain types only: ROs by charter flights
CY	No	No
CZ	No	No
DE	No	No
EL	No	No
FI	No	No
HR	No	No
HU	Yes	-
IT	No	-

Country	Legal provision to monitor all ROs?	Even if the monitoring of all ROs is not covered by law, is there an established practice to monitor all ROs?
LU	Certain types only: ROs by charter flights or by commercial flights	No
LV	No	No
MT	No	No
NL	Yes	-
NO	Certain types only: not (yet) specified	No
PL	No	No
PT	No	No
RO	No	Certain types only: decision making on which RO will be monitored in general, as well as until which phase, is exclusively done by the Romanian National Council for Refugees
SE	No	No
SK*	No	No

Source: own compilation; data collected from MSs that participated in the Gaps and Needs survey developed in the framework of the FReM III project.

NOTES: simple choice from a predefined list of options, with the option to insert text if "Certain types only" was selected. For the list of questions included in the survey, see Annex 1.

* In Slovakia, monitors are informed about all return operations and it depends on their flexibility if monitoring will take place or not.

In some of the countries (eight out of the 14 for which a specific answer was provided), the national return enforcing institution informs the NMB about an upcoming return operation one to four days in advance (Bulgaria, Cyprus, Czech Republic, Hungary, Luxembourg, Malta, Portugal and Slovakia). In two countries this information can be communicated a week in advance, while in another five countries, the information is shared between two and four weeks in advance (Austria, Belgium, Germany, Switzerland and Latvia) (Table 9 below).

Table 9: How much time in advance of a forced-return operation does the national return enforcing institution inform the Forced-Return Monitoring body about the upcoming return operation?

Country	Calendar days	Comments
AT	10-15 days	For planned ROs
BE	3-4 weeks	3-4 weeks schedule received every day
BG	2 or 3	
CH	3-4 weeks	Usually 3-4 weeks in advance, but as early as possible. The NCPT is directly informed via SwissRepat of upcoming return operations. The NCPT Secretariat then informs the monitors
CY	1-2 days	For escorted forced-return operations the Ombudsman requested at least 10 days prior notice from the Police
CZ	2-3 days	Usually 2-3 days in advance. For ROs where more preparation is needed (e.g. visa, scheduled flights etc.), the office is notified approximately 2-3 weeks in advance. This practice has been arranged on an informal level, as it is not specified in the law
DE	1-2 weeks	
EL	-	It varies: there are NROs planned annually, re-admission operations planned weekly and bus operations planned weekly
FI	-	Not specified in the legislation; it can be weeks in advance, the day before or not at all (very rarely)
HR	-	Few days
HU	1-2 days or 8 days	It depends on the case: 1 or 2 days before or 8 days before the operation
IT		2 days on average for commercial flights, a week or less for charter flights
LU	3 days	
LV	1-2 weeks	The regulatory framework does not set a time limit for informing, but in practice the State border guard informs the Office 1-2 weeks in advance.
MT	2 days	
NL	7 days	-
NO	-	-

PL	-	According to the legislation, information should be shared no later than: - 7 days before the operation - 24 hours before the operation that is being scheduled within the next 48 hours This information should be sent by e-mail to all 4 NGO's that are trained in monitoring return operations.
PT	1 or 2 days	
RO	-	The national legislation specifies that the General Inspectorate for Immigration shall provide information related to return operations and ensure that the representatives of the monitoring organisation are able to observe how these activities are carried out. The Common Procedure states that the General Inspectorate for Immigration shall notify the CNRR with regard to all return operations organised on the territory of Romania. There is a specific form agreed upon, which includes the following information: date of departure, route, flight number, country of destination, citizenship of the returnee, if the person is an adult or an unaccompanied minor, gender, if the person is assessed as being vulnerable and/ or with known health problems
SE	-	General information is provided well in advance of the return operation. The more detailed information, including information about preparatory talks, is provided directly to the monitor only a couple of days in advance.
SK	3-4 days	

Source: own compilation; data collected from MSs that participated in the Gaps and Needs survey developed in the framework of the FReM III project.
NOTE: For the exact wording of the question included in the survey, see Annex 1.

The main way of communicating information about upcoming forced-return operations between the national return enforcing institution and the NMB is by email (Austria, Belgium, Romania, Portugal, Bulgaria, Finland, Poland, Sweden, Germany, Greece, Slovakia, Latvia, Malta, Cyprus, Czech Republic, Croatia, Luxembourg, Italy). In some cases, as well as email, information is communicated by telephone (Belgium, Romania, Sweden, Germany, Malta, Czech Republic, Luxembourg) or (tele)fax (Romania, Greece and Cyprus).

The data regarding the content of the information sent to the NMB about upcoming forced-return operations reveals that in all the countries surveyed and, in every case, the national return enforcing institution provides the *date and time of the return operation.* In the vast majority of MSs, the monitors also receive information about *the country(ies) of return* (19 countries), *the ports of departure* (18 countries), *returnees' country of origin* (17 countries) and *the number of returnees* (17 countries).

Fewer national return enforcing institutions communicate *stopover information* (14 countries). By comparison, information about the *necessary travel documents* (9 countries*)* and *any forms of vulnerability of the returnee*(s) (7 countries) is rarely provided (Figure 5 below).

Figure 5: What is the content of the information in the first notification that is sent by the national return enforcing institution to the Forced-Return Monitoring Body regarding upcoming forced-return operations?
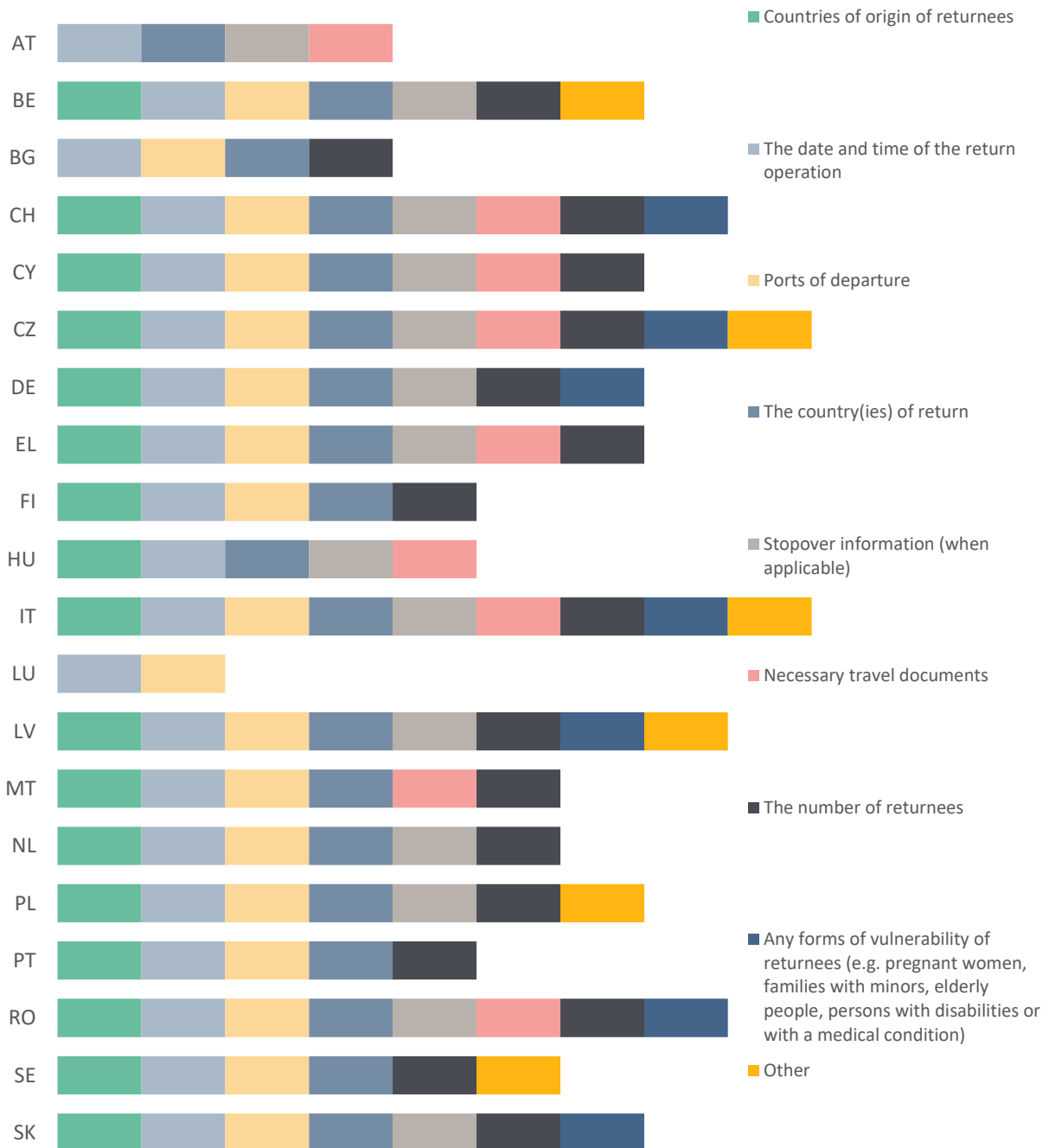
(NOTES: Multiple choice from 9 predefined options, with the possibility to include text under Other. For the exact wording of the question included in the survey, see Annex 1.)

For 12 countries in the survey, there is no set time-frame for the NMB to respond to the return enforcing institution (Belgium, Portugal, Bulgaria, Finland, the Netherlands, Sweden, Switzerland, Germany, Latvia, Norway, Czech Republic and Italy). However, eight countries (Austria, Cyprus, Greece, Hungary, Luxembourg, Malta, Poland and Slovakia) indicated having a set time frame. The time frames specified for responding are listed below (Table 10):

Table 10: Time frame for the response of the Forced-Return Monitoring body to the return institution

Country	
AT	Within one week
CY	Normally 24-48 hrs
EL	From 5 to 20 days depending on the means of transportation involved
HU	usually 2-3 days
LU	as fast as possible (within 72 hours)
MT	As early as possible
PL	If the notice has been sent 7 days before the operation, the response of the monitoring institution should be sent at least 5 days before the scheduled operation. If the notice has been sent 48 hours before the operation, then the monitoring institution has 12 hours to respond.
SK	Usually 1 day

Source: own compilation; data collected from MSs that participated in the Gaps and Needs survey developed in the framework of the FReM III project.

NOTE: simple choice from a predefined list of options, with the possibility of inserting text if the option "*Certain types only"* was selected. For the exact wording of the question included in the survey, see Annex 1.

Decision-making authority on the deployment of monitors

The decision-making authority on the deployment of monitors varies from country to country. (Table 11 below). Whereas in some countries only one decision-making authority exists (13 of the MSs), in others, authority can be shared across two (ten of the MSs) different types of institutions. As such, in ten countries, the *Head of Unit* constitutes the decision-making authority (Cyprus, Czech Republic, Hungary, Italy, Luxembourg, Latvia, Malta, the Netherlands, Portugal and Sweden). The *Ombudsperson* makes the decision regarding the deployment of monitors in five countries (Bulgaria, Cyprus, Greece, Italy and Latvia). In Belgium, Croatia, Czech Republic, Finland, Germany, and Slovakia the monitor has the power to make the decision on their own deployment. Other relevant parties that were mentioned

by the country representatives surveyed were: the coordinator (Austria, the Netherlands and Romania); the President or a Director of the Foundation (Poland); the Ministry of Justice (Germany); or staff in charge at the Secretariat and the Head of Unit (Switzerland).

Table 11: Who within the Forced-Return Monitoring body has the authority to make the decision to deploy monitors?

