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*Garante nazionale
dei diritti delle persone detenute o private della libertà*



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DELL'INTERNO

Fondo Asilo, Migrazione e Integrazione 2014-2020
Progetto "Realizzazione di un sistema di monitoraggio dei rimpatri forzati"

MONITORING OF FORCED RETURNS IN EUROPE

STRATEGIES, CRITICAL ISSUES AND BEST PRACTICES



FONDAZIONE
ISMU
INIZIATIVE E STUDI
SULLA MULTIETNICITÀ

Research carried out under the project “**Implementation of a forced return monitoring system**” financed by the National Guarantor for the rights of persons detained or deprived of liberty through the Asylum, Migration and Integration Fund (AMIF) 2014/2020

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Introduction

The present research has been carried out in the broader framework of actions envisaged by the project “Implementation of a forced return monitoring system” funded by the National Guarantor for the rights of persons detained or deprived of liberty through the Asylum, Migration and Integration Fund (AMIF) 2014/2020. As known, since 2016 the National Guarantor has carried out its mandate as national authority for the monitoring of forced returns under the European Directive 115/2008, a mandate conferred also in view of the function of the National Guarantor as national mechanism for the prevention of torture and other cruel, inhuman or degrading treatment or punishment, which allows it full and free access to all places where people are deprived of personal liberty. For this reason the monitoring of return operations carried out with police escort, which are therefore forced, is a core activity of the National Guarantor. Nevertheless, the aforementioned AMIF project has enabled the National Guarantor to carry out its mandate more effectively thanks to the resources it had made available. Thanks to the project, in fact, the Guarantor, from 2017 to today, has for instance been able to benefit from the contribution of experts and specialists in the field of migration law, protection of rights at international level, protection of health vulnerabilities, and cultural mediators who have contributed to raising the quality of the observations made during the monitoring of return operations, strengthening the institution’s wealth of expertise. It has also been possible to launch internal training initiatives for the preparation and updating of the monitors, as well as to create workshops open to the main stakeholders, including the State Police, responsible for organizing and carrying out forced returns, but also other institutional subjects, and representatives of organized civil society. These initiatives have allowed to share and expand the wealth of knowledge and skills concerning forced returns while also strengthening social awareness on this delicate area of deprivation of liberty. In this regard, the constant need for the National Guarantor to interact with external subjects in carrying out such an important mandate, as well as the inherent international dimension of return operations, has inspired the need for research into practices and best practices in monitoring in Europe by bodies that are counterparts of the National Guarantor or charged at national level with the same task. The *Fondazione Ismu* was thus identified to provide the methodological support service for the project, and entrusted with the task of carrying out a comparative analysis of regulations, approaches, methods and techniques adopted by the institutions responsible for monitoring forced returns in the European countries that agreed to participate in the research. The foundation highlights similarities and differences in the work of the different monitoring bodies and at the same time aims to identify critical issues and best practices in protecting the fundamental rights of people during return operations. The research considers and compares different elements that tend to appear recurrently, and tries to analyse respective practices: the use of force and means of coercion, the necessary notice period that allows persons to be repatriated to adequately prepare for the return operation, the availability of cultural mediators, social workers, psychologists or medical staff during operations, the possibility of lodging a complaint following a forced return. Also, a section of the analysis looks more closely at the work of the monitors, with respect to the criteria for choosing the operations to be monitored, the use or lack of standard tools for observation such as checklists or templates and, moreover, a central issue, the drafting of monitoring reports and related recommendations, including the degree of acceptance by the authorities to which they are addressed. In essence, these are key questions to be addressed with an approach capable to go beyond national boundaries and therefore able to provide a valuable contribution to the complex system regulating forced returns and its actors, also

raising the level of protection of fundamental rights that every operation of forced return inevitably brings into play: personal security, the right not to be returned to a country where he/she might be at risk of death penalty, torture and other inhuman or degrading treatment, but also personal dignity, health, the right to understand or be protected in situations of personal vulnerability. The principle holds that “return cannot be carried out at all cost”, an unquestionable limit to the right of States to legitimately decide about the stay of foreign citizens in their territory.

We wish to thank the colleagues from other European countries who carried out monitoring activities in their respective countries and who kindly and patiently agreed to answer the submitted questionnaire that is the backbone of this work; we also wish to thank the Board and the National Guarantor’s Office for the support given to this research and to the project in general; we also thank the pool of experts of the forced return operations of the National Guarantor, in particular Antonio Marchesi for revising the text. Finally, we thank Elena Adamoli of the Organisational Unit Migrants and deprivation of liberty of the National Guarantor for the careful work of legal review. We hope this research will prove useful.

Massimiliano Bagaglini
Project manager

Methodological note

As part of the project “Implementation of a forced return monitoring system”, funded by the Asylum, Migration and Integration Fund (AMIF) 2014/2020, the National Guarantor for the rights of persons detained or deprived of liberty worked in collaboration with Fondazione ISMU¹ for the creation of a Scientific-Methodological Support Service for the monitoring of forced return operations.

The objectives of the service were:

- To systematize the information collected during monitored forced return operations;
- To systematize and standardize the monitoring system through the creation and revision of specific tools;
- To hone the sampling method employed for the selection of the return operations to be monitored;
- To define a set of indicators useful for the preparation of Reports and the Annual Report to Parliament;
- To increase the competences of the national monitoring system through comparison with the practices implemented at European level.

To complement the systematization of the information, of the tools and procedures that the National Guarantor adopts in order to carry out the task of monitoring returns, an analysis of the procedures implemented by other Member States was carried out in order to identify best practices transferable to the Italian context.

The research was carried out in two phases.

First of all, the “state of play” of the monitoring systems implemented by other Member States was reviewed and mapped.

The mapping of current practices aimed to define a list, as complete and up-to-date as possible, able to provide a descriptive account of the situation at European level.

The analysis aimed to provide a review of the reference legislation and of the practices adopted as well as a description of the phenomenon of forced returns, so as to obtain the most comprehensive picture possible.

Mapping on the one hand involved desk research activity, starting from the available documentation and, in particular, from the information made available by the European Union Agency for Fundamental Rights (FRA)² and by Frontex.³

Secondly, a questionnaire was defined which was submitted to all the monitoring bodies and the results of which are reported in the third part of this Report. The aim of the questionnaire was to investigate two aspects in depth: first, to collect information on the methods of implementing forced returns by the reference country (block 1), and second, to investigate strategies and monitoring activities of the competent bodies (block 2).

The questionnaire was therefore structured in two blocks and it examined:

¹www.ismu.org.

²Forced return monitoring system – 2019 update https://fra.europa.eu/en/publication/2019/forced_return-monitoring-systems-2019-update.

³ Factsheet for forced return monitor, European Border and Coast Guard Agency – FRONTEX.

Block 1

- When the communication about a forced return operation is given to the monitoring body;
- Notice given to the returnee of their forced return;
- The use of coercive measures;
- The presence of social assistants and/or psychologists during return operations;
- Complaint procedures available to returnees.

Block 2

- The choice of the flights to be monitored and the factors taken into consideration;
- The number of monitors used during forced return operations and presence of figures of support (interpreters, doctors, psychologists, etc.);
- Monitoring of the phases of arrival and reception in the country of return by local authorities;
- The delivery of Recommendations and the results obtained;
- The use of checklists during the monitoring phases;
- The involvement of NGOs and the press by the Monitoring Body.

Furthermore, three cases of particular interest were selected (Spain, Greece and Belgium) and the context, the legislation and the practices of these three States were analysed.

The choice of these three specific countries was inspired on the one hand by the need to gather more information and explore contexts similar to the Italian one (Spain and Greece), on the other hand by the need to analyse a profoundly different context (Belgium). In the first two cases, in fact, the appointed monitoring body is the National Preventive Mechanism (NPM), foreseen by the Optional Protocol to the Convention against Torture (OPCAT) of the United Nations, and for this reason independent bodies were chosen, competent in the field of deprivation of individual liberty. In the Belgian case, instead, the task of monitoring is entrusted to a body that is not independent as it is placed under the authority of the Ministry of the Interior and the Ministry of Justice.

Finally, the second phase of the research and analysis activity involved the identification of best practices and recommendations, based on the material collected. The practices sampled were analysed in order to identify positive and transferable practices and formulate useful recommendations to support the work of the Guarantor.

From a methodological point of view the strategy used in carrying out the activities was multifaceted and related to research and monitoring approaches closely dependent on the different contexts in which the team operated, on the conceptualization constructed during and after the research phase and on the connected “operationalization”, necessary for the processing and analysis of the data collected.

With regard to the mapping operations, synthetic and exhaustive description tools were chosen; furthermore, data were processed and analysed from secondary sources, both as information sources themselves, providing direct and independent analytical and interpretative results, and as sources of support, completion and improvement of the implementation of the research.

Finally, as described above, original data were collected, through the administration of an open-ended questionnaire, the answers to which were treated both descriptively and analytically.

This report is therefore the result of the research and analysis described above and is structured as follows:

- The first part contains a brief description of the Italian institutional framework;
- The second part is dedicated to reviewing the state of play by means of summary tables relating to each European country;
- The third part contains a cross-section analysis of some aspects considered crucial for the work of the European monitoring bodies;
- The fourth part is dedicated to the comparative study of Spain, Greece and Belgium;
- Finally, the fifth and final section contains recommendations and best practices based on the analysis carried out.

1. The Italian case: institutional framework

Decree-Law No. 146 of 23 December 2013, converted with amendments into Law No. 10 of 21 February 2014, established the Italian National Guarantor for the rights of persons detained or deprived of liberty with the aim of strengthening the protection of the rights of persons subject to limitation of personal liberty, including foreign citizens who are the recipients of an expulsion order pursuant to the rules contained in the Consolidated Act on Immigration (Legislative Decree No. 286/98) and subjected to forced return operations.

The European Directive for returning illegally staying third-country nationals (2008/115/EC) requires States to provide “an effective system for monitoring forced returns” (Article 8, paragraph 6).

This Directive does not prescribe in detail how national monitoring systems should be organized, but leaves a wide margin of discretion to Member States. However, the [Return Handbook](#) established by the Commission Recommendation (EU) 2017/2338 of 16 November 2017 sets out common standards to be used by Member States’ competent authorities when carrying out return related tasks (OJ L 339, 19.12.2017, pp. 83-159) providing some guidelines in this regard and in particular:

- ✓ the need to monitor all phases of return operations;
- ✓ the recommendation to appoint independent organizations/experts for monitoring;
- ✓ the inadequacy, for the purposes of monitoring, of judicial remedies in individual cases or of national systems for monitoring the efficiency of national return policies;
- ✓ the obligation to ensure that a monitoring system is overall and fully operational;
- ✓ the possibility of implementing a sample monitoring system, on condition the overall efficiency of the monitoring system is guaranteed.

In Italy, article 7 of Decree-Law No. 146 of 23 December 2013 (converted with amendments into Law No. 10 of 21 February 2014) attributes to the National Guarantor for the rights of persons detained or deprived of liberty the task of ensuring that the custody of the persons subjected to the limitation of personal liberty is implemented in accordance with the national standards and international human rights conventions ratified by Italy.

Since the early months of 2016, the National Guarantor also operates as a national and independent body for monitoring forced returns, having been designated by the Presidency of the Council of Ministers as a national monitoring body precisely in view of its being an independent body that reports mainly to Parliament and by virtue of its institutional mandate, that relates to deprivation of liberty in general.

The assignment of the task of monitoring to the Guarantor takes place in the context of a particular historical phase in Italy. In fact, if on the one hand, starting from 2017, there has been a decrease in arrivals (in 2018 the flow to Italy decreased by 80% compared to the same period of 2017: in fact, from 1 January to 5 November 2018, 22 thousand migrants landed on the Italian coasts – while in 2017 there were over 112 thousand migrants arriving), on the other hand there has been growing attention on the issue of repatriations and returns.

According to the elaborations carried out by the Guarantor of the data provided by the Public Security Department – Central Directorate for Immigration and Border Police, between 2015 and 2018, forced returns from Italy increased from 5,505 to 6,398 (5,817 in 2016; 6,514 in 2017).

In 2018 the people forcibly returned from Italy to the countries of origin were 6,398: the first nationalities by number of returned foreigners are: Tunisia, Albania, Morocco, Egypt and Nigeria.

This figure must be integrated with the figures relating to the increase of people transiting in closed removal centres (CPR) (+ 36%), to the increase of these same centres (indeed modest, despite the regulatory provisions of the so-called “Orlando-Minniti Decree” of 2017).

Also from a regulatory point of view there are important modifications that affect the sphere of intervention of the Guarantor.

With the entry into force of Decree-Law No. 113/2018, converted with amendments into Law No. 132 of 1 December 2018 (the so-called “Salvini Decree” or “Security Decree”), the humanitarian protection provided by the Consolidated Act on Immigration (Legislative Decree 286/98 and subsequent amendments) has been eliminated and the entire reception system for asylum seekers has been reshaped.

With regards to the discipline of detention for identification purposes, Article 3 of Law No. 132/2018 establishes that applicants for international protection may be detained “for the time strictly necessary and in any case for a period not exceeding 30 days”, in special rooms at the government preliminary reception centres and at the so-called hotspots, “for the determination and verification of identity or citizenship”. The applicant, on the expiry of the 30 days, in the event it has not been possible to determine or verify his or her identity or citizenship, can be held in an Immigration Removal Centre (CPR) for a maximum of 180 days.

With Article 4, on the other hand, a new form of detention is introduced for foreign citizens subjected to expulsion orders. It is now possible, under certain conditions and with specific limitations, to detain foreigners awaiting validation of immediate escort to the border in “suitable places”, in centres other than the Immigration Removal Centres, depending on the availability of the public security authority.

The necessary prerequisites are that the CPRs must have reached full capacity and that the Justice of the Peace gives authorization in the decree setting the validation hearing. If the conditions that determined the detention “in different and suitable structures” persist also after the validation hearing, during this hearing the Judge “can authorize the stay, in suitable premises at the border office of the border in question, until the execution of the actual removal and in any case no later than forty-eight hours after the validation hearing”.⁴

It is, to all intents and purposes, a potential multiplication and diffusion of places aimed at detention. The generic definition of “suitable places”, introduced by the new legislation, and the absence of previously determined objective parameters to define the notion of suitability of such places, presents very critical aspects with regard to national and international standards. In general, and especially with reference to forced returns, in its last Report to Parliament the National Guarantor stated the need for a “constitutionally and internationally oriented” interpretation of administrative detention with regard to the latest changes introduced by the law; and expressed concern about

- the extension of the maximum duration of detention for foreign citizens awaiting forced return;
- the lack of clarity and exactness of the legislative provision with reference to detention of asylum seekers for the determination or verification of identity and citizenship in the

⁴ Report to Parliament 2019 – National Guarantor for the rights of persons detained or deprived of liberty, p. 79. An in-depth discussion of “suitable places” can be found in the chapter *Luoghi* (places) of the abovementioned report, paragraph 17 *Locale idoneo* (suitable place), pp. 79-81.

light of the Constitutional provision (Article 13) and in compliance with the conditions required by Article 5 of the ECHR.

