

Overview

Since 2014, FRA has been publishing an annual update of the forced return monitoring systems EU Member States have set up under Article 8 (6) of the EU's Return Directive. This overview describes different indicators for an effective forced return monitoring system. It includes the organisation responsible for monitoring forced return, the number of operations monitored in 2020, the phases of monitored return operations, the number of staff trained and working as monitors, and whether the monitoring body issued public reports about their monitoring.

All EU Member States have some form of return monitoring by law. But in practice, gaps remain. For example, in Germany and in Sweden the main monitoring entity is closely connected to the authority responsible for returns. Without sufficient separation between the two, a monitoring system cannot be entirely effective.

In some EU Member States, only very few operations are monitored or the monitoring is limited to the pre-return phase and does not cover in-flight and arrival phases of return. These are equally essential.

Developments over the years also show that the implementation of national monitoring systems is not linear. Particularly where it is project-based or based on a temporary agreement between the authority and the monitoring entity, an adequate forced return monitoring system may be in place but gaps re-emerge when the funding ends. Such gaps occurred in 2020 in, for instance, Italy, Bulgaria and Lithuania, where the assigned civil society organisations' financing expired.

In 2020, the Covid-19 pandemic considerably affected the number of returns in the EU. Consequently, return monitoring figures also decreased in 2020.

The table below compares developments in EU Member States. The overview does not cover the pool of forced return monitors under the European Border and Coast Guard Agency, Frontex.

Forced return monitoring systems – State of play in 27 EU Member States - 2021 update

EUMS	Year	Independent system to monitor forced returns in operation*	Legal source providing for monitoring forced return	Organisation responsible for monitoring forced return	Is the monitoring body at the same time the National Preventive Mechanism? **	Reporting		Number of monitored national operations (excluding intra-EU and Dublin transfers)***					Number of staff who worked as monitors	Number of staff trained as monitors	Phases of monitored operations (pre-return; in-flight; handover)
						Report on each operation?	Public report(s)	By air		by land	by sea	Number of monitored Frontex operations			
								Charter flights	Commercial flights						
AT	2020	✓	Aliens Police Act (<i>Fremdenpolizeigesetz, FPG</i>) §46, read together with §10 Alien Police Act – Operative Act (<i>Fremdenpolizeigesetz-Durchführungsverordnung, FPG-DV</i>)	Human Rights Association Austria (<i>Verein Menschenrechte Österreich</i>)	No	Yes	No public reports	20	0	1	0	72 ¹	10	10	All phases
BE	2020	✓	Royal Decree of 19 June 2012 (<i>Arrêté royal modifiant l'arrêté royal du 8 octobre 1981 et l'arrêté royal du 20 juillet 2001/Koninklijk besluit tot wijziging van het koninklijk besluit van 8 oktober 1981 en het koninklijk besluit van 20 juli 2001</i>), Art. 5	General Inspectorate of the Federal Police and the Local Police (AIG) (<i>Inspection générale de la police fédérale et de la police locale/Algemene inspectie van de federale politie en van de lokale politie</i>)	No	Yes	2020 Annual Report	4	106	0	0	0	7	3	6 operations: all phases; 104 operations: pre-return phase

¹ The Austrian return monitoring body is one of the most active members of the Frontex-governed pool of forced return monitors.

