



Joseph Cripps

From Pact to Practice: How to Implement Human Rights Monitoring

What's the Issue?

Across Europe, civil society organisations, National Human Rights Institutions, and international monitoring bodies have all independently documented how border zones have become witnesses to grave human rights violations. By 2020, the erosion of the right to asylum had been well documented, with the systematic use of pushbacks, torture, arbitrary detention, and even secret extrajudicial facilities (so-called “black sites”) emerging as standard elements of migration control at the EU’s external borders. Video footage widely circulated has confirmed that migrants have been held incommunicado in ‘dog kennels’¹, showed masked men carrying out violent pushbacks,² and even the murder of a migrant by border guards.³

In response to ongoing violations of human rights at EU borders and non-compliance of some Member States

with existing EU law, a new EU asylum framework, the New Pact on Migration and Asylum, was proposed in 2020, adopted in April 2024, and is to be implemented by mid-2026. The Pact outlines a political and legislative roadmap to reform the Common European Asylum System (CEAS). Although an Independent Monitoring Mechanism was initially introduced as a safeguard to prevent pushbacks at external borders,⁴ the final version adopted in 2024 limits fundamental rights monitoring to the newly established screening and the accelerated asylum border procedure,⁵ which are to be carried out in closed facilities near the EU’s external borders.

To carry out their mandate, Independent Monitoring Mechanisms should investigate allegations of fundamental rights violations in the screening and the border procedure, should have access to relevant locations, individuals and documents, and perform their tasks on the basis of on-the-spot, random, and unannounced checks. Monitoring me-

¹ The New York Times. 2020. *We Are Like Animals Inside Greece’s Secret Site for Migrants*. Available at: <https://tinyurl.com/35sc67s5>; The Guardian. 2020. *Catastrophe for Human Rights as Greece Steps Up Refugee Pushbacks*. Available at: <https://tinyurl.com/75xd6p8s>

² ECCHR. n.d. *Footage of border officers enacting violent pushbacks*. Available at: <https://tinyurl.com/2b32y3f2>

³ Forensic Architecture. 2020. *The killing of Muhammad Gulzar*. Available at: <https://tinyurl.com/2pzph8sw>

⁴ European Commission, 2020. *Speech by Commissioner Johansson on the New Pact on Migration and Asylum*. Available at: <https://tinyurl.com/bdyhntx7>

⁵ Article 10.1. PE/20/2024/REV/1. Available at: <https://tinyurl.com/mr48mzkc>

chanisms should also be able to prompt investigations and issue annual recommendations.⁶

Key Challenges and Recommendations

Limitation or Restrictions on Scope of Access

The current scope of Independent Monitoring Mechanisms, as proposed under the Screening and the Asylum Procedure Regulation, is largely confined to official screening procedures and locations such as police stations, reception centres, or formal detention facilities. However, substantial evidence⁷ from CSOs, National Human Rights Institutions (NHRIs), and UN bodies shows that the most serious abuses often take place away from these controlled sites, for example, in transit zones, at green borders, or within informal, makeshift detention sites. Migrants intercepted in these areas, often deliberately kept out of reach of potential oversight mechanisms, are frequently subjected to violence, unlawful pushbacks, or held incommunicado in secret and arbitrary detention facilities. These current patterns of rights abuses occurring in remote areas demonstrate the danger of limiting the mechanism's mandate to specific geographical areas or procedural phases, as many observers believe such restrictions will create critical blind spots, allowing violations to persist unchecked.

Observers have also highlighted that existing monitoring bodies, such as NHRIs, frequently encounter significant challenges, including harassment, threats, and operational restrictions.⁸ These experiences raise serious concerns about how new Independent Monitoring Mechanisms will be able to conduct genuine on-the-spot and random unannounced checks, especially in locations where state practices have already limited oversight.

Recommendations

To address the most critical gaps, Independent Monitoring Mechanisms should be explicitly mandated, including through formalised agreements, to cooperate with other oversight actors, including NHRIs, Ombudspersons, and specialised civil society organisations, ensuring that in line with UNHCR⁹ recommendations they have the power “to receive, consider, and wherever appropriate, follow up on credible information”.

