IMPLEMENTING CASE MANAGEMENT BASED ALTERNATIVES TO DETENTION IN EUROPE

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International Detention Coalition
Human rights for detained refugees, asylum seekers and migrants

European **Alternatives To Detention** Network

PICUM
PLATFORM FOR INTERNATIONAL COOPERATION ON
UNDOCUMENTED MIGRANTS

A HOLISTIC, EFFICIENT, AND COST-EFFECTIVE APPROACH TO MIGRATION POLICY IMPLEMENTATION

Case management is a structured social work approach to migration management centred on individuals' engagement with migration procedures. A growing body of practice and international evidence shows that case management increases compliance and case resolution while improving individuals' coping and well-being.[1] By building trust in the system, providing stability and facilitating agency, case management increases engagement and participation in the migration process, providing an effective approach to reducing irregularity while avoiding immigration detention.

This briefing:
- Provides guidance for governments and civil society organisations interested in seizing the opportunity to develop pilot case management-based alternatives designed for their own context
- Presents growing evidence on the effectiveness and advantages of case management as an innovative alternative to migration detention
- Collects examples, good practices and lessons learned from existing pilots across Europe

1. WHAT IS CASE MANAGEMENT?

Applied to migration policy implementation, holistic case management is a structured social work approach which implies personal support throughout a person's immigration procedure, with the aim to work towards case resolution.

In this model, the case manager, who is not a decision-maker, develops a one-to-one working relationship with individuals, supporting and empowering them to engage fully with immigration procedures to work towards the resolution of their case (such

1. International Detention Coalition (2015), "There are alternatives; A handbook for preventing unnecessary immigration detention (revised edition)", available here; Ohtani, E. (2018) "Alternatives to detention from theory to practice", European Programme for Integration and Migration, p. 8, available here; Center for Legal Aid "Voice in Bulgaria" (2019) "Applying Engagement-Based Alternatives to Detention of Migrants in Bulgaria: Opportunities and Challenges", available here.

as a visa, regularization scheme, re-migration or voluntary return). The case manager facilitates contacts between the individuals and relevant stakeholders (e.g. health professionals, legal advisors and authorities), while monitoring the development of the case as well as the individual's wellbeing.

A fundamental basis of the approach is building trust between the case manager and the client, so that individuals feel supported and sufficiently informed to explore all options throughout their migration process. Unlike other programmes focused merely on return, the possibility for the individual to explore all options of case resolution (such as, for example, regularization or return) is a key component of case management.

Case management "centres on understanding and responding to the unique needs and challenges of individuals and their context".[2] Through this approach, case managers ensure one-to-one support for their clients, regularly assess their needs, and facilitate timely access to support services. Ideally, contact is established from the moment of arrival up to the moment of case resolution, however, in practice this often happens at a later stage.

"It's all about engagement and trust. This is a strong requirement between the person and the case manager, and it's constantly changing to accommodate the needs of the person according to the stage they are at."

**Memnon Arestis, Cyprus Refugee Council
(member of the EATDN)**

2. International Detention Coalition (2015), "There are alternatives; A handbook for preventing unnecessary immigration detention (revised edition)", p. VI, available here.

CASE MANAGEMENT

Case management is a **social work approach to migration management** centred on migrants' engagement with migration procedures. Migrants remain in the community and receive the information and support necessary to take active steps towards case resolution. Case management is an effective **alternative to migration detention**, as it better upholds migrants' rights, is cheaper and supports increased compliance and case resolution.

STEPS

Screening
Case managers screen individuals to obtain basic information. It is recommended that this takes place as early as possible in the process.

Assessment
The case managers assess needs and vulnerabilities on a case-by-case basis.

Case planning
Together they discuss the case and develop a plan to work towards case resolution and to ensure that individuals are able to meet their basic needs.

Intervention
The case manager holds regular meetings with the participants and connects them with the community, service providers (including legal aid) and local authorities. All options are explored and the case is regularly reassessed.

Case Closure
The individual achieves a temporary or migration migration outcome: regularisation; moving to a third country; or returning on a voluntary basis to their country of origin.

BENEFITS
for individuals, governments and societies

Trust and engagement
Case managers build consistent trust relationships with individuals, encouraging agency and engagement with immigration processes.

Improved coping and well-being
Case managers facilitate access to services and support mechanisms, improving coping and well-being.

Personal stability
Increased stability means people are better able to make difficult, life changing decisions about the future.

Informed decision making
Case managers ensure people have access to all relevant information, and act as a link between the individual and the authorities, supporting timely and informed decision-making.

Timely and fair case resolution
All migration options are explored, and individuals are better equipped to work towards resolving their cases.

Source: International Detention Coalition (2015) "There Are Alternatives"

Case Management and Case Resolution

Even though case management and case resolution are interlinked and closely related, the two terms should not be confused.

