

Alternatives to Detention from theory to practice

Briefing Paper
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July 2018

Evaluation of three engagement-based alternative to immigration detention pilot projects in Bulgaria, Cyprus and Poland

This briefing paper was written by Eiri Ohtani, who conducted the interim evaluation on behalf of the the European Programme for Integration and Migration (EPIM) www.epim.info

Three engagement-based alternative to detention (ATD) pilots are currently operating in **Bulgaria, Cyprus** and **Poland**. They are delivered by civil society organisations, the Center for Legal Aid – Voice in Bulgaria and the Bulgarian Lawyers for Human Rights (Bulgaria), the Cyprus Refugee Council (Cyprus) and Stowarzyszenie Interwencji Prawnej (Poland), with two-year financial support from the [European Programme for Integration and Migration \(EPIM\)](http://www.epim.info), a Brussels-based philanthropic institution.

The ATD pilots offer a timely and practical intervention in the context of growing interest in turning the theory of alternatives to detention into practice in Europe. For example, the revised EU Return Handbook¹ now contains an expanded section on ATD. Member States of the Council of Europe have recently adopted a guidance note, *The Analysis of the legal and practical aspects of effective alternatives to detention in the context of migration*², of its Steering Committee on Human Rights. This briefing note introduces some of the evidence and learning points from the interim evaluation report of the ATD pilots to the ongoing discussion on alternatives to detention³.

¹ The European Commission (2017), *ANNEX to the COMMISSION RECOMMENDATION establishing a common "Return Handbook" to be used by Member States' competent authorities when carrying out return related tasks*

² Council of Europe, Steering Committee for Human Rights (CDDH) (2018), *Analysis of the legal and practical aspects of effective alternatives to detention in the context of migration*

³ The scale and depth of the evaluation were determined by the amount of time allocated for this exercise. It was based on a review of grant applications and monitoring reports submitted by the implementers and the European ATD Network, analysis of information obtained as a participant observer at the Network meetings (March 2017, June 2017, December 2017 and June 2018) and other face-to-face and on-line meetings with Network members, development of a client summary sheet to capture qualitative data on the impact of case management through a series of consultations with the Network members, including one trial run, and analysis of the data collected through the client summary sheets, completed by the implementers. During the process of finalising this report, the evaluator presented some of the analysis to the pilot implementers (project managers and case managers) and the other Network partners to hear their feedback. For a discussion on the limitation of this methodology, please see the interim evaluation report. You can obtain a copy of the interim evaluation report from contact@epim.info

The interim evaluation of the pilots shows that quality case management in engagement-based ATD can increase individuals' ability to work towards case resolution. Even with various levels of vulnerability and wide diversity of individual circumstances, holistic and individualised case management can have a positive impact on people's ability to engage with immigration procedures, including in cases of great complexity and with previous experience of detention, when certain conditions are met.

What is Case Management?

Case management is a social work approach which is 'designed to ensure support for, and a coordinated response to, the health and wellbeing of people with complex needs'.

Many countries use this approach in their alternatives to detention programmes, including Sweden and Australia. In terms of overall approach, alternatives can broadly be divided into those that rely on reduced degrees of coercion and those that focus on engagement with migrants to promote cooperation with immigration systems.

*Case management models involve a case manager, who is not a decision-maker, providing a link between the individual, the authorities and the community. The case manager ensures that the individual has access to information about the immigration process and can engage fully, and that the government has up-to-date and relevant information about the person.*⁴

⁴ Detention Action (2016), *Without Detention*, p.19. Also note that 'Case resolution is not the same as case management although they often overlap. Case resolution is focused on finding a permanent or temporary migration outcome. While this responsibility ultimately sits with immigration authorities, case managers can contribute to timely case resolution by identifying legal, practical and personal barriers to likely outcomes and working on shared solutions. Case resolution can draw from a range of solutions including various visa and departure options.' See The International Detention Coalition (2015), *There Are Alternatives: A handbook for preventing unnecessary immigration detention (revised edition)*, p.52.

Developing engagement-based alternative to detention pilots in the community

The ATD pilots were designed to respond to challenges that are unique to the national contexts of Bulgaria, Cyprus and Poland, while using the International Detention Coalition’s **Community Assessment and Placement Model**⁵, which places holistic case management at its centre. They are implemented by civil society organisations with expert knowledge of immigration, asylum and detention and experience of working with individuals with irregular immigration status. They do not operate as a formal part of existing migration governance systems: however, the authorities in each country have been informed about the pilots.

The pilots employ case managers who screen and assess and then provide one-to-one case management support to those who are accepted on to the pilots. Case management stabilises irregular immigrants at risk of detention or were previously in detention and helps them engage with immigration procedures to work towards case resolution while living in the community. Over the two-year period, each of the pilots aims to offer intensive and structured case management support to between 40 and 60 individuals. The pilots started, respectively, in January (Bulgaria), March (Cyprus) and June (Poland) 2017.