As is clear “The range of action of the National Guarantor in the area of deprivation of personal liberty of migrants has therefore expanded both in terms of an increase in the number of persons holding rights to be supervised, and in terms of extension of the network of structures to be monitored” (Report to Parliament 2018 - National Guarantor for the rights of persons detained or deprived of liberty).

1.1 The activity of the National Guarantor

Since its designation, the National Guarantor has been able to count on the effective collaboration of the Ministry of the Interior and, in particular, of the Central Directorate for Immigration and Border Police of the Public Security Department which shares all information related to forced return operations organized on the national territory mainly by charter (national or joint), or with commercial flights, in real time and on a daily basis.

On the basis of the information shared by the Public Security Department, the National Guarantor identifies the sample of operations to be monitored directly and sends its own specially trained officials to act as monitors.

In carrying out its task, the monitor has full access to the places and documentation of the operation. The monitor also has the opportunity to speak with the returnees and the escort operators. Monitoring covers every area of the operation or of the specifically monitored phase, such as communications to returnees and their accessibility, meals and beverages administered, security checks, possible coercive measures, consular hearings (if provided for during the monitored phase), etc.

The observation activity is oriented and supported by a special checklist that identifies the areas of attention, the most important structural and procedural aspects and the information to be acquired to assess compliance with the fundamental rights of the persons subjected to the forced return operation.

At the end of each mission, a report is also prepared on the operation containing the recommendations that the National Guarantor addresses to the Public Security Department of the Ministry of the Interior.

Furthermore, since April 2017, the work of the National Guarantor has received the support of additional financial resources made available by the Asylum, Migration and Integration Fund (AMIF) 2014/2020 of the Ministry of the Interior through the project “Implementation of a forced return monitoring system” managed by the Guarantor.

Thanks to this project, a series of experts have been recruited to work alongside the Guarantor in this delicate task, such as, for example, an expert in international protection of human rights, an expert in legal issues concerning immigration and asylum law, a doctor experienced in the application of the 2004 UN Istanbul protocol and a cultural mediation service.

Thanks to this project, it was also possible to start building a national monitoring network with the participation of regional guarantors with whom bilateral agreements were signed.

In fact, return operations can originate from any detention centre and from any location in the country. This makes it necessary to build a network with the guarantor bodies present in the area to ensure widespread coverage of the National Guarantor.

The regional guarantors that have joined the national monitoring network to date are 8: Lazio, Tuscany, Sicily, Apulia, Piedmont, Emilia-Romagna, Campania, Marche and the Turin Municipal Guarantor.

After an initial period of support and thanks to specific training activities financed through the AMIF project, the regional Guarantors began to independently monitor forced return operations, especially in the delicate phase of pre-departure in the CPR premises.

Finally, thanks to the AMIF project, it was possible to proceed to the revision and digitization of the aforementioned checklist, through a digital platform that will put in direct contact all the monitors involved and will allow the National Guarantor to coordinate operations, to collect, systematize and analyse the data produced during monitoring.

From May 2016 to September 2019, 49 forced return operations were monitored limited to the international flight phase, of which 43 part of the AMIF Project.

In particular, analysing the monitoring activity year by year, always taking into account only the flight phase, the increase in monitored operations is clearly evident:

- 2016: 4 flight phases monitored (1 to Tunisia, 1 to Peru, 2 to Nigeria);
- 2017: 7 flight phases monitored (3 to Nigeria, 4 to Tunisia);
- 2018: 14 flight phases monitored (3 to Nigeria, 1 to Egypt, 10 to Tunisia);
- 2019 (as of 30 September): 24 flight phases monitored (7 to Tunisia, 5 to Egypt, 5 to Nigeria, 2 to Morocco, 2 to Kosovo, 2 to Albania, 1 to Gambia).

To these 21 pre-return or pre-departure phases monitored must be added, for a total of 67 forced return operations monitored by the National Guarantor since the start of the project to date (8 of which have been monitored in **all** their phases: pre-return, pre-departure and flight phases).⁵

⁵ Report to Parliament: 2016, 2017, 2018, National Guarantor for the rights of persons detained or deprived of liberty.

2. Monitoring bodies in Europe

First of all, the research aimed at mapping European monitoring bodies. In order to draw up a concise but accurate picture, during the desk research phase the various sources of available information were integrated.

This chapter is therefore the result of this summary and reports the main information concerning both the phenomenon of forced return in general and the main aspects related to the monitoring of these operations. For each country a form has been drawn up which collects the following information:

- Body responsible for monitoring (source: FRA, European Union Agency for Fundamental Rights, Effective forced return monitoring system 2018, Fact Sheets for forced return monitors elaborated by Frontex);
- Year of establishment and legislative references (intended as the year of establishment of the monitoring body and relative legislative framework. For some countries the information available is of two kinds: year of foundation of the body and year of attribution to the same the monitoring mandate on forced returns, if the data is available and if the dates do not match) (source: Fact Sheet for forced return monitors elaborated by Frontex, information available on websites);
- Type of body (source: questionnaires, and information available on websites, Fact Sheets for forced return monitors elaborated by Frontex);
- Number of operations monitored in 2018 (source: FRA, European Union Agency for Fundamental Rights, Effective forced return monitoring system 2018);
- Number of returns carried out in 2018 (source: European Migration Network (EMN) - Annual Report 2018 on Migration and Asylum - Statistical Annex);
- Reporting (source: questionnaires, information available on websites, Fact Sheets for forced return monitors elaborated by Frontex);
- Civil society interventions/accessibility of the information collected (source: questionnaires, information available on websites, Fact Sheets for forced return monitors elaborated by Frontex);
- Use of checklists: questionnaires, information available on websites (source: Fact Sheets for forced return monitors elaborated by Frontex).

As regards the data on forced returns carried out annually by Member States, it is worth noting that the decision to use the *Annual Report 2018 on Migration and Asylum - Statistical Annex* of the European Migration Network (EMN) as a source was motivated by the consideration that this source was not only reliable⁶ but also the most up-to-date and rich in information. The Statistical Annex of the EMN Annual Report was used to compile the forms of all the countries being considered except for Denmark, whose data was not available and for which it was decided to integrate data provided by Eurostat. Finally, for Italy, the data used corresponds to the calculations made by the National Guarantor based on the data provided by the Public Security Department - Central Directorate for Immigration and Border Police.

On the basis of an initial analysis of the results obtained, it is interesting to highlight the nature of the bodies that the various Member States have appointed to carry out the mandate of monitoring forced returns.

⁶ On the European Migration Network see:

https://ec.europa.eu/home-affairs/what-we-do/networks/european_migration_network_en

In particular, 11 countries (Czech Republic, Denmark, Greece, Spain, France, Italy, Luxembourg, Latvia, Malta, the United Kingdom, the Netherlands) have decided to entrust this task to the National Preventive Mechanisms pursuant to the OPCAT.⁷ In fact, accession to this Protocol provides that the State must have an independent National Preventive Mechanism for monitoring places of deprivation of personal liberty by means of visits and access to documents, in order to prevent any act of torture or cruel, inhuman or degrading treatment or punishment.⁸

Other countries have instead decided to entrust the task of monitoring to bodies such as Internal Inspectorates, placed under the jurisdiction of the Ministry of the Interior or the Ministry of Justice.

Germany, the Slovak Republic and Sweden deserve a separate specification, in that the bodies responsible for monitoring are part of the same office responsible for forced returns. For this reason these bodies cannot in general qualify as sufficiently independent and therefore “effective” pursuant to Article 8 paragraph 6 of the Directive on Returns.⁹ Furthermore, in Germany the monitoring of forced returns is carried out in some areas by non-governmental organizations (NGOs), which however do not cover the whole country (for which the Federal Office Migration and Refugees remains responsible).

Another point worth noting is the relationship between the number of forced returns carried out by a Member State and the monitoring capacity of the appointed Bodies. Although it is not possible to make a direct comparison (the data available with respect to the work of the monitors refers to the number of operations monitored and not to the number of interested persons), this information can all the same be a starting point for evaluating the work of these bodies at European level.

The country that carried out the highest number of monitoring operations in 2018, among those considered, is Belgium, with 96 operations monitored – covering 2,617 returns carried out during 2018 – even if for the most part (87 out of 96) only in the pre-return phase. The countries that follow are the Netherlands, Croatia and Austria, respectively with 62, 60 and 58 operations monitored in each phase.

The countries that carried out the highest number of returns are Germany, with 26,114 forced returns and 30 monitored operations (of which 26 only in the pre-return phase), and Spain - 11,713 returns and 16 monitored operations.

⁷Article 3 of the Protocol reads: “Each State Party shall set up, designate or maintain at the domestic level one or several visiting bodies for the prevention of torture and other cruel, inhuman or degrading treatment or punishment (hereinafter referred to as the national preventive mechanism).” Adopted December 18, 2002 by Resolution A/RES/57/199 and entered into force on June 22, 2006, ratified by Italy on April 25, 2014.

⁸ Point 34 of the United Nations Guidelines on national preventive mechanisms NPM/CAT/op/12/5 of December 9, 2009: “The NPM should plan its work and its use of resources in such a way as to ensure that places of deprivation of liberty are visited in a manner and with sufficient frequency to make an effective contribution to the prevention torture and other cruel, inhuman or degrading treatment or punishment.”

⁹ FRA, European Union Agency for Fundamental Rights, Effective forced return monitoring system 2018, <https://fra.europa.eu/en/theme/asylum-migration-borders>

AUSTRIA			
Body responsible for monitoring	<i>Verein Menschenrechte Österreich (VMO) – Human Rights Association Austria</i> http://www.verein-menschenrechte.at		
Year of establishment and legislative references	Established in 2011 under § 10 FPG-DV (Implementing Ordinance of the Alien’s Police Act - Human rights observers’ duties during return operations)		
Type of body	Human rights watch, it does not constitute the National Preventive Mechanism against torture but it cooperates with it. The NPM can take part in the monitoring process.		
Number of operations monitored in 2018	58 All three phases monitored		
Number of returns carried out in 2018	<table border="1"> <tr> <td>Total 2,593 Men 2,153 Women 462 Minors 194</td> <td>Top 5 nationalities Serbia Nigeria Georgia Afghanistan Russia</td> </tr> </table>	Total 2,593 Men 2,153 Women 462 Minors 194	Top 5 nationalities Serbia Nigeria Georgia Afghanistan Russia
Total 2,593 Men 2,153 Women 462 Minors 194	Top 5 nationalities Serbia Nigeria Georgia Afghanistan Russia		
Reporting	A report for the Federal Ministry of the Interior must be prepared within a week by the monitor who followed the operations. This report is also forwarded to the NPM		
Civil society interventions/accessibility of the information collected	The individual and final reports are not public		
Use of checklists	A specific <i>template</i> is used		

Country	BELGIUM	
Body responsible for monitoring	<i>Inspection générale de la Police Fédérale et de la Police Locale</i> https://www.police.be/aigpol/fr/language-selection	
Year of establishment and legislative references	Royal Decree of 19 June 2012	
Type of body	Body under the jurisdiction of the Ministry of the Interior and the Ministry of Justice. Independent from Local and Federal Police. It does not constitute the National Preventive Mechanism for the prevention of torture	
Number of operations monitored in 2018	96, of which: 9 operations: all three phases monitored 87 operations: only pre-return phase monitored	
Number of returns carried out in 2018	Total 2,617 Men n/a Women n/a Minors n/a	Top 5 nationalities Albania Morocco Serbia Brazil Pakistan
Reporting	For each monitored operation, a report is prepared, and sent to the Ministry of the Interior, to the Secretariat of State for Asylum and Migration and to the Directorate of the Federal Police. An annual report is also drawn up for the Ministry of the Interior and presented to the Parliament	
Civil society interventions/accessibility of the information collected	Reports are not public but can be requested by the competent authority	
Use of checklists	Use of an internal checklist	

Country	BULGARIA	
Body responsible for monitoring	<i>Ombudsman of the Republic of Bulgaria</i> https://www.ombudsman.bg	
Year of establishment and legislative references	Article No. 39 of the Law on Foreigners of the Republic of Bulgaria, which entered into force on 11.03.2013	
Type of body	Independent constitutional body, elected by the National Assembly. It does not constitute the National Preventive Mechanism for the prevention of torture	
Number of operations monitored in 2018	11, of which: 4 operations: all three phases monitored 7 operations: only pre-return phase monitored	
Number of returns carried out in 2018	Total 332 Men 283 Women 32 Minors 17	Top 5 nationalities Iraq Turkey Afghanistan Pakistan Syria
Reporting	An annual report is drawn up and sent to the Directorate of Migration	
Civil society interventions/accessibility of the information collected	The individual reports are not public but most are published in the annual NPM report	
Use of checklists	Frontex checklist in use	

Country	CROATIA
Body responsible for monitoring	<i>Croatian Law Centre</i> http://www.hpc.hr/

Year of establishment and legislative references	Jurisdiction over forced return monitoring since 3 March 2017. Transposition of the Return Directive with the Croatian Law on Foreigners (130/11 and 74/13) and by the Ordinance on the Treatment of Foreigners (14/13)	
Type of body	It does not constitute the National Preventive Mechanism for the prevention of torture	
Number of operations monitored in 2018	60 All three phases monitored	
Number of returns carried out in 2018	Total 1,305 Men 1,159 Women 146 Minors 26	Top 5 nationalities Turkey Kosovo Albania Iraq Syria
Reporting	Information not available	
Civil society interventions/accessibility of the information collected	Annual reports are published on the website	
Use of checklists	Information not available	