Country	Type of NMB	Decision-making authority in the deployment of monitors?			
		Monitor him/herself	Ombuds-person	Head of Unit	Other
AT	NGO				✓
BE	Executive branch of government	✓			✓
BG	Ombudsperson		✓		
CH	NPM				✓
CY	Ombudsperson		✓	✓	
CZ	Ombudsperson	✓		✓	
DE	NPM	✓			✓
EL	Ombudsperson		✓		
FI	Ombudsperson	✓			✓
HR	Ombudsperson, NGO, NPM	✓			✓
HU	Office of the Prosecutor			✓	
IT	NPM		✓	✓	
LU	Executive branch of government			✓	
LV	Ombudsperson		✓	✓	
MT	NPM			✓	
NL	Executive branch of government			✓	✓
NO					✓
PL	NGO				✓
PT	Executive branch of government			✓	
RO	NGO				✓
SE	Executive branch of government			✓	✓
SK	NGO, Executive branch of government	✓			

Source: own compilation; data collected from MSs that participated in the Gaps and Needs survey developed in the framework of the FReM III project.

NOTES: Data on the decision-making authority received through a multiple-choice question (from 4 predefined options, with the possibility to include text under *Other*). For the exact wording of the question included in the survey, see Annex 1.

Criteria for decisions on monitoring specific operations

The decision on whether to monitor a specific operation takes account of a number of factors. In the survey, respondents were given the option to select the *vulnerabilities of returnees* (relevant in 15 countries) and the *country of return* (selected by 13 respondents), as well as the option to fill in further criteria in the *Other* box as seen below in Table 12). While the vast majority of monitoring decisions are based on the vulnerabilities of returnees, in only a few MSs does the enforcing institution share this information with the NMB when it first notifies it of upcoming return operations. (As shown in figure 5 on page 55).

Table 12: What criteria are used to decide whether to monitor a specific operation?

Country	Country of return	Vulnerability of returnees (e.g. medical conditions)	Other	Information on returnees' vulnerability shared by enforcing institution when notifying NMB about upcoming returns*
AT	✓		• Language skills	No
BE	✓	✓	• Previous return attempts • Criminal background of the returnee • Behaviour of returnee in detention centre	No
BG		✓		No
CH	✓	✓	• Generally all forced return operations by charter flights are monitored	Yes
CY	✓	✓	• Availability of resources (monitors)	No
CZ	✓	✓	• Availability of resources (time, finances)	Yes
DE	✓	✓	• Availability of time (dates of RO)	Yes

Country	Country of return	Vulnerability of returnees (e.g. medical conditions)	Other	Information on returnees' vulnerability shared by enforcing institution when notifying NMB about upcoming returns*
EL	✓	✓		No
FI	✓	✓	• Expected resistance to removal • History of interrupted removal(s) (due to resistance)	No
HR				No
HU	✓		• Time-limit of the request itself (due to permission of the Prosecutor General of Hungary, which is needed)	No
IT	✓	✓		Yes
LU	✓		• Means of return	No
LV		✓	• Willingness of returnee to return • Cooperation of the returnee with the representatives of the State Border Guard	Yes
MT			• Availability of resources	No
NL		✓	• Risk assessment	No
NO			*Not decided on*	*No info provided*
PL			• Availability of resources (time) • Willingness of the monitor	No
PT		✓		No

Country	Country of return	Vulnerability of returnees (e.g. medical conditions)	Other	Information on returnees' vulnerability shared by enforcing institution when notifying NMB about upcoming returns*
RO	✓	✓	• Means of return	Yes
SE	✓	✓	• Children • Previous failed returns • Numbers of returnees in the operation	No
SK		✓		Yes
Total	13 countries	15 countries		In 7 countries information on returnees is shared by enforcing institution when notifying NMB

Source: own compilation; data collected from MSs that participated in the Gaps and Needs survey developed in the framework of the FReM III project.

NOTES: Data is drawn from: 1) a multiple-choice question with a predefined list of 3 options – *Country of return*, *Vulnerability of returnees* and *Other*, with the option to add text under *Other*; 2) the data from figure 5 to fill in the column about returnees' vulnerabilities. For the exact wording of the questions included in the survey, see Annex 1.

*This refers to the first communication on an upcoming RO shared by the return enforcing institution with the NMB.

In most countries (15 out of 22), there are no specific criteria regarding the number of monitors assigned to a return operation. Seven respondents mentioned that one monitor is usually assigned to a return operation, although in theory there can be several monitors (Table 13 below).

Table 13: Are there any specific criteria regarding the number of monitors assigned to a return operation?

Country	Criteria regarding the number of monitors assigned to a RO?	Criteria assigning a specific number of monitors to a RO:	Number of monitors assigned to an operation
AT	No		• One
BE	Yes	• An attempt is made to always deploy 2 monitors, but in practice only one AIG monitor is deployed (if it is a monitoring mission until take off)	• Theoretically, there are always 2 monitors, but in practice only one monitor is deployed
BG	No		
CH	Yes	• Depends on the number of returnees: from up to 12 returnees, two monitors are engaged • During the pre-departure phase (most critical phase) 3 monitors are regularly in the field	• 1 to 3 monitors (depending on the number of returnees)
CY	Yes	• Depends on the number and gender of returnees	• Usually one monitor for up to 4 returnees of the same gender
CZ	No		
DE	No		
EL	Yes	• Depends on the number of returnees, the number of departure points involved and the availability of monitors	
FI	No		
HR	No		

Country	Criteria regarding the number of monitors assigned to a RO?	Criteria assigning a specific number of monitors to a RO:	Number of monitors assigned to an operation
HU	Yes	• Language skills • 1 monitor is assigned for one return operation	One
IT	No	• A minimum number of monitors to be deployed at a return operation is 2	
LU	No		
LV	No		
MT	No		
NL	No		
NO	No		
PL	Yes		One
PT	No		One
RO	No		
SE	No		
SK	Yes		One

7 countries: Yes, criteria on the number of monitors per RO exist;
15 countries: No, there are no criteria for the number of monitors per RO.

Source: own compilation; data collected from MSs that participated in the Gaps and Needs survey developed in the framework of the FReM III project.
NOTE: For the exact wording of the question included in the survey, see Annex 1.

Gaps and needs in the deployment of monitors to the field

Respondents indicated that an important gap in the process of deploying monitors was the lack of communication between the national return enforcing institution and the NMB[19]. In particular, they mentioned that people are often late in communicating and that there is no consistent channel for communicating information about future missions. In addition, the information that is sent lacks detail (reported by respondents from four MSs) and that more information should be included.

Another gap in the process is the short-notice given regarding upcoming operations. The need for adequate notice is essential to properly prepare for a return operation. Respondents from five MSs mentioned that they lacked the time to arrange and organise the mission properly. Other issues outlined by respondents included the:
-   Lack of or a limited legal mandate to monitor (e.g. the monitor cannot leave the airplane once it has landed in the country of return);
-   Low number of monitors (compared with the number of operations);
-   Lack of resources (including funding) for the actual deployment of monitors;
-   Lack of coordination (e.g. where monitors are part of various organisations mandated to monitor forced return, no organisation has the full picture of monitoring) and
-   Long working hours on the part of the monitors.

Respondents' suggestions to improve the deployment of monitors

To address some of the issues mentioned above, respondents suggested:

-   Improved and more timely communication between the return enforcing institution and the NMB;
-   Increased number of monitors;
-   Improved legal mandate to monitor;
-   Increased funding (including increased flexibility of NMBs to manage funds and logistics for deploying monitors to the field);
-   Increased coordination between relevant organisations (e.g. reinforcing a national monitoring network).

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[19] This was also mentioned by respondents to the survey on the current functioning of the pool of forced-return monitors within Frontex. Like the Gaps and Needs survey, the Pool Assessment survey was implemented as part of the FReM III project.

6.2 Preparedness of monitors

As stated previously, the first notification to the forced-return monitoring body about a return operation includes several different types of information (see Figure 5 on page 55). The survey data shows that across the different countries, the type of information monitors receive about the returnees *before* a particular return operation is very similar (Figure 6 below). In most countries (15 out of 20 MSs), monitors receive the following information: (1) the number of returnees, (2) the countries of return, (3) the countries of origin of the returnees, and (4) any form of vulnerabilities of the returnees. In addition to these details, in Sweden monitors also receive information about returns that have previously failed. In Latvia and Hungary, monitors receive information about returnees' health condition and in Latvia[20] monitors are also informed whether the returnee agrees to the removal or not.

Figure 6: What type of information do monitors receive about the returnees (before a particular return operation)?

	No of returnees	Countries of return	Countries of origin of returnees	Any form of vulnerability	Other
AT	No of returnees	Countries of return	Countries of origin of returnees	Any form of vulnerability	
BE	No of returnees	Countries of return	Countries of origin of returnees	Any form of vulnerability	Other
BG	No of returnees	Countries of return	Countries of origin of returnees		
CH	No of returnees	Countries of return	Countries of origin of returnees	Any form of vulnerability	
CY	No of returnees	Countries of return	Countries of origin of returnees	Any form of vulnerability	
CZ	No of returnees	Countries of return	Countries of origin of returnees	Any form of vulnerability	
DE	No of returnees	Countries of return	Countries of origin of returnees	Any form of vulnerability	
EL	No of returnees	Countries of return	Countries of origin of returnees	Any form of vulnerability	
FI	No of returnees	Countries of return	Countries of origin of returnees		
HU	No of returnees	Countries of return	Countries of origin of returnees	Any form of vulnerability	
IT	No of returnees	Countries of return	Countries of origin of returnees	Any form of vulnerability	
LU	No of returnees	Countries of return	Countries of origin of returnees	Any form of vulnerability	
LV	No of returnees	Countries of return	Countries of origin of returnees	Any form of vulnerability	Other
MT	No of returnees	Countries of return	Countries of origin of returnees	Any form of vulnerability	
NL	No of returnees	Countries of return	Countries of origin of returnees	Any form of vulnerability	
NO	Other				
PL	No of returnees	Countries of return	Countries of origin of returnees		
PT	No of returnees	Countries of return	Countries of origin of returnees		
SE	No of returnees	Countries of return	Countries of origin of returnees	Any form of vulnerability	Other
SK	No of returnees	Countries of return	Countries of origin of returnees	Any form of vulnerability	

(NOTE: Multiple choice from 5 predefined options, with the possibility to include text under Other)

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[20] Besides information about returnees' health monitors are also informed whether the person is cooperating with State Border Guard and if they are willing to return to their country of origin (i.e. if they have explicitly stated that they do not wish to cooperate and will resist or if they have said that they are willing to return (this might be applicable in cases when for some reason voluntary return is not possible, but the person is willing to return)

With the exception of two countries, assigning monitors to specific forced return operations takes into account monitors' availability to participate (Figure 7 below). Knowledge of the relevant language/s is a requirement for particular return operations in Austria, Cyprus, Hungary, the Netherlands, Poland and Portugal. The returnee's gender is another factor that is taken into account in Cyprus, Italy, Latvia Luxembourg, Portugal and Switzerland. The vulnerability of returnees is mentioned by respondents from the Czech Republic, Latvia and Portugal. Other relevant criteria for assigning monitors to a particular operation are: the "level of security training in relation to country of return" (Sweden); "the proximity of their home to the departure place" (Switzerland); the "complexity of operation" i.e. the number of returnees (Luxembourg).

