



**EUAA/MB/2024/070**

**Management Board Decision No 161  
of 13 March 2024**

**establishing a common methodology for the monitoring mechanism on the operational and  
technical application of the Common European Asylum System**

**THE MANAGEMENT BOARD,**

HAVING REGARD to Regulation (EU) 2021/2303 of the European Parliament and of the Council of 15 December 2021 on the European Union Agency for Asylum<sup>1</sup> (hereinafter ‘the EUAA Regulation’), and in particular Articles 14(2) and 41(1)(x) thereof,

**WHEREAS:**

- 1) Pursuant to Article 14(1) of the EUAA Regulation, the Agency, in close cooperation with the Commission, should establish a monitoring mechanism for the purpose of monitoring the operational and technical application of the Common European Asylum System (‘CEAS’) in order to prevent or identify possible shortcomings in the asylum and reception systems of Member States and to assess their capacity and preparedness to manage situations of disproportionate pressure so as to enhance the efficiency of those systems.
- 2) Pursuant to Article 14(2) of the EUAA Regulation, the Management Board should, on a proposal of the Executive Director and in consultation with the Commission, establish a common methodology for the monitoring mechanism. The common methodology should include objective criteria against which the monitoring is to be carried out, a description of the methods, processes and tools for the monitoring mechanism such as practical arrangements for on-site visits, including short-notice visits, and rules and principles for the establishment of teams of experts.
- 3) In accordance with Article 14(2) of the EUAA Regulation, the Commission has been consulted on the setting up of the monitoring mechanism through bilateral exchanges and in writing.
- 4) A Monitoring Advisory Group was established on 22 February 2023 composed of representatives of the Member States and the Commission, as well as of the United Nations High Commissioner for Refugees (UNHCR) as an observer, under the coordination of the Agency. The objective was to provide technical expertise in the preparation of the common methodology through extensive discussions on deliverables during seven meetings and in written submissions made between April 2023 and February 2024.

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<sup>1</sup> Regulation (EU) 2021/2303 of the European Parliament and of the Council of 15 December 2021 on the European Union Agency for Asylum and repealing Regulation (EU) No 439/2010, (OJ L 468, 30.12.2021, p. 1).





- 5) A Management Board thematic meeting on monitoring was held on 29 February 2023 during which [agreement was reached on the proposed monitoring methodology].
- 6) Pursuant to Article 41(1)(x) of the EUAA Regulation, the Management Board should adopt a decision establishing a common methodology for the monitoring mechanism,

**HAS DECIDED AS FOLLOWS:**

**Article 1**  
**Monitoring methodology**

The common methodology for the monitoring mechanism on the operational and technical application of the CEAS, as annexed to this Decision, is hereby adopted.

**Article 2**  
**Monitoring Network**

The Agency shall establish a Monitoring Network in line with the provisions set out in Chapter 13 of the Annex to this Decision that shall replace the Monitoring Advisory Group that was set up on 22 February 2023.

**Article 3**  
**Transparency**

This Decision shall be made public on the Agency's website.

**Article 4**  
**Entry into force and review**

This Decision enters into force on the date of its adoption. This Decision shall be reviewed with a view to reflect relevant legislative changes and lessons learned from the pilot phase.

Done at Valletta Harbour

For the Management Board

*Signature on file*

Evelina Gudzinskaitė  
Chairperson of the Management Board



**Annex:** Common methodology for the monitoring mechanism on the operational and technical application of the CEAS



## Annex

### Common methodology for the monitoring mechanism on the operational and technical application of the CEAS



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## Acronyms and abbreviations

<b>APD (recast)</b>	Asylum procedures directive (recast)— <a href="#">Directive 2013/32/EU</a> of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (recast)
<b>CEAS</b>	Common European Asylum System
<b>Commission</b>	European Commission
<b>CSOs</b>	Civil society organisations
<b>Dublin III regulation</b>	<a href="#">Regulation (EU) No 604/2013</a> of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast)
<b>EUAA</b>	European Union Agency for Asylum
<b>EU</b>	European Union
<b>EUAA regulation</b>	<a href="#">Regulation (EU) 2021/2303</a> of the European Parliament and of the Council of 15 December 2021 on the European Union Agency for Asylum and repealing Regulation (EU) No 439/2010
<b>MAG</b>	Monitoring Advisory Group
<b>Member States</b>	Member States of the European Union
<b>Methodology</b>	Common methodology for the monitoring mechanism
<b>MoNet</b>	Monitoring Network
<b>National Coordinator</b>	National Monitoring Coordinator
<b>RCD (recast)</b>	<a href="#">Reception conditions directive (recast)</a> – Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection (recast)
<b>UNHCR</b>	United Nations High Commissioner for Refugees



## Definitions

For the purposes of the Monitoring methodology:

**Monitoring methodology** means a ‘common methodology for the monitoring mechanism that includes objective criteria against which the monitoring shall be carried out, a description of the methods, processes and tools for the monitoring mechanism such as practical arrangements for on-site visits, including short-notice visits, and rules and principles for the establishment of teams of experts’ (Article 14(2) EUAA regulation).

**Monitoring exercise** means the exercise carried out as part of the monitoring mechanism, covering either ‘the operational and technical application of all aspects of the CEAS of a Member State [country monitoring] or thematic or specific aspects of the CEAS with regard to all Member States [thematic monitoring], or carried out on the initiative of the EUAA or at the request of the Commission when there are serious concerns regarding the functioning of a Member State’s asylum or reception system [ad hoc monitoring]’ (Article 15(1) EUAA regulation).

**Country monitoring** means a monitoring exercise covering ‘the operational and technical application of all aspects of the CEAS’ in a specific Member State (Article 15(1)(a) EUAA regulation).

**Ad hoc monitoring** means a monitoring exercise carried out ‘where the information analysis on the situation of asylum referred to in Article 5 of the EUAA regulation raises serious concerns regarding the functioning of a Member State’s asylum or reception system’ and which is initiated either by the Agency on its own initiative in consultation with the Commission or at the request of the Commission (Article 15(2) EUAA regulation).

**Thematic monitoring** means a monitoring exercise ‘focusing on thematic or specific aspects of the CEAS with regard to all Member States’ (Article 15(1)(b) EUAA regulation).

**EUAA Monitoring Coordinator** means the EUAA staff member that acts as the coordinator of a country or thematic monitoring exercise.

**National Monitoring Coordinator** means the main Member State representative and the alternate, undertaking the coordination of the monitoring exercise and serving as the main contact points for the Monitoring Network.

**Monitoring programme** means the programme indicating ‘which Member States’ asylum and reception systems are to be monitored in a particular year. The monitoring programme ensures that each Member State is monitored at least once in every 5-year period’ (Article 15(1) EUAA regulation). The monitoring programme covers both the country monitoring and the thematic monitoring.

**Monitoring cycle** means a 5-year period during which a country monitoring exercise is performed at least once for all Member States (Article 15(1) EUAA regulation).





**Team of experts** means a team set up for the purposes of a monitoring exercise by the Executive Director and 'composed of experts from the Agency's own staff, the Commission and, where necessary, the Member States and, as observers, the UNHCR' (Article 47(5)(p) EUAA regulation).

**On-site visit** means the visit to the Member State under review carried out by the teams of experts for the purposes of the monitoring exercise (Article 14(5)).

**Short notice visit** means an on-site visit carried out for the purposes of an ad hoc monitoring exercise in line with Article 15(2) EUAA regulation. 'In the case of short-notice visits, the Executive Director shall notify the Member State concerned 72 hours in advance' (Article 14(7) EUAA regulation).

**Monitoring roster** means the roster of Member States experts established and managed by the EUAA for the purposes of the monitoring mechanism.



# 1 Introduction

## 1.1 Background

The [EUAA regulation](#)<sup>2</sup> provides for the establishment of the monitoring mechanism (Articles 14 and 15). In this regard, the EUAA Management Board (MB) shall, on a proposal of the Executive Director and in consultation with the European Commission, establish a common methodology for the monitoring mechanism.

To this end, the EUAA initiated the design of the monitoring mechanism under the EUAA Transition Programme in November 2022. To foster a collaborative approach in the development of the methodology, in March 2023 a Monitoring Advisory Group (MAG) was established for the consultation on technical aspects of the monitoring mechanism. Composed of representative of the Member States, the European Commission (Commission) and the United Nations High Commissioner for Refugees (UNHCR) as an observer, the MAG provided feedback on the draft deliverables, both in writing and in the context of meetings organised between April 2023 and February 2024.

The methodology establishes the objective criteria for conducting the monitoring, outlines the methods, processes, and tools for the monitoring mechanism, provides the framework for gathering and analysing information for the purpose of the monitoring exercises, and addresses procedural aspects such as arrangements for on-site visits and the establishment of expert teams, along with rules and principles.

## 1.2 Purpose and scope of the monitoring mechanism

In line with article 78 TFEU, the Union shall develop a common policy on asylum, subsidiary protection and temporary protection with a view to offering appropriate status to any third-country national requiring international protection and ensuring compliance with the principle of non-refoulement. This policy must be in accordance with the Geneva Convention of 28 July 1951 and the Protocol of 31 January 1967 relating to the status of refugees, and other relevant treaties. The Common European Asylum System (CEAS) aims to constitute a common area of protection and solidarity within the EU by establishing fair and effective asylum and reception procedures based on high protection standards, preventing or reducing secondary movements within the Union, and increasing mutual trust between Member States.

The EUAA shall ‘monitor the operational and technical application of the CEAS with a view to assisting Member States to enhance the efficiency of their asylum and reception systems’ (Article 2(1)(q) EUAA regulation).

The EUAA regulation (Articles 14(1) and 14(2)) provides the Agency with the mandate to establish:

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<sup>2</sup> [Regulation \(EU\) 2021/2303](#) of the European Parliament and of the Council of 15 December 2021 on the European Union Agency for Asylum and repealing Regulation (EU) No 439/2010.



*a monitoring mechanism for the purpose of monitoring the operational and technical application of the CEAS [hereafter referred to as ‘monitoring’] in order to prevent or identify possible shortcomings in the asylum and reception systems of Member States and to assess their capacity and preparedness to manage situations of disproportionate pressure so as to enhance the efficiency of those systems.*

*The monitoring mechanism covers in particular:*

*the system for determining the Member State responsible for examining applications for international protection established by Regulation (EU) No 604/2013, procedures for international protection, the application of criteria for assessing the need for protection and the type of protection granted, including as regards respect for fundamental rights, child protection safeguards and the specific needs of persons in a vulnerable situation;*

*the availability and capacity of staff in terms of translation and interpretation and the capacity of staff to handle and manage asylum cases efficiently, including handling appeals, without prejudice to judicial independence and with full respect for the organisation of the judiciary of each Member State;*

*reception conditions, capacity, infrastructure and equipment and, to the extent possible, financial resources for reception.*

It is important to note that the transposition of the CEAS provisions into the national legislation is not within the scope of the EUAA monitoring mechanism. The Commission is competent to ensure that the transposed law is implemented and meets the required deadline(s). This responsibility lies solely with the European Commission.

## **Objective criteria**

The monitoring is carried out against objective criteria which are structured in line with the different provisions of the CEAS and are complemented with a set of criteria related to contingency planning and preparedness. The objective criteria are presented in [Chapter 4 Objective criteria](#) of this methodology.

## **Geographical application**

The EUAA regulation is binding on all EU Member States<sup>3</sup> with the exception of Denmark. In line with recital 63, Denmark has not taken part in the adoption of the Regulation and is not subject to its application.

Cooperation with associated countries namely, Iceland, Liechtenstein, Norway and Switzerland shall be defined in arrangements concluded with the Union in line with recital 65 and Article 34 of the EUAA

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<sup>3</sup> EU Member States are Austria, Belgium, Bulgaria, Croatia, Cyprus, Czechia, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland (upon opt-in), Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain and Sweden.



regulation. Those arrangements will include provisions relating to participation in initiatives undertaken by the Agency, financial contributions, participation in the meetings of the Management Board and staff.

### **Entry into force**

In line with to Article 73 of the EUAA regulation, the provisions of the Regulation relating to the monitoring mechanism will become applicable on 31 December 2023 and, initially, the follow up of a monitoring exercise will be limited to sharing the findings with the Member State concerned for their comments.

The entry into force of a second phase of the monitoring exercise – including the drafting and submission of recommendations for adoption by the Management Board, transmitting recommendations to the European Parliament and informing the European Commission about the implementation of recommendations, and any possible further escalations in case recommendations are not met – has been made subject to the replacement of Regulation (EU) No 604/2013 (Dublin III Regulation). The European Commission has clarified in a communication to the EUAA that the replacement is to be understood as the date of the entry into application of the regulation that replaces the Dublin III regulation.



## 2 Guiding principles

In line with the EUAA regulation (recital 20 and Article 14), the EUAA monitoring mechanism is guided by the following principles.

