

Thematic session of the Council of Europe's Network of Focal Points on Migration on the Development of Independent Monitoring Mechanisms at Borders

SUMMARY REPORT

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Table of Contents

Opening remarks – Clare Ovey, Director of Human Rights	2
Session I. An overview of Council of Europe, EU and UN standards relating to independent monitoring mechanisms at borders	2
Sebastian Rietz, CPT Secretariat	2
Jaana Temmler, EC DG HOME	3
Aydan Iyigüngör, EU FRA	4
Carolina Hernandez, UN OHCHR	5
Edyta Tuta-Lorenz, ENNHRI	5
Session II. Exchange among member States which have or are developing IMM s focusing on their institutional set up and methodological tools	7
Anna-Maria Getoš Kalac, Head of Coordination Board, IMM, Croatia	7
Kristýna Andrlová, Office of National Ombudsperson, Czechia	8
Sandra Fernandez, Immigration Directorate, Ministry of Interior, France	9
Wrap up of discussions – conclusions and follow up	10
Nikos Sitaropoulos, Division on Migration and Refugees	10
Tigran Karapetyan, Legal Cooperation Department, DGI	10

Opening remarks – Clare Ovey, Director of Human Rights

Ms Ovey welcomed participants to the first thematic session of the Network of Focal Points on Migration (NFP) organised by the Division on Migration and Refugees (DMR). She highlighted the ongoing discussion within the Council of Europe regarding the setup of a committee on migration and the CDDH's drafting of a political declaration on the application of the European Convention of Human Rights in the field of migration. She also noted the upcoming DMR's mission to Poland, referenced DMR's recent thematic paper on human rights-compliant return policies, and mentioned DMR's mission to Croatia, where an Independent Monitoring Mechanism (IMM) is already operational. Highlighting the session's role as a forum for exchange on IMMs' institutional setups and methodology, she thanked all the speakers and reaffirmed DMR's commitment to continued cooperation on migration and asylum matters.

Session I. An overview of Council of Europe, EU and UN standards relating to independent monitoring mechanisms at borders

Sebastian Rietz, European Committee for the Prevention of Torture (CPT) Secretariat

Mr Rietz recalled that the CPT is a convention-based, preventive non-judicial body composed of independent experts with the power to formulate recommendations and standards based on the findings observed. The CPT's mandate involves conducting on-site visits to all places of detention to prevent torture and other forms of ill-treatment and to strengthen the protection of those deprived of their liberty. In its over 35 years, the CPT has carried out more than 550 visits to monitor the treatment and conditions of detention of detained persons. The CPT is granted unlimited and unannounced access to all places of detention (including places of *de facto* deprivation of liberty), can interview all persons in private, and can access all necessary information, such as medical files and video recordings – based on the principles of confidentiality and cooperation.

Mr Rietz mentioned the CPT's monitoring work at borders, as highlighted for example in its 2020 visit report on Croatia, in which the Committee called upon the authorities to end police ill-treatment and pushbacks while ensuring that all allegations are effectively investigated. In this report and its 30th General Report (2020), the CPT laid down the criteria that it considers should be met for a monitoring mechanism to be effective and independent. These include the authority to conduct regular and unannounced inspections, to have unrestricted access to all places, persons, and information, to observe border guards' activities on land and at sea, and to liaise with other organisations and key stakeholders. The IMM should possess full structural independence and operational autonomy from the authorities responsible for policing the border, should be provided with adequate human and financial resources, be

empowered to report publicly with clear recommendations, and be entitled to communicate directly with prosecutorial authorities. Mr Rietz noted that these criteria align with Council of Europe standards for Ombudsman institutions and National Human Rights Institutions (NHRIs), and that they also apply to the National Preventive Mechanisms under the OPCAT.

Mr Rietz stressed that the findings summarised in the CPT standards on pushbacks of foreign nationals (2023), point to numerous allegations of ill-treatment, persistent pushback practices, and ill-treatment and abuse of foreign nationals by state officials, reiterated also in the CPT 2024 visit report on Bulgaria. Based on these findings, the CPT reiterated its methodology, stressed the need for reinforced procedural safeguards against *refoulement* and ill-treatment, and underlined the necessity to ensure accountability through effective investigations, functioning complaints mechanisms and independent and effective monitoring mechanisms at borders. He maintained that only truly independent and effective monitoring can ensure trust in public institutions and fill the current gap created by the absence of systematic, independent monitoring and oversight at borders.