Figure 7: On what criteria are forced-return monitors assigned to a specific forced-return operation?
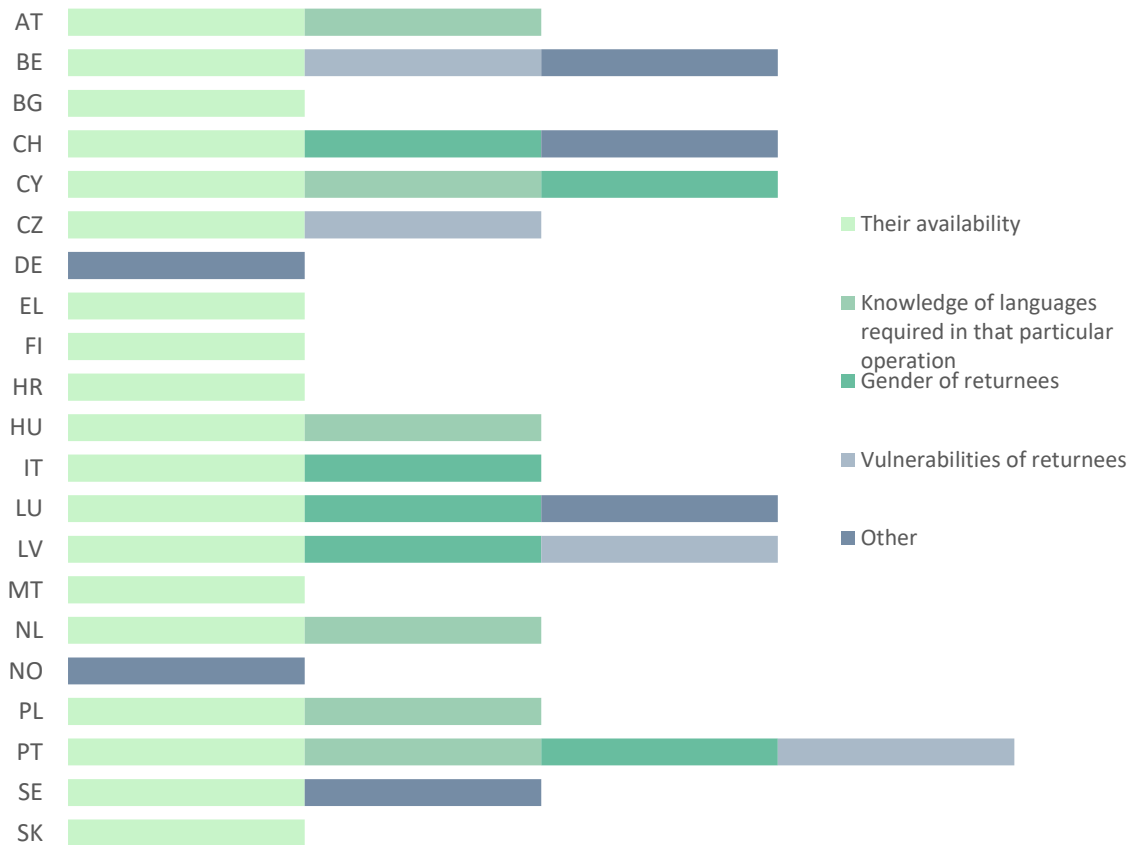
(NOTE: Multiple choice from 5 predefined options, with the possibility to include text under Other)

The time monitors have to complete the administrative tasks required for their participation in an operation varies between one day and a month (Table 14 below). This depends on the type of operation, as well as on the country of origin or country of return. Some of the preparation can be done well in advance and does not have to be repeated for every operation (e.g. vaccinations, multi-entry visas, etc.). Respondents were asked to give details of any additional support that the national

return enforcing institutions provide to the NMBs to facilitate their participation in return operations. They responded as follows:

- List of participants (other than the returnees) in the respective operation;
- Information on travel plans, including exact schedules, meeting points, costs, if applicable visa information, vaccinations;
- Technical equipment, i.e. tablet(s) and mobile phone(s)[21].

Table 14: How much time do monitors have to prepare to meet the different requirements for participating in the return operation? (e.g. visa, vaccination, etc.)

Country	Calendar days	Comments
AT	-	• Visa requirements are supported by the national return enforcing institution
BE	-	• Depends on the country of origin • At least one week
BG	10	
CH	-	• Depends on the country of destination • If a visa is required: can take up to a few days
CY	1-2	• Depends on the specifics of the RO: 24-48 hours for operations which do not require in-flight escort
CZ		• Regularly, 2-3 days in advance • 2-3 weeks if based on an informal agreement (when applicable and necessary)
DE	-	
EL		• Depends on the specifics of the RO: 2-30 days

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[21] In one instance.

FI	-	• Depends on how much on advance the monitoring body receives the information concerning the particular RO
HR	-	
HU		• Depends on the specifics of the RO
IT		• Rather short time-frame; around 24 hours
LU		• 72 hours
LV	3-7	• 3-7 days
MT		• Depends on the specifics of the RO
NL	7	
NO	-	
PL		• Monitors have no time to prepare
PT		• There is no time frame set
RO	-	
SE		• Depends on the country of return and the related visa arrangement
SK	3-4	• 3-4 days

Source: own compilation; data collected from MSs that participated in the Gaps and Needs survey developed in the framework of the FReM III project.
NOTE: For the exact wording of the question included in the survey, see Annex 1.

Gaps and needs regarding monitors' preparedness for monitoring forced-returns

The most common issue reported to affect monitors' preparedness for monitoring is the time they are given to prepare for the operation, which is often too short (mentioned by six respondents). A related common challenge is the lack of information about an upcoming operation or late receipt of relevant information, particularly information regarding the vulnerabilities of returnees.

The length of a return operation was raised as an issue, particularly when only one monitor is assigned to the operation. This particular challenge depends on both the number of monitors assigned to an operation and the number of returnees. Where several returnees are on the same flight, it is possible – as one participant in the survey highlights – that "the operation involves many different points of departure until the main point [and] usually the monitor(s) cannot participate in all of them". Other issues raised relate to the overall management of the preparations for monitoring:

- Booking the same flight and proximity of the seating between the returnee and the monitor during the in-flight phase;
- Geographical distribution of monitors;
- Lack of support monitors receive from the respective national enforcing institutions;
- Lack of unambiguous and clear flow of information.

Respondents' suggestions to improve monitors' preparedness

To address some of the issues mentioned above, respondents suggested:

- Improving communication between the return enforcing institution and the NMB (e.g. clear procedures of how, when and what has to be communicated);
- More time for planning a return operation;
- Geographical distribution of monitors to be based on the return hubs;
- The number of monitors assigned to a return operation to take into consideration the number of returnees and the flight schedule (including the duration of the return operation).

7. Monitoring and reporting

7.1 The monitoring process

In 21 countries, the legal mandate of the national NMB states that both pre-departure and in-flight phases can be monitored. Table 15 below shows the phases of a RO the legal mandate says can be monitored vs. the phases of a RO that are monitored in practice.

Table 15: RO phases that can be monitored according to the legal mandate vs. RO phases that are monitored in practice

Country	Phases of a forced-return operation the legal mandate says can be monitored				Phases of a forced-return operation that are monitored in practice			
	Pre-departure	In-flight	Arrival	Other	Pre-departure	In-flight	Arrival	Other
AT	✓	✓	✓	✓ **	✓	✓	✓	✓
BE	✓	✓	✓		✓	✓	✓	
BG	✓	✓	✓		✓	✓	✓	
CH	✓	✓	✓		✓	✓	✓	
CY	✓	✓	✓		✓			
CZ	✓	✓	✓		✓	✓	✓	
DE	✓	✓	✓		✓	✓		
EL	✓	✓	✓		✓	✓	✓	
FI	✓	✓	✓		✓	✓	✓	
HR	✓	✓	✓		✓	✓		
HU	✓	✓	✓		✓	✓	✓	
IT	✓	✓	✓	✓ *	✓	✓	✓	✓
LU	✓	✓	✓		✓	✓	✓	
LV	✓	✓	✓		✓	✓	✓	

Country	Phases of a forced-return operation the legal mandate says can be monitored				Phases of a forced-return operation that are monitored in practice			
	Pre-departure	In-flight	Arrival	Other	Pre-departure	In-flight	Arrival	Other
MT	✔	✔			✔	✔		
NL	✔	✔	✔		✔	✔	✔	
NO				✔ **				✔
PL	✔	✔	✔		✔	✔	✔	
PT	✔	✔	✔		✔	✔	✔	
RO	✔	✔	✔		✔	✔	✔	
SE	✔	✔	✔		✔	✔	✔	
SK	✔	✔	✔		✔	✔	✔	

Source: own compilation; data collected from MSs that participated in the Gaps and Needs survey developed in the framework of the FReM III project.
NOTES: * pre-return
**Refers to the monitoring of the Pre-Return Phase: Contact talk of escort leader with returnees in the detention centre, hand-over of returnees from the detention centre to the escorts including a body search, transfer from the detention centre to the airport

In practice, the pre-departure phase is monitored in all 22 countries, the in-flight phase is monitored in 20 countries, while the arrival phase is monitored in 17 countries. Several respondents explained the discrepancies between the legal mandate and practice as follows:

- "So far only the pre-departure phase has been monitored since [to our knowledge] there were no cases […] which required police escort to the country of destination. All return operations have been carried out via regular commercial flights";
- "The monitors cannot leave the airplane once it has landed in the destination country. The monitors observe the hand-over in the plane";
- "In our opinion [the return operation] starts in the detention centre. The NGOs are only informed about the moment when the operation starts at the airport. So, the pre-departure phase is limited only to the airport phase".

Presence of interpreters

In some return operations, there is a need for interpreters. The stage at which they are deployed in the return operation varies across countries. In five MSs (Bulgaria, Cyprus, Finland, Latvia and Portugal), the services of interpreters are solely used during the pre-departure phase, whereas in Austria, Hungary, Italy and the Netherlands interpreters are also used during the in-flight phase (Figure 8 below). Four out of the 20 countries that provided an answer rely on interpreters being present during all three stages of the return operation: pre-departure, in-flight, and arrival phase. Under *Other*, respondents mentioned that interpreters are often not present, one of them noting that "in practice interpreters are not considered needed by [the] implementing authorities" and another reporting that "the national monitoring body provides for that [i.e. interpreter], sometimes, as a monitoring support". In addition, one respondent pointed out that interpreters are present during the handover phase.

Figure 8: In case interpreters are required, in which phases of a return operation are they physically present?

	Pre-departure phase	In-flight phase	Arrival phase	Other
AT	Pre-departure phase	In-flight phase	Arrival phase	Other
BE				Other
BG	Pre-departure phase			
CH	Pre-departure phase	Other		
CY	Pre-departure phase			
CZ				Other
DE				Other
EL				Other
FI	Pre-departure phase			
HU	Pre-departure phase	In-flight phase	Arrival phase	
IT	Pre-departure phase	In-flight phase	Arrival phase	Other
LU				Other
LV	Pre-departure phase			
MT			Arrival phase	Other
NL	Pre-departure phase	In-flight phase	Arrival phase	
NO				Other
PL				Other
PT	Pre-departure phase			
SE				Other
SK				Other

(NOTE: Multiple choice from 4 predefined options, with the possibility to include text under Other)

Presence of monitors during the different phases of an operation

In practice, in five countries (Austria, Bulgaria, Hungary, Luxemburg and Malta), the monitor always participates in the contact talks with returnees, which are carried out as part of the first risk assessment. Respondents from eight countries (Czech Republic, Cyprus, Germany, Finland, Latvia, the Netherlands, Poland and Switzerland) reported that monitors do not participate in contact talks. In another seven countries, monitors sometimes participate in the contact talks (Belgium, Greece, Italy, Norway, Portugal, Slovakia and Sweden).

Table 16 below gives an overview of the replies received about the presence of monitors during the different phases of a return operation.