### Forward-looking

The monitoring is future-oriented and preventative, focused on present and upcoming challenges, in terms of formulating needs for improvement in the overall functioning of the asylum and reception systems, and in terms of assessing the capacity and preparedness of Member States to manage situations of disproportionate pressure. The monitoring evaluates if the measures put in place by the Member States are fit for purpose in order to prevent shortcomings and being prepared for situations of increased or disproportionate pressure.

The monitoring identifies as well good practices and share these with all the other Member States.

Any recommendations stemming from the findings shall be concrete and realistic, taking into account the actual situation and circumstances in the Member State concerned and the requirements stemming from the CEAS, *inter alia* the assistance of the EUAA.

### Comprehensive and relevant

The monitoring is 'comprehensive' (recital (20) of the EUAA regulation). It covers all the aspects of the CEAS, taking into account, *inter alia*, the respect for fundamental rights, child protection safeguards and the specific needs of persons in a vulnerable situation.

All assessments are performed against a set of predefined objective criteria (see [Chapter 4 Objective criteria](#)). The objective criteria cover the different fields of the CEAS in a comprehensive way. Within its comprehensive framework, the monitoring mechanism will prioritise any possible shortcomings with a higher impact on the operational and technical application of the CEAS, to ensure the relevance of the findings focusing on the present and potential challenges. In particular priority is given to the assessment of findings with a higher impact on the:

1. effectiveness and efficiency of the asylum and reception systems at national level<sup>4</sup> (individual, impartial and fair assessment of the application within reasonable timeframes);
2. preparedness to manage situations of disproportionate pressure at national level;
3. functioning of the CEAS as a whole in connection with the possible shortcomings identified in the Member State under review;
4. fundamental rights of the persons concerned, child protection safeguards and the specific needs of persons in a vulnerable situation.

**There shall be no interference with the competence of the Member State to decide on individual applications for international protection.**

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<sup>4</sup> Throughout this methodology the term 'national level' comprises all levels of national organisation: central, federal regional and local authorities, depending on their respective mandate with regards to the implementation of the CEAS.



### **Collaborative and transparent**

The monitoring is conducted in close collaboration and in full transparency with the Member State concerned, ensuring that the Member States are regularly kept informed of the scope, activities, findings of the monitoring and the information on which the findings are based. In line with Article 14(7) of the EUAA regulation, the Member State 'shall cooperate with the Agency, including by facilitating any on-site visits carried out for purposes of the monitoring exercise'. This entails more in particular ensuring that the monitoring team has access to the required information, key personnel and relevant locations in line with the objective criteria. The findings of the monitoring are shared with the Member State concerned for their comments, in line with Article 15(3) of the EUAA regulation.

### **Objective and accurate**

The EUAA monitoring findings are evidence-based, information is collected in a systematic manner and from a wide range of sources as defined in the Methodology. This implies an analysis of large amounts of qualitative and quantitative information from various stakeholders in line with the Regulation to ensure a complete, balanced and objective approach. The information is collected and examined carefully against the pre-determined objective criteria 'tak[ing] into account the operational standards, indicators, guidelines and best practices' developed by the EUAA (Article 13(6) of the EUAA regulation).

With regards to Member States inputs, information available within the Agency is used as much as possible to avoid duplication of requests. The information received will be collected, analysed, cross-checked with the Member State, and critically assessed in line with the methodology.

### 3 Monitoring process

The common monitoring methodology is structured around a single overall process applicable to all types of monitoring exercises as presented hereby.

#### 3.1 Types of monitoring

The EUAA monitoring mechanism comprises three types of monitoring exercises on the basis of their scope:

- **Country monitoring** covering the operational and technical application of all aspects of the CEAS in a specific Member State (Articles 14 and 15(1)(a));
- **Thematic monitoring** covering thematic or specific aspects of the CEAS with regard to all Member States (recital 22, Article 15(1)(b));
- **Ad hoc monitoring**, where the information analysis on the situation of asylum referred to in Article 5 raises serious concerns regarding the functioning of a Member State’s asylum or reception system. In this case, the Agency shall initiate a monitoring exercise either on its own initiative in consultation with the Commission or at the request of the Commission (Article 15(2)).

#### 3.2 Monitoring stages

To enable effective planning and organization, each monitoring exercise is structured into five main stages, outlined below. For thematic and ad hoc monitoring exercises adjustments may be required in line with the principle of proportionality.

**Figure 1. Monitoring stages**



Source: EUAA

**Initiation stage:** All the necessary preparations are performed to ensure timely organisation of the monitoring exercise, including information gathering and organisation of the on-site visit. Information is collected in line with the framework for information gathering (see [Chapter 5 Framework for information gathering and analysis](#)). The Member State is informed on the scope of the monitoring exercise and receives the official request to submit information through the **Member State Monitoring Questionnaire** (see [6.1 Member State Questionnaire](#)) and to prepare the cases for the case sample analysis (see [6.2 Case sampling](#)). To further facilitate the completion of the questionnaire, the EUAA



will attach to each question, to the extent possible, any relevant information already collected by the EUAA, in full respect of the framework for information gathering, together with the sources. This will allow the Member State to refer to the available information when responding to a question, either through complementing, correcting or updating or confirming the validity of the information. Relevant information is gathered from all stakeholders.

Preparations are made to compose the team of experts (see [8.1 Rules and principles for the establishment of teams of experts](#)).

**Consolidation of information and analysis:** all received information is consolidated and analysed in view of the organisation of the on-site visit (see [Chapter 5 Framework for information gathering and analysis](#)). The Member State is consulted on the draft agenda for the on-site visit. A preparatory meeting to further exchange on practicalities with regard to the on-site visit will be organised.

**On-site visit:** The Agency may carry out on-site visits for the purposes of the monitoring exercise. The Agency shall carry out short-notice visits only for the purposes of Article 15(2). During the on-site visit, the team of experts assesses the operational and technical application of the CEAS in the concerned Member State on the basis of systematic gathering and thorough analysis of relevant information (see [8.2 Practical arrangements for the on-site visit](#)). The average duration of an on-site visit may vary between one to ten working days depending on the scope of the monitoring exercise. The Member State shall cooperate with the Agency and support the team of experts in its mandate to assess the processes and activities in the domains to be monitored, in line with the EUAA regulation.

**Finalisation of findings:** The Executive Director shall send the findings of a monitoring exercise to the Member State for comments, including, as appropriate, indications of its needs (see [7.2 Findings](#)).

**Drafting of recommendations and follow-up (once activated):** The Executive Director shall, on the basis of the findings and taking into account the comments of the Member State concerned, and in consultation with the Commission, draw up draft recommendations. The Executive Director shall send the draft recommendations to the Member State concerned for comments (see [7.3 Recommendations](#)).





**Figure 2. Stages and timeline of a monitoring exercise**

	1. Initiation stage	2. Consolidation of information and preliminary assessment	3. On-site visit - assessment	4. Finalisation of findings	5. Drafting of recommendations and follow-up
Timing	Month 0 – 3	Month 3 - 5.5	Month 5.5 – 6	Month 6 – 7.5	Month 7.5 – 9
Description	<p>All the necessary preparatory steps are performed to ensure timely organisation of the monitoring exercise as well as the information collection from all stakeholders.</p> <p>The official request is sent out to the Member State.</p>	<p>Information is consolidated. Gaps identified and analysis is performed in order to provide structured information to the teams of experts.</p> <p>Preparatory meeting with the Member State is held.</p>	<p>The team of experts performs, where applicable, the on-site visit and conducts the relevant assessment.</p>	<p>The Executive Director sends the findings of a monitoring exercise to the Member State concerned for comments. The report is finalised.</p>	<p>The recommendations are drafted and finalised in line with article 15.</p>

Source: EUAA

### 3.3 Actors, roles and responsibilities

The EUAA regulation defines the roles and responsibilities of all stakeholders with regard to the monitoring mechanism.

#### EUAA

Various legal provisions outline the responsibilities of the **EUAA Executive Director**. Notably, the Executive Director sets up the teams of experts for the purpose of monitoring, initiates a monitoring exercise in accordance with Article 15(2), and submits the findings and draft recommendations to the Member State concerned and subsequently to the Management Board (Article 47(5)(p) to (r)). The Executive Director shall notify the Member States concerned sufficiently in advance of any such visit. In the case of short-notice visits, the Executive Director shall notify the Member State concerned 72 hours in advance (Article 15(7)).

The Agency oversees the monitoring process and subsequent activities. Within the Agency, a dedicated unit (**Monitoring Unit**) is designated to carry out relevant tasks.

The EUAA **Liaison Officers** will be deployed in the Member States. The EUAA regulation stipulates that the **Liaison Officers** regularly provide reports to the Executive Director on the situation of asylum in the Member State concerned and its capacity to manage its asylum and reception systems effectively. Where the reports of the Liaison Officer to the Executive Director raise concerns about one or more aspects relevant for the Member State concerned, those reports shall be taken into account for the purposes of the monitoring mechanism and shall be transmitted to the Member State concerned (article 7(4)).

The **Management Board of the EUAA** shall, on a proposal of the Executive Director and in consultation with the Commission, establish a common methodology for the monitoring mechanism (Article 14(1)), the programme (Article 15(1)) and following a monitoring exercise, the recommendations (Article 15(4)).

#### European Commission

The **Commission** closely cooperates with the EUAA in the establishment of the monitoring mechanism (Article 14(1)). Inter alia, the Commission participates in the team of experts (Article 47(5)(p)) and is consulted by the Agency on the methodology, the programme and when drawing up draft recommendations. 'Where the information analysis on the situation of asylum referred to in Article 5 raises serious concerns regarding the functioning of a Member State's asylum or reception system, the Agency shall initiate a monitoring exercise either on its own initiative in consultation with the Commission or at the request of the Commission.' (Article 15(2)) Where a Member State does not implement the measures outlined in the recommendations of the Agency, the Commission is responsible for further follow up (Article 15(5-7)).

## Member States

The monitoring methodology is built on a collaborative approach between the EUAA and the EU Member States. Member States shall, at the request of the Agency, provide it with information on the aspects of the CEAS covered by the monitoring mechanism as well as on their contingency planning for measures to be taken to deal with possible disproportionate pressure on their asylum or reception system (Article 14(6)).

The Regulation foresees that Member States experts participate in the teams of experts, where necessary (Article 47(5)(p)).

The Member States shall cooperate with the Agency, including by facilitating any on-site visit carried out for the purposes of the monitoring exercise. Member States shall submit comments on the findings and the recommendations.

Following the adoption of the methodology, a **Monitoring Network (MoNet)** composed of National Monitoring Coordinators will be established (see [13 Role of the Monitoring Network](#)).

The **National Monitoring Coordinator** (hereafter ‘the National Coordinator’) acts as the Member State coordinator and the main contact point for the monitoring exercise with regard to information collection, communication with national authorities and implementing partners and follow-up to the findings and recommendations. The National Coordinator cooperates with the EUAA in the preparation of the on-site visit, liaises with relevant authorities and/or organisations, if required, to identify relevant staff, ensure access to premises and other locations as indicated in the agenda of the visit and facilitates all the practical arrangements (see [8.2 Practical arrangements for the on-site visit](#)). The National Coordinator may accompany the team of experts. The National Coordinator participates in the meetings with the national authorities. An alternate National Coordinator may be appointed by the Member State.

## UNHCR

The United Nations High Commissioner for Refugees (UNHCR) is part of the monitoring team as an observer (Recital 24). UNHCR is also explicitly mentioned as a source of information in the context of the information gathering for the purposes of monitoring mechanism (Article 14(4)).



## 4 Objective criteria

The EUAA performs the monitoring against objective criteria which indicate the **expected results** of the operational and technical application of each aspect of the CEAS, in view of the overall objectives of the EUAA monitoring mechanism.

The objective criteria are structured in line with the different provisions of the CEAS and are complemented with a set of criteria related to contingency planning and preparedness. They include overarching criteria which refer to all the domains of the CEAS (the reception system, the asylum procedure and the Dublin procedure, including, with full respect of judicial independence, appeal procedures) and contingency planning and preparedness, as well as three sets of domain specific criteria.

Objective criteria are formulated at **macro level**, in particular to take into account the specificities of national systems and context, and give the MS an overview of **which operational processes** will be monitored. The objective criteria need to be read together with the legal provisions of the CEAS, and in case of uncertainty, the legal text of the CEAS, and the interpretation thereof by the European Court of Justice, always has prevalence. All objective criteria will be assessed in view of respect for **fundamental rights**, including non-discrimination, respect for private and family life and child protection and the primary consideration to the best interests of the child.

In case of legal changes to the CEAS, the objective criteria may need to be reviewed by the EUAA Management Board.

The objective criteria are grouped under the respective thematic areas and coded accordingly.

