FRA EUROPEAN UNION AGENCY FOR FUNDAMENTAL RIGHTS

FORCED RETURN MONITORING SYSTEMS

2025 UPDATE

Contents

Introduction

1. Overview of 2024

2. Main challenges for effective monitoring of forced return

2.1. Independence

2.2. Transparency

2.3. Effectiveness

2.4. Funding

3. Implementation of monitoring recommendations

Annex

About this publication

Introduction

In 2008, Article 8 (6) of the EU's return directive (2008/115/EC) introduced a duty for Member States to provide for an effective forced return monitoring system. This is the first EU law provision on fundamental rights monitoring in the field of migration.

In addition to the monitoring under the Return directive, the Council of Europe's Committee for the Prevention of Torture (CPT) carries out country visits to monitor places of deprivation of liberty. This includes immigration detention and occasionally forced return flights. It then issues country reports containing its observations and recommendations. In 2024, the CPT released a report on the monitoring of a Frontex-coordinated return operation from Germany to Pakistan.

The Pact on Migration and Asylum introduced a new obligation for Member States in 2024. They must have independent national mechanisms to monitor fundamental rights compliance during the screening of new arrivals and border asylum procedures by mid-2026. Member States' experiences with forced return monitoring will be helpful in designing effective monitoring mechanisms under the pact. As required by EU law, FRA issued a practical guidance report in 2024, titled Monitoring fundamental rights during screening and the asylum border procedure – A guide on national independent mechanisms. Its aim is to assist Member States in designating and establishing their mechanism.

Since 2014, FRA has been publishing an annual update on forced return monitoring systems in EU Member States. It is based on information collected from national monitoring entities. These updates provide an overview of the functioning of such mechanisms. National authorities in charge of returns and of bodies monitoring forced returns are the primary audience of the report.

The main findings are:

- in 2024, five Member States (Croatia, France, Italy, Poland and Spain) did not monitor any forced return at all;
- one in four Frontex-supported return operations are not monitored.

This update does not include the findings and the related recommendations by forced return monitoring bodies. Reports by monitoring bodies, which can be consulted through hyperlinks in the annex, indicate that return escorts pay attention to fundamental rights in their daily work. Issues remain, however, with the disproportionate use of restraint measures. This was the case in Cyprus, Czechia and Greece, for example. German monitors also reported instances in which children witnessed use of force being applied to adults. Additionally, Swedish monitors reported cases of insufficient interpreters and female escorts.

An overview of the work of the Frontex pool is available in chapter 2 of the 2024 Annual Report of the Frontex Fundamental Rights Officer. Some of the findings are Frontex-specific. However, those that concern monitoring in general, broadly match the findings revealed through national monitoring. The Frontex report highlights excessive use of restraint measures, the need for better information provision and the importance of monitoring all phases of returns, not only the pre-

return phase.

The Annex provides a tabular overview of forced return monitoring in 2024.

1. Overview of 2024

All 27 European Union (EU) Member States, except Ireland, are bound by the EU's return directive (2008/115/EC) to have effective forced return monitoring mechanisms. Frontex has established a pool of forced return monitors (Article 51 of the European Border and Coast Guard Regulation (EU) 2019/1896) – hereinafter EBCG Regulation. It was created to monitor forced return operations, which the agency supports.

The 26 EU Member States bound by the return directive have all adopted a legal basis for national forced return monitoring systems. In addition, National Preventive Mechanisms established under the 2002 Optional Protocol to the United Nations (UN) Convention Against Torture have a mandate, under international law, to monitor all places where individuals are deprived of their liberty. This includes all centres, facilities and transport used during forced returns.

In five Member States no return operations were monitored in 2024. In an additional seven, less than 10 return operations were monitored per country.

In 2024, national monitoring bodies had 156 staff trained to be monitors, 101 of whom were operational. By comparison, 139 monitors were operational in 2023.

2. Main challenges for effective monitoring of forced return

2.1. Independence

To be effective, monitoring must be carried out by an entity sufficiently independent from the authority in charge of returns. In Germany and Sweden, monitors are part of the same entity responsible for parts of the return procedure, namely the Federal Office for Migration and Refugees in Germany and the Swedish Migration Agency. There is a lack of institutional separation, and thereby a lack of independence.

The Frontex pool of forced return monitors also raises independence concerns, as it is embedded in the enforcing authority. Although the pool has operational autonomy, a 2018 FRA publication (European Border and Coast Guard Regulation and its fundamental rights implications) proposed that it should be managed by an independent actor outside Frontex. The planned revision of the EBCG Regulation could be an opportunity to address this.

Those EU Member States that have appointed National Preventive Mechanisms as the body in charge of forced return monitoring offer the strongest guarantees of independence. They may, however, face other challenges, such as limited resources (see also FRA's 2020 report: Strong and effective national human rights institutions – challenges, promising practices and opportunities). For the monitoring systems under the Pact on Asylum and Migration, Article 10 of the screening regulation requires the participation of national statutory human rights bodies, such as Ombuds institutions.

2.2. Transparency

The publication of findings from monitoring activities is a key aspect of effective monitoring. Most oversight bodies publish at least a summary of their observations with recommendations related to the monitoring of returns. This is usually part of their annual reports.

