Training Manual
Forced Return Monitoring

Comprehensive Training for Forced Return Monitors
Disclaimer: This Training Manual for Forced Return Monitoring was developed under the EU funded Forced Return Monitoring (FReM) project. The first draft of the Manual was tested during two pilot training sessions in November and December 2014, and updated following feedback received from the 21 monitors who participated in the training, as well as from the 19 monitors who participated in forced return operations as FReM trainee monitors. Furthermore, the outcomes from a lessons learnt meeting, which involved all project partners and associated projects partners, the FReM trained monitors as well as Frontex and the European Union Agency for Fundamental Rights (FRA), were taken into account.

This publication has been produced with the assistance of the European Commission. The contents of this publication are the sole responsibility of the International Centre for Migration Policy Development (ICMPD) and in no way should be taken to reflect the views of the European Commission.
The International Centre for Migration Policy Development (ICMPD) acknowledges and expresses deep gratitude for the co-operation, contribution, know-how and expertise shared by many ministries, institutions, agencies, organisations and persons involved in the implementation of the project “Forced Return Monitoring (FReM)”, as well as the drafting, contribution and input to this Training Manual.

Special thanks go to the project/associated project Partner States, namely: Austria, Bulgaria, Greece, Hungary, Luxembourg, Malta, Portugal and Switzerland, as well as to the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (Frontex) and the European Union Agency for Fundamental Rights (FRA).

Likewise, special thanks go to those experts, forced return monitors, escorts and escort leaders that have shared their valuable practical experience with us.

Profound appreciation is extended to the two main authors of the Manual: Ms Cristina Sganga, Independent Human Rights Researcher, Trainer and Impact Assessor, and Ms Markéta Zelenka, Independent Training and Human Rights Expert. Furthermore, deep gratitude is extended to the FReM Project Team which deserves special mention: Ms Jenny Andersson Pucher (Programme Manager), Ms Martha Simon Delicata (Project Manager) and Ms Charlotte d'Elloy (Programme Assistant). Without their continuous and dedicated efforts and commitment to the management and implementation of the FReM project, the excellent project results would not have been possible.

Mr Martijn Pluim
Director, ICMPD
# Table of Contents

<table>
<thead>
<tr>
<th>Acknowledgements</th>
<th>7</th>
</tr>
</thead>
<tbody>
<tr>
<td>Introduction</td>
<td>13</td>
</tr>
<tr>
<td>Abbreviations</td>
<td>14</td>
</tr>
<tr>
<td>Definitions</td>
<td>15</td>
</tr>
<tr>
<td>Background</td>
<td>17</td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>Target Group</td>
<td>18</td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>The Design and Content of the Manual</td>
<td>18</td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>General Learning Outcomes of the Training</td>
<td>20</td>
</tr>
<tr>
<td>Pre-Course Reading List</td>
<td>20</td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>Module 1 — Introduction to Return, Forced Return Operations and Applicable Fundamental Rights</td>
<td>21</td>
</tr>
<tr>
<td>Learning Objectives</td>
<td>21</td>
</tr>
<tr>
<td>Module Plan</td>
<td>21</td>
</tr>
<tr>
<td>References</td>
<td>21</td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>Session 1.0: Setting the Ground</td>
<td>23</td>
</tr>
<tr>
<td>Implementation of the Session</td>
<td>23</td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>Session 1.1: Introduction to Return</td>
<td>24</td>
</tr>
<tr>
<td>Implementation of the Session</td>
<td>24</td>
</tr>
<tr>
<td>Introduction to Return</td>
<td>26</td>
</tr>
<tr>
<td>Key Terms Relating to Return</td>
<td>28</td>
</tr>
<tr>
<td>Types of Return</td>
<td>31</td>
</tr>
<tr>
<td>Return-Related Procedures – the Process up to Forced Return</td>
<td>33</td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>Session 1.2: Forced Return Operations – Types and Phases</td>
<td>35</td>
</tr>
<tr>
<td>Implementation of the Session</td>
<td>35</td>
</tr>
<tr>
<td>Background Reading</td>
<td>37</td>
</tr>
<tr>
<td>Forced Return Operations</td>
<td>37</td>
</tr>
<tr>
<td>Types of Forced Return Operations</td>
<td>38</td>
</tr>
<tr>
<td>Phases of a Forced Return Operation</td>
<td>42</td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>Session 1.3: Monitoring and Applicable Fundamental Rights</td>
<td>46</td>
</tr>
<tr>
<td>Implementation of the Session</td>
<td>46</td>
</tr>
<tr>
<td>Background Reading</td>
<td>48</td>
</tr>
<tr>
<td>The Role of Monitoring for the Observance of Fundamental Rights</td>
<td>48</td>
</tr>
<tr>
<td>Forced Return Monitoring Systems in MSs</td>
<td>50</td>
</tr>
<tr>
<td>Fundamental Rights Applicable to Forced Return Operations</td>
<td>50</td>
</tr>
<tr>
<td>Key Learning Points Module 1</td>
<td>62</td>
</tr>
</tbody>
</table>
# Module 2 — The Role, Mandate and Responsibilities of Escorts and the Escort Leader

<table>
<thead>
<tr>
<th>Learning Objectives</th>
<th>65</th>
</tr>
</thead>
<tbody>
<tr>
<td>Module Plan</td>
<td>65</td>
</tr>
<tr>
<td>References</td>
<td>66</td>
</tr>
</tbody>
</table>

## Session 2.1: The Role and Mandate of Escorts

| Implementation of the Session | 66 |
| Background Reading            | 67 |
| The Role and Tasks of Escorts  | 67 |
| Analysis and Observation Exercise | 71 |

## Session 2.2: Use of Coercive Measures and Restraints

| Implementation of the Session | 74 |
| Background Reading            | 76 |
| Introduction to the Use of Coercive Measures/Means of Restraint | 76 |
| Restraining Techniques to be Avoided and the Risk of Positional Asphyxia Syndrome | 78 |
| Specific Tasks for Escorts in the Event Restraining Techniques are Applied | 80 |
| Reporting on the Use of Force – A Quick Check List | 81 |

## Session 2.3: The Responsibilities of Escorts within the Different Phases of a Forced Return Operation

| Implementation of the Session | 82 |
| Background Reading            | 84 |
| Responsibilities: Pre-Return Phase | 84 |
| Responsibilities: Pre-Departure Phase | 88 |
| Responsibilities: In-Flight Phase | 90 |
| Responsibilities: Arrival Phase | 92 |

## Session 2.4: Case Study: Analysis and Application

| Implementation of the Session | 93 |
| Background Reading            | 94 |
| Case Study: Phases and the Use of Force | 94 |
| Key Learning Points Module 2  | 98 |

# Module 3 — The Role, Mandate and Responsibilities of a Forced Return Monitor

<table>
<thead>
<tr>
<th>Learning Objectives</th>
<th>101</th>
</tr>
</thead>
<tbody>
<tr>
<td>Module Plan</td>
<td>101</td>
</tr>
<tr>
<td>References</td>
<td>102</td>
</tr>
</tbody>
</table>

## Session 3.1: The Role and Mandate of Forced Return Monitors

| Implementation of the Session | 102 |
| Background Reading            | 103 |
Relevant Guidelines and Instruments for Forced Return Monitors 104
Key Tasks and Responsibilities of a Forced Return Monitor 106
Professional Attributes and Characteristics of Forced Return Monitors 106

Session 3.2: Responsibilities of a Forced Return Monitor during a Forced Return Operation: Pre-Operation; Pre-Return and Pre-Departure Phase 109
Implementation of the Session 109
Background Reading 111
Assignment of Monitors to Forced Return Operations 111
Individual Preparation of the Monitor for the Forced Return Operation 112
Monitoring the Pre-Return Phase 114
Pre-Return Phase - Responsibilities of the Monitor 115
Monitoring the Pre-Departure Phase 118
Pre-Departure Phase - Responsibilities of the Monitor 119

Session 3.3: Responsibilities of a Monitor during a Forced Return Operation: In-flight and Arrival Phase 126
Implementation of the Session 126
Background Reading 127
Monitoring the In-Flight Phase 127
In-Flight Phase - Responsibilities of the Monitor 128
Monitoring the Arrival Phase 131
Arrival Phase - Responsibilities of the Monitor 131
Case Study - Monitors 135
Key Learning Points Module 3 143

Module 4 — Reporting and Communication Responsibilities of Forced Return Monitors 145
Learning Objectives 145
Module Plan 145
References 146

Session 4.1: Principles of Reporting, the Monitoring Report Template and Lessons Learnt from its Application 146
Implementation of the Session 146
Background Reading 148
Communication by a Monitor at the Debriefing 148
General Principles of Reporting 148
Writing the Report 149
Do’s and Don’ts in Writing the Report 150
The Monitoring Report Structure and Information to be Provided 152
Session 4.2: Dealing with the Possible Impact of Forced Return Operations on the Monitor

Implementation of the Session
Background Reading
The Possible Impacts of Forced Return Operations on the Monitor
Impacts during the Monitoring Mission - How to Control your Emotions?
Impacts after the Actual Monitoring Mission
Strategies
Key Learning Points Module 4

Annex

1 - Sample Programme of a Training for Forced Return Monitors
2 - Material for Distribution during the Training
   Handout Session 1.0: Setting the Scene – Profile Template for Trainees
   Handout Session 1.3: Phases of Forced Return Operations
   Handout Session 1.3: Forced Return Monitoring Systems – State of Play in all 28 EU Member States
   Handout Session 2.1: Analysis and Observation Exercise/Video
   Handout Session 2.4: Case Study: Roles and Responsibilities of Escorts. Part 1
   Handout Session 2.4: Case Study: Roles and Responsibilities of Escorts. Part 2
   Handout Session 2.4: Case Study: Roles and Responsibilities of Escorts. Part 3
   Handout Session 3.1: Reflection Exercise – Ginger-Man
   Handout Session 3.2: Preparatory Check-List
   Handout Session 3.3: Case Study – Monitors – Part 1
   Handout Session 3.3: Case Study – Monitors – Part 2
   Handout Session 3.3: Case Study – Monitors – Part 3
   Handout Session 3.3: Case Study – Monitors – Part 4
3 - Terms of Reference for Forced Return Monitors
4 - Monitoring Report Template – Forced Return Operation
5 - Evaluation Form
6 - Final Test for Forced Return Monitor Trainees
   Training Test Answers
7 - Bibliography

List of Figures
   Figure 1: Pre-Return Phase - Steps
   Figure 2: Pre-Departure Phase - Steps
   Figure 3: In-Flight Phase - Steps
   Figure 4: Arrival Phase - Steps
It is important to mention that this Training Manual is the first of its kind and is based on desk research conducted and practical information collected. This includes information gathered from a questionnaire submitted to all EU MSs and associated States, information and good practices provided by the FReM project/associated project Partner States, as well as information from Frontex and FRA. In addition, experienced forced return monitors, escorts and escort leaders provided valuable information to the development of the manual. The outcomes and experiences as well as lessons learnt from the implementation of the Forced Return Monitoring “FReM” project and its activities were also taken into account. The first draft of the Manual was tested during two pilot training sessions. The evaluation of the training and the feedback received from the trained monitors who participated in actual forced return operations further enriched the Manual.

The Manual includes procedures related to forced return by air, land and sea (aircraft, bus, train, ship). However, as the most common method of return, especially when conducted as Joint Return Operations, is by air, examples made in the Manual tend to focus on air operations. Return procedures are mainly the same for air and land and the Manual covers both forms of return in detail, with specific information where procedures differ. Return by sea includes some specific features, which have not been covered in detail in this Manual. Therefore, monitoring of forced return operations by sea/ship will require further information than the basic information on this specific type of return provided in this Manual. With regard to monitoring of air operations, it is important to mention that the scope of this Manual does not cover monitoring during commercial flights, i.e. normal passenger flights, but only refers to monitoring of chartered national forced return operations or Joint Return Operations.

As this Manual is the first of its kind, it should be considered a living document, which will be updated to reflect new good and shared practices and developments. Experts in the field of forced return, experienced forced return monitors, escorts and escort leaders, are therefore expressly invited to provide feedback so that the Training Manual reflects the most up-to-date information and (good) practices, and takes into consideration the most recent developments. Similarly, should any gaps be identified, ICMPD welcomes your feedback.
<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>CPT</td>
<td>European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment</td>
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<tr>
<td>CoC</td>
<td>Code of Conduct</td>
</tr>
<tr>
<td>EC</td>
<td>European Commission</td>
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<tr>
<td>EU</td>
<td>European Union</td>
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<td>EPFRM</td>
<td>European Pool of Forced Return Monitors</td>
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<td>FRA</td>
<td>European Union Agency for Fundamental Rights</td>
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<tr>
<td>FRO</td>
<td>Forced Return Operation</td>
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<tr>
<td>Frontex</td>
<td>European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union</td>
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<tr>
<td>JRO</td>
<td>Joint Return Operation</td>
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<tr>
<td>MS</td>
<td>Member State</td>
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<tr>
<td>NGO</td>
<td>Non-Governmental Organisation</td>
</tr>
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<td>OMS</td>
<td>Organising Member State</td>
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<tr>
<td>OPCAT</td>
<td>Optional Protocol to the UN Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment</td>
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<tr>
<td>PMS</td>
<td>Participating Member State</td>
</tr>
</tbody>
</table>
Terms underlined within the table highlight terms defined elsewhere in the table.

<table>
<thead>
<tr>
<th><strong>Country of origin</strong></th>
<th>The country of nationality or, for stateless persons, of former habitual residence.¹</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Country of departure</strong></td>
<td>The country from which the third-country national is being returned.</td>
</tr>
</tbody>
</table>
| **Country of return** | In the EU context, a third country to which a third-country national returns.²  
Note: In most cases, it is the country of origin to which a return is made, but this definition is used here in order to indicate other (possible) destinations, e.g. country of transit or another third country. |
| **Escort(s)** | The security personnel, including persons employed by private contractor, responsible for accompanying returnees, in particular during their transportation out of the Member State.³ |
| **Escort Leader** | The escorts who are, in accordance with instructions given, in charge of managing a national group of escorts during a JRO. Each organising and participating Member State appoints its escort leader.⁴ |
| **Fit-to-travel** | A returnee’s medical condition (both physical and mental), which allows the person to travel safely.⁵ |
| **Forced return** | The compulsory return of an individual to the country of origin, transit or third country [i.e. country of return], on the basis of an administrative or judicial act.⁶ |
| **(Joint) Return Operation (JRO)** | The transport of third country nationals who are subject to a return decision carried out by an air/land/sea carrier selected for that purpose; joint refers to those operations where there is participation of two or more Member States.⁷ |
| **Member State (MS)** | A Member State of the European Union or a country associated with the implementation, application and development of the Schengen acquis.⁸ |

² Ibid  
⁴ Ibid  
⁵ Ibid  
⁶ EMN Glossary 2.0, 2012. The term is taken from the 2012 EMN Glossary as the version of 2014 refers to “compulsory return” used as a synonym for forced return. However, the definitions do in principle not differ.  
⁷ Ibid  
⁸ (Frontex 2013)
| **Monitor (of forced return operations)** | Persons responsible for the monitoring of return operations who are independent from the authority enforcing returns.9 |
| **Monitoring (of forced returns)** | The activity whereby it is established and reported whether the return is conducted in a humane manner, respectful of the dignity of the person and in compliance with fundamental rights as enshrined in the EU Charter of Fundamental Rights. Monitoring involves observation of and reporting on forced return operations without powers of intervention.10 |
| **Organising Member State (OMS)** | The Member State which is responsible for the organisation of a Joint Return Operation (JRO).11 |
| **Participating Member State (PMS)** | The Member State which participates in a JRO organised by the Organising Member State.12 |
| **Participant (in JROs)** | Any person, including escorts, monitors, interpreters and medical staff, taking part in a JRO, other than the returnee.13  
Note: this manual, as it covers both national FROs and JROs, applies this term also to national FROs. |
| **Removal** | The enforcement of the obligation to return, namely the physical transportation out of the Member State.14  
The present training manual subsumes the pre-return, pre-departure, in-flight and the arrival phase under the “removal”. |
| **Returnee** | A person going from a host country back to a country of origin, country of nationality or habitual residence usually after spending a significant period of time in the host country whether voluntary or forced, assisted or spontaneous.15 |
| **Third-country national** | Any person who is not a citizen of the European Union within the meaning of Art. 20(1) of Treaty on the Functioning of the European Union (TFEU) and who is not a person enjoying the European Union right to free movement, as defined in Art. 2(5) of the Schengen Borders Code.16 |

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9 FReM Framework EPFRM  
10 Ibid  
11 Frontex 2013  
12 Ibid  
13 Ibid  
15 EMN Glossary 2014  
16 Ibid
This Training Manual was developed in the context of the EU financed Forced Return Monitoring (FReM) project,\textsuperscript{17} which aimed to further strengthen the quality of the European return system in line with fundamental rights standards and best practices, thus supporting the implementation of Article 8(6) of the Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008, on common standards and procedures in Member States for returning illegally staying third-country nationals.\textsuperscript{18}

Art 8(6) of the Return Directive requires EU Member States and associated States\textsuperscript{19} to provide for an effective forced return monitoring system. Some EU Member States and associated States have established national monitoring systems, while others are still in the process of aligning their national return systems with the specific requirements set out in the Return Directive.

Presently, States use a variety of systems. In some countries national prevention mechanisms implementing the Optional Protocol to the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT), have been tasked to monitor forced returns; in other countries, NGOs, internal police monitoring systems or national ombudspersons have been called upon to carry out this monitoring function.\textsuperscript{20} Moreover, at European level, the Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), is mandated to visit all persons deprived of liberty, including persons involved in return procedures. The CPT has elaborated standards deriving from the description of substantive issues in a number of its General Reports\textsuperscript{21} which it pursues when carrying out visits to places of deprivation of liberty.

As part of the FReM project, a Framework for a Pool of European Forced Return Monitors was developed, describing the functioning and working modalities of a European Pool of Forced Return Monitors (EPFRM). Corresponding Guidelines and Monitoring Tools

\textsuperscript{17} The project was jointly implemented by ICMPD with the project Partner States Austria, Bulgaria, Greece, Hungary, Luxembourg, Malta, Portugal and Switzerland (as associated Partner), and in coordination with FRONTEX and the European Union Fundamental Rights Agency (FRA).

\textsuperscript{18} From now on referred to as the Return Directive.

\textsuperscript{19} List of EU Member States and Schengen Associated Countries: Austria, Belgium, Croatia, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden, Switzerland, and Liechtenstein.

\textsuperscript{20} The European Union Agency for Fundamental Rights (FRA), analysed the current state of play regarding forced return monitoring in the 28 EU Member States four years after Member States were required to transpose the Return Directive into national law, and provides an overview of the state of forced return monitoring systems in place within the MS. The table is available under http://fra.europa.eu/en/theme/asylum-migration-borders/forced-return.

\textsuperscript{21} http://www.cpt.coe.int/en/documents/scr.pdf. In the document the CPT states that, "the Committee hopes in this way to give a clear advance indication to national authorities of its views regarding the manner in which persons deprived of their liberty ought to be treated and, more generally, to stimulate discussion on such matters". The most recent country reports for the UK and NL can be found in the following: http://www.cpt.coe.int/en/states/uk.htm; http://www.cpt.coe.int/documents/gbr/2013-07-18-eng.htm.
for Forced Return Monitoring were also elaborated. This Training Manual was drafted based on these documents and training were conducted for a number of forced return monitors, nominated by the FReM project/associated project Partner States. Currently (as of September 2015), there is a pool of 19 active FReM trained forced return monitors, constituting a pilot European Pool, which aims to provide access to trained forced return monitors for monitoring of (joint) forced return operations for Partner States. In addition to the possibility of engaging these monitors on JROs, the pool, at the same time serves as a possible backup to monitor national forced return operations in Member States.

Forced return operations encompass specific law enforcement responsibilities and tasks, including some country-specific rules and regulations, which forced return monitors need to be familiar with when performing their monitoring duties. Likewise, forced return monitors have to be familiar with and aware of their own impartial role, their specific mandate, tasks and responsibilities. Training of forced return monitors is thus key to their successful involvement in monitoring and reporting on forced return operations.

This specialised Training Manual contains the most important topics that monitors need to be familiar with and provides trainers with clear directions on how to implement training sessions for and with trainee forced return monitors.

Target Group

The target group of this Manual is mainly two-fold: on the one hand this Manual is directed at trainers who will train forced return monitors, and, on the other hand it provides trainee forced return monitors with the possibility to consult relevant information.

The Design and Content of the Manual

This Manual provides the relevant content to comprehensively train forced return monitors to conduct successful monitoring through observation and reporting on forced return operations, by land, sea and air.22

In the following, the terms “monitor(s)” and “forced return monitor(s)” are used interchangeably.

The content of this Training Manual is based partly on and developed in line with the FReM Framework for a European Pool of Forced Return Monitors and the related FReM Guidelines and Monitoring Tools for Forced Return Monitoring. Furthermore, it takes into consideration the Council Decision 2004/573/EC on the organisation of joint flights for removals as well as the Return Directive 2008/115/EC. Furthermore, principles relating to forced return and related fundamental rights, universal human rights as emphasised by the UN and international (inter- and non-governmental) organisations, the European Union Agency for Fundamental

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22 The focus within this Training Manual is on return operations by air, outlining differences where applicable.
Rights (FRA), the Frontex Fundamental Rights Strategy as well as the respective Codes of Conduct in place.\(^{23}\)

The Manual is structured in four training modules:

- Module 1 — Introduction to Return, Forced Return Operations, Forced Return Monitoring and Applicable Fundamental Rights;
- Module 2 — The Role, Mandate and Responsibilities of Escorts and the Escort Leader;
- Module 3 — The Role, Mandate and Responsibilities of a Forced Return Monitor;
- Module 4 — Reporting and Communication Responsibilities of Forced Return Monitors.

The methodology of the Manual is developed taking into consideration adult learning methods and thus introduces exercises and group work so that the trainee monitors process information and apply the relevant content where possible. Each module includes learning objectives for the module and a module plan highlighting the different sessions contained in each module as well as an indicative duration. At the beginning of each session within a module, a session plan is provided indicating the content to be covered, the proposed methodology (exercises etc.), and materials required for the session in order to guide the trainer in the preparation. Key learning points are provided at the end of each module as an orientation for the trainer to summarise and highlight the main messages for the trainees. A sample training programme is included at the end of the Manual to help the planning and delivery. Materials and handouts for sessions, if applicable, are provided in the Annex with reference to the specific sessions. A test to be applied at the end of the training to assess the knowledge of the trained monitors on the subject matter as well as an evaluation form for the training are also included in the Annex.

In the manual, icons are used to facilitate orientation/draw attention to certain aspects.

<table>
<thead>
<tr>
<th>Icon</th>
<th>Description</th>
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<tbody>
<tr>
<td>🗣️</td>
<td>Indicates additional important information on specific aspects, often relating to regulations in place.</td>
</tr>
<tr>
<td>🚨</td>
<td>Highlights important aspects relevant to forced return monitoring the monitor should be particularly aware of.</td>
</tr>
<tr>
<td>📩</td>
<td>Points out notes to the trainer. These include further information to be highlighted and important messages to be conveyed.</td>
</tr>
<tr>
<td>👀</td>
<td>Draws attention towards specific issues to be observed by the monitor.</td>
</tr>
<tr>
<td>✍️</td>
<td>Indicates aspects the monitor has to take into account in and for the report.</td>
</tr>
<tr>
<td>✍️</td>
<td>Specifies instructions to the participants.</td>
</tr>
</tbody>
</table>

\(^{23}\) The Manual does not cover national laws and does not list the many reservations or opting-outs that individual Member States have identified.
General Learning Outcomes of the Training

Upon successful completion of the training and the monitoring of a forced return operation outlined in this Manual, forced return monitors will:

- Know about general return procedures prior to an actual forced return operation;
- Be able to name technicalities involved in a forced return operation/JRO and outline the fundamental rights pertaining to the latter;
- Be conversant with the specific role and responsibilities and mandate of escorts in forced return operations/JROs;
- Be able to fulfil the specific role and responsibilities and mandate of monitors in observing forced return operations/JROs according to fundamental rights standards and principles;
- Be able to draft a monitoring report in accordance with all related duties and procedures for the submission of the report upon completion of the forced return operation/JRO;
- Be able to assess and analyse the fundamental rights dimension of return operations, identify potential fundamental rights violations and have the skills to report these.

In sum, the training equips the forced return monitor with overall competence to monitor and report on forced return operations in an impartial manner. Nonetheless, in order to obtain the certificate of a FReM trained monitor (and thus form part of the pilot European Pool of Forced Return Monitors (EPFRM)), the monitor shall participate as a trainee monitor in a forced return operation, as set out in the framework of the EPFRM (see details in the document, ICMPD 2015a). The participation shall cover a full return operation in line with the phases outlined in this Manual and include the provision of a monitoring report based on the FReM monitoring report template (covered in module 4 of this training and included in the Annex and the FReM Guidelines and Monitoring Tools document). For learning purposes, the trainee monitor shall receive feedback to the monitoring report submitted.

Pre-Course Reading List

To help ensure a shared base of knowledge among trainees, it is suggested to send the following documents to the trainees at least three weeks prior to the training:

- Code of Conduct for Joint Return Operations coordinated by Frontex;
- Charter of Fundamental Rights of the European Union;
- Council Decision 2004/573/EC of the Council of Europe;
- Twenty Guidelines on Forced Return of the Council of Europe.

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24 For sole training purposes it does not matter if the return operation is a JRO, a national return operation or a Dublin return, the importance is that the trainee monitor has the possibility to participate in and monitor and report on all phases of the operation.
Module 1

Introduction to Return, Forced Return Operations and Applicable Fundamental Rights

Learning Objectives

At the end of this module, trainees will:

- Know and be able to explain what forced return and forced return operations are, including the different technicalities involved;
- Be clear about the importance, role and responsibilities as well as the mandate of forced return monitors in observing forced return operations according to EU and UN human rights standards and principles;
- Know the specific fundamental rights involved and to be observed as part of monitoring forced return operations.

Module Plan

Module 1: Introduction to Return, Forced Return Operations, Monitoring and Applicable Fundamental Rights

<table>
<thead>
<tr>
<th>Session</th>
<th>Methodology</th>
<th>Duration</th>
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</thead>
</table>
| 1.0: Setting the Ground | - Welcome  
- Getting to know each other and expectations - “Profiles”  
- Rules and Agenda | 120 min  
2 H |
| 1.1: Introduction to Return | - Lecture or  
- Gallery of key terms (groups)  
- Discussion and lecture on process of return | 45/60 min  
1 H |
| 1.2: Forced Return Operations – Types and Phases | - Brainstorming  
- Lecture – overview of phases  
- Groups – matrix of phases with descriptions | 90 min  
1.5 H |
| 1.3: Forced Return Monitoring and Applicable Fundamental Rights | - Buzz groups and discussion with lecture  
- Overview of state of MS monitoring systems based on FRA table  
- Group work on fundamental rights applicable  
- Presentations and lecture on detailed rights combined  
- Positioning of the fundamental rights within matrix developed with phases | 120 min  
2 H |
| Overall duration Module 1 | | 6.5 H |
References

The following documents are relevant to the content covered and/or used within this Module. However, the list is indicative, not exhaustive.

- European Parliament and the Council of Europe. 2008. Regulation (EU) No 604/2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person. EU Dublin Regulation, Brussels, Belgium;
- Council of Europe. 1950. European Convention of Human Rights, Brussels, Belgium;
- ICMPD. 2015. Framework for a European Pool of Forced Return Monitors - EPFRM, Vienna, Austria;
- Frontex. 2011. Fundamental Rights Strategy, Warsaw, Poland;
- Frontex. 2011. Code of Conduct for all persons participating in Frontex activities, Warsaw, Poland;
- Frontex. 2013. Code of Conduct for Joint Return Operations coordinated by Frontex, Warsaw, Poland;
- CPT Standards and country reports;
Session 1.0: Setting the Ground

<table>
<thead>
<tr>
<th>Topic</th>
<th>Time</th>
<th>Methodology</th>
<th>Supporting materials</th>
</tr>
</thead>
<tbody>
<tr>
<td>Welcome</td>
<td>20 min</td>
<td>Welcome by representative (organisation and institution the training is implemented with) and/or the trainer(s)</td>
<td>Microphones and sound, if necessary</td>
</tr>
<tr>
<td>Getting to know each other and expectations</td>
<td>20 min</td>
<td>Elaboration of “profiles” in pairs Presentation of the neighbour to the rest of the group, including expectations</td>
<td>Printed copies of the “profiles” (see Annex 1.0) for the trainees to fill, markers</td>
</tr>
<tr>
<td></td>
<td>60 min</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Rules and agenda</td>
<td>20 min</td>
<td>Agenda flipchart or agenda on PPT – reference to expectations Rules-flipchart (rules for the training)</td>
<td>Prepared flipcharts (Agenda, Rules), marker</td>
</tr>
</tbody>
</table>

**Total duration** | **120 min/2 H**

**Implementation of the Session**

1. Welcome the trainees with a short background of the training, including its objectives and importance. Depending on the organisation the training is conducted by and/or with, welcome speeches by different representatives might be relevant and have to be scheduled as part of the agenda in addition to the welcome and introduction by the trainer/s.

2. Since the trainees will spend several days together, it is important to become acquainted with each other and to build a base of trust. Distribute copies of the profile template from this Training Manual (see Annex 1.0) or develop another one and copy it for all trainees. Ask the trainees to get together either with their neighbour, should they not know him or her, or else find a person they do not know or know the least in the room. Allocate 20 minutes to discuss and fill out the profiles (best is to fill it out together, each for the other person based on what was discussed, it encourages questions to each other). Remind the trainees to manage their time. Either to spend 10 minutes on the profile of one person and then move to the other person or cover each point of the profile for both at the same time.

Ask each trainee to briefly (max 3 minutes) introduce the other person interviewed, to the plenary and both to jointly outline the expectations written down (no repetitions in order to save time) for the training. Ask all trainees to place their “profile” (including the expectations) on a wall (prepared, e.g. with a nice heading such as “we are”, “our expectations are”).
3. Show the (prepared) agenda of the five days training on flipcharts or on a PPT and provide the trainees with an overview of what will be covered during the training. While outlining the content, e.g. the modules and the topics they contain, make reference to certain expectations that have been mentioned, e.g. stating the particular expectation that will be covered here etc., or that the focus will be set more on x and therefore expectation z is somewhat out of the scope of the training in general.

4. Show a (prepared) flipchart with some rules for the training. These can relate to issues such as *mobiles on silent, active participation, be on time* etc. However, given the nature of the training and tasks for the monitors it might also be relevant to note down a rule relating to confidentiality, e.g. a joint understanding under *what happens in the training, stays in the training*, that whatever is shared as experience and/or story, will not be used or referenced by the trainees outside the training and group of trainees. Ask them to add any rule they might feel is important and write it down on the flipchart.

### Session 1.1: Introduction to Return

<table>
<thead>
<tr>
<th>Topic</th>
<th>Time</th>
<th>Methodology</th>
<th>Supporting materials</th>
</tr>
</thead>
<tbody>
<tr>
<td>Background to return</td>
<td>5 min</td>
<td>Short intro to the topic (return, Return Directive)</td>
<td>Projector, screen (wall), laptop, PPT</td>
</tr>
<tr>
<td>Key terms and types of return – voluntary, assisted voluntary, forced</td>
<td>25 min or 45 min</td>
<td>Lecture or Gallery of key terms – depending on trainees</td>
<td>Flipcharts, markers Prepared flipcharts, markers</td>
</tr>
<tr>
<td>Process up to forced return</td>
<td>10 min</td>
<td>Interactive lecture Summary and closing</td>
<td>PPT or flipchart</td>
</tr>
<tr>
<td><strong>Total duration</strong></td>
<td>40 min or 60 min/1H</td>
<td></td>
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</tbody>
</table>

**Implementation of the Session**

1. Ask the trainees if they are familiar with return and the related terms and procedures in general. Should all be familiar with it, skip the part on the key terms or hold a 10 minute recap together with all trainees by establishing the different terms and procedures in plenary.

   If not all trainees are familiar and/or express the interest to review the terms and procedures, ask those that are conversant with the terms to participate actively and to support the discussion with their knowledge.

2. The key terms can be part of a lecture. A more active method, however, is a gallery of key terms. For this, put up flipcharts across the room with two terms written on
each paper (prepared before the session; leave space in-between the two terms. The suggestion is to put up four flipcharts: 1) Voluntary return/assisted voluntary return, 2) forced return/removal, 3) readmission/readmission agreement, 4) non-refoulement/Dublin regulation etc., you can add one for irregular vs. illegal migrant).

3. Explain to the trainees that they will have to, in groups, define the different terms that are placed across the room. Then instruct the trainees to form four groups (e.g. by having them count out loud from 1 to 4, the number they say is equivalent to the group they will have to work in. Should you have more flipcharts with terms, create more groups). Ask all trainees with the number 1 to allocate themselves to one flipchart, those with number 2 to another and so on (every group will be at each flipchart once, so it does not matter which flipchart they start with).

4. Ask them to discuss in their group and write down in their own words, on the flipchart, what the respective terms entail, e.g., elements of the definition of the terms. If they want and can come up with a complete definition, they can. Give them 10 minutes at the first flipchart. Then ask the groups to rotate to the next flipchart, where they should read through what the previous group has put down and add/correct, if necessary. Ask them to rotate in this manner to the remaining two flipcharts as well (be careful to manage the time well, perhaps allowing only 5 minutes at each flipchart).

5. The printed terms can also be distributed to the trainees and the trainer/expert can walk with the trainees from flipchart to flipchart, adding from the definitions, missing aspects and/or correcting, if necessary.

6. When focussing on the definitions of voluntary and forced return, discuss and emphasise the types of return (voluntary and forced), their differences and implications (see background reading).

7. Take the trainees through a complete process up to a forced return (background reading) for them to understand clearly, what has happened before the actual forced return is enforced. Close the session by emphasising the fact that the pre-forced return procedures do not fall under what they have to monitor.
Background Reading

Introduction to Return

Before turning to the topic of forced return and forced return monitoring, it is important, even for monitors, to be familiar with the overall context of return. Even though monitors ought to observe the forced return of third-country nationals and do not have the mandate to question the return decision taken by relevant authorities, knowledge of relevant circumstances and procedures of the States and authorities organising a forced return for third-country nationals is paramount.

What is Return?

**Definition of return:** The movement of a person going from a host country back to a country of origin, country of nationality or habitual residence usually after spending a significant period of time in the host country whether voluntary or forced, assisted or spontaneous. (EMN Glossary 2014)

The definition of return already outlines, that it can be voluntary or forced, assisted or spontaneous.

People migrate due to different causes and under very different circumstances. States regulate entry as part of their migration management (e.g. visa requirements, bilateral agreements etc.). Apprehended irregular migrants, with no legal right to remain in a EU MS and associated State, meaning that they do not fulfil or no longer fulfil the conditions of entry or stay (e.g. in relation to a priory issued visa that has expired), will be asked to return back to their home country or another country of return (which might priory have been a transit country).

A number of different types of return and scenarios apply and forced return being applied as a measure of last resort after all other legal options have been exhausted. The following sections provide clarity on the context, key terms and the different types of return.


The Return Directive is one of the most important legal instruments of the EU MS and associated States in controlling migration, and aims at harmonising and supporting national efforts to better manage returns and facilitate reintegration. At the end of 2010, the

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25 The material presented in the following is adapted from ICMPD. 2015. Migration and Border Management Training Course, FIA Training Academy, Pakistan. Module 3 Irregular Migration and Smuggling of Migrants, Vienna, Austria.
26 (EMN Glossary 2014)
Return Directive, agreed by EU MSs and associated States in 2008, entered into force.\textsuperscript{27} The common standards established with the directive provide for clear, transparent and fair common rules for the return and removal, the use of coercive measures, detention and re-entry, while fully respecting the fundamental rights and fundamental freedoms of the persons concerned.

The Return Directive actually deliberates rights on migrants that may be invoked in proceedings before national courts. The Return Directive therefore, is indeed a legal instrument taking into account the fundamental rights of irregular migrants. The rights are applicable at national level regardless of whether a EU MS and associated States has transposed the Directive. The key features of the Return Directive include:

- The requirement for a fair and transparent procedure for decisions on the return of irregular migrants;
- An obligation on EU MSs and associated States to either return irregular migrants or to grant them legal status, thus avoiding situations of “legal limbo”;
- Promotion of the principle of voluntary departure by establishing a general rule that a “period for voluntary departure” should normally be granted;
- Provision of a minimum set of basic rights for persons residing irregularly, pending their removal, including access to basic health care and education for children;
- A limit on the use of coercive measures in connection with the removal of persons, and ensuring that such measures are not excessive or disproportionate providing for an entry ban valid throughout the EU for migrants returned by a EU MS and associated States.

A humane and effective return policy is and should always be based on the principle of giving preference to voluntary return. The Return Directive establishes preference of voluntary return over forced return and a period for voluntary departure to be granted.\textsuperscript{28}

**The Council Decision 2004/573/EC**

The Council Decision 2004/573/EC on the organisation of joint flights for removals from the territory of two or more Member States, of third-country nationals who are subject of individual removal orders, lays down rules for the organisation of return flights for third-country nationals who are the subject of removal orders. In particular it concerns the specific tasks of the authorities designated by the organising Member States as well as common tasks. The Decision was adopted without the opinion of the European Parliament.

The Common Guidelines on security provisions, the health of deportees, the code of conduct for escorts and the use of coercive measures are set out in the annex to the Decision. Security provisions for joint removals by air concern five phases defined in the

\textsuperscript{27} All EU MSs except Ireland and the UK are bound by the Return Directive, as well as the associated Schengen States Switzerland, Norway, Iceland and Liechtenstein.

\textsuperscript{28} (European Parliament and Council of the EU 2008: 1)
Decision: the pre-return phase, the pre-departure phase in departure or stopover airports, the in-flight procedure, the transit phase and the arrival phase.\textsuperscript{29}

**Key Terms Relating to Return**

**Irregular vs. Illegal Migrant**

When referring to migration and migrants, the two terms irregular and illegal are used, sometimes interchangeably. However, language and terms carry certain meanings and suggest significant implications. In this regard, the term “illegal” carries a criminal connotation. Therefore, when referring to a person, “irregular” is preferred to “illegal”, as it reflects the fundamental rights of migrants and the fact that not all migrants are entering a country knowingly “illegally”, as well as the fact that migration flows are mixed and that irregular migrants can also be refugees and/or victims of trafficking.

This perspective can also be observed in the fact that the European Council distinguishes between *illegal migration* and *irregular migrant*: Based on the Resolution 1509 (2006) of the Council of Europe Parliamentary Assembly *illegal is preferred when referring to a status and process and irregular is preferred when referring to a person.*\textsuperscript{30}

The terminology leaflet by PICUM, a platform for international co-operation on undocumented migrants provides further arguments for the use of irregular over illegal migrant. See \url{http://picum.org/uploads/file_/TerminologyLeaflet_reprint_FINAL.pdf}

**Non-Refoulement**

Non-refoulement is the key principle of international refugee law, which requires that no State shall return a refugee to a country where his or her life or freedom may be endangered.

The principle also encompasses non-rejection at the border. Its provision is contained in Article 33 of the 1951 UN *Convention Relating to the Status of Refugees* and constitutes the legal basis for States’ obligations to provide international protection to those in need of it. Article 33(1) reads as follows: ‘No Contracting State shall expel or return (refoule) a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion’. This principle was endorsed at the Tampere European

\textsuperscript{29} Slightly adapted from \url{http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=URISERV:l14165}. Please note that the five phases as defined in the Decision differ from the four phases as applicable to forced return monitoring and described in the Framework for a European Pool of Forced Return Monitor, the Guidelines and Monitoring Tools for Forced Return Monitoring and this manual.

\textsuperscript{30} (EMN Glossary 2014)
Council in October 1999 in paragraph 13 of the conclusions. Article 3 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, in the light of the jurisprudence of the European Court of Human Rights and Article 3 of the UN Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment, are also considered as bases for ‘non-refoulement’ obligations.

This means in practice that no officially recognised refugee shall be returned – and thus also, that an asylum seeker (whose claim is still in the decision process) shall also not be returned based on the general principle of protection.

The Dublin Regulation

The objective of the Dublin (III) Regulation (No 604/2013)31 of the European Parliament and the Council, applicable from 1 January 2014 replaces the 2003 Dublin (II) Regulation (No 343/2003), and lays down the criteria and mechanisms for determining which EU country is responsible for examining an asylum application.32

Article 3(1) of the Dublin Regulation (Regulation (EU) No. 604/2013), requires that EU Member States33 examine any application for international protection lodged by a third-country national or a stateless person and that such application be examined by one single Member State.34 The objective is to avoid asylum seekers from being sent from one country to another, and also to prevent abuse of the system by the submission of several applications for asylum by one person.

The criteria for establishing responsibility to examine an asylum application run, in hierarchical order, from family considerations, to recent possession of visa or residence permit in a Member State, to whether the applicant has entered EU irregularly, or regularly.35 Among the various criteria listed in the Dublin Regulation, the State responsible for allowing the applicant to enter the common area (specifically if entered irregularly, Art. 15, Chapter III), is typically determined to be the State responsible for reviewing the application (Chapter III of the Dublin Regulation).36

32 Ibid
33 All 28 EU Member States as well as Iceland, Liechtenstein, Norway and Switzerland apply the Regulation.
34 (European Union Agency for Fundamental Rights (FRA) 2014: 35)
36 (FRA 2014: 82)
Please note: the Return Directive (2008) does not include the obligation to monitor Dublin returns. This is also based on the fact that Dublin returns often include the “return” of asylum seekers whose claim has not yet been decided upon, thus not yet closed, since they are “returned” to the State where their asylum claim will be handled, based on the provisions set out in the Dublin Regulation.

**Voluntary Return**
The assisted or independent return to the country of origin, transit or third country, based on the free will of the returnee.\(^{37}\)

**Assisted Voluntary Return**
Administrative, logistical, financial and reintegration support to rejected asylum seekers, victims of trafficking in human beings, stranded migrants, qualified nationals and other migrants unable or unwilling to remain in the host country, who volunteer to return to their countries of origin.\(^{38}\)

**Forced Return / Compulsory Return**
In the global context, obligatory return of an individual to the country of origin, transit or third country (i.e. country of return), on the basis of an administrative or judicial act. In the EU context, the process of going back – whether in voluntary or enforced compliance with an obligation to return, to:
- one’s country of origin; or
- a country of transit in accordance with EU or bilateral readmission agreements or other arrangements; or
- another third country, to which the third-country national concerned voluntarily decides to return and in which they will be accepted.\(^{39}\)

**Removal**
The enforcement of the obligation to return, namely the physical transportation out of the country.\(^{40}\) Removal (or forced return) is usually announced with the issuance of a return decision/removal order.

**Readmission**
Admission: a State responds to the person’s individual claim to meet the human right to return to one’s own country by an obligation to accept this person.