### 4.1 Overarching objective criteria

The first two sets of objective criteria are **overarching**: they refer to all the areas of the CEAS and will be applied in a transversal way over all the processes.

#### Institutional framework

- OVR1. Member States have established functioning asylum and reception systems, including **administrative structures and processes** dedicated to ensure that the objective criteria are met and maintained in a consistent and reliable way, including relevant guidance, oversight mechanisms and effective quality assurance mechanisms.
- OVR2. The asylum and reception **processes are organised efficiently** by eliminating redundant or duplicated efforts, optimising the use of existing expertise and resources, minimising bottlenecks, supported by a functional case management system and making adequate use of digital support tools in order to ensure that processes are responsive to changing circumstance and can be scaled up in times of increased influx.
- OVR3. Throughout the asylum procedure, including the appeal phase, and in the reception system, sufficient and adequate **staff capacity** is available to handle and manage cases



- efficiently and to provide adequate reception conditions, with clear description of tasks and responsibilities, measures supporting staff wellbeing, and effective processes to detect any possible bottlenecks or shortages of capacity.
- OVR4. Staff of authorities or bodies responsible for the implementation of one or more aspects of the CEAS have the **required competencies** relevant to their duties/tasks and functions, including through the provision of the necessary and adequate training and professional development, developed, where applicable, on the basis of the European asylum curriculum and with due attention to fundamental rights, special procedural and reception needs and the best interest of the child.
- OVR5. Asylum and reception systems are organised and implemented with full respect for the principle of **confidentiality** as defined in national law, and in compliance with relevant data protection laws.
- OVR6. Throughout the asylum procedure and in reception processes, applicants in a vulnerable situation are effectively identified, their **special procedural and reception needs** are assessed and adequately responded to in a timely manner by qualified and trained personnel to enable applicants in a vulnerable situation to fully benefit from their rights and comply with their obligations under the CEAS.
- OVR7. **Unaccompanied children** are provided, in a timely manner and, where applicable, before the personal interview, with a properly skilled representative who represents and assists the child in the asylum procedure and the reception system in accordance with their best interests. The provision of reception conditions and examination of the application for international protection is conducted by staff with the necessary knowledge of special procedural and reception needs of children and giving primary consideration to the best interest of the child.
- OVR8. In all relevant steps of the asylum procedure and in the context of the reception system, the applicant receives the necessary **information** on the procedures and their rights and obligations in a timely manner. The information is provided in writing and, where necessary, in oral form, in a language the applicant understands or is reasonably supposed to understand, and adapted to the special procedural needs and reception needs of the applicant.
- OVR9. The access of applicants to **effective remedy** against, inter alia, a decision on an application for international protection, including the decision to withdraw international protection or the refusal to reopen the examination, a transfer decision under the Dublin Regulation, a decision on denying, reducing or ending the right to reception and decisions to detain applicants, is ensured through the necessary legal and procedural information provided to the applicant on the appeal procedure, access to legal assistance and representation, and timely appeal procedures.

## Capacity and preparedness to manage situations of disproportionate pressure

- COP1. **Contingency plans**, covering the asylum and reception systems, specify different scenarios of disproportionate pressure. For each different scenario, they identify the early alert triggers, the provision of a response strategy and a toolbox of measures to be taken, the



- corresponding responsible actors and timeframes, in particular measures enabling a quick needs assessment, and the rapid deployment of adequate staff and resources.
- COP2. **An oversight mechanism** is in place at local, regional or central state level, to allow for early warning and timely activation of the relevant measures of the contingency plan, with clearly defined roles and responsibilities for the collection and assessment of data and the dissemination of findings to relevant stakeholders.
- COP3. Contingency plans are known and supported by all responsible actors in the migration management chain, they include a **clear decision making and coordination mechanism** among all relevant internal and external stakeholders, and are regularly evaluated and kept up to date.
- COP4. **Mechanisms to scale-up reception capacity**, including operational procedures for establishing extra reception capacity, are in place to accommodate swiftly applicants under adequate reception conditions.
- COP5. Safeguards are put in place to ensure that **special procedural and reception needs** are also identified, assessed and responded to in situations of disproportionate pressure.

## 4.2 Domain specific objective criteria

**Domain specific criteria** refer to specific areas of the CEAS:

### Asylum procedure

- ASY1. Persons who wish to apply for asylum have effective and timely **access to the asylum** procedure, including swift and full registration of all applications for international protection, supported by, as appropriate, provision of information, access to counselling, the necessary interpretation and the issuance of a document certifying the status of applicants.
- ASY2. The **identity of the applicants** is effectively verified where possible, including their nationality or statelessness, taking into account the varying situations in countries of origin and the possible lack of identification documents.
- ASY3. Applicants are offered the effective opportunity to substantiate their claim through a **personal interview** in a language the applicant understands and conducted in full respect of the principle of confidentiality, through appropriate interview techniques and concluded with a complete, reliable, and factual interview report or transcript.
- ASY4. **Interviews with children** are conducted in a child appropriate manner, with primary consideration for the best interests of the child.
- ASY5. Case officers responsible for the examination of applications for international protection have access to relevant, reliable, and up-to-date **country of origin information** and to **expert advice**, including on psychological and medical questions and on questions related to special procedural guarantees.
- ASY6. The examination is concluded with a **well-reasoned decision**, or in case of a positive decision, a well-reasoned opinion, based on an adequate evidence assessment and a risk assessment of all accepted material facts and a sound legal assessment, taking into account



the individual circumstances of the applicant, the situation in the country of origin, or safe third country, at the time of decision making and the relevant EUAA common analysis and guidance notes.

- ASY7. Where relevant, a sufficient exploration and assessment of **exclusion considerations** is conducted, supported by effective cooperation with law enforcement authorities with due regard to the confidentiality of the asylum procedure.
- ASY8. The examination is concluded in a timely manner through a properly notified decision.
- ASY9. **Admissibility procedures, accelerated procedures and/or border procedures** are, where applicable, implemented efficiently within the envisaged timeframes, with full respect for the procedural guarantees, including through the provision of appropriate locations and facilities.
- ASY10. Where indications of reasons to **reconsider the validity of an international protection status** arise, these are effectively identified and assessed with respect for the procedural guarantees of the beneficiaries.

## Reception conditions

- REC1. Applicants have, either in kind or as financial allowances or in vouchers or as a combination of the three, access to sufficient and adequate **housing, food, and clothing and other essential non-food items**, taking duly into account their special needs, including those of children.
- REC2. **Allocation of reception places** to applicants is carried out without unnecessary delays, taking into account the individual circumstances of the applicant, the respect for the principle of family unity, and the best interests of the child.
- REC3. Reception facilities allow applicants **an adequate standard of living** taking into account where relevant their special reception needs, including sufficient space, space for children to play and sanitation, and with respect for private and family life and the freedom of movement.
- REC4. The competent authorities facilitate the applicants' access to **essential rights and services**, including education, access to labour market (when entitled), and necessary health care.
- REC5. Reception facilities are **effectively managed**, including through the provision of house rules, a code of conduct for the staff and a functional complaint mechanism.
- REC6. Reception authorities maintain the **oversight** of the level of reception conditions provided and ensure effective follow-up measures are taken when needed.
- REC7. **Sufficient capacity**, infrastructure, equipment and financial resources are available to ensure that the required level of reception conditions is provided to all applicants.
- REC8. **Adequate security measures** for applicants and operators in reception facilities, including effective critical incidents management, have been put in place with particular attention to women, children, and persons for whom security risks may exist due to their particular background or profile.
- REC9. Applicants have access to **legal aid**, where needed, **psycho-social health counselling**.



- REC10. Any **lowering of material reception conditions** below the standards of the Reception Conditions Directive (recast), is done on an exceptional basis, duly justified, documented and implemented for as short a period as possible and covers in any case the basic needs.
- REC11. Decisions on **reducing or withdrawing material reception conditions** are exceptional, duly justified, proportional to the purpose and taken in full respect of the procedural safeguards.
- REC12. Any **use of detention** is carried out when necessary as a measure of last resort, using alternatives to detention where appropriate. Detention decisions are based on an individual assessment, in conformity with the Reception Conditions Directive (recast) only, in line with the procedural safeguards, taking into account the special needs of persons in a vulnerable situation, especially children. Detention takes place in full respect of conditions of detention.

### **Determination of the Member State responsible for the examination of the application for international protection**

- DUB1. **Potential Dublin cases are effectively identified**, supported by timely taking and transmitting of fingerprints to Eurodac, in full respect of the protection of personal data, and by updating of Eurodac after the granting of international protection, a transfer, a removal from the territory and after the application of the discretionary clause.
- DUB2. Dublin procedures provide the persons of concern the effective opportunity to present relevant information including on family and dependency relations, including through a **personal interview**, unless one of the omission grounds apply, conducted in a language the person understands or is reasonably supposed to understand and in which they are able to communicate.
- DUB3. **Family unity** is ensured throughout the Dublin procedure, and in particular appropriate steps are taken to identify family members of unaccompanied children in other Member States, with the aim of reuniting them in line with the procedural safeguards and with respect for the best interests of the child.
- DUB4. A **complete assessment** is carried out to determine the responsible Member State, considering all available information and submitted evidence and taking into account the personal circumstances of the applicant and the potential risk of inhuman or degrading treatment in the responsible Member State.
- DUB5. A case management system is in place that allows for the efficient processing of take charge, take back and information requests, replies and notifications including the **oversight and effective follow up** of the applicable time limits during the examination process.
- DUB6. Transfers to and from the Member State are effectively implemented. A sufficient number of appropriately trained personnel for preparing and organising Dublin transfers as well as **adequate capacities at airports and border crossing points** are allocated to ensure effective implementation of Dublin transfers.





## 5 Framework for information gathering and analysis

The scope of the information gathering and analysis for the purposes of monitoring covers all the aspects of the operational and technical application of the CEAS as specified in the objective criteria (see [Chapter 4 Objective criteria](#)), to ensure a complete, balanced and objective approach<sup>5</sup>.

### 5.1 Key elements for information gathering and analysis

The information gathering and analysis is the basis of every monitoring exercise.

To ensure a comprehensive and reliable information collection process, a **clear and comprehensive mapping** of the relevant actors and organizations at national level is necessary. To this end, the EUAA will take into account ongoing work e.g. on the basis of the EUAA Thematic Networks, Liaison officers (see above [3.3 Actors, roles and responsibilities](#)), EUAA Fundamental Rights Officer, situational awareness, training and operational activities, etc. The EUAA may consult the Member States for the identification of relevant stakeholders as necessary.

Further, the EUAA will develop and maintain contacts with relevant stakeholders which are essential for the efficient implementation of the monitoring mechanism, namely national authorities and institutions, and relevant Intergovernmental organisations or bodies present in the field.

Information gathering for monitoring purposes should be **targeted, specific, up to date and timely** on the basis of specific timelines. To this end, EUAA will inform the Member State concerned, as well as other stakeholders, prior to each monitoring exercise on the expected information gathering process, scope, templates, and timelines.

The EUAA examines, compares, and verifies carefully all the information gathered by all the stakeholders. During the information gathering **all information is assessed and evaluated** for its

- Objectivity;
- Relevance;
- consistency, accuracy, and preciseness;
- validity and quality by way of cross-checking, corroborating and balancing the information with information of other sources;

in order to ensure the comprehensiveness of any subsequent analysis and findings.

Information collected for monitoring purposes may include qualitative and quantitative data, jurisprudence, as well as a sample of individual cases for case sampling – without prejudice to the competence of the Member State on the individual decision-making process (see analytically [6.2 Case sampling](#)). To further facilitate the completion of the questionnaire, the EUAA will attach to each question, to the extent possible, any relevant information already collected by the Agency, in full respect of the framework for information gathering, together with the sources. This will allow the

<sup>5</sup> See also EU Ombudsman, <https://www.ombudsman.europa.eu/en/doc/correspondence/en/166550>



Member State to refer to the available information when responding to a question, either through complementing, correcting or updating or confirming the validity of the information.

The type of information to be gathered will be defined based on the objective criteria against which monitoring will be carried out, in conjunction with the corresponding standards and indicators.

The EUAA may organise **meetings** with relevant stakeholders during the different stages of the monitoring exercise to collect additional information, seek clarifications and/or verify data collected.

The analysis of data gathered for monitoring purposes should follow an **objective and rigorous approach** ensuring that all key aspects of CEAS, including respect for fundamental rights, child protection safeguards taking the best interests into primary consideration and the specific needs of persons in a vulnerable situation, are taken into account.

Information gathered from different stakeholders will be critically assessed in line with the common methodology through written process, meetings and on-site visits. Information leading to findings will be referenced therein and annexed to the report as necessary. The Member State concerned will have the opportunity to comment on the findings (see [7.2 Findings](#)).