He noted that the CPT provided input to the Croatian IMM and to the European Union (EU) Agency for Fundamental Rights (FRA) regarding the development of a common monitoring methodology for future independent national monitoring mechanisms under the EU Pact on Migration and Asylum. While the establishment of monitoring mechanisms under the Screening Regulation (and the Asylum Procedure Regulation for border procedures) presents a positive first step, consideration should be given to expand their scope to all border control activities to safeguard the rights of foreign nationals at Europe's borders.

Jaana Temmler, European Commission, DG HOME

Ms Temmler explained that the IMM is a tool to ensure compliance with fundamental rights during the screening phase, notably with EU and international obligations regarding access to asylum, non-refoulement, the best interests of the child, and detention rules. Monitoring aims at identifying and correcting non-compliant practices by authorities, and at providing impartial reporting, thereby protecting both migrants' rights and authorities from unjustified criticism. She clarified that each Member State has the obligation to establish or designate its own IMM under the framework provided by the Screening Regulation.

Ms Temmler noted that the Regulation tasks the FRA with issuing general guidelines on setting up these national mechanisms and providing support to Member States upon request. The scope of monitoring is limited to screening, as specified in Article 10 of the Screening Regulation, and does not include border surveillance unless a Member State chooses to do so under national law.

She clarified that the Screening Regulation complements the Schengen Borders Code in setting EU rules for processing individuals apprehended in crossing the EU external borders irregularly. It is an initial information-gathering process, covering security, identity, health and vulnerability checks, and biometric data registration, intended to determine whether individuals should be channelled towards the asylum or return procedure. Screening applies to individuals apprehended in connection with unauthorised border crossing, those disembarked after search and rescue, asylum applicants at border points, as well as those found within the territory. She also stressed that screening must be completed within seven days at the external border, noting that it is not a self-standing procedure and that there is no possibility of appeal against its findings and outcome.

She noted that the Screening Regulation applies to all EU Member States except Ireland, and to the Schengen-associated countries (Norway, Iceland, Liechtenstein, and Switzerland). Methodology for monitoring must include on-the-spot, random, and unannounced checks with monitoring bodies having full access to locations, along with a formal complaints system.

Ms Temmler added that monitoring is also required by the Asylum Procedure Regulation concerning asylum border procedure, which applies to applicants from countries with low recognition rates, those suspected of misleading authorities or posing security concerns and encouraged Member States to adopt the same monitoring mechanism.

Aydan Iyigüngör, EU Fundamental Rights Agency (FRA)

Ms Iyigüngör reminded that the FRA produced [Guidelines on independent border monitoring mechanisms](#) (2024) on the basis of Article 10 of the Screening Regulation, building on existing standards, particularly those of the CPT, the Paris Principles and OHCHR. This guidance is also used by the European Commission as a tool vis-a-vis Member States for the implementation of the Screening Regulation and the Pact more broadly.

FRA has developed a common monitoring methodology in cooperation with NHRIs, EUAA and Frontex Fundamental Rights Officers among others and presented it in November 2025 to the NHRIs. FRA intends to pilot and test them in the field prior to finalisation.

She recalled the need for enhanced cooperation between all bodies with various monitoring mandates (IMMs, NPMs, return monitoring entities and Frontex and EUAA FROs) in the field of migration and asylum under EU and national law, drawing attention on their complementarity and synergies. While the IMMs' mandate excludes border checks and border surveillance (apart from the Croatian IMM), the Frontex FRO can monitor these activities when Frontex is involved in border management in a given Member State. FRA aims at establishing an EU-wide network and platform for future

IMMs and has already conducted two annual meetings co-hosted by Frontex Fundamental Rights Officer and EUAA.

She further drew attention on the concerning fact that forced return monitoring has dropped significantly according to FRA's [Forced Return Monitoring Systems – 2025 update](#).