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\(^{37}\) (EMN Glossary 2014)
\(^{38}\) IOM Key Migration Terms https://www.iom.int/key-migration-terms
\(^{39}\) (EMN Glossary 2014)
\(^{40}\) (Art. 3(5) of Directive 2008/115/EC (Return Directive))
Readmission: a State is facing an international right of another State to expel a non-national.\textsuperscript{41}

The process and details of readmission is agreed upon between States by and in a readmission agreement:

**Readmission Agreement**
An agreement between the EU (EU Readmission Agreement) and/or a Member State (bilateral Readmission Agreement), with a third country, on the basis of reciprocity, establishing rapid and effective procedures for the identification and safe and orderly return of persons who do not, or no longer, fulfil the conditions for entry to, presence in, or residence in the territories of the third country or one of the Member States of the European Union, and to facilitate the transit of such persons in a spirit of co-operation.\textsuperscript{42}

**Types of Return**
Within the process of return, different procedures and processes can apply and be applied, namely: voluntary, assisted voluntary, and forced return.

![A humane and effective return policy and thus the application of returns should be in line with the EU Charter of Fundamental Rights and should be based on the principle of giving preference to voluntary return over forced return.]

**Voluntary Return and Assisted Voluntary Return**

**Voluntary return** is the assisted or independent return to the country of origin, transit or third country, based on the free will of the returnee. (EMN Glossary).

Irregular migrants can freely decide to return, e.g. before they are apprehended and/or before their asylum claim has been decided upon, or after a negative decision on their asylum application. They do so based on free will, without support provided by the State. If irregular migrants decide to return voluntarily, normally no entry ban is issued and no charges are raised against them.

\textsuperscript{41} http://moscow.iom.int/publications/Manual_on_Readmission_Vol%201_en.pdf
\textsuperscript{42} (EMN Glossary 2014)
Voluntary return differs from voluntary departure, which is the compliance with the obligation to return within the time limit fixed for that purpose in the return decision.\textsuperscript{43}

The difference to voluntary return is that voluntary departure includes an ultimate legal obligation to leave.

**Assisted voluntary return** is voluntary return or voluntary departure supported by logistical, financial and/or other material assistance.\textsuperscript{44} (UNHCR prefers the term voluntary repatriation).

**Assisted voluntary return** includes the assessment of the irregular migrants’ willingness to return. Irregular migrants without papers and legal status, can also approach the State and/or NGOs and/or international organisations that offer assisted voluntary return programmes (i.e. IOM), and ask for support in returning.

No unified understanding of voluntary return and assisted voluntary return is applied throughout Europe. In some countries, e.g. Austria, the State has tasked specific NGOs with the provision of assistance, including the provision of relevant information on procedures, rights and obligations to irregular migrants. In other countries, government entities themselves provide the irregular migrants with the necessary information and services, e.g. the Migration Agency in Sweden.

Assisted voluntary return programmes in general vary in terms of the assistance provided and the eligibility criteria applied. Assistance provided can include pre-departure counselling, training, assistance for business-start-up, food vouchers, emergency housing, education for children etc. Most EU countries provide the assistance as in kind support and not cash support in order to avoid that such programmes become a pull factor.

**Forced Return**

Based on the non-compliance with the timeframe given in the return decision and/or the removal order issued,\textsuperscript{45} the irregular migrant might forcibly be returned by air, land or sea (aircraft, bus, train, ship).

\textsuperscript{44} (EMN Glossary 2014)
\textsuperscript{45} The practice differs throughout the Member States. Some MSs sometimes issue a return decision first and as a second step a removal order (two-step procedure). In other Member States the return decision includes the removal order and in other States, only removal orders or return decisions are issued.
Who does forced return apply to?

- **Rejected asylum seekers** (not necessarily irregular migrants but also those who entered on a visa and applied for asylum thereafter) will be ordered to return;

  Asylum seekers whose claim is still being assessed and not yet decided upon, are **not returned**, based on the **principle of non-refoulement**.

- **Irregular migrants**, those that have seized the right to stay in the country, e.g. based on an overstayed visa, violated work permit, illegal entry to the country etc.; and

- **Persons convicted for criminal offences**.

In addition to the Return Directive and as described above, the EU has put in place a number of agreements with countries of origin regulating and facilitating the return of irregular migrants (and criminals, if the readmission agreement includes a respective clause), to their home countries, so-called **readmission agreements**. **Readmission is a reciprocal process**. When irregular migrants are being returned, their readmission to their country of origin or the country they are being returned to, has to be ensured beforehand. To regulate this process, readmission agreements have been put in place between the EU (EU readmission agreements) and/or a Member State of the EU (bilateral readmission agreements), with a third country. They thus establish procedures for the identification and safe and orderly return of irregular migrants.

**Return-Related Procedures – the Process up to Forced Return**

After inland detection of an irregular migrant or in the case of a rejected asylum seeker, the State will, depending on the case, ask him/her to leave by issuing a return decision which establishes a period for voluntary departure within a certain period of time (the EU directive establishes a timeframe of 7-30 days, Art. 7(1). However, an extension of the period can be granted, depending on individual circumstances, usually based on circumstances related to family, education etc.). Certain obligations, such as regular reporting to the authorities within the timeframe given, might also be established within the return decision.

**Preference is given to voluntary return over forced return**, because voluntary return is considered more dignified and humane than forced return. The following figure provides an overview of the general composition of returns from the EU in 2011, 2012, 2013 and 2014. The corresponding data for 2014 is 40% of voluntary returns, 43% of forced returns. For 17% the type of return was not specified.46

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46 Frontex Annual Risk Analysis 2015
Should the irregular migrant not comply with the timeframe for voluntary departure, a **removal order** is issued, leading to **forced return**. It is important to emphasise that the processes differ in the different Member States, but generally, the police will enforce the removal order by arresting the irregular migrant and hold him/her in detention 24-48 hours prior to the removal.\(^{47}\) While in detention, information and explanations on the procedures applicable as part of the process of forced return are provided to the irregular migrant (e.g. his/her right to contact relatives in the country of return in order to prepare for the arrival, how the return operation will be carried out, when the removal will be executed, that the irregular migrant will be escorted until arrival to the country of return, that independent forced return monitors will be part of the operation etc.). The applicable measures to enforce the return (use of handcuffs, gear etc.), are dependent on the country and the level of co-operation of the individual and vary between the MSs. They are covered as part of Module 2 in detail.

It is important to note that as part of **forced return** and in line with the Return Directive, **entry bans** are issued to irregular migrants if the return decision does not grant a period for voluntary departure, or the obligation to return has not been complied with.\(^{48}\) According to section 14 of the EU Return Directive, these entry bans should be given a European dimension by prohibiting the entry to and stay in the territory of all Member States. An entry ban is also issued to convicted criminals, which are forcibly returned to their country of origin. The timeframe of the entry ban should be determined on a case-to-case basis and should normally not exceed five years. In line with Article 9 of the Return Directive, it may however exceed five years if the third-country national represents a serious threat to public policy, public security or national security. The entry ban is entered into the Schengen Information System Data Base (SIS II), allowing all Member States to access information on entry bans issued by other Member States.

\(^{47}\) The use of detention for the purpose of removal should be limited and subject to the principle of proportionality with regard to the means used and objectives pursued. Detention is justified only to prepare the return or carry out the removal process and if the application of less coercive measures would not be sufficient (EU Return Directive).

\(^{48}\) Art. 11, 1, EU Return Directive.
The task of the forced return monitor is to focus on how the return operation is conducted. A monitor does not have the mandate to question the decision for and the enforcement of the forced return. Should the returnee(s) complain about the decision taken, such complaints should be impartially described in the report but can under no circumstances be used to influence the actual implementation of the return, as the competent authorities of the State have taken the decision according to the national law applicable.

Session 1.2: Forced Return Operations – Types and Phases

<table>
<thead>
<tr>
<th>Topic</th>
<th>Time</th>
<th>Methodology</th>
<th>Supporting materials</th>
</tr>
</thead>
<tbody>
<tr>
<td>National forced return operations</td>
<td>15 min</td>
<td>Lecture and joint discussion on main differences of national FROs/JROs</td>
<td>Projector, screen (wall), laptop, PPT or flipchart (prepared), loudspeakers, video</td>
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<tr>
<td>and joint forced return operations</td>
<td>10 min</td>
<td>Video: Frontex Flight 8751 (to 3:53’) and discussion</td>
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<tr>
<td>Phases of a forced return operation</td>
<td>30 min</td>
<td>Short introductory/overview lecture and discussion</td>
<td>PPT</td>
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<td></td>
<td>35 min</td>
<td>Group work - matrix with phases and description of steps by trainees</td>
<td>Pinboards/walls, brown paper, coloured cards/A4 paper/post-its, markers, glue</td>
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<td></td>
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<td>Additions from the trainer</td>
<td></td>
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<td>Summary and closing</td>
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<tr>
<td>Total duration</td>
<td>90 min/1.5 H</td>
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Implementation of the Session

1. If session 1.1 on return including the definitions was not covered, provide a short overview of definitions (PPT, see session 1.1), and then ask the trainees to define a forced return operation. Write down their suggestions on a flipchart. Shortly summarise the process that leads up to a forced return. Provide the definition on the flipchart or the PPT, highlighting what was missing.

   Should you have covered session 1.1, including the procedure that leads up to a forced return, briefly remind the trainees of the process covered, provide the definition of forced return operation (if required) and go directly into the types of forced return operations.

2. Highlight the two types of return operations and their main differences (use PPT or develop a flipchart with the main differences from the background reading).
Video. Show the Frontex video (training material, but only up to min. 03:53). After having watched the video, invite the trainees to state what they gathered from the video.

Note to the trainer: Ensure to emphasise that the following is named:
- Forced return as a last resort;
- It is important to respect the decision taken;
- FROs ensure that those who cannot stay are returned;
- One way of return is via JROs, which can be coordinated by Frontex;
- JROs include one organising MS and other participating MSs;
- Frontex also provides training for escort leaders.

3. Provide a short lecture on the phases of a forced return operation by providing an overview of the phases (graph or empty table on PPT), and in an interactive lecture ask the trainees what they can imagine to be part of the respective phase, lecture on the content of the phases. Take and answer possible questions. Be aware not to go too much into detail about the responsibilities of escorts or monitors, as this will be covered in module 2 and 3, but outline that the main task is to gain an overview of the process.

4. Matrix of phases. Group work. Divide the trainees into two groups (the number in a group should not exceed eight, if possible). Tell the trainees that processing information themselves and discussing it, helps them to learn and explain that they will continue working with the matrix and fill it in with the specific responsibilities of escorts and monitors. Either prepare one board with brown paper (or glued flipcharts), or draw what the board should look like on a flipchart (see picture below provided at the end of the background reading).

Ask the trainees to prepare the overall structure and to write down on cards or post-its, the different steps applicable to the phases. Remind them that it should be legible, as they will have to continue working with it and put it in sequence within a phase. Should you see the trainees having trouble recalling the details, or in order for them to be able to review it, provide them with a copy of the table from the background reading (see Annex) later in the process.

5. Close the session by commenting that as a next step, focus will be on why forced return monitoring is relevant throughout a return operation and which fundamental rights apply and have to be observed during a forced return. Add, that thereafter you will turn to work on the specific responsibilities of escorts and the escort leader, before then turning to the specific and detailed responsibilities of monitors, as these have to take into account a lot of the tasks of escorts.
Background Reading

Forced Return Operations

What is forced return and a forced return operation?

Definition of forced return / compulsory return

In the global context, obligatory return of an individual to the country of origin, transit or third country (i.e. country of return), on the basis of an administrative or judicial act.

In the EU context, the process of going back – whether in voluntary or enforced compliance with an obligation to return, to:

- one’s country of origin; or
- a country of transit in accordance with EU or bilateral readmission agreements or other arrangements; or
- another third country, to which the third-country national concerned voluntarily decides to return and in which they will be accepted.\(^49\)

A forced return operation (within the EU) is: The transport of third-country nationals who are subject to a return decision/removal order carried out by an air/land/sea carrier selected for that purpose.\(^50\) It is thus an organised operation and accompanied return of third-country nationals (and compulsory for that individual), who have seized the right to stay in the respective EU Member State or associated States, by a certain means of transport by air, land or sea to the country of origin or a country of return.

Why and when do forced return operations take place?

Forced return operations are organised by police or migration authorities for persons (third-country nationals) who are subject to an individual return decision/removal order, taken by a court or competent administrative body in an EU Member State or associated State, after all legal procedures and possibilities have been exhausted.

More specifically, when third-country nationals do not fulfil or no longer fulfil the conditions of entry or stay in accordance with the Schengen Borders Code,\(^51\) they are issued an individual

49 Notes: 1. The term ‘forced return’ is not used at all in EU legislation. 2. Council Directive 2008/115/EC (Return Directive) which regulates the return of migrants whose stay has been found to be illegal refers to post-return decision return as ‘return’ (not ‘forced return’). 3. In the EU environment (e.g. in the metadata of Eurostat), ‘forced return’ is synonymous with ‘removal’, i.e. the physical transportation out of the country following a return decision. 4. Outside of EU legislation the term ‘forced return’ is more commonly used and understood as a synonym with ‘compulsory return’, i.e. return which occurs in compliance with a return decision. (EMN Glossary 2014)

50 (FReM Framework 2015)

return decision, instructing them to go back to their countries of origin or another country of return as described in the definition of forced return above. It is important to be aware of the fact, that in line with the Return Directive, voluntary return should be preferred over forced return and a period for voluntary departure (normally between 7-30 days), should be granted where there are no reasons to believe that this would undermine the purpose of a return procedure. Member States may provide in their national legislation that such a period shall be granted only following an application by the third-country national concerned. In such a case, Member States shall inform the third-country nationals concerned of the possibility of submitting such an application. If there is a risk of absconding, or if an application for a legal stay has been dismissed as manifestly unfounded or fraudulent, or if the person concerned poses a risk to public policy, public security or national security, Member States may refrain from granting a period for voluntary departure, or may grant a period shorter than seven days. When third-country individuals either were not granted a time for voluntary departure or fail to comply with their return decision, thus do not voluntarily return to their country of origin, or leave to another country within the period granted, they may be forcibly returned as the last resort.

Types of Forced Return Operations

For the purpose of this Manual, a forced return operation (FRO) is defined as taking place when an EU Member State or associated State takes the initiative to organise a national (in the following referred to as national FRO), or a Joint Return Operation (in the following referred to as a JRO), to the country of origin of the third-country national or a specific country of return. The forced return operation is enforced after all legal possibilities to remain in the country have been exhausted, and a means of transportation (air, land, sea) is chartered or seats/a cabin is booked on the means of transportation for that purpose.

The country of return, i.e. the country to which the third country national will be returned, and the country returning are in contact in order to settle all logistical and administrative matters before the return operation can take place, i.e. the country of return has to agree to the admission of the returnees planned to be returned.

For both national FROs and JROs, the country or countries of return for that particular forced return operation are selected depending on the number of nationals from that country awaiting to be returned, travel documents available and conditions applied by the country of return, such as, whether the country of return accepts charters (either national or joint), readmission agreements or the ability of the country of return to receive the returnees. A successful return operation depends on the functioning and co-operation between the Member State(s) carrying out the return operation and the country/countries of return.

52 (Return Directive, Article 7(1-4))
53 Article 8 of the Return Directive foresees that Member States shall take all necessary measures to enforce the return decision if no period for voluntary departure has been granted in accordance with article 7(4), or if the obligation has not been complied with within the given period.
During both national FROs and JROs, escorts accompany individuals being returned forcibly. A returnee can be forcibly returned with a commercial flight (i.e. an airline with a scheduled destination, carrying passengers), and in most of these cases the returnee is also accompanied by escorts, if forcibly returned. In specific cases, however, if the returnee is cooperative and does not oppose the return, and following a prior risk assessment revealing no risks, the returnee might only be accompanied to the aircraft by the escorts who are waiting until the aircraft departs. In some cases the authorities in the country of return will pick up the person at the gate when the aircraft arrives, in other cases the person will just disembark the aircraft on his/her own.

The scope of this Manual does not cover monitoring during commercial flights i.e. normal passenger flights, but only refers to monitoring of national forced return operations or Joint Return Operations. The Manual includes forced return by air, land and sea (aircraft, bus, train, ship). However, as the most common method of return, especially when conducted as Joint Return Operations, is by air, references made in the Manual focus on air operations. However, as the return procedures are mainly the same for air or land, the Manual covers both these forms of return in detail, clearly stating differences. Return by sea/ship includes specific features, which have not been covered in detail in this Manual. Therefore, monitoring of forced return operations by sea/ship will require additional information to the basic information provided in this Manual.

1. National Forced Return Operations - FROs

National FROs, returning third-country nationals to a country of return, are organised and executed via a specifically chartered or commercial\(^54\) means of transport for air/land/sea, by the respective State in co-operation with the country of return.

The Member State thus organises the escorts and all necessary supporting staff nationally, including the presence of medical personnel and interpreter(s), if required, on board the means of transport, as well as the presence of independent forced return monitor(s).

Prior to departure, the authorities of the Member States are required to provide a medical examination for the returnee, subject to his/her agreement, when he/she has a known medical condition or where medical treatment is required. Individuals can only be returned as long as they are fit-to-travel. The processing of medical information must be carried out in line with applicable and relevant personal data protection legislation.\(^55\)

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\(^54\) Chartered means of transport relate to specifically organised means of transport, e.g. aircraft. However, if e.g. the number of returnees is low, regular, commercial flights might be used, or a regular commercial bus and/or train to return the third-country national(s).

\(^55\) (Council of Europe 2005: guideline 16; Council Decision 2004 Common Guidelines)
2. Joint Return Operations - JROs

Joint return operations are organised when third-country nationals, which are subject to individual return decisions from Member States (taken by a court or competent administrative body of the Member State), are returned from different Member States or associated States using one chartered means of transportation. JROs thus involve more than one State and returnees from more than one State. Usually, one State organises the JRO (referred to as organising Member State (OMS)) and other States participate (referred to as participating Member States). A JRO may or may not be coordinated by Frontex.

In JROs coordinated by Frontex, the Frontex Code of Conduct for Joint Return Operations coordinated by Frontex, adopted on 7 October 2013, applies to all participants of the Joint Return Operation coordinated by Frontex. The CoC outlines, among other issues, respect of returnees’ fundamental rights and dignity during return operations, standards for the use of coercive measures and effective forced return monitoring procedures. Pursuant to the CoC for JROs (Article 13(2)), MSs taking part in a JRO are required to ensure that they have an effective forced return monitoring system in place. In JROs coordinated by Frontex, the OMS informs Frontex of the planned return operation and the number of seats available for other participants. Frontex dispatches this information to the Member States and those Member States that wish to participate in the Joint Return Operation contact Frontex.

The OMS prepares and manages the return operation and ensures the presence of a medical doctor/and or nurse as well as interpreting personnel, if required. During a JRO, the organising Member States’ escort leader is the head of the operation. He/she has the final say with regard to the operation (e.g. to abort in cases of difficulty or to continue). In some countries a representative from the national authorities responsible for the return is also on board the flight to support the administrative handover process in the country of return. In case of a JRO coordinated by Frontex, a Frontex coordinator always participates in the JRO, ensuring, among other tasks that the Joint Return Operation is carried out in accordance with the Frontex CoC for JROs. In case of FROs/JROs by air, everyone on board, including the head of the operation, escorts, Frontex personnel etc., has to follow the orders of the pilot, who has the ultimate say in relation to situations arising that might endanger the flight.

In JROs, the returnee(s), accompanied by escorts of the respective participating MS, normally travel/s from their country of departure to the organising Member State, which is called the hub of the forced return operation. At the hub, the returnee(s) and escorts from the participating Member States board the chartered transportation to be used to reach the country of return. In the case of an operation by air, the chartered aircraft on route to

56 Adapted from Frontex website: http://frontex.europa.eu/operations/return/.
a specific country of return may make a stopover to pick up other returnees and escorts located in another Member State.58

In relation to the medical examination prior to departure, all participating Member States should inform the organising Member State in advance about any medical condition of a returnee, which would need special care and attention. The processing of medical information must be carried out in line with applicable and relevant personal data protection legislation (Frontex 2013, Art 9 (4)) (Council of the Europe 2005: guideline 16). Individuals can only be returned as long as they are fit-to-travel. Article 7(1) of the Frontex Code of Conduct of JROs states that the Organising Member State (of a JRO) must refuse the participation of a person who is not fit-to-travel.

In both national FROs and JROs, the returnees disembark in the country of return, and all participants of the return operation (e.g. the organisers, participating Member States, escorts, monitors etc.), normally return immediately after the hand-over procedure to the authorities in the country of return (on the same means of transportation that they came with, especially in the case of chartered means of transportation, e.g. chartered aircraft or bus). In rare cases, an overnight stay might be required for the participants of the operation.

From the beginning and throughout the duration of a forced return operation, the competent authorities of the organising Member State (in the case of JRO also participating Member States), as well as the other participants (e.g. medical staff, interpreters etc.), taking into account the individual risk assessment of returnees, shall seek co-operation with each returnee in order to avoid unnecessary stress and use any coercive measures proportionally. During both national FROs and JROs, the safety of all participants, including the returnees, other passengers, the crew and escorts, is paramount. If the attempt to return a person fails because his/her resistance brings into question the safety of the operation, it should be interrupted and the individual(s) returned to the appropriate holding facility. Specifics are spelled out in the Frontex CoC for JROs in Article 4 (3)59 and the 20 Guidelines on Forced Return by the Council of Europe in the commentary to guideline 17 and are covered under coercive measures in more detail. However, it is important to mention that, as long as the safety of the returnee(s) and other participants can be ensured, the operation will be carried out, even if the returnee(s) resists. Force and/or coercive measures, respecting the related fundamental rights and principles, will most likely be used in a situation such as this in order to be able to enforce the return.

The details of forced return operations, including the specific phases applicable are provided in the following. Both national FROs and JROs are covered. In order to highlight the distinction between JROs and national FROs, steps only applicable for JROs are separately listed. Thus, if no distinction is made, the steps apply to both national FROs and JROs. It is also

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58 In practice, JROs normally have only one stopover as a Joint Return Operation is long per se.
59 In Frontex Regulation Art.3/1a: “The Executive Director shall suspend or terminate, in whole or in part, joint operations and pilot projects if he/she considers that such violations are of a serious nature or are likely to persist”. 

Module 1 - Introduction to Return, FROs and Fundamental Rights
important to understand that national procedures may differ and therefore the most common procedures are described with regard to national operations.

The individual modules 2 (roles and responsibilities of the escort(s)), and 3 (roles and responsibilities of the monitor(s)), dissect the escorts’ and the monitors’ individual responsibilities within the phases, as the monitor is required to know the responsibilities of the escort leader and the escorts in detail, in order to be able to understand the role and responsibilities of the escort/escort leaders and be able to observe and report on facts of the forced return operation.

Phases of a Forced Return Operation

Forced return operations have been divided into different phases, based on the 2004 Council Decision and experiences by Frontex. The FReM project/associated project Partner States then further elaborated these phases together with the project team in order to make sure that the phases were in line with and acceptable for all project/associated partners. Both the Framework of the European Pool of Forced Return Monitors as well as the Guidelines and Monitoring Tools for Forced Return Monitoring follow this division of phases.

Forced Return Monitoring applied within this training, covers the pre-return phase, the pre-departure phase, the return operation and the arrival phase and excludes the detention as well as the post-arrival phase and are described in detail below.

The shaded phases in the table have to be monitored, but do not fall under the mandate of the European forced return monitor deployed to observe and report upon a forced return operation.

Note to the trainer: Be careful with the distinctions in the pre-return phase in case of a national FRO and a JRO. In case of a JRO, the national transport (feeder) to the JRO hub falls under the pre-return phase. In a national FRO, however, the transport to the port of departure falls under the pre-departure phase.
Forced Return Phase

<table>
<thead>
<tr>
<th>Phase</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Detention-Phase</td>
<td>The detention for the purpose of removal is regulated by Articles 15-17 of the Return Directive. It may last for up to six months, exceptionally extendable to 18 months; the return decision/removal order has been issued; the person did not leave voluntarily; the return authority/authorities prepare(s) the forced return.</td>
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<tr>
<td></td>
<td>Note: This phase is considered outside the scope of forced return monitoring conducted by EPFRM monitors. Basically, all EU Member States and associated States have monitoring systems of long term detention in place, which are either covered by national NGOs or national prevention mechanisms. Additionally, the administrative deprivation of liberty is subject to control by international monitoring mechanisms, such as the CPT.</td>
</tr>
<tr>
<td>Pre-Return Phase</td>
<td>The pre-return phase starts after all legal remedies have been exhausted. It is not the task of the monitor to question the legality of the return decision.</td>
</tr>
<tr>
<td></td>
<td>The pre-return phase may start a minimum of 24 hours prior to the departure during which the monitor will verify whether the prospective returnee has been informed, including the briefing by the escort leader of the national escort team.</td>
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<tr>
<td></td>
<td>The pre-return phase includes the steps detailed in the figure below.</td>
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<tr>
<td></td>
<td>Please note that national forced return operations feeding into the hub of the JRO entail all steps related to the pre-departure and inflight phases, as will be further described in the respective phases.</td>
</tr>
</tbody>
</table>

60 In practice, the pre-return phase usually last for several weeks for those organising a Joint Return Operation (States and, if coordinated by Frontex). During this preparatory process, persons in detention are subject to monitoring by national institutions. In some instances, the organising Member State may send a delegation to the country of return before the actual return operation takes place. This delegation, usually travelling 2-3 days prior to the JRO, is tasked to meet with local authorities to provide information about the returnee(s) and agree on the details of disembarkation and processing upon arrival (handover) in order to ensure the smooth implementation of the actual forced return operation. Sometimes, this information is exchanged and settled between the Member State/s and the country of return without any mission and via good co-operation and contacts.

61 In line with the FreM Framework and Guidelines, the monitoring starts a minimum of 24 hours or less prior to the actual departure. The reference of 24 hours is made to ensure the presence of a monitor during the “contact talks” when the returnee(s) is/are informed that they will be returned or, if participation in the contact talks is not possible, to have the possibility to be able to check whether the returnee(s) has/have been informed about his/her removal. This phase also covers monitoring of those who are kept in (temporary) holding/detention facilities that are not located at the port of departure (e.g. airport), and therefore need to be transported, for example, from a (longer-term) detention centre to the holding facilities at the port of departure.

The monitor assigned to a JRO coordinated by Frontex, starts monitoring on the day of the operation (see Article 9 (1b) of the Frontex Regulation). This, depending on the arrangements, can be either the return operation from a national port of departure (national feeder) to the hub of the JRO, or start directly at the hub of the JRO.
## Pre-Return Phase

Covers the period from leaving the (temporary) holding/detention facility until shortly before or just at the moment of embarkation. In this phase, the escort team is briefed at the hub (in case of a JRO), and the returnee(s) may stay in a holding/waiting/detention facility at the place of embarkation. The pre-departure phase ends shortly before or just at the moment of entering the means of transportation for the return operation (aircraft/bus/train/ship).

It includes the steps detailed in the figure(s) below.

<table>
<thead>
<tr>
<th>Forced Return Phase</th>
<th>Description</th>
<th>Covered by EPFRM</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pre-Return</td>
<td>1. Contact</td>
<td>JRO: 3. Physical</td>
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<tr>
<td></td>
<td>talks/risk</td>
<td>security check at</td>
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<td></td>
<td>assessment:</td>
<td>holding facility</td>
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<td></td>
<td>individual</td>
<td>of the returnee(s)</td>
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<td></td>
<td>meetings of</td>
<td>in the PMS</td>
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<td></td>
<td>escort leader with</td>
<td>JRO: 5.</td>
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<td></td>
<td>returnee(s),</td>
<td>Transportation of</td>
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<td></td>
<td>provision of</td>
<td>PMS returnee(s)</td>
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<td></td>
<td>information to</td>
<td>from the national</td>
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<tr>
<td></td>
<td>returnees.</td>
<td>port of departure</td>
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<tr>
<td></td>
<td>Possibility</td>
<td>to the hub of the</td>
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<td></td>
<td>for returnees</td>
<td>JRO.</td>
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<td></td>
<td>to ask</td>
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<td>questions and</td>
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<td></td>
<td>follow-up on</td>
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<td></td>
<td>requests.</td>
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<td></td>
<td>2. Briefing</td>
<td>JRO: 4. Transfer</td>
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<td></td>
<td>of the</td>
<td>of PMS returnee(s)</td>
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<td></td>
<td>national escort</td>
<td>from the holding</td>
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<td></td>
<td>team by the</td>
<td>facility to the</td>
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<td></td>
<td>escort leader:</td>
<td>national port of</td>
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<td></td>
<td>details of</td>
<td>departure.</td>
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<td>the operation,</td>
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<td></td>
<td>risk assessment</td>
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<td>results, type of</td>
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<td>coercive</td>
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<td>measures to be</td>
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<td>used, assignment</td>
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<td></td>
<td>of escorts to</td>
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<td></td>
<td>returnee(s).</td>
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</tbody>
</table>

**Figure 1: Pre-Return Phase - Steps**

<table>
<thead>
<tr>
<th>Pre-Departure Phase</th>
<th>Description</th>
<th>Covered by EPFRM</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>1. Physical</td>
<td>JRO: 3. Briefing</td>
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<tr>
<td></td>
<td>security check</td>
<td>of all escort</td>
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<td></td>
<td>of returnee(s)</td>
<td>leaders at the</td>
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<td>at holding</td>
<td>hub (by head of</td>
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<td></td>
<td>facility JRO:</td>
<td>operation)</td>
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<td></td>
<td>returnee(s)</td>
<td>JRO: 5. Meeting</td>
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<td>from the</td>
<td>of national</td>
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<td>OMS</td>
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<td></td>
<td>JRO/EPFRM</td>
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<td></td>
<td>monitor -</td>
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<td>information</td>
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<td></td>
<td></td>
<td>exchange</td>
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<td></td>
<td>2. Transfer</td>
<td>JRO: 7. Transport</td>
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<td>of returnee(s)</td>
<td>to the means of</td>
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<td>to the port of</td>
<td>transportation at</td>
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<td>departure</td>
<td>the port of</td>
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<tr>
<td></td>
<td>JRO:</td>
<td>departure.</td>
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<td>returnee(s)</td>
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<td></td>
<td>of the OMS</td>
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<td>4. Returnee(s)</td>
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<td>waiting area</td>
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<td></td>
<td>at the port of</td>
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<td></td>
<td>departure</td>
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<td></td>
<td>6. (Security</td>
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<td>check of</td>
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<td></td>
<td>returnee(s)</td>
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<td>(airport)</td>
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</tbody>
</table>

**Figure 2: Pre-Departure Phase - Steps**
<table>
<thead>
<tr>
<th>Forced Return Phase</th>
<th>Description</th>
<th>Covered by EPFRM</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>In-Flight Phase</strong></td>
<td>Starts with entering the means of transportation (e.g. aircraft, bus, train, ship) used for the removal and ends with the arrival at the final destination (country of return or, in case of an unsuccessful return, back to the country of departure, in case of JROs back to the hub), including the transit via another country. It includes the steps detailed in the figure below.</td>
<td>✓</td>
</tr>
<tr>
<td></td>
<td>1. Embarkation and transportation of returnee(s) on board the means of transportation for the forced return (aircraft, bus, train, ship)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>2. Stopover - if applicable, e.g. to collect other returnee(s) (with their escorts) and/or the country of return for some returnee(s). In case of a stopover, the in-flight phase applies again</td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>Figure 3: In-Flight Phase - Steps</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Arrival</strong></td>
<td>Covers the period starting from arrival at the country of return and ends after the returnee(s) have been handed over to the national authorities in the country of return, or, in case of an unsuccessful return, the handover to authorities back at the country of departure. It includes the steps detailed in the figure below.</td>
<td>✓</td>
</tr>
<tr>
<td></td>
<td>1. Arrival by means of transportation in the country of return</td>
<td></td>
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<tr>
<td></td>
<td>2. Handover of returnee(s) to the authorities in the country of return</td>
<td></td>
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<tr>
<td></td>
<td>3. Stopover - if applicable</td>
<td></td>
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<tr>
<td></td>
<td>4. Return to the country of departure (JRO; hub)</td>
<td></td>
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<tr>
<td></td>
<td>5. Debriefing</td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>Figure 4: Arrival Phase - Steps</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Post-Arrival Phase</strong></td>
<td>Covers the period after the returnee(s) has/have been handed over at the country of return. Note: This phase is considered outside the scope of forced return monitoring conducted by monitors of the European Pool of Forced Return Monitors (EPFRM).</td>
<td>-</td>
</tr>
</tbody>
</table>

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62 The rules/procedures mentioned shall be transposed/interpreted according to the actual situation, e.g. in case of return by land/sea run jointly or by an individual MS.

63 This phase is, in accordance with the Framework of the EPFRM, considered outside the scope of monitoring of forced return operations.
Note to the trainer: The matrix of the phases (which each group needs to set up and fill in) should be prepared in such a way that it can be further used and filled in during the different modules of the training. The picture is an orientation of how it could be structured.

Session 1.3: Monitoring and Applicable Fundamental Rights

<table>
<thead>
<tr>
<th>Topic</th>
<th>Time</th>
<th>Methodology</th>
<th>Supporting materials</th>
</tr>
</thead>
<tbody>
<tr>
<td>Role of forced return monitoring and MS monitoring systems</td>
<td>20 min</td>
<td>Buzz groups and discussion combined with lecture</td>
<td>Projector, screen (wall), laptop, PPT</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Overview of state of MS monitoring systems based on FRA table</td>
<td>Copy of FRA overview of MS monitoring systems</td>
</tr>
<tr>
<td>Fundamental rights applicable during a FRO/JRO</td>
<td>15 min</td>
<td>Group work on fundamental rights applicable</td>
<td>Blank paper with different fundamental rights or flipcharts</td>
</tr>
<tr>
<td></td>
<td>65 min</td>
<td>Presentations and lecture on detailed fundamental rights combined</td>
<td>Projector, screen (wall), laptop, PPT</td>
</tr>
<tr>
<td>Fundamental rights in phases</td>
<td>20 min</td>
<td>Positioning of the fundamental rights within the matrix developed with the phases of a FRO/JRO</td>
<td>Post-its/cards for fundamental rights</td>
</tr>
<tr>
<td>Total duration</td>
<td>120 min/2 H</td>
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</tr>
</tbody>
</table>

Implementation of the Session

1. Open the session with the question “why is forced return monitoring important and what does it entail?” Ask the trainees to get into small groups of 3 or 4 with their immediate neighbours and discuss this question amongst themselves for 5 to 10 minutes. Encourage them to write down their points in their notepads.

Prepare a flipchart with the question as a title and ask the different groups about their results. Write down the key words. Discuss any discrepancies with the trainees and add

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64 A distinction in using the term fundamental rights and human rights mainly relates to the fact that human rights is rather used in the international context, e.g. conventions relate to human rights, whereas within the EU the term fundamental rights is used relating to the concept of human rights (see FRA website, FAQ). The Charter of Fundamental Rights the EU has adopted in 2000 underlines this. The terms can thus be used interchangeably and this training Manual mainly refers to the term of fundamental rights used in the EU.
from the background reading, and if necessary, support the discussion with a PPT. Summarise with a short lecture on the obligation deriving from the Return Directive for MSs to provide for an effective forced return monitoring system (print out the updated FRA table\textsuperscript{65} on the status of MS systems, distribute and discuss).

\textbf{Note to the trainer:} Should you not be a human/fundamental rights specialist, it is best to invite a specialist with specific knowledge in forced return (monitoring) to cover the second step in this session, and provide him/her with the respective background reading and facilitative support, e.g. for the group work.

2. Distribute to the trainees A4 paper with the different fundamental rights (see background reading) printed as a heading (the rest of the paper is blank), or hang up flipcharts around the room with the rights as headings (combine less extensive/complex rights onto one paper/flipcharts, such as access to medical assistance and access to food and water etc.). Form groups according to the number of rights you have determined. Ask the trainees to determine and write on the paper/flipchart (10 minutes):

a. What the right encompasses in their opinion (always in relation to a forced return operation), elements (key words) that have to be guaranteed;
b. What specifically has to be paid attention to/observed in regard to the specific right.

Ask the trainees in the different groups to quickly present their insights into their assigned rights. Ask the other trainees if they have additional opinions. Present the specifics of the rights applicable as a lecture, e.g. using a PPT (use information provided in the background reading). Then ask the next group to present their results. Again, present the specifics applicable etc., highlighting the points they have made and specifically any aspects that are missing.

\textbf{Note to the Trainer:} Manage the time and discussions well, so that there is sufficient time to address all the rights. Highlight the interconnection of the different rights and the central issue of the use of force in relation to a number of rights.

3. Ask the trainees to write down the respective fundamental rights they have been working with on post-its or cards. The trainees should discuss to which phase in the matrix of the previous session which right applies (mainly), and allocate the specific right to the specific phase. Some rights might apply to more than one phase, e.g. the

\textsuperscript{65} Check online for the latest version, as this table is envisaged to be updated regularly under: http://fra.europa.eu/en/theme/asylum-migration-borders/forced-return.
freedom from torture and right to life in pre-departure and in-flight, in which case the trainees should put them in all phases where they apply. Gather all trainees around the matrix of responsibilities after about 5 to 10 minutes, or when all have allocated the rights, and discuss together whether this is complete and correctly allocated.

Highlight that in principle, all fundamental rights obviously apply throughout all phases. However, some are more relevant in specific phases than others, depending on the steps in a phase, and therefore are specifically important (also to be monitored) and that the aim of this exercise is to provide clarity on this to the trainees.

Close the session by emphasising that the different fundamental rights will be covered again throughout modules 2 and 3 in more detail, relating specifically to what has to be observed and reported upon during a national FRO/JRO.

**Background Reading**

The purpose of the session is to introduce and clarify the fundamental rights applicable during a forced return operation, which the monitor is to observe during the forced return operation and report upon after the operation has been completed. What the monitor has to observe exactly as part of the different phases is covered in detail in module 3 and reporting in module 4.

**Note to the trainer:** It is very important that the monitor is aware of the fact that he/she is there to monitor and report on facts, not personal opinions and/or feelings and that monitoring includes observing the behaviour and actions by escorts vis-à-vis returnees but also by returnees vis-à-vis escorts and other participants.

**The Role of Monitoring for the Observance of Fundamental Rights**

Monitoring the whole process of a forced return operation, be it a national operation or a JRO, is a tool to enforce the observance of fundamental rights. But how does monitoring actually enforce the observance of fundamental rights? The definition of monitoring of forced return helps to clarify this:

**Monitoring of forced return** is the activity whereby it is established and reported, whether the return is conducted in a humane manner, respectful of the dignity of the person and in compliance with the EU Charter of Fundamental Rights. Monitoring involves observation of and reporting on return operations without powers of intervention.66

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66 FReM Framework 2015 (ICMPD 2015a)
Taking into account the definition, monitoring consequently creates transparency. Since monitoring and the monitor shall be independent (from the authorities enforcing the return) and impartial, meaning the monitor shall not side with any particular party involved, monitoring as an instrument should guarantee that facts and possible incidents in a forced return operation are reported impartially.

Monitoring thus creates transparency, and consequently results, also through the presence of independent monitor(s), in increased awareness (and possibly even pressure) to observe the set rules and standards (codes of conduct, human rights frameworks in place etc.). The transparency created through a report by an independent monitor is important for both sides:

- for the returnee, as it can support, for example, possible necessary claims of mistreatment and excessive use of force against them;
- and for the escorts and the escort leader, as it enables them to clear themselves from possible unfounded accusations.

Monitoring reports submitted by forced return monitors might be used in investigations jointly with reports submitted by the organising State and/or Frontex, following claims and accusations against respective personnel in relation to a national FRO or JRO. Monitoring reports are also an important tool to continually evaluate operations in order to revise future operations by taking corrective measures, where required.

Monitoring is to cover the whole process of a national forced return operation or Joint Return Operation, as stated in the Frontex CoC for JROs coordinated by Frontex in Article 13(3): the monitoring of JROs should be carried out on the basis of objective and transparent criteria and cover the whole JRO, from the pre-departure phase until the hand-over of the returnees in the country of return or back to the country of departure, in accordance with Article 9(1b) of the Frontex Regulation.

Forced return monitoring ensures that any infringement of fundamental rights or potential misconduct is reported and therefore contributes to the protection of the rights of all persons involved in forced return operations as it provides transparency on the actual implementation of forced return operations.

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67 The term ‘use of force’ means any type of physical intervention used on another person.
68 A report submitted by independent personnel from the law enforcement (or private security personnel used in the UK) implementing the return operation is considered relevant as it circumvents the possibility of the application of the so called “blue code”, an allegedly unwritten rule amongst law enforcement personnel that might impede officers from reporting the misconduct of fellow officers.
69 (Frontex 2013: 14)
Forced Return Monitoring Systems in MSs

The EU Return Directive (2008/115/EC) contains the obligation for MSs to establish a forced return monitoring system, Art. 8(6). The EU Return Directives’ common standards and procedures to be applied by Member States when returning an illegally staying third-country national are in line with fundamental rights as general principles of Community law, as well as international law, including refugee protection and fundamental rights obligations. In carrying out removals by air, Member States shall take into account the Common Guidelines on security provisions for joint removals by air annexed to Decision 2004/573/EC.

Additionally, according to Article 8(6) of the EU Return Directive, Member States must provide for an effective forced return monitoring system. The requirement for a forced return monitoring system introduces an important fundamental rights safeguard for third-country nationals ordered to leave the EU because they do not or no longer fulfil the conditions for entry and/or stay. The Frontex Code of Conduct for JROs coordinated by Frontex also makes reference to the necessity of forced return monitoring systems of Member States participating in JROs. Article 13(2) states that … Pursuant to the principle set forth in the Frontex Fundamental Rights Strategy, MSs taking part in a JRO are required to ensure that they have in place an effective forced return monitoring system. Failing to meet this condition could ultimately lead to postponement or cancellation of the participation of the respective MS.

FRA, the European Union Agency for Fundamental Rights, analysed the current state of play regarding forced return monitoring in the 28 EU Member States four years after Member States were required to transpose the Return Directive into national law. A table, providing an overview of the state of forced return monitoring systems in place within the MSs is available and stated to be regularly updated under http://fra.europa.eu/en/theme/asylum-migration-borders/forced-return (see the version as of August 2015 in the Annex, Session 1.3).

Fundamental Rights Applicable to Forced Return Operations

Several fundamental rights and related principles apply before the forced return operation is implemented. For example, the principle of non-refoulement and the general right to asylum, thus the overall principle to grant protection, applies during the asylum process. Similarly, fundamental rights in relation to possible administrative detention have to be granted prior to

70 (1, Subject Matter) (European Parliament and Council of Europe 2008)
71 (European Union Agency for Fundamental Rights - FRA n.d.)
72 (Frontex 2013: 14)
73 A distinction in using the term fundamental rights and human rights mainly relates to the fact that human rights is rather used in the international context, e.g. conventions relate to human rights, whereas within the EU the term fundamental rights is used relating to the concept of human rights (see FRA website, FAQ). The Charter of Fundamental Rights the EU has adopted in 2000 underlines this. The terms can thus be used interchangeably and this Training Manual mainly refers to the term of fundamental rights used in the EU.
the return operation. These principles are applied and followed by the respective authorities of a state on a case-by-case basis and are monitored by independent organisations/NGOs. Thus, they do not form part of the monitoring of a forced return operation.

The fundamental rights applicable to forced return operations do not cover fundamental rights or aspects of fundamental rights applicable in the process prior to a return decision/removal order being issued, and thus also not to possible administrative detention that might be applied, as this is monitored by national institutions and organisations not related to a forced return operation.