What types of migrants are supported by the pilots?



Bulgaria: migrants who are in an irregular situation or about to lose the legal right to be on the territory, placing them at risk of detention

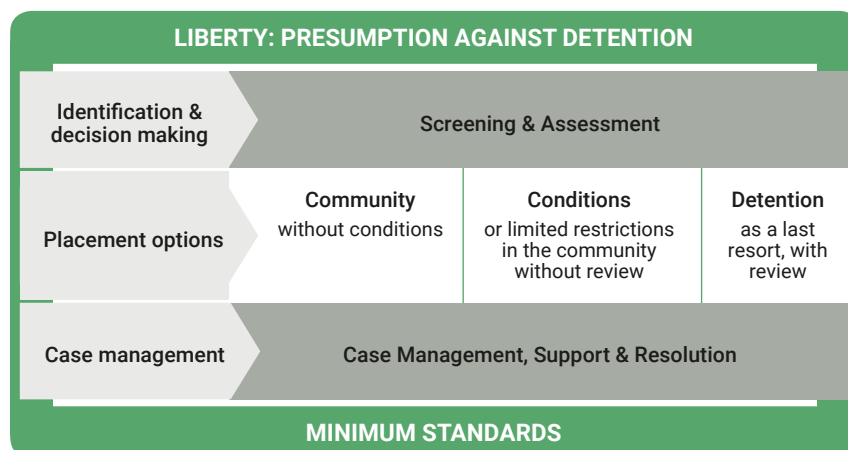


Cyprus: people in detention and at risk of being detained, including asylum seekers, refused asylum seekers, irregular third country nationals and people considered to be unremovable.



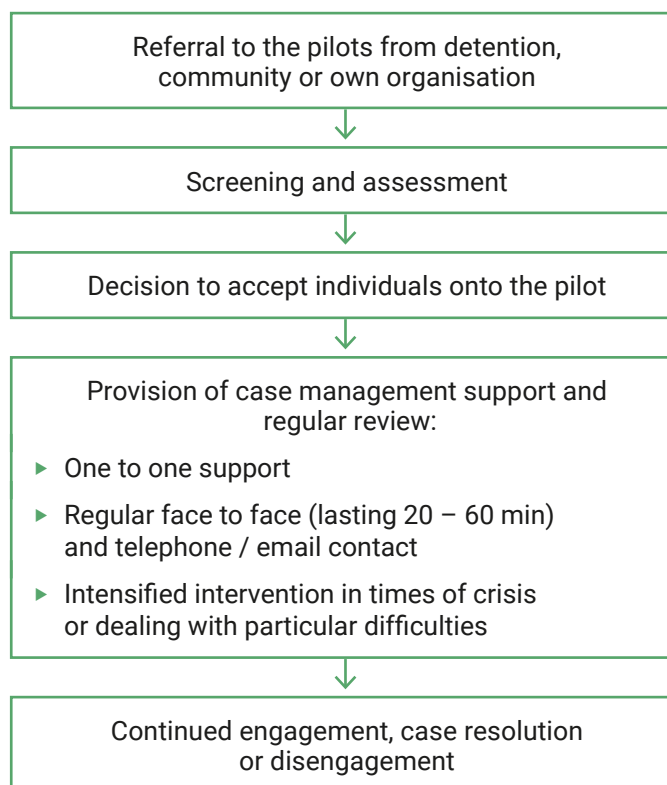
Poland: migrants in return procedures, including refused asylum seekers, who are unsuitable for detention due to their vulnerability. Some are already placed on reporting conditions. The pilot tries to engage them while they are in detention or are being considered for detention.

The Community Assessment and Placement Model



International Detention Coalition (2015), *There Are Alternatives*, p.V

A typical process of ATD pilots


















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⁵ The International Detention Coalition (2015), *There Are Alternatives: A handbook for preventing unnecessary immigration detention (revised edition)*

Quantitative interim results

Of the total of 93 people in the ATD pilots, the vast majority (97%) remained engaged with immigration procedures through case management-based ATD in the community: only 3% disengaged or absconded.⁶ Amongst people at risk of disengagement, absconding or detention, these ATD pilots have been able to successfully identify individuals who are able to work towards their case resolution in the community.