Carolina Hernandez, UN OHCHR

Ms Hernandez highlighted the importance of IMMs' independence for strengthening the rights of people on the move, noting that monitoring is a practical tool to reveal border realities, prevent abuses, document evidence, and enhance transparency and accountability. She stressed that monitoring should not be seen as blaming authorities, but as a tool to improve governance and prevent illegal practices. The presence of monitors itself reduces risks of rights violations and provides verified information to support investigations, remedies, and judicial processes, while also helping states evaluate and improve their policies.

Ms Hernandez noted the particular importance of border monitoring due to the higher risks and barriers at these locations. She stressed that there is no single institutional model for effective monitoring and that it can include a range of actors such as national human rights institutions, ombudspersons, civil society organisations, and regional and international bodies. She referenced the OHCHR Manual on Human Rights Monitoring, highlighting the need for disaggregated, context-specific monitoring that considers factors like gender, disability, and age, and always applies the do no harm principle.

For monitoring to be effective, Ms Hernandez underscored the need for institutional independence, adequate and predictable financial resources, access to sites, persons, and information, including unannounced visits and private interviews, as well as proper follow-up mechanisms with parliaments and oversight bodies to ensure that findings lead to concrete investigations and remedies. She welcomed the establishment of IMMs in accordance with the EU Screening Regulation but urged states to broaden their scope to include surveillance of borders and returns. She concluded by highlighting the significance of the meeting as an opportunity for human rights bodies across different levels to exchange information and strengthen cooperation.

Edyta Tuta-Lorenz, ENNHRI

Ms Tuta-Lorenz explained that ENNHRI is a European network of 51 national human rights institutions (NHRIs), which are public independent bodies with a broad mandate to promote and protect human rights at national level. ENNHRI serves as a platform for cooperation among NHRIs, enabling the exchange of good practices, collective

capacity-building, and joint responses to human rights challenges. She underlined that NHRIs have long-standing experience in monitoring migration-related issues, including detention facilities, border guard and police practices, and reception centres, and that they have contributed to the FRA-led mapping exercise of monitoring activities across EU member States.

She noted that ENNHRI is currently supporting its members to assume or contribute to the mandate of the IMMs. She mentioned ENNHRI's December 2024 statement, which stresses key requirements for effective monitoring, including institutional independence, adequate and sustainable resources, relevant expertise, broad and clearly defined mandates, access to all relevant locations and documentation, and consistency with guidance from FRA and OHCHR.

Ms Tuta-Lorenz reported that different implementation models are emerging across Europe. In some countries, NHRIs are expected to act as the sole independent monitoring mechanism, while in others responsibilities may be shared with other bodies, or NHRIs may not be involved at all. She highlighted good practices observed so far, such as the participation of NHRIs in national working groups on the implementation of the Pact, cooperation with relevant ministries, involvement in shaping the scope and mandate of IMMs, and governmental commitments to provide structured and sustainable funding.

Regarding the key challenges, she highlighted the fragmentation among different monitoring bodies, potential overlap or confusion regarding mandates, operational uncertainties linked to the new framework, and concerns about ensuring independent and long-term funding. ENNHRI recommends strengthening coherence and coordination between monitoring mechanisms, expanding the mandate of monitoring bodies to ensure monitoring of all aspect of monitoring management, and guaranteeing independent, sustainable funding alongside effective follow-up to monitoring recommendations. Finally, ENNHRI calls on regional and international organisations to provide support states with EU borders in establishing effective monitoring mechanisms.

During the discussion, the **Lithuanian Focal Point** asked how the involvement of the Ombudsperson with the institution performing IMM tasks should work in practice. **Ms Temmler** (EC, DG HOME) clarified that, under the Screening Regulation, member States may designate the Ombudsperson as the sole IMM body, as one of several bodies forming the IMM, or as an external partner maintaining close links with the mechanism. In response to Lithuania's request for a definition of 'close links,' the Commission explained that the Ombudsperson should remain informed of the situation and hold regular meetings with the IMM.

Ms Iyigüngör (FRA) observed that, among member States that have already designated entities as IMMs, there is significant variation: most have chosen a national statutory human rights institution, but in some cases, a new entity is being created. She noted that it is important to invest into assisting them with practical tools to fulfil

their mandate and to facilitate exchange across Europe. She also highlighted that the IMMs and/or future IMMs already benefit from exchange when negotiating with their respective ministries about mandate and resources. At this moment it is also needed that both IMMs and the respective ministries are fully aware of the eligible financial resources provided by the European Commission.