Country	CYPRUS
Body responsible for monitoring	<i>Commissioner for Administration and Protection of Human Rights</i>

	http://www.ombudsman.gov.cy/Ombudsman/ombudsman.nsf/index_en/index_en?OpenDocument	
Year of establishment and legislative references	Since 2009, the Ombudsman has collaborated with the National Preventive Mechanism for the prevention of torture, however the monitoring activity began on 1.1.2019	
Type of body	The body consists of independent state officials	
Number of operations monitored in 2018	0	
Number of returns carried out in 2018	Total 484 Men n/a Women n/a Minors n/a	Top 5 nationalities Georgia Ukraine India Russia Vietnam
Reporting	Reports are drawn up which, if necessary, are sent to the Chief of Police and to the Director of the Department of Migration	
Civil society interventions/ accessibility of the information collected	The involvement of other subjects (e.g. press) in forced return monitoring is not envisaged. As a rule, the reports remain internal to the Ombudsman's office, however reports of visits from the various detention centres are published on the website	
Use of checklists	Information not available	

Country	CZECH REPUBLIC
Body responsible for monitoring	<i>Public Defender of Rights</i> https://www.ochrance.cz/en/
Year of establishment and legislative references	Responsible for monitoring forced returns since 01.01.2011. The body was established with Act. No. 349/1999

Type of body	It constitutes also the National Preventive Mechanism	
Number of operations monitored in 2018	30 of which: 4 operations: all three phases monitored 26 operations: only pre-return phase monitored	
Number of returns carried out in 2018	Total 219 Men 204 Women 11 Minors 4	Top 5 nationalities Ukraine Vietnam Afghanistan Serbia India
Reporting	Reports are drawn up after each monitoring operation, but there is no deadline for drafting. The Office is required to monitor at least 40 operations per year	
Civil society interventions/accessibility of the information collected	The reports are sent to all the bodies that took part in the operation (police authorities, prisons, pre-trial detention centres, health care institutions). At the same time, the Public Defender also communicates its recommendations	
Use of checklists	A standard template does not exist	

Country	DENMARK
Body responsible for monitoring	<i>Danish Parliamentary Ombudsman</i> http://en.ombudsmanden.dk
Year of establishment and legislative references	Article No. 30 Danish Aliens Act (Consolidation Act No. 239 of 10 March 2019)
Type of body	It constitutes the National Preventive Mechanism
Number of operations monitored in 2018	8 of which: 4 operations: all three phases monitored

	3 operations: only pre-return phase monitored 1 operation: data not available	
Number of returns carried out in 2018 (Source: Eurostat)	Total 1,655 Men n/a Women n/a Minors n/a	Top 5 nationalities n/a
Reporting	An internal report on the monitored operation is prepared, if any critical issues emerge during an operation, a specific recommendation is addressed to the police authority	
Civil society interventions/accessibility of the information collected	No civil society intervention is planned, the decision is competence of the Danish police. The reports are not public	
Use of checklists	There is no specific checklist in use, monitors take notes on paper or digital media	

Country	ESTONIA	
Body responsible for monitoring	<i>Estonian Red Cross</i> http://www.redcross.ee/en/index.html	
Year of establishment and legislative references	Information not available	
Type of body	It does not constitute the National Preventive Mechanism	
Number of operations monitored in 2018	22, of which: 12 operations: all three phases monitored 10 operations: only pre-return phase monitored	
Number of returns carried out in 2018	Total 143 Men 131 Women 12 Minors 0	Top 5 nationalities Russia Ukraine Georgia Moldavia
Reporting	Information not available	
Civil society interventions/accessibility of the information collected	Information not available	
Use of checklists	Information not available	

Country	FINLAND	
Body responsible for monitoring	<i>Non-Discrimination Ombudsman</i> https://www.syrjinta.fi/web/en/frontpage	
Year of establishment and legislative references	Article No. 152 Finnish Aliens Act, introduced in 2014	
Type of body	Autonomous body. It does not constitute the National Preventive Mechanism	
Number of operations monitored in 2018	46 of which: 12 operations: all three phases monitored 18 operations: pre-return and flight phases monitored 16 operations: only pre-return phase monitored	
Number of returns carried out in 2018	Total 2,236 Men n/a Women n/a Minors 103	Top 5 nationalities Russia Iraq Gambia Ukraine Nigeria
Reporting	There is no obligation to draft a report after each operation, instead recommendations are sent to the police unit responsible for returns and to the National Police Council	
Civil society interventions/accessibility of the information collected	The recommendations are public, while the reports of the monitors following each operation are for internal use. No involvement of civil society is foreseen	
Use of checklists	There is no specific checklist model or template in use. Each monitor takes notes on the progress of the operation	

Country	FRANCE	
Body responsible for monitoring	General Inspector of All Places of Deprivation of Liberty http://www.cglpl.fr/en/	
Year of establishment and legislative references	Law No. 2014-528 of May 26, 2014 (which modifies Law 2007/1545 of 10/30/2007, establishing the NPM), attributes to the NPM the responsibility for monitoring forced returns	
Type of body	It also constitutes the National Preventive Mechanism	
Number of operations monitored in 2018	3 All three phases monitored	
Number of returns carried out in 2018	Total 7,348 Men n/a Women n/a Minors n/a	Top 5 nationalities Albania Algeria Morocco Tunisia Georgia
Reporting	Reports of each visit to places of deprivation of liberty are drawn up, published on the website together with recommendations and annual reports	
Civil society interventions/accessibility of the information collected	There are no reports on the website relating to forced returns being monitored	
Use of checklists	Information not available	

Body responsible for monitoring	<i>Federal Office for Migration and Refugees (BAMF)</i> http://www.bamf.de/DE/Startseite/startseite-node.html	
Year of establishment and legislative references	Recently designated for monitoring forced returns by the NPM, the body in any case responsible for monitoring all phases	
Type of body	It collaborates directly with the National Preventive Mechanism	
Number of operations monitored in 2018	30 of which: 4 operations: all three phases monitored 26 operations: only pre-return phase monitored	
Number of returns carried out in 2018	Total 26,114 Men n/a Women n/a Minors n/a	Top 5 nationalities Albania Serbia Kosovo Georgia Macedonia
Reporting	The reports are addressed to the Federal Police and Frontex	
Civil society interventions/accessibility of the information collected	The decision on the involvement of other subjects in flight monitoring is not the responsibility of the Federal Office, but of the Federal Police and the Ministry of the Interior	
Use of checklists	Frontex checklist in use	

Body responsible for monitoring	<i>The Greek Ombudsman</i> https://www.synigoros.gr/?i=stp.en.home	
Year of establishment and legislative references	Operational since 1 October 1998, responsible for monitoring forced returns since 2011, law No. 3907/2011	
Type of body	Independent authority provided for by the Constitution. It also constitutes the National Preventive Mechanism	
Number of operations monitored in 2018	41 All three phases monitored	
Number of returns carried out in 2018	Total 7,776 Men n/a Women n/a Minors n/a	Top 5 nationalities Albania Iraq Pakistan Georgia Iran
Reporting	The report of each operation, filled in and signed by the monitor in charge, is immediately submitted to the Ombudsman and to the Deputy Ombudsman for Human Rights and made available to the members of the monitoring team	
Civil society interventions/accessibility of the information collected	On a quarterly basis, the Ombudsman addresses the main conclusions, observations and suggestions to the responsible Ministers and the Chief of Police and asks for the necessary measures to be taken. Each year, the Ombudsman's report is presented to the Parliament and <i>The Greek Ombudsman</i> is invited to present his conclusions to the competent Parliamentary Commission. The annual report is published on the Ombudsman's website and presented at an annual conference	
Use of checklists	A pre-compiled model and an internally developed checklist are used. All the information collected, comments and suggestions, as well as the results of the monitoring, are included in a report signed by the monitor	

Body responsible for monitoring	<i>Public Prosecution's Office of Hungary</i> http://ugyeszseg.hu/	
Year of establishment and legislative references	Article No. 65 Act II of 2007	
Type of body	It does not constitute the National Preventive Mechanism. The Prosecutor's Office is located under the Ministry of Justice, it is a hierarchical body that exercises its mandate with independence and autonomy	
Number of operations monitored in 2018	5 All three phases monitored	
Number of returns carried out in 2018	Total 227 Men 258 Women 13 Minors 2	Top 5 nationalities Serbia Albania Ukraine Turkey Afghanistan
Reporting	A report is prepared within 15 days after the operation, addressed to the Prosecutor	
Civil society interventions/accessibility of the information collected	Individual reports are not public, while annual reports to the Parliament are published on the website	
Use of Checklist	Monitors does not use any mandatory template	

Country	IRELAND
Body responsible for monitoring	No monitoring body is provided

Year of establishment and legislative references	N/A	
Type of body	N/A	
Number of operations monitored in 2018	N/A	
Number of returns carried out in 2018	Total 163 Men 139 Women 24 Minors 4	Top 5 nationalities Pakistan China Nigeria Brazil India/Malaysia
Reporting	N/A	
Civil society interventions/accessibility of the information collected	N/A	
Use of checklists	N/A	

Country	ITALY
Body responsible for monitoring	National Guarantor for the Rights of Persons Detained or Deprived of Liberty

	http://www.garantenazionaleprivatiliberta.it/gnpl/	
Year of establishment and legislative references	Established in 2013, appointment of the Board and establishment of the Office in 2016	
Type of body	It also constitutes the National Preventive Mechanism. Independent State Body	
Number of operations monitored in 2018	22 All three phases can be monitored (on the basis of a case-by-case decision)	
Number of returns carried out in 2018	Total 7,054 Men 6,655 Women 399 Minors 0	Top 5 nationalities Tunisia Albania Morocco Egypt Nigeria
Reporting	A report is drawn up after each forced return monitoring, containing observations and any recommendations to be forwarded to the competent authorities	
Civil society interventions/accessibility of the information collected	Each report, normally one month after being delivered, is published on the website alongside with any replies received	
Use of checklists	A specific checklist is used, drafted on the Frontex template	

Country	LATVIA
Body responsible for monitoring	<i>Ombudsman Office</i> http://www.tiesibsargs.lv/
Year of establishment and legislative references	Established on April 6, 2006, Section 50 Immigration Law

Type of body	It also constitutes the National Preventive Mechanism. The Ombudsman is directly elected by Parliament and is an independent body	
Number of operations monitored in 2018	3 All three phases monitored	
Number of returns carried out in 2018	Total 103 Men 81 Women 23 Minors n/a	Top 5 nationalities Vietnam Russia Kazakhstan Belarus Moldova
Reporting	After the operation has ended, the monitor prepares a report on the progress of the operation to be forwarded to the State Border Guard and containing critical issues and recommendations. If violations of rights are raised, the monitor may ask the head of the State Border Guard to conduct an in-depth investigation	
Civil society interventions/accessibility of the information collected	Internal reports are not public, while annual reports are published on the website and the results of operations are published in the annual report	
Use of checklists	An internal checklist is used to subsequently draft the report	

Country	LITHUANIA	
Body responsible for monitoring	<i>Lithuanian Red Cross Society</i> https://www.redcross.lt/	
Year of establishment and legislative references	Since 2004 partner of UNHCR	
Type of body	It does not constitute the National Preventive Mechanism	
Number of operations monitored in 2018	14, of which: pre-return phase is always monitored sometimes all three phases are monitored (on the basis of a case-by-case decision)	
Number of returns carried out in 2018	Total 135 Men 105 Women 14 Minors 16	Top 5 nationalities Vietnam Russia Georgia Belarus Moldova
Reporting	Information not available	
Civil society interventions/accessibility of the information collected	Information not available	
Use of Checklist	Information not available	

Country	LUXEMBOURG	
Body responsible for monitoring	<i>Luxembourg Red Cross</i> http://www.croix-rouge.lu/en/	
Year of establishment and legislative references	Information not available	
Type of body	It also constitutes the National Preventive Mechanism. All monitors are volunteers from the Red Cross	
Number of operations monitored in 2018	8 All three phases monitored	
Number of returns carried out in 2018	Total 84 Men 76 Women 9 Minors 1	Top 5 nationalities Nigeria Georgia Albania Algeria
Reporting	A report is drawn up, without any particular deadline, after each operation and addressed to the Ministry of Immigration and Asylum	
Civil society interventions/accessibility of the information collected	The publication of the reports is not regulated, however the Ministry of Immigration and Asylum can decide to publish them, if they contain relevant information	
Use of checklists	There is no particular checklist template	

Country	MALTA	
Body responsible for monitoring	<i>Monitoring Board for Detained Person</i> https://www.gov.mt	
Year of establishment and legislative references	2007, Decision 2004/573/EC	
Type of body	Independent body. It also constitutes the National Preventive Mechanism	
Number of operations monitored in 2018	3 All three phases monitored	
Number of returns carried out in 2018	Total 223 Men 167 Women 51 Minors 5	Top 5 nationalities Albania Morocco Colombia Georgia China
Reporting	Within 7 days of the operation, a report is drawn up and signed by all parties involved, including the immigration police department	
Civil society interventions/accessibility of the information collected	Participation in return flights is only possible for the monitoring authority. Individual reports are not public	
Use of checklists	Frontex checklist in use	

Country	NETHERLANDS	
Body responsible for monitoring	<i>Inspectorate of Justice and Security</i> https://www.ivenj.nl	
Year of establishment and legislative references	2012 Return Supervision Regulation	
Type of body	The inspectorate constitutes one of the bodies of the National Preventive Mechanism, and also acts as coordinator of the various bodies that are part of it	
Number of operations monitored in 2018	62 all three phases monitored	
Number of returns carried out in 2018	Total 5,470 Men n/a Women n/a Minors n/a	Top 5 nationalities Albania Morocco Colombia Algeria Brazil
Reporting	The reports of each operation are sent to the director of the R&DS. The most important information is published in an annual report, sent to the Secretariat of State and the Ministry of the Interior	
Civil society interventions/accessibility of the information collected	The annual report is public. No involvement of civil society is foreseen	
Use of checklists	The monitors use a specific template, both for Frontex flights and for national operations	

Country	POLAND	
Body responsible for monitoring	Various NGOs: Helsinki Foundation for Human Rights; Rule of Law Institute Foundation, Halina Niec Legal Aid Centre, MultiOcalenie Foundation	
Year of establishment and legislative references	Information not available	
Type of body	Non-governmental associations	
Number of operations monitored in 2018	7, of which: 6 operations: all three phases monitored 1 operation: data not available	
Number of returns carried out in 2018	Total 1,110 Men n/a Women n/a Minors n/a	Top 5 nationalities Ukraine Russia Vietnam Belarus Georgia
Reporting	Information not available	
Civil society interventions/accessibility of the information collected	Information not available	
Use of checklists	Information not available	