Table 16: In practice, the monitor is present during the following phases of a return operation

Country	Contact talks	Briefing	Security check	Hand-over	Debriefing
AT	Yes	Yes	Yes	Yes	Yes
BE	Not Always: • Monitors do not always meet returnees while they are being brought from the detention centre to the airport police station • For special flights monitors accompany the entire process of a forced return operation, including accompanying the federal police and witnessing the body searches	Yes	Yes	Yes	Yes
BG	Yes	Yes	Yes	Yes	Yes
CH	No	Yes	Yes	Yes	No/ Not Always
CY	No	Yes	Yes	Yes	No
CZ	No	No	Yes	Yes	No
DE	No	Yes	Yes	Yes	Yes
EL	Not Always	Yes	Yes	Yes	Not Always:

					• Mostly, there is no debriefing in national return operations
FI	No	Yes	Yes	Yes	Yes
HR	*No Answer*	*No Answer*	*No answer*	*No Answer*	*No Answer*
HU	Yes	Yes	Yes	Yes	Yes
IT	Not Always: • Monitors are free to decide whether to be present during contact talks	Not Always: • Briefings only take place for JROs	Yes	Yes	Yes
LU	Yes	Not Always: • It happens that the police do the briefing earlier than anticipated	Yes	Yes	Yes
LV	No	Yes	Yes	Yes	Not Always
MT	Yes	Yes	Not Always	Yes	Yes
NL	No	Yes	Yes	Yes	Yes
NO	Not Always	No	No	Not Always	No

PL	No	No	No	No: Sometimes we have participated in the airport phase of the operations and first connecting flight.	No
PT	Not Always	No	Yes	No	Yes
RO	*No Answer*	*No Answer*	*No Answer*	*No Answer*	Not Always
SE	Not always: • Due to geographically long distances but tight time planning it is not always possible to participate in the first contact talk	Yes	Yes	Not always: When the hand-over is conducted outside the airplane, the monitor sometimes needs to stay in the airplane.	Yes
SK	Not Always	Not Always	Not Always: • It depends on the location, in the detention centre the monitor is present, but not during security checks at the airport	Yes	Yes

Source: own compilation; data collected from MSs that participated in the Gaps and Needs survey developed in the framework of the FReM III project.

NOTE: For the list of questions included in the survey, see Annex 1.

In practice, in ten countries, the means of transportation is designed in a way that allows for monitors to be present (Belgium, Bulgaria, Greece, Hungary, Latvia, Luxemburg, Malta, the Netherlands, Slovakia and Sweden). Respondents from five countries (Austria, Finland, Italy, Portugal and Switzerland) reported that the transport used does not always allow for monitors to be present, while respondents from six countries (Cyprus, Czech Republic, Germany, Norway, Poland and Romania) reported that the transport used does not allow for the presence of monitors at all. A few respondents from countries where the means of transportation do not always accommodate the presence of monitors also mentioned the following:

- There is not always space in the particular mode of transportation used (i.e. police car or bus);
- The monitor is required to give prior notice of their presence in the transportation that will be used during the operation.

Monitors' access to returnees

In practice, in 20 countries (Austria, Belgium, Bulgaria, Croatia, Cyprus, Finland, Germany, Greece, Hungary, Italy, Latvia, Luxemburg, Malta, the Netherlands, Poland, Portugal, Romania, Slovakia, Sweden and Switzerland), monitors have access to returnees throughout the forced-return operation. However, monitors are not always present for the transfer.

In 16 countries (Austria, Belgium, Bulgaria, Finland, Germany, Greece, Hungary, Italy, Latvia, Luxemburg, Malta, the Netherlands, Portugal, Slovakia, Sweden and Switzerland) monitors may accompany the returnees in the transport used for the operation the whole time (e.g. during land operations or during transfer). In four countries monitors may not accompany the returnees at every stage. One respondent mentioned that during transfer "monitors are never let into the police escort vehicles (cars, minivans). That means they have to travel on their own and therefore not be physically present (for even more than 4 hours)". Whether, in practice, monitors always have access to returnees, i.e. including during transfer, depends on a series of factors, including:

- Free seating/space available in the transport being used; this is facilitated by timely communication regarding an upcoming forced-return operation;
- Whether monitors travel in the police escort car (particularly for the pre-departure phase).

In nine countries (Austria, Belgium, Finland, Greece, Luxemburg, Malta, the Netherlands, Sweden and Switzerland), where the return is by charter flight, the organising institution ensures that seats are reserved for monitors even if the NMB has not yet decided whether to participate in the mission. In eight countries for which an answer was provided (Bulgaria, Czech Republic, Germany, Hungary, Italy, Latvia, Norway and Portugal) this is not automatically the case.

Monitoring guidelines

Respondents from 14 countries (Cyprus, Czech Republic, Bulgaria, Greece, Italy, Latvia, Luxemburg, Malta, The Netherlands, Poland, Portugal, Romania, Slovakia and Switzerland) reported that, in practice, monitors follow specific guidelines when monitoring. Respondents from seven countries (Austria, Belgium, Finland, Germany, Hungary, Norway and Sweden) reported that monitors do not follow specific guidelines.

In countries without monitoring guidelines, four respondents thought that guidelines were needed. Among these four, two respondents supported this view by suggesting that monitoring guidelines would add to the training provided to monitors and therefore function as a quality check. One of them emphasised that guidelines would greatly contribute to a more harmonised approach at an EU-level by setting an EU-common framework for forced return monitors, even for national operations. However, it was also argued that the fact that monitors work independently makes standardisation for monitoring guidelines challenging to implement. Another respondent acknowledged that the lack of common guidelines might lead to inconsistent practices.

Figure 9 below displays the rights and issues monitors pay specific attention to during the monitoring operation, per country. It is worth mentioning that in most countries (20) monitors pay specific attention to respect for *human dignity* and *proportional use of force and restraint* measures. In 19 of the countries, specific attention is paid to the *prohibition of torture and inhuman or degrading treatment or punishment*, the *right to the integrity of the person*, the *rights of the child*, *health care* and *access to food and water.* Attention is paid to the *right to non-discrimination*, the *right to property*, *access to information* and the *rights of vulnerable groups* in 18 countries, while the *right to good administration* is observed by monitors in 12 countries.

Figure 9: In practice, what are the rights and issues the monitor pays specific attention to during the monitoring operation?

Access to food and water as basic needs	AT BE CH CY CZ DE EL FI HU IT LU LV MT NL PL PT RO SE SK
Rights of vulnerable groups	BE CH CY CZ DE EL FI HU IT LU LV MT NL PL PT RO SE SK
Health care	AT BE BG CH CY CZ DE EL FI HU IT LU LV NL PL PT RO SE SK
Right to an effective remedy (complaint)	BE CY CZ EL FI HU IT LU LV MT NL PT RO SE SK
Right to good administration	BE CY CZ EL FI IT LU LV MT NL PT RO
Freedom of expression and information (access to information)	BE CH CY CZ DE EL FI HU IT LU LV MT NL PL PT RO SE SK
Protection of personal data (and privacy)	BE BG CY CZ FI IT LU LV MT NL PL PT RO SE
Right to property	BE CY CZ DE EL FI HU IT LU LV MT NL PL PT RO SE SK
Freedom of thought, conscience and religion	BE CY CZ FI IT LU LV MT NL PL PT RO SE SK
Rights of the child (best interest of the child)	BE BG CH CY CZ DE EL FI HU IT LU LV MT NL PL PT RO SE SK
Respect for private and family life	BE BG CH CY CZ DE EL FI HU IT LU LV MT PL PT RO SE SK
Right to liberty and security	BE BG CY CZ FI HU IT LU LV MT NL PL PT RO SE SK
Non-discrimination	BE BG CH CY CZ DE FI HU IT LU LV MT NL PL PT RO SE SK
Right to the integrity of the person	AT BE BG CH CY CZ DE EL FI IT LU LV MT NL PL PT RO SE SK
Prohibition of torture and inhuman or degrading treatment or punishment	AT BE BG CH CY CZ DE EL FI HU IT LU LV MT PL PT RO SE SK
Right to life	AT BE BG CH CY CZ DE EL FI IT LU LV MT PL PT RO SE SK
Human dignity	AT BE BG CH CY CZ DE EL FI HU IT LU LV MT NL PL PT RO SE SK
Proportional use of force and restraints	AT BE BG CH CY CZ DE EL FI HU IT LU LV MT NL PL PT RO SE SK
Other	AT PL

(NOTES: Multiple choice from 19 predefined options, with the possibility to include text under Other. For the exact wording of the question included in the survey, see Annex 1.)

Gaps and needs in the monitoring process

With regard to the monitoring process, respondents mentioned a few gaps which can have an overall impact on monitoring including issues such as: the actual monitoring of the different phases of a return operation, the existence of monitoring guidelines, presence of an interpreter, etc. Five respondents mentioned that among other gaps, the lack of an interpreter hampers the monitoring process as monitors have difficulties communicating with the returnees. Two monitors mentioned the lack of specific monitoring guidelines. Other gaps mentioned were: the lack of information about the returnees, as well as late receipt of the information. One respondent mentioned: "Absence of general standard police rules in all kinds of return operations, e.g. completely different rules and procedures are applied in returns by bus. Absence of debriefing in national operations". It is worth noting that the same respondent acknowledged that the return enforcing institution, having access to the monitoring reports, might have decided not to share information on particular (upcoming) operations.

One respondent, when asked about the institutional needs that, if addressed, would improve the monitoring process, wrote the following:
"The monitoring is ineffective due to:

1. Lack of institutional funding;

2. Limited scope of pre-departure monitoring (especially lack of possibility to participate in contact talks) and phase of operation between detention centre and the airport;

3. Lack of monitoring of the land border return operations;

4. Informing the monitoring bodies in rare instances about the planned operations".

Another survey participant wrote: "Forced repatriation organisers should try to provide more specialists and experts as support figures", e.g. "expert in cultural mediation", psychologists etc.

7.2 Writing and submitting monitoring reports

A mandatory reporting template is used by monitors in 14 countries (Austria, Cyprus, Czech Republic, Greece, Italy, Luxemburg, Malta, the Netherlands, Poland, Portugal, Romania, Slovakia, Sweden, Switzerland). In seven of the countries (Belgium, Bulgaria, Croatia, Finland, Germany, Hungary and Norway), monitors do not use a mandatory reporting template. In countries where monitors do not use a mandatory reporting template, reports are submitted in various formats. This is in whichever structure/format the monitors wish, using a Word document and (often) submitting it via email.

In countries where a mandatory template is used, there are specific sections for:

- Administrative information on the return operation (e.g. date, destination, the organising institution, number of returnees, escort leader, etc.);

- Describing the return process and each of the phases monitored;
- Conclusions;
- Recommendations.

Some templates include sections for debriefing and reporting and some include a standardised questionnaire which the monitor has to fill in with the issues they have observed.