In line with this, several monitoring bodies have established collaborative frameworks and multi-actor monitoring approaches to address the challenges associated with effectively monitoring migration contexts. For example, in September 2021, the Greek National Commission for Human Rights launched the Recording Mechanism of Informal Forced Returns. This initiative brought together accredited civil society organisations active in Greece to form a joint mechanism that employs “common, transparent and scientific methodologies in data recording”¹⁰ to record incidents of illegal returns with the intention of increasing visibility of pushbacks in the Greek context and gathering a body of credible evidence. Similarly, in 2023, the Panama Ombudsman's Office signed a framework agreement with IOM¹¹ to strengthen technical cooperation, establish referral mechanisms, and provide support in the coordination of national human rights and migration policies, enabling both organisations to increase the ‘capacities of attention’ to migrants seeking to remain in Panama, as well as those just passing through. These examples demonstrate how formalised collaboration between national monitoring bodies and external partners can significantly enhance the reach, capacity and responsiveness of oversight efforts in complex and evolving migration contexts.

Even if the mandate of the to-be-established EU Independent Monitoring Mechanism is strictly limited, formalised cooperation with oversight actors, such as National Preventive Mechanisms or ombudspersons, whose mandates extend to other locations and stages of the migration process would create a coordinated multi-actor monitoring framework across the respective state, with EU screening and border procedure monitoring serving as one of its cornerstones.

Questionable Independence and Risks of Co-optation

True independence, both structural and functional, is fundamental for any monitoring body to be credible and effective. Examples from monitoring bodies across the globe clearly reveal widespread and concerted attempts to restrict or curtail monitoring activity, including effectively cancelling annual budgets¹² and forcibly removing ombudspersons from office.¹³

⁶ Article 10.2. PE/20/2024/REV/1. Available at: <https://tinyurl.com/mr48mzkc>

⁷ See Committee on the Elimination of Discrimination against Women, *Concluding Observations* (CEDAW/C/GRC/CO/8-9, 2013), which found that refugee, asylum-seeking, and migrant women and girls face disproportionate levels of gender-based violence in border areas; see also Border Violence Monitoring Network. 2024. Monthly Report November 2024. Available at: <https://tinyurl.com/mw7272kc>

⁸ GANHRI. 2024. *Standing Strong: Challenges and reprisals against NHRIs and human rights defenders*. Available at: <https://tinyurl.com/4xf5znus>; Ombudswoman of Croatia. 2024. *Analysis of the state of human rights and equality in Croatia*. Available at: <https://tinyurl.com/ynavh8ey>

⁹ ENNHRI and UNHCR. 2021. *Ten points to guide the establishment of an independent and effective national border monitoring mechanism in Greece*. Available at: <https://tinyurl.com/yv59r2b8>

¹⁰ ENNHRI. 2021. *The power of community: Together for equality and human rights*. Available at: <https://tinyurl.com/483em25k>

¹¹ IOM Panama. 2023. *Ombudsman's Office and IOM sign Framework Agreement focused on Migration and Human Rights*. Available at: <https://tinyurl.com/4kszyj7c>

¹² In 2017, the Philippine Commission on Human Rights was allocated an annual budget of 1,000 pesos (\$20). See: Reuters. 2017. *Philippine Congress backs annual budget of just \$20 for agency probing drugs war*. Available at: <https://tinyurl.com/2s3s2v89>

¹³ In 2021, Poland's Human Rights Ombudsmen Adam Bodnar was removed from his post. See: Human Rights Watch. 2021. *Poland's Top Watchdog Removed at Government's Behest*. Available at: <https://tinyurl.com/mry59dw2>

Despite these examples, no comprehensive, uniform or enforceable standards have been established to guarantee the independence of the proposed mechanisms in the EU. Instead, the European Union's Fundamental Rights Agency¹⁴ will provide a set of non-binding guidelines for States on how to establish safeguards ensuring independence as well as a "monitoring methodology and appropriate training schemes." This lack of legally binding standardisation highlights a significant accountability gap. Compared to NHRIs that have a well-established global framework¹⁵ to evaluate their independence and mandate, the proposed EU Independent Monitoring Mechanisms for the screening and asylum border procedure currently lack any equivalent structure.

Recommendations

In the absence of legally binding standardisation, appointment procedures for staff and members of Independent Monitoring Mechanisms should follow best practices developed for selecting members of NHRIs¹⁶. These should include clear, transparent, and participatory processes that reinforce both independence and public confidence. Vacancies should be broadly publicised to attract a wide pool of qualified candidates, with the selection of candidates being based on predetermined, objective, and publicly available criteria.