Country	PORTUGAL
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Body responsible for monitoring	<i>Inspectorate General of Home Affairs (IGAI)</i> https://www.igai.pt/pt/Pages/default.aspx	
Year of establishment and legislative references	Established with Law Decree No. 227/95. Responsible for monitoring forced return since August 2015, on the basis of the Decision of the Ministry of Internal Administration No. 11102/2014	
Type of body	It does not constitute the National Preventive Mechanism. Inspectors are appointed by order of the Ministry of Internal Affairs on the proposal of the Inspector General and exercise their mandate with independence and impartiality	
Number of operations monitored in 2018	11 of which: 1 operation: all three phases monitored 10 operations: only pre-return phase monitored	
Number of returns carried out in 2018	Total 293 Men n/a Women n/a Minors n/a	Top 5 nationalities Brazil India Cape Verde Albania Guinea Bissau
Reporting	Monitors are required to prepare a report within ten days from the operation	
Civil society interventions/accessibility of the information collected	The summaries of each monitoring carried out as well as the recommendations are available on the website. The results are also published in the annual report	
Use of checklists	A specific checklist is used	

Country	ROMANIA	
Body responsible for monitoring	<i>Romanian National Council for Refugees</i> http://www.cnrr.ro/index.php?lang=en	
Year of establishment and legislative references	Information not available	
Type of body	Non-governmental organization. It does not constitute the National Preventive Mechanism	
Number of operations monitored in 2018	49 of which: 28 operations: all three phases monitored	
Number of returns carried out in 2018	Total n/a Men n/a Women n/a Minors n/a	Top 5 nationalities N/A
Reporting	Reports are drawn up following each mission, addressed to the Romanian Ombudsman Institution. Furthermore, according to the Common Procedure, the report must be sent to the General Inspectorate for Immigration within 7 days after the monitoring. Meetings are held annually with representatives of all bodies involved (General Inspectorate for Immigration, the General Inspectorate of the Romanian Border Police and the Ombudsman Institution)	
Civil society interventions/accessibility of the information collected	Information not available	
Use of Checklist	Information not available	

Country	SLOVAK REPUBLIC	
Body responsible for monitoring	<i>Ministry of the Interior-Bureau of Border and Foreign Police of the Presidium of the Police Force</i> https://www.minv.sk/?foreign-police	
Year of establishment and legislative references	Established April 1, 2000	
Type of body	Body under the jurisdiction of the Ministry of the Interior	
Number of operations monitored in 2018	Information not available	
Number of returns carried out in 2018	Total 430 Men 368 Women 62 Minors 0	Top 5 nationalities Ukraine Vietnam Serbia Turkey Afghanistan
Reporting	The reports are addressed to the Public Defender of Rights and, only in the event of human rights violations, also to the Police	
Civil society interventions/accessibility of the information collected	Information not available	
Use of Checklist	Information not available	

Body responsible for monitoring	<i>Caritas Slovenia</i> https://www.karitas.si/	
Year of establishment and legislative references	The monitoring system has been active since October 2017	
Type of body	Charitable institution of the Catholic Church	
Number of operations monitored in 2018	5 Only pre-return phase monitored	
Number of returns carried out in 2018	Total 5,936 Men 5,637 Women 299 Minors 257	Top 5 nationalities Pakistan Afghanistan Iran Algeria Syria
Reporting	Operation reports are forwarded to the Directorate of the General Police (under the jurisdiction of the Ministry of the Interior). It may happen that action is taken against the work of individual police officers, if serious accidents occur. The recommendations are discussed during meetings with the police unit of the Reception Centres for Foreigners	
Civil society interventions/accessibility of the information collected	The participation of any third party is not envisaged	
Use of checklists	A specific internal checklist is used, developed on the basis of the experience achieved and the training	

Body responsible for monitoring	<i>Defensor del Pueblo</i> https://www.defensordelpueblo.es/en/	
Year of establishment and legislative references	Law 1/2009	
Type of body	It also constitutes the National Preventive Mechanism	
Number of operations monitored in 2018	16 All three phases monitored	
Number of returns carried out in 2018	Total 11,713 Men n/a Women n/a Minors n/a	Top 5 nationalities Morocco Algeria Colombia Senegal Brazil
Reporting	A report is drawn up with related recommendations, then it is sent to the General Directorate of the Police and to the Head of the Repatriation Unit of the National Police	
Civil society interventions/accessibility of the information collected	The drafted reports are available online	
Use of checklists	A specific internal checklist is used	

Body responsible for monitoring	<i>Swedish Migration Agency</i> https://www.migrationsverket.se/English/Private-individuals.html	
Year of establishment and legislative references	Information not available	
Type of body	Body under the jurisdiction of the Police, it does not constitute the National Preventive Mechanism (operational since August 2018)	
Number of operations monitored in 2018	38, of which: 13 operations: all three phases monitored 25 operations: only the pre-return phase monitored	
Number of returns carried out in 2018	Total 2,079 Men 1,735 Women 221 Minors 123	Top 5 nationalities Albania Georgia Ukraine Afghanistan Serbia
Reporting	The reports are drawn up after each operation (within 14 days) and addressed to the bodies involved (police authority responsible for returns) and to groups of organizations that function as advisory committee. No recommendations are attached, they are sent separately	
Civil society interventions/accessibility of the information collected	Red Cross, Save the Children and other similar organizations have full access to detention centres as well as material related to return operations. The reports are public	
Use of checklists	A specific and mandatory template is used	

Country	SWITZERLAND
Body responsible for monitoring	<i>National Commission for the Prevention of Torture (NCPT)</i> https://www.humanrights.ch/en/switzerland/swiss-players/federal-departments-involved/ncpt-torture/
Year of establishment and legislative references	Federal Law on the Commission for the Prevention of Torture, 20.03.2009 (since 2012 forced return flights are monitored, usually charter flights only)
Type of body	Independent body, it also constitutes the National Preventive Mechanism
Number of operations monitored in 2018	50
Number of returns carried out in 2018	N/A
Reporting	After each operation, a standard questionnaire must be drawn up within 7 days. NCPT prepares an annual report containing observations and recommendations, the report is presented to the head of the Federal Department of Justice, to the Police and to the President of the Swiss Conference of Cantonal Directors, who ask for a response from the Special Committee for Return and Expulsion
Civil society interventions/accessibility of the information collected	A meeting is held annually where the NCPT presents the annual report to civil society organizations and associations. All reports are accessible online
Use of checklists	A standard internal checklist is used

UNITED KINGDOM													
Body responsible for monitoring	<i>Her Majesty's Inspectorate of Prisons of England and Wales</i> https://www.justiceinspectorates.gov.uk/hmiprisons/#.VQb_ozXl0ymQ												
Year of establishment and legislative references	Independent body												
Type of body	Information not available												
Number of operations monitored in 2018	Information not available												
Number of returns carried out in 2018	<table border="0"> <tr> <td>Total 9,474</td> <td>Top 5 nationalities</td> </tr> <tr> <td>Men 8,414</td> <td>Albania</td> </tr> <tr> <td>Women 1,059</td> <td>Romania</td> </tr> <tr> <td>Minors 28</td> <td>Poland</td> </tr> <tr> <td></td> <td>Ukraine</td> </tr> <tr> <td></td> <td>Latvia</td> </tr> </table>	Total 9,474	Top 5 nationalities	Men 8,414	Albania	Women 1,059	Romania	Minors 28	Poland		Ukraine		Latvia
Total 9,474	Top 5 nationalities												
Men 8,414	Albania												
Women 1,059	Romania												
Minors 28	Poland												
	Ukraine												
	Latvia												
Number of returns carried out in 2018	A report is drawn up and addressed to the Home Office, which sends it to the private companies (Mitie Care and Custody) responsible for the return operations												
Reporting	There is no involvement of the press or civil society. Theoretically there are no bans, but the Home Office should authorize participation. Instead, NGOs are involved. The Independent Monitoring Board often monitors operations, assisting the HM Inspectorate, however it does not draft any reports												
Civil society interventions/accessibility of the information collected	The monitors use a specific checklist drawn up by the office, called "expectations"												
Use of Checklist	The monitors use a specific template, both for Frontex flights and for national operations												

3. Cross-section analysis of some aspects considered crucial for the monitoring of forced returns at European level

In May 2019, a questionnaire was prepared to be submitted to the departments responsible for monitoring forced returns in EU Member States.

The monitoring bodies of the following countries responded to the questionnaire sent to the network of European monitors: Belgium, Cyprus, Denmark, Finland, Germany, Greece, Malta, the Netherlands, the United Kingdom, Slovakia, Slovenia, Spain, Sweden and Switzerland.

From a first comparison and elaboration of the information gathered, it is possible to summarize the main points, both shared and not, of the European monitoring operations, as reported and brought to our attention by the staff of the corresponding Authorities.

3.1 Notice of the implementation of forced returns communicated by the police authorities to the body responsible for the monitoring activity

The communications regarding the implementation of forced return by the national public security authorities, generally in charge of carrying out the return operations, are sent to the national guarantor authority or similar body tasked with monitoring, at least one week in advance (e.g. Spain, Slovenia, Sweden, the Netherlands, Switzerland, Finland). Only in some cases (Slovakia, Cyprus, Malta, Italy) communication of the start of operations takes place a few days before (from 3 days to 48h before).

On the other hand, Denmark, Germany, Belgium and the United Kingdom declare that they receive information on returns to be carried out through monthly or weekly documents that list the flight schedules.

The Greek Ombudsman receives the planning of return operations carried out by air annually and the communications of the transfers that will be carried out monthly. As regards operations by land or by sea, it should be noted that the Greek police forwards the communication to the monitor's office – using a dedicated email address — only 3-4 days before starting operations.

Normally the communication takes place via email, but in some countries (e.g. Cyprus) the information is communicated by telephone. In Finland, the guidelines of the Police Board underline how the Finnish Ombudsman must be notified of operations “well in advance”.

In general, the staff of the *Italian National Guarantor* reports that, taking into account the speed with which the operations are organized, especially those carried out on scheduled flights, communications are generally timely, but work is being done to ensure that the competent Police Department's communication no longer takes place via telegram, but by sending files that can be received electronically, with reasonable notice and taking into account the organization and planning requirements of the Guarantor's staff.

3.2 Notice given to the returnee of their forced return

The notice with which the returnee is informed of their forced return is much shorter. European monitors report that it normally depends on where the returnee is located: if the person is detained at an identification centre, in prison or other place of detention, return planning is communicated sooner (Spain, Slovenia, Germany). In other cases, the foreign person is notified 1 or 2 days before the transfer (Switzerland, Malta, Slovakia, the Netherlands, Sweden), but it can also happen that the returnee is notified only 24 hours in advance or at the moment the flight is decided (e.g. Greece, Italy). The *Finnish Non-Discrimination Ombudsman* reports that returnees are often warned well in advance of their return operation, and only in some cases the communication is given with a short notice. According to the *Danish Folketingets Ombudsmand*, some returnees are informed a few days before the flight, although in some cases the Danish national police have stated that they have not warned the returnee in advance so as to avoid acts of self-harm or resistance. The German monitor also states that often the exact date of the return is not communicated to prevent flight or avoidance of return.

The issue is in any case of great interest, so much so that numerous recommendations have been made by European monitors on this point, highlighting that returnees should be allowed to prepare for the return to their homeland in compliance with the rules prescribed by international and European conventions. *The Greek Ombudsman*, in particular, constantly makes recommendations to the national police demanding that returnees be informed with sufficient notice (at present returnees in Greece are informed of the transfer on the day of the operation).

Spain has also stated that recommendations have been made on this aspect, addressed to the Directorate of the Police Department, in charge of ordering return operations, to underline the importance of allowing returnees time to organize and communicate with their lawyers and families.

In the United Kingdom, until recently, a specific date was not communicated to returnees but only a possible time frame. However, the High Court has recently suspended this procedure and today a precise communication of date and time is to be sent to the interested party with at least 72-hour notice.

Also the *Swiss National Commission for the Prevention of Torture* has criticized the lack of reasonable notice. The recommendations on this point, contained in the 2016-2017 Annual Report, emphasize the importance of informing people subjected to return at least 72 hours before departure and also recommend that the person interested be informed of the exact date and time of the flight, as well as its duration and the destination city.¹⁰

In Italy, the staff of the *National Guarantor* reported that it is common practice to inform the persons involved of their return only on the day of departure. According to the Italian monitor, this practice risks leading to a violation of the principle of non-refoulement, since it does not offer guarantees regarding the possibility of timely intervention by the defenders. Therefore, the European Committee for the Prevention of Torture recommended that the Italian Authorities inform the interested parties and their lawyers and also recommended that they provide for a "last call procedure", to allow for verification of the legal status of third-country nationals residing illegally throughout the course of the operation.

3.3 Use of coercive measures

¹⁰<https://www.nkvf.admin.ch/dam/data/nkvf/Berichte/2017/vollzugsmonitoring/rapport-contrôle-des-renvois-2016-2017.pdf>

Another topic of great importance is the monitoring of the use of coercive measures on returnees. These measures are generally allowed in compliance with the European and international standards but must be residual, proportional and based on the concrete need and the risk assessment of each case in which the police forces are required to intervene.¹¹

To grasp the differences and specificities, below is a table with an indication of the coercive measures allowed in each country during forced return operations, based on the information available.¹²

COUNTRY	COERCIVE MEASURES ALLOWED
Austria	Band slings, handcuffs, body cuffs
Belgium	Body cuff, velcro straps for ankles and knees, quick release handcuffs (classic metal handcuffs, but with a latch in the centre. In case of emergency, they can be quickly released by pulling the latch), boxing helmet
Bulgaria	Handcuffs, body cuffs
Croatia	Information not available
Cyprus	Metal handcuffs, ankle cuffs (in particularly critical situations)
Czech Republic	Handcuffs (for wrists and ankles), body cuffs, measures to prevent orientation in space
Denmark	Information not available
Estonia	Information not available
Finland	Handcuffs, plastic bindings, body cuffs, boxing helmet, spit mask
France	Information not available
Germany	Handcuffs (for wrists and ankles), body cuffs
Greece	Handcuffs (though never during the boarding and flight phases), masks (only in case of serious contagious illnesses). Body cuffs are not admitted
Hungary	The legislation does not specify which coercive measures are allowed, but the use of force and the use of handcuffs are allowed
Ireland	Information not available
Italy	Velcro straps (for wrists), French body cuffs
Latvia	There is no rule or regulation expressly indicating which coercive measures are allowed
Lithuania	Information not available
Luxembourg	Metal handcuffs, plastic handcuffs, velcro straps, body cuffs, head protection, spit masks

¹¹ See also Council Decision 2004/573/EC - Annex: Common Guidelines 3.2 – Use of coercive measures, Article 7 of the Frontex Code of Conduct and Article 8 of the Council Decision 2008/115/EC of 16 December 2008.