In 18 countries (Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Finland, Germany, Greece, Hungary, Italy, Latvia, Luxemburg, Malta, Poland, Portugal, Romania and Slovakia), the monitoring report includes recommendations. Below are some of the issues monitors and the NMBs have highlighted in the past and recommendations they have made based on their monitoring experiences:
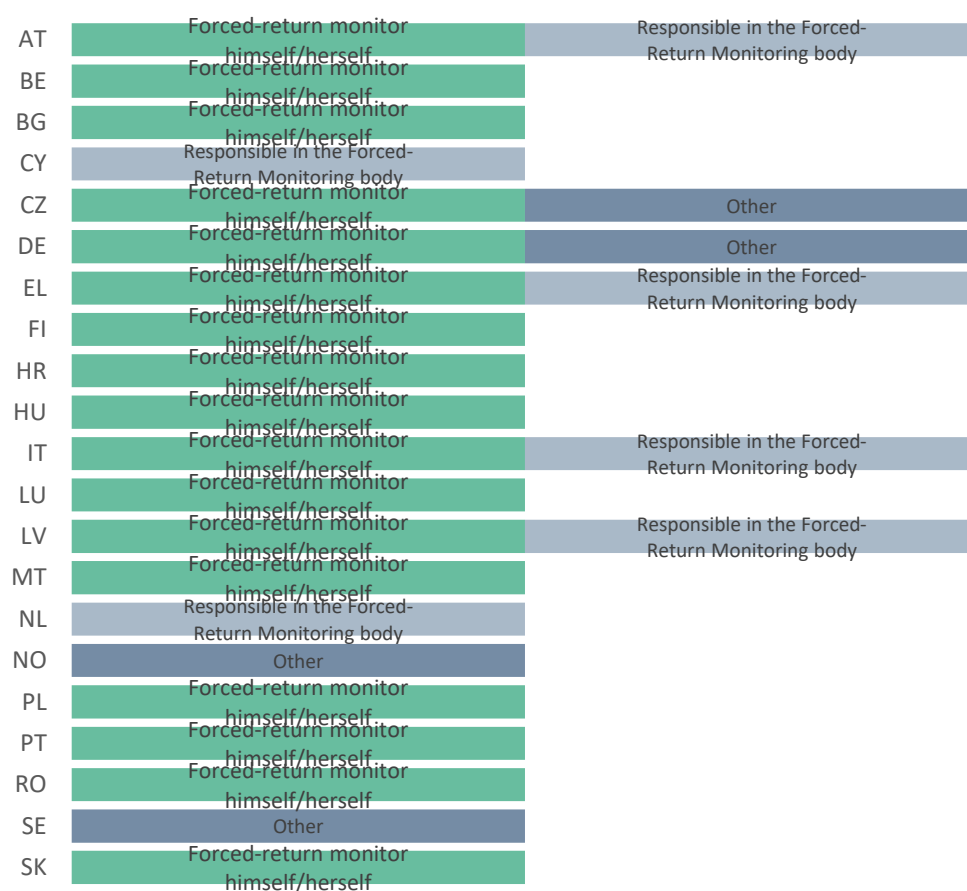
- The absence of the Fit-to-Fly form;
- The absence of an interpreter;
- Inappropriate behaviour of escorts with regard to the returnees (e.g. improper language used);
- Improper treatment of returnees during different phases of a return operation, such as:
    o "Persons being deported must be given the opportunity, taking into account all relevant circumstances, to pack personal belongings";
    o "The returnees should be informed of the operation before the actual time it commences";
    o "Before traveling in winter, get a blanket for a foreigner so that he can cover himself, as it is relatively cold in a large transporter";
    o "The airport security service prevented convoy from providing the returnees access to WC; the Ombudsman recommended improving procedures in the airport area";
    o "Recommendations were made regarding the frugal/appropriate use of the isolation room at the airport, the issue of health certificates for known health problems, use of an interpreter, use of restraining measures etc.";
    o "For commercial flights, where no beverage or food distribution is provided, to guarantee that drinks and food are provided (packed lunch package)";
    o "Reducing the time of using of handcuffs during long lasting flights with waiting time during transition without any sign of aggressive behaviour";
    o "More child friendly oriented return operation".

In four countries (the Netherlands, Norway, Sweden and Switzerland), monitoring reports do not include recommendations.

In practice, in 11 of the 21 countries (which answered this question), the forced-return monitor is solely responsible for writing the recommendation/s after an operation (Belgium, Bulgaria, Croatia, Finland, Hungary, Luxembourg, Malta, Poland, Portugal, Romania and Slovakia) (Figure 10 below). In two other countries (Cyprus and the Netherlands), this responsibility lies with the NMB. In six countries, this task is split. Under *Other*, respondents provided additional information to the effect that: in the Czech Republic recommendations are formulated by the forced-return monitor but need to be approved by

several people in the office, including the Ombudsman and his secretarial team; in Germany, the associates formulate a proposal, while the forced-return monitor writes the final recommendation(s). In Austria, Greece, Italy and Latvia the recommendations are written by both the forced-return monitor and the NMB responsible.

Figure 10: In practice, who formulates the recommendations after monitoring forced-return operations?

AT	Forced-return monitor himself/herself	Responsible in the Forced-Return Monitoring body
BE	Forced-return monitor himself/herself	
BG	Forced-return monitor himself/herself	
CY	Responsible in the Forced-Return Monitoring body	
CZ	Forced-return monitor himself/herself	Other
DE	Forced-return monitor himself/herself	Other
EL	Forced-return monitor himself/herself	Responsible in the Forced-Return Monitoring body
FI	Forced-return monitor himself/herself	
HR	Forced-return monitor himself/herself	
HU	Forced-return monitor himself/herself	
IT	Forced-return monitor himself/herself	Responsible in the Forced-Return Monitoring body
LU	Forced-return monitor himself/herself	
LV	Forced-return monitor himself/herself	Responsible in the Forced-Return Monitoring body
MT	Forced-return monitor himself/herself	
NL	Responsible in the Forced-Return Monitoring body	
NO	Other	
PL	Forced-return monitor himself/herself	
PT	Forced-return monitor himself/herself	
RO	Forced-return monitor himself/herself	
SE	Other	
SK	Forced-return monitor himself/herself	

(NOTES: Multiple choice from 3 predefined options, with the possibility to include text under Other. For the exact wording of the question included in the survey, see Annex 1.)

Not only the procedures for report writing, but also who they are submitted to varies across the different countries. The following table (Table 17) provides an overview of who the reports are submitted to in the respective NMBs.

Table 17: Who are the reports submitted to in the monitoring body?

Country	Who are the reports submitted to in the monitoring body?
AT	To the coordinator of forced return monitors
BE	Reports are kept in an internal database, available to everyone. The reports are reviewed by the forced return coordinator within AIG. All reports are then sent to the Ministry of Interior once a month (initial reports+ an anonymized version for the press)
BG	*No answer provided*
CH	To the secretariat of the NCPT within 7 days after the forced return operation
CY	To the Head of the Unit who then passes it on to the Ombudsman
CZ	The head of the Unit, then the secretarial staff and then the Ombudsman
DE	To every member of the body
EL	To the Head of the Monitoring Body, i.e. the Ombudsman
FI	To the monitoring team
HR	To the Ministry of Interior
HU	To the monitoring institution and to the National police
IT	To the Head of Unit and to the Board of the National Guarantor
LU	Ministry
LV	To the State Border Guard (interim reports) To the Ministry of Interior (annual reports)
MT	National: • To the Chairman & Secretary of the Board • To the Ministry • To the Assistant Commission responsible to Police immigration Pool and JRO reports are copied as per FRONTEX requirements.
NL	To the coordinator
NO	*No answer provided*

Country	Who are the reports submitted to in the monitoring body?
PL	The Director of the Board for Foreigners in the Border Guard Headquarters (this is the institution organising returns)
PT	To the Sub Inspector General of IGAI
RO	To the project manager and the president of the organisation
SE	First, to the back-office of the Swedish Migration Agency (submitted by the monitor for editing) Second, to the Swedish Police Authority and the Swedish Prison and Probation Service (submitted by the back-office of the Swedish Migration Agency) Third, if Frontex funded the operation, to Frontex (submitted by the back-office of the Swedish Migration Agency) Fourth, to the Advisory Group (submitted by the back-office of the Swedish Migration Agency)
SK	To the Ministry of Interior

Source: own compilation; data collected from MSs that participated in the Gaps and Needs survey developed in the framework of the FReM III project.

NOTE: For the exact wording of the questions included in the survey, see Annex 1.

In only two of the MSs was the Ombudsperson (if different from the FRM body) mentioned as the institution/stakeholder that receives monitors' reports (Austria and Romania). In the majority of cases (16 out of 22) the recipient of the monitoring report is the national return enforcing authority (Figure 11). Under *Other*, respondents provided additional information. For instance, respondents from Belgium, Germany and Latvia wrote that the Ministry of the Interior (and its relevant offices) receive the report. In Cyprus "the report is an internal document of the FRM mechanism. Only the recommendations are shared with the institution organising the returns via a letter". In the Czech Republic, the report is received by the "detention unit, prison service (any detention institution where the returnee had been held prior to his/her removal)". In Portugal "an annual report is elaborated and sent to the Minister of Home Affairs". In Switzerland, the report is received by "only the monitoring body itself."

Figure 11: Which institutions/stakeholders receive the monitors' reports?

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

Gaps and needs in the process of writing and submitting a monitoring report

According to some of the survey participants, the process of writing and submitting a monitoring report is affected by the following:

- The (rather poor) practical applicability of the template currently used;
- In some cases, no obligation to write and submit a report;
- The lack of a reporting template;
- The lack of monitoring guidelines;
- The fact that recommendations are not always forwarded and therefore are not received by institutions conducting the ROs;
- The lack of reporting lines to the Ombudsman and other external parties;
- The absence of recommendations.

With regard to institutional needs, respondents emphasised that standard procedures for information sharing, coordination and communication would improve the collaboration between the monitoring institution and the return enforcing institution. In addition, they mentioned that monitors should have access to previous reports and that there is a need for "more institutional discussion on the recommendations, more space for reflexion about the procedures and their effective respect for human rights".

7.3 Follow-up of monitoring reports

Specific follow-up procedures regarding monitoring reports are in place in eight countries (Austria, Belgium, Italy, Latvia, Malta, the Netherlands, Sweden, Switzerland). Respondents from 12 countries (Cyprus, Czech Republic, Bulgaria, Finland, Germany, Greece, Hungary, Luxemburg, Norway, Poland, Portugal and Slovakia) reported that no specific follow-up procedures are in place.

Follow-up procedures vary between MSs (Table 18 below). One notable procedure concerns the follow-up of serious incidents. In Austria, findings from the missions are discussed in the training of new escort officers, as well as in annual training sessions targeted at experienced escorts. In the Netherlands, the repatriation and departure service receive a letter containing all recommendations after each return operation. In Italy and Latvia, the monitoring of subsequent operations takes into account recommendations from previous monitoring reports, to see whether the recommendations have been implemented. In Romania, the NPM follows up the monitoring reports and can ask the NMB for clarifications on the reports.

Table 18: Follow-up of the monitoring reports, by country

Country	Specific procedures in place to follow up monitoring reports	All monitored ROs followed-up	Serious incidents during ROs followed up	Systematic follow-up, i.e. reviews of individual monitoring reports written periodically	Individual monitoring reports are public	Regular (e.g. annual) reports of the FRM body are made public
AT	Yes	No	Yes	No	No	No
BE	Yes	Yes	Yes	Yes	Yes	No
BG	No	No	Yes	No	No	No
CH	Yes	Yes	Yes	No	No	Yes
CY	No	No	Yes	Yes	No	Yes
CZ	No	No	Yes	Yes	Yes	Yes
DE	No	Yes	Yes	Yes	Yes	Yes
EL	No	No	Yes	Yes	No	Yes
FI	No	No	No	No	Yes	Yes
HR	*No answer*	*No answer*	*No answer*	*No answer*	No	No
HU	No	No	Yes	No	No	No
IT	Yes	No	Yes	No	Yes	Yes
LU	No	No	No	No	No	Yes
LV	Yes	Yes	Yes	Yes	No	Yes
MT	Yes	Yes	Yes	Yes	No	Yes
NL	Yes	Yes	Yes	Yes	No	Yes
NO	No	No	No	No	No	No
PL	No	No	*No answer*	No	No	No

Country	Specific procedures in place to follow up monitoring reports	All monitored ROs followed-up	Serious incidents during ROs followed up	Systematic follow-up, i.e. reviews of individual monitoring reports written periodically	Individual monitoring reports are public	Regular (e.g. annual) reports of the FRM body are made public
PT	No	No	No	No	No	No
RO	*No answer*	No	Yes	Yes	No	Yes
SE	Yes	Yes	Yes	Yes	Yes	Yes
SK	No	No	No	No	No	No

Source: own compilation; data collected from MSs that participated in the Gaps and Needs survey developed in the framework of the FReM III project.

NOTE: For the exact wording of the questions included in the survey, see Annex 1.