Session II. Exchange among member States which have or are developing IMMs focusing on their institutional set up and methodological tools

Anna-Maria Getoš Kalac, Head of Coordination Board, IMM, Croatia

Ms Getoš Kalac delivered an in-depth account of Croatia's five-year experience with independent border and human rights monitoring. She opened by stressing the significance of knowledge exchange and harmonisation of practices among countries currently establishing IMMs.

Ms Getoš Kalac explained that Croatia's IMM currently operates with a broad mandate, including monitoring of the green and blue borders, airports through unannounced visits, as well as police operations. She also noted that proposed legislative changes aligning with the Pact focus the future IMM's mandate primarily to formal screening locations, which might prospectively limit the future IMM's capacity to address and investigate potential violations.

She underscored that the effectiveness of any IMM depends on its genuine independence, which is secured through its legal setup, the scope of its mandate, organisational structure, and the inclusion of civil society actors. Sustainable, consistent funding is also crucial because it determines the IMM's operational capacity and influences the quality and continuity of monitoring activities. Operational expertise is essential, and field monitors must have autonomy both to initiate monitoring missions and to assess and report potential rights violations.

Ms Getoš Kalac shared the Croatian IMM's practical challenges, particularly in monitoring effectively border police operations. These activities take place at unscheduled times, frequently at night and in remote locations, making real-time monitoring logistically difficult despite the existing agreement with the Ministry of Interior to provide notification of ongoing operations. As a result, the most substantive data tends to come from interviews with migrants and police, rather than observation of live operations or unannounced green and blue border monitoring.

Another major challenge concerns initiating referrals and investigations based on IMM findings of credible irregularities due to limitations relating to data confidentiality, security clearances, and personal data protection. She explained that while informed consent for conducting interviews is necessary, it might plausibly deter migrants from

participating. She emphasised Croatia IMM's commitment to the do no harm principle, always prioritising the safety and confidentiality of those interviewed, even at the cost of more limited and less detailed data.

With regards to monitoring methodology, she asked the present FRA representative(s) to share with the IMM the draft circulated among National Focal Points.

Kristýna Andrllová, Office of National Ombudsperson, Czechia

Ms Andrllová explained that the Ombudsperson is designated as the body responsible for the monitoring function under the Screening Regulation and Asylum Procedures Regulation that it will be funded through EU resources for a period of three and a half years. She noted that Czechia, as a landlocked Schengen state, only has an external border at international airports. She noted that last year the police apprehended nearly 11,000 people for irregular stay, 400 for Schengen border crossing, and 200 in transit, while only 29 applications for international protection at the airport were recorded in 2024.

She outlined that the amended national laws provide for the screening to occur at regional police offices with health checks done by hygiene experts. She noted that the draft project proposal for the IMM would be submitted in February, with final decisions expected by April. She explained that the Ombudsperson has experience as the national preventive mechanism since 2006, as the monitoring body for forced returns since 2011 and newly as the national human rights institution. The office will use its existing experience and methodology for the new mandate, integrate the FRA guidance, and recruit a multidisciplinary team to add further expertise. The Ombudsperson's office relies on cooperation agreements with psychologists, physicians, and interpreters for remote language support when exercising its mandate.

Ms Andrllová noted that monitoring will be conducted in person by a team of two monitoring experts, mainly through unannounced visits to screening sites, primarily airports, and ad hoc visits when notified of apprehensions. In March and late February, the team will visit police offices to further understand operational procedures and refine their methodology. They will also present the new IMM during a UNHCR training on vulnerability screening addressed to around 800 police officers in April/June.

Ms Andrllová noted several challenges: the lack of dedicated facilities and staff for screening, uncertainty about how in-territory screenings will be monitored, and concerns about the effectiveness of monitoring in asylum cases since the Ombudsperson will be notified only after individuals are already in reception centres for the asylum border procedure. She highlighted potential challenges related to coordination and monitoring impact, especially as regards regions further from offices, and noted that project-based funding does not guarantee long-term sustainability.