¹² Sources: Factsheet for forced return monitor, European Border and Coast Guard Agency – FRONTEX, questionnaires.

Malta	National legislation does not specify which coercive measures are allowed; those in use are: body cuffs, metal handcuffs, plastic handcuffs, head protection
Netherlands	From 1 January 2013, the allowed coercive measures are not specified. Nonetheless, those in use are: metal handcuffs, velcro straps, bite/spit mask, French body cuffs
Poland	Information not available
Portugal	Handcuffs, French body cuffs, metal handcuffs, plastic handcuffs, velcro straps (metal handcuffs are not allowed)
Romania	French body cuffs, plastic handcuffs, velcro straps, metal handcuffs
Slovak Republic	Information not available
Slovenia	Standard measures used by the Slovenian police: handcuffs, body cuffs, plastic handcuffs, straps. Measures that might be used by the Slovenian police (only in case of unavailability of the standard ones): adhesive tape, belt, straps. Measures used during forced returns: American body cuffs (body cuff with metallic parts), French body cuffs (in velcro), plastic handcuffs
Spain	Velcro straps, metal handcuffs, body cuffs, head protection
Sweden	Handcuffs. Other measures such as body cuffs, stretchers and hoods , are not explicitly mentioned but admitted
Switzerland¹³	During the flight phase: handcuffs NOT in metal (plastic, velcro, laces...), batons . During the transport to the airport metal handcuffs are also used. Returnees may also be tied to wheelchairs if circumstances justify it
United Kingdom	Information not available

The use of coercive measures, as reported by the authorities of the Member States that participated in the research, must be in compliance with human rights, although the critical aspects implied by the use of handcuffs or other permitted coercive measures are subject to the specific attention of monitors. Indeed, recommendations are constantly made on this issue by the bodies responsible for monitoring forced returns in Europe.

In Switzerland, for example, in the two-year period 2018-2019, the police withheld from the employment of coercive measures in 48% of cases during transport to the airport. However, it is noted that the use of these measures remains a widespread practice.

Also in the UK, the use of coercive measures is cause for concern. During the international transfer phases the escort staff often uses a waist restraint belt that can be used in “restricted” or in “secure” modality. In this second case, the person to be repatriated cannot move their arms. The use of these measures is allowed only if “reasonable, proportionate and necessary”. Although the use of these measures is allowed only if “reasonable, proportionate and necessary”, the UK monitor has highlighted the over-use and prolonged duration of these measures employed also with returnees who do not oppose resistance.

The same happens in Spain, where the *Defensor del Pueblo* has suggested the Police create a logbook to track the use of coercive measures in airport premises, so as to allow verification of the use of these tools during return operations. Returnees usually wear textile ties which are

¹³ Not a EU Member State but a Schengen country.

removed at take-off. The Spanish monitoring body also reports it has noticed that handcuffs are used in all flights having Morocco as final destination and that it is awaiting a response from the Directorate General of Police on this point.

Belgium, Germany, Denmark and Finland state that the use of coercive measures must take place according to the criterion of individual risk assessment and as a last resort, and requests that any “questionable” use be reported.

The *Cypriot Ombudsman* noted the disproportionate use of coercive measures due to the inconsistency of reasons given based on the individual assessment of some forced return operations. Recommendations were therefore made to the Chief of Police to ensure that escorts strictly adhere to international standards.

In Slovakia, the use of handcuffs is ordered in all cases that present risk of escape during pre-departure operations. Only in one of the cases monitored handcuffs were not used.

In Slovenia, no case of employment of coercive measures has been reported while in the experience of the *Maltese monitor* the use of coercion has always been in line with the Frontex Code of Conduct.

The Greek police systematically apply metal or velcro cuffs for preventive reasons in general, but also without specific concrete and detailed risk assessments. On this point, *The Greek Ombudsman* has made several recommendations.

Also according to the Italian *National Guarantor* the predominant critical factor detected in the monitoring activity is the use of coercive force by escorts, and in particular the use of velcro straps: this tool cannot be used if there is no resistance by the returnee or a reaction of violence, in the absence of which it is a violation of human dignity. It is noted that velcro straps are often used systematically and in a generalized way, regardless of the behaviour of the individual returnee. This preventive way of using this tool is strongly criticized by the *National Guarantor*, as well as the use of the French body cuff (a belt with various straps that allows to block arms and legs).

For both coercive measures, the monitor is required to observe and take note of the duration of the use of the measure and of the ways in which it is applied. Also, on the occasion of total immobilizations of the person, in particularly critical circumstances, the doctor from the State Police should always be present.

The coercive nature of forced return operations and, in extreme cases, the justification of the use of force with people who have no criminal liability, impose a series of obligations on the State Authority aimed at ensuring that this limitation, when allowed, is imposed in full respect of fundamental human rights. The Italian *National Guarantor* has repeatedly reported the habit of using velcro straps to tie the wrists of returnees also for many hours indiscriminately and also in instances that are not of openly uncooperative behaviour.

In the framework of the guarantee instruments that must be adopted, the training of escort operators plays a leading role, since the task of protecting the dignity and physical integrity of returnees while also guaranteeing effectiveness of the operation falls on them.

Finally: it has been reported that in particularly complex operations, law enforcement officers film the most critical operations with video cameras so that operators are protected in the event of reports and for the purpose of greater control over the choice to use coercive measures.

Another controversial aspect, according to the *Italian monitoring body*, as regards the use of coercive measures, is represented by the considerable diversity of coercion during joint charter flights¹⁴ compared to national ones. The former are certainly better organized, and the operation is planned in detail: the list of authorized coercive measures is preliminarily established because each country involved has its own, but only the organizing country can allow its use. For example, if Italy, in the context of a flight organized in collaboration with Frontex, has a share of returnees from other countries, it must also assess the eligibility of instruments that Italy does not employ, such as spit masks.

In Sweden, although the monitoring system has only been active since August 2018, a systematic use of coercive measures has never been reported. In some cases, the preventive use of coercive measures based on risk assessments has been noted. In these cases, furthermore, the monitor raised doubts as to whether this use was proportionate, especially with reference to the prolonged duration of the measures.

In the Netherlands, as stated by the Aliens Decree, a forced return operation must be carried out in compliance with the fundamental rights, dignity and physical integrity of the returnee, and the use of coercive measures must be proportional and residual. The monitoring body claims the police, the Royal Marechaussee, and the detention service do not systematically use coercive measures and that these are only used following an individual risk assessment. Restrictions may be used for preventive purposes, but only after an individual risk assessment. Finally, Dutch law provides for a ban on subjecting pregnant women, children, the elderly and/or disabled persons to coercive measures.

3.4 Presence of social workers and/or psychologists during return operations

In general, in almost no European country, social workers or psychologists are systematically used to accompany or support returnees during operations, while medical personnel are almost always present.

These figures are in any case involved by the Head of the escort or by the Department that performs the return, not by the monitoring body.

¹⁴ Joint flight is an operation involving the cooperation between two or more EU countries for the expulsion of third-country nationals residing illegally in the EU carried out by an air carrier (see Decision 2004/573/EC).

In Greece, psychologists and social workers are present only in the Centre of Athens for the departure of return operations managed at national or joint level (Aliens Police Division of Attica - Pre-removal Centre).

Slovenia, Cyprus and Switzerland confirm that professionals such as psychologists, interpreters or social workers are only required in case of need, while in the Netherlands, if necessary, medical personnel also trained in the psychological field are involved. Only in Belgium there is a social worker for every escorted returnee, who assists in the pre-departure and boarding phase.

In general, the staff of the Italian *National Guarantor* reports that in Immigration Removal Centres (current CPRs) there are figures of support such as cultural linguistic mediators and psychologists, provided by the body that manages the centre.

During the monitoring of forced returns, the Italian monitor reports that only in some cases a cultural linguistic mediator is present. The employment of this figure on the part of the authorities is recommended by the monitor, especially during transfers carried out with charter flights. At no stage of the return operation is the presence of psychologists or social workers envisaged.

3.5 Complaint tools available to returnees

On this point the control bodies report different situations.

The Maltese and Slovenian monitors inform that returnees are made aware of the possibility of filing complaints during the return operation.

In the Netherlands, complaints about the behaviour of escorts can be addressed directly to the Royal Marechaussee. Subsequently, the complaint can be sent to the National Ombudsman, if the competent authority does not respond or if the returnee does not agree with the response. To this end, returnees are informed and given a leaflet where the complaint procedure is explained. In Germany, the escort carrying out the return operations has an obligation to distribute the complaint forms.

The Swedish agency reports that returnees who request it can lodge complaints.

In Spain, it is almost always the Frontex observer who brings the complaint forms; in fact, returnees are not expressly informed by the members of the police force of the possibility of lodging complaints. For this reason during the interviews carried out by the Spanish NPM with returnees it is the monitor who informs about the complaint procedure, also according to Frontex procedures.

According to the Swiss NCPT and the monitor of the Finnish Ombudsman, returnees are not systematically informed of the possibility of lodging complaints. The Danish Ombudsman also notes a lack of information provided by the police on complaint mechanisms, which is not given unless the returnees request it.

According to the British monitoring agency the Home Office and the Mitie contractor, who manage the return operations, have forms for complaints, but the information given to returnees on how to file complaints is inadequate.

The Belgian monitor does not provide information on the possibility of making complaints, nor does it report specific details on the point. In Greece, the police do not inform returnees of the

The staff of the Italian *National Guarantor* reports that in Detention Centres and, in general, during return operations managed by the Italian authorities, forms to lodge complaints are not distributed nor are the returnees informed of the tools to present these requests or reports.

right to lodge complaints. Cyprus calls for the implementation of the complaint tools available to returnees by the national Ombudsman.

It is worth recalling that the Committee of Ministers of the Council of Europe adopted the “Twenty guidelines on forced return” in 2005, which state that all foreigners subjected to limitation of personal liberty, and therefore also returnees, must be guaranteed the right to lodge a complaint.¹⁵

3.6 Choice of flights to monitor. Factors taken into consideration

In general, the European bodies responsible for monitoring forced return operations mainly intervene on charter flights organized and carried out by national authorities.

The priority is in all cases given to those operations that involve vulnerable subjects such as families with children, women, elderly people, people with health problems, etc. (Switzerland, Sweden, Finland, the United Kingdom) with criteria based on the mission’s “risk assessment” which include, in addition to vulnerable people and people in need of treatment, people who present a high risk of violent resistance or who require the use of coercive measures (the Netherlands, Belgium, Spain, Denmark, Germany, Greece).

The Finnish Ombudsman reports that it prioritizes monitoring of flights involving vulnerable subjects (unaccompanied migrant minors, people with physical or mental health problems, victims of trafficking, families with children), but also returns to critical countries such as Afghanistan, Iraq and Somalia.

The British Independent Monitoring Board declares that it gives priority to monitoring flights from the United Kingdom to Nigeria, Ghana, Pakistan, Albania and joint return flights with departure from France, Bulgaria and Austria.

The Greek Ombudsman prioritizes the monitoring of domestic or joint flights to Pakistan, Georgia, Armenia, as well as air or sea operations from the island of Lesbos to Turkey.

Furthermore, all European monitors declare they participate in international missions organized by their country in collaboration with Frontex.

Slovakia, Cyprus, Malta – given the limited number of monitored flights – declare that their intention is to monitor as many flights as possible, especially those involving the most vulnerable people, but

The Italian *National Guarantor* refers that it prioritizes monitoring of charter flights over commercial flights: the latter generally involve one person or at most 3-4 people to be returned and monitoring would therefore take place on a very small sample. A charter flight, on the other hand, can transfer up to 40 people, so the presence of risk factors is higher; also, while on commercial flights there is also the “external gaze” of passengers, charter flights bring together people in the same condition who are therefore less controllable in the event of tensions with escorts. In particular, the national staff states that the main operations monitored are those carried out with charter flights to Nigeria, Tunisia and Egypt.

¹⁵ “Detainees shall have the right to file complaints for alleged instances of ill treatment or for failure to protect them from violence by other detainees. Complaints and witnesses shall be protected against any ill treatment or intimidation arising as a result of their complaint or for the evidence given to support it.”

highlight how their action is still limited due to insufficient resources and indicate the need to increase the means available to monitors.

Also Spain and Germany state that the time and resources made available to the team are a determining factor in the choice of flights to monitor.

3.7 Number of monitors employed during forced return operations and presence of support figures (interpreters, doctors, psychologists, etc.)

European monitors normally send 1 or 2 monitors per flight. The United Kingdom declares it employs at least 2 monitors for each flight, while using multiple subjects in the pre-departure phase that is when the returnees are transferred by bus from the detention centre to the airport.

Spain generally uses 2 monitors, as does Belgium, where, however, the presence of interpreters is not generally required since both escort and monitors are often trilingual (Dutch, French and English). Often the Belgian escort teams include Arabic speaking officers.

In the Netherlands, one or more monitors are used according to the number of subjects to be returned, the duration of the flight or the phase of the return to be monitored.

Germany, Slovakia, Slovenia, Sweden, Malta, Cyprus, Finland and Italy use only 1 monitor per flight. Denmark usually sends a monitor, but in case of need and a greater number of people subject to repatriation, it may send 2 monitors. In Greece, 1 or 2 monitors participate in the operations, depending on the number of returnees.

In Switzerland, there are always 2 monitors with more than 12 returnees. Often, and in case of need, they are accompanied by medical personnel.

The Italian *National Guarantor* states it is absolutely necessary that the staff includes at least one person with legal skills and looks forward to the possibility of being supported by an adequately prepared cultural mediator. A financial allocation would be needed to allow to have at least one of these two figures (preferably both), especially during the consular interview with the returnee in the pre-departure phase.

3.8 Monitoring of the post-return phase

Almost all national bodies have declared they are not required or are unable to carry out checks and monitor the landing phase and the operations immediately following arrival in the countries of origin. Only the British IMBs declare that, during the monitoring of charter flights and only for some countries, the monitor is allowed to observe the landing in the terminal and the handover of returnees to local authorities.

The Italian *National Guarantor* has no direct experience of post-return monitoring or collaboration with the Ombudsman or similar institution in the countries of return. However, it considers this activity of particular importance and is interested in the possibility of activating collaborations.

Among the instances of monitoring the phase following handover of returnees to the authorities of the countries of origin, however, the Swiss NCPT started a project in January 2019 in collaboration with the NPM of Kosovo, to assess the post-return phase of returnees and in particular their treatment once they arrive at the airport. The Kosovo NPM monitor is informed by the Swiss NCPT so that it can be present during the take-over of the local authorities at the time of landing.