In 2024, the National Human Rights Commission of Nepal put this principle into practice, submitting a draft bill to the government for consideration with the aim of further strengthening its independence in a formal law. The draft bill included an explicit provision guarding against conflicts of interest and ensuring that the selection and appointment process of commissioners is performed in a broad, transparent and participatory manner, steps that were recommended¹⁷ to improve the effectiveness and independence of the Commission.

Similarly, best practice regarding the financial independence of Independent Monitoring Mechanisms can be drawn from NHRIs. According to UN General Assembly Resolution A/RES/48/134¹⁸, NHRIs should not be subject to financial controls that could compromise their independence. The resolution specifies that funding arrangements must be sufficient to enable them to recruit their own staff, maintain independent premises, and carry out their mandate without external interference. Several European NHRIs offer practical examples of how such safeguards can be implemented in law and practice. The Irish

NHRI's budget, for example, is transparently provided by means of a dedicated vote in Parliament¹⁹, whilst Germany's NHRI finances its research activities through institutional financial resources from the German Bundestag and third-party funding.²⁰

Conclusion

With the implementation timeline of the CEAS reform entering a decisive phase, Member States are now beginning to develop and implement Independent Monitoring Mechanisms. Across Europe and beyond, there is a wealth of best practice rooted in rights-based monitoring, developed through the work of National Preventive Mechanisms, National Human Rights Institutions, and ombudspersons which now must be used to guide the roll-out of these newly established monitoring mechanisms. By embedding existing expertise, Independent Monitoring Mechanisms can both gain and sustain public confidence and ensure that the new screening and the accelerated asylum border procedure do not become processes tarnished by impunity and systematic violations of human rights.

¹⁴ Article 10.2 PE/20/2024/REV/1. Available at: <https://tinyurl.com/mr48mzkc>

¹⁵ The Paris Principles ('Principles Relating to the Status of National Human Rights Institutions') set out the minimum standards that NHRIs must meet in order to be considered credible and to operate effectively. See: <https://ganhri.org/paris-principles/>

¹⁶ GANHRI. 2018. General Observations of the Sub-Committee on Accreditation. Available at: <https://tinyurl.com/3vjbxxvn>

¹⁷ GANHRI. 2025. Report and Recommendations of the 45th Session of the Sub-Committee on Accreditation (SCA). Available at: <https://tinyurl.com/3x3d32py>

¹⁸ Resolution A/RES/48/134 adopted by the UN General Assembly on: National institutions for the promotion and protection of human rights. Available at: <https://tinyurl.com/f4jew4b8>

¹⁹ Dáil Éireann debate. Wednesday, 21 May 2025. Estimates for Public Services 2025. Available at: <https://tinyurl.com/32n27ebs>

²⁰ German Institute for Human Rights. Annual Report 2022. Available at: <https://www.institut-fuer-menschenrechte.de/en/publications/detail/annual-report-2022>

About the Author

Joseph Cripps is United Nations Advocacy Coordinator for the Border Violence Monitoring Network, where he works to advance state accountability for push-backs, enforced disappearances, torture and other forms of violence perpetrated on migrants.

Imprint

Published by

Friedrich-Ebert-Stiftung e.V.
Godesberger Allee 149
53175 Bonn
Germany
info@fes.de

Issuing Department

Friedrich-Ebert-Stiftung | European Union & Global Dialogue |
Brussels Office | Rue du Taciturne 38 | 1000 Brussels | Belgium
<https://brussels.fes.de/>

Responsibility for Content and Editing

Tobias Beylat | Policy Officer | Migration & Integration |
tobias.beylat@fes.de

Contact

brussels@fes.de

Editing

Dr. James A. Turner

Design/Layout

pertext | corporate publishing
www.pertext.de

Cover picture

picture alliance / Anadolu | Olsi Shehu

The views expressed in this publication are not necessarily those of the Friedrich-Ebert-Stiftung (FES). Commercial use of media published by the FES is not permitted without the written consent of the FES. Publications by the FES may not be used for electioneering purposes.

August 2025

© Friedrich-Ebert-Stiftung e.V.

ISBN 978-3-98628-772-6

Further publications of the Friedrich-Ebert-Stiftung can be found here: ➔ www.fes.de/publikationen



European Union & Global Dialogue
Brussels Office