In the countries where reviews of individual monitoring reports are written periodically, they are submitted to a number of institutions. Below are some examples provided by respondents:

- To the Minister of Justice, Minister of Interior, State Secretary in charge of Immigration, Parliament's Police Control Office, Federal Police (Bulgaria);
- To the President of Cyprus and Council of Ministers as well as to the Chairman and the members of Parliament (Cyprus);
- To the public, to the returning authorities, to the detention centres/prisons (Czech Republic);
- The monitors' observations can be included in the annual report of the Non-Discrimination Ombudsman which is submitted to the government and every fourth year, to the parliament (Finland);
- To the National Parliament (Greece and Malta);
- To the Ministry of interior in the form of annual reviews (Latvia);
- To the Ombudsperson (Romania).

Gaps and needs in the process of following-up on monitoring reports

The gap that was most frequently identified in the follow-up process regarding monitoring reports was the lack of any follow-up (mentioned by respondents from four MSs). Collaboration and information-sharing between the institutions conducting monitoring, but also between return enforcing institutions and NMBs are also cited as an important gap. One suggested solution is to establish a formal follow-up procedure, particularly regarding the recommendations from the monitoring reports.

Another issue raised was the fact that recommendations in the monitoring reports are not mandatory in all countries. From an institutional perspective, in addition to better communication between the institutions involved, it was suggested that the "National Parliament should be party to the [reports' follow-up] process".

8. Gaps, needs and recommendations

This section clusters and summarises the main gaps and needs identified by respondents regarding their respective national institutions' capacity to monitor forced-returns. The information summarised here is drawn from the open questions included in the Gaps and Needs survey[22] and is presented grouped by the main chapters of the report, namely:

1. National forced-return monitoring mandates;
2. National institutions' capacity to monitor human rights compliance during forced-return operations;
3. Preparedness and deployment of monitors:
   a. Monitors' preparedness for monitoring forced returns;
   b. Deployment of monitors.
4. Monitoring and reporting:
   a. Monitoring process;
   b. Writing and submitting monitoring reports;
   c. Follow-up on the monitoring reports.

With regard to the general monitoring mandate, the following gaps have been reported:

1) In some countries, a limited legal mandate does not allow NMBs to observe all stages of a return operation; in two countries, the fact that monitors can only observe and not intervene where they observe a serious human rights violation, is seen as a limitation;
2) In one country, a cumbersome bureaucratic process, particularly in approving a monitor's presence on a forced-return operation by the NMB, has been mentioned as an institutional limitation;
3) In many of the countries surveyed, limited funding of NMBs was highlighted as a major issue.

To address some of these gaps, respondents underlined the need for:

1. Institutionalisation of an adequate standardised profile of a forced-return monitor;
2. Increased institutional funding.

With regard to the institutional capacity to monitor forced-return, the following was mentioned:

NMBs restricted legal monitoring mandate and limited communication between institutions, particularly between the return enforcing institution and the NMB, have been mentioned as important gaps which need to be addressed. Even where a clear monitoring mandate exists, the institutional

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[22] For the exact wording of the questions, see Annex 1.

capacity of some NMBs to actually monitor forced-return is affected by the limited funding, which might also lead to:

1) A limited number of monitors available for monitoring returns;
2) A lack of adequate and insufficient training for monitors.

To address some of these institutional gaps, respondents underlined the need for:

1. Increased and formalised institutional cooperation, particularly when monitors are from a non-governmental organisation. This will also lead to the protection of rights of monitors, particularly when they work on a voluntarily basis (e.g. long working hours, long missions etc.);
2. A stable source of (increased) funding was mentioned as crucial, not only for ensuring that monitoring takes place (by increasing the number of available monitors), but also to ensure that adequate training for monitors is being carried out.

When preparing for the monitoring process, respondents mentioned that the following institutional gaps negatively affect monitors' preparedness:

1) There is too little time from the moment monitors receive information about an upcoming RO, to the actual start of the operation, for preparation;
2) Lack of information about an upcoming RO or late receipt of relevant information, particularly information regarding the vulnerability of returnees;
3) Lack of set procedures regarding the information flow, in general, when communicating relevant details to monitors.

To address some of these issues, respondents mentioned the need to:

1. Increase the time monitors have to prepare for an upcoming RO meaning notifications on upcoming returns need to be shared well in advance;
2. In order to increase the time monitors have to prepare, another suggestion was that the return enforcing institution plan ROs well in advance;
3. Improve communication with monitors by sharing information about an upcoming RO, such as more detailed information about the returnees, their vulnerabilities and not just countries of origin and the number of returnees.

Similar to the gaps regarding monitors' preparedness, the deployment of monitors is affected by:

1) Inter-institutional communication between the return enforcing institution and the NMB (e.g. no set procedures for communication and too little/incomplete information about an upcoming RO from the return enforcing institution to the NMB);

2) Length of a mission, particularly when only one monitor is deployed in a mission longer than 24h and with several returnees;
3) Limited legal monitoring mandate e.g. in a few cases, no legal mandate to monitor all phases was raised as a potential limitation, although in practice this has not been an issue.

To address some of these issues, respondents mentioned that the following actions are needed:

1. Timely, accurate and detailed communication between the return enforcing institution and the NMB;
2. Allocation of funding for monitors' work (to avoid voluntary work and to increase flexibility of NMBs);
3. Improvement (widening) of a monitor's legal mandate;
4. Increase of the number of monitors.

With regard to the monitoring process, respondents mentioned a few gaps which have an overall impact on monitoring:

1) Lack of an interpreter;
2) Lack of specific monitoring guidelines;
3) Lack of/late receipt of information about the returnees.

To address some of these institutional gaps, respondents identified the need for:

1. Specific monitoring guidelines;
2. Presence of an interpreter and of specialists (e.g. psychologists).

According to some of the participants, the process of writing and submitting a monitoring report is affected by the following:

1) Lack of a reporting template;
2) Lack of monitoring guidelines;
3) The absence of recommendations from monitoring reports;
4) The unclear and limited use of and follow-up to monitoring reports by return enforcing institutions;
5) In some countries, the poor practical applicability of the monitoring report template that is currently used;
6) In some countries, monitors under no obligation to write and submit a report.

To address some of these institutional gaps, respondents underlined the need for:

1. Standard procedures for information sharing and improved collaboration and communication between the monitoring institution and the return enforcing institution;
2. Access for monitors to previous monitoring reports;
3. More institutional discussion/reflection on the recommendations from monitors' reports.

The most common gap in the process of following-up on monitoring reports is the lack of any such follow-up. Collaboration and information-sharing between the institutions conducting the monitoring, but also between return enforcing institutions and NMBs have also been mentioned as a notable gap. One suggested solution is to establish a formal follow-up procedure, particularly with regard to the recommendations from the monitoring reports.

Table 19 below provides an overview of the gaps identified by respondents in relation to the above-mentioned areas, as well as the institutional needs they identified, needs which, if met, would improve monitoring of forced-returns.

Table 19: Gaps and Needs of MSs' monitoring capacity, as identified by respondents to the Gaps and Needs survey developed and implemented in the framework of the FReM III project

Topic/area	Gaps (in the current FRM systems, as identified by respondents)	Needs that, if met, would improve FRM
General monitoring mandate	1. Limited legal mandate (limited mandate of a forced-return monitor) 2. Cumbersome bureaucratic processes 3. Limited funding	• Institutionalisation of an adequate standardised profile of a forced-return monitor • Increase in institutional funding
Institutional capacity to monitor forced-return	1. Limited available funding 2. Limited number of (operational) monitors 3. Lack of adequate training and insufficient training 4. Limited monitoring mandate of the NMB 5. Limited inter-institutional communication	• Provision of adequate training for monitors • Stable source of (increased) funding • Increase the number of monitors working in forced-return monitoring • Protection of rights of monitors, particularly when they work on a voluntarily basis (e.g. long working hours) • Increased and formalised institutional cooperation, particularly when monitors are from a non-governmental organisation

Topic/area	Gaps (in the current FRM systems, as identified by respondents)	Needs that, if met, would improve FRM
Monitors' preparedness for monitoring forced-return	1. Too short a time to prepare to participate in a RO 2. Lack of information about an upcoming RO 3. Late receipt of relevant information regarding an upcoming RO (e.g. vulnerabilities of returnees) 4. Unclear information flow/lack of procedures when communicating relevant information to monitors	• Increase the time monitors have for preparing their participation in an upcoming RO by notifying them well in advance about upcoming returns • In order to increase the time monitors have for preparing, one suggestion was that the return enforcing institution plans ROs well in advance • Improve communication with monitors regarding relevant information about an upcoming RO (e.g. information about the returnees, their vulnerabilities and not just countries of origin and the number of returnees)
Deployment of monitors	1. Inter-institutional communication between the return enforcing institution and the NMB 2. Length of a mission, particularly when only one monitor is deployed in a mission longer than 24h and with several returnees 3. Limited monitoring legal mandate	• Timely, accurate and detailed communication between the enforcing institution and the NMB • Allocation of funding for monitors' work (to avoid voluntary work and to increase flexibility of NMBs) • Improvement (widening) of a monitor's legal mandate • Increase the number of monitors
The monitoring process	1. Lack of an interpreter 2. Lack of specific monitoring guidelines 3. Lack of/late receipt of information about the returnees	• Specific monitoring guidelines • Presence of an interpreter and of specialists (e.g. psychologists)

Topic/area	Gaps (in the current FRM systems, as identified by respondents)	Needs that, if met, would improve FRM
Writing and submitting a monitoring report	1. In some countries, the poor practical applicability of the currently used monitoring report template 2. No obligation to write and submit a report 3. Lack of a reporting template 4. Lack of monitoring guidelines 5. The absence of recommendations from monitoring reports 6. The unclear and limited use of monitoring reports by institutions involved in forced-return	• Standard procedures for information sharing and an improved collaboration and communication between the monitoring institution and the return enforcing institution • Access for monitors • to previous monitoring reports More institutional discussion/reflection on the recommendations from monitors' reports
Following-up on monitoring reports	1. Lack of follow-up of monitoring reports 2. Collaboration and information sharing between relevant institutions, e.g. between the institutions conducting monitoring (if several) and also between the enforcing institutions and the NMB	• Establishment of a formal follow-up on reports, particularly regarding the recommendations from the monitoring reports

Source: own compilation; data collected from MSs that participated in the Gaps and Needs survey developed in the framework of the FReM III project.

References

Diaz Crego, M. (2019), Recasting the Return Directive. Briefing. EU Legislation in Progress. European Parliament. Available at: http://www.europarl.europa.eu/RegData/etudes/BRIE/2019/637901/EPRS_BRI(2019)637901_EN.pdf (accessed 10 November 2019).

European Commission (EC). (2019), Communication from the Commission to the European Parliament, the European Council and the Council. Progress Report on the Implementation of the European Agenda on Migration. COM(2019) 481 final. Brussels, 16.10.2019. Available at: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/20191016_com-2019-481-report_en.pdf (accessed 31 January 2020).

European Commission (EC). (2018), Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on common standards and procedures in Member States for returning illegally staying third-country nationals (recast). COM(2018) 634 final. Available at: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM:2018:0634:FIN (Accessed 3 April 2020).

European Parliamentary Research Service (EPRS). 2019, The proposed Return Directive (recast). Substitute Impact Assessment. Ex-Ante Impact Assessment Unit, PE 631.727 – February 2019. Available at: https://www.europarl.europa.eu/RegData/etudes/STUD/2019/631727/EPRS_STU(2019)631727_EN.pdf (accessed 3 April 2020).

Frontex. (2020), 2019 in Brief. Available at: https://frontex.europa.eu/assets/Publications/General/frontex_inbrief_website_002.pdf (accessed 3 April 2020).

Frontex. (2019), Sixth Annual Report. Frontex Consultative Forum on Fundamental Rights. 2018. Available at: https://frontex.europa.eu/assets/Partners/Consultative_Forum_files/Frontex_Consultative_Forum_annual_report_2018.pdf (Accessed 3 April 2020).