Therefore, this session does not cover general fundamental rights questions in relation to immigration but focuses on the specific aspects of fundamental rights applicable during a forced return operation, starting from the pre-return phase.

Which Fundamental Rights are Specifically Related to a Forced Return Operation?

The following introduces the fundamental rights and specific aspects of those rights that could possibly be violated during a forced return operation.

A monitor, therefore, needs to specifically observe and report whether or not these rights and aspects are observed. The monitor should, in his/her report, describe the processes of the return operation (facts) and any infringement and/or incident that occurred. Specifics on what the monitor needs to observe and report upon are covered in detail in modules 2 (escorts) and 3 (monitors), as well as in module 4 (reporting).

A number of fundamental rights are to be observed during forced return operations and apply to third-country nationals to be returned. However, often only specific aspects of those rights and not their all-encompassing depth apply to a forced return operation (e.g. the aspect of death penalty in relation to the right of life does not apply).

The applicable fundamental rights cover the following:

- Right to life, liberty and security;
- Freedom from torture, cruel, inhuman and degrading treatment and punishment;
- Right to human dignity;
- Right to non-discrimination;
- Right to Religion;
- Access to information;
- Right to health and access to medical assistance;
- Access to food and water;
- Rights of vulnerable groups;
Right to family unity;
Rights of the child/best interest of the child;
Right to personal data protection;
Right to privacy;
Right to property.

The following section describes the specific aspects of these rights applicable to forced return operations.

Right to Life, Liberty and Security

The Right to Life

The life of returnees has to be guaranteed and protected during a forced return operation.

The European Convention on Human Rights establishes in Article 2:74

1. Everyone’s right to life shall be protected by law. No one shall be deprived of his life intentionally...

2. Deprivation of life shall not be regarded as inflicted in contravention of this article when it results from the use of force which is no more than absolutely necessary:

(a) In defence of any person from unlawful violence;
(b) In order to carry out a lawful arrest or to prevent the escape of a person lawfully detained;75
(c) In action lawfully taken for the purpose of quelling a riot or insurrection.76

Unintentionally (and only under extreme circumstances or misconduct, if applied by trained law enforcement escorts), the use of force, which is sometimes necessary during forced return operations, can lead to death, underlining the importance for independent monitoring during forced return operations in order to report on facts.

Force (coercive measures/restraints) is used (and shall be proportional, not exceeding reasonable force and in line with national legislation) when returnees try to resist their return with a variety of measures, including violent and potentially self-harming behaviour. As aircraft, busses and other means of transportation provide limited room, many security challenges have to be considered, both on the part of the escort applying force, and the monitor observing.

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74 Highlighting of certain words is undertaken for emphasis by the authors of this Manual.
75 Or as in the case of an administrative detention, deprived of their liberty.
A high level of objective judgement is necessary on both parts and under all circumstances the use of force shall be **necessary, proportional to the threat faced, accountable** (it can be demonstrated that its use was justified), and as the **last resort** (de-escalating means were first sought or there was no possibility to use them).

The use of force and coercive measures/means of restraint is closely related to the **right to life** and the **right to human dignity**. Since the **right to life** during a forced return operation is closely related to the **right to freedom from torture, cruel, inhuman and degrading treatment and punishment**, all these rights are related to the use of coercive measures and force, however, the details on coercive measures, their application and the use of force are provided in the following.

Escorts may use different types of coercive measures (tools such as handcuffs or physical force such as pinning down to a chair) during a forced return operation, if permitted by national law, the authorised list for a JRO and if used based on sound observation of the behaviour and actions of the returnee. Coercive measures can thus be applied to safeguard the safety and health of the returnee, of escorts, other participants (including monitors, crew and support staff or other passengers), or property. However, all reasonable efforts must first be made to manage violent, obstinate and uncooperative attitude towards authority or discipline. The use of physical coercive techniques must always be regarded as a matter of last resort, when strictly necessary and only to the extent required to obtain a legitimate objective. The use of a restraint technique should only be considered when all other practical means of managing the situation, such as de-escalation, verbal persuasion, voluntary ‘time out’, have failed or are judged by the escort to be likely to fail in the circumstances. The judgement of the escort shall be based on a case-by-case risk assessment, proportionality, legality and necessity as prescribed by international and regional law enforcement standards and codes of conduct.

When the use of coercive measures is necessary, only approved restraint techniques are to be employed. Nonetheless, in these situations, proportionality, necessity and accountability are paramount to make the use of force justifiable. Additionally, the dignity, privacy, cultural values, and any special needs of the person being returned should always be considered as far as possible. In exceptional circumstances, force will be used in so far as it is reasonably practicable. The restrictive space of a carrier (aircraft, ship, train, bus) may restrict the range of alternatives available to escorts. The monitor needs to observe carefully and be able to make an objective judgement to be reflected in his/her report. It is recommended that the monitors talk to the escort in question to learn how he/she accounts for the use of force and the measures applied.

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76 Violent/violence is understood as ‘Any incident in which a person is abused, threatened, or assaulted. This includes an explicit or implicit challenge to their safety, well-being or health. The resulting harm may be physical, emotional or psychological.’ (HM Prison Service Prison Service Order 2750, London: NOMS, 2007).

77 Obstinate and uncooperative attitude towards authority or discipline.

Article 6 of the Frontex Code of Conduct for JROs covers the use of coercive measures, establishing the following standards to be applied during a JRO:

1. Coercive measures may be used only when strictly necessary on returnees who refuse or resist removal, or in response to an immediate and serious risk of the returnee escaping, causing injury to herself/himself or to a third party, or causing damage to property;
2. The use of coercive measures must be proportional, not exceeding reasonable force, and with due respect to the returnee’s rights, dignity and his/her physical integrity;
3. Coercive measures likely to compromise or threaten the possibility of the returnees to breathe normally must not be used;
4. The OMS and Frontex decide on a list of authorised restraints in advance of the JRO. This list must be distributed to the relevant Participating Member States prior to the JRO. The use of sedatives to facilitate the removal is forbidden without prejudice to emergency measures to ensure flight security;
5. No Participating Member State is required to use coercive measures not allowed under its national legislation even if those measures are accepted by the OMS and Frontex for that particular JRO.79

Coercive measures/means of restraint should only be used:

- when strictly necessary (refusal and/or resistance of the returnee, inclination to and/or use of violence and self-harm);
- in line with the individual risk assessment conducted (establishing whether a returnee is likely to try to resist the removal and might resort to violence and/or self-harm in order to do so);
- according to the (approved) list of authorised (and forbidden) means of restraints; and/or
- in accordance with the national legal requirements detailing the requirements and limits for the use of restraints as part of a forced return operation.80

Ensuring security and safety of the returnees ultimately also relates to ensuring safety for all individuals on board the means of transport of the forced return operation, a fact often forgotten when talking about forced return monitoring.

79 (Frontex 2013: 9f) and Common Guidelines in the Annex of the 2004 Council decision on joint removal (Council of Europe 2004: 4ff).
80 National legislation in some instances “prescribe” the use of certain restraints on returnees as a precautionary measure from the outset during a forced return operation. Should the restraints be used in accordance with the national legal framework, their legality cannot be questioned by a forced return monitor.
The use of coercive measures is covered extensively in Module 2, Session 2.2, within the scheduled practical demonstration of restraint measures as part of this training.

Terms that leave room for interpretation, such as proportional and reasonable (use of force), often pose difficulties for monitoring in the absence of clear criteria. Therefore, it is necessary that the monitor is conversant with the different types of restraint measures allowed (and/or prescribed by the national legal framework), and that monitors experienced their practical usage/implementation as part of their training in order to be able to judge the actual force applied.

Note to the trainer: Consult the list of coercive measures allowed and/or prescribed by the different Member States compiled by Frontex, or gather national restraint lists and distribute them to the trainees. The monitor is never to question the use if prescribed by national law, rather to check whether it is in accordance with or in excess of what is prescribed, and if and whether or not it is based on a risk-assessment or a situation arising.

Overall security and safety is paramount and a concern for all participants during a forced return operation. A forced return operation can thus be interrupted under circumstances that endanger the safety of the operation and/or in the case of serious violations of fundamental rights.

Article 4 of the Frontex CoC for JROs establishes that JROs coordinated by Frontex are to be interrupted when:

a) its continuation would be considered unsafe by the flight captain, the Head of Operation or Frontex, in close liaison, in accordance with point 3.1.d of the Annex of Decision 2004/573/ EC and Article 3(1a) of the Frontex Regulation;

b) of violations of fundamental rights of a serious or persistent nature in accordance with Article 3(1a) of the Frontex Regulation.81

The Right to Liberty and Security

The right to liberty in general refers to detention. This Manual, however, does not cover the detention phase. There are other mechanisms and organs which monitor the protection of fundamental rights at that stage, and these are outside the responsibility of the monitor for a forced return operation. Nevertheless, a person forcibly removed might be deprived of his/her liberty in order to prepare the return, thus the need to look at the fundamental rights concerned with the deprivation of liberty related to the implementation of a forced return operation.

81 (Frontex 2013: 8f)
The European Convention on Human Rights, Article 5(1) states in relation to the right to liberty and security: “everyone has the right to liberty and security of person and no one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law:

(b) The lawful arrest or detention of a person for noncompliance with the lawful order of a court or in order to secure the fulfilment of any obligation prescribed by law;
(f) The lawful arrest or detention of a person to prevent his affecting an unauthorised entry into the country or of a person against whom action is being taken with a view to deportation or extradition.”

Article 5 thus includes relevant and applicable exceptions relating to a forced return operation.

Article 15(1) of the Return Directive (2008) permits detention in order to prepare the return or to carry out the return process in the case of a risk of absconding, and if the removal is realistic to be carried out within a reasonable time. This includes the pre-return phase covered in this Manual. Nonetheless, according to Article 5(2) of the European Convention on Human Rights “Everyone who is arrested shall be informed promptly, in a language which he understands, of the reasons for his arrest and of any charge against him.” This implies the responsibility to inform the returnee about the reasons for his/her (short-term) detention prior to the removal.

The conditions of the possible detention applied in accordance with the Return Directive also relate to the right to human dignity. The International Covenant on Civil and Political Rights determines in Article 10(1) that “all persons deprived of their liberty shall be treated with humanity and with respect….”. Consequently, (short-term) holding facilities for returnees should provide adequate accommodation, relating to adequately furnished, clean and with sufficient living space for the respective number of returnees. The facilities should as far as possible avoid any impression of a prison environment.

Freedom from Torture, Cruel, Inhuman and Degrading Treatment and Punishment

The right to life, liberty and security as well as the freedom from torture, cruel, inhuman and degrading treatment and punishment all relate, in the broader sense, to the type of treatment and the use of force, thus the use of coercive measures and restraints potentially applied during a forced return operation under certain circumstances.

82 (Council of Europe 1950: 7f)
83 CPT/Inf/E (2002) 1 - Rev. 201
Following the principle that no one shall be subjected to torture or to inhuman or degrading treatment or punishment, coercive measures and the use of means of restraint for third-country nationals being returned shall never be used as punishment and shall only be used if necessary, proportional, without excessive force, based on and in line with national requirements, and without the use of restraints that threaten breathing. From a fundamental rights perspective, when a returnee refuses or resists removal, it is advisable not to rely on the threat to use coercive measures. In order to limit the use of force, all involved and competent authorities should seek the co-operation of returnees at all stages of the removal process. This principle is also included in the Frontex CoC for JROs in Article 5. Information about possible hunger strikes, self-injuries, threats against escorts or action to abort a FRO has to be taken into account, even though this information does not automatically justify using coercive measures.

◊ Human Dignity

The dignity of returnees shall be observed and granted at all stages of the return operation. This includes that returnees should have suitable clothing (e.g. adequate to the climate they are leaving and/or to which they are going), as well as (assistance, where required) to be able to carry their belongings (bags, boxes and/or suitcases). The conditions at the (temporary) holding facility shortly before the return should be adequate and clean. Adequate and safe (means of) transportation and seating on board the means of transport for their removal should be ensured. The specific needs of vulnerable groups have to be observed (see below). Escorts of the same gender, e.g. during physical security checks, may also help to preserve the returnees’ dignity.

The right to human dignity is also related to the use of force, in the sense that coercive measures should be applied with due respect to the returnees’ human dignity and physical integrity. This includes trying to separate a child from a parent in a calm manner in order to avoid restraining a parent in front of his/her children and avoiding as far as possible placing the returnee in degrading positions.

◊ Non-Discrimination and the Right to Religion

The principle and right of non-discrimination applies throughout a forced return operation.

No returnee (as well as any other participants) shall be subjected to “any unfair treatment or arbitrary action or distinction based on a person’s sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a

86 (Council of Europe 2005: 51)
Related to the **right to religion** (enshrined in the EU Charter of Fundamental Rights, Article 10), returnees shall be granted, where possible, the appropriate time and space to pray according to their faith. As a return operation per se does not always offer the possibility for proper space and the right time for praying, the right can be guaranteed by offering the person the opportunity to pray, for example, whilst seated inbetween the escorts. If the praying time coincides with, for example, boarding the means of transportation, the right is not infringed by not offering the possibility to pray at that precise moment. Instead, it should be explained to the returnee that he/she can pray once seated. Restraints should, where possible, not impede praying. However, security during a FRO/JRO is at the forefront of the escorts’ consideration, for both returnees and other participants. Refusal by escorts of a returnees’ demand to loosen restraints for praying is possible. However, this decision has to be based on the prior risk-assessment and/or a situation of agitation that made the restraining necessary. It is important that such decisions **shall not be based on perceived unimportance of the right to religion, or taken as an arbitrary decision** potentially discriminating against the returnee and his/her religious faith.

**Access to Information**

Returnees should, if possible be **granted access to and given information throughout the return operation in a language they can understand and/or with the support of interpreters, if required.** It has, however, to be ensured that the returnees fully understand the information provided during the contact talk (including if it is information provided in writing and/or audio/visual formats). Good practice is that interpreters, if required, would also be on board the means of transport during the return operation.

Specifically, **returnees have to be provided with** (prior to their return):

- Information on any planned transfer to remove them from the country, in a language they understand (individuals that have received a return decision/removal order);
- Information on the specifics and the detailed process of the return operation;
- Information on the possibility to lodge a complaint on ill-treatment during the return;
- Access to a means of communication before the actual return to notify family or friends in the country of return about the predicted arrival (normally a phone call);
- Information (in a language they can understand) about possibilities of further support in the country of return (including service provision in case of a substance misuse problem) when these are known.

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87 (Article 2 (f), Frontex 2011)
88 Interpreters should have signed a code of conduct and be subject to veto when there is proof of their unsuitability (i.e. they belong to an opposing clan, opposing religious group, holding homophobic views etc.). (OCHCR 2014, guideline 16)
89 Article 5 of the Frontex CoC for JROs defines The competent authorities of the MSs are expected to give sufficient and clear information to the returnees about the JRO, including the possibility to lodge a complaint concerning alleged ill-treatment during the operation.
Individuals with diminished visual, speech or auditory abilities should be provided with access to the necessary equipment or personnel to ensure they have understood what the procedures are, and in order to communicate their needs.

In case of an investigation into an alleged violation during a return operation committed by a participant assigned by any MS or Frontex to the return operation, the returnee afterwards has the right to request information and to be informed about the related measures taken as well as the possible right to his/her compensation, as outlined in the Frontex CoC for JROs in Article 17(4).

✧ Right to Health/Access to Medical Assistance

The procedures to examine whether a returnee is fit-to-travel in a forced return operation differs between MSs, and also depends on which means of transportation are used. In some MSs, for example, all returnees have to undergo a fit-to-travel test, whereas in other MSs only persons with known/communicated medical conditions (physical and/or psychological), will have to undergo a medical test. In the case of JROs, all persons with a known medical condition have to undergo a fit-to-travel medical examination, prior to their return ensuring that the return is not endangering their health and life.

As far as possible, specific attention has to be paid during the medical examination to psychological disorders or prior trauma the person has suffered, including securing (the continuation of) medication, if applicable, as a psychologically unstable returnee might pose a risk to him/herself and the return operation. All medical examinations should be conducted individually and not in groups, with access to an interpreter in order to communicate with the doctor, if required. The examination should further be conducted out of hearing and - unless the doctor concerned requests otherwise - out of sight of escorts. The doctor should inform returnees about the result of the examination.

It is common practice that a medical doctor, nurse or paramedic participates in national FROs. According to the Council Decision of 2004 (organisation of joint flights for removals), at least one medical doctor should be present in a JRO.90 Medical staff participating in return operations shall be provided with a fully equipped emergency kit, including emergency medical equipment and medication most commonly used in emergencies.

✧ Access to Food and Water

Several international instruments relate to the right for everyone to be free from hunger and to have access to adequate food. Returnees are to be provided sufficient and adequate food and water during a return operation. It is common practice to provide the same type of food for returnees as for the other participants in a FRO. In addition, food requirements of returnees (gluten free, sugar free, Halal, Kosher and vegetarian food) shall be observed. Sharp objects, such as knives and forks, and hot beverages shall be avoided.

90 Frontex CoC for JROs 2013, Art. 11
Vulnerable Groups, Family Unity and the Rights of the Child

Vulnerable groups include women, babies and children, pregnant women, the elderly and people with disabilities. During a forced return operation their special needs should be taken into account and they should be given assistance. This includes accommodating their special needs in relation to adequate food and drink e.g. (temperature of) baby food, food allergies etc.

Whenever possible, families should be transported and seated together on the different means used for transfer and transportation to the country of return, especially in cases where the return involves convicted criminals or returnees evaluated with high risk of resorting to violence. However, a child/children is/are to be seated separately, if circumstances require that restraints/coercive measures are used on a parent, to prevent the child from witnessing the situation and the restraints on the parent. Separated and unaccompanied minors should receive special care and protection.

Data Protection and Privacy

Article 8 of the Charter of Fundamental Rights of the European Union establishes the protection of personal data:

1. Everyone has the right to the protection of personal data concerning him or her.
2. Such data must be processed fairly for specified purposes and on the basis of the consent of the person concerned or some other legitimate basis laid down by law. Everyone has the right of access to data which has been collected concerning him or her, and the right to have it rectified.
3. Compliance with these rules shall be subject to control by an independent authority.

Personal information of the returnee (the file kept by the authorities with relevant information, the return decision etc.), is to be handled in line with the (national) legal framework and requirements for personal data protection, and thus shall not be available to the participants of a FRO/JRO but be kept according to agreed responsibilities by either the head of operation and or the respective escort leader. Information regarding the medical conditions of returnees are to be kept with the medical personnel on board. Generally, monitors do not have access to the personal files and data of the returnees.

91 Unaccompanied minors should only be returned in exceptional cases when it is in the best interest of the child, for example, for the purpose of family reunification with the consent of the child etc. However, the decision for the return is not the responsibility of the escorts or the monitor(s), but that of the respective national authorities. It is thus not within the mandate of the monitor to question the decision for return.
92 (European Parliament and European Commission (EC) 2000: 10)
Privacy should be granted to the returnee(s) where possible. During security checks, as much privacy as possible should be granted to the returnee(s), and the security check of a female returnee should be conducted by a female escort (and male by male). For the monitor to observe the security check, it should, respecting the returnees’ privacy, be sufficient if the door is left ajar in order for the monitor to be able to listen to the conversation (which should be respectful). If an incident is heard, the monitor can look into the room in order to be able to gather the facts of the situation which he then should report on afterwards. Any video, and/or audio recording or monitoring by third-party observers on JROs shall be subject to prior agreement between the organising Member State and the participating Member States. The national legal framework in this regard differs and needs to be considered separately in each specific case. However, a monitor is never to use any type of video and/or audio recording devices during a forced return operation.

To allow for privacy when using the bathroom, the monitor could observe the procedure, i.e., the returnee being brought to the bathroom, the escorts waiting outside, the returnee coming out of the bathroom. As such the returnee cannot claim to have been mistreated by the escorts during a toilet visit. In practice, returnees with a high-risk assessment are asked by the escorts to leave the toilet door on board the means of transport ajar, when using the bathroom.

Property

To safeguard the right to property, it is necessary to have systems in place to ensure that returnees can recover essential property prior to removal (in the pre-return phase). Where possible, returnees should as part of this phase also be assisted to close any open affairs (e.g. with social services, health care or the like) in the country from which they are being returned.

The luggage of returnees should be transported with care. All personal belongings, including those that might have been removed from the returnees for security reasons, should be promptly returned to them when arriving in the country of return.

Who Has to Guarantee Fundamental Rights?

In general, all participants of a forced return operation have to observe the fundamental rights applicable to all participants and in particular to the returnee(s). All states must guarantee fundamental rights, and police and immigration authorities are acting on behalf of the state during a forced return operation.

However, those tasked to directly enforce the return are under particular scrutiny during a FRO/JRO. This includes the escorts and the escort leader, who have a specific mandate for the use of coercive measures and means of restraint under certain circumstances (on returnee(s) that refuse and/or resist removal, always in accordance with national legislation, the prior risk assessment conducted and only in order to guarantee the safety
of the returnee(s) and other participants or in order to be able to carry out the forced return operation).

The monitor, through his/her independence, observation and report, supports the actual compliance with fundamental rights and investigations in cases of alleged violations.

*What Fundamental Rights Instruments Apply to Forced Return Operations?*

The specific rights and principles applicable in the vast majority of FROs, the process before and during their execution, originate from a number of international and regional legal instruments from fundamental rights/human rights and refugee law.

The following does not represent an exhaustive list, as there are a number of other relevant regional legal fundamental and human rights instruments, and in addition, a large number of guidelines and standards that are followed. These, however, relate to the international and regional legal framework in most cases, for example:

- Universal Declaration of Human Rights 1948;
- International Covenant on Civil and Political Rights 1979;
- Convention relating to the Status of Refugees (Geneva Convention) 1951;
- Optional Protocol relating to the Status of Refugees 1967;
- European Convention of Human Rights 1950 (and all related protocols);
- Charter of Fundamental Rights of the European Union 2000;
- European Convention for the Prevention of Torture 1987;
- UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1984;

*Key Learning Points Module 1*

- Forced return is preceded by a comprehensive process and a return decision is issued by the competent authorities. The decision is not part of the forced return operation and thus not to be questioned by the monitors;

- A forced return operation is divided into different phases: detention (not applicable to monitoring of a European (JRO) monitor), pre-return, pre-departure, in-flight, arrival and post-arrival (also not applicable to monitoring);

- The key fundamental rights involved and to be observed during a FRO are a set of issues related to different rights, however, they only cover certain aspects of them:
  - Right to life, liberty, security;
  - Freedom from torture, cruel, inhuman and degrading treatment and punishment;
  - Right to human dignity;
Right to health/access to medical care (during a FRO/JRO);
Right to food and water;
Right to non-discrimination – no different treatment based on sex, race, religion etc.;
Right to information and the right to make a complaint;
Right to family;
Rights of vulnerable groups, rights of the child;
Right to privacy and data protection;
Right to property – to have and take property back with them.

The use of force and coercive measures is allowed, however, only as a last resort, and should be proportional and where possible only used after de-escalation has failed and/or the returnee and/or other participants are put in danger;

The use of force shall be proportional and shall not exceed reasonable force. It shall be legal (in accordance with national law and requirements), approved (list of authorised restraints/coercive measures) and in accordance with respective Codes of Conduct, e.g. the Frontex CoC for JROs and the CoC for all persons participating in Frontex activities, accounted for and necessary.
Module 2

The Role, Mandate and Responsibilities of Escorts and the Escort Leader

Learning Objectives

At the end of this module, trainees will:

- Possess thorough knowledge of the role, mandate and responsibilities of escorts and the escort leader;
- Know the responsibilities of the escorts and escort leader during the different phases of a return operation, including the chain of command and/or hierarchy applicable during an operation;
- Be able to name the different types of restraint measures and circumstances pertaining to possible use of force by the escorts;
- Be able to analyse scenarios pertaining to the responsibilities of escorts and the escort leader during a forced return operation.

Module Plan

Module 2: The Role, Mandate and Responsibilities of Escorts and the Escort Leader

<table>
<thead>
<tr>
<th>Session</th>
<th>Methodology</th>
<th>Duration</th>
</tr>
</thead>
<tbody>
<tr>
<td>2.1 The Role and Mandate of Escorts</td>
<td>- Lecture and discussion</td>
<td>1.5 H</td>
</tr>
<tr>
<td></td>
<td>- Video and exercise</td>
<td></td>
</tr>
<tr>
<td>2.2 Use of Coercive Measures and Restraints</td>
<td>- Introduction to coercive measures/restraints</td>
<td>Min. half a day</td>
</tr>
<tr>
<td></td>
<td>- Introduction to the monitoring report template to be used during the practical demonstration</td>
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<tr>
<td></td>
<td>- Organised practical demonstration by law enforcement officers on coercive measures and restraint techniques</td>
<td></td>
</tr>
<tr>
<td>2.3 The Responsibilities of Escorts within the Different Phases of a Forced Return Operation</td>
<td>- Lecture on responsibilities of escorts in the different phases</td>
<td>2 H</td>
</tr>
<tr>
<td></td>
<td>- Group work – responsibility matrix</td>
<td></td>
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<tr>
<td></td>
<td>- Gallery walk (plenary) through the phases and discussion</td>
<td></td>
</tr>
<tr>
<td>2.4 Case Study: Analysis and Application</td>
<td>- Cases in groups (in 4 parts) – analysis, questions</td>
<td>1.6 H</td>
</tr>
<tr>
<td></td>
<td>- Presentation of cases and discussion</td>
<td></td>
</tr>
<tr>
<td>Overall duration Module 2</td>
<td></td>
<td>1 day (+)</td>
</tr>
</tbody>
</table>
References

- Nottingham University Hospitals. 2015. *Nottingham University Hospitals NHS Trust Restraint Policy*;

Session 2.1: The Role and Mandate of Escorts

<table>
<thead>
<tr>
<th>Topic</th>
<th>Time</th>
<th>Methodology</th>
<th>Supporting materials</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tasks of escorts and the escort leader</td>
<td>30 min</td>
<td>Interactive lecture (buzz groups)</td>
<td>Projector, screen (wall), laptop, PPT, marker</td>
</tr>
<tr>
<td>Analysis and observation exercise – video return observation</td>
<td>11:22m</td>
<td>Video clip, Questions and observations assigned to 3 groups</td>
<td>Loudspeakers, reliable internet or downloaded video, printed questions from Annex Session 2.1</td>
</tr>
<tr>
<td>Total duration</td>
<td>90 min/1.5 H</td>
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Implementation of the Session

1. **Tasks and skills.** Open the session with a short introduction on the role of escorts (PPT, see background reading). Ask the trainees to get together with their immediate neighbours (e.g. in groups of 3) and discuss for 5 minutes: a) what they think the main tasks of escorts are, and b) what skills escorts should possess. Variation: ask one half of the plenary to discuss a), the other half to discuss b). Document their answers on a flipchart with two columns (one with tasks, one with skills). Add the points raised from the background reading (PPT) and correct any misinterpretations or wrong information. Ensure to highlight the specific role, tasks and responsibilities of the escort leader.

2. **Analysis and observation.** Announce that a video will be shown and that the trainees need to pay attention. Divide the plenary into 3 groups and distribute the handout with the questions from the Annex. Assign each group a set of questions (A, B or C). Allocate 2 minutes for them to read through the questions. Show the video. Let the groups discuss and determine their answers. (15 minutes, either documenting it on a flipchart or on their notepads. They can assign rapporteurs for the individual questions).
3. **Discussion.** Ask each group (or different members of the group) to answer the questions one after the other. After each answer, ask the rest of the trainees whether they agree or disagree or feel the need to add anything.

4. Highlight the fact that despite what the monitor says in the video, a monitor is never allowed to intervene, at any point in time. Correct information that might have been misunderstood, invite questions and give clarifications.

5. Close the session by highlighting that the JRO in the video was without incident. However, if incidents occur or national law prescribes the use of restraints, the situation might be different, and the next session (half day), will familiarise the trainees with the use of force, types of restraints and what escorts under all circumstances have to avoid.

**Background Reading**

**The Role and Tasks of Escorts**

Escorts are the law enforcement officers/security personnel responsible for accompanying third-country nationals being forcibly returned. **Escorts execute a return decision taken by the competent state authorities.** Each (national) group of escorts has an escort leader in charge of the (respective national) group of escorts.94

The employment of a backup team and their number of escorts during national FROs differs amongst MSs. In practice they are considered based on a number of factors, such as the information from the risk assessment, the number of returnees on board, the travel time and any other possible difficulties that might be encountered. During a JRO, the OMS is responsible for providing an appropriate escort backup team (Art. 8(4), Frontex CoC for JROs 2013) should it be deemed necessary.95 Participating Member States may also provide their own backup team, if necessary.

The **role of escorts** is to ensure and enforce the return of the respective returnee(s), and that the return, is conducted in a safe and humane manner and according to the relevant national legal framework (and both Frontex Code of Conducts, should it be a JRO coordinated by Frontex).

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94 The allocation of the role of escort leaders and the ratio of escorts per escort leader differs amongst MSs, e.g. it might be one escort leader per 5 returnees or one escort leader per group of escorts for a returnee/family etc. During a JRO, each national team (even though it might have more than one escort leader present) appoints one escort leader with the function of a “contact point” for the head of operation.

95 Backup teams consist of a number of escorts not individually assigned to a returnee/family, assisting other escorts in case of problems arising.
JROs will only be interrupted or terminated in accordance with Art 4(3) of the Frontex CoC for JROs (and based on the Council Decision 2004/573/EC), if the pilot (in case of removals by air) or the head of operation/escort leader consider the continuation unsafe and/or in case of serious or persistent violations of fundamental rights.

It is important that escorts are respectful to the returnees at all times, yet they need to be strict and it is their responsibility to apply necessary safety (coercive/restraint) measures when required to enable the removal and to, at the same time, ensure that the returnee poses no danger to him/herself or other participants of the return operation.

Main Tasks of Escorts

The main tasks of escorts relate to:

- Implementing/enforcing the return in line with the respective national legislation, applicable fundamental rights and/or codes of conduct in place;
- Guaranteeing the safety of their assigned returnee(s) and participants of the FRO/JRO, including the (proportional) use of force as a last resort;
- The provision of all relevant information on the planned removal to the returnee(s) prior to their return, including the information that the return operation will run smoother if the returnee co-operates, and that if he/she does not co-operate, their removal will be enforced;
- Conducting risk assessments on the co-operation of returnees and sharing of that information/assessment with relevant participants of the FRO/JRO during a briefing;
- Following and implementing the defined (by the head of operation of the OMS) security and surveillance plan on board the aircraft (movements within the cabin, meals, etc.);
- The provision of all relevant information (technicalities, procedures, implementation plan, seating plan etc.) to all participants of a return operation during a specific briefing;
- Ensure the handover of the returnee(s) (in co-operation with the escort leader) to the respective national authorities in the country of return (in case of successful return);
- Decide (head of operation or escort leader (OMS)) upon the necessary termination of a forced return operation.

During the return operation the escorts have to ensure that the returnee(s) they are responsible for, is/are being returned, while ensuring the returnee’s(s’) safety as well as the safety of the other participants of the return operation. If necessary, they are authorised to apply force to carry out the return, but the desired strategy is one of de-escalation and calming of any situation before it gets problematic. Escorts are specifically trained for such scenarios. It is the duty of escorts to communicate important facts (i.e., self-harm, obstructive behaviour.

etc.) to the escort leader (JRO: head of operation) and also to assist the returnee(s) when necessary.

The number of escorts accompanying the return will depend on the risk assessment conducted and the practice differs amongst MSs. If a female is to be returned, at least one woman should be part of the escort team. In the case of minors (especially if no guardian accompanies the minor) or families to be returned, an effort should be made to have at least one female escort present.

Before a forced return operation, the escort leader (or deputy) conducts a meeting, a “contact talk”, with the returnees individually (supported by interpretation, if needed, as the returnee is required to fully understand all relevant information provided in relation to the return). During the contact talk, the escort leader provides detailed information on the upcoming operation: the destination and possible stopovers, time of collection and departure, arrival etc. The escort leader should also communicate that co-operation is in the returnee’s interest as uncooperative behaviour will not stop the return operation.

The **aim of the contact talk/meeting** is thus manifold, it:

- provides information to the returnee about the main operational aspects of the return operation;
- provides the escorts with information on any basic and specific needs of the returnee (e.g., in relation to luggage and/or personal belongings, possible need to make a phone call to family/friends in the country of return to prepare for their arrival etc.);
- provides the escort leader (and escorts) with the opportunity to undertake a risk assessment (e.g., to establish whether the returnee is cooperative or might refuse the return, be aggressive and/or might potentially resort to violence) and to establish a possible medical condition (physical and/or psychological), which might require a fit-to-travel examination.97

It is important to note, that while escorts are allowed to use force and coercive measures (proportionally and not exceeding reasonable force), “returnees should be briefed regarding the enforcement of their removal and advised that it is in their interest to cooperate fully with the escorts. It should be made clear that any disruptive behaviour will not be tolerated and will not lead to the aborting of the removal operation”.98

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97 If applicable in the country (national FRO) – the practice in this regard differs amongst MSs. According to the Frontex CoC for JROs (Art. 7(2)), a fit-to-travel examination shall be conducted for a JRO (subject to the returnees’ agreement) in case of a known (or visible) medical condition. It might also be conducted already 2-3 days prior to the return.

98 2.1(b) of the Annex of the 2004 Council decision on joint removal. (Council of Europe 2004: 5)
Special Tasks of the Escort Leader

In general, escort leaders are responsible for different numbers of escorts. One escort leader is always the head of operation. During a JRO, there is one escort leader from the organising Member State who is the head of the whole operation. In case no head of operation has been assigned, the escort leader of the organising Member State assumes this responsibility. Each participating MS has appointed one escort leader who is the head of their national delegation and consequently, this national escort leader is the main contact person for the head of the whole operation. The national escort leader is also the one that shares information, participates in briefings etc.

After the return operation, the escort leader is to provide a written report to the authority which ordered the return. It must include information on the use of force (reason, techniques applied and duration) as well as any other incidents that occurred. In case of an investigation and/or any findings of wrongdoing, the usual disciplinary procedures as for other law enforcement officers apply to escorts.

Skills Required by Escorts

In the majority of EU MSs and associated States, escorts are law enforcement officers who have been subject to standard law enforcement training, but have received additional, specialised training to fulfil their specific duties. In some countries, they form part of a special unit (e.g. organised crime unit). In some countries however, the escorts are from private security companies, which the State engages for these specific tasks. There is no unified approach to the selection and training of escorts across the EU MSs and associated States. However, they all receive specific training aimed at meeting the requirements of escorting individuals during forced returns and benefit from on-going training.

Overall, escorts should receive relevant training, amongst other, things related to:

- regular practical exercise on the use of force (coercive measures/restraints), including mitigation of associated risks (e.g. positional asphyxia syndrome);
- legal training;
- de-escalation strategies;
- emergency procedures on board an aircraft (and/or other means of transport); and
- first aid training.

In relation to “soft-skills” required by escorts, their behaviour should be calm, patient, polite, non-discriminatory and respectful. Knowledge of foreign languages is not a must but always considered an asset among escorts. However, during JROs coordinated by Frontex, escort
leaders should at least possess sufficient knowledge of English, as briefings are usually held in English. Article 11 of the Frontex CoC for JROs further establishes the obligation that

The OMS provides..., depending on an assessment of the returnees’ needs and escorts’ language skills, suitable interpreters during the JRO.

Analysis and Observation Exercise

Watch the Frontex video on Joint Return Operations
(11:22 minutes, YouTube link: https://www.youtube.com/watch?v=pPrI7h7sAb0).

Reflection on the video and questions to be distributed to the trainee monitors (print from Annex, Session 2.1):

A) Involvement, roles and responsibilities
   a. What kind of return operation is depicted?
   b. Who is involved – organisations and members of the return operation, staff present, including their roles and mandates?
   c. How do escorts (and/or others) deal with the returnees (behaviour, language etc.)?
   d. What is said about who is returned as part of the forced return operation?

Exercise – Trainer Notes
A) Involvement, roles and responsibilities

Please note: the answers to the questions above provide the most important information. There might be more observations, although this is meant to an additional support.

   a. A forced return operation (JRO, involving Sweden, Finland, and Germany as the organising Member State);
   b. Frontex (in a co-ordinating role with the joint operation officer of Frontex), escort leader (Germany), escorts (police officers in Sweden, and Germany, and a chief inspector from Germany in the capacity of head of mission (also called head of operation in the Frontex CoC), Serbian police). Security personnel at the airport (ground staff, check-in etc.), monitor (from the Diakonie, responsibility to monitor that the JRO is implemented according to fundamental rights standards and the code of conduct of JROs, including all procedures), doctor and interpreter. Germany organised the flight, coordinated and co-financed by Frontex;
   c. Normal voice and language, calm and professional;
   d. Individuals with individual return decisions issued by the authorities in the respective MS, including asylum seekers whose claim has been refused and so-called overstayers who have e.g. overstayed their visa, working permit etc.; a released prisoner (Serbian national) who has served his sentence in a German prison (which always includes a compelling deportation);

It can further be observed that JROs can involve a heavy schedule, e.g. starting very early.
B) **Procedures and phases**

a. Is this a national FRO or a JRO?
b. What is the role of Frontex?
c. What is said to be the hub of the operation and which other stops are involved?
d. Which different phases of a return operation can you determine in the video, with what specific procedures?
e. Which information is given during the briefing and by whom?
f. How many returnees were returned/handed over?

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**Exercise – Trainer Notes**

**B) Procedures and phases**

a. It is a JRO (with several participating Member States that transport their returnees to the JRO hub);
b. Frontex coordinates the JRO; the head of operation is appointed by the OMS;
c. Düsseldorf in Germany is the hub of the JRO. One smaller chartered plane takes the returnees from Helsinki to Stockholm and Stockholm to Düsseldorf (national feeders to the JRO hub). From Düsseldorf a larger chartered plane (JRO) takes the returnees and escorts from the participating Member States to Skopje and Belgrade;
d. Phases:
   - Pre-return: JRO – transportation from the national ports Helsinki and Stockholm to the hub; briefing by head of mission for the (German) team (the meeting with the returnees is not shown) (the contact talks are not shown);
   - Pre-departure: transfer (e.g. criminal to the airport), security check (airport), waiting area, briefing of escort leaders (including Frontex), transport by the airport bus to the aircraft;
   - In-flight: not in detail, but briefly, inside the aircraft;
   - Arrival in Belgrade.

e. The escort leader provides information on the operation (including introductions) during the briefing e.g. information about the schedule of the operation (including the return time to the hub) is provided; the question is asked whether there have been any incidents or anything to report on the national flights to the hub; an operation/seating plan can be observed in the pictures;
f. 112 returnees were handed over, from three participating countries.

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**C) Fundamental rights and monitors**

a. Are restraint measures applied (e.g. handcuffed or similar)?
b. How do escorts deal with the returnees (behaviour, language etc.)?
c. Do returnees appear to have property/luggage with them?
d. Is a monitor present and what is said about the tasks and responsibilities of the monitor?
e. Who else will evaluate the joint forced return operation?
f. What are said to be the advantages of Joint Return Operations?
Exercise – Trainer Notes

C) Fundamental rights and monitors

a. No restraints/coercive measures are being used;
b. Professional, calm, normal voice and tone;
c. Luggage of returnees can be seen to be with them and loaded onto the aircraft and they have it with them upon their arrival;
d. A monitor is present (from the Diakonie, an independent organisation) and moves freely among the returnees. She says she is there to observe, talk to the returnees, take her notes but “not necessarily intervene” – which is not entirely correct, as a monitor is never allowed to intervene;
e. Each participating MS, the monitors and Frontex will evaluate the JRO;
f. Advantages of JROs are said to lie in the fact that they are more secure and less costly.

Note to the Trainer: Important to emphasise on issues depicted in the video:

1. The head of operation says “to coordinate forced returns of individuals irregularly staying in the EU to their countries of origin” – it can also be other countries of return that both the respective country and the returnee have agreed to (e.g. Pakistan has under the readmission agreement with the EU in principle agreed to be taking in nationals from Afghanistan);
2. The monitor in the movie says (min. 7:25) “but I am not necessarily able to intervene” – this is wrong. The forced return monitor is under no circumstances mandated to intervene.
Session 2.2: Use of Coercive Measures and Restraints

<table>
<thead>
<tr>
<th>Topic</th>
<th>Time</th>
<th>Methodology</th>
<th>Supporting materials</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Introduction to the use of coercive measures/restraints and risks</strong></td>
<td>20 min</td>
<td>Introductory lecture on different measures, techniques and risks - optional</td>
<td>Projector, screen (wall), laptop, PPT</td>
</tr>
<tr>
<td><strong>Application of monitoring report template</strong></td>
<td>30 min</td>
<td>Explanation of the reporting template or optional introductory part to the report of session 4.1 (module 4)</td>
<td>Print-outs of the reporting template for trainees</td>
</tr>
<tr>
<td><strong>Practical demonstration of coercive measures/restraint techniques</strong></td>
<td>Min half a day</td>
<td>Practical demonstration of coercive measures and restraint techniques by specialised personnel, ideally at their training premises, see recommended basic structure of that session below</td>
<td>External visit to a (training) facility or room adequate for the purpose (liaise with law enforcement officers to determine needs)</td>
</tr>
</tbody>
</table>

**Total duration** | **Min half a day** |

**Implementation of the Session**

It is fundamental that the monitor understands the specific role of escorts and their mandate in relation to the use of force. The best way to achieve this is to have monitors meet escorts, view how they apply force and restraints, and ideally experience first-hand how it feels when being restrained. Therefore, only a short theoretical overview of the different techniques and measures is foreseen within this Training Manual, as an introduction (optional and depending on the agreements reached for the practical demonstration). A practical demonstration on the use of force, coercive measure and restraints and different scenarios by specialised law enforcement officers is considered paramount.

This practical demonstration should last for at least half a day. It is highly important to equip monitors with the necessary knowledge to judge the adequate and excessive use of force and restraints as part of a forced return operation. The practical demonstration session requires the organisers of the training (and possibly the trainer) to cooperate with special law enforcement units in MSs, ideally those tasked with return operations or the training of escorts in order to organise and ensure the overall content of the session (see recommendations below).

The practical demonstration, especially in its recommended form of presenting two different scenarios, provides a great opportunity for monitors to try out the monitoring report template and their observation skills. Therefore, it is necessary to introduce the template to the trainees at this stage of the training to be able to work with the insights gathered later on in Module 4 - Reporting.
All trainees or a group of trainees (on a voluntary basis), should try out the report template by putting down notes as if it was a real forced return operation (obviously applicable to either the pre-departure or in-flight phase only, depending on the demonstration). It might be beneficial not to have all monitors busy with the template and the observation at the same time. Another possibility is to ask some trainees to report on scenario 1, and the others on scenario 2. However, it has to be ensured beforehand, that two scenarios are provided during the demonstration).

There are two ways of introducing the reporting template, depending on the overall time available and preferences of the trainer:

1. Hold the overall introductory part of session 4.1 (module 4), going into the principles of reporting and introduce the different sections of the reporting template;

2. Introduce the reporting template with its different sections only, leaving the principles for the session thereafter in combination with the insights gathered from the practical application.

Recommended Basic Structure of Practical Demonstration on Coercive Measures

The demonstrations shall follow a tentative structure, which has already been tested during the FReM pilot training sessions. The practical demonstration should, if possible, be held at the facilities of the respective special forces or training facility of escorts (which enables the use of any simulator the forces might have at their disposal, e.g. an aircraft).