The Spanish *Defensor del Pueblo* also has experience in this type of collaboration: on the occasion of Frontex operations organized by its country, in fact, the organization contacts the local Guarantor or the Ombudsman, where present, to inform it of the arrival of the flight, communicating the number of returnees and the time of arrival, so as to allow monitoring of the phase of landing and re-entry.

3.9 Communication of recommendations and results achieved

The institutions of European countries responsible for monitoring forced returns are required to produce and send an annual Report or a direct report to Parliament and to the heads of the Authorities responsible for carrying out the return operations.

This Report usually details and elaborates both qualitative and quantitative data collected during the monitoring missions carried out and generally ends with recommendations and best practices, with the aim of improving the conditions of returnees in compliance with European standards (Return Directive 2008/115/EC - Article 8, paragraph 6).¹⁶

In general, the monitors that responded to the questionnaire claim they are satisfied by how annual recommendations and reports are met and implemented by the authorities to which they are addressed (the Netherlands, Cyprus, Finland, Spain, the United Kingdom and Greece). Here, too, there are some differences. The Finnish Ombudsman requests monitors to deliver reports for each monitored operation and a written feedback is sent to the Police Board. The annual report is well received by the police force, which includes the Guarantor's recommendations in their codes of conduct.

The Swedish Migration Agency (Migrationsverket), operational since August 2018, sends its reports to the agencies involved in returns, as well as to associations and civil society organizations.

The Belgian monitor creates a detailed report of each mission and sends it to the Ministry of the Interior, the Secretary of State for Asylum and Migration, the Department of Migration and the Directorate of the Federal Police. Recommendations are sent separately to each body and authority concerned. A meeting with stakeholders is organized annually to discuss

¹⁶ Return Handbook - Commission Recommendation (EU) 2017/2338 of 16 November 2017; Frontex Code of Conduct.

recommendations. The annual report, addressed to the Ministry of the Interior, contains the description of all the checks and recommendations made. The report is then presented by the Minister to Parliament.

In the United Kingdom, reports are sent to the Home Office, which is responsible for flights. The office forwards them to the private company that physically manages return operations (Mitie Care and Custody). The recommendations are reportedly met with serious consideration. In particular, following a recent critical event (the use of a coercive waist restraint belt) an extended meeting was organized at HMIP (Her Majesty's Chief Inspector of Prisons), at the Home Office, at Mitie and other entities to find a shared solution. The procedure for using restriction measures was also reviewed, even if – following a subsequent inspection – it was found that the efforts made are still not sufficient to guarantee the set standards.

In Slovenia, reports are sent to the Directorate General of Police (Ministry of the Interior), which can take disciplinary action in the event of non-compliant behaviour by individual escort agents – in accordance with the provisions of the Police Tasks and Powers Act. The recommendations of the Slovenian Guarantor are discussed periodically, together with the Police staff of the Foreigners Centre. A similar situation is reported in Slovakia, where recommendations are sent to the Public Defender of Rights and, in case of violations, also to the Police.

The *Swiss NCPT monitor* is responsible for sending a pre-compiled questionnaire within 7 days of the mission. Each year, the NCPT publishes the Annual Report which summarizes the main observations and addresses the recommendations to the main authorities concerned. The Report is sent to the Head of the Federal Department of Justice, the Directorate of Police that commands the Special Committee on Repatriation and Expulsion Enforcement, and to the Swiss Conference of Cantonal Justice for feedback on the issues submitted. Administration reports and replies are available in French and German on the official website.

In Spain, reports are sent to the Directorate General of Police and to the Head of the Repatriation Unit of the National Police, with whom a fruitful dialogue has been established to ensure that the proposals of the *Defensor del Pueblo* are implemented. The conclusions of the Spanish Ombudsman and the recommendations are contained in the Annual Report, published on the official website and made available to civil society. In addition, the Spanish Parliament and the United Nations Subcommittee on the Prevention of Torture are regularly informed of the activities conducted by the *Defensor del Pueblo*.

In Slovakia, the monitoring agency sends its reports to the Public Defender of Rights and in case of violations, to the police.

A similar procedure is adopted by Cyprus, where the report of each mission is sent to the national Ombudsman and data and findings are stored for internal use. In the event of recommendations, these are made by the Ombudsman and addressed to the Chief of Police, the Director of the Civil Registry and the Migration Department. Malta sends its reports to the Chief of escort, to the relevant Ministers, FRA and Frontex.

The monitoring bodies of the German Länder also send their reports to the Federal Police and to Frontex, which organize autonomous follow-up activities on the basis of their resources. Parliament can ask questions and request information on the activity carried out.

In general, the Italian *National Guarantor* claims to be partially satisfied with regard to the transposition of the recommendations by the Italian Authorities, as formulated in the periodic and annual Reports on the most critical points emerged during the monitoring operations.

Finally, the Danish Ombudsman draws up an internal monitoring report. In the event that the monitoring of an operation raises doubts or concerns, the monitor prepares a report which it submits to the Police Authority.

3.10 Use of checklists during the monitoring activity

In general, many of the bodies that replied to the questionnaire claimed they use checklists (complete lists of the aspects to be checked or verified on the basis of which the monitoring activity is carried out) and/or questionnaires useful to support the monitoring activity.

The Belgian monitor, for example, uses its own checklist and a report model to describe the mission in detail. The Swedish agency also has its own report template, as does the monitoring body of Slovenia, where the checklist is the result of field experience and of training received.

In the Netherlands, a checklist is used, both for monitoring domestic flights and for monitoring operations carried out with Frontex.

The Greek monitors use their own template and an internally developed checklist. At the end of each operation, the data entered are submitted to the Ombudsman in a report that details each phase.

In the United Kingdom, a particularly detailed and complete form is used, in which the monitoring agency has developed its Expectations. The Swiss NCPT has a standardized questionnaire in use that formulates specific questions based on the different monitoring phases.

In Spain, the NPM uses a specific template with a checklist and a list of questions used to interview returnees with regard to their stay in prison, in a detention centre, during the transfer to the airport and the treatment received by the staff who had them in custody. In general, this country also makes use of the Frontex checklist. Malta and Germany also use the Frontex checklist, while Cyprus is elaborating its own monitoring report template, in order to collect data uniformly.

Finally, in Finland and Slovakia no structured form or checklist is used.

The Italian *National Guarantor* is implementing a specific online platform for filling in and sending the monitoring checklist and believes that it would be useful to have more detailed information from the escort on the individual situation of the returnees. The current checklist in use is partially based on the Frontex checklist.

The need to create a checklist that can be filled out on a shared platform arises from the organizational needs of the Italian *National Guarantor*: in fact, during the monitoring operations, it is possible that returnees are taken in charge by different monitors (also in force at the regional Guarantors), in which case each phase is monitored by different subjects. It is therefore essential to acquire the information in an orderly, clear and homogeneous way, for each phase of the transfer. These data must be reported to the active monitor of the next phase with the greatest number of details possible.

3.11 Involvement of NGOs and the press by the monitoring body

Most of the answers on this point are negative: the monitors of Germany, Greece, the Netherlands, Finland and Belgium do not collaborate with NGOs or associations active in civil society, nor is involvement of the press envisaged (the decision to do so would be on the Directorate of the Department of Public Security – see also the Swedish case).

Also in the case of Cyprus there is no cooperation with NGOs, which are not involved in monitoring missions, and there is no involvement of the national or local press. The same happens in Slovenia, Slovakia, Denmark, and Spain. In Spain, however, the *Defensor del Pueblo* is in constant communication, also informally, with NGOs and human rights defence organizations that often make useful information available to the Spanish guarantor on repatriated subjects or subjects to be repatriated who present vulnerability profiles.

In the United Kingdom, there are no specific agreements with NGOs, but the possibility of sending reports or critical notes regarding returns is absolutely open. One body particularly involved in reporting is the Independent Monitoring Board, which is directly involved in monitoring return operations. This body communicates and shares information and critical issues with the British NPM. The involvement of the press has not been taken into consideration, but the possibility of requesting authorization from the Home Office for the participation of journalists in a mission, if this is assessed as necessary or useful, is not excluded.

There is no involvement of the press in Switzerland, while civil society and non-governmental organizations are invited to the annual presentation of the report to discuss the critical points recorded.

Malta reports that control of return operations is entrusted exclusively to the Monitoring Board of Detained Persons and therefore sees no room for the involvement of NGOs or the press in the missions.

The only country among the ones that responded to the research, in which there is a direct involvement of NGOs and civil society, is Sweden,

where the Red Cross, Save the Children and other similar organizations have regular access to the places of detention of migrants.

The Italian *National Guarantor* considers the involvement of civil society to be important and promotes the dissemination of its Annual Reports through its Reports to Parliament, its institutional website and public presentations involving also the press.

4. In-depth examination of Belgium, Spain, Greece

4.1 Belgium

Body responsible for monitoring forced return flights: **Inspection générale de la Police Fédérale et de la Police Locale.**

The *General Inspectorate* is a ministerial service placed under the authority of the Ministry of the Interior and the Ministry of Justice, and plays, by definition, an administrative control role. The Law of 7 December 1998, which establishes an integrated police service, structured on two levels, and the Royal Decree of 20 July 2001, which regulates the operation and staff of the Inspectorate General of the federal and local police, establish the tasks, the organization and operating methods of the General Inspectorate, as well as the specific legislative provisions applicable to its members.

The Law of 13 May 1999 entrusts certain disciplinary tasks to the *General Inspectorate*, while the Royal Decree of 30 March 2001 regulates the legal status of employees and police officers. The *General Inspectorate* has an autonomous and independent position with respect to the local and federal police since it is placed under the authority of the Minister of the Interior and the Minister of Justice, who jointly establish its general principles, organization, operation, and general administration. More specifically, according to the Royal Decree of 7 December 1998, the Minister of the Interior is responsible for monitoring the daily management of the body, while whenever the treatment of specific issues directly affects the general direction of the Criminal Investigation Department, judicial services or management of information, the Inspectorate responds to the Minister of Justice.

Through observations and recommendations, the *General Inspectorate* renders an indirect service to all citizens. Furthermore, through investigations and handling complaints lodged by private individuals in relation to the behaviour of police officers, it protects all individuals. If, in the course of these investigations, it is possible to reconcile the position of the citizen and that of the police officer concerned, it is the *General Inspectorate* that proposes a mediation to the parties.

The main mandate of the *General Inspectorate* is to control the functioning of the federal and local police and, therefore, one of its missions is to evaluate the way it carries out all operations, including forced return operations.

The *General Inspectorate* has received specific mandate to monitor forced return operations by the **Royal Decree of 19 June 2012** (which amends Article 9.1 of the Royal Decree of 20 July 2001 relating to the operation and staff of the Inspectorate and the local police, in line with legislation on rights of foreigners).¹⁷ In the context of forced return monitoring, legislation also

¹⁷ Law of 15 December 1980 on the entry, stay and removal of foreigners, modified by the Law of 19 September 2017.

attributes to the *General Inspectorate* the power to make recommendations and request the application of the measures considered necessary to prevent and avoid accidents.

An annual report on the monitoring carried out is presented, which lists the number of operations monitored, the coercive measures used, any violations of fundamental rights, complaints and recommendations.¹⁸

In response to the questionnaire, the *General Inspectorate* reported some practices relating to the methods employed for carrying out the monitoring of forced return operations, and in particular:

- The Immigration Department issues the expulsion order of the foreign citizen and sends it to the federal police, which organizes a return programme. Depending on the urgency and availability of the flight, the period between communication to the Inspectorate and the flight varies from a few days to a month;
- Persons to be repatriated are not informed of the exact date of the flight. If they are in a condition of restriction of personal liberty, they must leave the country on a scheduled flight and with escort, or, if they are in a state of freedom, they are granted a deadline for voluntary departure;
- The unit responsible for the removal is assisted by social workers and psychologists. For each return operation carried out with an escort there is a social worker during the pre-boarding and boarding phases;
- The choice of operations to be monitored is based on parameters of vulnerability: families with children are always followed to their final destination and are accompanied by a social worker. Priority is also given to monitoring returns of people with mental or physical vulnerabilities, or people who need special attention. Another priority index relates to operations that present high risk of resistance or use of coercive measures;
- Each operation is followed by two monitors. Cultural mediators or interpreters are not usually employed, as each monitor has language skills in English, French and German. The escort also includes agents who speak Arabic. The medical staff is not necessarily involved as there is a medical staff at the airport and, usually, a doctor is present during the flights of people who require special attention;
- A detailed report is drawn up for each monitored return operation. This document is forwarded to the Ministry of the Interior, to the Secretary of State for Asylum and Migration and to the Directorate of the Federal Police. The recommendations are instead sent to all these bodies separately. These institutions are obliged to provide an answer in this regard. Furthermore, a meeting is held at least once a year with each of the bodies involved in order to discuss the recommendations issued by the Inspectorate.

¹⁸ For example, in 2017 monitoring was carried out on **57** pre-departure phases (until boarding) of scheduled flights, **4** complete scheduled flights in all their phases (to destination), **16** pre-departure phases (until boarding) of Special Flights and **14** complete Special Flights in all phases (to destination). (See Activity Report 2013-2017 *Inspection générale de la Police Fédérale et de la Police Locale*, available at the link <https://www.police.be/aigpol/sites/default/files/downloads/2017-AIG%20Rapport%20d%27%20Activit%C3%A9%202013%202017.pdf>)

An annual report for the Ministry of the Interior is also prepared containing all the monitoring carried out, the recommendations made and the consequent action taken. This report is presented by the Minister of the Interior to the Parliament.

- The press is not directly involved in the monitoring operations or in the dissemination of the reports, but in line with the public nature of the governance, the organizations concerned or the press can request the reports in their entirety and anonymously.

4.2 Spain

Body responsible for monitoring forced return flights: *Defensor del Pueblo* (Ombudsman).

The *Defensor del Pueblo* was established by the Organic Law No. 3 of 6 April 1981 with the task of protecting the fundamental rights and freedoms of citizens, through the control of public administrations. The *Defensor del Pueblo* is elected by the Congress of Deputies and the Senate and its mandate lasts five years.

This body carries out its activity with independence, impartiality and autonomy, it enjoys immunity in the exercise of its functions, and draws up an annual report of the activity carried out at the General Court.

More generally, the *Defensor del Pueblo* supervises the respect for citizens' fundamental rights and public liberties. To this end, it controls the activities of the administrations and bodies that manage public services throughout the country and the activity of the Spanish administrative delegations with responsibilities towards Spanish citizens abroad.