Matrix and ICMPD. (2011), Comparative Study on Best Practices in the Field of Forced Return Monitoring. Available at: https://op.europa.eu/en/publication-detail/-/publication/88a6b015-a715-45f3-af69-1ef33b991500 (Accessed 3 April 2020).

Annex 1 – Questionnaire

Thank you for agreeing to participate in this survey!

This survey aims to gather, in a comprehensive manner, **the gaps and needs of the monitoring capacity of Member States and the type of the tailor-made support** that could be best offered in the framework of the Forced Return Monitoring III (FReM III) project.

The analysis of the data gathered through this survey will focus on the issues relating to the effectiveness of national forced-return monitoring systems of the participating Member States with a view to identifying ways of how these systems could be made more effective for the purposes of monitoring national forced-return operations.

In this respect, please kindly note that the questionnaire below relates only to the purely national returns and not the operations coordinated by Frontex.

To complete the questionnaire, it takes approximately 2 hours.

We kindly ask you to answer all questions.

Technical info:

- Please do not use the back/next arrows from your browser. To move to the previous/next question, please use the back/next buttons inserted on the pages of the questionnaire. Kindly note that the "back" button reacts slower than the "next" one.

- For the best display of questions, we recommend you fill-in the questionnaire on a computer and using the browser Chrome.

- To fill-in the questionnaire in several rounds, you can resume the survey by pressing "Pause the interview" button and following the instructions:

1) either by inserting your email (to receive a link in order to continue your saved questionnaire) or
2) by saving an automatically generated link to your personal questionnaire.

The following questions refer to your national forced-return monitoring (FRM) mandate.

GM01_01 **Please summarize here the national legal provisions (from laws, Standard Operating Procedures, guidelines etc.) governing the forced-return monitoring mandate of relevant institutions:**

GM02_01 **Which institution(s) has (have) the official mandate to monitor forced returns in your country?**
Please specify:

GM03_01 **Please describe the above-mentioned institution(s)' place and general role in the national institutional context:**

GM04 **Which body (or person) do(es) the monitoring institution(s) report(s) to (is accountable to)?**

Please select all that apply:

GM04_01 □ National Parliament

GM04_02 □ Ministry of Interior

GM04_03 □ Ministry of Justice

GM04_04 □ National Ombudsperson

GM04_05 □ Other

      GM04_05a please specify: _____

GM05_01 **What are the limitations of the general mandate of the Forced-Return Monitoring body (if any)?**

Please elaborate on the gaps and needs at the level of the general mandate:

The following questions refer to the national institutional capacity to monitor human rights compliance during forced-return operations.

IC01 **How many national forced-return operations (NROs) took place in 2017?**
Where possible, please differentiate between charter flights, commercial flights, removals by bus, by train, by ferry, by any other means of transportation.

Variable	Means of transportation	Variables	No of NROs that took place in 2017 (free text)
IC01_01	□ Charter flights	IC01_01a	
IC01_02	□ Commercial flights	IC01_02a	
IC01_03	□ Removals by bus	IC01_03a	
IC01_04	□ Removal by train	IC01_04a	
IC01_05	□ Removal by ferry	IC01_05a	
IC01_06	□ Removal by any other means of transportation	IC01_06a	
IC01_07	□ TOTAL No. of NROs in 2017	IC01_07a	

IC02 **From the NROs that took place in 2017, how many of them were monitored?**
Where possible, please differentiate between charter flights, commercial flights, removals by bus, by train, by ferry, by any other means of transportation.

Variable	Means of transportation	Variables	No of NROs that were monitored in 2017 (free text)
IC02_01	□ Charter flights	**IC02_01a**	
IC02_02	□ Commercial flights	**IC02_02a**	
IC02_03	□ Removals by bus	**IC02_03a**	
IC02_04	□ Removal by train	**IC02_04a**	
IC02_05	□ Removal by ferry	**IC02_05a**	
IC02_06	□ Removal by any other means of transportation	**IC02_06a**	
IC02_07	□ TOTAL No. of NROs in 2017	**IC02_07a**	

IC03 **How many national forced-return operations (NROs) took place in 2018?**
Where possible, please differentiate between charter flights, commercial flights, removals by bus, by train, by ferry, by any other means of transportation.

Variable	Means of transportation	Variables	No of NROs that took place in 2018 (free text)
IC03_01	□ Charter flights	**IC03_01a**	
IC03_02	□ Commercial flights	**IC03_02a**	
IC03_03	□ Removals by bus	**IC03_03a**	
IC03_04	□ Removal by train	**IC03_04a**	
IC03_05	□ Removal by ferry	**IC03_05a**	
IC03_06	□ Removal by any other means of transportation	**IC03_06a**	
IC03_07	□ TOTAL No. of NROs in 2018	**IC03_07a**	

IC04 **From the NROs that took place in 2018, how many of them were monitored?**
Where possible, please differentiate between charter flights, commercial flights, removals by bus, by train, by ferry, by any other means of transportation.

Variable	Means of transportation	Variables	No of NROs that were monitored in 2018 (free text)
IC04_01	□ Charter flights	**IC04_01a**	
IC04_02	□ Commercial flights	**IC04_02a**	
IC04_03	□ Removals by bus	**IC04_03a**	
IC04_04	□ Removal by train	**IC04_04a**	
IC04_05	□ Removal by ferry	**IC04_05a**	
IC04_06	□ Removal by any other means of transportation	**IC04_06a**	
IC04_07	□ TOTAL No. of NROs in 2018	**IC04_07a**	

IC05 How many forced-return monitors work for the national forced-return monitoring (FRM) body?
Please specify total number of forced-return monitors, as well as the number of forced-return monitors working full time and part-time. Please note that this refers to monitoring forced-return operations only.

IC05_01 No. of forced-return monitors working for the national FRM body (free text): _____
IC05_02 No. of monitors working on forced-return monitoring full time (free text): _____
IC05_03 No. of monitors working on forced-return monitoring part time (free text): _____

IC27_01 If necessary, please add any further information:

IC06. Is there a standard profile of a forced-return monitor (e.g. particular work experience, level of education etc.)?

☐ Yes.

☐ No.

If yes:

IC07 Please select all that fits a standard profile of a forced-return monitor:
IC07_01 ☐ Previous work experience. Please specify area of work: (free text) _____
IC07_02 ☐ University degree. Please specify the area of studies: (free text)_____
IC07_03 ☐ Post-graduate degree. Please specify: (free text) _____
IC07_04 ☐ Foreign Languages at a working level
IC07_05 ☐ Communication skills
IC07_06 ☐ Resilience
IC07_07 ☐ Self-control   IC07_08 ☐ Other. Please elaborate: (free text) _____

IC26_01 **Include below any further explanation:**

[text box]

The following questions refer to the funding of monitoring forced-return operations.

IC08 **What is the main source of funding for forced return monitoring activities of your institution?**

☐ National budget specifically foreseen for your institution
☐ EU funding (e.g. AMIF)
IC08_03 ☐ Other. Please specify: (Free text) _____

IC09 **What types of costs are foreseen in your institution's yearly budget for forced return monitoring?**
Please select all that apply:

IC09_01   ☐ Personnel costs
IC09_02   ☐ Travel expenses
IC09_03   ☐ Visa costs
IC09_04   ☐ Vaccination
IC09_05   ☐ Other   IC09_05a Please specify: (Free text) _____

IC10_01 **Please provide any specific information, which you consider relevant, in relation to the types of costs foreseen in your institution's budget:**

[ ]

The following question refers to the mechanisms for payment of monitoring activities.

IC29_01 **Please describe below the mechanisms for payment of monitoring forced-return operations:**
Are travel bookings paid by the monitoring institution or are paid in advance by the monitor? How are costs claimed? Whether there is a standard scale of allowable expenses etc.

[ ]

The following questions refer to training for forced-return monitors.

IC11 **Does your institution provide training for forced-return monitors?**
□ Yes.
□ No.

If Yes:
　IC12 **What type of training?**
　IC12_01 □ Theoretical
　IC12_02 □ Practical

If Yes:
　IC13 **What is the particular content of the training?**
　Please select all that apply:

　IC13_01　　□ EU return acquis
　IC13_02　　□ Introduction to return operations, including types and phases of return operations.
　IC13_03　　□ Fundamental rights applicable (at risk) in return operations
　IC13_04　　□ Specific rights and needs of vulnerable persons
　IC13_05　　□ Theoretical and practical introduction to the use of force and means of restraint – also the principle of proportionality
　IC13_06　　□ The Role, Mandate & Responsibilities of Escorts
　IC13_07　　□ The Role, Mandate & Responsibilities of Monitors
　IC13_08　　□ Techniques and tools of monitoring
　IC13_09　　□ Drafting and submitting monitoring reports

IC13_10　　　□ Follow-up of monitoring reports/

IC13_11　　　□ National complaint mechanism

IC13_14　　　□ Simulations of real situations

IC13_15　　　□ Psychological preparedness

IC13_16　　　□ Other.　　　IC13_14a　　　Please specify: (Free text) _____

If yes:

IC14 **Is there any forced-return manual for the training your institution is providing?**

□ Yes.

□ No.

If No:

IC15 **According to your experience, is there a need for such a manual?**

□ Yes.

□ No.

IC16_01 **Please explain your answer/Please elaborate on your answer**: (Free text) _____

IC17 **Is it required for a monitor to be trained on forced-return monitoring before being deployed as a forced-return monitor?**

□ Yes.

□ No.

If Yes:

IC18 **Is there any set schedule (e.g. the frequency of training sessions) for the training of forced-return monitors?**

□ Yes.

□ No.

If Yes:

IC19 **Please select all that apply regarding the schedule of required training for a forced-return monitor:**

IC19_01   □ Before first deployment
IC19_02   □ After certain period after the initial training
IC19_03   □ Yearly
IC19_04   □ Every second year
IC19_05   □ OtherIC19_05a Please specify: _____

IC20 **Is there any other type of training available to forced-return monitors (other than specialised training in forced-return monitoring)?**

□ Yes.
□ No.

If Yes:

IC21 **What type of training? Please select all that apply:**

IC21_01 □ Escort officer training,
IC21_02 □ Security training,
IC21_03 □ Peer-to-peer exchange
IC21_04 □ Other.   IC21_04a   Please specify: _____

IC22_01 **What suggestions do you have for improving the method of training of forced-return monitors?**
Please specify:

IC25_01 **What are the institutional limitations to monitoring human rights compliance in forced-return operations?**
Please note that this question refers to institutional capacity to monitor human rights compliance in forced-return operations (i.e. number of operations monitored, adequate profile of a monitor, adequate training of monitors, funding):

IC24_01 **What institutional needs do you identify, which, if satisfied, the institutional capacity for monitoring human rights compliance during return operations would increase?**
Please note that this question refers to institutional capacity to monitor human rights compliance (i.e. number of operations monitored, adequate profile of a monitor, adequate training of monitors, funding):

The following questions refer to the deployment of forced-return monitors.

DM01 **Does your national legislation foresee mandatory monitoring of all return operations?**

    □ Yes.
    □ No.

    □ Certain types of return operations only. DM01_03 Please specify: (Free text) _____

If No or Certain types only:

    DM03 **Even if it is not foreseen in the legislation, is it an established practice in your country to monitors all return operations?**

    □ Yes.
    □ No.

    □ Certain types of return operations only. DM03_03 Please specify: (Free text) _____

DM05 How much time in advance of a forced-return operation does the national return institution inform the Forced-Return Monitoring body about that upcoming return operation?
Please specify calendar days and add any other comment, as you consider relevant:

DM06 **What is the method of communication between the national return institution and the Forced-Return Monitoring body regarding upcoming forced-return operations?**
Please specify:

DM07 **What is the content of information communicated by the national return institution to the Forced-Return Monitoring body in the first notification?**
Please select all that apply:

DM07_01 □ The date and time of the return operation
DM07_02 □ Ports of departure
DM07_03 □ The country(ies) of return
DM07_04 □ Stopover information (when applicable)
DM07_05 □ Necessary travel documents

DM07_06   □ The number of returnees

DM07_07   □ Countries of origin of returnees

DM07_08   □ Any forms of vulnerability of returnees (e.g. pregnant women, families with minors, elderly people, persons with disabilities or with a medical condition)

DM07_09   □ Other.   DM07_09a   Please specify: (Free text) _____

DM08 Is there any time-frame set for the response of the Forced-Return Monitoring body to the return institution?