The demonstration should include, as far as possible:

- A general demonstration of the use of force and coercive measures to give an overview of when and how coercive measures should be used. This could include demonstration of:
  - Steel cuffs;
  - Sling lines;
  - Body cuffs (with steel and Velcro).

- First-hand experience for the trainee monitors (by volunteering), of how it feels to be handcuffed and restrained in order to experience the actual “force” applied. This should include the correct application as well as the incorrect application (e.g. hand-cuffs too tight);

- A demonstration how a restrained returnee would be brought into an aircraft/bus/ship (simulator) in two scenarios: one good practice (following proper procedures) and one bad practice scenario applying excessive force (without endangering anybody participating), including language the escorts are using (i.e. polite, rude, talking calmly, screaming etc.).
If no simulator is available this can also be demonstrated in a normal room, pretending to bring the returnee up the stairs, placing the returnee on a chair etc.:

- Application of coercive measures/restraints, ensuring that breathing is not impeded in order not to cause asphyxia (see further details on the asphyxia syndrome below);
- How a returnee is to be handled when wearing a body cuff;
- Positioning on board of the means of transportation, in the seat;
- Measures that could be taken should the returnee be demonstrating excessive resistance.

During these scenarios, some monitors should be tasked specifically to use the reporting template as an exercise for module 4 (as detailed in the description of the session). The trainees should be invited to ask questions and seek clarifications from the officers providing the demonstrations throughout. It is advisable that all trainees have the opportunity to try out how it feels to be attached, for example, to the seat with coercive measures, carried up a gangway with body cuffs, how, if not walking themselves, the escorts would carry them etc.

**Note to the Trainer:** Make reference to the insights gathered in that session where possible during all subsequent sessions, e.g. to include insights from the demonstrations into the responsibilities matrix, highlighting when the use of coercive measures/restraints might occur.

**Background Reading**

**Introduction to the Use of Coercive Measures / Means of Restraint**

Coercive measures and restraints may be used under certain circumstances and in accordance with the national law and fundamental rights standards and instruments in place, such as the Frontex Code of Conduct for JROs coordinated by Frontex (Frontex CoC for JROs 2013), applicable to all participants during a JRO coordinated by Frontex.

On the use of coercive measures, the Frontex CoC for JROs 2013 states, among other things: Coercive measures **may be used only when strictly necessary** on returnees who refuse or resist removal, or in response to an immediate and serious risk of the returnee escaping, causing injury to herself/himself or to a third party, or causing damage to property. (Article 6(1))

**The use of sedatives to facilitate the removal is forbidden** without prejudice to emergency measures to ensure flight security. (Article 6(4))
In situations where a person being returned becomes agitated or violent or resists boarding the means of transport via air, land or sea, the first priority of escorts is the safe resolution of an unpredictable and potentially dangerous situation. De-escalation and co-operation are the ultimate outcomes the escorts should aim for, thus they are to use their voice and body language to this effect. Harsh words, loud voice and or shouting will in most cases rather escalate than de-escalate the situation. However, escorts are required to make split-second decisions on the necessity of use of force in stressful and difficult situations. If a returnee is violent and represents a danger to themselves and/or other participants of the forced return operation, the escorts have the mandate to restrain him/her to enforce the removal and for the returnees’ safety as well as for the safety of all participants of the return operation, including the escorts themselves.101

There are a number of different means and techniques of restraint for such a situation, and these vary in their use and also depend on the different restraints prescribed and/or allowed by the national legislation of a State implementing a return operation. For JROs, where different and potentially contradictory national legislations might come into play, a list of authorised/forbidden restraints and equipment to be used during the JRO is decided upon in advance of the JRO.102 This list is decided upon by the OMS in accordance with its national legislation and communicated by the OMS in the standardised form "Offer of a Return Flight – Information Sheet". Afterwards, Frontex includes it in the implementation plan. However, no PMS should use coercive measures that its legislation does not allow, even if those measures are accepted by the OMS (and Frontex) for that particular operation.103 Escorts and monitors have to be informed of the authorised restraints during a JRO co-ordinated by Frontex. All restrained individuals need to be under continuous surveillance.104

Mechanical Restraints

Mechanical restraints that might be used during a forced return, depending on the specific national legislation, include the following:

- Hand Cuffs (steel, plastic, Velcro, textile);
- Body Cuffs;
- Head Protections (helmet, spit mask).

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101 (Council of Europe 2001) (United Nations 1979)
102 If coordinated by Frontex, see Article 6(4), Frontex CoC for JROs 2013. EU Directive 2004 in 3.2 (f) also establishes the responsibility to inform all escorts about authorised and forbidden restraints.
103 Article 1(5), Frontex CoC for JROs 2013
104 Council Decision of 29 April 2004 on the organisation of joint flights for removals from the territory of two or more Member States, of third-country nationals who are subjects of individual removal orders (2004/573/EC) 3.2 (f), (g), (h) (Council of Europe 2004) - adapted to the persons in charge during a JRO coordinated by Frontex: the OMS head of operation or the OMS escort leader in accordance with the Frontex CoC for JROs 2013.
Restraining Techniques to be Avoided and the Risk of Positional Asphyxia Syndrome

Degrading and potentially harmful, even life-threatening techniques are to be avoided, such as:

- **Restraining persons on the floor should be avoided** whenever possible. Techniques such as ‘prone restraint’, which involves forcing a person face-down onto the floor, placing their hands behind their back and putting pressure on their torso, shoulders and neck can cause disproportionate discomfort and put the life of the individual in jeopardy, if too much force (pressure) is used. If the floor is used as a last resort, then this should be for the shortest period of time and only for the purpose of gaining reasonable control;105
- Pregnant women should never be placed in a face down position;
- Pressure should not be placed on the neck, especially not around the angle of the jaw or the windpipe. Pressure on the neck, particularly in the region below the angle of the jaw (carotid sinus) can disturb the nervous control of the heart and lead to a sudden slowing or even stoppage of the heart.

A degree of **positional asphyxia** can result from any restraint position with restriction of the neck, chest wall or diaphragm (see the following pictures for dangerous positions).

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105 Nottingham University Hospital NHS, Restraint Policy, 2009
Positional asphyxia (or postural asphyxia) is a form of asphyxia, which occurs when someone’s position prevents him/her from breathing adequately. A small but significant number of people die suddenly and without apparent reason during restraint by police, prison (corrections) officers and health care staff. Positional asphyxia may be a factor in some of these deaths.106 (Frontex PPT on medical precautionary measures for escort officers, including pictures).

If left in a prone position, even without weight being applied to the back, the person’s own body weight can restrict breathing and cause death. Particular attention is to be paid to the transportation of persons who are handcuffed in this way.

This risk increases when:

- The head is forced downwards towards the knees;
- The person is immobilised when seated;
- The person is on the floor facedown;
- The torso is compressed against or towards the thighs (restricts the diaphragm and compromises lung inflation);
- The body position of a person results in a partial or complete obstruction of the airway and the subject is unable to escape from that position;
- Pressure is applied to the back of the neck, torso or abdomen of a person held in the prone position;
- Pressure is applied which restricts the shoulder girdle or accessory muscles of respiration while the person is lying down in any position;
- The person is obese (particularly those with large stomachs and abdomens);
- The person is a child or small adult;
- The person has a heightened level of stress (agitated thus high heart beat);
- The person may be suffering respiratory muscle failure related to earlier violent muscle activity (such as a struggle/previous resistance);107
- The person is intoxicated with alcohol or drugs, or has a known history of substance abuse, particularly cocaine;
- The person is unconscious.108

Warning signs of positional asphyxia include:

- Verbal complaints of being unable to breathe properly together with increased effort;
  A violent and noisy person suddenly becomes passive, quiet and tranquil;

106 Frontex PPT on medical precautionary measures for escort officers developed within a Frontex project by medical doctors for the Medical Doctors’ Handbook on Medical Precautionary Measures for Escort Officers, including pictures.
107 Nottingham University Hospital NHS, Restraint Policy, 2015
108 (Frontex PPT)
- Blue discolouration to facial skin (this is difficult or impossible to see with very pigmented skin);
- Gurgling/gasping sounds foam or mucus coming from the nose or mouth.\textsuperscript{109}

**Specific Tasks for Escorts in the Event Restraining Techniques are Applied**

Should restraining techniques be used, the escorts should monitor the health of the person being restrained and actively control how the restraints are being applied.

The escorts need to always ensure that any restraint used is in line with the national legal framework (on JROs co-ordinated by Frontex with the approved list, and also the information sheet/Frontex implementation plan). They should also ensure that any restraint used is proportionate and necessary, including the validity of the duration of its application.

The escorts should specifically ensure measures to reduce the risk of asphyxia, which include:

- Once handcuffed, persons should be raised to their feet, placed on a seat or, if violence continues, restrained in the recovery position;
- Care should, however, be taken not to put pressure on the back as breathing can be restricted, even if the person is placed in the recovery position;
- Monitor the person’s condition (e.g. vital signs) continually whilst being restrained, as death can occur suddenly and develop beyond the point of viable resuscitation within seconds rather than minutes;
- Getting medical assistance immediately if there is any reason for concern about the person’s condition;\textsuperscript{110}
- Supporting and protecting the restrained person’s head and neck appropriately;
- Not compromising the restrained person’s airways and breathing;\textsuperscript{111}
- That every effort is made to use techniques that do not use the deliberate application of pain;
- The level of force applied is reasonable and necessary and proportionate to a specific situation, and is applied only for the minimum amount of time necessary.

\begin{footnotesize}
\textsuperscript{109} (Frontex PPT)
\textsuperscript{110} (Frontex PPT)
\textsuperscript{111} (Nottingham University Hospitals 2015)
\end{footnotesize}
Normally, any person placed in a position posing difficulties to their breathing will struggle to change position and may not be able to complain about their discomfort.

The problems experienced in trying to breathe will normally result in a physiological response of fighting for air and the subject may thus appear more aggressive. This could lead to the restraint pressure being increased, perpetuating the ‘vicious circle’. Therefore, any increased resistance from a person lying in a prone or semi-prone position should be regarded with caution.112

Where warning signs of pain or risk of loss of life are present, the restrained person must immediately be released or the restraint modified as far as practicable to reduce restriction, and medical assistance must be summoned.

An individual dying from positional asphyxia may not be able to speak or shout prior to collapse. Warning signs related to positional asphyxia include:

- An individual struggling to breathe;
- Complaining of being unable to breathe;
- Evidence or report of an individual feeling sick or vomiting;
- Swelling, redness or bloodspots to the face or neck;
- Marked expansion of the veins in the neck;
- Individual becoming limp or unresponsive;
- Sudden changes in behaviour (either escalating or de-escalating);
- Loss of, or reduced levels of, consciousness;
- Respiratory or cardiac arrest.113

Reporting on the Use of Force – A Quick Check List

This is just an indicative list; more details on reporting are covered in module 4:

- Was an individual risk assessment conducted for each returnee?
- Did the escort leader/escorts inform the returnee during the contact talk, that it is in their interest to co-operate, and that uncooperative behaviour will not stop the return operation?
- Did the escorts make use of de-escalation and communication skills prior to the use of force?
- What was the specific situation that required the use of force by the escorts?
- Was the use of restraint measures in accordance with (applicable national) law

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112 Frontex PPT
113 Ibid
In addition to the legal provisions for restraint measures, were they necessary and proportional?

How long were restraint measures used for? Was the length reasonable or excessive?

Positions that may cause asphyxia are to be avoided. Were such positions applied and were they necessary to control the returnee and a potentially dangerous situation? Was the returnee in this case closely monitored by the escorts and medical personnel?

Was the returnee informed about the possibility to lodge a complaint, if so how and was there an attempt by the returnee to complain about restraint measures and/or the use of force?

Did the escorts follow their obligation to report incidents in relation to the use of force?

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### Session 2.3: The Responsibilities of Escorts Within the Different Phases of a Forced Return Operation

<table>
<thead>
<tr>
<th>Topic</th>
<th>Time</th>
<th>Methodology</th>
<th>Supporting materials</th>
</tr>
</thead>
<tbody>
<tr>
<td>Responsibilities of escorts within the different phases</td>
<td>20 min</td>
<td>Lecture on the responsibilities of escorts in the different phases</td>
<td>Projector, screen (wall), laptop, PPT, use graphs</td>
</tr>
<tr>
<td></td>
<td>30 min</td>
<td>Group work – add responsibilities to the responsibility matrix in phases (module 1)</td>
<td>Coloured cards, post-its, markers, printed handout 2.3 with phases (or printed background reading for detailed information)</td>
</tr>
</tbody>
</table>

**Presentations of group work and discussion**

<table>
<thead>
<tr>
<th>Time</th>
<th>Methodology</th>
<th>Supporting materials</th>
</tr>
</thead>
<tbody>
<tr>
<td>40 min</td>
<td>Presentation of the groups (plenary) of all phases and discussion</td>
<td></td>
</tr>
<tr>
<td>10 min</td>
<td>Short presentation adding applicable fundamental rights – prepared on cards</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Summary and closing</td>
<td></td>
</tr>
</tbody>
</table>

**Total duration**  **100 min/1.6 H**

### Implementation of the Session

1. Provide a short **lecture** on the responsibilities of escorts within the different phases as a preparation to the group work, emphasising that the information focuses on JROs, as these entail more steps and complexity. Also, transport by air is mainly covered, however, specific issues to take into account for other means of transport are mentioned throughout (see background material, use the different graphs in a PPT in order to explain the responsibilities within the different phases, 5 minutes per phase);
2. **Group work.** Divide the trainees into 4 groups and assign them to the 4 phases. Explain/document their task on a flipchart (prepared, with a shortened text of the one provided in the box below, as some aspects you can also explain verbally). Assign them 20 minutes (and extend, if necessary to 30 minutes, should it not be enough) to complete the task;

- Appoint a moderator and a presenter (or several) in each group, as the group will present the detailed responsibilities to the rest of trainees;
- In each group, consider and discuss the responsibilities of escorts (and, if applicable, the escort leader) in the phase each specific group has been assigned;
- Write them on a card/post-it and distinguish between the responsibilities of the escorts on the cards (and the escort leader, where applicable, e.g. by adding EL to the card). Either put the cards in the respective quadrant on the matrix of responsibilities (phase/resp. escorts (EL)) or keep them with in the group to be put up while presenting your outcomes;
- Present the detailed responsibilities to the plenary.

3. When the trainees are ready, take all of them on a gallery walk from phase to phase. Ask the respective group (alternate between the two groups for the presentation) to briefly introduce the responsibilities they have determined, ask for additions from the others and add where necessary;
4. Ask the trainees to write down any missing points from the discussion in their own matrix. Discuss any open questions and/or issues arising, and allow 40 minutes overall for 3. and 4.;
5. Briefly present/discuss applicable fundamental rights (prepare them on cards beforehand and also hang them up on the matrix);
6. Briefly summarise and close the session.

**Note to the Trainer:** As only one set of cards with responsibilities has been developed, you might want to ask trainees to help copy the cards for the second matrix.
Background Reading

**Note to the Trainer:** A number of different scenarios can apply to a forced return operation. It can be undertaken as a national FRO, as a JRO, as a JRO coordinated by Frontex etc., as well as using different means of transportation. JROs in general are much more complex and ultimately involve prior separate national forced return operations to the JRO hub.

The following descriptions of phases include the differences, where possible (e.g., by adding JRO to those steps that apply only to a JRO and not to a national FRO). Nonetheless, the trainer needs to clarify during the training, where a national FRO would stop (and where a JRO adds steps and complexity to the process, which must still be carried out by teams of participating Member States as a feeder to the hub).

*Please note:* steps with no distinction apply to both a national FRO and a JRO.

**Responsibilities: Pre-Return Phase**

This phase starts when all legal remedies have been exhausted and the respective national authorities have ordered the enforcement of the individual return decision/removal order. It may start a minimum of 24 hours prior to the departure (which can mean different things in relation to a JRO or a national FRO, see box below).

**National FRO:** contact talks of the escort leader with the returnees, including the risk assessment and briefing of the national escort team.

**In a JRO, the following also has to be considered:** the national forced return operation i.e. the departure with returnees from the participating Member State from the national port of departure to the hub of the JRO (thus including the pre-departure and inflight-phase for this national feeder). The OMS returnees who are already are in the location (city) serving as the hub of the JRO, are meanwhile in their temporary holding/detention facilities, waiting for their transfer to the port of departure (e.g. airport, bus station etc.) at the hub of the JRO.
24 Hour Rule in the Pre-Return Phase

The monitoring starts, in line with the FReM Guidelines, a minimum of 24 hours or less prior to the actual departure. The reference of 24 hours is made to ensure the presence of a monitor during the “contact talks” when the returnee(s) is/are informed that they will be returned, or, if participation in the contact talks is not possible, to have the opportunity to check whether the returnee(s) has/have been informed about his/her removal. This phase also covers monitoring of those who are kept in (temporary) holding/detention facilities that are not located at the port of departure (e.g. airport), and therefore need to be transported, for example, from a (longer-term) detention centre to the holding facilities at the port of departure.

The monitor assigned to a JRO co-ordinated by Frontex, starts monitoring on the day of the operation (see Article 9(1b) of the Frontex Regulation). This, depending on the arrangements, can be either the return operation from a national port of departure (national feeder) to the hub of the JRO or start directly at the hub of the JRO.

The pre-return phase covers the following (main) steps:

1. Contact talks/risk assessment: individual meetings of the escort leader with returnee(s), provision of information to returnees. Possibility for returnees to ask questions and follow-up on requests.

   JRO: 3. Physical security check at holding facility of the returnee(s) in the PMS

   JRO: 4. Transfer of returnee(s) from the holding facility to the national port of departure

   JRO: 5. Transportation of returnee(s) from the national port of departure to the hub of the JRO

2. Briefing of the national escort team by the escort leader: details of the operation, risk assessment results, type of coercive measures to be used, assignment of escorts to returnee(s)

Pertaining to this phase, escorts have the following responsibilities (a distinction for the escort leader is made, where applicable):

The escorts and the escort leader have to be conversant with and follow the Code of Conduct of JROs co-ordinated by Frontex and/or fundamental rights and the escort leader should be aware of national laws applicable.
1. **The escort leader conducts contact talks** with individual returnees at the holding/detention facility, prior to their forced return (he/she might be supported by escorts):

   a. Provide (national/European (JRO)) monitors with access to contact talks (if feasible in terms of timing);
   
   b. Ensure to be in possession of the relevant files of the returnee(s);
   
   c. **Provide timely information** on the details of the return operation (enforcement of their removal) to the returnee(s) (e.g. date and time of the return operation, to which city in the country of return the return will take place etc., including the advice to co-operate with the escorts because any disruptive behaviour will not be tolerated and will not lead to the aborting of the removal operation). Ensure the returnee(s) are able to understand the information, if necessary with an interpreter. Provide the returnee(s) with the opportunity to ask questions;
   
   d. **Provide the returnee(s) with the opportunity to communicate** the date/time of return to someone in the country of return (e.g. a phone call to a family member, friend etc.);
   
   e. **Conduct risk assessment:** establish whether the returnee(s) is/are co-operative and/or establish a potential need for restraints (in accordance with national legislation);
   
   f. Gather information on **previous medical conditions** (by asking the returnee(s));
   
   g. Establish specific **needs of vulnerable groups** (pregnant) women, elderly, children, persons with disabilities, persons with medical conditions);
   
   h. See if it is possible to accommodate **specific needs** expressed by the returnee(s).

2. **Briefing of the (national) escort team:**

   a. Escort leader provides (national/European) monitors with the opportunity to attend the briefing (e.g. for the monitor to be informed about the outcome of the risk assessment i.e. why a specific returnee may possibly be restrained from the beginning etc.);
   
   b. Escort leaders inform/discuss with the team of escorts all details of the return operation (procedures, route, destination(s), time-schedule, implementation/operation and seating plan, transfer to the port of departure (airport, bus, train station, seaport) and transport to the means of transportation, restraints to be used/not to be used etc.), including specifics about the JRO, if applicable;
   
   c. During the briefing, risks emerging from the risk assessment and coercive measures (type and material to be used) to be applied and escorts are assigned to the returnee(s).\(^{115}\)

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114 Common Guidelines, Annex of the 2004 Council decision on joint removal: 2.1. (Council of Europe 2004: 5)

115 The escorts are assigned in line with the risk assessment outcomes as well as in line with the national provisions of minimum escorts to accompany each returnee. This will in most cases include considerations of their language abilities and gender (same sex escorts, in case of children/families female escorts). The monitor is not to question the assignment of escorts.
3. JRO: Physical Security Check, see information provided in the pre-departure phase;

4. JRO: Transfer of PMS returnees from holding area to port of departure, see information provided in the pre-departure phase;

5. JRO: Transportation of PMS returnees from the national port of departure to the holding/waiting area at the JRO hub, see information provided in the pre-departure phase.

⚠️ Should the (national/European (JRO)) monitor(s) not be part of the escort briefing, the monitor(s) should approach the escort leader in order to be provided with relevant information about the operation (number of returnees, especially the risk-assessment of the returnee(s) and the operation itself including the seating plan).

**Reminder of the specific fundamental rights to be observed by escorts during the pre-return phase**

**Provision of information** to returnees (e.g. during the contact talk):
- On the schedule and specific procedures of the forced return;
- On the (possible) use of coercive measures and restraints;
- On the procedure for complaints during the return operation;
- Supported by interpreter(s), if necessary, as it needs to be ensured that the returnee(s) fully understand all details relating to their removal;
- With the possibility to inform someone in the country of return of the date/time of return;
- In a respectful and non-discriminatory manner.

**Data protection:** The escort leader has to keep the personal information on returnee(s) according to the set rules and standards, e.g. the file and/or any personal information handed over by the respective authorities are only to be kept by the escort leaders.

The escort leader is **not allowed to provide files of returnees to the monitor(s)** as it contains sensitive and personal information.

For JROs, during steps 3, 4 and 5 all fundamental rights outlined for the pre-departure phase have to be observed.
Responsibilities: Pre-Departure Phase

The Pre-Departure Phase covers the period from leaving the (temporary) holding/detention facility until shortly before or until the moment of embarkation. The pre-departure phase ends shortly before or just at the moment of entering the means of transportation for the return (aircraft, bus, train, ship) (for a JRO the charter at the hub of the JRO).

During JROs, this phase starts at the hub of JROs, meaning that returnee(s) from the participating Member States (and their escort teams) have already completed all phases of pre-departure, in-flight (or on board a bus/train) up to the arrival at the hub of the JRO, where for them the procedures start anew in joining the JRO.

The pre-departure phase covers the following (main) steps:

1. **Physical security check of returnee(s) at holding facility**
   - JRO: 3. Briefing of all escort leaders at the hub (by head of operation)
   - JRO: 5. Meeting of national monitor & JRO/EPPERM monitor - information exchange
   - JRO: 7. Transport to the means of transportation at the port of departure

   1. Transfer of returnee(s) to the port of departure JRO/returnee(s) of the OMS
   2. Returnee(s) at holding/waiting area at the port of departure
   3. (Security check of returnee(s) (airport))

Pertaining to this phase, the escorts have the following responsibilities:

1. Conduct the **physical security check of returnee(s)**, at the holding facility:
   a. Ensure that the security check is conducted observing fundamental rights (see box below);
   b. Provide monitor(s) with the opportunity to monitor the physical security check (with due privacy arrangements, if applicable);

2. JRO: **Transfer of returnees to the port of departure for return** (only applicable for returnees of the OMS, as returnees of the PMS arrive at the port of departure directly). Apply the agreed and authorised restraints (during the briefing) and secure transportation of returnees from the holding facility to the port of departure (airport, bus station, train station);
3. **JRO: Briefing of all escort leaders.** The JRO head of operation 116 briefs all escort leaders from the participating Member States on the details of the operation (schedule, number of returnees, seating plan, coercive measures etc., the security and surveillance/operation plan):

   a. Each JRO escort leader briefs their national escort team on all details;
   b. Monitor(s) (national/European) should have access to/attend the escort leaders briefing.

According to Article 14(2) of the Frontex CoC for JROs, monitors are to have access to all relevant information, including “unimpeded access to all areas used for the JRO”. 117

**Reminder of the specific fundamental rights to be observed by escorts during the pre-departure phase**

**Security checks of returnees:**
- The security check procedure and purpose has to be explained to the returnee(s);
- The security check and body search is conducted on women by female escorts and on men by male escorts (where possible);
- The necessary privacy during the check needs to be provided, especially when the returnee is required to take his/her clothes off (no spectators, professional behaviour by escorts, no pictures taken for private reasons and only if based on an order or well-founded security-related concerns);
- The door to the room where the security check is conducted should be kept ajar for the monitor to be able to hear if an incident occurs.

**Use of force and restraints** (only in accordance with the national law of the respective MS and in line with the authorised restraints agreed upon for a JRO and when absolutely necessary):
- Only those coercive measures authorised (briefing of the escorts) are applied from the beginning and/or throughout the forced return operation, proportionally and not exceeding reasonable force, as a last resort;
- Force and coercive measures are not to be used as punishment;

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116 During a JRO, a “head of operation” is assigned the overall responsibility for the operation, usually applicable from the hub. Depending on the head of operation or the OMS, escorts that do not have to attend to returnees in the waiting area at the port of departure might also attend the briefing.

117 (Frontex 2013: 15)
- During JROs “the use of sedatives to facilitate the removal is forbidden without prejudice to emergency measures to ensure flight security”,¹¹⁸
- Positions that can cause asphyxia syndrome are to be avoided or very closely monitored by the escorts and a medic in the event they become necessary to control the returnee and a potentially dangerous situation;
- Do the utmost to avoid that children see their parents being restrained.

Throughout the forced return operation escorts have to:
- Ensure and provide sufficient food and water during the transfer;
- Let families sit close together, where the risk assessment allows.

Responsibilities: In-flight Phase

The in-flight phase starts upon entering the means of transportation (e.g. aircraft, bus, train, ship) used for the removal, and ends upon arrival at the final destination (country of return or, in case of an unsuccessful return, back to the country of departure, in case of JROs back to the hub), including the transit via another country (and related stopovers), if applicable.

In cases of successful return, the final destination is the country of return. Should the return be unsuccessful (e.g. the return has to be aborted and/or the country of return does not admit the returnee(s)), the final destination is the country of departure, i.e. the respective returnee(s) and escorts return to the country of departure.

The in-flight phase covers the following (main) steps:

1. Embarkation/Transportation. The escorts facilitate the embarkation of the returnee(s) assigned to them onto the means of transportation for the removal. All escorts (including escort leaders/JRO: head of operation) ensure the safety of their returnees and that of other participants of the forced return operation on board the means of transportation:

¹¹⁸ Frontex 2013: 10
a. To apply the coercive measures agreed and authorised during the briefing/on the list of authorised/forbidden measures, if necessary;

b. To accompany their returnee to the toilet. Depending on the outcome of the risk assessment, the escorts might tell the returnee to leave the door of the toilet ajar in order to decrease the possibility of the returnee inflicting self-harm;

c. To ensure that seating for the monitor(s) is according to the seating plan discussed during the briefing to enable him/her to observe the operation, including incidents;

2. **Stopover** – if applicable:

a. If a stop-over is made during a return operation with more than one country of return, e.g. at the first country of return, the *escorts responsible for the returnees that are to disembark either hand over the returnee(s) to the authorities* inside an arrival building (accompany the returnees off the means of transportation) or, in some cases of removal by air, at the entrance of the aircraft. The respective escort leader hands over the file(s) of the returnee(s) to the authorities;

b. In case of a stop-over to collect returnees and escorts from another participating Member State to join the operation, all existing escorts and returnees (and monitor(s)) remain seated while other escorts with returnees board the means of transport and take their places according to the seating plan (and communicated as part of the JRO briefing).

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**Reminder of the specific fundamental rights to be observed by escorts during the in-flight phase**

**Use of force and restraints** (only in accordance with the national law of the respective MS and when absolutely necessary):

- Only those coercive measures authorised (briefing of the escorts) are applied or based on an order/authorisation by the escort leader/head of operation (JRO) in case of an incident and/or imminent threat;

- Force is not to be used as punishment;

- Coercive measures should be proportional and not exceed reasonable force. They should be applied with respect to the returnees' dignity and physical integrity;

- Positions that can cause asphyxia syndrome are to be avoided or very closely monitored by the escorts and a medic in the event that they become necessary to control the returnee and a potentially dangerous situation;

- Avoid that children see their parents being restrained (i.e. put on the floor etc.).
Responsibilities: Arrival Phase

The arrival phase covers the period starting from arrival at the country of return and ends after the returnee(s) has/have been handed over to the respective authorities in the country of return, including the required administrative paperwork, or, in the case of an unsuccessful return, the handover to authorities back at the country of departure.

The arrival phase covers the following (main) steps:

1. **Arrival.** JRO: the head of operation co-ordinates the escorts during the arrival phase:
   
   a. Remove the restraints before the returnee(s) leaves/leave the means of transportation, if possible;
   b. Ensure that personal belongings that might have been removed from the returnee(s) earlier due to security reasons are returned;
   c. Ensure the handover of luggage to the returnee(s). In some cases, e.g. during operations by air, the luggage might be taken off the aircraft, identified by the returnee(s) and handed over by the national authorities.

2. **Handover of returnee(s).** The escort leaders hand over the returnee(s) from their MSs to the local authorities in a calm and professional manner, either inside an arrival building (airport, bus station, train station, seaport) at the country of return or, sometimes, in case of an air operation, at the entrance door of the aircraft without disembarking;

3. **Stopover – if applicable.** See stopover duties detailed previously in the in-flight phase;

4. **Return flight to country of departure (JRO: hub).** Should returnees be refused, the escorts ensure their re-embarkation back onto the means of transport for the return to the country of departure (all relevant steps for the in-flight phase apply again).\(^{119}\)

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\(^{119}\) Escorts remain responsible for their assigned returnee(s), if unsuccessfully returned. If present, a member from the backup team might also take over the tasks on the return to the country of departure.
Reminder of the specific fundamental rights to be observed by escorts during the arrival phase:

- Attend to specific needs of vulnerable groups in the disembarkation process (e.g. transportation and/or assistance with their luggage etc.);
- Ensure the returnee(s) receive their luggage;
- The escort leader hands over the file of returnee(s)/required paperwork to the national authorities at the country of return (data protection).

Session 2.4: Case Study: Analysis and Application

<table>
<thead>
<tr>
<th>Topic</th>
<th>Time</th>
<th>Methodology</th>
<th>Supporting materials</th>
</tr>
</thead>
<tbody>
<tr>
<td>Case Study: FRO and the use of force</td>
<td>45 min</td>
<td>Case study, in groups – application of the learned cases (responsibilities of the escorts/escort leader and observations by monitors)</td>
<td>Printed case-parts for trainees (see Annex)</td>
</tr>
<tr>
<td></td>
<td>45 min</td>
<td>Presentation of cases and discussion Summary and closing</td>
<td>Flipchart paper, markers</td>
</tr>
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<td></td>
<td>30 min</td>
<td>Optional: watch the Frontex Flight 8751 video (from 3:53') and ask the trainees to note down and observe what they can gather on coercive measures applied, risk assessment and the behaviour of the escorts</td>
<td>Frontex Flight 8751 video, Projector, screen (wall), laptop, loudspeakers</td>
</tr>
<tr>
<td>Total duration</td>
<td>90 min/1.5 H Or 120 min/2 H</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Implementation of the Session

1. Divide the trainees into groups of acceptable size not exceeding 6 persons per group. Distribute part 1 of the photocopied case (the case contains 4 parts) to the groups. Distribute flipcharts and markers to each group. Emphasise that the text is based on real events.
2. Explain the instructions to the trainees from a flipchart or PPT (prepared):

- In your groups, read through the texts you receive carefully and individually and consider your own answers to the questions;
- Choose a rapporteur from the group (a moderator and a writer might also help you to work efficiently);
- Discuss and determine the answers to the questions in your group, write them down on a flipchart;
- Work quickly, time is short.

1. Ask the trainees to read through the text individually and determine their own answers to the questions, first for themselves and then to share it and agree in their groups (document on flipchart). When the groups are done, distribute the questions for part 2, follow the same procedures etc., also for part 3 and part 4 (10 minutes for each part).

2. Presentations. After finalising the process of the full case, ask the trainees to get together in plenary and ask one group to present their part 1 results. Ask the other groups to add missing points (but not to present in full, as time is short). Hang up the flipcharts of all groups together, so that you can underline the points the other group has added to the presentation etc. Ask another group to present the results for part 2 and the others to add. Repeat with parts 3 and 4. Depending on the number of groups you have, alternate between the groups. Correct any inaccuracy and add information, where required.

3. Summarise and close the session by pointing out relevant highlights and/or points that seem to have been unclear during the session.

Optional: watch the Frontex Flight 8751 video (from 3:53’) and ask the trainees to note down and observe what they can gather on coercive measures applied, risk assessment and the escorts. Discuss in the group, and document interesting points on a flipchart.

Background Reading

Case Study: Phases and the Use of Force

Part 1 – Pre-Return Phase: Mr Masev and Mr Raviev

Background: A forced return of 23 persons, mostly families, is planned from the country of departure. Contact talks between the escort leader and each of the returnees are conducted and you, the monitor, is present. Among the returnees, the escort leader talks to Mr Masev and Mr Raviev.
Mr Masev, a 22-year-old single man, is being held in a security cell. He is wearing medical one-way-clothes (disposable clothing) and a form of corset on one leg because of medical problems. After being informed of his imminent return by the escort leader, providing the date, the time, the port of departure and the procedure foreseen, Mr Masev claims that until now he has not been informed of his intended return. He says that he does not want to be returned because this would place him in danger and he claims that two of his friends have already been assassinated. He asks if the escort leader will take responsibility if something bad happens to him. Mr Masev vaguely threatens retribution in the event that he is forcefully returned.

Mr Raviev and his family of six are to be returned together and presently have been given accommodation in a special family unit. Mr Raviev, who is 35 years old, is very stressed and demonstrates mild aggression during the contact talk with the escort leader. He claims that he was a fighter in the country of return and that he has psychological problems. Also, one of his children has been ill since birth and he asks how his family can be returned when this child requires medical treatment. In addition, he says that he is waiting to receive €1,080.00 from the social services in the host country and that if he does not receive this money, he will make trouble. The escort leader promises to seek a solution regarding the money, at which point Mr Raviev stands up abruptly and leaves the room in anger.

Questions
1. What do you think about these contact talks? Were they appropriate? What kind of information was given/could the escort leader gather?
2. What needs to be considered/further clarified after the contact talks?
3. What challenges can be expected/should be considered following the talks?

Case Study - Trainer Notes – Part 1
1. What do you think about these contact talks? Were they appropriate? What kind of information was given/could the escort leader gather?

The contact talks with Mr Masev and Mr Raviev fulfilled their purpose in:
- Informing the returnee about details for the return operation;
- Gathering information for individual risk assessments of returnees, important for the (decision on the) possible application of and/or need for coercive measures/restraints;
- Addressing questions or rather gathering outstanding issues of the returnee (Mr Raviev and the money from social services). The escort promises to follow up on this issue;
- The text does not provide information whether the returnees were offered a phone call/communication with someone in the country of return to notify them about their return.

However, the text does provide more information on the returnees than on the information provided by the escort leader.
2. **What needs to be considered/further clarified after the contact talks?**

Why is Mr Masev in a security cell and wearing medical one-way-clothes (disposable clothing)? How could this background information affect his upcoming return (e.g. in case this measure was related to an incident, this would inform the risk assessment)?

Is there any information about any prior incident with Mr Raviev (while at the facility)? Is there more information about his military activities and/or his psychological condition (relevant for the risk assessment in two regards: does he pose a threat to himself and/or is he a threat to others due to extensive military training, e.g. affecting his reaction should it be necessary to apply coercive measures)?

Is the threat of Mr Masev (ill, mostly danger of self-harm) of the same quality than that of Mr Raviev (possibly a war-experienced fighter, possible danger of harming other people)?

A follow up with social services in relation to the allegedly outstanding amount for Mr Raviev.

3. **What challenges can be expected/should be considered following the talks?**

It is possible that Mr Raviev will become very stressed when the forced return operation begins. There is reason to believe that he could lose control due to his psychological condition, on which he had volunteered information, even if he co-operates at the beginning. If this were to happen, it could become difficult for the escorts to deal with a possibly war-experienced fighter.

Mr Raviev could also get agitated, if attempts by the escort leader to receive the outstanding €1,080.00 from the social services prior to his forced return fail.

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**Part 2 – Pre-Departure Phase: Mr Masev and Mr Raviev**

The physical security check of Mr Masev takes place in the security cell. The reason for the check is that according to an officer in the facility, Mr Masev attempted to hang himself with the elastic bandage from the corset he wears on his leg. During the physical security check, Mr Masev co-operates fully, without causing problems and gives no indication that he may resist his pending return.

The escort leader informs Mr Raviev that a solution has been found and that he will receive the €1,080.00 after the arrival in the country of return. He calms down and apologises to the escort leader, explaining that due to his injury during the civil war and his psychological condition he is not always able to control himself.
Questions
1. What would you expect the escort leader to do in preparation for the flight?
2. Do you see a need for coercive measures? How do you justify your answer? If yes, which kind of coercive measures and for what reason?

Case Study - Trainer Notes – Part 2
1. What would you expect the escort leader to do in preparation for the flight?

Since the escort leader assessed Mr Masev to be in danger of self-harm, the escorts of Mr Masev have to be briefed to conduct the physical security check very accurately and to stay in close proximity and to remain alert.

The different behaviours and situations relating to Mr Masev (ill, rather in danger of self-harm than a threat to others) and Mr Raviev (psychological condition, allegedly a war-experienced fighter, thus a possible danger of harming other people), should lead to different outcomes of risk assessments for the application of coercive measures.

2. Do you see a need for coercive measures? How do you justify your answer? If yes, which kind of coercive measures and for what reason?

In the case of Mr Masev, coercive measures can be avoided based on his co-operative behaviour during the physical security check, even if they would be justifiable to some extent.

As Mr Raviev claimed to be war-experienced, seems to be suffering from trauma and stated that he cannot always control himself, coercive measures (e.g. a body-cuff) are justifiable due to security reasons, as long as this is in accordance with the respective national law and the agreed JRO list of authorised/forbidden restraints and materials concerning the application of coercive measures.

Part 3 – In-Flight Phase: Mr Masev and Mr Raviev

The escort leader decided to return Mr Masev without the use of any coercive measures.

To prevent self-harm and/or danger to other persons, Mr Raviev was made to wear a body-cuff starting from the security check at the airport to landing in the country of return, a six hour duration. He cooperated in putting on the body-cuff and did not cause trouble during the transportation. The body-cuff was used in such a way that allowed Mr Raviev to eat, drink and smoke without unnecessary restriction.

The return of all 23 persons took place without any incidents.
Questions
1. What would be the main events to report in relation to coercive measures/restraints?
2. Was the use of coercive measures necessary and proportionate? How do you justify your answer?

Case Study - Trainer Notes – Part 3
1. What would be the main events to report?

The focus of the monitoring report (coercive measures/use of force form) would be:
- The different risk-assessment for Mr Masev and Mr Raviev (their personal history and their behaviour during the contact-talk);
- The plan of the escort leader not to use any restraints on Mr Masev;
- The fact that the escort leader had informed (or not) the escorts on the risk assessment and discussed possible scenarios with the escorts during the briefing (pre-return and/or pre-departure phase (JRO));
- The plan of the escort leader to use a body-cuff on Mr Raviev to enforce the return operation;
- The intensity and duration of the body-cuff use.

2. Was the use of coercive measures necessary and proportionate? How do you justify your answer?

According to national law, the use of coercive measures (body-cuff) against Mr Raviev was allowed. The use of a body-cuff was deemed necessary by the escort leader/escorts. The decision is understandable given the outcome of the prior risk assessment conducted during the contact talk. The use of coercive measures was thus necessary and proportionate in intensity and duration since, e.g. the body-cuff remained on for many hours but Mr Raviev was able to eat, drink and smoke on his own as the body-cuff allowed movement.

Key Learning Points Module 2

- Escorts are the security personnel responsible for accompanying the third-country nationals being forcibly returned;
- The role of escorts is to ensure that the return takes place in a safe and humane manner and in observance of applicable fundamental rights. However, they are permitted to use coercive measures/restraints in order to enforce the removal and guarantee the safety of the returnee(s) and all participants;
- Coercive measures can look more violent than they really are to the individual subjected to it. Therefore, the monitor has to be able to distinguish restraint measures from
excessive use of force (one reason why monitors should be subjected to a practical demonstration so that they can gather experiences on the different methods);

→ In the case a prior risk assessment (as part of the individual contact talks of the escort leader and/or escorts with the returnee(s), where the monitor can be present, if the timing of those talks allows it), has revealed a possible refusal to co-operate or a threat to resort to violence by the returnee(s), the escorts can determine the use of certain coercive measures in order to guarantee the safety and security of the returnee(s) and all other individuals forming part of the return operation;

→ Coercive measures/restraints should only be used in accordance with human rights standards (be proportionate and strictly necessary) and national legal requirements and laws, and accorded lists of authorised/forbidden restraints, including the material of the equipment;

→ The escort leader has to ensure that the returnee(s) is/are provided with all relevant information related to his/her/their removal in a language he/she/they understand(s), including the information that uncooperative behaviour will not lead to aborting the return operation;

→ The returnee(s) has/have to be given the opportunity to ask questions and inform someone in the country of return about their imminent arrival;

→ The importance for the monitor (to be allowed) to attend the meetings with the escort and returnees (contact talks, if time allows and they have not already been conducted, in which case the monitor asks both what information has been rendered and when and how) and the briefings.
Module 3

The Role, Mandate and Responsibilities of a Forced Return Monitor

Learning Objectives

At the end of this module trainees will be able to:

- Determine the specifics of the role, mandate and responsibilities of a forced return monitor;
- Explain the role of a monitor in relation to fundamental rights pertaining to a FRO;
- Assign and explain the different responsibilities of a forced return monitor during the different phases of a (joint) return operation.

Module Plan

Module 3: The Role, Mandate and Responsibilities of a Forced Return Monitor

<table>
<thead>
<tr>
<th>Session</th>
<th>Methodology</th>
<th>Duration</th>
</tr>
</thead>
</table>
| 3.1: The Role and Mandate of Forced Return Monitors | - Short introductory lecture  
- Brainstorming in plenary on key tasks  
- Group work on professional attributes  
- Presentations, discussion – additions from the trainer  
- Reflection exercise – knowledge and skills | 90 min 1.5 H |
| 3.2: Responsibilities of a Monitor during a Forced Return Operation: Pre-Operation; Pre-Return and Pre-Departure Phase | - Video: Awareness test  
- Introductory lecture and buzz groups  
- Group work: Fill matrix with responsibilities  
- Presentation and discussion of open questions | 120 min 2 H |
| 3.3: Responsibilities of a Monitor during a Forced Return Operation: In-Flight and Arrival Phase; Debriefing and Reporting | - Group work: Fill matrix with responsibilities  
- Presentation and discussion of open questions  
- Case study: group work, discussion and presentation  
- FAQ session with experienced monitor (1H) | 120 Min 2 H/3 H |
| Overall duration Module 3 | | 5.5 H/6.5 H |
References

See table of instruments applicable in the background reading in Session 3.1.