## 5.2 Sources of information for the purposes of monitoring

In line with the EUAA regulation, the monitoring is carried out on the basis of the information provided by the Member State concerned, the information analysis on the situation of asylum referred to in Article 5 and case sampling. Additionally, the EUAA may take into account information available from relevant intergovernmental organisations or bodies – in particular UNHCR – and other relevant organisations on the basis of their expertise (Article 14(4)), as well as from the EUAA Liaison officers in Member States (Recital 12, Article 7(4)). On-site visits (Article 14(5)) are carried out to validate the information collected and gather additional data as necessary (see On site tools).

### Information provided by the Member State

The monitoring is carried out, primarily, on the basis of the information provided by the Member State concerned (Article 14(4)).

Information may be provided in written or oral form. With regards to written input, the EUAA in consultation with the Monitoring Network will establish a standard **Member State questionnaire** for the purposes of monitoring, covering the objective criteria and complementing the information already available to the Agency. For more information see [6.1 Member State Questionnaire](#). The EUAA may also collect information through the organisation of meetings in preparation or during the on-site visit.

Where other stakeholders are actively engaged as implementing actors in the asylum or reception system e.g. delegation of powers to other actors, deployment, or secondment of staff by intergovernmental organisations or bodies (e.g. UNHCR) and/or EU Agencies, partnerships with other

stakeholders etc, the EUAA may seek additional information by reaching out to these implementing partners through meetings, upon coordination with the Member State as necessary.

### **Information available to the EUAA**

EUAA continuously collects, analyses and disseminates information on the situation of asylum in the EU, while it provides permanent and operational support (e.g. information exchange, information and analysis, training, other types of technical assistance etc). EUAA will use information already available setting the base for the monitoring exercises, avoiding duplication of requests and taking advantage of existing processes and work.

In particular, the EUAA regulation notes that the monitoring is carried out *inter alia* on the basis of the **information analysis on the situation of asylum in the Union referred to in Article 5**. Accordingly, EUAA analysis and research products will supplement information collection for the purposes of the Monitoring mechanism reducing the burden on the Member States to repeat information already provided. This includes *inter alia* Information and Analysis on Developments in Asylum, particularly through the Asylum Report, the Information and Documentation System, Case Law Database, Who is Who in International Protection, Situational Updates System etc, Data Analysis and Research, through analytical and research products as well as information exchanged under the Early Warning and Preparedness System (EPS) etc.

### **Additional contextual information from relevant stakeholders**

The Regulation stipulates that the EUAA may take into account information available from other relevant stakeholders including:

#### **UNHCR**

UNHCR is explicitly mentioned as a source of information in the Regulation.

#### **Intergovernmental organisations or bodies**

The regulation foresees information collection from relevant intergovernmental organisations (IGOs)<sup>6</sup> with emphasis on European Union institutions and bodies including Agencies. The EUAA will establish regular contacts with the Commission and the relevant Justice and Home Affairs Agencies (such as the European Border and Coast Guard Agency and the Fundamental Rights Agency) in the context of information sharing and exchanges for the purposes of monitoring.

In addition, where international organisations are present in a Member State, covering areas of migration and asylum in the Member States under review, the EUAA may pursue to seek additional information. Information may be collected through the organisation of meetings or in writing.

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<sup>6</sup> An IGO is an organisation composed primarily of sovereign states, or of other intergovernmental organizations. IGOs are established by treaty or other agreement that acts as a charter creating the group. Examples include the United Nations, the Council of Europe, and the European Union. Source: <https://www.informea.org/en/terms/intergovernmental-organization>. Indicatively, the following IGOs may be considered as relevant for the purposes of monitoring).



### ***Other relevant organisations on the basis of their expertise***

National independent organisations and/or bodies as well as civil society organisations fall under the scope of *other relevant organisations on the basis of their expertise* which may serve as additional sources of information. Accordingly, the EUAA may seek additional information from relevant organisations or bodies for the purposes of a specific monitoring exercise and coordinate the relevant process.

Where written feedback is required, a relevant Stakeholders Monitoring Feedback form will be developed in line with the objective criteria depending on the scope of the monitoring exercise.

### **National independent organisations and/or bodies**

National independent organisations and/or bodies with competence on migration and asylum such as National Human Right Institutions<sup>7</sup> and Ombudspersons are also *relevant organisations* that may be consulted by the EUAA *on the basis of their expertise* as they play a crucial role in promoting and monitoring the effective implementation of international human rights standards at the national level.

### **Civil society organisations (CSOs)**

In the European Union, civil society plays an important role in bringing to life the values shared within the EU and its Member States specified in Article 2 of the Treaty on European Union (TEU). Article 11 (2) of the TEU and Article 15 (1) of the Treaty on the Functioning of the European Union (TFEU) consider civil dialogue and civil society participation as tools for good governance<sup>8</sup>.

In addition, the role of the civil society on exchanging information and pooling knowledge is acknowledged in the EUAA regulation (Recital 40, article 50). Accordingly, civil society organisations in the field of migration and asylum are *relevant organisations on the basis of their expertise*, which may provide valuable information. Therefore, the EUAA may seek additional information from civil society organisation operating in the field of international protection at local, regional, national, Union or international level.

In order to define eligible CSOs, the criteria annexed in the [Management Board Decision No 111 of 23 June 2022 on the establishment and composition of the Consultative Forum and on the conditions for transmitting information](#) will be followed by analogy.

In addition, to further ensure a transparent process, CSOs providing information for monitoring purposes shall be either:

- a member of the EUAA Consultative Forum, or

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<sup>7</sup> The UN [Paris Principles](#) relating to the status of national institutions for the promotion and protection of human rights set out minimum international standards for the establishment of NHRIs. See more FRA, [Strong and effective national human rights institutions – challenges, promising practices and opportunities](#), 21 January 2021; FRA, [June 2022 update - NHR accreditation status and mandates](#), 29 June 2022

<sup>8</sup> See more FRA, [Protecting civic space in the EU - Key findings and FRA opinions](#), 19 August 2022.



- registered in the [EU Transparency register](#)<sup>9</sup>.

The call for CSO input will be channelled via the Consultative Forum. The Consultative Forum may further disseminate to additional CSOs at local, regional, national, EU or international level and may bring to the attention of EUAA other relevant information for monitoring purposes. The information gathered in this manner will be analysed, cross-checked and critically assessed in line with the methodology.

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<sup>9</sup> The transparency register is a database that lists organisations that try to influence the law-making and policy implementation process of the EU institutions. The register makes visible what interests are being pursued, by whom and with what budgets. In this way, the register allows for public scrutiny, giving citizens and other interest groups the possibility to track the activities of lobbyists. Read more here: [https://commission.europa.eu/about-european-commission/service-standards-and-principles/transparency/transparency-register\\_en](https://commission.europa.eu/about-european-commission/service-standards-and-principles/transparency/transparency-register_en)

## 6 Tools for the purpose of the monitoring mechanism

To maintain consistency and reliability in the monitoring process, monitoring tools are employed. These tools serve as means to guide the monitoring activities and ensure that they are conducted in a standardized manner across different types of monitoring exercises.

Depending on the type and scope of the monitoring exercise, all or some of these tools may be utilized. Reference is made to possible adaptations or adjustments of technical elements in line with the scope of each exercise as necessary.

### 6.1 Member State Questionnaire

Member States have, in line with Article 14(6) of the EUAA regulation, the obligation to share at the request of the EUAA the information needed to assess the objective criteria, complementing the information already available to the Agency.

In line with the guiding principles the EUAA monitoring is to be comprehensive in covering all aspects of the CEAS, but at the same time targeted towards the possible shortcomings and areas of improvement in the Member State. This requires a **balanced approach** between the width of the assessment and the depth in which specific topics are further explored.

The aim of the Member State Questionnaire is to collect sufficient information in order to assess whether the objective criteria against which the monitoring is carried out, are met. The questionnaire may include questions to describe a **baseline situation, a process, or an outcome of a process**. In addition, the EUAA may request the Member State to share **documents** and other materials relevant to the assessment of the objective criteria.

#### Procedure for collecting information through the Member State Questionnaire

The Member State questionnaire may be used in all types of monitoring exercises. For country and thematic monitoring exercises, the EUAA establishes a **standard Member State questionnaire** in consultation with the Monitoring Network. In the ad hoc monitoring exercises, a targeted questionnaire may be developed by EUAA depending on the scope of the monitoring.

In order to **avoid duplication** of effort on the side of the Member State, the EUAA will make as much as possible use of existing information from sources as referred to under [Chapter 5 Framework for information gathering and analysis](#).

The Member State questionnaire will be addressed to the **National Monitoring Coordinators**, with the respective **EUAA Management Board Member** and their alternates in copy. The National Monitoring Coordinator will be responsible for disseminating the questionnaire to the relevant national stakeholders, the compilation of the answers and the timely submission of the answers to the EUAA. For the country monitoring exercises and the thematic monitoring exercises, the Member State will be **informed at least two months beforehand**, when the questionnaire will be dispatched to them, to allow them to inform the relevant stakeholders, plan and prepare the necessary resources. From the



moment of the dispatch, the Member State will be given **at least three months** for country monitoring exercises, and **at least two months** for thematic monitoring exercises, **to complete** the questionnaire.

In the context of an ad hoc monitoring exercise no prior notifications may be given and shorter timeframes may apply which will be reasonably long enough for the Member State to be able to provide the answers.

Based on the initial responses and on the case sample analysis, further clarifications may be asked on specific questions. These **additional questions** may be discussed with the National Monitoring Coordinator and/or submitted to the Member State in written form, in which case a reasonable time for completing the additional questions will be provided.

Member States are invited to submit their answers and any supporting documents, to the extent possible, in English, which is the working language of the EUAA. When it is not possible for the Member State to provide the supporting documents in English, the EUAA will undertake the translation.

## Structure

To facilitate the process of collecting the responses at national level, the questionnaire for the country monitoring exercises will be divided into six fields:

1. Access to the procedure (making, registration of the making and lodging of an application for international protection);
2. Determination of the Member State responsible;
3. Asylum procedure at first instance;
4. Reception;
5. Appeal procedures (second instance);
6. Contingency Planning.

To further facilitate the completion of the questionnaire, the EUAA will attach to each question, to the extent possible, **any relevant information already collected by the EUAA** as set out above (See [5.2 Sources of information for the purposes of monitoring](#)), in full respect of the framework for information gathering, together with the sources. This will allow the Member State to refer to the available information when responding to a question, either through complementing, correcting or updating or confirming the validity of the information.

## 6.2 Case sampling

Case sampling is one of the types of information the EUAA monitoring may be based on (Article 14(4) EUAA regulation) in support of a country, thematic or an ad hoc monitoring exercise.

The purpose of the case sample analysis is to give the EUAA monitoring insight into how processes are being implemented in concrete cases for a specific type of administrative decision-making procedure. Through the case sample analysis, the EUAA will identify any points that require further clarification either in writing or during the on-site visit. The aim is to review a variety of cases that can offer leads



to further guide the monitoring exercise, rather than establishing a sample that is representative for the whole population or use the sample to draw general conclusions.

In line with recital (21) of the EUAA regulation '[c]ase sampling is without prejudice to the competence of the Member States to decide on individual applications for international protection and is to be carried out in a manner that fully respects the principle of confidentiality.' The EUAA shall not reassess the individual facts of the case.

The case sample analysis will focus on the following questions:

- Have all relevant legal criteria of the respective Directives and Regulations been assessed when deciding on an individual application or case?
- Have all the procedural provisions in the relevant Directives and Regulations been respected when coming to a decision in the individual application or case?
- Were all the relevant deadlines been respected and were the processes through which a decision has been reached efficient?

Particular attention will be given to whether **special procedural needs and/or reception needs** have been identified and adequately responded to; and if the **confidentiality principle and protection of personal data** have been respected throughout the processing of the case.

In the context of a country monitoring exercise, the case sampling will normally be carried out during the time foreseen for the Member State to respond to the questionnaire and well in advance of the on-site visit.

Member States are consulted during the initiation stage on the case sampling exercise, in particular on the exact configuration (procedures) and composition of the case sampling.

### **Types of cases that will be subject to sample analysis**

Recital (21) of the EUAA regulation states that '[i]t is appropriate that case sampling consist of a selection of positive and negative decisions that cover a particular period of time and are relevant to the aspect of the CEAS that is being monitored. It is appropriate to base case sampling on objective indications, such as recognition rates'.

The cases that are subject to the case sampling analysis are defined by the main administrative decisions taken when implementing the CEAS. The case sampling may include in particular the following types of decisions:

1. Dublin procedures, including transfer decision and decisions on the to take back and take-charge requests;
2. Examination of the application for international protection:
  - a) 'Regular' procedure;
  - b) Admissibility procedure;
  - c) Accelerated procedure;
  - d) Border procedure;





- e) Manifestly unfounded applications;
3. Ending, reducing or denying reception support;
4. Withdrawal of international protection status;
5. Detention in line with Article 8 of the Reception Conditions Directive (recast).