The *Defensor del Pueblo* receives complaints relating to the irregular functioning of the administration of justice, which are sent to the *Ministerio Fiscal* (Prosecutor) to investigate and take appropriate measures in accordance with the law, or remits them to the *Consejo General del Poder Judicial* (Superior Council of the Judiciary). If necessary, the *Defensor del Pueblo* can send recommendations to the Government on the need to adopt legislative changes, to lodge appeals for constitutional protection, as well as to initiate procedures to ascertain the legitimacy of arrests and/or detentions (*habeas corpus*).

Following the signing of the OPCAT, through the Organic Law 1/2009 of 3 November 2009, the Spanish Parliament has assigned the role of National Preventive Mechanism to the *Defensor del Pueblo*, with the aim of preventing any episodes of torture and other inhuman or degrading treatments. As NPM, the *Defensor del Pueblo* carries out periodic visits and checks to places of detention and deprivation of liberty, a core activity of the body. These places include: police stations, prisons (ordinary, military and for minors), socio-educational centres, hospital custody units, detention centres for migrants and control centres at airports.

On its website, the *Defensor del Pueblo* publishes short reports on each activity performed, including the monitoring of forced return operations, in a chronological order.¹⁹

The *Defensor del Pueblo*, as NPM, is an independent body whose mission is incompatible with any representative mandate, institutional position or political activity.

¹⁹ For example, the report on the return operation organized by Spain (Frontex flight) from Madrid-Barajas to Bogota (Colombia) and Santo Domingo (Dominican Republic), 17 and 18 July 2019, is interesting: "During the visit, the airport phases were monitored, boarding on the plane, the international flight phase, also the documentation regarding repatriation was examined. The operation was performed without incidents until arrival at destination. 36 Colombian and 5 Dominican citizens were repatriated by the Spanish authorities. Bulgaria and Poland took part in the operation, returning one Colombian citizen and two Dominican citizens respectively." (<https://www.defensordelpueblo.es/evento-mnp/operativo-de-repatriacion-organizado-por-espana-vuelo-frontex-desde-el-aeropuerto-adolfo-suarez-de-madrid-barajas-con-destino-a-bogota-colombia-y-santo-domingo-republica-dominicana-4/>).

The *Defensor del Pueblo* reported, in response to the questionnaire, some practices relating to the methods for carrying out the monitoring of forced return operations, and in particular:

- The Spanish monitoring body receives news of the planned repatriation from the Police usually one or two days before the operation;
- The notice given to returnees depends on the place of deprivation of liberty they are accommodated: returnees held in prisons receive information with more notice compared to those held in detention centres for migrants or police stations. As a rule, they can communicate with their lawyers and family members, though it is possible there is not enough time. Recommendations in this sense have been repeatedly made by the *Defensor del Pueblo*;
- The coercive measures allowed in Spain are used in compliance with international human rights standards and only when strictly necessary. Returnees often wear velcro straps, which are removed once the aircraft has taken off. The *Defensor del Pueblo* reports the use of handcuffs during return operations to Morocco. In this regard, a recommendation was made to the General Directorate still awaiting a reply. The *Defensor del Pueblo* also suggested the Spanish Police establish a register of coercive means allowed at the detention facilities located at the airports in order to verify that the means used during forced return operations are lawful and permitted;
- Currently no figures such as psychologists or social workers are employed to assist forced return operations;
- Monitoring takes place until the moment of landing and handover of the returnees to the authorities of the country of origin. However, in the case of Frontex operations organized by Spain, the *Defensor del Pueblo* contacts the NPM or the Ombudsman of the country of destination, if such a body exists, to provide details on the flight and on the returnees, so as to allow the monitoring also of the phase following landing;
- Although the goal is to monitor the largest number of operations, the activity is limited with respect to the number of places of deprivation of personal liberty due to the limited number of human resources (8 people) available to the NPM. In the past two years, 24 Frontex operations organized by Spain have been monitored. The choice of which flight to monitor takes into account various factors, such as the presence of groups of vulnerable people or the high number of people to be returned;
- Normally two monitors take part in every forced return monitoring operation, as there are no other support experts (medical staff, mediator, psychologists). With Frontex operations, on the other hand, there is always a doctor and a nurse who are part of the police staff;
- The recommendations, proposals and conclusions of the NPM are attached to the report of each monitoring. The report is then presented to the Administration concerned (generally the General Directorate of Police) and to the Head of the National Police Repatriation Unit, in order to establish a dialogue with the Administration and thus ensure that the proposals are subsequently implemented. Conclusions, indications and recommendations are also included in the annual report. Both the Spanish Parliament

and the United Nations Subcommittee on the Prevention of Torture are informed of the activities carried out by the *Defensor del Pueblo*. Information on these activities is also published on the website, without however the transcription of the personal and sensitive data of the people involved;

- During the operations organized by Frontex, an observer from the Agency is often present with the specific task of providing the complaint forms, who however does not inform the returnees of the existence of this right. The *Defensor del Pueblo* is the one to inform returnees during specific interviews with them of the complaint mechanisms: the one provided by Frontex (right of complaint pursuant to Regulation (EU) 2016/1624) and the one provided by the NPM itself;
- Although informal communications may occur with NGOs or human rights associations that provide useful details on returnees (for example on the most vulnerable subjects), there is currently no specific collaboration protocol between them and the *Defensor del Pueblo*;
- The *Defensor del Pueblo* has a specific template and a checklist in which, among others, information is requested on the period of detention in prison or in a detention centre for foreigners, the methods of transfer from the detention facility to the airport, the treatment received by the custodial staff;
- There is no protocol to allow the press to take part in the monitoring of forced return operations.

4.3 Greece

Body responsible for monitoring forced return flights: *The Greek Ombudsman* (Συνηγοροστου Πολιτη).

The Greek Ombudsman is an independent authority under the Hellenic Constitution.²⁰ It has been in operation since 1 October 1998 and provides its services for free.

Its main function is to mediate between the public administration and citizens to help them exercise their rights in an effective way.

Its mandate was made operational in 2014, with the publication of the Interministerial Decree No. 4000/4/57.²¹

Its mission consists in:

- safeguarding and promoting children's rights;
- promoting equal treatment and combating discrimination, in the public sector, based on race, ethnicity, religion or other beliefs, disabilities, age or sexual orientation;
- monitoring and promoting the implementation of equal opportunities and equal treatment between men and women, both in matters of employment (in the public sector but also in the private sector), and in terms of access to goods and services in the public sector.

As a mediator, *The Greek Ombudsman* makes recommendations and proposals to the public administration, but it cannot impose sanctions or invalidate unlawful actions by the public administration.

Anyone, regardless of nationality, can lodge complaints or send reports by filling in an online form on the Ombudsman's website, also in English (it may be natural persons, but also legal persons or associations).

The staff of *The Greek Ombudsman* is divided into Departments that deal with the different areas of competence: in particular the Department of Human Rights, responsible for monitoring the return procedures of third-country nationals, also coordinates the special mandates of the Ombudsman as body in charge of overseeing equality and acting as NPM.²²

This unit deals specifically with the defence of individual, political and social rights protected by the Constitution, by international agreements or by national law, and in particular in cases concerning:

- violations of personal liberty, religious freedom and freedom of worship;
- discrimination based on nationality or ethnic origin;
- violations of immigrants' rights;
- equal access to public education;
- recognition of foreign academic qualifications;
- protection of professional rights;
- violation of the right of appeal to the administrative authority and of access to judicial protection;
- right of political asylum and right of entry and residence of foreigners.

²⁰ Article 101A and 103 of *the Greek Constitution* – section VI – chapter I.

²¹ Joint Ministerial Decision (JMD) 4000/4/57 – “Regulation of the organisation and functioning of the system of external monitoring of the procedures of removal of third country nationals (Official Gazette s.B' 2870/2014).

²² *The Greek Ombudsman* was attributed the function of national monitoring mechanism for the return of third-country nationals on the basis of Directive 2008/115/EC (“Return Directive”) and with the introduction of the Law 3907/2011, which transposed it in Greek law.

Within this special competence, the independent authority carries out checks on sample operations at all stages of the process following a return decision against a third-country national and in particular:

- the possible administrative detention of a returnee to guarantee removal;
- the execution of police removal operations by land, sea or air.

The results of these individual external inspections are sent to the administration, together with the Ombudsman's comments and recommendations, and are published in an annual report which is presented to the Hellenic Parliament.

The staff who make up the monitoring team of *The Greek Ombudsman* is widely trained and prepared to effectively carry out the task of checking the legality and legitimacy of the operations, omissions and practices put in place by the public security authorities.

Inspections are constantly carried out in detention centres, with free access to each area of the place of detention, departure or transit.²³

During these operations, the absence of interpreters able to communicate with the returnees and provide information on their rights, give notice of the repatriation and the possibility of filing complaints or requests regarding their legal status has often been underlined.

The Greek Ombudsman has repeatedly denounced the phenomenon of detention of third-country nationals in the centres for reasons of public order, which occurs without verifying actual reasons for the use of these restrictive measures of personal liberty, despite the fact that detention of third-country citizens residing illegally is administrative detention.²⁴

It should also be recalled that — at European level — Greece is one of the most affected countries in terms of flows of people arriving from outside the EU, due to its geographical position and proximity to the Turkish border.

In 2016, two important decisions taken at European level determined the increase and implementation of control and management measures for migratory flows of third-country nationals residing illegally and/or asylum seekers in the country: on the one hand, the establishment of the so-called hotspots in 5 Aegean islands, after the closure of the so-called "Corridor" of the eastern Balkans; on the other, the signing of the Readmission Agreement with Turkey on 18/03/2016.

It is also for these reasons that, after the entry into force of EU regulation 2016/1624 for the conversion of FRONTEX into a European coastguard agency and for the strengthening of its competences in the management of external borders, *The Greek Ombudsman* was invited, as a national mechanism for the protection of rights, to collaborate with the recently established European reporting mechanism of FRONTEX, as well as to appoint investigators for the establishment of an EU pool of monitors to participate in European return operations.

²³ In particular, violations were found regarding conditions in some detention centres (e.g. the Aliens Police Division of Thessaloniki) such as returnees not being allowed to access open air areas, in general conditions not in line with required standards.

²⁴ On this point, it is worth recalling the judgment of the European Court of Human Rights - *Saadi vs United Kingdom*, 2008, n. 13229/2003, paragraph 78.

In 2018, Greece was the only country in the European Union to be among the top 5 countries in the world to accommodate the largest number of asylum seekers, both in absolute terms and in proportion to its population.²⁵

During the course of the year, *The Greek Ombudsman* continued to play a particularly active role as a national external monitoring mechanism in the return and readmission procedures of the Greek State and to work, in cooperation with European and international bodies, for a more comprehensive and effective system for the implementation of external monitoring.

At the same time, it intervened in the cases of third-country nationals who, during pre-removal checks, were in need of protection, just as it intervened in reporting cases of legally questionable administrative detention.²⁶

The monitoring, carried out by *The Greek Ombudsman* team, has repeatedly revealed the following main problems:

- inadequate means of transport by land (unusable toilets, vehicles in conditions that are totally inappropriate for the transport of people, lack of air conditioning, absence of meals provided or water);
- the unsuitability of the detention cells present in the bus boarding areas (there is not enough space to accommodate the often high number of returnees and people are often forced to sleep on the ground, when detention occurs overnight) ;
- absence of medical information and documentation on the health conditions of the returnees before boarding and impossibility of accessing the administrative file of the returnee;
- lack of interpreters to support the escorts during operations in all phases;
- absence of advance notice to the returnees of the beginning of operations of forced transfer to their country of origin.

In response to the questionnaire submitted, the team of *The Greek Ombudsman* responsible for monitoring forced returns reported some methods used to carry out the monitoring of forced return operations, and in particular:

- The authorities responsible for carrying out return operations communicate to *The Greek Ombudsman* at the beginning of the year the annual scheduling of the transfer missions of returnees to third countries by air. Subsequently, approximately 1 month in advance, confirmation of each of the indicated operations is given, through communications that take place via email to a dedicated email address. Removals by sea or by land are instead announced a few days in advance (3 or 4 days). Greek police generally report all details of the operation to the Ombudsman's monitoring team.
- Returnees are notified of their transfer to their country of origin on the day of the operation. This practice of the Greek police has been strongly criticized by the Ombudsman as it represents an evident violation of the right of returnees to adequately prepare their return to their country of origin, having the time and the opportunity to notify friends and family of their repatriation.
- *The Greek Ombudsman* reports that the police charged with carrying out the transfers of returnees in the various phases of the operation systematically use coercive measures

²⁵ Return of third country nationals - Special report 2018 of *The Greek Ombudsman* https://ec.europa.eu/eurostat/statistics-explained/index.php/Asylum_quarterly_report#Main_trends_in_the_numbers_of_asylum_applicants.

²⁶ Annual Report 2018 - p. 37 - *The Greek Ombudsman*.

and specifically metal handcuffs or, alternatively, velcro handcuffs. In particular, these coercion measures, in transfers from the detention centre to the airport or to another carrier (ship or bus), are constantly used without particular assessments on the actual risk.

- With reference to the involvement of specialized figures such as psychologists or social workers, who may support the escort during the transfer operations, the monitoring team of *The Greek Ombudsman* informs us that the presence of these subjects is not envisaged except at the starting point of return operations of the Athens Airport (Aliens Division of Attica – Pre-removal centre). Medical personnel are generally present and are mainly involved in air operations. *The Greek Ombudsman* stressed the need to verify that all returnees involved in return operations, including those by sea and by land, are fit to travel.
- The mandate of the monitor ends at the time of handover of the returnees. The Greek monitors observe and monitor the handover of the returnees to the local authorities in a given airport, a port or a land border station where the landing takes place.
- *The Greek Ombudsman* gives precedence to the monitoring of joint national or international operations with destinations in Pakistan, Georgia and Armenia, as well as the transfer operations by sea that leave from the Island of Lesbos to Turkey. Although there are numerous overland departures for Albania, these are mostly no longer monitored as there have been no particular operational criticalities for some time. The Ombudsman believes that operations by air and by sea may present greater challenges from the point of view of respecting the procedures to protect the human rights of returnees, especially when the recipients are citizens of countries in Asia or Africa who present a particularly vulnerable psychological profile.
- Generally the monitoring operations are carried out by 1 or 2 monitors, based on the number of people to be transferred. Often 1 or 2 figures of the monitoring team are employed in parallel in the verification of the repatriation files and the correct application of administrative procedures.
- The report of each operation, completed and signed by the monitor on duty, is immediately submitted to the Ombudsman, to the Deputy Ombudsman for Human Rights, and is immediately made available to the members of the monitoring team. On a quarterly basis, the Ombudsman addresses its main conclusions, observations and suggestions to the relevant Ministers and the Chief of Police and asks for the necessary measures to be taken. Each year, the Ombudsman's report is presented to Parliament, the Ombudsman is also invited to present its conclusions to the relevant Parliamentary Commission. The annual report is published on the Ombudsman's website and presented at an annual conference. The report is then discussed with the police, NGOs, international organizations and all other key actors involved. The Administration and the Police take note of the Ombudsman's requests and have, occasionally, taken the required measures (for example by providing water and a first aid kit to the returnees in all land operations; removing all restrictions on boarding the ships, etc.). Not all shortcomings and non-compliant practices highlighted by the Defender have been fully addressed.
- The existence/availability of complaint forms is not systematically communicated to the returnees by the person in charge of the escort. Returnees only learn about it if they ask to file a complaint.
- Regarding the possibility or existence of collaborations with NGOs or other human rights organizations, *The Greek Ombudsman* stressed that all functions pertaining to the

mandate of authority designated as external control mechanism, at all phases of forced return, are exercised internally, employing only staff members in force on the dedicated team, as human rights observers. Colleagues from the institutions of the Guarantor Authorities of other Member States were occasionally asked to participate as observers.