Session 3.1: The role and mandate of forced return monitors

<table>
<thead>
<tr>
<th>Topic</th>
<th>Time</th>
<th>Methodology</th>
<th>Supporting materials</th>
</tr>
</thead>
<tbody>
<tr>
<td>Introduction to the role of forced return</td>
<td>15 min</td>
<td>Lecture – short introduction and overview of</td>
<td>Projector, screen (wall), laptop, PPT, copies of the different</td>
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<tr>
<td>monitors and relevant guidelines applicable</td>
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<td>guidelines and their scope</td>
<td>guidelines, copies of Frontex CoC for JROs</td>
</tr>
<tr>
<td>Key tasks and responsibilities of forced</td>
<td>10 min</td>
<td>Brainstorming in plenary with trainees and</td>
<td>Flipchart, marker</td>
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<tr>
<td>return monitors</td>
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<td>discussion – additions by the trainer</td>
<td></td>
</tr>
<tr>
<td>Professional attributes and characteristics</td>
<td>15 min</td>
<td>Group work – small groups to work out relevant</td>
<td>Flipcharts, marker, printed bullet lists for support to be</td>
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<tr>
<td>of forced return monitors</td>
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<td>characteristics under neutrality, professionalism</td>
<td>distributed after the first 10 minutes</td>
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<tr>
<td></td>
<td>40 min</td>
<td>Group work – small groups to work out relevant</td>
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<td>characteristics under neutrality, professionalism</td>
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<tr>
<td></td>
<td>10 min</td>
<td>Ginger-man – personal reflection exercise</td>
<td>Ginger-man copies – Annex Session 3.1</td>
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<tr>
<td>Total duration</td>
<td>90 min/1.5 H</td>
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Implementation of the Session

1. **Lecture:** short introduction and overview of relevant guidelines applicable and their scope, introducing the role of a forced return monitor. Keep a copy of the FReM guidelines with you and refer to them while introducing them to the trainees and/or circulate. If possible, request copies of the Frontex Code of Conduct (CoC) of JROs for the trainees to keep and distribute. Take the trainees through the different sections of the CoC and highlight that throughout the training the CoC is referenced, where applicable with different articles, as they might already have noticed and encourage the trainees to read every article in detail.

2. **Brainstorm** in plenary with the trainees regarding the key tasks and responsibilities of the forced return monitor. Write the named tasks and responsibilities down, either on a flipchart or preferably on cards (enables you to move the things around and cluster). Add where necessary on tasks and responsibilities forgotten and/or highlight those with particular importance, e.g. impartial observation but without power of intervention.
3. Professional attributes and characteristics of forced return monitors. Divide the trainees into small groups (either into 3 to match the number of characteristics, or more and have groups work on the same characteristics) to work out the specific aspects related to the relevant characteristics of a monitor: neutrality, confidentiality and professionalism (15 minutes).

4. **Group presentations.** Ask the groups to present their results. After each presentation ask the trainees for additions, opinions, and clarifications necessary and discuss the relevant characteristics. Add, correct and clarify information, where necessary (40 minutes).

5. **Distribute copies** of the ginger-man (handout from the Annex, Session 3.1, see filled example to the right) to all trainees. Introduce the next exercise as a reflection exercise of the trainees’ own skills and knowledge of forced return monitoring. The result of this exercise will be for their eyes only. Ask them to reflect on the knowledge and skills (including relevant attitudes) that a forced return monitor should possess and those they consider they have themselves. The trainees should write these inside the ginger-man. As a second step, they should reflect on what knowledge and skills they can improve on or what they still need to acquire and write it down outside the ginger-man (10 minutes).

Close the session by announcing that at the end of the course they will have the opportunity to review their monitoring knowledge and skills within and outside the ginger-man.

**Background Reading**

**Forced return monitoring**

...refers to the observation of and reporting on the execution (of the different phases) of a return operation without powers of intervention.

Monitoring aims to establish whether the forced return operation has indeed been conducted in a humane manner and respectful of the dignity of the person, in line with the requirements of the EU Charter for Fundamental Rights and the European Convention for the Protection of Human Rights and Fundamental Freedoms and other relevant guidelines and/or Codes of Conduct that have been put in place.
Forced return monitors are persons responsible for the monitoring of return operations who are independent from the authority enforcing returns.

The forced return monitor is consequently tasked with the observation of and reporting on the actual implementation of the forced return operation. Specifically, the monitor observes, takes notes, reflects and submits observations on whether fundamental/human rights standards and legal obligations are met and if returnees are treated in a manner compliant with national legislation and regional/international fundamental/human rights standards as part of a detailed monitoring report (covered in module 4 in detail).

Forced return monitors shall furthermore be independent from the State and/or organisation(s) enforcing the return operation. Independence in this regard means that the forced return monitor should preferably not be the same person who has provided services (legal advice, psycho-social counselling, etc.) to the returnee beforehand, in order to safeguard objectivity and independence, and should furthermore not be bound by orders from members of the (joint) return operation carrying out the return procedure/operation. When States nominate a monitor, independence from the State should thus be guaranteed.

Additionally, forced return monitoring under no circumstances involves examining the legality of the return decision, as this is examined through the procedures stipulated by national law.

Relevant Guidelines and Instruments for Forced Return Monitors

A number of legal instruments and guidelines are relevant to forced return and thus provide a framework for monitors to take into account.


The EU return Directive 2008/1115/EC and the Council Decision of 2004 are the main instruments in relation to return and set common standards and principles relating to the return of third-country nationals within the EU.


ICMPD. 2015. Framework for a European Pool of Forced Return Monitors - EPFRM. Vienna, Austria. The framework establishes the set-up agreed among the FReM project/associated project Partner States for a EPFRM, detailing relevant understandings and definitions (e.g. phases of the return operations to be monitored), the role and engagement as well as the training of monitors for the EPFRM.


Key Tasks and Responsibilities of a Forced Return Monitor

The forced return monitor has a number of specific tasks and responsibilities within the different phases of a FRO, which are dealt with in detail further on in the session.

The **key tasks and responsibilities** of a forced return monitor are the following:

- **Observe impartially that returnees are treated respectfully and in compliance with fundamental rights**, in particular that, if applied, the use of force and coercive measures is proportionate, not exceeding reasonable force and strictly necessary;
- **Observe impartially** the returnees’ behaviour vis-à-vis the escorts and include related facts, especially in case of incidents and misbehaviour in the monitoring report;
- **Observe and take detailed notes** of the processes and/or incidents at all times during the forced return operation **without ever intervening**;
- **Move to those places the returnee(s) is/are held in or at** as part of the different phases of the return operation, e.g. waiting area, security screening. The free movement of the monitor has to be facilitated by those responsible for the return operation, but may in no way hamper the effectiveness, security and safety of the operation;
- Establish through observation and the monitoring report, whether the forced return operation was conducted in a humane manner (and support the observance of fundamental rights through the presence of an independent monitor);
- **Collect all relevant facts** for the whole forced return operation in line with the phases outlined in the Framework of a European Pool of Forced Return Monitors, the Guidelines and Monitoring Tools for Forced Return Monitoring as well as this Training Manual (either as part of notes or directly in the monitoring template, to be reflected in the monitoring report, which is covered in Module 4 in detail);
- **Draft and hand in a detailed monitoring report** in line with the FReM monitoring report template, outlining all relevant information as well as detailing relevant observations, negative or positive incidents.\(^{120}\)

In order to be able to fulfil his/her role and tasks, the monitor has to be conversant with and accept the overall mandate and responsibilities of escorts (therefore covered in detail as part of the training, see module 3).

Professional Attributes and Characteristics of Forced Return Monitors

In order to fulfil the expected professional standards, monitors need to apply **neutrality**, **confidentiality**, **ethical commitment** and an **in-depth understanding of the importance of the monitor’s report**.

\(^{120}\) (Adapted from ICMPD 2015)
It is important to note that during Joint Return Operations coordinated by Frontex, the **Frontex Code of Conduct for Joint Return Operations coordinated by Frontex**, which complements the provisions of the Frontex CoC for all persons participating in Frontex activities, applies also to the monitors. Monitors thus have to be conversant with their content.

**Neutrality**

- Monitors shall be impartial and objective towards all parties involved in a forced return operation (returnee(s), escort leader, escorts, organising staff, etc.) in their behaviour and observations;
- Monitors shall observe whether the fundamental rights of every individual are respected in a non-discriminatory manner i.e., regardless of their *nationality, place of residence, sex, national or ethnic or social origin, genetic features or skin colour, religion, language, belief, political or any other opinion, membership to a national minority, property, birth, disability, age or sexual orientation or any other status*;
- Monitors shall carefully and impartially observe, document and report any action they have observed and deem to be inhuman, degrading, ill-treatment or misbehaviour or that they are made aware of by either a returnee, escort(s) or organising staff;
- Monitors shall note the actions of all those involved with equal detail and care;
- Monitors shall treat all returnees, escorts and support staff with courtesy and respect, avoid all forms of discrimination, refrain from using vulgar, obscene or otherwise offensive speech or gestures towards other persons taking part in a forced return operation;
- Monitors shall be aware (as outlined in their contracts), that in case of serious incidents, their reporting may be used in investigations by the police and/or in court procedures and may lead to a monitor being called as a witness.

**Confidentiality**

- Monitors shall be bound by confidentiality as part of their contract and shall not disclose any information gained while fulfilling their monitoring obligations to any other parties besides those clearly stated in the reporting criteria;
- Monitors shall be bound by the obligation to behave with a high degree of discretion regarding current, past, planned or potential forced return operations;
- Any information received in the context of a forced return operation shall not be disclosed, unless the performance of duty or the needs of justice strictly require disclosure, or disclosure has been appropriately authorised by the escort leader in accordance with the Communication Strategy in the FReM Framework.

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121 The following sections are in line with the Forced Return Monitoring Guidelines and Monitoring Tools document (ICMPD 2015: 9f).
122 (Frontex 2013)
Professionalism

- The monitor will be tasked to observe the forced return operation to verify, whether fundamental rights standards and legal obligations are met during the return operation and that returnees are treated in a manner compliant with national legislation and regional/international fundamental/human rights standards;
- Monitors must have the necessary qualifications, including proven record of initial, regular and specialised training on forced return monitoring;
- Monitors shall familiarise themselves with the FReM Guidelines, FReM monitoring reporting templates and other documents as provided in the training and other documents provided by the EPFRM Secretariat;
- Monitors shall carry out their attributed tasks in a dutiful, timely and accurate manner throughout the forced return operation;
- At no time shall a monitor prevent or do anything that would prevent the forced return operation from taking place or impede a returnee from being lawfully returned to the country of return, or help supporters of the returnee to do so. It is outside the scope of the monitoring tasks to review or question the legal procedure leading to the return decision;
- The consumption of alcohol while on duty is forbidden. The use or possession of narcotics and drugs, except those prescribed for medical reasons and which do not hinder the monitor to carry out the monitoring mission, is forbidden;
- Monitors shall have the physical and psychological condition and capability to conduct the monitoring tasks and shall be obliged to undergo a full medical check-up prior to signing the contract.

The Weight of Reports

As the monitor can be called as a witness in investigations of serious incidents based on the submitted report, of a forced return operation, the monitor shall be aware of the importance and weight the report has. Thus, it is of utmost importance that the monitor develops and applies all characteristics mentioned. Impartial and factual detailed observation and reporting of what happens during a forced return operation are therefore the central tasks of the monitor. More on reports is covered in module 4.

⚠️ During the execution of their duties, monitors should inform the head of the operation and/or the escort leader(s) of any perceived irregularities. The monitor may, however, **under no circumstances interfere with the planned execution of the forced return operation or any measures taken by the escorts.**

In the same way, when a returnee expresses the wish to complain about the treatment received during the forced return operation, the monitor should pass this information on to the escort leader, who is the one responsible for informing the returnee about the applicable procedure under the respective national law. **It is not within the mandate of the monitor to become involved in this process.** The monitor’s sole responsibility is to note the complaint in their report, and whether or not the escort leader informed the returnee accordingly.
In conclusion, monitors must meet a number of key attributes and requirements in order to successfully monitor forced return operations, including:

- Monitors must have the necessary qualifications, including proven record of initial, regular and specialised training on forced return monitoring;
- Monitors shall be familiar with all relevant guidelines, the FReM monitoring reporting template and other relevant supporting documents (e.g. the Frontex Code of Conduct for JROs and the Frontex CoC for all persons participating in Frontex activities);
- Monitors shall carry out their tasks impartially and in a dutiful, timely and accurate manner;
- Monitors shall be physically, medically and psychologically fit to perform the duties of a monitor;
- Monitors must demonstrate the maturity and emotional stability to be able to perform their tasks as forced return monitors.

**Session 3.2: Responsibilities of a Forced Return Monitor during a Forced Return Operation: Pre-Operation; Pre-Return and Pre-Departure Phase**

<table>
<thead>
<tr>
<th>Topic</th>
<th>Time</th>
<th>Methodology</th>
<th>Supporting materials</th>
</tr>
</thead>
<tbody>
<tr>
<td>Awareness test</td>
<td>5 min</td>
<td>Video clip and discussion on message</td>
<td>Projector, screen (wall), laptop, PPT (loudspeakers, internet or downloaded video)</td>
</tr>
<tr>
<td>Responsibilities of the monitor within the pre-return and pre-departure phase</td>
<td>15 min</td>
<td>Introductory lecture and buzz groups – organising a monitor, what to pack</td>
<td>PPT, Flipchart, markers, printed checklist (Annex)</td>
</tr>
<tr>
<td></td>
<td>40 min</td>
<td>Group work – pre-return and pre-departure phase for the matrix of responsibilities (modules 1 and 2)</td>
<td>Cards, post its etc. for matrix, some printed background reading for the two phases</td>
</tr>
<tr>
<td></td>
<td>60 min</td>
<td>Presentations and discussion Summary and closing</td>
<td></td>
</tr>
<tr>
<td>Total duration</td>
<td>120 min/2 H</td>
<td></td>
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</tr>
</tbody>
</table>

**Implementation of the Session**

1. **Video.** Open the session with the Awareness Test video. Without much explanation, ask the trainees to follow the video and its instructions. Ask the trainees what the main insight and message is to them, applying it to the tasks and responsibilities of a monitor. Highlight the importance of awareness.
2. **Lecture/brainstorming.** Shortly introduce the preparatory steps and communication responsibilities of the MS authority (JRO: PMS or OMS) that engages a national/European (JRO) monitor. Highlight that the monitor also needs to prepare for the operation. Thus, in addition to the highlighted characteristics in the session before, ask the trainees to get together with their immediate neighbour, divide the plenary into three parts and assign each part one of the following topics: 1. Travel documents – what to bring, 2. What to pack, 3. How to dress. Give the groups 3 minutes to discuss and then ask for their suggestions and ideas. Write these down on a flipchart with the headings prepared. Add, where necessary (see background reading). At the end, distribute the printed preparatory checklist from the Annex, Session 3.2.

3. **Group work.** First, remind the trainees that the phases are now being looked at from the perspective and the tasks of the monitors. Even if the tasks of the escorts have already provided insights, the specific responsibilities of monitors have to be discussed in detail. For the monitor to fulfil his/her role it is important to be aware of the best position to be in during the different phases. Thus, Module 3 focuses on both what to observe and where the monitor should position him/herself.

Form two groups (ask the trainees or decide yourself to create new groups – you can e.g. ask the trainees to count from 1 to 4 and ask those with numbers 1 and 2 and those with 3 and 4 respectively to get together in one group). Remind the trainees of the distributed phases (handout) and ask group 1 to work on the pre-return, and group 2 on the pre-departure phase. Introduce the group work task (prepared on a flipchart or PPT):

- Name one moderator and several presenters in your group;
- Discuss the specific responsibilities of the monitor in the phase assigned to you;
- Determine the position of the monitor and what to observe during each step of the phase;
- Write these on cards/post-its and allocate them on the matrix within the phase assigned to you. (40 minutes)

Let the trainees start work and provide the groups with the respective description of the phase from the background reading or the Guidelines, 15 minutes into the group work for their reference. (As you will have two matrices hanging up in the room, the two groups can each use one matrix to work on their phase for logistical reasons. However, in this case, one phase will be on one, the other on the other matrix. The cards will therefore have to be reproduced for the other matrix. Ideally, the group or members of the group that worked on one phase should reproduce the other for the other matrix. Ask trainees to help out either in the next break or at the end of the session, should you have time left).
4. Ask each group to present the outcomes of the group work, i.e. the steps and details from their phase, for the benefit of the other group. Allow questions and clarifications. Add and correct, where necessary (55 minutes).

5. Close the session by summarising (or asking for) main insights from the analysis.

Background Reading

Video: Awareness Test. 1:09 min
https://www.youtube.com/watch?v=Ahg6qcgoy4

Note to the trainer: Although the video is intended to increase awareness for cyclists, it applies equally well to monitoring and the task of observation: a) **overlooking important factors is easy and b) focusing too much on one thing might lead a person to overlook other things.**

Therefore, it is important for the monitor to be aware of the different phases and the applicable tasks, responsibilities and fundamental rights relating to those phases, so that this knowledge is automatic and the monitor can focus on observation and good note taking.

Assignment of Monitors to Forced Return Operations

Forced return operations are complex processes involving a number of people, authorities and institutions and have to be thoroughly organised. JROs involving an organising Member State and a number of different participating Member States (and sometimes Frontex) increase the overall complexity. The monitor, independent from the authorities deciding on and/or enforcing the return, is not involved in the preparations of the forced return operation per se, but has to be informed about all necessary details pertaining to the operation itself.

Informing the monitor about the details of the forced return operation is closely related to who organises the presence of a monitor for an operation. Generally speaking, the MS authority organising a national FRO/JRO arranges for a monitor to be part of the operation. In line with the Framework for a European Pool of Forced Return Monitors, the Secretariat will assign a monitor to a specific forced return operation.

In case of **national FROs**, MSs might have established contacts with national/international organisations, which can provide independent and trained monitors. Where MSs lack cooperation with relevant organisations, or where no monitors are available, the idea is that they should be able to draw on the European Pool of Forced Return Monitors with the request for a trained monitor. If a monitor is available and matches the requirements of the request, e.g. language skills, the European (JRO) monitor, as referred to within this Training Manual, can also monitor a national FRO for a MS.
In case of a JRO, the OMS (if co-ordinated by Frontex the agency is usually also involved) organises (a) monitor(s) for the operation from the hub of the JRO. The PMSs organise the monitors for their national feeder to the hub of the JRO. Alternatively, the future Secretariat can provide a MS with a monitor for their national FRO as well. Some MSs require that their national monitor participates throughout the full forced return operation, i.e. onwards from the hub (this specific monitor will, however, only be responsible for monitoring their own national returnees). European (JRO) monitors, organised by the OMS or the Secretariat, monitor all returnees of a JRO from the hub.

The number of monitors will be determined by the Secretariat (in co-operation with Frontex, for JROs co-ordinated by them) in accordance with the numbers of returnees and escorts, means of transport (in the case of aircraft the number of aisles, different sections divided by galleys), duration of the operation, number of MSs involved or advance information about specific risks. If more than one monitor is required, monitors of different genders and with different language skills, ideally matching those of the returnee(s), should be engaged whenever possible. The presence of a monitor has to be assured, in order to comply with the standards set in the Return Directive, the 2004 Council Decision on joint removals and the Frontex CoC for JROs.

Individual Preparation of the Monitor for the Forced Return Operation

The monitor has to:

(a) be informed by the Secretariat (which in turn is informed by and co-ordinates with the authorities of the organising Member State (JRO: OMS)); and
(b) be in possession of all necessary papers and items to successfully undertake the monitoring of the FRO/JRO.

a) Information for the monitor

In order to prepare a monitoring mission, the Secretariat (based on information provided by the organisers (MS, OMS))\(^{123}\) shall inform the monitor about:

- The date, time and overall duration of the return operation, means of transportation and port of departure;
- The country(ies) of return that form part of the operation;
- Port of departure, stopover information (when applicable) and port of arrival;
- If a JRO, other participating Member States;
- Necessary travel documents the monitor has to bring/ensure;
- The number and origin of returnees (when available);
- List of recommended vaccinations. It is the monitor’s responsibility to take care of his/her immunisations and/or other necessary medical precautions.

\(^{123}\) In the case that a monitor comes from a participating Member State, the organising Member State sends information to the participating Member State’s contact person, who then informs the monitor. The further text is adapted from the Guidelines and Monitoring Tools for Forced Return Monitoring.
The monitor should be aware that information pertaining to a mission may be subject to change. Ideally, this information should be available to the monitor one week before departure. The final information about the flight, (including its destination when possible) should be provided the day before, and include:

- The schedule of the return operation, including a meeting point and time;
- List of authorised/forbidden restraints;
- Any forms of vulnerability of returnees, e.g. pregnant women, families with minors, elderly people, and persons with disabilities or with a medical condition.

Should the monitor lack relevant information shortly before the operation starts, he/she can/should refer to the contact point.

It is critical for the successful implementation of a monitoring mission to be at the meeting point at the appointed time. The escort leader has no obligation to wait for the monitor.

Furthermore, a monitor has to be aware, that forced return operations often involve an unusual schedule and can be cancelled or postponed at short notice. Monitors, therefore, need to be able to deal with stressful conditions, be prepared for all situations and remain flexible, as, for example, departure and return times may be postponed and/or start early in the morning or late at night.

b) Items to ensure/bring
The monitor needs to prepare thoroughly for the forced return operation. It is paramount to be aware and prepared for the fact that the monitoring mission might be physically and psychologically draining. Consequently, the monitor should bring a number of helpful items.

Preparatory Check-List

Pack lightly, but make sure to take all important items.

Travel Documents

- Carry a valid passport and visa (if required) even if JROs often do not involve border controls;
- Monitors should bring along the ID card that connects him/herself with the letter of appointment;
- Certificate of vaccination (if required).
**Packing**

Besides necessary personal belongings, the monitor shall take the following:

- It is recommended to use a backpack for belongings to facilitate movement and keep both hands free;
- It is advisable to carry some money and a credit card;
- Waterproof clothing with a headpiece or cap. An umbrella is not to be used, as it impedes movement and observation and could be used as a hazardous object and create unnecessary difficult situations;
- Pocket sized notepad (instead of A4);
- Mobile phone for personal use with the approval of the escort leader.

**Dress Code**

- Civilian clothes (high heels, neck tie etc. should be avoided);
- Pack an extra set of clothes, irrespective of whether a stopover is planned or not, as the schedule might change;
- The specific reflective vest, identifying the person wearing it as a “Monitor” and ensuring easy identification for access to restricted areas, such as the airfield, should be worn while on duty. The reflective vest is to be worn even in all weathers over the coat;
- Sleeping masks, headphones and earplugs are not permitted during a monitoring mission (with the exception of successful returns and an empty flight back to the country of departure).

**Throughout all phases, in relation to coercive measures/restraints, the monitor has to observe** whether the decision to use force, e.g. if the returnee resists transportation, was well founded (e.g. based on the risk assessment, uncooperative behaviour even after applying de-escalation measures), the techniques and material used were legal and authorised, applied not exceeding reasonable force and if the duration of application was as brief as possible and the pressure applied was not higher than necessary.

**Monitoring the Pre-Return Phase**

The pre-return phase starts when all legal remedies for the returnee(s) have been exhausted and the respective national authorities have ordered the forced return (individual return decision/removal order).

It may start a minimum of 24 hours prior to the departure (which can mean different things in relation to a JRO or a national FRO, as explained in module 2).
Pre-Return Phase - Responsibilities of the Monitor

It is not the task of the monitor to question the legality of the decision for the forced return and the order of respective national authorities to enforce the return decision/removal order.

During the pre-return phase the monitor shall participate in and observe the following actions:

- **Step 1**: The individual contact talks with the returnee(s) conducted by the escort leader or, should that not be possible, verify whether the prospective returnee(s) has/have been informed about the return operation (in a language the returnee(s) understand(s) or supported by an interpreter);
- **Step 2**: Participate in the briefing by the escort leader for the national escort team (if conducted during the time the monitor is present). In the case of a JRO this is the briefing of the escort leader as part of the national feeder to the hub of the JRO;
- **JRO, Steps 3 to 5**: A participating MS in a JRO conducts a national FRO which acts as a feeder into the JRO hub. It thus already involves steps of the pre-departure phase and inflight-phase and ends with the arrival at the port of departure of the hub of the JRO, where the returnee(s), escorts and monitors are brought to the respective designated waiting area.
In a national forced return operation, steps 1 and 2 are completed as part of the pre-return phase, after which the pre-departure phase begins. In the case of JROs, however, steps 3 to 5, as listed above in the arrow diagram, apply in addition to steps 1 and 2 as part of the pre-return phase for the transfer of returnees from the participating MSs to the hub of the JRO.

**Step 1: Contact Talks – Individual Meetings with Returnees**

The monitor shall, as far as possible, attend the individual contact talks (meetings) of the escort leader (his deputy or other escorts) with the returnee(s). The observation during the contact talks/meetings should provide the monitor with important information on which of the returnee(s) may require more attention during the forced return operation.

- **Positioning of the Monitor**

  During the contact talks, the monitor shall be positioned in the background so as not to obstruct proceedings. He/she is not to intervene during the meetings but may ask questions and should take notes to be included in the report that follows. The monitor may ask questions after the contact talk but no discussions between the escort leader and the monitor should take place in the presence of the returnee(s). If the monitor is unclear about something he/she should ask the escort leader, escorts or the returnee(s) (depending on the matter) after the meeting.

- **What to Observe**

  Special attention should be paid to whether:

  - the contact talk served the purpose of informing the returnee(s) about the return operation (date, time, arrival time, procedures etc.);
  - relevant questions were asked to assist the decision on the risk assessment (and thus on possible restraints to be applied);
  - the language of the escort leader was respectful and understood by the returnee(s);
  - the escort leader was supported by adequate interpreting services if needed;
  - the escort leader’s behaviour was accommodating as far as possible;
  - there was enough time to clarify questions concerning the forced return operation;
  - specific needs in preparation for the return were addressed, such as:
    - a phone call was made available to inform someone in the country of return about the return and estimated time of arrival, in order to arrange a pick up after the arrival;
    - the returnee(s) is/are able to transport their luggage or personal belongings (during JROs a limit of 20-30kg per returnee is usually applied);
    - the returnee(s) is/are in possession of, or can obtain from their luggage, suitable clothing for the climate in the country of departure and/or the country of return.
In this and in the next phase (pre-departure), the returnee(s) may realise that the return is imminent. Therefore, tension may rise and unforeseen situations occur. These are perhaps the most complex phases to monitor. To attempt to impede his/her return, the returnee might, for example, try the following: self-harm, lack of cooperation with and obstruction of the escorts in the course of their duty.

The returnee(s) may also try to prevent the return by questioning the legality of the return decision, or claim they are leaving behind a child or a pregnant partner. The authorities, legal representatives and NGOs, before the final decision was made, would have considered all these important matters. It is not within the mandate of the monitor to intervene in this regard. His/her role is to observe and note the reactions of escort personnel to challenging behaviour on the part of returnees. The monitor can, however, include any mistreatment alleged by the returnee(s) in his/her report.

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**Step 2: Briefing by the Escort Leader for the National Escort Team**

- **Positioning of the Monitor**
  No specific position of the monitor is required. The monitor should participate in the briefing where information about the upcoming return operation (destination, time of arrival, operation plan, risk assessment etc.) is shared. He/she should introduce him/herself to the escort leader(s), escorts and other participants in the return operation.

- **What to Observe**

  The monitor shall participate in the briefing of escort leader(s) and escorts prior to the return operation, in order:
  - to be introduced to the escort leader and the team by name and role;
  - to be informed about the outcome of the risk-assessment of the returnee(s) and the operation itself; the monitor shall request information on the returnee(s), especially regarding alleged hunger strikes, self-injuries, threats against escorts or aborted removals;
  - to be informed about the list of authorised and forbidden coercive measures and restraints (including certain materials that might be forbidden);
  - to gather information on whether particular attention has been given to the concerns of vulnerable persons among the returnees;
  - to acquaint themselves with the operational plan and to receive sufficient information regarding the means of transportation (e.g. type of aircraft used, seating plan, final number of returnees and participating Member States etc.).
The risk assessment of returnees, the list of authorised (forbidden) restraints and the operation plan (security and surveillance plan) are key for the monitor to decide on priorities and determine which aspects might require particular attention.

The monitor should pay particular attention to those returnees who are most likely to show uncooperative behaviour, (based on the outcome of the risk assessment), as these returnees are more likely than others to be restrained as a consequence of their behaviour. Therefore, the monitor should pay particular attention to these returnees in order to observe compliance with fundamental rights.

**Step 3: JRO: Physical Security Check**
See information provided in the pre-departure phase.

**Step 4: JRO: Transfer from Holding Area to Port of Departure**
See information provided in the pre-departure phase.

**Step 5: JRO: Transportation of Returnees to the Holding/Waiting Area at the JRO Hub**
See information provided in the pre-departure phase.

**Monitoring the Pre-Departure Phase**

The pre-departure phase covers the period from leaving the (temporary) facility until shortly before or just at the moment of embarkation. In this phase, the physical security check (body search) of the returnee(s) is conducted, the escort team is briefed and the returnee may stay in a holding/waiting/detention facility at the place of embarkation. The pre-departure phase ends when embarking the means of transportation for the return (aircraft/bus/train/ship) (for a JRO the charter at the hub of the JRO).124

124 During JROs, this phase starts at the hub, meaning that returnee(s) from the participating Member States (and their escort teams and monitors) have already completed all phases of pre-departure, in-flight (or on board a bus/train) up to the arrival at the hub of the JRO, where for them the procedures start anew in joining the JRO.
Pre-Departure Phase - Responsibilities of the Monitor

During the pre-departure phase the monitor shall participate in and observe the following actions:

- **Step 1**: Observe, if time allows, that the physical security checks are conducted observing fundamental rights and dignity (procedure and reason explained to the returnee(s), privacy as far as possible, conducted by escorts of the same gender etc.);
- **Step 2**: Observe the transfer of returnees from the (temporary) holding/detention facility to the port of departure (in JROs this applies only to the returnees of the OMS, the PMS returnees have already arrived at the port of departure). Closely observe the possible application of restraints (in line with list of authorised/forbidden restraints);
- **JRO, Step 3**: Participate in the briefing of the escort leaders conducted by the JRO head of operation (ensure all necessary information);
- **Step 4**: Observe the returnee(s) and escorts in the waiting area at the port of departure;
- **JRO, Step 5**: Participate in the meeting of monitors, national and European (JRO) monitors and exchange relevant information;
- **Step 6**: Observe the security check conducted at the airport in case of an operation by air, if applicable;
- **Step 7**: Monitor the safe and adequate transport of returnees to the means of transportation used for final removal.

For a national forced return operation, steps 1, 2, 4 and 6 apply. In the case of JROs, all 7 steps apply for the organising MS (OMS). The participating MS (PMS) returnees, who have already arrived at the port of departure at the hub, will only go through steps 3 to 7.

**Step 1: Physical Security Check**

The monitor should if possible, be present while the returnee(s) is/are undergoing a physical security check, so as to gather information about incidents e.g. medical problems, self-harm, that may have occurred since the returnees were informed about the return procedure and how they have been treated.\(^\text{125}\)

- **Positioning of the Monitor**

As a general rule, the monitor should try to be where things happen throughout a forced return operation. This means, that if they see something happening they can be present immediately. However, if, for example the pilot has put on the seat-belt sign on the aircraft, the monitor is not allowed to move. The monitor must always bear

\[^{125}\text{During a JRO, the physical security check applies to returnees of the OMS, as the PMS returnees will already have arrived at the JRO port of departure at the hub.}\]
in mind not to be too close to the escorts or doctor in order not to hinder them in their duties or risk being hurt themselves.

The monitor should be present at the physical security checks, if possible. If not of the same gender as the returnee (and under certain circumstances), the monitor shall/should monitor the situation from outside the door that is kept ajar.

- **What to Observe**

  The monitor shall observe whether:

  - The physical security checks were explained by the escorts before they commenced.\(^{126}\) The security check of a returnee is conducted with appropriate regard to privacy – especially if the returnee is requested to remove his/her clothes completely. Physical security checks are to be carried out by officers of the same sex (i.e. female returnee – female officer; male returnee – male officer);
  - If the monitor is of a different sex than the returnee, she/he should at least be allowed to hear what is going on during a body search (e.g. with the door kept ajar) and note down in his/her report if this practice is not followed;
  - As a potentially escalating situation is often indicated by dispute, shouting and screaming, the door to the room where the security check takes place should not be closed completely but remain ajar;
  - In addition to personal belongings that have to be taken away for security reasons, e.g. a belt, valuable items such as money and jewellery, are collected by the escorts, and a protocol listing the items is prepared. The returnee should sign the list and the package containing his/her personal belongings should be marked with his/her name. The returnee should be informed about the procedure with regard to his/her personal belongings: who will keep them during the flight and when will they be returned to the returnee. Precautions have to be taken so as to ensure that personal belongings of different returnees are clearly marked to avoid getting mixed up or lost.

A high level of security needs to be ensured by the escorts for the operation, which entails that the returnee(s) will undergo a body search to look for objects that could potentially be used for self-harm or for harming others. The following is therefore important to take into account and observe:

- The monitor should take note whether the escorts are dealing with such a situation calmly, professionally and respectfully. Gathering of spectators, use of inappropriate language or unprofessional (juvenile) behaviour by staff and any photos taken for private reasons should be reported and the escort leader should be informed;

\(^{126}\) The physical security check takes place to ascertain any risks and to ensure the returnee(s) does/do not carry any objects that could be used to harm themselves or others.
In case coercive measures are used, the monitor has to report on the techniques used, if they were conducted professionally and to a high standard, and if the duration was kept as short and as less intense as possible.

**Step 2: Transfer of Returnees to the Port of Departure**

The (European) monitor shall be present when returnees are picked up by escorts from the (temporary) holding/detention facility.

During a JRO this applies to the returnee(s) of the OMS at the JRO hub, as the PMS escorts usually arrive with their returnee(s) (and monitor(s) at the port of departure for the JRO).\(^1\)

**Positioning of the Monitor**

When possible, the monitor should be in the same vehicle as the returnee(s). If more than one vehicle is used to transport the returnee(s), the monitor, following the instructions of the escort leader, shall ride with those returnee(s) evaluated to be of a higher risk of resistance or with vulnerable returnees.\(^2\)

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\(^{1}\) In instances, e.g. if a PMS national feeder to the hub was by air, and the JRO is implemented by train or bus or sea, the transfer, however, would also apply to PMSs and their returnees.

\(^{2}\) The monitor shall be seated in the best position to be able to see and hear adequately during the transfer. The decision on where to sit will be taken by the escort leader, who is best suited to assess the situation.

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be provided by the holding/detention or waiting facility;
- Different types of vehicles can be used to transfer returnees from a holding/detention facility to the port of departure. Depending on the outcome of the risk assessment, a returnee may be transferred in a civil vehicle, e.g. a coach or bus, or police secure transport which may be in a police car or van with a specially adapted cell;
- The vehicles for transportation of returnees are clean and well maintained;
- Depending on the season and weather conditions, the air-conditioning system, if one exists, should be used appropriately. This should equally be applied in the seating area and holding cells;
- The time returnees have to spend in cells inside a police coach is limited to the minimum possible;
- Cells inside a police coach are not used as waiting areas;
- If waiting time cannot be avoided, the doors should stay open, if reconcilable with the risk assessment, and guarded by an escort;
- If vulnerable persons are among the returnees, the monitor should observe how they are handled and treated and whether different procedures are used for this specific group. In case of separate transfer, the monitor needs to decide which group he/she accompanies after consultation with the escort leader, who has the final say.

In case a family member, such as a parent, resists the removal and therefore has to be separated from the family while transferred to the airport or any other port of departure, the monitor should pay attention, whether:
- The family is kept informed about the situation of the resisting family member and vice versa;
- The length of separation is kept as short as possible.

**JRO: Step 3: Briefing of Escort Leaders**

The European (JRO) monitor (and national monitors that go on the operation from the hub to the country of return), shall take part in the briefing of the JRO head of operation (or OMS escort leader) with the escort leaders of PMSs and introduce him/herself.

**Positioning of the Monitor**

No specific position of the monitor is required. If scheduled, the monitor should participate in the briefing of the JRO-head of operation and the escort leaders of participating Member States. The monitor shall introduce him/herself and request information on

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129 There might be different practices amongst participating States with regard to the transportation of vulnerable groups to the final means of transportation (they may be brought in a separate vehicle or they may be transported jointly with the whole group of returnees etc.).
the returnee(s), especially that relating incidents on the way to the JRO-Hub as well as information regarding the use of coercive measures.

■ What to Observe

The monitor shall participate in the briefing of escort leaders of participating Member States prior to the return operation in order:

■ to be introduced to the escort leaders by name and role;
■ to be informed about the risk-assessment of the returnee(s), the agreed JRO list of authorised/forbidden coercive measures/restraints (if it has not been shared previously) and the operation itself including security, surveillance plans, and seating etc.;
■ to monitor whether specific needs of vulnerable persons among the returnees have been considered and taken into account.

Step 4: Waiting Area at the Port of Departure

During both national FROs and JROs, returnees wait with their escorts (and the monitor(s)) until the departure of the means of transportation, in an adequate waiting or holding area that allows for supervision and security. The layout of the waiting area(s) may vary, depending on the infrastructure of the waiting facility.

■ Positioning of the Monitor

The monitor should stay with the returnees if all returnees have to wait in the same room. Otherwise, the monitor should divide his/her time between the different rooms/cells where returnees are waiting. The monitor shall position himself/herself in a strategically located position, which would ensure that he/she is able to observe returnees of higher risk, taking into consideration the results of the risk assessment. The monitor should be able to move around freely (in accordance with the risk assessment outcome) at this stage in the waiting area.

■ What to observe

At this stage the monitor shall observe whether:

■ Depending on the number of returnees, and the risk-assessment, an emergency doctor is present or on call (during JROs coordinated by Frontex, at least one medical doctor should be present, Frontex CoC for JROs, Art. 11(1));
■ Medical staff are checking on returnees with medical problems or special needs;
■ Agitated returnees are separated from co-operating returnees to calm the situation and avoid tension;
Sufficient catering (food, water, non-alcoholic beverages) is offered to the returnee(s), even in case of unexpected delays (technical problems with the means of transportation, bad weather conditions etc.). It should be considered that due to the schedule of the return operation and the related transfer, returnees may have missed a meal in the holding/detention facility;

- Returnees should be offered the opportunity to use the toilet;
- The needs of smokers are addressed as far as possible;
- Religious needs are addressed as far as possible;
- The waiting facility is equipped properly (e.g. sufficient number of chairs, surveillance camera etc.).

**Step 5: Meeting of National and European (JRO) Monitor - Information Exchange**

Monitors that were on a national feeder to the JRO hub might, but do not necessarily continue monitoring on the route from the hub to the country(ies) of return of the JRO (and if continuing, they will only monitor their national returnees). However, European (JRO) monitors from the JRO hub are responsible for monitoring the operation and all returnees. Nonetheless, relevant information on the returnee(s) and the previous national feeder operations are also significant for the European (JRO) monitor.

- **Positioning of the Monitor**

  National monitors observing a national feeder to the JRO hub will most likely stay with the escorts and the returnee(s) of this participating Member State, in the waiting area at the port of departure at the hub. Therefore, in most cases the national monitors and the European (JRO) monitors exchange information in the waiting area at the port of departure.

- **What to Observe**

  The European (JRO) monitor shall introduce him/herself to the national monitor(s) present. The monitors shall exchange information on the status of the return operation, challenges they may encounter or foreseen and information on vulnerable groups.

*(Step 6: Security Check at the Airport)*

As part of a forced return operation by air, both a national FRO and a JRO might include an additional security check of the returnee(s) and each returnee’s luggage at the airport, depending on the requirements of the airport authority and the regulations in the MS. This security check is in most cases undertaken by the official airport security personnel. Step 6 might also happen before step 4.
- **Positioning of the Monitor**

  The monitor should suitably position him/herself in order to observe the screening of the returnee(s). The monitor must also undergo the security check.

- **What to Observe**

  The monitor must observe who conducts the security check and whether the usual security protocol is followed.

**Step 7: Transport to the Means of Transportation for the Removal**

The returnee(s) may regard the transportation from the waiting area to the means of transportation (aircraft, bus, train, ship) for the actual removal as a last chance to bring a removal to a halt.

The escorts should accompany the returnee(s), remaining vigilant and taking precautions against possible self-inflicted injuries. If there is reason to believe that a returnee will resist while being escorted onto the coach or bus that is used to transfer returnees and escorts to the final means of transportation (aircraft, bus, train, ship), or when entering an aircraft, bus, train or ship, it is preferable that the escort accompanies the returnee in order to prevent injuries. Where the risk assessment has not identified elevated risk levels, the escorts will remain in close proximity to the returnee(s), although will not necessarily escort them personally towards the means of transportation used for the final removal or to their seat.

- **Positioning of the Monitor**

  On the means used to transport the returnee(s) (coach, bus, car etc.), to the means for final removal (aircraft, bus, train, ship), the monitor should, if possible, be assigned a seat either in the middle or at the back so as to have a good overview of the escorts and the returnee(s).

  Arriving at the aircraft, bus, train or ship to be used for the removal, the monitor should be one of the first to exit and position him/herself in order to observe how the returnee(s) and escorts leave the coach or bus. In case a returnee refuses to disembark, the monitor should closely observe the situation, without hindering the escorts.
What to Observe

At this stage the monitor shall observe whether:

- The escorts are close to the returnee(s) while guiding them from the coach or bus to the means of transportation for removal;
- Provisions against self-inflicted injuries by the returnee(s) are taken into account, as well as the related infrastructure (e.g. at airports: the use of a covered mobile gangway, number and position of escorts accompanying the returnee(s) up the gangway, and the approach to the bus and trains on the respective platform);
- Only the authorised coercive measures (and materials) are used during the transport and embarkation, and only if necessary;
- If vulnerable persons are among the returnees, the monitor may observe how these are attended to and whether different and adequate ways for embarkation are used for this specific group (i.e. families with small children, handicapped persons, etc.).

Session 3.3: Responsibilities of a Monitor during a Forced Return Operation – In-flight and Arrival Phase

<table>
<thead>
<tr>
<th>Topic</th>
<th>Time</th>
<th>Methodology</th>
<th>Supporting materials</th>
</tr>
</thead>
<tbody>
<tr>
<td>Responsibilities of the monitor within the in-flight and arrival phases</td>
<td>25 min</td>
<td>Group work - in-flight and arrival phase</td>
<td>Matrix, cards/post-its, print-outs of background reading, markers</td>
</tr>
<tr>
<td></td>
<td>35 min</td>
<td>Presentations and discussion, additions</td>
<td></td>
</tr>
<tr>
<td>Case study</td>
<td>20 min</td>
<td>Case study in groups</td>
<td>Printed parts of cases with questions for distribution to trainees (see Annex, Session 3.3)</td>
</tr>
<tr>
<td></td>
<td>40 min</td>
<td>Presentation and discussion of answers</td>
<td></td>
</tr>
<tr>
<td>FAQ session</td>
<td>(60 min)</td>
<td>FAQ session with experienced monitor</td>
<td>Organise an experienced monitor</td>
</tr>
<tr>
<td>Total duration</td>
<td><strong>120 min/2 H - Or potentially 3 H with the FAQ session</strong></td>
<td></td>
<td></td>
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</tbody>
</table>

Implementation of the Session

1. **Group work.** Distribute to the trainees the printed background reading for the in-flight and arrival phases. Allocate the in-flight phase to one group and the arrival phase to the other and ask them to work on their respective phases as in the previous session, i.e. discuss and then write down the monitors’ position and responsibilities on cards/post-its, with the help of the details written in the background reading (20 minutes).