“Of the total of 93 people in the pilots, the vast majority (97%) remained engaged with immigration procedures through case management-based ATD in the community”

	Bulgaria	Cyprus	Poland
Figures as of:	January 2018	March 2018	April 2018
Length of the pilot	12 months	12 months	11 months
Total number of individuals screened	Not known	 44	 33
Total number of individuals who have received/who are receiving case management support	 50	 20	 23*
Number of individuals who have reached case resolution, of whom:			
▶ Individuals who secured status	 6	 1	0
▶ Individuals who returned to their country of origin	 2	 1	0
▶ Individuals who returned to their country of origin	 4	0	0
Number of individuals absconded or disengaged**	 2	0	 1
Number of individuals who have continued to engage to date	 42	 20	 22

* Many of the 23 adults are part of family units and have a total of 21 children between them.

** The numbers of individuals who did not abscond or disengage are therefore 48 (Bulgaria), 20 (Cyprus) and 22 (Poland), a total of 90 individuals.

“A relatively small amount of financial resources can enable the establishment of such pilots in the community.”

⁶ This figure (97%) was obtained by dividing the total number of individuals who did not abscond or disengage (90) by the total number of individuals who have received / who are receiving case management (93). This comes up to approximately 97%.

Qualitative interim results

Qualitative data on 31 individuals of the above cohort⁷ in the ATD pilots was collected and analysed to evaluate the impact of case management. Of the sampled cases, 77% have experience of detention, whereby their earlier detention did not lead to case resolution. 65% showed various levels of vulnerability. The majority have been in the country longer than one year and many are relatively long-term resident with strong community ties.

Case study of case management in practice in the pilots

A young man with health problems was imprisoned for illegal crossing of the border. The case manager intensified support by providing weekly meetings with him at the time of his release from prison to stabilise his situation, as the risk of absconding and disengaging was deemed high, given that he had previous experience of immigration detention which traumatised him. The case manager also liaised with his friend and an intermediary from his community to create a stable environment for him and help him to take positive steps to resolve his case, by exploring all legal options. Case management has had positive impact on his ability to engage with immigration procedures and reduced his risk of absconding. He has remained engaged with the pilot for nine months up to the present.

To capture the qualitative data, the case managers were asked to reflect on and measure the level of impact case management had on different aspects of individuals' behaviour, approach and outlook over time, using a specifically developed client summary sheet⁸. When assessing the level of impact of case management on specific individuals in the client summary sheets, the case managers could choose one of the six levels of impact (negative impact, no impact, limited impact, some impact, huge impact, don't know/can't tell).

“Of the sampled cases, 77% have experience of detention, whereby their earlier detention did not lead to case resolution. 65% showed various levels of vulnerability.”

⁷ The 31 cases were composed of representative cases from each pilot: 10 cases from Bulgaria, 10 cases from Cyprus and 11 cases from Poland.

⁸ The interim evaluation report provides detailed information about the client summary sheet.

The questions on the client summary sheet were developed by grouping into six areas the potential indicators of effective case management in the community. The evaluator and the implementers developed the questions, with reference to International Detention Coalition's *There Are Alternatives* and other materials⁹.

- ▶ In your view, has your case management support had any positive impact on the person's **ability to engage with the immigration procedures** over time?
- ▶ In your view, has your case management support had any positive impact on the person's **level of risk**¹⁰ over time?
- ▶ In your view, has your case management support had any positive impact on the **person's level of trust in the system**?
- ▶ Has case management improved the individual's ability to participate in **informed decision making process** in immigration procedures over time?
- ▶ Has case management **contributed towards timely and fair case resolution** for the individual over time?
- ▶ Is case management improving **copng and well-being of individuals** (that allows them to better engage with immigration procedures) over time?

Case study of screening and assessment in the pilots: assessing risks

The pilot assessed the person to be low risk, although he did not comply with the previous condition of release from detention. Since then, he had been in irregular status for a number of years. The case manager decided to work with him because of his willingness to contact the authorities. The person knows that the chances of him being regularised are very slim and this causes a great deal of anxiety for him. Yet case management is providing safe space for him to consider consequences of his actions. He is more stabilised now and is able to take steps to progress his case.

⁹ The last three questions were further elaborated through additional prompt questions that posed more specific and concrete questions relating to different aspects of case management. For further details, see the interim evaluation report.

¹⁰ For the purpose of answering this question, level of risk was defined as 'level of (perceived) risk of the person disengaging with the pilot and/or immigration procedures, including whether the person might abscond and disengage from the immigration procedures altogether'. This definition was provided in the guide for the case managers which accompanied the client summary sheet.

Impact of case management





































According to the data shown in the table below, the ATD pilots' case management had positive impact in all six areas of the potential indicators of effective case management in the community. It indicates that quality case management can increase individuals' ability to work towards case resolution.