BG	2020	✓	Aliens Act (<i>Закон за чужденците в Р България</i>), Art. 39a (2)	Ombudsman (<i>Омбудсманът</i>) Until 2019 the Center for the Study of Democracy monitored returns in Bulgaria	Yes	Yes	2020 Annual Report	0	0	0	0	0	2	2	Pre-return phase (covered until 2020)
CY	2020	✓	Aliens and Immigration Law (Cap 105) (<i>Ο περί Αλλοδαπών και Μεταναστεύσεως Νόμος (ΚΕΦ 105)</i>), Art. 18Π (6)	Office of the Commissioner for Administration and the Protection of Human Rights (Ombudsman)	Yes	Yes	2020 Annual Report not yet published	0	64	0	0	0	3	4	Pre-return phase
CZ	2020	✓	Act No. 349/1999 Coll. on the Public Defender of Rights Act, Section 1, Art. 6 and further amendments	Ombudsman, Public Defender of Rights (PDR) (<i>Veřejný ochránce práv, VOP</i>)	Yes	Yes	2020 Annual Report	0	2	0	0	0	2	3	Pre-return phase
DE	2020	(X)	Decree of the Federal Ministry of the Interior, Building and Community, 15 February 2017 (<i>Bundesministerium des Innern, für Bau und Heimat</i>), Internal decree, not public	Federal Office for Migration and Refugees	No	Yes	2020 Migration Report not yet published	10	0	0	0	10	4	4	All phases
			No legal basis at federal level	Fora at various airports:**** BB: Forum Abschiebungsbeobachtung Berlin-Brandenburg ; NRW: Diakonie ; FR: Diakonie and Caritasverband für die Diözese Limburg e.V. ; HH: Diakonie	BB: No	BB: Yes	BB: 2020 Annual Report not yet published; NRW: 2020 Annual Report (in German) ; FR: 2020 Executive Board Report	0	0	0	0	0	BB:1	BB:1	Pre-return phase (covered until 2020)
			Monitoring forced returns as part of the NPM mandate	Nationale Stelle zur Verhütung von Folter	Yes <i>(The National Agency for the Prevention of Torture has not been appointed as the monitoring body for forced returns but carries out monitoring as part of its mandate as Germany's designated National Preventive Mechanism)</i>	Yes	2020 Annual Report (Jahresbericht 2020, in german)	1	0	0	0	0	2	0	Pre-return phase
DK	2020	✓	Aliens Act (Consolidation Act No. 1061 of 18 August 2010, and further amendments), Art. 30a	Parliamentary Ombudsman (<i>Folketingets Ombudsmand</i>)	Yes	Yes	2020 Annual report; Ombudsman opinion on undocumented police use of force during a forced return (in Danish)	3	70	0	0	0	6	3	All phases
EE	2020	✓	Obligation to Leave and Prohibition on Entry Act (<i>Väljasõidukohustuse ja sissesõidukeelu seadus</i>), RT I, 15 March 2014, 98, 21 October 1998, Art. 6 (4)	Estonian Red Cross (<i>Eesti Punane Rist</i>)	No	Yes	2020 Annual Report	0	30	1	0	0	3	1	3 operations: all phases; 27 operations: pre-return phase