2. Ask each group to present the specific responsibilities and the respective position the
monitor has to take to the other group. Discuss the process and clarify questions (30 minutes).

3. **Case study.** Divide the trainees into 3 groups. Distribute the first part of the case study to group 1, the second part to group 2 and the third part to group 3 (from the corresponding Annex for session 3.3: case study).

   Instructions for the group work (prepare on a flipchart or PPT):

   - In your group read the text of the case (your assigned part) and reflect on the questions individually;
   - Discuss the questions in your group and determine your answers. Document your conclusions on a flipchart (20 minutes in total);
   - Present to the plenary (choose a rapporteur at the beginning of the group work, a time keeper and a moderator).

   During the group work, assist the groups with clarifications or hints, where necessary. Ask the groups to present after 20 minutes. Discuss and add clarifications, where required. Present part 4 of the case study in plenary and discuss the answer to the question in plenary.

4. **FAQ session.** Invite an experienced monitor to a one hour FAQ session. Either, collect questions before the FAQ session (e.g. put up a board for questions that trainees might have had earlier and cluster them together), or give the trainees the opportunity to ask the questions they have.

**Background Reading**

**Monitoring the In-Flight Phase**

The in-flight phase begins upon entering the means of transportation, e.g. aircraft, bus, train, ship, used for the removal and ends with the arrival at the final destination (country of return or, in case of an unsuccessful return, back to the country of departure, including the transit via another country).
In-Flight Phase - Responsibilities of the Monitor

During the in-flight phase the monitor shall participate in and observe the following actions:

- **Step 1:** The embarkation on board the means of transportation for the removal (JRO: at the hub). Observe returnees and escorts for the entire duration of the transportation, which can be on a flight, on board of a bus, a train or a ship (including provision of food and water, and opportunities to go to the toilet etc.);
- **Step 2:** The monitor remains on board the means of transportation during a stopover and observes the process (e.g. handover and disembarkation of a group of returnees or the arrival of a new group of returnees and their escorts) during the stopover.

**Step 1: Embarkation/Transportation to the Country of Return**

- **Positioning of the Monitor**

For the embarkation process, the monitor has to position him/herself at the entrance of the means of transportation (in the case of an aircraft the lower end of the gangway), or the respective door of the bus, train or ship in order to be able to observe the procedure. In case a returnee is refusing to embark, the monitor should closely observe the situation without hindering the escorts.

Different means of transportation come with different interiors varying from one continuous cabin for passengers to numerous segregated compartments. In general, the monitor should be assigned a seat in the middle or at the back of the means of transport or cabin (aircraft, train, ship) to observe the escorts and the returnee(s). If a specific returnee has to be observed more closely, the monitor should take a seat in one of the rows close to this returnee.

The monitor should avoid being seated in a place where his/her view or ability to move is restricted. The escort leader should inform the monitor about the seating arrangements (usually during the briefing), and shall address any questions or concerns. When more than one toilet is available, the monitor shall use the toilet designated for the escorts.

Monitors should not remain seated throughout the whole trip. It is advised to move around from time to time and observe the situation.\(^{130}\)

Should two monitors be observing this phase, one monitor should be seated at the back and the other in the middle or at the front in order to obtain a strategic overview.

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\(^{130}\) In the case of a land operation this does not apply. Monitors shall decide whether to sit at the back or in the middle of a bus (or comply with the seating plan and/or the instructions of the escort leader/head of operation) and shall not move around.
What to Observe

Monitors shall stay awake for the duration of the operation/transportation. During the journey, the returnee(s) might become emotional. They might start crying, screaming or singing loudly, insult or misbehave towards the escorts, and even become violent. This situation may last for several hours. If the escorts have to use coercive measures, the space available to do so on board an aircraft, bus, train or ship is very limited. Other returnees may be in close proximity and could therefore act in solidarity with the returnee(s) concerned. This could possibly escalate tension and make the operation more complex.

At this stage the monitor shall observe whether:

- The escorts accompany those returnees that showed agitation or increasing uncooperative behaviour (or resistance) when disembarking the coach or bus, while escorting them to the means of transportation for removal and further onto the seat on board the aircraft, bus, train or ship without unnecessary use of force;
- The chartered aircraft or bus, or booked cabin on a train or ship meets the requirements of the return operation as well as the needs of returnees, including vulnerable groups, and escorts (relating to availability of seats, toilets, temperature etc.);
- Toilet visits are taking place regularly, in line with the needs of returnees, and are properly conducted;
- Sufficient catering (food, water, non-alcoholic beverages, including specific health and religious requirements) is offered to returnees. Escorts and returnees should be offered the same kind of food and drinks. Hot liquids, e.g. coffee, tea and cutlery should be avoided. In order to evaluate whether the catering for returnees during the return operation was adequate or not, the monitor should, in case of an operation by air, consume the food and/or drinks provided by the airline. The provision of food during an operation by land differs, and might not be provided to all participants. Thus, the monitor, e.g. for operations by bus, might be asked to take food and water with him/her;
- In case coercive measures are used, the escorts check the returnee regularly. The monitor should observe coercive measures for as long as they are in place and document their use, including the exact duration, as accurately as possible. If the monitor has reason to believe that a coercive measure is no longer appropriate, or that the intensity could be reduced, he/she could communicate it to the escort leader and/or head of operation of the JRO;

131 Ideal catering would include sandwiches and should only require the use of spoons. Cutlery (knives and forks) should always be avoided.
132 The decision regarding the use or termination of use of coercive measures, however, remains strictly with the escort leader and the head of operation, in case of a JRO.
In cases of perceived imminent danger the monitor has to inform the escort leader (JRO: head of operation) immediately;

Access to medical care during the transportation is guaranteed. Should the monitor have any questions, he/she should ask the doctor/paramedic on board for clarifications. The role of the monitor is not to double-check the medical care provided by the doctor but to understand if adequate care is provided;

In case a returnee was cleared to be “fit-to-travel” to a limited extent, the condition of the return operation comply with the medical restrictions throughout the whole period of transportation. The use of sedatives to facilitate the removal is forbidden without prejudice to emergency measures to ensure flight security.133

**Step 2: Stopover – if applicable**

If a stopover is not only used for re-fuelling but also to pick up further escorts and returnees, the monitor should observe their embarkation. In case agitated returnees have to be carried onto the means of transportation and fully fixed to the seat, a calm situation could quickly deteriorate if other returnees decide to act in solidarity.

In case of a stopover involving the embarkation of a new group of returnees, seating arrangements should be planned in advance so that the new group will not pass in front of already seated passengers while boarding the means of transportation. If any of the returnees that are embarking at this time are agitated and have to be carried onto the means of transportation and fully fixed to their seat, an existing calm situation could deteriorate. The European (JRO) monitor shall observe the new group of returnees, especially vulnerable persons, and any coercive measures used.

Ideally, the monitor(s) already on board and any newly arrived monitor(s), should have time to brief each other. In case the monitor in charge of the new group of returnees joining the operation does not come on board, the monitor shall discuss with the escort leader in charge of the new group of returnees, to ask for information related to risks and the use of coercive measures, vulnerable groups, etc. Exchange of information shall take place verbally, thus reducing the possibility of misunderstandings and misinterpretation of written information.

In cases of a long stopover (overnight), after the handover of the returnee(s) in the country of return, the monitor shall stay in the same accommodation as the escorts. Information about the costs covered will be provided prior to the return operation.

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133 Art. 6 (4), Frontex 2013
Monitoring the Arrival Phase

The arrival phase covers the period starting from arrival at the country of return, and ends when the returnee(s) is/are handed over to the national authorities in the country of return, or (in the case of an unsuccessful return), with the handover to the authorities back at the country of departure.

The readmission of a returnee can be refused by the national authorities of the country of return. This may be the case when documents are not accepted, if there are doubts with regard to the nationality of the returnee, or the returnee is in need of specific medical care and the country of return does not want to provide it or is not in a position to provide such care.

The number of such refusals is usually low, especially in Joint Return Operations. It can be expected that the returnee will be calm and shall not discuss the reason for his or her non-acceptance of readmission and is therefore co-operative. Alternatively, the returnee could vent his/her anger about the attempted removal or there could be tension between returnee and escorts.

Arrival Phase - Responsibilities of the Monitor

During the Arrival Phase the monitor shall participate in and observe the following actions:

- **Step 1**: Arrival with the means of transportation in the country of return;
- **Step 2**: Handover of the returnee(s) to the national authorities in the country of return either on board the means of transportation or at the arrival building. The re-embarkation of any unsuccessfully returned individual with the respective escort(s);
- **Step 3**: Stopover, if applicable as part of the return to the country of departure;
- **Step 4**: Return flight to the country of departure, if applicable, with unsuccessfully returned returnees. The same responsibilities apply as in the phases described;
- **Step 5**: Debriefing.
Monitoring shall take place as long as a returnee is present and is brought back to the country of departure safely and with dignity. Catering and medical support, if required, has to be provided. The monitoring responsibility ends the moment the escorts hand over the returnees to the national authorities in the country of return, or back to the country of departure.

Monitoring of the treatment of the returnees by the national authorities upon arrival is not within the scope of the duties of the forced return monitor as defined in the FReM Guidelines. However, if the monitor witnesses any mistreatment, he/she should include such details in the monitoring report and gather as much information as possible from the escort leader/head of operation (JRO).

**Step 1: Arrival with the Means of Transportation in the Country of Return**

- **Positioning of the Monitor**

  When the returnees are handed over to the local officials inside the means of transportation, the monitor should be seated in one of the front rows/close to the entrance, where he/she has a good view and is within hearing range.

- **What to Observe**

  At this stage the monitor shall observe whether:

  - Remaining hand-cuffs, body-cuffs or other restrictions are removed after arrival, if possible;
  - All personal belongings, which were taken away for security reasons, are given back to the right returnees;
  - Validated complaints of returnees, e.g. concerning lost or damaged luggage, money or documents, are handled efficiently by the escorts. The monitor should include details of other complaints, e.g. against escorts, in the report.

  In case of an operation by air, if the aircraft is returning immediately after the handover and the monitor remains on board, he/she should watch from a window seat, or if possible from a position on the gangway, how and if the luggage was delivered to and picked up by the returnee(s). Also, he/she should observe how they were treated by local policemen or border guards. Any incidents or mistreatment witnessed should be documented in the monitoring report. In preparing future return operations to this country of return, the authorities in the countries of departure could make use of this information to see how to safeguard the correct treatment of the returnee(s) after arrival.
Step 2: Handover to the Authorities in the Country of Return

In case of a JRO, the organising MS is responsible for contacting the authorities of the country of return prior to the operation. This takes place well in advance of the actual operation. Participating MSs are usually involved in this process. Once the actual return operation has been conducted and the means of transportation has arrived in the country of return, the escort leader/head of operation establishes first contact with the national authorities.

The (escort leader(s) of the) organising Member State and each participating Member State shall hand over the returnee(s) to the authorities of the country of return, with their luggage and any other items.134

- Positioning of the Monitor

After arriving in the country of return, the monitor should stay close to the returnee(s) and observe the handover to the national authorities, which might take place at an arrival building or inside the means of transport.

- What to Observe

At this stage the monitor shall observe whether:

- Remaining hand-cuffs, body-cuffs or other restrictions are removed after arrival, if possible (if not done previously);
- All personal belongings, which were taken away for security reasons and the luggage of the returnee(s), are handed over to the returnee(s) or representatives of the local authorities (e.g. police) (if not done previously);
- The returnee(s) are handed over to the national authorities by the escort leader in a calm and professional way, especially if they caused trouble for the escorts during the return operation or complain to the national authorities about the treatment received during the return;
- The luggage is still in good condition and returned to the returnee(s) in an organised way;
- A returnee is arrested during the handover procedures. In this case, information about the reasons for the arrest should be gathered from the escort leader if possible;135
- Representatives of a monitoring system for human rights from the country of return (ombudsman, national prevention mechanism against torture, NGOs, etc.) are present.

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134 Where appropriate and feasible, the organising and participating Member States should invite consular staff, immigration liaison officers or advance parties of the Member States concerned to facilitate the handover of the returnee(s) to the local authorities, insofar as this is consistent with national practices and procedure.

135 In the case of land operations the monitor shall, if possible, step out of the bus to observe the handover of the returnee(s).
Step 3: Stopover – if applicable

See *Monitoring the in-flight phase*.

It is rare that an overnight stay in the country of return is necessary, as the OMS will try to organise a return directly after arrival. However, if a forced return covers long distances, or, for example, in cases of a return by air, an overnight stay might be required due to airport hours. Also, a technical problem of the means of transportation might make an overnight stay necessary. In these cases, different procedures apply in different countries. In general, however, the monitor shall stay in the same accommodation as the escorts in cases of a stopover (overnight).

In very rare cases, returnee(s) are not accepted by national authorities in the country of return and have to be part of an overnight stop. The monitoring tasks related to this specific situation are not included in this training manual.

Step 4: Return to the Country of Departure

- **Positioning of the Monitor**

  As the number of refused returnees, if any, on a forced return operation will be low, the monitor should remain close to the returnee(s) all the way back.

- **What to observe**

  - See *Monitoring the in-flight phase*. All relevant steps apply again;
  - Depending on national procedures, either the same escorts remain responsible for an unsuccessfully returned individual, or a backup team of escorts, if available, might be responsible for the returnee on the flight back to the country of departure (the decision lies with the escort leader/head of operation).

Step 5: Debriefing

Monitors shall participate in the debriefings of escort leader(s) and escorts. They shall note who was present, when and where the debriefing was held and provide a brief account of the main findings/observations to the escort leader, in particular when an incident is to be reported (see also the specific details requested in the monitoring report template). The monitor shall inform the escort leader about any incidents that he/she will mention in the report. Feedback from the escort leader, if any, shall be mentioned objectively in the monitoring report.
Case Study - Monitors

Part 1 – Pre-Return Phase: Ms Saeva and Ms Ramirova

Background: The returnees were in the host country for many years. The families of the respective returnees had the right to appeal/complain. In both cases this right was used.

A forced return via air to Moscow is scheduled. Ms Saeva and Ms Ramirova are among the returnees with whom the escort leader is having a meeting (contact talk) one day before the flight. A female escort, an interpreter and a social worker assist the escort leader. The escort leader explains the conditions of the pick-up at the detention centre (family unit), the transfer to the airport and the flight to the country of return. A phone call to contact a relative or person of trust is offered.

Ms Saeva is a 44-year-old woman from Chechnya and has been living together with her two sons (the eldest 18-years-old, the youngest 9-years-old), in the host country since 2009. Their claim for asylum and subsequent appeals were rejected by authorities and courts in 2009, 2010 and 2012 respectively. Ms Saeva is detained at home. Her youngest son is present, her eldest son is not at home at the time.

During the contact talk with the escort leader, Ms Saeva states not to know the whereabouts of her 18-year-old son, since he left the home early in the morning. Asked by the escort leader to phone the missing son, she refuses and says that she has deleted her mobile phone register and does not know his number. She starts to cry, and says that after the return to her home country, her uncle will take her child away. She claims to be ill and asks for asylum again. She is informed by the officials present, that her new asylum request will proceed according to law, although it will not stop the forced return scheduled for the next day.136

Ms Ramirova is 33-years-old and has a 5-year-old daughter. Two previous attempts to return her by scheduled flights were aborted because she refused to co-operate. During the contact talk with the escort leader regarding the pending return operation by a charter flight, she makes it very clear that she does not want to be returned. She raises her voice and hammers her fist on the table. She claims that whilst in Chechnya, she shot her husband twice and that consequently, her daughter is traumatised. She also states she is pregnant. Furthermore, she says that she will complain about this injustice.

The escort leader informs her about the authority and order given to the escorts to enforce the return. The two women are each given the opportunity to make a phone call to someone in the country of return to inform them about their scheduled arrival.

Questions

1. What professional attributes and personal characteristics should a monitor have?
2. What challenges can be expected in the case of Ms Saeva and Ms Ramirova?
3. What specifically does the monitor have to observe and which information does the monitor have to gather in this phase?

Case Study - Trainer Notes
Discussion points: Part 1

1. **What professional attributes and personal characteristics should a monitor have?**

   - **Skills:**
     - Be professional;
     - Receive specialised training;
     - Be independent, neutral, non-discriminatory;
     - Be familiar with relevant background documents and technicalities of forced return operations;
     - Have good, accurate and impartial observation skills;
     - Have good communication skills so as to establish working relationships with the participants of the national or Joint Return Operation;
     - Have the ability to establish good working relations with everyone involved.

   - **Personal characteristics:**
     - Be patient, accurate and disciplined;
     - Demonstrate self-control, especially as these situations can be very emotional;
     - Stay focussed and remain impartial, particularly when observing emotional and agitated returnees in generally difficult circumstances;

   - It is important for the monitor to:
     - Be aware that he/she cannot question the legality of the return decision/removal order;
     - Obtain all relevant information relating to the outcome of the risk assessment and additional information regarding the return operation (specific needs of returnees, vulnerabilities etc.);

   - Review the allowed/forbidden means of restraint (including the material) on the MS or the JRO list.
2. **What challenges can be expected?**

- It is important for the monitor to remember that the returnees were in the host country for many years. Their asylum claim was rejected and their respective families had the right to appeal/complain, which they both made use of. The removal order is issued and the return is ordered to be enforced;
- Ms Saeva is emotional while Ms Ramirova demonstrates clear signs of anger. Resistance can be expected in both cases and this should be taken into account during the risk assessment conducted by the escorts;
- It might be necessary, should the women resist the enforcement of the return, to use restraints, and if so, to separate the children from their mothers. This possibility should be considered following the risk assessment;
- In case only one monitor is present, the monitor needs to decide which of the two returnees requires greater attention.

3. **What does the monitor have to specifically observe and which information does the monitor have to gather in this phase?**

The monitor should, if possible, participate in the contact talks with Ms Saeva and Ms Ramirova. It is important to observe whether the returnees understand the information they have received regarding the return, e.g. date, time, and process, and, if they do not speak the language sufficiently well enough, an interpreter should be provided. The monitor should observe the behaviour of the escort leader towards the returnees, e.g., is he/she professional, neutral, remaining calm and using diplomatic language, accommodating requests, where possible (excluding the revision of the return decision), and whether the returnees were provided with an opportunity to notify someone in the country of return about their arrival.

The monitor should participate in the briefing of the escort leader to the team of escorts and/or request all relevant information, especially with regard to the risk assessment and any earlier incidents and/or resistance. The monitor can talk to the returnees at the end of the contact talk with the escort leader, but has to remain neutral, impartial, diplomatic and professional. Remaining neutral and diplomatic is important so that the monitor does not give the returnees false hope.

**Part 2 – Pre-Departure Phase: Ms Saeva and Ms Ramirova**

Upon the completion of the contact talk, medical checks are undertaken and both Ms Saeva and Ms Ramirova as well as their children are declared fit-to-travel. The physical security checks and the pick-up of Ms Saeva and her 9-year-old son by the escorts are completed without any problems. Ms Saeva co-operates and no restraints are used.
However, regarding Ms Ramirova, an employee at the family unit in which she was being held, reports that earlier she attempted to block the door of her room from the inside. In view of Ms Ramirova's behaviour during the contact talk the previous day and due to earlier aborted attempts to return her, the escort leader keeps a body-cuff prepared in case she fails to co-operate during the physical security check.

Ms Ramirova refuses to co-operate and the body-cuff is used. As her agitation grows, further restrictions of movement are applied, including the use of sling lines are on her upper arms and legs. Escorts have to carry her on to the bus for transfer to the airport, as she refuses to move.

Questions

1. What do you expect the escort leader to consider regarding the children of Ms Saeva and Ms Ramirova?
2. What does the monitor have to specifically observe and which information does the monitor have to gather?

Case Study – Trainer Notes
Discussion points: Part 2

1. **What do you expect the escort leader to consider regarding the children of Ms Saeva and Ms Ramirova?**

   - The escort leader should consider the earlier risk assessment as well as further information provided on previous behaviour e.g. by the officer from the family unit;
   - The escort leader should avoid the possibility of the children witnessing an unsettling situation involving their parent e.g. the restraints being used, and thus separate the children, including during the subsequent transfer to the port of departure, if required;
   - In the case of Ms Saeva, the son is initially separated, but can be reunited with his mother when no resistance is offered and she remains calm during the physical security check. Joint transfer to the port of departure is possible.
   - The 5-year old daughter of Ms Ramirova is separated from her mother by being placed in the care of a female escort. The escort leader should consider logistics beforehand, e.g. a separate room and a separate transfer for the child to the port of departure.
   - The mother and child should be reunited once the situation has calmed down. While separated, however, both should be informed of the whereabouts of the other.
2. What does the monitor have to specifically observe and which information does the monitor have to gather?

The monitor is not to interfere at any time.

The monitor should observe whether the physical security checks are conducted following applicable human rights (e.g. conducted by a female escort), and whether the application of restraints (e.g. the body-cuff in the case of Ms Ramirova) is proportionate and without excessive use of force.

The monitor should observe whether the best interests of the children are taken into account, meaning that the situation is assessed and that any action deemed necessary as a result, such as the separation of the child from Ms Ramirova, is based on the actual situation and considerations that the child should not witness the mother being restrained. That, if possible, a female escort takes care of the child and both are informed on the whereabouts of the other. The monitor should focus on the situation concerning Ms Ramirova so long as she remains agitated and/or not co-operating. The monitor should also observe if water and food is provided to the returnees, including the children.

The monitor should observe the actions and reactions of the escort leader and the escorts, and make any notes required to be able to write a factual report including all relevant observations, particularly regarding the application of coercive measures (type, techniques used, materials applied, duration and intensity of application of force and/or restraints).

It is important for the monitor to be familiar with:

- the rights of children in forced return operations;
- the outcome of the individual risk assessments;
- the restraints permitted/forbidden during the return operation;
- the monitoring report template;
- the necessity to note down the duration of restraints used.

Part 3 – Pre-Departure Phase: Ms Saeva and Ms Ramirova

Escorts (including female escorts) take the 5-year-old daughter of Ms Ramirova to a separate room at an early stage of the potentially escalating situation, in order to avoid her witnessing her mother’s resistance and the possible use of force and restraints.

For the transfer, different vehicles are used for mother and daughter. While driving in a convoy, the daughter is placed with another family with children, and steps are taken to ensure that she can always see the vehicle her mother is in. A female escort is present.
to take care of her. After arriving at the airport, Ms Ramirova starts to shout at the escorts and kicks the seat in front of her in the car. She clings to the seat and refuses to let go. The male and female escorts use physical force to remove her from the car and take her inside the airport to conduct the security check. After the security check, Ms Ramirova is handcuffed. Thereafter, the monitor stays with Ms Ramirova in the waiting area of the airport. Ms Ramirova is separated from the other returnees and seated with a female and a male escort. She continues to shout and curse and spits at the escorts as well as at the monitor.

The security check of her daughter, meanwhile, is conducted separately. Mother and daughter are seated in different rooms, but remain close to each other in the waiting area.

After Ms Ramirova has been calmer for several minutes, escorts agree to her request to loosen the handcuffs when she claims that the cuff on one hand is too tight. At this time, the emergency doctor checks the condition of Ms Ramirova. The doctor offers her a sedative to calm her down and Ms Ramirova agrees. She takes a glass the doctor hands her and takes a sip. She spills the remaining drink, seemingly on purpose. She has done the same before, when mineral water was offered by an escort. As Ms Ramirova still refuses to co-operate, three escorts carry her to a car for the transfer to the aircraft, while the other returnees are transferred by bus.

Ms Saeva, who has remained calm during the physical security check at the facility, is placed in a car with other returnees, together with her son, to be transferred to the port of departure. During the airport security check, she becomes a little agitated, and the escorts try to calm her down verbally. After a short while, she relents and is seated with her son in a room in the waiting area of the airport. When the transfer to the aircraft is announced to her, Ms Saeva begins shouting and crying about the fact that her older son is not with her. Because she does not calm down, an escort takes her younger son to another room (and then onto the bus with the other returnees in the company of another family) while the escorts try to calm Ms Saeva down. She, however, refuses to move, and ultimately handcuffs are applied. She is placed in a separate car (with mild force) to be transferred to the aircraft.

**Questions**

1. What do you expect the escort leader to consider with regard to the children of Ms Saeva and Ms Ramirova?
2. As a monitor, what should you consider when observing the use of coercive measures and force by escorts?
3. What considerations are important with regard to the medical care offered?
Case Study – Trainer Notes
Discussion points: Part 3

1. **What do you expect the escort leader to consider with regard to the children of Ms Saeva and Ms Ramirova?**
   - Escorts should always act in the best interests of the child; thus Ms Ramirova’s daughter needs to be separated while her mother is agitated and not co-operating, and is subsequently restrained;
   - Separate transfer of the daughter of Ms Ramirova needs to be arranged;
   - A female escort, if possible, should be assigned to the daughter;
   - In case children cannot sit with their parent(s) or family members due to security and protection considerations (as is the case with Ms Ramirova and her daughter), they should be seated at a safe distance without the possibility to see and hear agitated and uncooperative family members until they calm down.

2. **As a monitor, what should you consider when observing the use of coercive measures and force by escorts?**
   - Coercive measures should be used only when strictly necessary, and proportionately, without the use of excessive force. The monitor has to record the types (techniques and materials) and duration of the coercive measures used as well as the intensity, observe whether the escorts tried to calm the situation beforehand (de-escalation) and if they provided information prior to the use of coercive measures, if at all possible.

3. **What considerations are important with regard to the medical care offered?**
   - Medical personnel should be present during the pre-departure phase. During JROs coordinated by Frontex, a medical doctor should be on board the flight according to the Frontex Code of Conduct for JROs. In situations where the returnee is agitated, the medical staff might offer a sedative, but can only administer it with the consent of the returnee, as has happened in the case of Ms Ramirova.

Part 4 – In-flight phase: Ms Saeva and Ms Ramirova

To avoid problems upon entering the aircraft via the gangway, the escorts decide to use a “SideBull”, a special vehicle used for passengers with reduced mobility (e.g. wheelchair users). Ms Ramirova continues to shout and attempts to bite the escorts whilst being brought onto the aircraft. This results in them both being confined to their seats by the use of sling lines tied around the upper arms without, however, restricting their ability to breathe.
Ms Saeva once again complains loudly and vehemently about being returned without her grown-up son, and the escorts decide to use the SideBull for her as well to avoid the agitation of the other returnees.

Both children are seated separately from their mothers with escorts and other families. During the flight, Ms Ramirova tries to spit on the escorts sitting next to her. Ms Saeva is watching and imitates the behaviour of Ms Ramirova. A protection mask (as used to prevent the spread of flu) is placed over the mouths of both women. Very soon, the women stop their efforts to spit at the escorts and the masks are removed. As Ms Ramirova’s mood alternates between calm and agitated, the body-cuff remains in place until arrival at the country of return.

Half way through the flight Ms Saeva calms down and the restraints tying her to her seat including the handcuffs are removed. She is no longer deemed to be causing problems and after a while is permitted to sit with her son.

Questions

1. Where would you expect Ms Saeva and Ms Ramirova to be seated in relation to other passengers?
2. Do you think the use of coercive measures and force was correct (during the entire operation)? State reasons for your answer.

Case Study – Trainer Notes
Discussion points: Part 4

1. **Where would you expect Ms Saeva and Ms Ramirova to be seated in relation to other passengers?**
   
   - Ms Saeva and Ms Ramirova should enter the plane through a different door, as did happen and should be seated separately from each other and their children;
   - Neither should pass in front of the other returnee(s), but enter from behind, remaining out of sight;
   - If possible, the two women should be seated without being able to see or hear each other;
   - It is important for the monitor to know where each of the returnees will be seated and if possible, to be seated closer to the person he/she deems to be of greater concern. If the seat given to the monitor varies from the one previously assigned, he/she should consult the escort leader about the possibility of sitting closer to Ms Ramirova.
2. **Do you think the use of coercive measures was correct and what are the reasons for your answer?**

- The coercive measures used were correct and appropriate for, as well as proportionate to the specific situations pertaining, with clear to Ms Ramirova and Ms Saeva;
- Although the risk assessment for Ms Ramirova revealed a considerable risk, the body-cuff was not applied immediately but only when she demonstrated resistance;
- Ms Ramirova spat at both escorts and the monitor and so the use of the face-mask was appropriate and justified;
- If the situation allows, the escort should try to explain to the returnees what the consequences are in case of uncooperative behaviour;
- Requests to take off the restraints should be considered, as was the case in this example.

**Key Learning Points Module 3**

The monitor…

- Shall be impartial in his/her observations, communication and actions at all times;
- Cannot intervene in a return operation, no matter the circumstances;
- Can inform the escort leader of a relevant observation, which, however, the escort leader is not obliged to respond to;
- Is not to question and or discuss the legality of a return decision taken but should take note of possible complaints by a returnee and record them in the monitoring report;
- Has to prepare for the operation accordingly and be sure to take with them all necessary items and material;
- Should be aware of and prepared for the long and unsocial hours related to monitoring missions, which requires a high level of flexibility and the necessity to stay alert and active during the entire operation;
- Shall be conversant and knowledgeable about all the different responsibilities applicable to the different phases of a forced return operation, including the optimum positions to assume that enable a full observation of the process;
- Has to be able to state the differences between a national FRO and a JRO.
Module 4

Reporting and Communication Responsibilities of Forced Return Monitors

Learning Objectives

At the end of this module, trainees will:

- Be able to define and describe the elements that should be included in the report and the preferred style to use;
- Identify important issues and possible difficulties related to filling in the reporting template and/or writing the report;
- Adhere to rules of confidentiality and respect for privacy;
- Identify their duties in relation to the communication involved in a national FRO/JRO.

Module Plan

Module 4: Reporting and Communication Responsibilities of Forced Return Monitors

<table>
<thead>
<tr>
<th>Session</th>
<th>Methodology</th>
<th>Duration</th>
</tr>
</thead>
</table>
| 4.1 Principles of Reporting, the Forced Return Monitoring Template and Lessons Learnt from its Application | - Short lecture on principles  
- Introduction to the different sections  
- Group work on lessons learnt - reporting  
- Discussion on lessons learnt | 2.5 H |
| 4.2 Dealing with a Possible Impact on the Monitor | - Introduction, buzz groups discussion  
- Trainee ideas for strategies during the operation, discussion  
- Introduction of the impacts of the operation, discussion of strategies, including peer support | 2 H |
| Closing of the Training | - Reflection exercise – ginger-man revision  
- Completed matrix – final review and review of expectations  
- Closing of the training | 4.5 H |

References

- Monitoring report template (see Annex 4)

Session 4.1: Principles of Reporting, the Monitoring Report Template and Lessons Learnt from its Application

The first part of the session (principles) is also covered within Module 2. The introduction to the template has to be covered, so that trainees can apply the report to the practical demonstration of coercive measures/restraints used by specially trained personnel.

<table>
<thead>
<tr>
<th>Topic</th>
<th>Time</th>
<th>Methodology</th>
<th>Supporting materials</th>
</tr>
</thead>
<tbody>
<tr>
<td>Principles of reporting</td>
<td>15 min</td>
<td>Introduction and lecture on principles</td>
<td>Projector, screen (wall), laptop, PPT</td>
</tr>
<tr>
<td>The monitoring report template</td>
<td>45 min</td>
<td>Introduction to the different sections of the template</td>
<td>Copies of the template – Annex 4 (or earlier distributed templates)</td>
</tr>
<tr>
<td>Review and lessons learnt from the practical application of the reporting template</td>
<td>30 min</td>
<td>Group work – lessons learnt from the application of the reporting template during the practical demonstration or session 4.2</td>
<td>(if possible, feedback by experienced monitor)</td>
</tr>
<tr>
<td></td>
<td>60 min</td>
<td>Discussion of lessons learnt and feedback on the reports Summary and closing</td>
<td>Flipcharts, markers</td>
</tr>
</tbody>
</table>

Total duration 150 min/2.5 H

Implementation of the Session

1. **Interactive lecture on principles** (see background reading)— in case you have covered this as part of module 2 and before the upcoming practical demonstration, remind the trainees of the principles. Introduce details on the report writing from the background reading, particularly emphasising the do’s and don’ts and all related information.

2. **Introduction to the different sections of the template.** Clarify to the trainees, that the lessons learnt from the application during the practical demonstration will be presented immediately after you have worked through the different parts of the report. Emphasise that even if this might seem a dry exercise to undertake, it is of utmost importance for the monitor to be conversant with all details required within the report. Distribute copies of the reporting template (from the Annex 4) or ask trainees to take out the earlier distributed copies (module 2) used for reporting on the practical demonstration.
of the coercive measures session. Take the trainees through the different forms of the reporting template and highlight the respective information required to be inserted, supported by a short summary on a PPT per phase if required. It might not be necessary to do that for all details of module 4, as these may have been covered in detail in 2.2. However, the trainees will have mainly used the in-flight and coercive measures part of the report, and so therefore cover the other parts in more detail.

3. **Group work.** Form groups around those monitors who have applied the reporting template and who will act as group co-ordinator. Provide each group with a flipchart and ask them to discuss the following (prepared on a flipchart for them to read or printed) (20-30 minutes):

- In which way do you consider the template to be helpful?
- What were the difficulties encountered in using the reporting template?
- What have you learned, applying the template, and what will you pay particular attention to?

4. **Presentation, discussion and feedback.** Ask the different groups to present their answers. Ensure they have access to the separate documentation of recommendations for change or additions in the explanation of the template, e.g. on a flipchart, where trainees add cards with the specific recommendations as and when they arise (or document it on the flipchart).

Provide feedback on the revised reports (either by you or an experienced monitor, see also background reading) in addition to the issues identified by the trainees. Where necessary, once again emphasise the do’s and don’ts.

Summarise the learning points and close the session.

**Note to the Trainer:** Emphasise, that even if they have to fill in the report afterwards by computer, a print out of the report might be helpful to register relevant information, including additional notes.

Any relevant observations on the template, difficulties encountered and other important issues should be noted, so that the template can be revised and adapted accordingly.
Background Reading

Communication by a Monitor at the Debriefing

Upon conclusion of the forced return operation, both national FRO and JRO, monitors should participate in the debriefing session of the escort leader (and escorts). Monitors shall provide a brief account of their main observations during the operation, to the escort leader, in particular those related to any incidents that they will mention in the report. The report should also contain a short and concise description of the debriefing, stating which topics were addressed and clearly defining their own contribution, if any. Feedback from the escort leader, if any, shall also be mentioned objectively in the monitoring report.

General Principles of Reporting

The monitors are bound by confidentiality as part of their duties, and, shall not disclose any information gained by fulfilling their monitoring obligations to any other parties than those clearly stated in the reporting criteria.

In their reporting, monitors shall follow the following principles:

- **Accuracy**
  Being certain that what is claimed to have happened, did in fact happen; making a clear distinction between facts and allegations by either cross-checking information provided or ensuring the full account of the different parties within the report;

  *What might hamper accuracy?*
  - bias of the monitor;
  - contradictory information;
  - lack of access to information;
  - stating allegations instead of facts.

- **Confidentiality**
  Ensuring that the information gathered is only submitted to authorised parties;

- **Impartiality**
  Refraining from advancing any private, particular or sectarian points of view in relation to returnees and/or other participants during the operation and within the report;

- **Non-Discrimination**
  Ensuring that all data is properly documented and all accounts stated without any prejudice and/or discrimination towards anyone based on their sex, nationality, religion
and/or role in the return operation.\textsuperscript{137}

**Who is the Report for?**

The monitoring report should in the future be submitted to the Secretariat of the European Pool of Forced Return Monitors, which checks it for quality and presents it to the organising authority in a national FRO, to the OMS (and Frontex, if coordinated by Frontex) in case of a JRO and to the Steering Group (of the European Pool) after approval.

**Writing the Report**

The report shall reflect facts and details about observations that were made and thus have to be reported. It should follow a presentation of facts on: a) what do I see, an assessment, b) what does that mean, and c) recommendations - what needs to change.\textsuperscript{138}

The report should be accurate regarding data and figures, e.g. how many returnees were present (disaggregated by male/female, adults/children, as required in the reporting template).

In those sections where comments are possible and/or required to be entered into the appropriate boxes, full detailed accounts of what happened during the forced return operation, should be documented. The boxes will expand while writing in them. Explanatory text is provided (\textit{in brackets and in italics}).

⚠️ The monitor has to be as precise, concise and as brief as possible although ensuring at the same time that all relevant details are reported.

Besides all relevant information on the forced return operation, including the number of returnees, (requested in boxes either to be marked or filled with information), the report should contain the following information on:

- Any significant incidents that occurred;
- Any means of restraint (type and duration) used in the course of the operation as well as the circumstances leading to it. This should be recorded on the coercive measures form of the report for each incident/use;
- Any force applied, to be documented on the form on coercive measures as above;
- Any complaint against any alleged ill-treatment that took place during the operation;
- Any actions that proved to be particularly helpful and/or positive (to provide lessons learnt).

\textsuperscript{137} Adapted from (Amnesty International and CODESRIA 2000)

\textsuperscript{138} Language requirements might differ. However, within the Framework of the European Pool of Forced Return Monitors, one report in English is sufficient and therefore, an additional report in the national language of the organising MS is not necessary.
In view of the strong focus on fundamental rights of those being returned, it is easy to forget that the monitor also has the duty to report on any misbehaviour of the returnee(s) vis-à-vis the escort. This should, however, also be included in the report.

Factual observations based on the monitor’s own experiences and reports obtained from secondary sources should be clearly differentiated between, within the report. Information about the monitor (what he/she did) should only be included when describing specific situations where being the monitor posed a limitation or where the monitor was involved, e.g. the contribution of the monitor during the debriefing.

Positive comments and best practices identified as well as any differences between the countries’ procedures of the return operations should be included so that the Member States can benefit from each other’s practices. Experienced monitors should also mention if they observe certain patterns, e.g. that the use of measure x always results in y, regardless of whether the outcome is positive or negative.

It is important to note that:

- The monitor shall respect the principles of accuracy, confidentiality, impartiality and non-discrimination at all times (before, during and after the return operation);
- The report shall include a factual account of what happened during the return operation. This should be based on the reporting template and include as much information and detail as is necessary to establish whether or not fundamental rights and/or procedures have been observed or violated;
- It is not appropriate for the monitor to include personal opinions about the general conduct and implementation of forced return or return decisions, in the report.

Do’s and Don’ts in Writing the Report

- Use the provided monitoring report template and follow the questions and pre-provided questions as well as taking the opportunity to provide information on the template at all times;
- Be conversant with the monitoring report template in order to take the necessary notes during the operation;
- Mark the applicable box in the template, if choices are given. Provide more information in the corresponding boxes, especially when requested in the case of marking yes or no (explanatory text is provided in *italics*);
- Use appropriate language, e.g. instead of using the word “arrested”, the monitor could use “brought into administrative detention”;

- Where something is not applicable, do not leave the box blank (to ensure that nothing has been overlooked/omitted) but mark n/a for not applicable;

- For application of coercive measures/restraints, use the respective form on coercive measures. **Use a separate form for each application of coercive measures/restraints or use of force (meaning you also have to take separate notes for each incident)**;

- Take note of the duration of the measures applied during your observation and indicate this in the report;

- Do not try to alter the template; the format is in any case protected. Should you want to provide more information and/or suggestions, use the comments boxes or the observation boxes provided after each section;

- When providing details, avoid reporting in ‘the first person’. Write in the third person e.g. it was observed..., the monitor... etc. The returnees and escorts should be the focus of the report at all times.

**In relation to a particular incident, the report should provide the following in detail:**

- Description of facts e.g. what happened during an incident;
- The role of each person in the incident;
- Whether the actions were proportionate, necessary and accountable and what was the basis for that assessment;
- Were there any factors that triggered the incident;
- What can be done to address concerns;
- What activities were performed well and by whom, e.g. escort, escort leader, returnee etc.

The monitor should:

- Address the **same findings/observations in the debriefing and in the report**;
- Refer to everyone, where applicable, by title or rank and name e.g. Mr and Mrs or Captain Smith, when providing information on participants;
- Discern between facts observed and hearsay or interpretation and include only the former;
- State the source of the information, if not first-hand;
- Always verify the information included in the report, even if this may take a considerable time after the FRO;
- Use quotation marks when quoting someone and identify who is being quoted.
The Monitoring Report Structure and Information to be Provided

The monitoring report template is protected, thus only allows information to be inserted in the respective open fields. You can navigate from field to field by using the tab-key on the computer.

At the beginning of the template there is one section for general information, otherwise it is divided between the respective phases of a forced return operation, including a specific form to indicate the use of coercive measures/force. The latter is to be used every time coercive measures, restraints or force are applied, and the following should be indicated: a) during which phase, and b) during which period of each phase did it happen, e.g. transfer. The template contains relevant questions with a number of boxes to be ticked and indicates if further information is required. For example, questions for which the answer is YES, provide details in the box provided.

The following text is only a support for the template, because not all questions asked in the template can be repeated here.

No boxes should be erased from the template and/or left blank. If nothing is to be reported, it should be marked, n/a (not applicable). Where relevant, comments should be included to provide factual information.

General information:

1. **Information about the monitor**: the monitor’s name, the field where the monitor has to sign the report, once finalised (and provide it as a signed and scanned document), date of completion of the report and any information requested in the header;\(^{139}\)
2. **Information on the return operation**: indicate the means of transportation (air, land, sea), FRO (i.e. national operation) or JRO and include date, departure point, number (if applicable), indication whether commercial (e.g. applicable if a cabin is booked on a train or ship or only some seats on a bus or a chartered means of transport). Include information about other participants: OMSs/PMSs countries, number of returnees, including country of origin, monitors, interpreters, and medical staff;
3. **Information on Returnees**: indication of exact numbers in the respective boxes as well as the total number of returnees;
4. **Summary**: short summary indicating how many individuals were returned, how many monitors participated, whether incidents happened and whether coercive measures were applied. It should reflect the main findings of the monitoring of the forced return operation;

\(^{139}\) The header is repeated in the different forms in order to ensure a better overview once the report is submitted.
5. **Recommendations**: any relevant recommendations that can be drawn from the observation or good/bad practices observed (indicate to whom these recommendations are directed e.g. who should do what);

6. **Information on the preparation of the mission**: indicate whether the preparation was sufficient e.g. information provided on time to the monitor, or if challenges were encountered during the course of the preparation.

When making recommendations, it is required to explain why and what they are related to. **National legislation and rules that are in place on the use of coercive measures are not subject for recommendations.**

**Pre-Return Phase**
Observations on the contact talks (and whether the monitor was present during the talks), including whether sufficient information (including information on the possibility of the use of coercive measures in case of uncooperative behaviour) was provided in a language that the returnee was able to understand or through an interpreter.

The information to be provided on the escort briefing is to be complemented with the inclusion of comments in the relevant boxes, and should relate to the type of information that was provided/discussed. However, if certain subjects were not discussed, provide a reason why. For example, if the seating plan was provided after the briefing, when exactly was it provided?