The exact configuration of the cases to be analysed will depend on types of procedures implemented in the Member State, the composition of the caseload of the Member State and possible points of attention based on information already at the disposal of the EUAA.

Special attention will be given to cases of unaccompanied children.

### **Case file composition**

Different elements of the respective case files will be subject to the case sample analysis. In particular:

- the individual decision,
- all the elements relating to the procedural steps followed, including with regards to the respect of procedural guarantees,
- the elements that have been taken into account in order to reach that decision.

The case file may, depending on the type of administrative procedure in which the decision is taken, consist of for example registration forms, interview transcripts, relevant Country of Origin Information (COI)<sup>10</sup>, vulnerability assessments and the motivated decision.

Documents that are classified should not be shared with the EUAA as part of the case file.

### **Sample size**

Taking into account the available resources and the monitoring programme cycle, on average, a total of 50 cases will be reviewed per country monitoring exercise. The exact number can vary depending on the size of the caseload of the Member State. Every administrative decision is in principle counted as one case. Where one decision covers more than one adult and/or one or more dependent children, this will still be counted as one.

### **Method for random selection**

The case sampling relies on a random selection of the cases to be analysed.

The EUAA may define criteria to filter cases for example on the basis of countries of origin, the recognition rates<sup>11</sup>, gender of the main/or principal applicant, or status of unaccompanied child, taking into account on the functionalities of the national case file management system.

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<sup>10</sup> If the COI is publicly available, references to the relevant source are sufficient.

<sup>11</sup> See EUAA regulation recital (21).



For each type of decision, the EUAA will request the Member State to share a list of case numbers in which a decision has been taken during the previous six months (which can be extended to one year, for administrations with smaller caseloads). Case numbers may refer to the number of cases in which a decision is taken or the individual number of the main or principal applicant, for whom the decision was taken. Where the Member State indicates that such a list may contain an unmanageable number of cases the EUAA will further narrow the criteria to filter cases.

The EUAA will then select randomly from the list the cases that will be subject to the case sampling analysis.

### **Protection on personal data and file sharing for the purpose of case sampling**

In line with Article 31(1) of the EUAA regulation, the Agency ‘shall process personal data only to the extent necessary and for the following purposes: [...] (b) carrying out case sampling for the purposes of monitoring as referred to in Article 14’, and Article 31(2) of the same regulation ‘any processing of personal data shall respect the principle of proportionality and be strictly limited to personal data necessary for the purposes’.

The respect of the necessary data protection safeguards will be fundamental to the sampling process. Member States may redact the name of the applicant and/or direct family members from the case file, as well as any other data which would allow for said persons’ identification. The Member States may also hide or remove the data concerning the staff working (case officers, interpreters etc.). However, personal data that are necessary for the appropriate analysis of the case samples should be retained. The sharing of the case files from the Member State to the EUAA can be done through encrypted email, through a secured platform or through consultation of the case file on site, at the discretion of the Member State.

The EUAA will develop a file exchange platform to allow for the secure exchange of the case files, while minimising the risk of any data breach (among others through encryption between client and server, multi-factor authentication, auditing functions and user access management on a ‘need-to-know’ basis).

Upon receipt of the case files, the EUAA will further reduce any personal data that are not needed for the sample analysis.

The EUAA will provide the Member State, if necessary, with a list of all the staff who will have access to the individual files.

After the monitoring exercise is completed, all provided personal data will be erased from the files and folders stored by the EUAA and the Member State will be notified thereof.

### **Translation arrangements**

Member States can share the selected case files with the EUAA in the original language.



Given the relative high amount of cases that will be analysed, the EUAA will explore the possibility for the translation to be carried out via eTranslation, a machine translation tool provided by the Commission. eTranslation can translate documents between all the official 24 EU languages. It is available for EU institutions and other eligible bodies over a secure Internet connection. No data are shared with third parties. eTranslation can process text in many different formats (.doc, .docx, .pdf, .odt, .ott, .rtf, .txt, .xml, .html, etc.).

For documents which cannot be processed by the eTranslation tool, or for passages where the tool produces insufficiently clear results, or where the case sample analysts identify shortcomings, the EUAA will undertake additional translation services as needed for the purpose of the case sampling analysis. Also, in case of in-situ consultation of the case files a translator will be made available by the EUAA. The EUAA will contact the Member State to ask for clarifications where needed, for example on the terminology used.

### 6.3 Tools for the on-site visit

During the on-site visit, the members of the team of experts will collect additional information and verify all gathered information through the tools and activities listed below.

#### Meetings with the Member State

During the on-site visit, meetings will be organised with the national authorities at central and regional/local level. The following meetings will be held, in particular, with all national authorities present at central level:

- an **introductory meeting** at the beginning of the on-site visit with a view to present the detailed programme of the on-site visit and its focus, exchange information, explain the working modalities and organisation of the team of experts, update on specific details of the locations to be visited, e.g. points of concern identified during the analysis of preparatory documents received before the on-site visit, key issues to be clarified during the on-site visit, and if necessary discuss possible adaptation of the programme and possible adaptation on the basis of needs and limitations risen on both the side of EUAA and the Member states, etc.
- a **closing meeting** will be organised at the end of the visit with a view to inform on the activities that have taken place during the visit and to clarify any conflicting information and address any information gaps, inform the Member State on any necessary follow up in preparation of the findings (e.g. submission of additional documentation in writing) and next steps. As per EUAA regulation, the Member State will be invited to comment on the findings.

Additional meetings will be scheduled if necessary. Where applicable, a similar approach will be followed for visits on regional and/or local level. The team of experts is bound at all times by the relevant data protection and confidentiality rules in line with the EUAA regulation and applicable framework.



## Meetings with other stakeholders relevant to the application of the CEAS

Meetings with other stakeholders that are relevant to the application of the CEAS, if it is deemed necessary by the team of experts, are organised under the conditions described in the framework for information gathering.

## Observation

Observation of relevant working procedures, practices and facilities, allowing for gathering direct information on the practical implementation of the different procedures and of the conditions in the Member States' facilities.

The members of the teams of experts should not interrupt or hinder the work of the officials and other staff and questions should be asked only after officials/staff have finished any on-going tasks. When visiting facilities and/or authorities, the privacy of guests and/or applicants should always be respected. In case the observation entails an individual procedure, the applicant should provide its consent to the extent personal statements and/or data are shared (e.g. registration).

Observations may be recorded by experts and notes kept for reference until the monitoring exercise is concluded. Photos may be used to support observations with due regard to national restrictions and upon the agreement of the Member State and/or persons concerned 'in accordance with applicable EU and national data protection rules'. In this case, EUAA equipment will be used (no use of private phones) to record and store information.

## Interviews

The EUAA will cooperate with the concerned Member State to identify appropriate personnel with expertise relevant for the purpose of the monitoring exercise. Modalities for interviewing relevant personnel and/or non-officials and third parties will be further discussed within the Monitoring Network.

Should the feedback and/or experiences of asylum seekers be required for the purpose of the on-site visit, this will be implemented via dedicated anonymous tools, such as surveys or intermediaries.

When collecting the necessary information, experts should limit themselves to the collection of objective data, without using suggestive or provocative questions. Interviews and discussions will be conducted in a respectful and professional manner and in a collaborative spirit.

## Scenario based questions

Scenario based questions as a complementary tool to gather additional information on the processes and practices followed by Member States' officials in specific situations relevant to the objective criteria, while taking the officials position and area of expertise into account. The aim is to better understand and be guided in the applicable procedures in specific instances (e.g. increased rate of arrivals), and not to speculate about individual cases.



### **Additional documentation and/or information**

The team of experts may consult relevant documentation necessary, including national and internal guidelines and instructions, records and (parts of) case file management system, to the extent required for the purpose of the monitoring exercise. The classification of documents by the member state concerned will be respected.

Member States will be given the opportunity to provide additional information on any outstanding questions after the on-site visit within an agreed timeframe.

Should additional clarifications be required after the on-site visit, the request will be addressed to the Member State in written form by the end of the visit and no later than three days after the end of the on-site visit. Depending on the complexity of the question, a reasonable timeframe is agreed for Member State feedback.

### **Access to classified information**

Access to relevant classified information should be granted to team members having appropriate security clearance issued by a competent authority. An EU confidential or similar national security clearance should be seen as appropriate security clearance in this context. If relevant, members of the team of experts are expected to provide their security clearance in preparation of the visit. EUAA is bound by Security rules on the protection of classified information and sensitive non-classified information referred to in Article 65 of the EUAA regulation.

## 7 Formulation of monitoring findings and recommendations

The EUAA regulation defines the framework for the finalisation of findings, recommendations and further follow up (Article 15 (3), Article 15 (4) and recital 20).

In the context of each monitoring exercise, ‘the Executive Director shall send the findings of a monitoring exercise to the Member State concerned for comments, including, as appropriate, indications of its needs’. Member States shall submit comments in line with the Regulation.

Following the replacement of Regulation (EU) No 604/2013 (Dublin III Regulation), in accordance with Article 73 EUAA regulation (‘sunrise clause’), the ‘Executive Director shall, in accordance with Article 15(4), on the basis of the findings referred to in Article 15(3) and taking into account the comments of the Member State concerned, and in consultation with the Commission, draw up draft recommendations’. The Member State concerned shall submit comments within the timeframes envisaged in the Regulation as presented below.

### 7.1 Monitoring report

To ensure a comprehensive assessment and enhance transparency on the methodology and tools used, a monitoring report will be prepared for each monitoring exercise.

The monitoring report should be clear, evidence-based, identify possible shortcomings and focused on improvements and enhancing the efficiency in the operational and technical application of the CEAS. The monitoring report should be concise and succinct focusing on shortcomings with significant impact on the operational and technical application of the CEAS and highlight areas where important improvements should be made as well as good practices.

The monitoring report will follow a structured format including:

- **Summary:** highlights key developments, findings, and progress made since previous reports;
- **Introduction:** includes the context and purpose of the report including a general description of the EUAA monitoring exercise, the composition of the team of experts, the dissemination policy and relevant disclaimers;
- **Scope, methods and timeframe of the monitoring exercise** i.e. the framework for information gathering and analysis for the purposes of the monitoring exercise, a description of the monitoring tools used in the specific exercise (e.g. case sampling, monitoring questionnaire, stakeholders that provided input), an overview of the on-site visits indicating meetings held with Member State authorities and other stakeholders;
- **Findings:** refers to the outcome of the assessment made to identify elements and/or areas that require improvement in order to progressively achieve the full realisation of the objective criteria, indication of possible remedial measures where feasible, as well as any identified good practices;
- **Conclusion** summarizes the next steps and follow up.



The monitoring report will contain, as necessary,

- **Acknowledgments** to organizations that contributed with information to the report;
- **References** citing sources used in the report.

**Annexes** will be attached including any relevant materials that the team of experts considers necessary to support the assessment and/or drafting of findings, or supplementary documents.

## 7.2 Findings

On the basis of the assessment, findings are drafted in line with the monitoring methodology. Each finding is assessed in consideration of its impact on the functioning of the CEAS.

### Drafting of findings

Findings for all monitoring exercises should be short and concise, focusing on shortcomings, challenges and areas for improvement identified. When applicable, good practices will also be identified. Findings in the report may be organised thematically according to the key components or key stages of the CEAS.

Findings are supported by evidence-based analysis. Each finding is presented with a clear description of the shortcomings and challenges, supported by relevant evidence, and a reference to the methodology used for its identification.

The findings will include where feasible, indications of possible improvements needed aimed at addressing any shortcomings identified during the evaluation taking into account the national organisation of each Member State and give an indication to the Member State concerned of the priorities with regard to the impact on the functioning of the CEAS. This may serve the basis for recommendations.

The draft findings should be discussed by the team of experts to reach a common understanding.

### Consultation process with the concerned Member State

Pursuant to Article 15(3) of the EUAA regulation the Executive Director shall send the findings of a monitoring exercise to the Member State concerned for comments, including, as appropriate, indications of its needs. Member States shall have one (1) month from the date of receipt of the findings to submit comments. This is applicable to all types of monitoring exercises.

The comments of the Member State are taken under consideration in the finalisation of the findings. Where the EUAA or the Member State deem it necessary (e.g. due to length considerations to ensure the full presentation of the position of the national authorities), the Member State comments will also be included in the report appendices as a stand-alone document.



In the case of thematic monitoring, the draft findings will be distributed individually to each Member State for comments as set out in 15(3) EUAA regulation. As of the entry into force of Art. 15(4)-(8) EUAA regulation, one final report will be prepared, encompassing all Member State findings in order to ensure a consistent and comprehensive approach in line with the scope of the thematic monitoring and the need for horizontal coordination and action. Until the entry into force of this phase, the EUAA will present to the Management Board thematic findings without reference to specific shortcomings on individual Member States, unless otherwise decided.