Sandra Fernandez, Immigration Directorate, Ministry of Interior, France

Ms Fernandez explained that, in France, the IMM will rely on existing institutions (see below) that already monitor public action and safeguard human rights. She emphasised that these bodies operate with full autonomy and independence, receiving no instructions from authorities and no funding from the government or EU sources that are routed through state channels:

- **Défenseur des droits** (Defender of Rights): this independent administrative authority is responsible for ensuring respect for human rights and for handling individual complaints. The Defender of Rights does not receive instructions, has wide powers to investigate claims, can make observations in courts, and is supported by a multidisciplinary team of 266 experts.
- **Contrôleur général des lieux de privation de liberté** (General Controller of Places of Deprivation of Liberty): established in 2007, this independent authority monitors treatment and deprivation of liberty in all relevant locations. It conducts visits, either scheduled or unannounced, to prisons, airports and healthcare facilities, issues recommendations, and makes its reports public.
- **Commission nationale consultative des droits de l'homme** (National Consultative Commission on Human Rights): the Commission has an advisory and monitoring role regarding fundamental rights. Composed of 64 members from NGOs, trade unions, and human rights experts, the Commission advises both government and parliament on human rights matters, international law, and humanitarian action. The commission can submit observations in courts and issue opinions.

Ms Fernandez concluded that these three institutions complement each other in upholding and promoting human rights in France. As for implementing the Screening Regulation, she noted that although legislative work is still ongoing, the current mandate enables them to carry out the tasks required under the Regulation.

On the issue of funding, **Ms Iyigüngör** (FRA) clarified that national ministries can apply for EU funding (AMIF, BMVI or TSI) to establish or support monitoring mechanisms. **Mr Rietz** (CPT) highlighted that sustainable and long-term funding is crucial for true independence of IMM and for the credibility of their findings. He also explained, from the CPT's experience, how a professional monitoring methodology can contribute to overcome some of the practical challenges mentioned by the speakers. **Ms Getoš Kalac** (Croatian IMM) echoed persistent concerns about independence when mechanisms are funded through state channels, noting that although Croatia's IMM is a coalition of five independent CSOs with full operational autonomy and no formal ties to the Ministry of Interior, reliance on ministry-controlled funding has attracted public and civil society criticism.

Mr Sitaropoulos enquired about the concrete outcome of the follow-up (especially through effective investigations as provided for by Article 10 (§2)(b) of the Screening Regulation) on IMM's findings in Croatia. **Ms Getoš Kalac** clarified that, when the

Croatian IMM identifies a credible irregularity or violation, its Coordination Board refers the case either to the State Public Prosecution or to the Ministry of Interior's Internal Affairs Office. Due to the current cooperation agreement, however, the IMM has no mandate to receive updates on or the outcomes of investigations, which limits transparency and thorough follow-up outside the scope of the IMM's mandate to publish annual recommendations. She stressed that although the IMM's effectiveness relies on cooperation and trust from the Ministry of the Interior, its very existence plays a crucial preventative role in deterring prospective human rights violations.

Wrap up of discussions – Conclusions and follow up

Nikos Sitaropoulos, Division on Migration and Refugees

Mr Sitaropoulos highlighted that the discussion revealed two key challenges: the independence and the effectiveness of IMMs. He stressed that member States would benefit from consulting NHRIs when drafting relevant legislation, given their mandates and monitoring and advice providing expertise. For IMMs to be effective, he underscored the need for adequate and sustainable funding, legal authority to access all areas fallen in their competence, and the capacity to ensure that substantiated allegations of failure to respect human rights lead to effective investigations. He also invited National Focal Points to share further updated information regarding the establishment of IMMs.

Tigran Karapetyan, Legal Cooperation Department, DGI

Mr Karapetyan highlighted the importance of structured information exchange, noting that practical insights from operational IMMs extend beyond the scope of official methodologies and guidelines. He addressed the issue of independence, stating that while formal autonomy is necessary, funding sources and resource allocation also determine an IMM's actual and perceived independence. He identified capacity building and training as key priorities and pointed to Council of Europe resources, particularly the HELP Platform's programmes as valuable tools for IMMs. Finally, he mentioned the Council of Europe's proposal to establish and coordinate a Pan-European Platform of National Independent Monitoring Mechanisms to facilitate ongoing collaboration and support. He referred to the European NPM Forum as an example of how such platform can generate value.