At the end, a box is provided for further information and observations, which can include complaints made by returnees, additional information on good and/or bad behaviour of escorts and any other relevant information that was not provided previously, etc.

**Pre-Departure Phase**
Pre-departure phase information relates to specifics on the physical security check, luggage and items taken away from the returnee, as well as relevant observations in relation to the transfer of returnees from the holding facility to the waiting area at the port of departure. The meeting of escort leaders in case of a JRO has to be observed, if applicable, as well as information provided in a meeting of national/European (JRO) monitors. The Pre-departure phase monitoring form ends with reference to the security check at the airport, if applicable, and the transport of returnees from the waiting area (relevant question related to the seating in the area, and the food and drink provided) to the means of transportation.

At the end, a box is provided for further information and observations, which for example can include, complaints made by returnees, additional information on good or bad behaviour of escorts and any other relevant information that was not provided earlier.
In-Flight Phase
Sections of the in-flight phase cover information on the embarkation process, including whether returnees resisted embarkation. Furthermore, all relevant information shall be provided about in-flight seating, incidents and in the case of use of force separate coercive measure forms have to be filled, medical incidents and presence of a doctor. At the end, a box is provided for further information and observations, which can include, e.g. complaints of returnees, further information on good or bad behaviour of escorts and any other relevant information that was not provided earlier.

Arrival Phase
Information to be given with regard to the arrival phase relates to whether restraints are removed, personal belongings are returned to the returnee(s), and the handover of luggage is ensured by the escorts. Furthermore, information has to be provided on the handover of the returnee(s) to the national authorities, the location where the handover takes place (inside the means of transportation or not), the duration of the handover, any returnees rejected by the national authorities, who have to be taken back to the country of departure, etc., see template for detailed questions. As the arrival phase includes the return to the country of departure (in the case of unsuccessful return), information should be provided on the return and indicate information regarding a possible stopover, if applicable, on the way back.

In case returnees have been refused by the national authorities as part of the handover in the country of return, they are taken back and handed over to the authorities in the country of departure. Therefore, monitoring applies in this case the same way it has before. The monitor would thus have to fill in another in-flight form on the way back, and in case of an overnight stay, possibly also a pre-departure form.

Information has to be included on the debriefing, whether it took place, where, who participated and the monitors’ contribution to it, as well as any feedback provided on the observations of the monitor.

At the end, a box is provided for further information and observations, which can include, for example, complaints from returnees, further information on good or bad behaviour of escorts, or the handover procedure (including observations of handling of returnees by the national authorities) and any other relevant information that has not already been provided.

Coercive Measures
Each time coercive measures or force is applied on a returnee, a separate form is to be filled in. This will happen when coercive measures need to be applied further into the operation following an incident, or additional coercive measures are applied on top of existing coercive measures, or, the same coercive measures are re-applied to the same returnee. Indicate the relevant and requested information, including details about the measures applied (see report template for the detailed information requested).
At the end of the form, further information and observations should be provided in a box, which can include additional observations (facts, including details of who did what) that might not be reflected by filling in the boxes. This can include, for example, complaints made by returnees, further information on good or bad behaviour of escorts and any other relevant information that has not already been provided. The monitor should also include any positive handling of a situation, which might help to establish good practices.

**Note to the Trainer**: Ask trainees to provide you with their reports after the completion of module 2 or the day after, so that you can review them. Should you yourself not be an experienced monitor, ask an experienced monitor to provide feedback on the reports (either to be transmitted via you to the trainees, or commented upon by the experienced monitor directly in the session).

In the session during which the trainees discuss the lessons learned through the application of what they have learned, offer clarification and further details, in response to any questions that may arise. Emphasise the use of the reporting format in accordance with the do's and don'ts and supporting information provided at the beginning of the section.

**Session 4.2: Dealing with the Possible Impact of Forced Return Operations on the Monitor**

<table>
<thead>
<tr>
<th>Topic</th>
<th>Time</th>
<th>Methodology</th>
<th>Supporting materials</th>
</tr>
</thead>
<tbody>
<tr>
<td>Possible impact: Symptoms and strategies (during and after a return operation)</td>
<td>25 min</td>
<td>Introduction, buzz groups, discussion</td>
<td></td>
</tr>
<tr>
<td></td>
<td>20 min</td>
<td>Trainee-ideas for strategies during the operation - documentation on flipchart (PPT or flipchart), discussion</td>
<td></td>
</tr>
<tr>
<td></td>
<td>30 min</td>
<td>Introduction about impacts after the operation, discussion on strategies, including peer support</td>
<td></td>
</tr>
<tr>
<td>Reflection exercise and review</td>
<td>45 min</td>
<td>Reflection exercise ginger-man Review of the complete matrix Highlights and learning insights from trainees and review of expectations (evaluation)</td>
<td></td>
</tr>
<tr>
<td>Closing</td>
<td></td>
<td>Closing of the training</td>
<td></td>
</tr>
<tr>
<td>Total duration</td>
<td>120 min/2 H</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Module 4 - Reporting Responsibilities of Forced Return Monitors
Implementation of the Session

1. **Dealing with possible impacts.** Start the session by introducing the topic (background reading, emphasise that there are impacts that can be experienced during and after the actual operation).

   Ask the trainees to get together with their neighbour and reflect for 5 minutes, on:

   a. The feelings they were experiencing during the practical demonstration, especially during the bad case scenario;
   b. The actual reactions they displayed (were they silent, visible, audible reactions).

   After 5 minutes, discuss the insights in plenary, leaving room for reflections on the variety of emotions one can experience, and how difficult it can be to control these.

   Ask the trainees for ideas on **possible strategies** to control and cope with the emotions on the spot, that is, **during the operation**. Document the ideas on a flipchart. Introduce the main strategies from the background reading.

   Likewise, in an interactive discussion, introduce the possible impacts **after** the operation and emphasise the importance of objectivity while writing the report. In a discussion, develop and discuss the possible strategies to cope with such impacts (document on flipchart, use background reading).

   Where required, support efforts of monitors to create a peer group by encouraging the trainees to set something up. If you have time, discuss the possibilities during the session.

2. **Reflection exercise.** Distribute another blank copy of the ginger-man to the trainees. Ask them to take out their ginger-man from before and reflect individually on what has changed. Based on that reflection, ask them to fill in their ginger-man again with the skills and knowledge they now perceive they have and/or feel they still need to work on. As before, they should write those skills and knowledge they possess inside the man, and those they feel they must still acquire outside. Based on the issues discussed in relation to possible impacts on the monitor, ask them to also review if they might need to include anything in relation to those insights gained.

3. **Final review of matrix.** As a closing exercise, take the trainees to one of the matrices developed throughout the training. Emphasise the importance of the phases, the monitor’s awareness of his/her role and responsibility, the applicable fundamental rights to observe and remind them one final time, that regardless of the difficulty of a given situation, they are not allowed to intervene.
4. **Evaluation and closing**. Ask the trainees for their highlights and insights that they have gathered and, where possible, refer back to the expectations voiced in their profiles in the first session. After thanking everybody for their participation, wish them all the best in applying what they have learned and fulfilling their role as monitors. Close the training. Distribute the evaluation form to be filled in by the trainees and handed in anonymously.

**Background Reading**

**The Possible Impacts of Forced Return Monitoring on the Monitor**

It is the task of the monitor during a forced return operation to observe and report but **never to interfere**. The fact that a monitor has no mandate to intervene can, especially in the case of incidents, be very challenging and requires a high level of emotional control during the return operation. There are also effects that a monitor might experience **after** a return operation.

**Impacts During the Monitoring Mission - How to Control your Emotions?**

As the trainees might have experienced themselves, the intuitive human reaction of some individuals when something is perceived as wrong is to intervene. Indeed, society teaches people to do so. The actual strength of this feeling might differ between individuals and might also be related to whether the individual concerned has an extroverted or introverted personality. Nonetheless, observing a situation which goes against an intuitive feeling and refraining from acting upon that feeling is challenging.

The monitor in these situations has to remain calm, controlled and cannot show agitation, or display visible or audible reactions. Under no circumstances can he/she be absent during an incident, e.g. use the toilet or in any way remove themselves from the situation.

Also, when approaching the escort leader with observations, for example if the monitor feels that in a certain case coercive measures could be loosened or removed, the monitor has to stay calm, controlled and make suggestions only. **It is always at the discretion of the escort leader and escorts whether to respond to the observations and suggestions made or not, based on their risk assessment.**

In order to be able to perform the tasks as a monitor, it is **paramount that the individual:**

a) **realises** that emotions may impede the monitoring task, even to the point of endangering objectivity in reporting;
b) **develops and applies strategies** to control these emotions and remains calm and controlled in order to discharge the duties of a monitor.

**Individual strategies** can be applied, and each person might over time realise what works best for them. However, some general strategies that are considered helpful in order to maintain control under stressful and emotional circumstances, and in order to be able to continue monitoring, are:

- **breathe** (actively and consciously – counting up to 5 and down to 0, in and out);
- **remind yourself of the task** of the monitor (if necessary say it to yourself in your head, “you cannot intervene, you are not allowed to intervene, focus on what happens”, repeating it as often as necessary);
- **concentrate on taking notes**: in all situations this is your main task. Remind yourself while taking notes, to be as objective as possible.

While observing, monitors can experience a variety of emotions, ranging from compassion, the urge to intervene, frustration at not being able to intervene, indifference, (based on the fact that one cannot intervene, or that one has already seen such a situation several times), to the rejection of the individuals they deal with, which can apply to the returnee(s) as well as to the escorts.

**Impacts after the Actual Monitoring Mission?**

Forced return operations, especially those involving incidents, can have an impact on the monitor even **after** the operation. On the one hand, this relates to the fact that the range of emotions described can impact the ability of monitors to report objectively, thus negatively impacting the performance of the monitor.

While writing the report, the monitor has to continuously control him/herself and check whether what is written is objective and factual.

On the other hand, situations witnessed during a forced return operation, and the feeling of not having been able to intervene, might impact the wellbeing of the monitor well after the operation. Since the monitor will most likely not be observing a forced return operation every day or several times a week, secondary trauma (also called vicarious trauma) might not necessarily apply. Nonetheless, being subjected to stressful and difficult situations, as well as not being able to intervene, can have a lasting impact. The first step is realising that this has happened, which is closely related to careful self-observation.

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140 Professionals who work with victims of trauma or human rights violations, as well as more generally with people in need on a regular basis, experience psychological strain. The demanding complexity of the work and frequent encounters with people who are traumatised or afraid, or who exhibit mental or physical distress, as well as hearing their stories, can lead to these professionals developing vicarious or secondary trauma, which has to be identified and acted upon.
Some symptoms that are related to secondary trauma are:\footnote{Frontex, Fundamental Rights Manual for Border Guard Trainers, 2012}

- Intrusive thoughts;
- Chronic fatigue;
- Sadness;
- Anger;
- Poor concentration;
- Detachment;
- Emotional exhaustion;
- Fearfulness;
- Shame;
- Absenteeism;
- Alcohol or drug abuse.

**Strategies**

If you observe a number of symptoms, do not hesitate to act upon them.

- **Talk to somebody.** Talking about it helps. It may be a friend or even a fellow monitor (see below). However, ensure to observe the required confidentiality and do not reveal any names or details of the return operation. Instead, focus on describing your own emotions and the difficulties you are experiencing;
- **Seek professional help,** e.g. counselling. Depending on the organisation you work for, supervision sessions might also be a possibility, so inform yourself;
- **In many professions, peer support** has proved to be of great help, especially in relation to dealing with difficult situations. Talking to colleagues (e.g. other monitors) might provide the opportunity to share any kind of related emotions or frustrations, as well as to discuss possible coping strategies. If not offered as a regular and institutional approach (which might be externally moderated and/or be provided to all monitors once or twice a year), monitors can discuss the possibility of establishing peer support groups involving different set-ups and/or exchanges via established platforms.

**Key Learning Points Module 4**

- The monitor has to respect the principles of accuracy, confidentiality, impartiality and non-discrimination at all times;
- The report has to state the facts that happened. This includes observations of things that happened and that did not happen;
- The monitor has to follow the monitoring report template and is not permitted to alter it;
Where appropriate, factual observations (including the what, when, by whom and why, where applicable) have to be included in the report;

The monitor should not voice opinions about the general system of returns or question the legality of the return decision/removal order;

The report should also include observations of situations or issues that were handled well so as to facilitate the documentation of good practices and learning;

The monitor has to be aware of the fact that observation of return operations can have impacts on his/her ability to discharge the task and also on his/her well-being after the event;

Strategies relating to how to deal with rising emotions, include focusing on: techniques to manage breathing, reminders of the required tasks and mandate, and comprehensive and thorough note taking;

While writing the report, and when reporting on incidents, the monitor has to review constantly the information provided, to guarantee objectivity in the reports;

Should the monitor at any time experience symptoms related to being overwhelmed by what has been witnessed, he/she should seek supervision (if accessible) and/or professional help.
1 - Sample Training Programme of a Course for Forced Return Monitors

This sample training programme is intended as a guide for the trainer. However, the trainer is encouraged to use the manual with flexibility, and therefore, adapt it to the different needs arising either from the trainees or the organisations involved, e.g. the practical demonstration on the use of force. In principle, the modules can be interchanged (mainly modules 2 and 3).

<table>
<thead>
<tr>
<th>Day 1</th>
<th>2 H</th>
<th>Welcome and Introduction to the Course</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>• Welcome and introduction by organisers and trainers;</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• ‘Getting to know you’ and expectations;</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Training programme and rules.</td>
</tr>
<tr>
<td>1 H</td>
<td>Module 1: Introduction to Forced Return Operations</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Session 1.1: Introduction to Return;</td>
</tr>
<tr>
<td>1.5 H</td>
<td></td>
<td>• Session 1.2: Forced Return Operations; Types and Phases;</td>
</tr>
<tr>
<td>1.5 H</td>
<td></td>
<td>• Session 1.3: Monitoring and Fundamental Rights Applicable in Forced Return Operations.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Day 2</th>
<th>1.5 H</th>
<th>Module 2: The role of the escort and the use of coercive measures</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>• Session 2.1: The Role and Mandate of Escorts;</td>
</tr>
<tr>
<td>Min half day</td>
<td></td>
<td>• Session 2.2: Use of Coercive Measures and Restraints;</td>
</tr>
</tbody>
</table>

| Day 3 | 2 H | | |
|---|---|---|
| | | • Session 2.3: The Responsibilities of Escorts within the Different Phases of a Forced Return Operation; |
| 1.5 H/2 H | | • Session 2.4: Case Study: Analysis and Application/Video. |
| 1.5 H | Module 3: The Role, Mandate and Responsibilities of a Forced Return Monitor |
| | | • Session 3.1: The Role and Mandate of Forced Return Monitors; |

<p>| Day 4 | 2 H | | |
|---|---|---|
| | | • Session 3.2: Responsibilities of a Monitor during a Forced Return Operation: Pre-Operation; Pre-Return and Pre-Departure Phase; |
| 2 H/3 H | | • Session 3.3: Responsibilities of a Monitor during a Forced Return Operation: In-Flight and Arrival Phase; Debriefing and Reporting. Case Study and FAQs Session with Experienced Monitor. |</p>
<table>
<thead>
<tr>
<th>Time</th>
<th>Session</th>
</tr>
</thead>
</table>
| 2.5 H | **Module 4: Reporting and Communication Responsibilities of Forced Return Monitors**  
|       | - Session 4.1: Principles of Reporting, the Monitoring Report Template and Lessons Learnt from its Application; |
| 2 H   | - Session 4.2: Dealing with a Possible Impact on the Monitor.            |
| 1 H   | **Evaluation and Assessment**                                           |
|       | - Test for Monitors;                                                   |
|       | - Feedback on the Training Programme;                                   |
|       | - Closing of the Training.                                             |
|       | **Pilot Monitoring Operation (1-2 days)**                              |
2 – Material for Distribution during the Training

The following pages contain handouts concerning the respective sessions to be used for printing and distribution as part of the training.

Handout Session 1.0: Setting the Scene – Profile Template for Trainees
Print and copy the following page and distribute it to the trainees.
# Handout Session 1.3: Phases of Forced Return Operations

<table>
<thead>
<tr>
<th>Forced Return Phase</th>
<th>Description</th>
<th>Covered by EPFRM</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Detention-Phase</strong></td>
<td>The detention for the purpose of removal is regulated by Articles 15-17 of the Return Directive. It may last for up to six months, exceptionally extendable to 18 months; the return decision/removal order has been issued; the person did not leave voluntarily; the return authority/authorities prepare(s) the forced return. <strong>Note:</strong> This phase is considered outside the scope of forced return monitoring conducted by EPFRM monitors. Basically, all EU Member States and associated States have monitoring systems of long term detention in place, which are either covered by national NGOs or national prevention mechanisms. Additionally, the administrative deprivation of liberty is subject to control by international monitoring mechanisms, such as the CPT.</td>
<td>-</td>
</tr>
<tr>
<td><strong>Pre-Return Phase</strong></td>
<td>The pre-return phase starts after all legal remedies have been exhausted. It is not the task of the monitor to question the legality of the return decision. The pre-return phase may start a minimum of 24 hours prior to the departure during which the monitor will verify whether the prospective returnee has been informed, including the briefing by the escort leader of the national escort team. The pre-return phase includes the steps detailed in the figure below. <strong>Please note</strong> that national forced return operations feeding into the hub of the JRO entail all steps related to the pre-departure and inflight phases, as will be further described in the respective phases.</td>
<td>✓</td>
</tr>
</tbody>
</table>
Pre-Return Phase

Covers the period from leaving the (temporary) holding/detention facility until shortly before or just at the moment of embarkation. In this phase, the escort team is briefed at the hub (in case of a JRO), and the returnee(s) may stay in a holding/waiting/detention facility at the place of embarkation. The pre-departure phase ends shortly before or just at the moment of entering the means of transportation for the return operation (aircraft/bus/train/ship).

It includes the steps detailed in the figure(s) below.

Pre-Departure Phase

Covers the period from leaving the (temporary) holding/detention facility until shortly before or just at the moment of embarkation. In this phase, the escort team is briefed at the hub (in case of a JRO), and the returnee(s) may stay in a holding/waiting/detention facility at the place of embarkation. The pre-departure phase ends shortly before or just at the moment of entering the means of transportation for the return operation (aircraft/bus/train/ship).

It includes the steps detailed in the figure(s) below.
### Forcéd Return Phase

<table>
<thead>
<tr>
<th>Description</th>
<th>Covered by EPFRM</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>In-Flight Phase</strong>&lt;br&gt;Starts with entering the means of transportation (e.g. aircraft, bus, train, ship) used for the removal and ends with the arrival at the final destination (country of return or, in case of an unsuccessful return, back to the country of departure, in case of JROs back to the hub), including the transit via another country.&lt;br&gt;It includes the steps detailed in the figure below.</td>
<td>✓</td>
</tr>
<tr>
<td>1. Embarkation and transportation of returnee(s) on board the means of transportation for the forced return (aircraft, bus, train, ship)&lt;br&gt;2. Stopover - if applicable, e.g. to collect other returnee(s) (with their escorts) and/or the country of return for some returnee(s). In case of a stopover, the in-flight phase applies again</td>
<td></td>
</tr>
<tr>
<td><strong>Arrival</strong>&lt;br&gt;Covers the period starting from arrival at the country of return and ends after the returnee(s) have been handed over to the national authorities in the country of return, or, in case of an unsuccessful return, the handover to authorities back at the country of departure.&lt;br&gt;It includes the steps detailed in the figure below.</td>
<td>✓</td>
</tr>
<tr>
<td>1. Arrival by means of transportation in the country of return&lt;br&gt;2. Handover of returnee(s) to the authorities in the country of return&lt;br&gt;3. Stopover - if applicable&lt;br&gt;4. Return to the country of departure (JRO; hub)&lt;br&gt;5. Debriefing</td>
<td></td>
</tr>
<tr>
<td><strong>Post-Arrival Phase</strong>&lt;br&gt;Covers the period after the returnee(s) has/have been handed over at the country of return.&lt;br&gt;Note: This phase is considered outside the scope of forced return monitoring conducted by monitors of the European Pool of Forced Return Monitors (EPFRM).</td>
<td>&quot;</td>
</tr>
<tr>
<td>EU Member State</td>
<td>Legal source providing for monitoring forced return</td>
</tr>
<tr>
<td>----------------</td>
<td>-----------------------------------------------</td>
</tr>
<tr>
<td>AT</td>
<td>Alien Police Act (link is external) (Fremdenpolizeigesetz, FPG) §46 read together with §10 Alien Police Act nº Operative Act (link is external) (Fremdenpolizeigesetz-Durchführungsverordnung, FPG-DV)</td>
</tr>
<tr>
<td>BG</td>
<td>Aliens Act (link is external) (Закон за чужденците в Р България), Art. 39а (2)</td>
</tr>
<tr>
<td>CY</td>
<td>Aliens and Immigration Law (link is external) (Cap 105) (Ο περί Αλλοδαπών και Μεταναστεύσεως Νόμος (ΚΕΦ 105), Art. 18Π (6)</td>
</tr>
<tr>
<td>CZ</td>
<td>Act No. 349/1999 Coll. (link is external) on the Public Defender of Rights Act, Section 1 (6), as amended</td>
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<td>EU Member State</td>
<td>Legal source providing for monitoring forced return</td>
</tr>
<tr>
<td>-----------------</td>
<td>---------------------------------------------------</td>
</tr>
<tr>
<td>DE</td>
<td>No legal basis</td>
</tr>
<tr>
<td>DK</td>
<td>Aliens Act (link is external) (Consolidation Act No. 1061 of 18 August 2010, and further amendments), Art. 30a</td>
</tr>
<tr>
<td>EE</td>
<td>Obligation to Leave and Prohibition on Entry Act (link is external) (Väljasõidukohustuse ja sissesoidekeelu seadus), RT I, 15 March 2014, 98, 21 October 1998, Art. 6.4</td>
</tr>
<tr>
<td>EL</td>
<td>Law 3907/2011 (link is external) (transposing Directive 2008/115/EC), Art. 23 (6)</td>
</tr>
<tr>
<td>ES</td>
<td>Organic Act 3/1981 (link is external), of 6 April regarding the Defensor del Pueblo, as amended, and Rules of the Organisation and Functions of the Defensor del Pueblo (link is external)</td>
</tr>
<tr>
<td>FI</td>
<td>Aliens Act (link is external) (ulkomaalaislaki/utlänningslag), No. 301/2004, Section 152 (b)</td>
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<tr>
<td>FR</td>
<td>Law 2007-1545 (link is external) of 30 October 2007 establishing a General inspector of all places of deprivation of liberty, Art. 1</td>
</tr>
<tr>
<td>EU Member State</td>
<td>Legal source providing for monitoring forced return</td>
</tr>
<tr>
<td>-----------------</td>
<td>--------------------------------------------------</td>
</tr>
<tr>
<td>HR</td>
<td>Foreigners Act (link is external) (Zakon o strancima) (OG 74/13), Art. 116 (6) and Ordinance on the Treatment of Foreigners (link is external) (Pravilnik o postupanju prema strancima) (OG 126/14), Art. 37</td>
</tr>
<tr>
<td>HU</td>
<td>Act 2007 II on the Entry and Stay of Third-Country Nationals (link is external) (2007. Évi II. Törvény a harmadik országbeli állampolgárok beutazásáról és tartózkodásáról), Art. 65 (9)</td>
</tr>
<tr>
<td>IE*</td>
<td>No monitoring system in law</td>
</tr>
<tr>
<td>IT</td>
<td>Law 10/2014 (link is external) of 21 February 2014, Art. 7</td>
</tr>
<tr>
<td>LT</td>
<td>Law on the Legal Status of Aliens (link is external) (Istatymas Dél užsieniečių teisinės padėties), No. IX-2206, 29 April 2004 (and further amendments), Art. 126 (2)</td>
</tr>
<tr>
<td>LU</td>
<td>Immigration law of 25 June 2013 (link is external), Art. 109-116 and Grand-ducal decree of 26 September 2008 (link is external) (coordinated text of 22 August 2011), Art. 6 (2)</td>
</tr>
</tbody>
</table>
### Forced return monitoring systems - State of play in 28 EU Member States

<table>
<thead>
<tr>
<th>EU Member State</th>
<th>Legal source providing for monitoring forced return</th>
<th>Organisation responsible for the monitoring</th>
<th>Operational?</th>
<th>Monitors on board of flights?</th>
<th>Public report?</th>
<th>ERF funded?</th>
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<tbody>
<tr>
<td>LV</td>
<td>Immigration Law (link is external) (Imigrācijas likums), Section 50.7</td>
<td>Ombudsman’s Office (link is external) (Tiesibargs birojs)</td>
<td>✓</td>
<td>X</td>
<td>✓</td>
<td>✓</td>
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<tr>
<td>MT</td>
<td>Board of Visitors for Detained Persons Regulations (link is external), Legal Notice 266 of 2007, Subsidiary Legislation 217.08, Art. 3(g)</td>
<td>Board of Visitors for Detained Persons (DVB)</td>
<td>✓</td>
<td>X</td>
<td>X</td>
<td>X</td>
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<tr>
<td>NL</td>
<td>Alien Return Monitoring Regulation (link is external) (Regeling toezicht terugkeer vreemdelingen) Law Gazette (Staatscourant) of 23 December 2013, No. 35638.</td>
<td>Security and Justice Inspectorate (link is external)(Inspectie Veiligheid en Justitie)</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>X</td>
</tr>
<tr>
<td>PL</td>
<td>Act on foreigners (link is external) (Ustawa z dnia 12 grudnia 2013 r. o cudzoziemcach, Dz.U. 2013 poz. 1650), 12 December 2013, Art. 333</td>
<td>Various NGOs, e.g. Helsinki Foundation for Human Rights (link is external), Rule of Law Institute Foundation (link is external), Halina Nieć Legal Aid Centre (link is external), MultiOcalenie Foundation (link is external)</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>PT</td>
<td>Decision of the Ministry of Internal Administration No. 11102/2014 (link is external) (Despacho do Ministério da Administração Interna n.º 11102/2014), Government Gazette, 2nd Series, No. 168 (Diário da República, 2.ª série, N.º 168), 2 September 2014</td>
<td>General Inspectorate of Internal Affairs (link is external) (Inspeção-geral da Administração Interna, IGAI)</td>
<td>X</td>
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<td>EU Member State</td>
<td>Legal source providing for monitoring forced return</td>
<td>Organisation responsible for the monitoring</td>
<td>Operational?</td>
<td>Monitors on board of flights?</td>
<td>Public report?</td>
<td>ERF funded?</td>
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<td>RO</td>
<td>Government Ordinance No. 25/2014 (link is external)</td>
<td>Romanian National Council for Refugees (link is external)</td>
<td>✓</td>
<td>X</td>
<td>X</td>
<td>✓</td>
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<td>SE</td>
<td>Aliens Act (link is external) (2005:716) (Uttänningslag (2005:716))</td>
<td>Swedish Migration Board (link is external) (Migrationsverket)</td>
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<td>SI</td>
<td>Aliens Act (link is external) (Zakon o tujcih, ZTuj-2), 15 June 2011 (Official Gazette No. 50/2011, 27 June 2011), Art. 69, para. 5–7</td>
<td>Not appointed yet</td>
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<td>SK</td>
<td>Act No. 404/2011 Coll. on residence of aliens (link is external) (Zákon č. 404/2011 o pobyte cudzincov a zmene a doplnení niektorých zákonov), Art. 84 (8)</td>
<td>Ministry of Interior</td>
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<td>UK*</td>
<td>Minister of State, Ministry of Justice, Written ministerial statement – 31 March 2009 (link is external), HC Col 56WS, 31 March 2009</td>
<td>Her Majesty’s Inspector of Prisons (link is external) (HMIP), Independent Monitoring Boards (link is external) (IMBs)</td>
<td>✓</td>
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✓ Yes  
X No  
– Information not applicable

Information last updated on 28 August 2015
Handout Session 2.1: Analysis and Observation Exercise/Video

Watch the **Frontex video on Joint Return Operations**
(11:22 minutes, YouTube link: https://www.youtube.com/watch?v=pPrlAN7sAo).

In the designated groups, answer the following questions from the video:

A) **Involvement, roles and responsibilities**

   a. What kind of return operation is depicted?
   b. Who is involved, i.e. organisations and members of the return operation, staff present, including their roles and mandates?
   c. How do escorts (and/or others) deal with the returnees (behaviour, language etc.)?
   d. What is said about who is returned as part of the forced return operation?

B) **Procedures and phases**

   a. Is this a national FRO or a JRO?
   b. What is the role of Frontex?
   c. What is said to be the hub of the operation and which other stops are involved?
   d. Which different phases of a return operation can you identify in the video, with what specific procedures?
   e. Which information is given during the briefing and by whom?
   f. How many returnees were returned/handed over?

C) **Fundamental rights and monitors**

   a. Are restraint measures applied (e.g. handcuffs)?
   b. How do escorts deal with the returnees (behaviour, language etc.)?
   c. Do returnees seem to have luggage with them?
   d. Is a monitor present and what is said about the tasks and responsibilities of the monitor?
   e. Who else will evaluate the joint forced return operation?
   f. What are said to be advantages of Joint Return Operations?
Handout Session 2.4: Case Study: Roles and Responsibilities of Escorts.
Part 1

Part 1 – Pre-return phase: Mr Masev & Mr Raviev

Background: A forced return of 23 persons, mostly families, is planned from the country of departure. Contact talks between the escort leader and each of the returnees are conducted and you, the monitor, are present. Among the returnees, the escort leader also talks to Mr Masev and Mr Raviev.

Mr Masev, a 22-year-old single man, is being held in a security cell. He is wearing medical one-way-clothes (disposable clothing) and a form of corset on one leg because of medical problems. After being informed of his imminent return by the escort leader, providing the date, the time, the port of departure and the procedure foreseen, Mr Masev claims that until now he has not been informed of his intended return. He says that he does not want to be returned because this would place him in danger and he claims that two of his friends have already been assassinated. He asks if the escort leader will take responsibility if something bad happens to him. Mr Masev vaguely threatens retribution in the event that he is forcefully returned.

Mr Raviev and his family of six are to be returned together and presently have been given accommodation in a special family unit. Mr Raviev, who is 35 years old, is very stressed and demonstrates mild aggression during the contact talk with the escort leader. He claims that he was a fighter in the country of return and that he has psychological problems. Also, one of his children has been ill since birth and he asks how his family can be returned when this child requires medical treatment. In addition, he says that he is waiting to receive €1,080.00 from the social services in the host country and that if he does not receive this money, he will make trouble. The escort leader promises to seek a solution regarding the money, at which point Mr Raviev stands up abruptly and leaves the room in anger.

Questions

1. What do you think about these contact talks – were they appropriate, what kind of information was given/could the escort leader gather?
2. What needs to be considered/further clarified after the contact talks?
3. What challenges can be expected/should be considered following the talks?
Part 2 – Pre-departure phase: Mr Masev & Mr Raviev

The physical security check of Mr Masev takes place in the security cell. The reason for the check is that according to an officer in the facility, Mr Masev attempted to hang himself with the elastic bandage from the corset he wears on his leg. During the physical security check, Mr Masev co-operates fully, without causing problems and gives no indication that he may resist his pending return.

The escort leader informs Mr Raviev that a solution has been found and that he will receive the €1,080.00 after the arrival in the country of return. He calms down and apologises to the escort leader, explaining that due to his injury during the civil war and his psychological condition he is not always able to control himself.

Questions

1. What would you expect the escort leader to do in preparation for the flight?
2. Do you see a need for coercive measures? How do you justify your answer? If yes, which kind of coercive measures and for what reason?
Part 3 – In-Flight Phase: Mr Masev & Mr Raviev

The escort leader decided to return Mr Masev without the use of any coercive measures. To prevent self-harm and/or danger to other persons, Mr Raviev was made to wear a body-cuff starting from the security check at the airport to landing in the country of return, a six hour duration. He cooperated in putting on the body-cuff and did not cause trouble during the transportation. The body-cuff was used in such a way that allowed Mr Raviev to eat, drink and smoke without unnecessary restriction.

The return of all 23 persons took place without any incidents.

Questions
3. What would be the main events to report in relation to coercive measures/restraints?
4. Was the use of coercive measures necessary and proportionate? How do you justify your answer?
Handout Session 3.1: Reflection Exercise – Ginger-Man
Handout session 3.2: Preparatory check-list

Preparatory Check-List

Travel documents

- Carry a valid passport and visa (if required) even if JROs often do not involve border controls;
- Monitors should bring along the ID card that connects him/herself with the letter of appointment;
- Certificate of vaccination (if required);
  Details regarding visa arrangements shall be provided by the Secretariat.

Packing

Besides necessary personal belongings, the monitor shall take the following things:

- It is recommended to use a backpack in order to facilitate movement and to keep both hands free;
- Waterproof clothing with a headpiece or cap. An umbrella is not to be used, as it impedes movement and observation;
- Pocket sized notepad (instead of A4);
- Mobile phone for personal use with the approval of the escort leader.

Dress Code

- Civilian clothes (high heels, neck tie, etc. should be avoided);
- Pack an extra set of clothes, irrespective of whether a stopover is planned or not, as the schedule might change;
- The specific reflective vest, identifying the person wearing it as a "Monitor" and ensuring easy identification for access to restricted areas, such as the airfield, should be worn while on duty. The reflective vest is to be worn in all weathers over the coat (see Monitoring Tool Kit to be provided by the Secretariat in the Guidelines);
- Sleeping masks, headphones and earplugs are not permitted during a monitoring mission (with the exception of successful returns and an empty flight back to the country of departure).

Documentation

Handout session 3.3: Case study – monitors – Part 1

Part 1 – Pre-return phase: Ms Saeva and Ms Ramirova

**Background:** The returnees were in the host country for many years. The families of the respective returnees had the right to appeal/complain. In both cases this right was used.

A forced return via air to Moscow is scheduled. Ms Saeva and Ms Ramirova are among the returnees with whom the escort leader is having a meeting (contact talk) one day before the flight. A female escort, an interpreter and a social worker assist the escort leader. The escort leader explains the conditions of the pick-up at the detention centre (family unit), the transfer to the airport and the flight to the country of return. A phone call to contact a relative or person of trust is offered.

Ms Saeva is a 44-year-old woman from Chechnya and has been living together with her two sons (the eldest 18-years-old, the youngest 9-years-old), in the host country since 2009. Their claim for asylum and subsequent appeals were rejected by authorities and courts in 2009, 2010 and 2012 respectively. Ms Saeva is detained at home. Her youngest son is present, her eldest son is not at home at the time.

During the contact talk with the escort leader, Ms Saeva states not to know the whereabouts of her 18-year-old son, since he left the home early in the morning. Asked by the escort leader to phone the missing son, she refuses and says that she has deleted her mobile phone register and does not know his number. She starts to cry, and says that after the return to her home country, her uncle will take her child away. She claims to be ill and asks for asylum again. She is informed by the officials present, that her new asylum request will proceed according to law, although it will not stop the forced return scheduled for the next day.  

Ms Ramirova is 33-years-old and has a 5-year-old daughter. Two previous attempts to return her by scheduled flights were aborted because she refused to co-operate. During the contact talk with the escort leader regarding the pending return operation by a charter flight, she makes it very clear that she does not want to be returned. She raises her voice and hammers her fist on the table. She claims that whilst in Chechnya, she shot her husband twice and that consequently, her daughter is traumatised. She also states she is pregnant. Furthermore, she says that she will complain about this injustice. The escort leader informs her about the authority and order given to the escorts to enforce the return. The two women are each given the opportunity to make a phone call to someone in the country of return to inform them about their scheduled arrival.

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Questions

1. What professional attributes and personal characteristics should a monitor have?
2. What challenges can be expected in the case of Ms Saeva and Ms Ramirova?
3. What specifically does the monitor have to observe and which information does the monitor have to gather in this phase?
Part 2 – Pre-departure phase: Ms Saeva and Ms Ramirova

Upon the completion of the contact talk, medical checks are undertaken and both Ms Saeva and Ms Ramirova as well as their children are declared fit-to-travel. The physical security checks and the pick-up of Ms Saeva and her 9-year-old son by the escorts are completed without any problems. Ms Saeva co-operates and no restraints are used.

However, regarding Ms Ramirova, an employee at the family unit in which she was being held, reports that earlier she attempted to block the door of her room from the inside. In view of Ms Ramirova’s behaviour during the contact talk the previous day and due to earlier aborted attempts to return her, the escort leader keeps a body-cuff prepared in case she fails to co-operate during the physical security check.

Ms Ramirova refuses to co-operate and the body-cuff is used. As her agitation grows, further restrictions of movement are applied, including the use of sling lines are on her upper arms and legs. Escorts have to carry her on to the bus for transfer to the airport, as she refuses to move.

Questions

1. What do you expect the escort leader to consider regarding the children of Ms Saeva and Ms Ramirova?
2. What does the monitor have to specifically observe and which information does the monitor have to gather?
Handout session 3.3: Case study – monitors – Part 3

Part 3 – Pre-departure phase: Ms Saeva and Ms Ramirova

Escorts (including female escorts) take the 5-year-old daughter of Ms Ramirova to a separate room at an early stage of the potentially escalating situation, in order to avoid her witnessing her mother’s resistance and the possible use of force and restraints.

For the transfer, different vehicles are used for mother and daughter. While driving in a convoy, the daughter is placed with another family with children, and steps are taken to ensure that she can always see the vehicle her mother is in. A female escort is present to take care of her. After arriving at the airport, Ms Ramirova starts to shout at the escorts and kicks the seat in front of her in the car. She clings to the seat and refuses to let go. The male and female escorts use physical force to remove her from the car and take her inside the airport to conduct the security check. After the security check, Ms Ramirova is handcuffed. Thereafter, the monitor stays with Ms Ramirova in the waiting area of the airport. Ms Ramirova is separated from the other returnees and seated with a female and a male escort. She continues to shout and curse and spits at the escorts as well as at the monitor.

The security check of her daughter, meanwhile, is conducted separately. Mother and daughter are seated in different rooms, but remain close to each other in the waiting area.

After Ms Ramirova has been calmer for several minutes, escorts agree to her request to loosen the handcuffs when she claims that the cuff on one hand is too tight. At this time, the emergency doctor checks the condition of Ms Ramirova. The doctor offers her a sedative to calm her down and Ms Ramirova agrees. She takes a glass the doctor hands her and takes a sip. She spills the remaining drink, seemingly on purpose. She has done the same before, when mineral water was offered by an escort. As Ms Ramirova still refuses to co-operate, three escorts carry her to a car for the transfer to the aircraft, while the other returnees are transferred by bus.

Ms Saeva, who has remained calm during the physical security check at the facility, is placed in a car with other returnees, together with her son, to be transferred to the port of departure. During the airport security check, she becomes a little agitated, and the escorts try to calm her down verbally. After a short while, she relents and is seated with her son in a room in the waiting area of the airport. When the transfer to the aircraft is announced to her, Ms Saeva begins shouting and crying about the fact that her older son is not with her. Because she does not calm down, an escort takes her younger son to another room (and then onto the bus with the other returnees in the company of another family) while the escorts try to calm Ms Saeva down. She, however, refuses to move, and ultimately handcuffs are applied. She is placed in a separate car (with mild force) to be transferred to the aircraft.
Questions

1. What do you expect the escort leader to consider with regard to the children of Ms Saeva and Ms Ramirova?
2. As a monitor, what should you consider when observing the use of coercive measures and force by escorts?
3. What considerations are important with regard to the medical care offered?
Part 4 – In-flight phase: Ms Saeva and Ms Ramirova

To avoid problems upon entering the aircraft via the gangway, the escorts decide to use a “SideBull”, a special vehicle used for passengers with reduced mobility (e.g. wheelchair users). Ms Ramirova continues to shout and attempts to bite the escorts whilst being brought onto the aircraft. This results in them both being confined to their seats by the use of sling lines tied around the upper arms without, however, restricting their ability to breathe.

Ms Saeva once again complains loudly and vehemently about being returned without her grown-up son, and the escorts decide to use the SideBull for her as well to avoid the agitation of the other returnees.

Both children are seated separately from their mothers with escorts and other families. During the flight, Ms Ramirova tries to spit on the escorts sitting next to her. Ms Saeva is watching and imitates the behaviour of Ms Ramirova. A protection mask (as used to prevent the spread of flu) is placed over the mouths of both women. Very soon, the women stop their efforts to spit at the escorts and the masks are removed. As Ms Ramirova’s mood alternates between calm and agitated, the body-cuff remains in place until arrival at the country of return.

Half way through the flight Ms Saeva calms down and the restraints tying her to her seat including the handcuffs are removed. She is no longer deemed to be causing problems and after a while is permitted to sit with her son.

Questions

1. Where would you expect Ms Saeva and Ms Ramirova to be seated in relation to other passengers?
2. Do you think the use of coercive measures and force was correct (during the entire operation)? State reasons for your answer.
3 - Terms of Reference for Forced Return Monitors

The European Pool of Forced Return Monitors (EPFRM) should be comprised of qualified and trained forced return monitors available to conduct monitoring of forced return operations for Partner States of the EPFRM. Monitors should be carefully selected based on accorded and established criteria outlined in the following.

Eligibility Criteria

Only natural persons are eligible for being selected as monitors for the European Pool of Forced Return Monitors. Organisations or institutions are therefore not eligible.

The **general qualifications and skills** required for monitors are:

- Ability to evaluate analytically and to use impartial judgment;
- Ability to communicate effectively orally and in writing;
- Be and act independent from the organisation and the escort personnel responsible for the return operation;
- Be free from any conflict of interest in relation to forced return operations in order to impartially conduct the monitoring;
- Capacities to identify, observe and report impartially on fundamental rights’ concerns and recommend solutions.

Persons applying to become a forced return monitor of the EPFRM, should have the following **specific qualifications and skills**:

- Advanced university degree in international relations, law, political science, social science, or related field is an asset or 10 years of professional experience out of which 5 years in fields related to migration and/or fundamental rights. Alternatively two years of monitoring experience;
- Professional background in fundamental/human rights, international work, social work or psychology is an asset;
- Knowledge and experience in conducting forced return monitoring activities is an asset;
- Excellent communication skills;
- Good command of English (written and spoken);
- Command of languages of frequent countries of return is an asset;
- Be physically capable of performing the duties assigned (monitor overnight flights, stay awake for long hours, be flexible and start in early morning hours etc.).

Following a call for application, interested candidates should submit a CV outlining their respective qualifications and skills to the EPFRM Secretariat.
Selection of monitors

Monitors are selected in accordance with the qualifications and skills outlined above in a selection procedure headed by the EPFRM Secretariat and the respective Selection Committee. Shortlisted applicants will be contacted by the EPFRM Secretariat for an interview.

Conditions

Upon successful selection, monitors shall be contracted for a specific term of three years with the possibility of prolongation and following a probation period of six months during which they are part of the EPFRM. After the contract ends, a review shall take into account the overall performance of the monitor to decide upon a prolongation of the engagement of the monitor. Performance criteria may form an integral part of the contract with the monitors.

The monitor shall be bound by confidentiality as part of their contract. Monitors shall not disclose any information gained by fulfilling their monitoring obligations to unauthorised parties. The contract shall include a possibility to terminate the assignment of the monitor in case of misconduct or in case of any private reasons on the side of the monitor him/herself.

The profile of the monitor will be stored in a database of the EPFRM Secretariat to allow for a fast selection of appropriate monitors upon need. The EU data protection rules and the data protection rules of the Partner States involved will be respected in regard to the information stored. A yearly independent audit will review compliance with these rules.