### 7.3 Recommendations

As stated in Article 15(4) of the EUAA regulation '[t]he Executive Director shall, on the basis of the findings and taking into account the comments of the Member State concerned, and in consultation with the Commission, draw up draft recommendations. The draft recommendations shall outline the measures to be taken by the Member State concerned, including with the assistance of the Agency, as necessary, and a time limit by which any necessary measures need to be taken by the Member State concerned to address the shortcomings or issues of capacity and preparedness identified in the monitoring exercise.' The Member State concerned should be able to request assistance from the Agency for the implementation of the recommendations and can request specific financial support from relevant Union financial instruments (recital 20).

The draft recommendations shall be prioritised based on their urgency and potential impact on the functioning of the CEAS.

#### Consultation process with the concerned Member State

In line with Article 15(4) of the EUAA regulation '[t]he Executive Director shall send the draft recommendations to the Member State concerned. For country and thematic monitoring exercises, the Member State concerned shall have 1 month from the date of receipt of the draft recommendations to submit comments thereon.

In the cases referred to in Article 15 (2) [*ad hoc monitoring*], the Member State concerned shall submit its comments within fifteen (15) days.'

#### Adoption and follow-up

After taking into account the comments of the Member State concerned, the Executive Director shall submit the findings and draft recommendations to the Management Board. The Management Board shall, by a decision of two-thirds of its members with the right to vote, adopt the recommendations.

Upon adoption of the recommendations by the Management Board, the Member State will prepare an action plan on the implementation of the recommendations as necessary and share this with the EUAA. The action plan will detail the measures and timeline. The EUAA may support the Member State in this regard. The Member State will report periodically on the progress of the action plan to the EUAA in line with the indicated timeline and in accordance with article 4 of the EUAA regulation. To this end, bilateral meetings may be organised between the EUAA and the Member State. The EUAA will report





to the Commission. The Management Board will be regularly kept informed of progress made in the implementation of recommendations.

The follow-up process, in case a Member State does not implement the measures outlined in the recommendations of the Agency within the set time limit, resulting in serious consequences for the functioning of the CEAS, by the Commission is detailed in Articles 15(4) to 15(8) of the EUAA regulation.

## **7.4 Dissemination policy of the monitoring report**

The classification status of the monitoring reports will be determined in accordance with Decision (EU, Euratom) 2015/443<sup>12</sup>. In any case, the monitoring report as such will not be for public dissemination.

In case of requests for public access, depending on the scope and the applicable legal framework, the Agency shall respectively consult or inform the Member State concerned<sup>13</sup>.

To foster transparency, the EUAA, in consultation with the Member State, will develop a summary outlining the implementation of the monitoring exercise, main areas of findings and recommendations for public dissemination. This summary may be made available in the official language(s) of the Member State.

The development of a summary template will be further consulted with the Member States through the Monitoring Network.

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<sup>12</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32015D0443>.

<sup>13</sup> Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents, OJ L 145, 31.5.2001.

## 8 Procedural aspects for the monitoring exercises

### 8.1 Rules and principles for the establishment of teams of experts

#### 8.1.1 *Composition of the teams of experts*

The Executive Director of the EUAA is responsible for setting up teams of experts (Article 47(5)(p)), which shall be composed of experts from the Agency's own staff, the Commission and, where necessary, the Member States and, as observer, the UNHCR. Nevertheless, the absence of the UNHCR observer does not prevent the teams from performing their tasks (Recital 24).

#### **EUAA Staff**

The teams of experts are primarily composed of the Agency's staff. The Agency undertakes the overall responsibility and coordination of the teams of experts as well as necessary preparations.

#### **European Commission**

The Commission participates in the teams of experts in line with the indicative proposed structure below. All costs related to the participation in the team of experts are covered by the Commission. The travel arrangements for the on-site visits in the Member States, particularly accommodation and internal transfers, may be coordinated by the EUAA.

#### **Member State experts**

According to the Regulation, the team of experts shall be composed of experts from the Member States, where necessary. Although the EUAA monitoring mechanism is not conceived as a peer review process, EUAA supports the active involvement of Member State experts in the teams of experts. To facilitate the nomination of experts in the teams, a roster of Member State experts for the purposes of monitoring (hereafter 'Monitoring Roster') will be established and is presented below (see [8.1.4 Establishment of the Monitoring Roster](#)). The teams of experts are not prevented to perform their tasks in the absence of Member State experts.

The Member State experts participate in monitoring exercises in their individual capacity and not as representatives of their respective Member State. Consequently, they should not seek advice and/or guidance from their respective Member State when conducting the monitoring exercise.

The procedure for selection of experts to be assigned to the roster of Member States experts for the purposes of monitoring, including creation and management of the roster, reimbursement of mission related costs, procedure for the nomination and appointment of experts in a monitoring exercise, confidentiality, Member State experts' post-appointment activities and personal data is detailed by a decision of the Executive Director.



Reimbursements would be limited to the time spent during trainings, the on-site visit and possible preparatory and follow-up work done on the EUAA’s premises, whereas any work done remotely from their respective Member State cannot be compensated<sup>14</sup>.

### UNHCR observers

UNHCR participates as an observer in the teams of experts in line with the indicative proposed structure presented below. The teams of experts are not prevented to perform their tasks in the absence of UNHCR observers.

The EUAA covers reimbursements related to mission costs and the time spent during the on-site visit and possible preparatory and follow-up work done on the EUAA’s premises, whereas any work done remotely cannot be compensated. An Executive Director decision further detail these issues.

### 8.1.2 Structure and size of the teams of experts

The structure and the size of the teams depend on the type and scope of the monitoring exercise as follows.

#### Country monitoring exercise

The team of experts for a specific country monitoring exercise is coordinated by an EUAA senior officer acting as the **EUAA Monitoring Country Coordinator**.

To adequately cover the wide range of expertise required for the purposes of the monitoring exercise, but also to better manage the workload, the country monitoring team will be organised in specific **thematic sub teams** composed of experts in the areas of **asylum and reception**.

Each sub team is coordinated by an **EUAA thematic leader** with relevant expertise.

**Figure 3. Schematic presentation of the monitoring sub-teams**



Source: EUAA

The indicative size of the team may vary between four to seventeen experts. The EUAA may further adjust the size of the team as needed in a proportional manner.

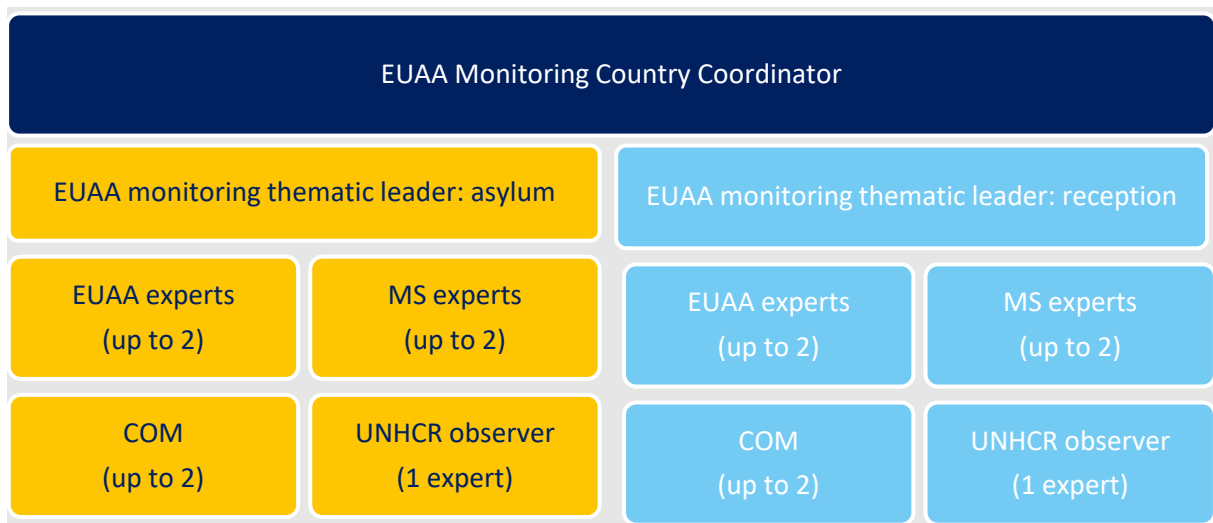
Indicatively, the team of experts for a country monitoring exercise may be composed as follows:

<sup>14</sup> Similar to Member State contributions in drafting teams for EUAA reports, guides and tools and the asylum support teams.



- Three to seven EUAA staff, including the EUAA Monitoring Country Coordinator and two thematic leaders;
- Between one to four experts of the Commission;
- Up to four Member State experts depending on the overall size of the team;
- Up to two experts of the UNHCR as observer.

**Figure 4. Indicative presentation of the team of experts for a country monitoring exercise**



Source: EUAA

EUAA retains flexibility as regards the size of the monitoring teams of experts in order to increase the efficiency and to reduce administrative burden.

The EUAA will define and adjust the size of the monitoring team depending on the needs and challenges of each specific monitoring exercise, the size and the migratory flows of the Member State to be monitored, the complexity of its asylum/reception system as well as the number of locations to be covered in an on-site visit.

Taking into account the number of countries and thematic exercises planned each year, the EUAA will define the composition of the team of experts prior to each exercise and notify the Member State concerned. Each team of experts may be supported by additional EUAA staff overseeing to logistics, preparations, interpretation services, etc.

**Ad hoc monitoring exercise**

The above team composition will be adjusted in line with the specific focus depending on the serious concerns identified by the EUAA or the Commission, covering all or partly the areas under review in line with the objective criteria.

## Thematic monitoring exercise

The team of experts for a specific thematic exercise is coordinated by an EUAA senior staff member acting as the Thematic Coordinator. Further, the team of experts is indicatively expected to be composed as follows:

- three to six EUAA staff, including the EUAA Thematic Monitoring Coordinator;
- up to two experts of the Commission;
- up to two Member State experts;
- up to one expert of the UNHCR as observer.

The indicative size of the team is between four to nine experts. The EUAA may further adjust the size of the team as needed in a proportional manner.

### **8.1.3 Establishment of the team of experts**

According to Article 47 (5) (p) and (q) of the EUAA regulation, the Executive Director is responsible for setting up teams of experts for the purpose of the monitoring mechanism and for initiating a monitoring exercise in accordance with Article 15 (2), respectively. In addition, the Executive Director defines, in line with the indicative structure presented above, the team of expert for each monitoring exercise indicating the:

- number of EUAA Staff;
- number of Member State experts to be appointed;
- number of Commission representatives;
- number of UNHCR observers.

The overall number of the team of experts will be confirmed as part of the establishment of the team and communicated to the Member State being monitored.

### **Withdrawal of a Member State expert / cancellation of participation**

Cancellation of participation should be avoided as much as possible, especially once the travel arrangements are made. A cancellation of participation of an expert may nevertheless happen for justified, serious and unforeseen reasons of personal nature (such as sudden illness). Cancellations will be communicated by notifying via written statement the EUAA Monitoring Unit'. Withdrawal of an expert due to work related reasons (e.g. sudden increase of the workload, finalisation of an important project) should be avoided, where possible.

In case the withdrawal of Member State experts takes place before the finalisation of the on-site visit schedule and the travel arrangements, the EUAA may seek a replacement. The absence of a replacement for a Member State expert does not impact on the realisation of the on-site visit.

The Member State should be notified on the change.



#### **8.1.4 Establishment of the Monitoring Roster**

A roster of Member States experts will be established for the purposes of monitoring. The Monitoring Roster will constitute a reserve of Member State experts which will be made available for the purposes of the monitoring mechanism. In this regard, the EUAA, in consultation with the Monitoring Network (see [Chapter 13 Role of the Monitoring Network](#)), will develop a template for the nomination form.

Each Member State may nominate **maximum five experts** in the Monitoring Roster on a voluntary basis corresponding to the general criteria set below.

If for the purposes of a monitoring exercise, specific expertise not covered by the Member State experts nominated in the Roster is required, the Agency may publish an additional call for experts for the specific monitoring exercise.

The call for the nominations of experts is shared with the Monitoring Network. Nominations are valid for **two years** and may be renewed. The Member State may recall a nomination at any time if the criteria and/or the availability of the expert cease to exist.

Once the Member State experts are appointed in the team, the Member States will facilitate their participation in the monitoring exercise. The Member States should also facilitate the participation of the experts nominated in the Monitoring Roster in necessary EUAA trainings for the purposes of the monitoring mechanism.

The Executive Director shall establish internal rules, procedures and support tools to manage the Monitoring Roster.