In the vast majority of cases, answers the case managers provided on the client summary sheet indicate that case management has had 'some impact' or 'huge impact', ranging from a total of 77% to 94% between questions. The positive impact of case management was particularly noted in two aspects: 'ability to participate in informed decision making' (94%) and 'coping and well-being of individuals' (93%). In no cases did case management appear to have a negative impact on individual's ability to comply with the system. On three aspects ('level of trust in the system', 'ability to participate in informed decision making' and 'timely and fair case resolution'), in a minority of cases, case management was said to have had 'no impact' (3-6%).

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Case managers' assessment of level of impact of case management on 31 cases:¹¹

	Negative impact	No impact	Limited impact	Some impact	Huge impact	Don't know/ can't tell
Ability to engage with the immigration procedures	 0%	 0%	 10%	 42%	 48%	 0%
Level of risk	 0%	 0%	 6%	 48%	 39%	 6%
Level of trust in the system	 0%	 6%	 16%	 45%	 32%	 0%
Ability to participate in informed decision making process	 0%	 3%	 3%	 52%	 42%	 0%
Contributed towards timely and fair case resolution	 0%	 6%	 10%	 35%	 42%	 6%
Coping and well-being of individuals	 0%	 0%	 6%	 48%	 45%	 0%

¹¹ For example, in answering the question, 'In your view, has your case management support had any positive impact on the person's ability to engage with the immigration procedures over time?', the case managers assessed that it had negative/no impact in 0% of the cases, it had limited impact in 10% of the cases and some impact in 42% of the cases and so on. Also note that the percentage figures have been rounded down to zero decimal place, therefore they do not add up to 100% all the time.

Limitations of case management

The interim evaluation suggests that case management alone in the ATD pilots, especially when applied only at the end of the immigration process, cannot rectify structural and long-term problems in the migration system that sometimes undermine case resolution.

Through examples from their case studies, the case managers identified a number of situations where systemic barriers hindered efforts for case resolution. It appears particularly challenging to address individuals' lack of trust in the system which stems from their past negative experiences and encounters with the authorities. Nor can case management compensate for gaps in provision of minimum standards by the states, such as lack of accommodation, subsistence support, independent legal advice and medical care. While it appears that a certain period of case management is necessary to stabilise the person¹², we cannot draw the conclusion that longer case management would automatically lead to case resolution when other barriers to case resolution remain unaddressed.

Example 1

The authorities failed to provide a registration number to the individual and refused his repeated requests for up-to-date information about his immigration case. Although case management had some impact in other areas, it made no difference to the person's level of trust in the system which he believed to be unresponsive and unfair.

Example 2

Due to his long-term disappointment with the authorities, the individual lived under the radar for many years. The case manager and the individual revisited all the risks and benefits of re-engaging with the authorities. The individual decided to make an application to regularise his status.

Example 3

While the individual is overall better engaged with his own immigration case thanks to case management, his severe depression caused by financial worries (inability to pay rent and bills) frequently features in his conversation with the case manager. When minimum standards are not met, it is difficult for individuals to focus on immigration procedures.

Other learnings and next steps

These ongoing engagement-based ATD pilots show that a relatively small amount of financial resources can enable the establishment of such pilots in the community. The pilots benefited from support from the European Alternatives to Detention Network, which regularly facilitates peer-to-peer learning and good practice exchange among the pilot implementers. For more information about the Network, see www.atdnetwork.org.

Through developing a common monitoring and evaluation framework and embedding it from the beginning of the pilots, it has been possible to generate rich evidence. This will feed into further evaluation that advances investigation into possible structural barriers that exist for engagement-based ATD, migrants' own experience and perception of these pilots and whether such ATD are cost-effective in comparison to detention. Other learnings from the pilots include the following:

- ▶ Significant amounts of time, preparation and reflection are required to set up and operationalise engagement-based ATD programmes from scratch in the community, including developing protocols and guidance for case managers and informing and gaining buy-in from stakeholders who are unfamiliar with alternatives to detention or case management. They also need adjustments after they start and as more experience is gained.
- ▶ Case management is a complex skill that is fundamentally different from legal case work or general psychological or practical support skills: it is more holistic, reflective and continuous, yet has a clear focus on working towards case resolution in a structured way.

The pilots also suggest that many more people who are at risk of detention or in detention can potentially benefit from engagement-based ATD and case management, if a wider range of ATD programmes and support options are made available and if minimum standards in each national context are met. It is hoped that the pilots will continue to generate evidence and learning on how to develop effective engagement-based alternatives to detention and initiate further discussions and partnerships between migrants, civil society and governments.

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This external evaluation has been commissioned by the European Programme for Integration and Migration (EPIM), a collaborative initiative of the Network of European Foundations (NEF). Its contents are the sole responsibility of the authors and may not necessarily reflect the positions of NEF, EPIM, or the partner foundations.

¹² Every sampled individual has been in the pilot at least for one month and the longest period was 12 months.