Upon the timely delivery of the monitoring report and the submission of all financial obligations, the monitor receives financial compensation and reimbursement of expenses for his/her time spent monitoring the forced return operation. The financial compensation is a fixed amount applicable to all monitors and determined in the service contract of the monitor with the Secretariat.

Training of Monitors and Pilot Monitoring of a Forced Return Operation

The selected monitors will be required to undergo a specific 5-day training covering the monitoring tasks from the pre-return phase until the hand-over of the returnees to national authorities in the country of return or (in the case of unsuccessful return) back to the authorities in the country of departure.

The training shall consist of a mix of content related lectures, group work, practical demonstrations and peer to peer learning from experienced forced return monitors. The following specific topics may be covered (non-exhaustive list):
In order to be part of the EPFRM, the monitor must attend all the training sessions and successfully pass the final test of the training as well as conduct at least one pilot monitoring mission (either monitoring a national forced return operation or a Joint Return Operation), after which she/he has to submit a monitoring report and receive feedback from the training team.

The monitor will further have to attend an annual training with the main purpose of streamlining and correcting the monitoring of forced return operations based on lessons learnt. The lessons learnt will be based on insights gathered from the monitoring reports, which will be collected, reviewed and prepared for training purposes by the Secretariat.

Deliverables

The monitor shall provide the Secretariat of the EPFRM with a detailed report based on the monitoring template within seven days of the monitoring mission. Based on the quality check conducted by the EPFRM Secretariat regarding comprehensiveness, completeness, language and overall quality of the report, the monitor might be asked to review the submitted monitoring report. The report shall be written using the monitoring report template provided by the EPFRM Secretariat without altering the template.

Information for the Monitor

The EPFRM Secretariat and/or the organising Member State should provide the monitor with all relevant information prior to the monitoring mission including (non-exhaustive list):

- The Framework for a EPFRM;
- The Guidelines and Monitoring Tools for Forced Return Monitoring;
- The preparatory check-list as a separate document;
- The monitoring report template as a separate document.
- Relevant material in preparation for the Training for Forced Return Monitors;
- A sleeveless vest with “MONITOR” written in the back.
## 4 - Monitoring Report Template – Forced Return Operation

### GENERAL INFORMATION

**0a. Monitor's family name**

**0b. First name**

**0c. Monitor's nationality**

**0d. Signature**

**0e. Date of submission of report**

**dd/mm/yyyy**

**0f. Submission to**

**(indicate the applicable OMS, PMS – countries, Frontex…?)**

**0g. Monitor hired for**

**(Member State)**

### RETURN OPERATION

<table>
<thead>
<tr>
<th>Air</th>
<th>Bus</th>
<th>Train</th>
<th>Sea</th>
<th>(mark applicable)</th>
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</thead>
</table>

**0h. FRO departure date**

**dd/mm/yyyy**

**0i. JRO departure date**

**0j. FRO departure**

**Country, (city)**

**0k. JRO departure hub**

**Country, (city)**

**0l. Return #1 country**

**0m. Return #2 country**

**0n. Return #1 city**

**0o. Return #2 city**

**Commercial**

**Charter**

**(country, no of escorts)**

**(no, sex and country of origin)**

### Participants:

**OMS**

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<th>Returnees</th>
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**PMS**

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**PMS**

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<th>Returnees</th>
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### Head of operation/Escort leader

**(name, country)**

**0q. Other monitor(s) present**

**0r. Interpreter(s)**

**0s. Interpreter(s)**

**(name, languages)**

**0t. Was an interpreter(s) present throughout the full return operation?**

YES ☐ NO ☐ partly ☐

**IF NO or partly -how did the escorts ensure that the returnees(a) understood the procedure?**

**(did the escorts explain, were the language skills sufficient…?)**

**0u. Medical staff**

**(name, function: doctor, nurse, paramedic…?)**

**0v. Administrative staff**

**(name, phase in which he/she was present, function: case worker, detention counsellor, ministry representative, embassy official, etc.)**

**0w. Other participants**

**(If applicable, name, function)**

### 1. RETURNEE NUMBERS

<table>
<thead>
<tr>
<th>Country of Return #1</th>
<th>Country of Return #2</th>
</tr>
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<tbody>
<tr>
<td>M</td>
<td>F</td>
</tr>
</tbody>
</table>

**1a. Adults**

**1b. <18 years (accompanied)**

**1c. <18 years (unaccompanied)**

**1d. <5 years**

**1e. >60 years**

**1f. Family groups**

Key: FRO = national forced return operation; JRO = joint return operation; MS = Member State; OMS = organizing MS; PMS = participating MS;
1g. Total no. of returnees

2. ESCORT MONITOR RELATIONS
   2a. Did the escort leader introduce him/herself and
       the team to the monitor? YES ☐ NO ☐
   2b. Was the escort leader responsive to questions
       from the monitor? YES ☐ NO ☐
   2c. Were the escorts proactive in providing
       information? YES ☐ NO ☐

(Comments/explanations, if applicable)
   (If NO, give details)

3. SUMMARY
   (mandatory: short summary of the full return operation, findings)

4. RECOMMENDATIONS
   (organisational recommendations for other operations, good practices in
deescalating conflicts, etc.; indicate to whom directed)

5. PREPARATION OF MISSION
   (any remarks regarding the preparation process, was all relevant information provided . . . ?)

Key: FRO = national forced return operation; JRO = joint return operation; MS = Member State; OMS = organizing MS; PMS = participating MS;
### PRE-RETURN PHASE

**Monitor covers the phase?**

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
<th>(If NO, still hand in the empty form)</th>
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0a. Monitor's family name

0c. Monitor's nationality

0b. First name

0d. Signature

### RETURN OPERATION

0e. Holding/Detention facility name and address

(Comments, if applicable)

1. CONTACT TALK(S)

1a. Was the monitor present at the contact talk(s)?

<table>
<thead>
<tr>
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<th>NO</th>
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If NO

1b. Was the returnee able to understand the information provided?

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<th>YES</th>
<th>NO</th>
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If NO, pls. provide reason

1c. Was an interpreter (speaking the relevant language) present/offered to the returnee?

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
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1d. Was the returnee provided with a possibility to communicate with someone in the country of return?

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<th>NO</th>
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1e. Was detailed information provided on the operation (date, route, proceedings with luggage etc.?)

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<tr>
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<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

1f. Did the returnee agree to cooperate during the forced return?

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

1g. (If NO in 1f.) Did the escort inform the returnee that no remedies will stop the forced return operation?

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
<th>n/a</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

1h. Did the returnee have special requests and were they met?

(If YES, give details)

1i. Did the returnee show signs of nervousness or voice worrying statements and require preventive measures (such as secure cell) to prevent self-harm?

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

(If YES, give details)

### 2. ESCORT BRIEFING

2a. Did the monitor participate in the briefing by the escort leader/escorts?

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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</tbody>
</table>

(If NO, give reasons)

(Comments/explanations)

2b. Did the briefing include a risk assessment/outcome of the risk assessment?

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

(If NO, give details)

2c. Did the escort leader give a timetable for the operation?

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

(If NO, give details)

2d. Did the briefing clarify the allocation of returnees to escorts?

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

(If NO, give details)

2e. Did the briefing provide a seating plan (so that the monitor can anticipate his/her position)?

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

(If NO, give details)

2f. Were (sufficient) female escorts allocated to accompany children and female returnees?

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
<th>n/a</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

(If YES, how many escorts for how many children/female returnees, if NO, how many children/female returnees?)

2g. Did the briefing identify especially vulnerable persons?

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
<th>n/a</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

(If YES, give details)

2h. Were special needs discussed?

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
<th>n/a</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

(If YES, give details)

2i. Was the list of authorised/forbidden restraints provided?

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

(If NO, give details)

2j. Where required, were all returnees cleared by a doctor fit-to-travel prior to departure?

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

(Provide information below, if not all cleared)

### Further information and observations:

**Key:** FRO = national forced return operation; JRO = joint return operation; MS = Member State; OMS = organizing MS; PMS = participating MS;
### PRE-DEPARTURE PHASE (use form also when reporting on national feeder to JRO hub)

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>0a. Monitor's family name</td>
<td>0b. First name</td>
</tr>
<tr>
<td>0c. Monitor's nationality</td>
<td>0d. Signature</td>
</tr>
</tbody>
</table>

#### OPERATION

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>0e. Holding/Detention facility name and address</td>
<td></td>
</tr>
</tbody>
</table>

(specify, if monitors were able to split and/or monitor returnees possibly housed in different places (family centres etc.), if applicable)

#### 1. PHYSICAL SECURITY CHECK

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1a. Was a physical security check/body search carried out?</td>
<td></td>
</tr>
<tr>
<td>1b. Was the physical security check/body search carried out...:</td>
<td></td>
</tr>
<tr>
<td>1c. If unclothed, was the person carrying out the actual physical check of the same sex as the respective returnee?</td>
<td></td>
</tr>
<tr>
<td>1d. Was the monitor, if of different sex, outside the room with the door kept ajar?</td>
<td></td>
</tr>
<tr>
<td>1e. Were any dangerous/forbidden goods found during the physical security check?</td>
<td></td>
</tr>
<tr>
<td>1f. Did any of these constitute a possible danger to the health and safety of the returnee(s)/escorts/participants?</td>
<td></td>
</tr>
<tr>
<td>1g. Were returnees informed about the luggage packing arrangement/organisation of non-dangerous belongings/luggage?</td>
<td></td>
</tr>
<tr>
<td>1h. Was baggage adequately packed and labelled?</td>
<td></td>
</tr>
</tbody>
</table>

(Comments/explanation, if applicable)

#### 2. TRANSFER OF RETURNEES

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>2a. Were there sufficient seats to enable returnees to wait in comfort at the holding/detention facility?</td>
<td></td>
</tr>
<tr>
<td>2b. Were there sufficient seats for all returnees in the vehicle used for transportation to the waiting area?</td>
<td></td>
</tr>
<tr>
<td>2c. Which type of vehicle was used for the transfer?</td>
<td></td>
</tr>
</tbody>
</table>

(give details, e.g. secure police van, police car, usual mini van/bus etc.)

<p>| | |</p>
<table>
<thead>
<tr>
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<th></th>
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</thead>
<tbody>
<tr>
<td>2d. Were returnees able to use the toilets in the holding/detention facility without being prevented or delayed?</td>
<td></td>
</tr>
<tr>
<td>2e. Was the transport to the waiting area clean, ventilated and without excessive cold or heat?</td>
<td></td>
</tr>
</tbody>
</table>

(Comments/explanation, if applicable)

#### RETURNEE/ESCORT RELATIONS

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>2f. Did any returnee offer physical resistance to being moved or searched?</td>
<td></td>
</tr>
<tr>
<td>2g. Did any returnee offer verbal resistance?</td>
<td></td>
</tr>
<tr>
<td>2h. Were coercive measures applied?</td>
<td></td>
</tr>
<tr>
<td>2i. Did escorts and officials answer returnees’ questions?</td>
<td></td>
</tr>
<tr>
<td>2j. Did escorts and officials answer courteously?</td>
<td></td>
</tr>
<tr>
<td>2k. Was an interpreter(s) present and used, where relevant?</td>
<td></td>
</tr>
</tbody>
</table>

(Comments/explanation, if applicable)

Key: FRO = national forced return operation; JRO = joint return operation; MS = Member State; OMS = organizing MS; PMS = participating MS;
2. Were family groups kept together when they were moved?  
   YES ☐ NO ☐ n/a ☐ (if NO, give details)

2m. Did any returnee voice a complaint (e.g. to the escort leader, an escort, the monitor)?  
   YES ☐ NO ☐ (if YES, give details)

Other comments/observations: 

3. JRO – BRIEFING OF ESCORT LEADERS  
3a. Did the monitor participate in the briefing by the escort leader?  
   YES ☐ NO ☐ n/a ☐ (if NO, give reasons and details, how the monitor ensured the information)

3b. Did the briefing include a risk assessment/outcome of the risk assessment/revision of previous risk assessment?  
   YES ☐ NO ☐ n/a ☐ (if NO, give details – e.g. reasons, if YES, what it entailed)

3c. Did the briefing give a timetable/security and surveillance/operation plan?  
   YES ☐ NO ☐ n/a ☐ (if NO, give details / if YES, give details what was given)

3d. Did the briefing clarify the allocation of returnees to escorts?  
   YES ☐ NO ☐ n/a ☐ (if NO, give details)

3e. Did the briefing provide a seating plan (so that the monitor can anticipate his/her position)?  
   YES ☐ NO ☐ n/a ☐ (if NO, give details)

3f. Were (sufficient) female escorts allocated to accompany children and female returnees?  
   YES ☐ NO ☐ n/a ☐ (if YES, how many escorts for how many children/female returnees; if NO, how many children/female returnees?)

3g. Did the briefing identify especially vulnerable persons?  
   YES ☐ NO ☐ n/a ☐ (if YES, give details)

3h. Were special needs discussed?  
   YES ☐ NO ☐ n/a ☐ (if YES, give details)

3i. Was the list of authorised/forbidden restraints provided?  
   YES ☐ NO ☐ (if NO, give details)

Other comments/observations: 

4. WAITING AREA AND COMFORT  
4a. Were there sufficient seats to enable returnees to wait in comfort at the waiting area prior to boarding?  
   YES ☐ NO ☐ (if NO, give details)

4b. Was any returnee prevented or delayed in using the toilets in the waiting area?  
   YES ☐ NO ☐ (if NO, give details)

4c. Did escorts accompanying returnees to the toilets allow them privacy?  
   YES ☐ NO ☐ (if NO, give details)

4d. Were there any incidents when returnees from different MSs met?  
   YES ☐ NO ☐ If YES: (give details)

4e. Was adequate food and drink provided for returnees, taking into account the time of day, and were the needs of smokers addressed?  
   YES ☐ NO ☐ (if NO, or only in parts, give details)

4f. Were any returnees unable to benefit from the food and drink offered because of dietary or religious prohibitions?  
   YES ☐ NO ☐ (if YES, give details)

4g. Were medical problems observed?  
   (count cases) (In case of cases observed, give details)

4h. Was a doctor present?  
   always ☐ part-time ☐ NO ☐ (Comments, if applicable)

4i. Were medical staff present (nurse, paramedic)?  
   always ☐ part-time ☐ NO ☐

4j. Were all medical interventions with the returnees’ consent?  
   YES ☐ NO ☐ n/a ☐ (if NO give details)

Other comments/observations: 

5. JRO - MEETING OF MONITORS (NATIONAL/EUROPEAN (JRO))  
5a. Was a meeting (even informal) of national and European (JRO) monitors held?  
   YES ☐ NO ☐ (if NO, provide reasons)

Key: FRO = national forced return operation; JRO = joint return operation; MS = Member State; OMS = organizing MS; PMS = participating MS;
5b. Where was the meeting held?  
5c. What was discussed during the meeting?  
5d. Any other observations/comments in relation to the meeting?  

| 6a. Was the security check carried out by the airport security personnel? |
|-----------------|-----------------|-----------------|
| YES ☐ NO ☐ n/a ☐ | (if NO, give details/reasons and who did it.) |

7a. What vehicles were used for the transport?  
7b. Were sufficient seats available for returnees?  
7c. Did any returnee physically resist embarking the transport-coach to the means of transportation?  
7d. Did any returnee offer verbal resistance?  
7e. Were coercive measures applied?  
7f. Did escorts and officials answer returnees’ questions?  
7g. Did escorts and officials answer them courteously?  
7h. Were special needs of returnees taken into account (vulnerable groups, medical conditions)?  
7i. Were families allowed to move together?  

Further information and observations:

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Key: FRO = national forced return operation; JRO = joint return operation; MS = Member State; OMS = organizing MS; PMS = participating MS;
### IN-FLIGHT PHASE

<table>
<thead>
<tr>
<th>0a. Monitor's family name</th>
<th>0b. First name</th>
<th>0c. Monitor's nationality</th>
<th>0d. Signature</th>
</tr>
</thead>
</table>

#### OPERATION

<table>
<thead>
<tr>
<th>0e. Type of transport?</th>
<th>AIR ☐ ROAD ☐ RAIL ☐ SEA ☐ (mark applicable)</th>
</tr>
</thead>
<tbody>
<tr>
<td>0f. Charter or scheduled public service?</td>
<td>CHARTER ☐ PUBLIC ☐ (mark applicable)</td>
</tr>
<tr>
<td>0g. Departure airport/station/seaport</td>
<td>0h. Departure from JRO hub? YES ☐ NO ☐</td>
</tr>
<tr>
<td>0i. Departure date</td>
<td>dd/mm/yyyy</td>
</tr>
<tr>
<td>0j. Time of embarkation</td>
<td>h m</td>
</tr>
<tr>
<td>0k. Arrival airport/station/seaport</td>
<td>0l. Arrival at JRO hub? YES ☐ NO ☐</td>
</tr>
<tr>
<td>0m. Arrival date</td>
<td>dd/mm/yyyy</td>
</tr>
<tr>
<td>0n. Time of disembarkation</td>
<td>h m</td>
</tr>
</tbody>
</table>

#### 1. EMBARKATION (from the coach into the means of transportation)

1a. Did escorts accompany (escort) their returnees during embarkation? YES ☐ NO ☐

1b. Were there any incidents during the embarkation process? YES ☐ NO ☐

1c. Were there any additional coercive measures applied during the embarkation process? YES ☐ NO ☐

1d. Were there any additional coercive measures applied during the embarkation process? YES ☐ NO ☐

#### 1. TRANSPORTATION/IN-FLIGHT (on board the means of transportation)

1e. Was the monitor assigned the seat according to the plan? YES ☐ NO ☐

1f. Did the monitor request another seat than the one assigned? YES ☐ NO ☐

1g. Were there sufficient female escorts to accompany women & children? YES ☐ NO ☐

1h. Were family groups kept seated together? YES ☐ NO ☐

1i. Did any returnee offer physical resistance to being seated? YES ☐ NO ☐

1j. Were coercive measures used? YES ☐ NO ☐

1k. Did any returnee offer verbal resistance to being seated? YES ☐ NO ☐

1l. Did escorts and officials answer returnees' questions? YES ☐ NO ☐

1m. Did escorts and officials answer courteously? YES ☐ NO ☐

1n. Did any returnee voice a complaint (e.g. to the escort leader, an escort, the monitor)? YES ☐ NO ☐

#### Other comments/observations:

(Comments/explanation, if applicable)

#### 2. STOPOVER (if applicable)

2a. Was there a stopover on the way to the country of return? YES ☐ NO ☐

2b. Did returnees experience any incidents when returnees from different MSs met? YES ☐ NO ☐

(Comments/explanation, if applicable)

(Where (country, city), reasons, duration, what happened during the stopover, did additional returnees join…?)

Key: FRO = national forced return operation; JRO = joint return operation; MS = Member State; OMS = organizing MS; PMS = participating MS;
### 3. HEALTH AND WELLBEING (on board the means of transportation)

<p>| | | | | | |</p>
<table>
<thead>
<tr>
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<th></th>
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</tr>
</thead>
<tbody>
<tr>
<td>3a. Did medical problems occur?</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>(count incidents)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3b. Was a doctor present?</td>
<td>always</td>
<td>part-time</td>
<td>N</td>
<td>O</td>
<td></td>
</tr>
<tr>
<td>(Frontex CoC, Art 11: during a JRO a doctor should be present)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3c. Were medical staff present (nurse, paramedic)?</td>
<td>always</td>
<td>part-time</td>
<td>N</td>
<td>O</td>
<td></td>
</tr>
<tr>
<td>3d. Were all medical interventions with the returnees' consent?</td>
<td>YES</td>
<td>NO</td>
<td>n/a</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(if NO give details)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3e. Were any sedatives given to a returnee?</td>
<td>YES</td>
<td>NO</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(if YES give details)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3f. Were the sedatives agreed to by the returnee in conversation with a nurse or doctor?</td>
<td>YES</td>
<td>N</td>
<td>O</td>
<td>n/a</td>
<td></td>
</tr>
<tr>
<td>(if NO, give details)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3g. Was adequate food and drink provided for returnees, taking into account the time of day?</td>
<td>YES</td>
<td>NO</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(if NO give details)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3h. Was any returnee unable to benefit from the food and drink offered because of dietary or religious prohibitions?</td>
<td>YES</td>
<td>NO</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(if YES give details)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3i. Was any returnee prevented or delayed in using the toilets on board the means of transportation?</td>
<td>YES</td>
<td>NO</td>
<td>n/a</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(if YES give details)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3j. Did escorts accompanying a returnee to the toilets allow him/her privacy?</td>
<td>YES</td>
<td>NO</td>
<td>n/a</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(if NO give details)</td>
<td></td>
<td></td>
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</tr>
</tbody>
</table>

**Further information and observations:**

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*143 The Frontex CoC for JROs specifies in Article 6 (4) “The use of sedatives to facilitate the removal is forbidden without prejudice to emergency measures to ensure flight security.”*

_Key: FRO = national forced return operation; JRO = joint return operation; MS = Member State; OMS = organizing MS; PMS = participating MS;_
### ARRIVAL PHASE

| 0a. Monitor's family name | - | - | - | - | - | - | - | - | - | - |
| 0b. First name | - | - | - | - | - | - | - | - | - | - |
| 0c. Monitor's nationality | Use int. code | - | - | - | - | - | - | - | - | - |
| 0d. Signature | - | - | - | - | - | - | - | - | - | - |

### OPERATION

| 0e. Arrival (airport/station/seaport) | - | - | - | - | - | - | - | - | - | - |
| 0f. Arrival time | h | m | - | - | - | - | - | - | - | - |
| 0g. Arrival date | dd/mm/yyy | - | - | - | - | - | - | - | - | - |
| 0h. Departure time (i.e. after hand-over of returnees back to the country of departure) | h | m | - | - | - | - | - | - | - | - |

#### 1. ARRIVAL

1a. Were coercive measures terminated before handover? [YES] [NO] [N/A] (If NO, provide observation) (Comments/explanation, if applicable)

1b. Were personal belongings (taken during the security check) returned to returnees before the handover to national authorities? [YES] [NO] (If NO, give details)

1c. Did the escorts ensure the correct luggage was handed over to the actual owner? [YES] [NO] (If NO, give details)

1e. Was any official complaint made by a returnee? [YES] [NO] (If YES, give details)

Other comments/observations (if applicable):

#### 2. HANDOVER OF RETURNEES

2a. Handover of returnees inside the means of transport? [YES] [NO] [N/O] (give details - where, position of the monitor, disembarkation of returnees with the escorts etc.)

2b. Were family groups kept together when they were handed over? [YES] [NO] (If NO, give details)

2c. Did any returnee offer verbal resistance to being handed over? [YES] [NO] (If YES, give details)

2d. Did any returnee offer physical resistance to being handed over? [YES] [NO] (If YES, give details)

2e. Coercive measures applied by receiving state? [YES] [NO] [N/A] (If YES, give details)

2f. Medical intervention by receiving state? [YES] [NO] [N/A] (If YES, give details)

2g. Duration of handover | h | m |

2i. Were any returnees not accepted by national authorities? [YES] [NO] [N/O] (If YES, give details) (No. of returnees, reasons)

Other comments/observations (if applicable):

#### 3. RETURN to the country of departure

3a. Were any non-accepted returnees present on the way back from the country of return to the country of departure? [YES] [NO] (If YES, please fill in a new in-flight phase form for the return to the country of departure)

3b. Were the non-accepted returned returnees accompanied by the same escorts as on their way there? [YES] [NO] [N/A] (gives details, e.g. back up team)

3c. Was an overnight stay in the country of return required? [YES] [NO] (gives details)

#### 4. STOPOVER (If applicable)

4a. Was there a stopover on the way back from the country of return? [YES] [NO] (If YES, give details)

Key: FRO = national forced return operation; JRO = joint return operation; MS= Member State; OMS = organizing MS; PMS = participating MS;
5. DEBRIEFING

5a. Did a debriefing take place?  
[ ] YES □ [ ] NO □  (if YES, give details)

5b. Where did the debriefing take place:

5c. Who was present during the debriefing:

5d. What was discussed during the debriefing?

5e. What was the contribution of the monitor:

5f. Feedback on the observations of the monitor:

Further information and observations:

---

Key: FRO = national forced return operation; JRO = joint return operation; MS = Member State; OMS = organizing MS; PMS = participating MS;
### COERCIVE MEASURES
*(Ensure to fill one form for each application/returnee for coercive measures/restraints applied)*

<table>
<thead>
<tr>
<th>0a. Monitor's family name</th>
<th>0b. First name</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>0c. Monitor's nationality</th>
<th>0d. Signature</th>
</tr>
</thead>
<tbody>
<tr>
<td>Use int. code</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>0e. Measures applied during phase:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Pre-Return</td>
<td>Pre-Departure</td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

*(further specification: timing in the phase, e.g. during transfer etc.)*

<table>
<thead>
<tr>
<th>0f. Time of incident</th>
</tr>
</thead>
<tbody>
<tr>
<td>h m</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>0g. Operation</th>
</tr>
</thead>
<tbody>
<tr>
<td>National FRO</td>
</tr>
</tbody>
</table>

*(comments, if applicable)*

#### 1. IDENTIFICATION OF PERSONS

<table>
<thead>
<tr>
<th>1a. State applying coercive measures</th>
</tr>
</thead>
<tbody>
<tr>
<td>(&lt;= insert country code)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>1b. Returnee family name</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>1c. First name</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>1d. Returnee sex</th>
</tr>
</thead>
<tbody>
<tr>
<td>MALE ☐</td>
</tr>
<tr>
<td>FEMALE ☐</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>1e. Returnee seat number (if any)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
</tr>
</tbody>
</table>

#### 2. INFORMATION ON THE INCIDENT

<table>
<thead>
<tr>
<th>2a. What triggered the necessity to apply force or coercive measures?</th>
</tr>
</thead>
<tbody>
<tr>
<td>(briefly describe the situation)</td>
</tr>
</tbody>
</table>

| 2b. Were the measures applied proportionate, reasonable and without the use of excessive force? |
|-------|--------------------------------------------------|
| YES ☐ | NO ☐                                             |
|       | *(if NO, give details)*                         |

| 2c. Was it possible for the escorts to inform the returnee of their intention to apply coercive measures before bodily force was applied? |
|-------|--------------------------------------------------------------------------------------------------|
| YES ☐ | NO ☐                                                                                           |
|       | *(if NO, give reason as to why this might not have been possible)*                              |

<table>
<thead>
<tr>
<th>2d. Did escorts explain briefly why this was necessary?</th>
</tr>
</thead>
<tbody>
<tr>
<td>YES ☐</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>2e. Was the escorts' communication respectful of the returnee?</th>
</tr>
</thead>
<tbody>
<tr>
<td>YES ☐</td>
</tr>
<tr>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>2f. Did the returnee respond with verbal attacks?</th>
</tr>
</thead>
<tbody>
<tr>
<td>YES ☐</td>
</tr>
<tr>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>2g. Did the returnee respond with (attempted) physical resistance?</th>
</tr>
</thead>
<tbody>
<tr>
<td>YES ☐</td>
</tr>
<tr>
<td></td>
</tr>
</tbody>
</table>

#### 3. APPLICATION OF BODILY FORCE

<table>
<thead>
<tr>
<th>3a. Location of application of bodily force?</th>
</tr>
</thead>
<tbody>
<tr>
<td>INSIDE BUILDING</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>3b. If inside transport, what type?</th>
</tr>
</thead>
<tbody>
<tr>
<td>AIRCRAFT</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>if other, indicate:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>3c. Did escorts apply bodily force whilst physical restraints were applied to returnee?</th>
</tr>
</thead>
<tbody>
<tr>
<td>YES ☐</td>
</tr>
<tr>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>3d. How many escorts applied bodily force?</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
</tr>
</tbody>
</table>

*(Describe the technique(s) used and, if possible, attach a drawing of how returnee and escorts were positioned)*

<table>
<thead>
<tr>
<th>3e. Were the holds on the returnee's body such as to restrict breathing?</th>
</tr>
</thead>
<tbody>
<tr>
<td>YES ☐</td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>3f. Did the returnee protest at pain or complain of difficulty in breathing?</th>
</tr>
</thead>
<tbody>
<tr>
<td>YES ☐</td>
</tr>
<tr>
<td></td>
</tr>
</tbody>
</table>

Key: FRO = national forced return operation; JRO = joint return operation; MS = Member State; OMS = organizing MS; PMS = participating MS;
3g. Was bodily force applied only for the duration necessary to fit physical restraint(s)?

3h. Were children separated in case of use of force on a parent?

Other comments/observations (if applicable):

4. PHYSICAL RESTRAINTS & ADJUSTMENT

4a. Were handcuffs/slings applied/used (of which material)?

4b. Was there subsequent adjustment to ease pressure on wrists?

4c. Was a body cuff (metal fittings) applied?

4d. Was a body cuff (Velcro fittings) applied?

4e. Was there subsequent adjustment of the body cuff to allow freer arm movement for eating or use of toilet?

4f. Was a leg cuff applied?

4g. Was the returnee still able to walk with the leg cuff?

4h. Was a seat tie applied?

4i. Was there any compression of the chest by seat tie?

4j. Was a spitting mask applied?

4k. Was a helmet applied?

4l. Were the measures applied (including material applied) on the authorised list of restraints/coercive measures?

5. SEDATIVE MEASURES

5a. Were any sedatives given to the returnee?

5b. Were the sedatives agreed to by the returnee in conversation with a nurse or doctor?

6. RELEASE FROM COERCIVE MEASURES

6a. Did escorts offer to remove coercive measures on condition of calm behaviour by the returnee?

6b. Did the returnee agree to such an offer?

Which coercive measures were removed and when?

6c. Handcuffs

6d. Body cuff (metal fittings)

6e. Body cuff (Velcro fittings)

6f. Leg cuff

6g. Seat tie

6h. Spitting mask

6i. Helmet

6j. Did escorts refuse to lift the coercive measure?

Key: FRO = national forced return operation; JRO = joint return operation; MS = Member State; OMS = organizing MS; PMS = participating MS;
Further information and observations:

Please complete an extra form on coercive measures if, either, additional coercive measures are applied to the same returnee, or, the same coercive measures are re-applied to the same returnee.

Key: FRO = national forced return operation; JRO = joint return operation; MS = Member State; OMS = organizing MS; PMS = participating MS;
5 - Evaluation Form

Training for Monitors of the European Pool of Forced Return Monitors

Thank you for taking part in this training. In order to be able to further develop this training, we would like to gather your honest feedback. Your answers will remain anonymous and confidential. Thank you for your time and co-operation.

Training dates (from-to): ____________________________________________________

Training location (city/country): _______________________________________________

A. Overall Feedback on the Training

1) **Your overall assessment of the training** *(please mark the corresponding circle)*:
   - Poor
   - Fair
   - Satisfactory
   - Good
   - Excellent

2) **Which session/part did you find most interesting/useful? Please explain why:**
   _______________________________________________________________________
   _______________________________________________________________________

3) **Which session/part did you find least interesting/useful? Please explain why:**
   _______________________________________________________________________
   _______________________________________________________________________

4) **Comparing your knowledge before and after the training, how much have you learned as a result of the training?** *(Please indicate this gain, by rating your level of skills/knowledge before and after the training in the table below)*

<table>
<thead>
<tr>
<th>Topics</th>
<th>Before</th>
<th>After</th>
</tr>
</thead>
<tbody>
<tr>
<td>Knowledge of forced return monitoring</td>
<td>Low</td>
<td>High</td>
</tr>
<tr>
<td></td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td></td>
<td>3</td>
<td>4</td>
</tr>
<tr>
<td></td>
<td>5</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td></td>
<td>4</td>
<td>5</td>
</tr>
</tbody>
</table>

Knowledge of (technicalities of) forced return operations

<table>
<thead>
<tr>
<th>Topics</th>
<th>Before</th>
<th>After</th>
</tr>
</thead>
<tbody>
<tr>
<td>Knowledge of the phases of a forced return operation</td>
<td>Low</td>
<td>High</td>
</tr>
<tr>
<td></td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td></td>
<td>3</td>
<td>4</td>
</tr>
<tr>
<td></td>
<td>5</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td></td>
<td>4</td>
<td>5</td>
</tr>
</tbody>
</table>
### Topics

<table>
<thead>
<tr>
<th>Topics</th>
<th>Before</th>
<th></th>
<th>After</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Low</td>
<td>High</td>
<td>Low</td>
<td>High</td>
</tr>
<tr>
<td>Knowledge of the role of the monitor</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Knowledge of the specific tasks of a monitor during the different phases</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Knowledge of (monitoring) fundamental rights in relation to forced return operations</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Knowledge of the role of the escort</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Knowledge of the use of force and use of coercive measures/restraints</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Knowledge of reporting</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
</tbody>
</table>

### Comments:

________________________________________________________________________
________________________________________________________________________

### B. Methodology and Organisation

1) **Please provide your opinion on the methodology and organisation of the training.**

*(Please circle or mark the corresponding level)*

<table>
<thead>
<tr>
<th></th>
<th>Poor</th>
<th>Fair</th>
<th>Good</th>
<th>Excellent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Methodology (overall)</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
</tr>
<tr>
<td>Interaction between participants</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
</tr>
<tr>
<td>Group activities</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
</tr>
<tr>
<td>Time for discussion</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
</tr>
<tr>
<td>Facilitation by the experts/trainers</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
</tr>
<tr>
<td>Answers to the questions raised</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
</tr>
<tr>
<td>Logistics and organisation</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
</tr>
<tr>
<td>Overall level of training</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
</tr>
<tr>
<td>Overall duration of training</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
</tr>
</tbody>
</table>

### Comments:

________________________________________________________________________
________________________________________________________________________
2) What are the three main observations or insights you take with you?

1. 

2. 

3. 

3) What did you miss or what follow-up activity or training do you think you will need? Any other comments you wish to add?

________________________________________________________

________________________________________________________

________________________________________________________

Thank you for your time!
6 – Final Test for Forced Return Monitor Trainees

Take time to read all the questions carefully. You have 20 minutes. Please write your answers clearly and legibly. Do not worry about making mistakes or spelling errors.144

Name: ____________________________________________

Date (dd/mm/yyyy): _________________________________

Place of training: ___________________________________

1. Mention at least two professional attributes or personal characteristics a forced return monitor should possess:
   i.  ________________________________________________
   ii.  ________________________________________________

2. Name the phases of a FRO/JRO relevant to forced return monitoring:
   i.  ________________________________________________
   ii.  ________________________________________________
   iii.  ________________________________________________
   iv.  ________________________________________________

3. When does forced return monitoring start?
   _______________________________________________________________________
   _______________________________________________________________________

4. Which information should the monitor receive in preparation of a forced return monitoring mission?
   i.  ________________________________________________
   ii.  ________________________________________________
   iii.  ________________________________________________

144 This test was used in two training sessions conducted in the framework of the FReM project. The trainer is free to adapt the test.
5. Briefly describe the main tasks of the monitor according to the different return monitoring phases:

i. Pre-Return Phase

ii. Pre-Departure Phase

iii. In-Flight Phase

iv. Arrival Phase

6. List at least three fundamental rights to be observed:
   i. 
   ii. 
   iii. 

7. What is the main role of escorts?

________________________________________________________________________

________________________________________________________________________
8. Under which circumstances can coercive measures/force be used?

________________________________________________________________________
________________________________________________________________________

9. Name at least two communication principles related to reporting:

________________________________________________________________________
________________________________________________________________________

Training Test Answers

1. Name at least two professional attributes and characteristics a forced return monitor should possess:

Examples:

i. Independence – the monitor should be independent from the authority organising and enforcing the return operation;

ii. Neutrality – the monitor shall be impartial and objective towards all parties involved;

iii. Professionalism – the monitor must have the necessary qualifications, including proven record of initial, regular and specialised training on forced return monitoring. He/she shall be familiar with the Guidelines, the monitoring reporting template and other documents as provided in the training. Monitors shall carry out their attributed tasks in a dutiful, timely and accurate manner throughout the forced return operation. At no time shall a monitor prevent or do anything that would prevent the forced return operation from taking place, or impede a returnee from being lawfully returned to his/her country of origin/residence, or help supporters of the returnee to do so. It is outside the scope of the monitoring system of Joint Return Operations to review the legal procedure leading to the return decision;

iv. Confidentiality – the monitor shall be bound by confidentiality as part of their contract and shall not disclose any information gained while fulfilling their monitoring obligations to any other parties outside those clearly stated in the reporting criteria.

2. When does forced return monitoring start?

Monitoring shall start a minimum of 24 hours prior to the departure, during which the Monitor will verify whether the prospective returnee(s) has/have been informed about the return operation and shall participate in the briefing by the escort leader.
3. Name the phases of a FRO/JRO relevant to forced return monitoring:

1. Pre-Return Phase;
2. Pre-Departure Phase;
3. In-flight Phase;
4. Arrival Phase.

4. Which information should the monitor receive in preparation of a forced return monitoring mission?

Examples:

i. The date and time of the return operation and ports of departure;
ii. The country(ies) of return;
iii. Port of departure, stopover information (when applicable);
iv. If a JRO, the organising Member State and participating Member States;
v. Necessary travel documents and other documentation requirements;
vi. The number, gender and origin of returnees;
vii. List of recommended immunisations (if required by the country of return). It is the responsibility of the monitor to take care of his/her immunisations and/or other medical precautions necessary;
viii. The schedule of the return operation;
ix. List of authorised/forbidden restraints;
x. Any forms of vulnerability of returnees, e.g. pregnant women, families with minors, elderly people, and persons with disabilities or with a medical condition, when available.

5. Briefly describe the main tasks of the monitor according to the different return monitoring phases:

i. **Pre-Return Phase**

During the Pre-Return Phase, the monitor shall participate in the following actions:

- Contact talks of the escort leader with the individual returnee(s) – observe the behaviour, listen to the talks, determine whether the returnee is able to understand the escort leader or if an interpreter is required, and note whether all relevant information is provided to the returnee(s);
- Briefing of the national escort team by the escort leader – participate, introduce him/herself, obtain all relevant information on the number and gender of returnees, the outcome of the risk assessment, any vulnerabilities and special needs, the operation/seating plan, the list of authorised/forbidden restraints, and any medical conditions (fit-to-travel) etc.;
- JRO: Physical security check of returnees at the holding facility in the participating MS – observe fundamental rights applicable;
- JRO: Transfer of PMS returnee(s) to the national port of departure - observe the transportation, determine whether specific needs are addressed, and whether coercive measures applied (type and duration, circumstances);
- JRO: Transportation of PMS returnee(s) from the national port of departure to the JRO hub – how are returnees transported, are specific needs addressed, are coercive measures applied (type and duration, circumstances).

ii. **Pre-Departure Phase**

During the Pre-Departure Phase, the monitor shall participate in the following actions:

- Physical security check – observe fundamental rights applicable;
- Transfer to the port of departure – observe the transportation, are specific needs addressed, are coercive measures applied (type and duration, circumstances);
- JRO: Briefing of escort leaders at the hub – participate, introduce him/herself, obtain all relevant information on the number and gender of returnee(s), the outcome of the risk assessment, any vulnerabilities and special needs, the operation/seating plan, and the list of authorised/forbidden restraints etc.;
- Waiting in a specific area at the port of departure (e.g. airport, bus/train station);
- JRO: Meeting of the national monitor & European (JRO/EPFRM) monitor – exchange of information, e.g. on prior incidents etc.;
- Security check, at airport, if applicable;
- Transport to the means of transportation for the removal – how are returnees transported, are specific needs addressed, are coercive measures applied (type and duration, circumstances).

iii. **In-Flight Phase**

During the in-flight phase the monitor shall participate in the following actions:

- Embarkation and transportation of returnee(s) on board the means of transportation for the removal (aircraft, bus, train, ship) – (observation of embarkation, coercive measures/force used (type and duration, circumstances), catering, special needs of vulnerable groups, rights of the child etc.);
- Stopover (if applicable) – observe, if applicable, the embarkation of new returnee(s).

iv. **Arrival Phase**

During the arrival phase the monitors shall participate in the following actions and observe:

- Arrival with the means of transportation in the country of return;
- Handover of returnee(s) to the national authorities in the country of return;
- Stopover (if applicable);
- Return to the country of departure.

6. List at least three fundamental rights, which should be observed:

- Right to life, liberty and security;
- Freedom from torture, cruel, inhuman and degrading treatment and punishment;
- Right to human dignity;
- Right to non-discrimination;
- Right to Religion;
- Access to information;
- Right to health and access to medical assistance;
- Access to food and water;
- Rights of vulnerable groups;
- Right to family unity;
- Rights of the child/best interests of the child;
- Right to personal data protection;
- Right to privacy;
- Right to property.

7. What is the main role of escorts?

Escorts are the security personnel responsible for accompanying the third country individual(s) being forcibly returned. The role of escorts is to ensure the return is enforced and takes place in a safe and humane manner. Their job is to be polite yet strict when necessary, i.e. when the returnee(s) try to resist the removal and lack co-operation with the escorts and might apply coercive measures (proportionately and when strictly necessary) to ensure that returnees pose no danger to himself/herself or others.

It is not within the mandate of escorts to decide upon the return or to cancel it. It is their duty to communicate important facts (i.e. self-harm, physical resistance, etc.) to the escort leader.

8. Under which circumstances can coercive measures/force be used?

If permitted by national law, and based on the outcome of the risk assessment, sound observation of (uncooperative) behaviour and actions of the returnee, different types of coercive measures (tools such handcuffs or physical force, such as pinning down to a chair) can be used during a forced return. Coercive measures can be used to safeguard the safety and health of the returnee (prevention of self-harm), of escorts, of support staff or airline/bus/train/ship crew or other passengers (including monitors) or property.
When the use of coercive measures is necessary, only approved restraint techniques and materials are to be employed. Nonetheless, in these situations, proportionality, necessity and accountability are paramount, in order to ensure the special circumstances are justifiable. The monitor needs to observe the circumstances of the application, the means applied and the duration carefully, and be able to make an objective judgement on the appropriateness, which is to be reflected in his/her report (in the form on coercive measures/use of force). It is recommended that the monitor talks to the escort leader, to learn how the escorts justify the use of coercive measures or force, after an incident that made the application necessary. It is also recommended that this talk takes place in a more private place, and not in the presence of the returnee(s).

In the case of a JRO (including those coordinated by Frontex), a list of authorised/forbidden restraints is agreed in advance of the operation. The use of sedatives to facilitate the removal is forbidden without prejudice to emergency measures to ensure flight security (according to the Frontex Code of Conduct for JROs, 2013).

9. **Name at least two communication principles related to reporting:**

**Accuracy**
Being certain that what is claimed to have happened, did in fact happen, making a clear distinction between facts and allegations, either by cross-checking information provided or ensuring to include the full accounts of the different parties within the report.

**Confidentiality**
Ensuring that the information gathered is not made public but only submitted to authorised parties (e.g. the Secretariat, organising Member State, Frontex, if applicable).

**Impartiality**
Refrainting from advancing any private, particular or sectarian points of view in relation to returnee(s) and/or other participants during the operation and within the report.

**Non-discrimination**
Ensuring that all data is properly documented and all accounts stated without any prejudice and/or discrimination towards anyone based on their gender, nationality, religion and/or role in the return.
7 - Bibliography


Nottingham University Hospitals. 2015. Nottingham University Hospitals NHS Trust Restraint Policy.