#### **8.1.5 General criteria for the nomination of Member State experts in the Monitoring Roster**

Member State experts made available in the Monitoring Roster shall satisfy the following criteria:

1. extensive professional experience of at **least three years** in the field of CEAS, in areas such as overall coordination, planning, implementation, monitoring and reporting of interventions and/or projects regarding asylum procedure or reception systems, evaluations, process management, reception centre management, vulnerability assessment, coordination with the national authorities, quality assurance and identification of good practices;
2. demonstrated sound knowledge of the applicable CEAS standards (e.g. knowledge of CEAS instruments, EUAA practical tools, etc);
3. have an adequate knowledge of English as the Agency's working language;
4. be employed by a national authority.

In addition to the above criteria, other specific skills for the Member State experts (e.g. language skills, drafting skills, etc.) may be identified by the Executive Director if this is considered particularly useful for the purpose of determining participation in a monitoring exercise.

The National Monitoring Coordinators should ensure that the above criteria are fulfilled when nominating the experts to the roster.



The Member States strive to nominate an equal number of experts in the field of asylum procedure and reception.

#### **8.1.6 Training, selection and appointment in the teams of experts**

The Agency will ensure that experts who participate in the monitoring teams of experts have received the necessary training relevant for their participation in the monitoring exercises organised by the Agency. The Agency will, where necessary and in advance of or upon appointment to a specific exercise, provide the experts with training which is specific to the monitoring mechanism.

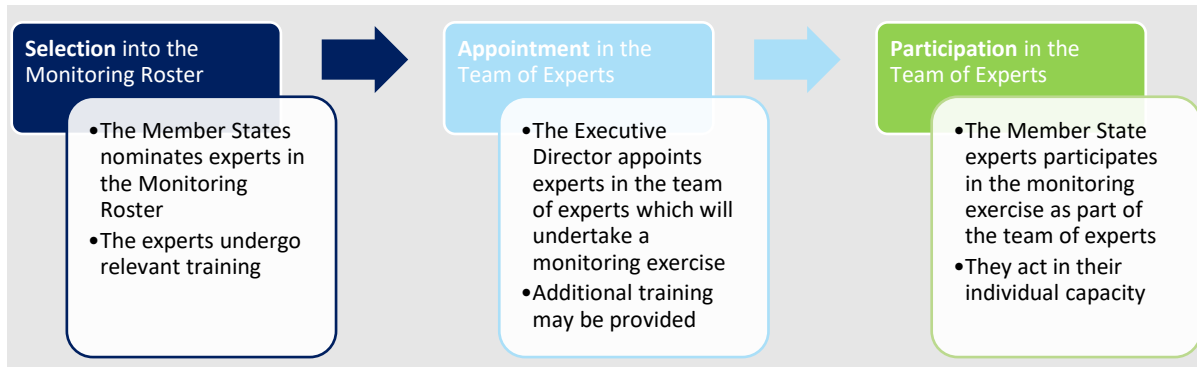
The Executive Director shall establish rules and procedures for the appointment of experts from the Agency's staff, Member State experts as well as Commission and UNHCR experts, to be part of a team of experts for a specific monitoring exercise. Due consideration should be given to gender balance and equitable geographic representation, balanced appointment of all Member State experts in the monitoring mechanism as a whole during each monitoring cycle. Whenever possible, experts of Member States, which themselves are monitored that year or in the first half of the following year, may be exempted to a team of experts that year.

The EUAA and the Commission are committed to participate in the monitoring activities with highly experienced staff as members. Due consideration should be given to the relevant professional experience and expertise of staff when appointing them as members of the team of experts.

Member State experts shall not be part of a team of experts performing a monitoring exercise in the country where they are employed (including staff on unpaid leave, seconded national experts) and/or their country of nationality, in case of dual nationality or former nationality.

In addition to regular measures to prevent conflicts of interest and to underpin the **impartiality** of the team of experts, a “cooling period” of a minimum of three years after being employed by or having worked for (incl. as implementing partner or contractor) the national administration under review and/or in the field of asylum (e.g. for an NGO, or as a lawyer directly engaged in the national procedure etc.) in the member state under review, shall be observed before a member of the team of experts can participate in the monitoring of the Member State concerned. The same restriction will apply to Member State experts deployed by EUAA as part of an Asylum Support Team with regard to the Member State deployed.

**Figure 5. Schematic presentation of the procedure for Member State experts' participation in the teams of experts**



Source: EUAA

### 8.1.7 Implementation

The Executive Director will set out a Code of Conduct for the teams of experts, including any supporting personnel (e.g. interpreters).

Further details concerning the implementation of the methodology in relation to the teams of experts are to be adopted by means of one or more decisions of the Executive Director.

## 8.2 Practical arrangements for the on-site visit

### 8.2.1 General rules for the organisation of on-site visits

The monitoring exercise takes place in close collaboration with the Member State, which facilitates any on-site visit carried out for the purposes of the monitoring mechanism. In the case of an ad hoc monitoring exercise as foreseen in article 15(2), the Agency shall carry out short-notice visits.

The EUAA shall notify the Member States concerned sufficiently in advance of any such visit. The on-site visits are organised in cooperation with the Member State concerned in line with the annual monitoring programme (see [Chapter 11 Monitoring Programme: structure and grouping criteria](#)). The Agency undertakes all necessary preparatory activities in order to ensure the efficient organisation of the on-site visits. The scope of the on-site visit is determined on the basis of the information collection in preparation of the monitoring exercise.

The **draft agenda** for the on-site visits is prepared by the Agency indicating, i.e.:

- duration, preliminary scope and timeline for the on-site visit;
- national authorities to be consulted during the on-site visit as part of the coordination process led by the Member State;
- meetings to be organised by EUAA/team of experts with other relevant stakeholders;





- list of places of interest to be visited, e.g. reception facilities<sup>15</sup>, detention centres used for the purposes of Article 8 of the Reception Conditions Directive, border points, registration points, etc. and planned activities. Upon consultation with the Member State, the team of experts may request during the on-site visit to go and see additional places on the basis of information collected during the on-site visit;
- to the extent possible the names of the team of experts.

The Member State concerned will be consulted with regard to the draft agenda:

- at least six weeks before an on-site visit is due to take place;
- 72 hours before a short notice on-site visit takes place.

The Member State to be monitored shall assist the team of experts in performing its tasks during the on-site visit.

**Security and safety issues** must always be taken into account during the monitoring exercise, and safeguarding measures must be guaranteed. The host Member State should inform the team of all the necessary elements referring to the specific security, safety and safeguarding issues that may occur during the visit (e.g. visit in closed centres) and give instructions on the rules to be followed as well as any required formalities and/or possible limitations. The EUAA retains responsibility for the safety of the teams of experts.

In case of sudden and unprecedented circumstances (e.g. emergency events, natural catastrophes etc), the programme of the on-site visit may be adjusted for the concerned locations in consultation with the Member State.

## Interpretation

The working language of the team of experts is English.

For meeting and/or additional places of interest to be visited e.g. reception facilities, registration centres etc, the team of experts will be accompanied by interpreters provided by the Agency to ensure the implementation of relevant activities (e.g. interviews etc). Interpretation will be provided by EUAA as necessary.

## Travel arrangements

The Agency coordinates the necessary travel arrangements, including for internal travels required within the Member State (e.g. travel between the sites located in different regions/provinces etc) and accommodation within the Member State concerned. The reimbursement for the travel and accommodation costs will be organised in line with the 'Rules of Experts' (see relevant deliverable).

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<sup>15</sup> Where EUAA has no full list of locations/facilities of the Member State concerned a procedure will be established bilaterally with the Member State concerned when the process of information gathering is initiated to identify relevant locations/facilities (see timeline 6.1). Where the Member State indicates a list may contain an unmanageable number of locations/facilities EUAA will provide criteria in consultation with Member State to filter locations.



## Meeting rooms

The monitored Member State should provide meeting rooms for the organisation of meetings with the national authorities or indicate during the preparatory phase where such rooms are not available. In that case, the EUAA will seek different arrangements.

For meetings with other stakeholders, the Agency will undertake relevant costs for meeting rooms.



## 9 Specific framework for contingency planning

The assessment of the Member States capacity and preparedness to manage situations of disproportionate pressure is a central objective of the EUAA monitoring mandate.

Asylum procedures and reception systems are constantly subject to fluctuating inflows of applicants for international protection. Not only increased inflows, but also downward trends can pose serious challenges for the asylum and reception administrations. Asylum and reception administrations therefore need to be able to both upscale and downscale resources and capacities quickly. In particular, during the process of downscaling, administrations need to manage the retention of knowledge of highly complex procedures and have mechanisms at hand for quick upscaling of resources and capacity in the event of a renewed increased inflow.

Furthermore, preparedness and contingency planning needs to be able to rely on an efficient organisation of the daily processes that are responsive to change and scalable. Scalability entails that the process does not get blocked easily when it is expanded, for example because of lack of space and resources or limited opening or contact times.

For these reasons, the capacity and preparedness of Member States to manage situations of additional migratory pressure in asylum procedures and reception systems, does not only depend on having good contingency plans, but also on the everyday organisation of processes in the administration.

The EUAA monitoring of the capacity and preparedness of Member States will therefore build on two pillars; firstly, the capacity, efficiency and responsiveness of the ongoing daily processes and secondly, the existence and functioning of contingency plans for a rapid and effective response to different scenarios of disproportionate pressure.

The EUAA monitoring of Member State's capacity and preparedness to manage situations of disproportionate pressure will strive for consistency with the methods and implementation guidelines developed under the Migration Preparedness and Crisis Blueprint.

### Efficiency and responsiveness of asylum and reception systems

With regards to the capacity, efficiency and responsiveness of the processes, the monitoring will focus, in line with the objective criteria OVR1, OVR2, OVR3, REC6, REC7 and DUB5, on the following four elements.

1. The availability and capacity of essential **human resources in asylum procedures**, namely: registration officers (registration of the making and lodging), case management officers (interviewers, and decision makers), Dublin Regulation officers, interpreters/translators, and support staff needed to organise an interview, to notify the decision and issue relevant documentation.
2. The availability and capacity of **reception places and essential human resources**, namely reception officers, including staff responsible for the identification of special reception needs, and interpreters/translators.
3. The efficiency of existing processes, including:



- the efficiency of the process from the registration of the making of applications for international protection and the lodging, if this distinction is applicable, the registration and lodging process itself, and referral to Dublin procedure if applicable;
  - the efficiency of the transfer process from the registration of the making to the intake in to reception (if applicable);
  - the efficiency of the identification, assessment and response mechanism for applicant with special reception and procedural needs, including unaccompanied children;
  - the efficiency of the process to determine the responsible Member State and the effective implementation of Dublin transfers;
  - the efficiency of the planning process and conducting of the personal interview;
  - the efficiency of the decision-making process and the management of decision-making workflows, including appeals procedures;
  - the efficiency of the process to allocate reception places (entry and exit).
4. Internal oversight of possible inefficiencies and bottlenecks, particularly backlogs:
- in the asylum procedures related to key steps in the procedure, such as the number of cases pending a personal interview or the number of cases interviewed, but pending a decision, and the reasons thereof;
  - in the reception systems related to key process steps such as the allocation of the material reception resources or the outflow process from reception facilities.

## Contingency planning

In line with the objective criteria, the EUAA monitoring will focus on four elements related to contingency planning in the Member States.

1. The existence of **contingency planning** related to the asylum procedures and the reception systems, particularly their status, the essential components, their flexibility and effectiveness, their correlation with other crisis management plans, and the knowledge of the plans by relevant staff, including their readiness to apply them. In this regard, the EUAA will assess the mechanisms and capacity for quick upscaling of the human resources and processes when needed, which can include the Member State preparedness to request and absorb EUAA operational and technical assistance as part of the contingency planning.
  - Mechanisms and plans to increase the number of essential human resources as needed; provision of adequate funding, rapid recruitment pathways and/or plans to activate personnel reserves, rapid and/or targeted training programmes without prejudice to the need for proper training;
  - Rapid procurement mechanisms or plans for expansion of the logistical resources required to deploy the additional staff and the existence of scale-up and/or rapid procurement mechanisms and plans to quickly expand the number of available reception capacities, taking into account possible exceptional modalities for the provision of material reception conditions in line with Article 18(9) RCD (recast), and the stock of supplies.
2. Regular **review or testing**, and, when needed, adapting and updating of the contingency planning and preparedness process.
3. Review or oversight mechanisms to assess on a regular basis if a trigger corresponding to the activation of a scenario of the contingency plan has been reached.



4. **Coordination mechanisms** to manage, activate and lead the implementation of the contingency plans based on identified triggers.

Where contingency plans or measures related to asylum and reception refer to or are embedded in a wider national crisis management system, the monitoring will be carried out without prejudice to the national crisis management system.

#### **Practical steps for the monitoring of contingency planning.**

In line with Article 14(6) of the EUAA regulation ‘Member States shall, at the request of the Agency, provide it with information on their contingency planning for measures to be taken to deal with possible disproportionate pressure on their asylum or reception system.’