□ Yes.

□ No.

If Yes:

DM09_01 **What is the time-frame set for the response of the Forced-Return Monitoring body to the return institution?**
Please specify the number of calendar days:

DM10 **Who within the Forced-Return Monitoring body has the decision-making authority about the deployment of monitors?**
Please select all that apply:

DM10_01   □ Ombudsperson

DM10_02   □ Head of Unit

DM10_03 □ Monitor him/herself

DM10_04 □ Other. DM10_04a Please specify: (Free text) _____

DM11 What specific criteria are there for making a decision whether to monitor a specific operation?
Please select all that apply:

DM11_01 □ Country of return

DM11_02 □ Vulnerability of returnees (e.g. medical condition)

DM11_03 □ Other. DM11_03a Please specify: (Free text) _____

DM12 Are there any specific criteria regarding the number of monitors assigned to a return operation?

□ Yes.
□ No.

If Yes:

DM16 What are the criteria for assigning a specific number of monitors to a return operation?
Please specify and elaborate, in case the number of monitors varies on the type of return operation:

DM13 **How many monitors are assigned to an operation? Please specify and elaborate, in case the number of monitors varies on the type of return operation:**

DM14 **What gaps do you identify in the actual deployment of forced-return monitors?**
Please note that this question refers to the deployment of monitors (i.e. legal mandate vs. established practice, communication between the national return institution and the Forced-Return Monitoring body, criteria for monitoring specific operations etc.)

DM15 **What institutional needs do you identify, which once satisfied, would facilitate even further the actual deployment of forced-return monitors?**
Please note that this question refers to the deployment of monitors (i.e. legal mandate vs. established practice, communication between the national return institution and the Forced-Return Monitoring body, criteria for monitoring specific operations etc.):

The following questions refer to preparedness of monitors.

PM01 What type of information do monitors receive about the returnees (from a particular return operation) and how much in advance do they receive this information?
Please select all that apply and insert number of calendar days accordingly:

	Information monitors receive about the returnees before a return operation	No. of calendar days before that return operation, when monitors receive that respective information
□	No of returnees	[Insert number]
□	Countries of return	[Insert number]
□	Countries of origin of returnees	[Insert number]
□	Any form of vulnerability	[Insert number]
□	Other. Please specify: [insert text]	[Insert number]

PM02 **Based on what criteria are forced-return monitors assigned to a specific forced-return operation?**
Please select all that apply:
- □ Their availability
- □ Knowledge of languages required in that particular operation
- □ Gender of returnees
- □ Vulnerabilities of returnees
- □ Other. Please specify: (Free text) _____

PM03 **How much time do monitors have to prepare in order to meet different requirements (such as visa, vaccination, etc.) necessary for their physical participation in the return operation?**
Please elaborate:

PM04 **Which additional information or support does the national administration provide to the Forced-Return Monitoring body/ forced-return monitors to facilitate their actual participation in the return operation?**
Please specify:

PM05 **May the monitors accompany the returnees at all times in the means of transportation (e.g. during land operations or during transfers)?**
　　　□ Yes.
　　　□ No.
PM06 **Please explain your answer:**

PM07 **In the case of charter flights, does an organising institution ensure during the reservation that monitors are assigned seats, irrespective of whether the monitoring body already decided to participate or not?**
　　□ Yes.
　　□ No.

PM08 **Please explain your answer:**

PM09 **What gaps do you identify which negatively affect the monitors' preparedness for monitoring forced-return operations?**
Please note that this question refers to preparedness of monitors (i.e. the information on return operations received by monitors, criteria for assigning particular monitors to specific operations, the time monitors have to prepare their physical participation, the support monitors receive from the national administration):

PM10 What institutional needs do you identify, that, if met, would improve monitors' preparedness for monitoring forced-return operations?
Please note that this question refers to the preparedness of monitors (i.e. the information on return operations received by monitors, criteria for assigning particular monitors to specific operations, the time monitors have to prepare their physical participation, the support monitors receive from the national administration):

The following questions refer to the monitoring process.

MP01 Which phases of a forced-return operation can be monitored, according to the legal mandate of the Forced-Return Monitoring body in your country?
Please select all that apply:

□ Pre-departure phase

□ In-flight phase

□ Arrival phase

□ Other. Please specify: (Free text) _____

MP02 **Which phases of a forced-return operation are monitored in practice by the Forced-Return Monitoring body in your country?**
Please select all that apply:

☐ Pre-departure phase

☐ In-flight phase

☐ Arrival phase

☐ Other. Please specify: (Free text) _____

MP03 **If there are any discrepancies between the legal mandate and practice, please elaborate further/ explain discrepancies:**

MP04 **In practice, do monitors have access to returnees throughout the forced-return operation?**

☐ Yes.

☐ No.

If No:

MP05 **Please elaborate on the practical impediments:**

MP06 **In case interpreters are required, in which phases of a return operation are they physically present?**
Please select all that apply

 □ Pre-departure phase
 □ In-flight phase
 □ Arrival phase
 □ Other. Please specify: (Free text) _____

MP08 **Contact talks can be conducted with the returnee prior to return, in order to conduct a first risk assessment. In practice, does the monitor participate in the contact talks?**

 □ Yes.
 □ No.

 □ Not always. Please elaborate: (Free text) _____

MP09 **In practice, does the monitor participate during briefing?**

 □ Yes.
 □ No.

 □ Not always. Please elaborate: (Free text) _____

MP11 **In practice, is the monitor present at the security check?**

□ Yes.
□ No.

□ Not always. Please elaborate: (Free text) _____

MP13 **In practice, are the means of transportation of returnees (e.g. bus/ car transferring them to the place of departure) designed in a way to allow the presence of monitors?**

□ Yes.
□ No.

□ Not always. Please elaborate: (Free text) _____

MP14 **In practice, is the monitor present during the hand-over?**

□ Yes.
□ No.

□ Not always. Please elaborate: (Free text) _____

MP17 **In practice, does the monitor participate in the debriefing?**

□ Yes.
□ No.

□ Not always. Please elaborate: (Free text) _____

MP19 In practice, are monitors following specific guidelines when monitoring (e.g. are there any Standard Operating Procedures regarding specific issues to pay attention to during the monitoring process)?

□ Yes.

□ No.

□ Not always. Please elaborate: (Free text) _____

If No:

MP21 **In case monitors are not following specific guidelines for monitoring, are such guidelines (or Standard Operating Procedures) needed?**

□ Yes.

□ No.

Please elaborate on your answer: (Free text) _____

MP23 **In practice, what are the issues the monitor pays specific attention to during the monitoring?**
Please select all that apply:

□ Proportional use of force and restraints

□ Human dignity

□ Right to life

□ Prohibition of torture and inhuman or degrading treatment or punishment

□ Right to the integrity of the person

□ Non-discrimination

□ Right to liberty and security

□ Respect for private and family life

□ Rights of the child (best interest of the child)

□ Freedom of thought, conscience and religion

□ Right to property

□ Protection of personal data (and privacy)

□ Freedom of expression and information (access to information)

□ Right to good administration

□ Right to an effective remedy (complaint)

□ Health care

□ Rights of vulnerable groups

□ Access to food and water as basic needs

□ Other. Please elaborate: (Free text) _____

MP24 **What gaps do you identify, which negatively affect the monitoring process?**

Please note that this question refers to the monitoring process (i.e. phases of a forced-return operation monitored by law vs. monitored in practice, whether monitors follow specific monitoring guidelines, monitors' access to returnees throughout the operation, presence of an interpreter if needed, presence of a monitor during briefing, at security check, during contact talks, during hand-over, in the debriefing)

MP25 **What institutional needs do you identify that, if met, would improve the monitoring process?**
Please note that this question refers to the monitoring process (i.e. phases of a forced-return operation monitored by law vs. monitored in practice, whether monitors follow specific monitoring guidelines, monitors' access to returnees throughout the operation, presence of an interpreter if needed, presence of a monitor during briefing, at security check, during contact talks, during hand-over, in the debriefing):

The following questions refer to writing and submitting monitoring reports.

WR01 **Do monitors use a mandatory reporting template?**

□ Yes.
□ No.

If No:
WP02 **In which format are the reports submitted?**

If Yes:

WP03 What are the main headings/ topics to be covered by the report template? (e.g. with or without recommendations? Does it focusing on particular aspects? etc.)
Please elaborate:

WR04 **Does the monitoring report include recommendations?**

□ Yes.

□ No.

If No:

WR06 **According to your knowledge, why are recommendations not included in monitors' reports?**
Please elaborate:

If yes:

WR05 **Please provide an example of a recommendation:**

WR07 **In practice, who formulates the recommendations after a monitored forced-return operation? Multiple-choice**

□ Forced-return monitor himself/herself

□ Responsible in the Forced-Return Monitoring body

□ Other. Please specify: (Free text) _____

WR08 **To whom are the reports submitted within the monitoring body?**
Please specify:

WR09 **Which institutions/ stakeholders receive the monitors' reports? Multiple-choice**

□ National Institution organising Returns

□ Ombudsperson, if different than FRM body

□ Other. Please specify: (Free text) _____

WR10 **What gaps do you identify, which negatively affect the process of writing and submitting a monitoring report?**
Please note that this question refers to writing/submitting monitoring reports (i.e. monitoring template, whether recommendations are included in monitoring reports, to whom reports are submitted):

WR11 **What institutional needs do you identify that, if met, the process of writing and submitting monitoring reports would be improved?**
Please note that this question refers to writing/submitting monitoring reports (i.e. monitoring template, whether recommendations are included in monitoring reports, to whom reports are submitted):

The following questions refer to follow-up of the monitoring reports.

FR01 Are there any specific follow-up procedures in place, regarding monitoring reports?

☐ Yes.
☐ No.

If Yes:

FR02 **What are the specific follow-up procedures (e.g. per person, per operation)? Please elaborate**:

FR03 **Are all monitored forced-return operations followed-up?**

☐ Yes.
☐ No.

FR04 **Are operations during which serious incidents took place (e.g. disproportional use of means of restraint, forbidden use of force/ restraint etc.) being followed-up?**

☐ Yes.
☐ No.

FR05 Are there periodic written reviews of individual monitoring reports of monitored forced-return operations (through, for instance, regular/ annual reviews)?

☐ Yes.
☐ No.

If Yes:

FR06 To what institution are those regular/ annual reviews (reports) submitted?
Please specify:

| |
| |

FR07 Are the individual monitoring reports public?

☐ Yes.
☐ No.

FR08 Are the regular (annual, etc.) reports of the Forced-Return Monitoring body (or supervising authority) made public?

☐ Yes.
☐ No.

FR09 What gaps do you identify, gaps which negatively affect the process of following-up on monitoring reports?
Please note that this question refers to the process of following-up on monitoring (i.e. procedure in place for following-up on monitoring reports, procedures for following-up all or particular forced-return operations, monitoring reports being public or not, systemic follow-up of monitoring reports):

[empty box]

FR10 What institutional needs do you identify, needs which, if met, the process of following-up on the monitoring reports would improve?
Please note that this question refers to the process of following-up on monitoring (i.e. procedure in place for following-up on monitoring reports, procedures for following-up all or particular forced-return operations, monitoring reports being public or not, systemic follow-up of monitoring reports):

[empty box]

Further comments and suggestions

FC01 Please mention any other relevant issue, which was not covered by previous sections:

[empty box]