- The monitors of *The Greek Ombudsman's* human rights team use a pre-compiled model and an internally developed checklist. All the information collected, the observations and suggestions as well as the results of the monitoring are included in a report that the monitor signs and presents to the Ombudsman after the operation, in which the different phases of the monitored operations are clearly indicated.
- *The Greek Ombudsman* has never involved the press in the operations that are monitored. The results and recommendations made following participation in a forced return operation, however, receive publicity through the specific report on returns which is published annually. The report is presented to Parliament and presented to the public in a special conference held by the Ombudsman every year. If the Ombudsman considers that something (issues, recommendations, etc.) should be publicized separately, it can choose to ask for the involvement of the press and, in general, to raise public awareness.

The Annual Report and the specific Report on forced returns to third countries 2018

In its latest report, as a national control mechanism on forced returns, *The Greek Ombudsman* underlines how return operations carried out by the police present some malfunctions that affect the procedures regulating application for international protection, often caused by the lack of fully interconnected data sharing systems.

The Report also highlights the importance of the role of transparency and the protection of fundamental rights in planning an effective return system at European level, on which *The Greek Ombudsman* has repeatedly expressed its concerns.²⁷ Last but not least, *The Greek Ombudsman's* initiative for networking with its counterparts from other Member States and the Council of Europe aims to ensure transparency and independent external monitoring of European forced return operations by FRONTEX, in view of the modification of the EU regulation on the matter.

Main reports and consequent recommendations made to the Greek administration, during 2018:

- To provide appropriate documentation to examine the returnees' files on the spot, also with reference to applications for temporary residence permit, preventing any circumvention of the provision of Article 19 of the Immigration Code, which grants the applicant a temporary residence permit under specific requirements;
- To provide food and water before the flight or in general before the transfer, and provide suitable vehicles, e.g. tourist buses, for transportation from the detention centre to the airport;
- To purchase and make available to escorts modern and adequate transport vehicles for repatriation by land, equipped with toilets, air conditioning, heating and sufficient space;²⁸

²⁷ Annual Report 2018 – p. 36 – *The Greek Ombudsman* and Return of third country nationals - Special report 2018- p. 12 and ff. - *The Greek Ombudsman*

²⁸ The Hellenic police has responded on this point, announcing that they have planned to purchase modern means of transport. *The Greek Ombudsman* is awaiting the implementation of this provision.

- To promptly inform the foreign nationals to be returned of their departure: an interpreter must also be present at all stages prior to departure;
- To provide returnees with a medical certificate stating they are fit to travel.

Readmission operations to Turkey

The Greek Ombudsman proposed an external control mechanism for readmission operations to Turkey, in the belief that this constitutes a fundamental guarantee of the respect of fundamental rights, especially following the joint EU-Turkey declaration of 18 March 2016.²⁹

The picture that emerged at the Greek maritime border is certainly unique at European level, both for the reception and asylum application procedures and for the fundamental rights of people who remain, in practice, subject to geographical restrictions on 5 islands, until the final rejection of any asylum request, and often in conditions of overcrowding which entail risks for their safety and well-being.³⁰

Readmissions to Turkey highlighted the main problems already mentioned above regarding other return operations in 2018:

- Lack of timely communication to returnees regarding the implementation of the readmission operation.
- Absence of medical files and certification stating returnees are fit to travel.
- Lack of individualized assessment regarding the use of coercive measures.

In particular, the observation of operations by sea with departure from the Island of Lesbos shows that returnees are subjected to long-standing and generalized restrictive practices, including the use of velcro handcuffs in place until boarding the ship.³¹

An important malfunction in the implementation of these operations was also observed, in particular with reference to procedures for detainees to request asylum, which causes lack of legal certainty.³²

Unfortunately, the implementation of the recent Law 4540/18 has not met the need for a rapid solution to effectively allow the request for international protection to be proposed to returnees who add new substantive reasons and/or request exemption from *refoulement* at the border, pursuant to Law 4375/16, for reasons of vulnerability.

The Greek Ombudsman proposes the modification of Law 4540/18 to allow a higher degree of legal certainty as regards subsequent applications for asylum and the suspension of removals. It should be stressed that the Hellenic police remains committed to the Ombudsman for the purpose of excluding readmission of third country nationals to Turkey when a request for temporary residence authorization is pending before the administrative courts.

²⁹ Return of third country nationals - Special report 2018 p. 24 and ff. *The Greek Ombudsman*.

³⁰ Readmission is an extraordinary procedure based on Article 2 of the Return Directive, to which fundamental guarantees of fundamental rights apply - Return of third country nationals - Special report 2018 of *The Greek Ombudsman*.

³¹ *The Greek Ombudsman* notes that velcro handcuffs are a better tool than metal handcuffs and looks forward to the Hellenic police's commitment to reform the regulatory framework governing containment in general - Special report 2018 of *The Greek Ombudsman*.

³² On this point, it should be noted that the failure to complete the official dossier accompanying the detainees does not depend only on the police office of origin, but also on the information of the corresponding regional office for asylum in Greece.

5. Conclusions and best practices

This review has allowed to highlight some important aspects recorded at European level by the teams in charge of monitoring forced return operations.

In general we may note that:

1. The authorities carrying out return operations communicate the departure of the flights to the guaranteeing authorities at least a week in advance in different European countries (e.g. Spain, Sweden, the Netherlands, Switzerland, Finland, Slovenia) or even communicate the annual planning of operations (Greece), so as to allow better organization and implementation of monitoring. In other countries, this term is much shorter (e.g. in Italy - 48 hours of notice).
2. In general, returnees are informed of the departure with too short a notice period. On this point, almost all monitoring bodies have made numerous recommendations.
3. Coercion measures are often overused by escorts. The monitoring reports, at European level, have repeatedly made recommendations on the most critical aspects identified, pointing to how the indiscriminate use of restrictive measures violates the rights and human dignity of returnees. Recommendations by the European monitors always advocate the use of such measures in respect of dignity and human rights and only if reasonable, proportionate and necessary.
4. Most of the European monitors report that, in general, there are no figures such as psychologists or cultural linguistic mediators (except in specific cases) who accompany escorts during the return operations.
5. Almost all European monitors report the lack of territorial competence in monitoring the post-return phase. The monitoring activity therefore ends with the handover of third country nationals to local authorities, which often takes place directly on the aircraft, despite the Common Guidelines on safety provisions applicable to joint removal by air, annexed to the Council Decision No. 57 of 29 April 2004 on the organization of so-called joint flights, prescribe that this should take place in dedicated premises of the airport of arrival and that, therefore, handover to local authorities should not be made on board the same transport carrier.
6. In general, European monitors prefer to monitor joint flights organized by Frontex. Furthermore, the flights that involve the repatriation of vulnerable subjects and minors or flights to certain third countries (Afghanistan, Armenia, Egypt, Georgia, Ghana, Iraq, Niger, Nigeria, Pakistan, Somalia, Tunisia, Turkey) are also monitored.
7. Monitors participating in return operations are generally 1 or 2. In some countries, monitors speak multiple languages.
8. The recommendations sent by European monitors are generally accepted and implemented by the authorities responsible for organizing and carrying out return operations.
9. Returnees are almost never made aware of the complaint mechanisms provided for by the Frontex Code of Conduct.
10. At European level, the use of the checklists and other tools for collecting information by monitors differs.

11. No European monitoring authority has involved the press in a return operation, while only in some countries are there collaborations with NGOs or associations active in civil society (e.g. Sweden).

On the basis of what has emerged, it is possible to put forward some considerations, starting from which we invite all the European teams involved to discuss internally and with European colleagues, to formulate shared and common best practices.

First of all, answers to the questionnaire clearly indicate the attention shown by European monitors in checking the legality of coercion measures employed by escorts, a critical point repeatedly highlighted.

On this point it is worth recalling that Article 8 of the so-called Return Directive (Directive 2008/115/EC) provides for the adoption of “all necessary measures” to carry out removal of illegally staying third-country nationals, so also, as a last resort, coercive measures (paragraph 4), in the event of resistance to the execution of the decision on the part of the person to be returned.

Such measures must be “proportionate” and not exceed “reasonable force”. Furthermore, Article 8 states that “coercive measures shall be implemented as provided for in national legislation and in accordance with fundamental rights and with due respect for the dignity and physical integrity of the third-country national concerned.”

Therefore, the risk of abuse and of potential harm to the rights and dignity of the returnees requires the adoption, as provided for by the Directive in Article 8 §6, of monitoring mechanisms by the Member States, which must pursue and guarantee, by all possible means, controls on the legality of the measures taken by the competent authorities. On this point, investing in the training of escorts, in which staff members from national and European guarantors are also involved, is a tool to be considered (see the Italian case).

With reference to the **possibility of monitoring the last phase of the return operations**, i.e. the handover of foreign citizens to the authorities of the country of origin, **the forms of collaboration experimented by the United Kingdom, Spain and Switzerland with some guarantors present in third countries that are the destination** of flights departing from these 3 countries are particularly interesting. These agreements allow the European monitor to notify the monitors of the destination country of any monitored transfer, so that the control of compliance with the rights of the returnees may also take place in the last phase of the return which, for territorial jurisdiction, is no longer competence of the European monitor.

Another important aspect is related to the **timeliness of the notice the returnees are given of their transfer**.

On this point, it has emerged that the fact of receiving adequate notice **must be protected as a fundamental right**: the foreign citizen to be repatriated must in fact have sufficient notice time to inform relatives and friends of their departure, to arrange their baggage with personal belongings and possibly to be able to carry out an interview with a psychologist or a social worker (especially in the case of families – as is the case in Belgium).

The absence of adequate notice, which is a generally widespread practice and which is often justified for “security” reasons, risks violating the principle of *non-refoulement*, since it does not offer guarantees regarding the possibility of timely intervention by lawyers and also for the purpose of a real-time update of the files of the persons subjected to the procedure.

For example, the European Committee recommended that the Italian authorities notify the interested parties and their lawyers and also recommended that a “last call procedure” be provided, allowing for checks on the legal position of illegally staying third-country nationals to be carried out throughout the course of the operation.³³

It is clear that the lack of notice and the modalities with which the beginning of the procedure is communicated, shortly before departure, true of almost all European authorities responsible for carrying out returns, are harmful to human dignity and fundamental rights.

In addition to the provisions set out by the FRONTEX Code of Conduct (Article 6 – Cooperation with returnees and obligation to inform; and more generally Article 4 - Respect of Fundamental Rights), it is necessary to formulate and implement effective guarantees of fundamental rights in the context of an institution which is constitutionally fragile in terms of judicial control.

If one of the objectives is, in fact, to prevent returnees from reacting violently to the news of their impending transfer, with actions of self-harm or actions that harm third parties (which may justify the use of force and coercive measures), it is worth mentioning that:

- it falls within the scope of the returnees’ fundamental rights to be able to communicate in time, to family and friends, as well as to their lawyer, information regarding their transfer to their country of origin (often the use of the mobile phone belonging to the person interested is not allowed during removal operations, except in the short period of time preceding the actual boarding);
- the effects of the violation of this right on individual returnees can lead to feelings of hostility or actual hatred towards the authorities who ordered the removal with the risk of possible “radicalization” upon returning to the country of origin.

Furthermore, as noted during field work by many operators involved in assisting the recipients of these removal orders, it emerges that the consequences, also in terms of a better and more efficient management of the operations, also have effects on the public and social sphere. There are numerous cases of repatriated people who are not able to withdraw cash from their account, transfer their deposits and close their bank account, cancel any rent or work contract, cancel their registration at the registration office, personally request the documentation and credentials to access tax status, before leaving the host country, with obvious social and administrative dysfunctions.

From our brief examination, it emerged that a notice of at least 72 hours must be guaranteed, as regards the communication of transfer given by the authorities to returnees; similarly, **mechanisms and/or solutions compatible with national legislation should be put in place, to allow foreign citizens to be able to leave the host country in a manner that is respectful of their dignity and rights, with evident functional implications also in terms of public management.**

With regard to the operational management of monitoring, it has emerged that:

- it would be useful to guarantee the presence of at least 2 monitors for each return operation and possibly use cultural interpreters and/or linguistic mediators supporting the team responsible for monitoring;
- it is desirable that the communication to the monitoring bodies by the police authority on the departure of forced return flights, or in general of transfer operations to third countries, is made with a reasonable notice period and via email;

³³ 2017 Report to Parliament of the Italian National Guarantor, p. 120.

- it is necessary to guarantee the presence of specialized professionals who can support the escorts (e.g. interpreters, linguistic cultural mediators, psychologists and social workers), especially during pre-departure and flight phases;
- the use of a checklist with homogeneous and shared parameters at European level is recommended, to allow a better system for collecting and comparing data;
- it is preferable to monitor flights involving families, minors and other vulnerable subjects, with a view to efficient and reasonable use of the resources of the authorities in charge of monitoring and with the aim of supervising operations in which critical situations may arise and violations may occur;
- it is essential to stress that returnees must be informed by the authorities of the complaint mechanisms provided for by European legislation and the standards imposed by Frontex and that the complaint forms must be concretely and systematically administered to the interested parties.

It is also important to note that a fairly high degree of satisfaction is reported by monitors with reference to the acceptance and implementation of the recommendations made by the competent national authorities. At the same time, the study shows an important and constant commitment of the European monitoring bodies to inform periodically not only their relevant Parliament, but also citizens, civil society and NGOs of the results of their work.