In this regard, the EUAA may request information on the capacities and contingency plans or to share the contingency plans themselves, through a standardised questionnaire.

During the on-site visit, the teams of experts may:

- Consult the existing contingency plans on site, in line with any classification levels applicable to the document;
- Interview key stakeholders of the contingency plan and the responsible units for coordination of crisis response at national level;
- Optionally, depending on the agreement of the Member State, tabletop simulation exercise to assess the functioning of a contingency plan together with key stakeholders at national level. A specific scenario is presented to the key stakeholders, to which they are asked to formulate the response actions and the concrete steps to be taken for the implementation of the actions. At the end of the exercise the participants evaluate the efficacy of their response plan and identify possible strengths and weaknesses to be addressed.

## 10 Specific framework for ad hoc monitoring

The overall aim of ad hoc monitoring is, similar to country monitoring and thematic monitoring, the identification of possible shortcomings in the asylum and reception systems of Member States and of any issues with the capacity and preparedness to manage situations of disproportionate pressure, with the purpose of enhancing the efficiency of those systems.

Ad hoc monitoring exercises will be initiated if there are ‘serious concerns’ arising from the information analysis. Serious concerns must be based on concrete and reliable information and the potential adverse impact of shortcomings or issues of capacity and preparedness on the functioning of a Member State’s asylum or reception system needs to be significant. A concern implies however that respective shortcomings or issues of capacity and preparedness do not have to be considered as established prior to the decision to initiate the monitoring, as this is the very object of the ad hoc monitoring visit.

Firstly, information on which the concerns are based must be **concrete and reliable**. The EUAA derives respective information from the analysis of the situation of asylum in the Union conducted by the agency under Article 5 of its Regulation<sup>16</sup>. The reports from the EUAA Liaison officers ‘who regularly provide reports to the Executive Director on the situation of asylum in the Member State concerned and its capacity to manage its asylum and reception systems effectively’ (Article 7(4)(f)) will be taken into account. ‘Where the reports ... raise concerns about one or more aspects relevant for the Member State concerned, the Executive Director shall inform that Member State without delay. Those reports shall be taken into account for the purposes of the monitoring mechanism referred to in Article 14 and shall be transmitted to the Member State concerned.’ (Article 7(4) EUAA regulation). Any information that may give rise to serious concerns will be assessed on its objectivity and, to the extent possible, cross-checked with other sources of information to ensure its accuracy and relevance in accordance with the framework for information gathering and analysis (see [Chapter 5 Framework for information gathering and analysis](#)).

Secondly, the possible impact of the shortcoming or any issue with capacity and preparedness should be significant to the extent that there can be material consequences for the functioning of the Member State’s asylum and reception system as a whole.

The EUAA will take into account any available information on actions already taken by the Member State to remediate the situation.

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<sup>16</sup> Article 5 (1) EUAA regulation: ‘The Agency shall gather and analyse information on the situation of asylum in the Union and in third countries insofar as it might have an impact on the Union, including up-to-date information on root causes, migratory and refugee flows, the presence of unaccompanied minors, the overall reception capacity and resettlement needs of third countries, and possible arrivals of large numbers of third-country nationals which might subject the Member States’ asylum and reception systems to disproportionate pressure, with a view to providing timely and reliable information to the Member States and to identifying possible risks to the Member States’ asylum and reception systems. For the purpose set out in the first subparagraph of this paragraph, the Agency shall work in close collaboration with the European Border and Coast Guard Agency and shall, as appropriate, take into account the risk analysis carried out by the European Border and Coast Guard Agency under Article 29 of Regulation (EU) 2019/1896 so as to ensure the highest level of consistency and convergence in the information provided by the Agency and the European Border and Coast Guard Agency.’



## Steps to initiate the ad hoc monitoring exercise

In case of serious concerns which necessitate the initiation of an ad hoc monitoring exercise, the EUAA consults the Commission. In accordance with Article 15 (2) of the EUAA regulation, the Commission may also request the ad-hoc monitoring exercise that the Agency shall initiate.

The Executive Director of the EUAA is responsible for initiating ad hoc monitoring exercises. The Member State will be informed as soon as possible that an ad hoc monitoring exercise is being initiated based on serious concerns. This information will include the fact if the monitoring exercise is initiated upon initiative by the EUAA or upon request by the Commission, the reasons why the monitoring is initiated and the aspects of the CEAS that will be the object of the ad hoc monitoring exercise, which will determine the scope of the exercise. The notifications will be addressed to the National Monitoring Coordinator, with the respective EUAA Management Board Member and their alternates in copy.

The EUAA may carry out short-notice visits in support of the ad hoc monitoring exercise. The Member State will be informed 72 hours prior to a short-notice monitoring visit. Ahead of the visit, a meeting will be planned as well with the National Monitoring Coordinator and responsible authorities.

In support of the ad hoc monitoring, the EUAA may send a list of specific questions to the Member State concerned. Timelines to reply to the questions will be long enough for the Member State to reasonably provide the answer.

Member States will be given the opportunity to provide additional information on any outstanding questions after the on-site visit within an agreed timeframe.

## Specific practical arrangements applicable to ad hoc monitoring exercises

The Agency shall carry out short notice visits for the purposes of an ad hoc monitoring exercise. The ad hoc monitoring exercises are not subject of the multiannual or annual programmes and are carried out in addition to those exercises.

As described above, the Executive Director shall notify the Member State concerned and no later than 72 hours in advance. Prior notification should be sent in writing (**via e-mail**) to the National Monitoring Coordinator **and the Alternate** and the respective Management Board Member **and the Alternate**, and it is to be followed up immediately by the Agency to ensure that the information was received.

Given the urgent nature of the visit, it is the sole responsibility of the Agency to establish the detailed agenda. Once the Member State has been notified, the Agency will consult the timetable and detailed programme with the Member State concerned and will take into account any observations made by the Member State in this regard.

Consequently, the logistical burden lies with the Agency, which undertakes the coordination of all necessary arrangements and should ensure the availability of qualified interpreter(s) to support the team of experts.



In general, the preparation for and implementation of short-notice visits differ from regular on-site visits as

- the initiation stage may be very short;
- detailed tasks of the team of experts and background information are available to the team of experts on short notice (preparatory meetings), and
- the information collection is adjusted. In this regard, the monitoring questionnaire may be provided to the concerned Member State with shorter deadline or be omitted. Nevertheless, the Member State may provide complementary information and/or responses as necessary, after the visit.

The **short notice on-site visit requires high flexibility and adaptability from the team** of experts and the member state concerned. The **team of experts is to be established in line with the general rules for experts**, but the details of the visit will only be made available once the Member State concerned is notified.



## 11 Monitoring Programme: structure and grouping criteria

In accordance with Article 15(1) of the EUAA regulation, 'the Management Board shall, on the basis of a proposal of the Executive Director and in consultation with the Commission, adopt a programme for the purposes of the monitoring mechanism referred to in Article 14 (the 'monitoring programme').

In order to ensure transparency and predictability, the monitoring mechanism for the operational and technical application of the CEAS shall be based on a **five-year monitoring cycle** (hereinafter 'monitoring cycle') set out in a multiannual monitoring programme complemented by an annual monitoring programme for each of the five calendar years.

The **multiannual monitoring programme** shall set out:

- the provisional schedule of Member States to be monitored under point (a) of Article 15(1) of the EUAA regulation (country monitoring) in each of the five years of a monitoring cycle. Each Member State shall be evaluated at least once every five years. The exact order and the timeline for country monitoring exercises in a specific year will be defined in the annual monitoring programme;
- the provisional number of thematic monitoring exercises on the implementation of thematic or specific aspects of the CEAS across all Member States, in line with the Regulation and insofar as these can be forecast. The exact number and the topics for the thematic monitoring exercises will be set in the annual monitoring programme.

An **annual monitoring programme** shall in turn confirm:

- the Member States that will be subject to country monitoring exercises for the next year along with the order and the provisional timeline of the respective on-site visits in cooperation with the Member States, and
- the exact number and topics of thematic monitoring exercises along with the provisional timeline.

The annual monitoring programme will be adopted by the EUAA Management Board by 30 June of the preceding year.

In the event of *force majeure*<sup>17</sup>, adjustments to the programme shall be made in agreement with the Member States concerned without the need for a re-adoption of the updated programme by the Management Board. The Agency shall inform the Management Board accordingly.

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<sup>17</sup> 'Force majeure' refers to circumstances arising beyond the control of the Agency and the Member States in line with the EU law and CJEU jurisprudence. In *Busseni* case, the Court defined *force majeure* as covering 'unusual circumstances which make it impossible for the relevant action to be carried out. Even though it does not presuppose absolute impossibility, it nevertheless requires abnormal difficulties, independent of the will of the person concerned and apparently inevitable, even if all due care is taken'. Judgment of the Court (Second Chamber) of 9 February 1984. *Acciaierie e Ferriere Busseni SpA v Commission of the European Communities*. Case 284/82. European Court Reports 1984 –00557, ECLI identifier: ECLI:EU:C:1984:47.

## 11.1 Country monitoring: grouping of Member States

To define the order in which the Member States are to be monitored for the purposes of country monitoring, the order in which the Member States hold the Presidency of the EU Council as established in the [Council Decision 2016/1316 of 26 July 2016](#), will be followed.

In this regard, the provisional five-year cycle of the country monitoring is formulated as follows:

**Figure 6. Schematic presentation of the grouping of Member States for the country monitoring**

Year 1	Year 2	Year 3	Year 4	Year 5
Netherlands	Austria	Portugal	Spain	Lithuania
Slovakia	Romania	Slovenia	Belgium	Greece
Malta	Finland	France	Hungary	Italy
Estonia	Croatia	Czech Republic	Poland	Latvia
Bulgaria	Germany	Sweden	Cyprus	Luxembourg
			Ireland	

Source: EUAA

The schedule above indicates the order and timeline of the country monitoring exercises. Smaller alterations may occur depending on in which Member State the pilot monitoring exercise will be conducted, the needs of the service and the actual pace of implementation.

The exact order and the timeline for on-site visits for country monitoring exercises in a specific year will be defined in the annual monitoring programme.

The EUAA will strive to avoid scheduling a country monitoring exercise when coinciding with the six-month Presidency of the EU Council for the concerned Member State. To the extent possible and in full respect of the 5-year cycle rule, the EUAA will also take into consideration the participation of a Member State in the EU Council “Presidency trio” when planning an on-site visit.

## 11.2 Thematic monitoring: annual thematic monitoring programme

For the purposes of the monitoring mechanism, thematic monitoring allows for the monitoring of thematic or specific aspects of the CEAS with regard to all Member States.

The organisation of a thematic monitoring exercise is defined in the annual monitoring programme by 30 June of the year preceding that to which the programme relates specifying the focus of the thematic monitoring exercise(s).

The thematic monitoring exercise is initiated on the basis of a proposal of the Executive Director and in consultation with the Commission. This proposal would be made in consideration of the available resources as well as pre-identified needs for such monitoring across Member States. The Monitoring



Network may bring to the attention of the Agency for its consideration a topic of particular interest for thematic monitoring.

To avoid duplication the thematic monitoring will be to the extent possible integrated in the country monitoring for the Member States to be monitored during that year.

### **11.3 Ad hoc monitoring**

**Ad hoc monitoring** is not subject to programming, nor is it dependent on other monitoring exercises (thematic and/or country monitoring) organised for the same period.



## **12 Protection of personal data for the purpose of the monitoring mechanism**

In accordance with Article 30 of the EUAA regulation, any processing of personal data carried out by the Agency takes place in compliance with Regulation (EU) 2018/1725. The latter applies in the context of the monitoring mechanism as well. The respective responsibilities, for compliance with data protection obligations for each step of the monitoring process in which personal data will be processed, will be detailed with the Member States in the context of the Monitoring Network as required.



## 13 Role of the Monitoring Network

The monitoring mechanism is implemented in consultation with the Member States.

The EUAA Monitoring Network (MoNet) is the network of the National Monitoring Coordinators and their representatives. MoNet is a forum designed to support the implementation of monitoring mechanism, regularly exchange feedback and draw lessons from the implementation of the monitoring mechanism. The MoNet will also be consulted in reviewing technical aspects of the implementation of the methodology with a view to improve the monitoring processes and to facilitate their uniform application.

The Network includes:

- EUAA staff;
- the main National Monitoring Coordinator of the respective Member States bound by the EUAA regulation, and the alternate;
- the Commission;
- UNHCR as observer.

Further details on the work, functioning and role are provided in the Terms of Reference developed by the EUAA.



## 14 Review of the monitoring methodology

The common methodology outlined in this document is subject to improvement and adaption to changes in the legislative framework in the future. All amendments or changes to the methodology are established by the EUAA Management Board, based on a proposal by the Executive Director and in consultation with the Commission.

A periodic, cycle-based, review is foreseen with a view to implement relevant changes ahead of the new monitoring cycle.