EL	2020	✓	Law 3907/2011 (transposing Directive 2008/115/EC), Art. 23 (6); Joint Ministerial Decision 4000/4/57-α/2014 , Art. 3	Greek Ombudsman (<i>Συνήγορος του Πολίτη</i>)	Yes	Yes	2020 Annual Report; Special report 2020 on return of third country nationals	7	0	3	4	6	19	26	13 operations: all phases
ES	2020	✓	Organic Act 3/1981 , of 6 April regarding the Defensor del Pueblo, as amended, and Rules of the Organisation and Functions of the Defensor del Pueblo	Ombudsman (<i>Defensor del Pueblo</i>)	Yes	Yes	2020 Annual Report	1	0	0	0	5	3	3	5 operations: all phases 1 operation: pre-return and in flight until last transit (not hand-over)
FI	2020	✓	Aliens Act (<i>ulkomaalaislaki/utlänningslag</i>), No. 301/2004, Section 152 (b)	Non-Discrimination Ombudsman (<i>Yhdenvertaisuusvaltuutettu</i>)	No	Yes	2020 Annual Report not yet published; Monitoring the enforcement of removals from the country observations from 2014-2019	2	1	0	0	3	3	3	4 operations: all phases; 2 operations: pre-return phase
FR	2020	✓	Law 2007-1545 of 30 October 2007 establishing a General inspector of all places of deprivation of liberty, Art. 1	General Inspector of All Places of Deprivation of Liberty (<i>Contrôleur général des lieux de privation de liberté</i>)	Yes	Yes	2020 Annual Report not yet published	0	0	0	0	0	0	0	n/a
HR	2020	✓	Foreigners Act (<i>Zakon o strancima</i>) (OG 133/20), Art. 204; and Ordinance on the Treatment of Third Country Nationals (<i>Pravilnik o postupanju prema državljanima trećih zemalja</i>) (OG 68/2018), Arts. 40-45	Croatian Law Centre (<i>Hrvatski pravni centar</i>)	No	Yes	2020 Annual Report not yet published	0	7	32	0	0	6	6	38 operations: pre-return phase; 1 operation: in-flight phase
HU	2020	✓	Act 2007 II on the Entry and Stay of Third-Country Nationals (2007. évi II. törvény a harmadik országbeli állampolgárok beutazásáról és tartózkodásáról), Art. 65 (9); 20/2014. (XII.23.) Chief Prosecutor's Instruction about the judicial supervisory competence of the penal supervisory and legal protection prosecutor , Arts. 2 (i) and 13	Prosecution Service of Hungary (<i>Magyarország Ügyészsége</i>)	No	Yes	No public reports	1	0	0	0	0	2	2	All phases
IE***	2020	-	No monitoring system in law	No monitoring system in law				-	-	-	-	-	-	-	
IT	2020	✓	Law 10/2014 of 21 February 2014, Art. 7	National Guarantor for the Rights of Persons Deprived of Liberty (<i>Garante nazionale dei diritti delle persone private della libertà personale</i>)	Yes	No	Report on the monitoring activities of Third Country Nationals' forced return operations (January 2019-June 2021) (in Italian); 2020 Annual Report to the Italian Parliament (in Italian)	7	0	0	0	1	20	20	All phases

LT	2020	✓	Law on the Legal Status of Aliens (Istatymas Dėl užsieniečių teisinės padėties) , No. IX-2206, 29 April 2004 and further amendments, Art. 126 (2); Order No 1V-279/A1-196 of the Minister of the Interior and Minister of Social Security and Labour of the Republic of Lithuania 'On approving the Description of the monitoring's execution of removal of foreigners from the Republic of Lithuania' of 10 April 2015	Diversity Development Group from September 2020	No	Yes	No public reports	0	5	0	0	0	2	0	n/a
		✓		Lithuanian Red Cross Society (Lietuvos Raudonojo Kryžiaus draugija) until March 2020	No	No	No public reports	0	0	0	0	0	3	3	Mostly pre-return, occasionally in-flight (until 2020)
LU	2020	✓	Immigration law of 25 June 2013 , Arts. 109-116 and Grand-ducal decree of 26 September 2008 (coordinated text of 22 August 2011), Art. 6 (2)	Luxembourg Red Cross (Croix-Rouge luxembourgeoise)	No	Yes	2020 Annual Report not yet published	1	2	1	0	0	4	12	All phases
LV	2020	✓	Immigration Law (Imigrācijas likums) , Art. 50 (7)	Ombudsman's Office (Tiesībsarga birojs)	Yes (Ombudsman's Office is acting as the national preventive mechanism but the Optional Protocol to the CAT has not been ratified)	Yes	2020 Annual Report (in Latvian)	0	1	0	0	0	2	12	All phases
MT	2020	✓	Board of Visitors for Detained Persons Regulations , Legal Notice 266 of 2007, Subsidiary Legislation 217.08, Art. 3 (g)	Monitoring Board for Detained Persons	Yes	Yes	2020 Annual Report not yet published	2	0	0	0	0	2	2	All phases
NL	2020	✓	Aliens Return Monitoring Regulation (Regeling toezicht terugkeer vreemdelingen) Law Gazette (Staatscourant) of 23 December 2013, No. 35638.	Inspectorate of Justice and Security (Inspectie Justitie en Veiligheid)	Yes	Yes	Annual Report 2020 Inspectorate of Justice and Security (in Dutch); 2021 Report Border Control and Investigation (in Dutch)	0	5	0	0	7	8	8	All phases
PL	2020	✓	Act on foreigners (Ustawa z dnia 12 grudnia 2013 r. o cudzoziemcach, Dz.U. 2020 poz. 35) , 12 December 2013, Art. 333; Ordinance of Ministry of Internal Affairs of 18 April 2014 on the presence of NGO representatives during activities concerning the return of foreigners to the border or to an airport or seaport of the state to which he/she is to be brought.	Various NGOs e.g. Helsinki Foundation for Human Rights , Rule of Law Institute Foundation , Halina Nieć Legal Aid Centre , MultiOcalenie Foundation	No	Yes	No public reports	1	3	0	0	1	3	24	1 operation: all phases; 3 operations: pre-return phase