Leaving aside the Member States where no monitoring occurred in 2024, there are no public reports on findings from Austria, the German federal level monitoring system, Hungary, Luxembourg, Malta, Romania, Sweden or Slovenia. Monitoring bodies indicated that reports are available upon request in Malta (to the parliament), Romania, Slovenia and Sweden. Promising practices were observed in Estonia, Portugal and Slovakia, which published summaries of the individual return operations monitored.

An overview of the work of the Frontex pool of forced return monitors is available in chapter 2 of the 2024 Annual Report of the Frontex Fundamental Rights Officer. It contains monitoring statistics, findings and recommendations.

2.3. Effectiveness

To be effective, monitoring must have a certain regularity. It must also cover all types of forced return operations, as well as its different phases. In certain situations, EU law requires monitoring of all operations. Specifically, Article 50 (3) of the EBCG Regulation requires this for all Frontex-supported operations where transport and escorts are provided by the country of return. These are cases of so called 'collecting return operations'.

In Spain, France, Croatia, Italy and Poland no return operations were monitored in 2024. However, Eurostat data show that 8 725 individuals were forcibly returned from Spain, 14 685 from France, 6 685 from Croatia, 4 480 from Italy and 8 520 from Poland in 2024. In Croatia there has been a monitoring gap since 2021. In Austria, Czechia, Greece, Lithuania, Latvia, Luxembourg and Slovenia less than 10 return operations were monitored per country in 2024. This was also the case for the German federal mechanism, although there were civil society organisations that monitored the pre-return phase in some airports.

In at least six EU Member States (Belgium, Bulgaria, Cyprus, Estonia, Finland, and Slovenia) monitors focused on pre-return activities. This means that monitors observed the pick-up of returnees, their transfer to the airport, and procedures before and during embarkation. They were, however, rarely present during the return flight itself and did not observe the handover to the authorities of the country of return.

There are several reasons why in some countries, monitoring efforts focus primarily on the pre-return phase. A primary factor is that risk assessments recognise this initial stage as involving multiple fundamental rights concerns. Other considerations, such as limited human and financial also play a role. While FRA endorses prioritising monitoring based on risk analysis, it stresses the importance of periodically observing all phases of the return process. Failing to do so could undermine the overall effectiveness of the forced return monitoring system.

Across the EU in 2024, FRA counted 26 instances of Member States monitoring forced return operations implemented through charter flights. This shows a 50% decrease vis- à -vis 2023. Monitoring of return operations by commercial flights amounted to 763, an increase as compared to a little under 600 operations monitored in 2023. This trend reflects the overall rise in number of returns by commercial flights. 20 EU Member States monitored forced return operations by commercial flights in 2024.

Return operations via land transport were monitored in Belgium, Czechia, Estonia, Greece, Hungary, Lithuania, Luxembourg, Romania, Slovenia and Slovakia. In 2024, 46 land operations were monitored, marking an increase from 36 operations monitored in 2023. No Member State indicated having monitored return operations by sea.

Past FRA updates have shown that the in-flight phase of returns generally entails a lower risk level when conducted via commercial flights compared with charter flights. This is in large part due to the public visibility and the profile of returnees. Still, distinct challenges may arise during the preparatory phase, particularly in instances involving the removal of families or individuals with

medical conditions.

FRA inquired about information provided by the authorities on upcoming return operations. The agency examined whether it is timely and sufficient to allow adequate planning of forced return monitoring activities. Most Member States express that the information provided by the authorities is timely and enables effective planning of monitoring. Still, issues with the timely provision of information emerged in the following Member States: Bulgaria, Czechia, Finland, Germany (for airport monitoring by civil society organisations), Lithuania Greece, and Spain. Some monitoring bodies have indicated that while Frontex provides timely notification of their return operations, the national authorities do not necessarily do so. Even when information on the dates of operations is passed in a prompt fashion, information on vulnerabilities may not be provided or only at short notice upon request.

2.4. Funding

A recurrent issue is the lack of capacity of national monitors in terms of human resources and funding. In some Member States, this is showcased by the low number of operations monitored during the in-flight and hand-over phases.

Monitoring mechanisms in Belgium, Cyprus, Estonia, Portugal, Greece, Lithuania, Romania and Slovenia are either fully or partly funded through Asylum, Migration and Integration Fund (AMIF) funds. These situations, in particular, may give rise to monitoring gaps. One such lapse occurred in the first half of 2024 in Lithuania and Slovenia and in the second half of 2024 in Greece, due to the phasing out of AMIF.

Apart from AMIF-related funding obstacles, monitoring entities in Czechia, Finland, Latvia and Poland reported financial and human resources challenges. Airport monitoring by civil society organisations in Germany also faced such obstacles to conduct monitoring activities effectively.

The lack of sustainable funding and/or dependency on AMIF funding appears to be one of the main obstacles to effective monitoring. To ensure sustainability in monitoring, mandated bodies should be equipped with sufficient financial and human resources.

3. Implementation of monitoring recommendations

FRA has inquired about the follow-up by the national authorities to the findings captured in the monitoring reports. This particularly concerns observations on the use of coercive measures.

Monitoring bodies typically submit a monitoring report with their findings and recommendations. As promising practice, the Austrian monitoring body holds follow-up meetings with the authorities. Additionally, the initiatives at various German airports have been designed to include regular discussions of monitoring findings, usually on a quarterly basis.

Most monitoring bodies report that their recommendations have been positively received. Still, a few monitoring entities replied to FRA that they did not receive any information, nor did they observe any follow up to their recommendations.

Annex

Table 1: Operation of forced return monitoring in 2024 in 27 Member States

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