PT	2020	✓	Decree-Law no. 22/2021, of March 15th (PRESIDÊNCIA DO CONSELHO DE MINISTROS Decreto-Lei n.º 22/2021, de 15 março) Act 23/2007, of July, 4th (Foreign Nationals Act) Article 180-A, para. 4, subparagraph. c) (Lei n.º 23/2007, de 4 de julho (Lei de Estrangeiros), Artigo 180.º-A, n.º 4, alínea c) Ministerial Order n.º 11102/2014, of August, 25th (Despacho do Ministério da Administração Interna n.º 11102/2014, de 25 de Agosto) Ministerial Regulation n.º 10728/2015 of September, 16th (Despacho do Ministério da Administração Interna n.º 10728/2015, de 16 de Setembro)	General Inspectorate of Home Affairs (Inspeção-geral da Administração Interna, IGAI)	No	Yes	2020 Annual Report not yet published; Monitoring/Return Operations in 2020.	0	18	0	0	0	8	8	5 operations: all phases; 13 operations: pre-return phase
RO	2020	✓	Government Ordinance No. 25/2014 (Ordonanța Guvernului nr. 25/2014 privind încadrarea în muncă și detașarea străinilor pe teritoriul României) , Official Gazette No. 640 of 30 August 2014, Art. 98	Romanian National Council for Refugees (Consiliul Național Refugiați, CNRR) (NGO)	Yes	Yes	2020 Annual Report of the Ombudsman	1	30	4	0	2	5	0	All phases
SE	2020	✗	Regulation (2007: 996) with instructions for the Swedish Migration Board, Section 3 (21)	Swedish Migration Agency (Migrationsverket)	No	Yes	No public report Reports are public upon demand according to the Public Access to Information and Secrecy Act	4	n/a	0	0	3	2-3	0	2 operations: all phases; 5 operations: in-flight and handover
SI	2020	✓	Foreigners Act (Zakon o tujcih, ZTuj-2) , 15 June 2011 (Official Gazette No. 50/2011, 27 June 2011), Art. 69 (5)-(7)	Caritas Slovenia	No	Yes	No public reports	2	1	0	0	1	2	2	All phases
SK	2020	✓	Act No. 404/2011 Coll. on residence of aliens (Zákon č. 404/2011 o pobyte cudzincov a zmene a doplnení niektorých zákonov) , Art. 84 (8)	Slovenská humanitná rada (NGO)	No	Yes	No public reports	1	2	1	0	1	2	2	All phases

Notes:

* 'Independent system to monitor forced returns in operation' means that a monitoring entity different from the authority responsible for returns has been appointed and has carried out some monitoring activities during the year.

** National Preventive Mechanisms established under the Optional Protocol to the UN Convention Against Torture may monitor forced return operations under their mandate flowing from the Convention.

*** In some Member States Frontex finances national return operations. Therefore, the indicated number of monitored Frontex operations may include these national operations.

**** BB = Berlin/Brandenburg

FR = Frankfurt

HH = Hansestadt Hamburg

NRW = North Rhine Westphalia



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FOR FUNDAMENTAL RIGHTS

**** Ireland is not bound by the Return Directive (2208/115/EC).

n/a = information not available

- Operational
- Partially operational
- Not operational