It is the case manager's task to work towards case resolution, together with the individual. However, case managers are not decision makers. While the final decision on case resolution will be taken by the immigration authorities, case managers identify legal, practical and personal barriers that might be hampering case resolution, and support individuals to overcome them.

Case resolution refers to any temporary or permanent migration outcome, and can refer to a variety of solutions, such as a visa, regularization scheme, re-migration or voluntary return.[3]

Working with children and families

When children and families are involved, the best interest of the child always needs to be considered with priority.[4] Under this principle, the detention of a child because of their or their parents' migration status is a child rights violation and never in their best interests.[5] Children should never be detained.

Specific safeguards should be adopted when working with children and families. Firstly, a screening should be carried out in the first hours of contact with the authorities and should include a multi-disciplinary and non-invasive age assessment. Subsequently, unaccompanied children should be assigned a guardian, while families should be assigned a case manager. During the intervention phase of case management, the best interest of the child should be a guiding principle informing every step of the needs-assessment and the choice of a durable solution.[6]

3. International Detention Coalition (2015), "There are alternatives; A handbook for preventing unnecessary immigration detention (revised edition)", p. 52, available here.
4. Committee on the Rights of the Child (2012), "Report of the 2012 Day of General Discussion; The Rights of all children in the context of International Migration", p. 78, available here.
5. Committee on the Rights of the Child (2012), "Report of the 2012 Day of General Discussion; The Rights of all children in the context of International Migration", p. 78, available here.
6. For more information, see PICUM et al. (2019), "Guidance to respect children's rights in return policies and practices", available here.

2. AN EXPANDING PRACTICE IN EUROPE

In the past years, there has been growing practice on case management-based alternatives to detention[7] (ATDs) in Europe, with governments, local authorities and civil society organisations developing new programmes in a number of states.

For instance, since 2018, the United Kingdom Home Office has been developing a pilot programme in order to test the benefits of case management as a methodology for ATD. The programme is designed in close cooperation with local NGOs, and is based on an holistic approach based on five pillars: (a) stable living conditions; (b) reliable information; (c) community support; (d) active engagement with migration services; (e) counselling about planning the future (either in case of stay in the country or of return to the country of origin).[8]

In early 2019, the first cohort of participants joined the programme, called Action Access. Participants are supported with accommodation managed by Action Foundation and other contractors. They are offered guidance by support workers (case managers) as well as independent information to ensure a holistic understanding of their immigration procedures in order to make an informed choice about their future. Participants meet the support workers at least once a week and receive assistance with accessing services including healthcare, education and legal aid.

Quantitative and qualitative monitoring and evaluation are fully embedded in the programme in order to collect evidence and improve understanding on the effectiveness of this approach as well as to guide future developments, including plans to roll out three more pilots with different target groups in the near future.

In the Netherlands, the government has been funding a case management-based ATD programme run by local civil society organisations. The government funding for this pilot is the result of an agreement signed in 2019 between national and municipal governments in the Netherlands, which includes a budget of almost 59 million

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7. Alternatives to detention are "any law, policy or practice by which persons are not detained for reasons related to their migration status". International Detention Coalition (2015), "There are alternatives; A handbook for preventing unnecessary immigration detention (revised edition)", p. II, available here.
8. Council of Europe, European Commission and European Migration Network (2019), "Effective Alternatives to the Detention of Migrants, Report from the International Conference organised jointly by the Council of Europe, the European Commission and the European Migration Network 4 April 2019", p.3, available here.

Euro for three years with pilots in five cities including Utrecht, Rotterdam, Amsterdam, Eindhoven and Groningen. A similar programme had been previously running independently for almost twenty years as a local scheme providing shelter for individuals with an irregular or precarious situation in around 30 municipalities. In 2014, this program was integrated into the national BBB(+) programme which stands for "bed, bath, bread", the "+" standing for the support and guidance people receive in those programmes.

Individuals with irregular migratory status are at risk of detention and homelessness in the Netherlands. As an alternative, local NGOs provide shelter, pocket money, legal aid, social support, and professional guidance (case management). All participants are accompanied by a contact person (case manager), who ensures they have access to clear and accessible information on their migration procedures. With the exception of two cities, the programme does not impose a time limit for participation, in order to give participants time to explore all options for case resolution.

While the government's funding has allowed to scale up the project and provide services to a higher number of individuals, local organisations have also underlined the importance of preserving the focus on the provision of independent case management and case resolution.

The "European Alternatives to Detention (ATD) Network" (EATDN) is a group of European NGOs which aims to reduce and end immigration detention by building evidence and momentum on engagement-based alternatives.[9] The Network brings together NGOs running case management-based alternative to detention pilot projects in six European countries (Bulgaria, Cyprus, Poland, the UK, Italy and Greece) with regional-level organisations. Each adapted to their own national context, the pilot projects work with a range of migrant cohorts and use monitoring and evaluation to test the effectiveness of case management in increasing people's ability to engage and work towards case resolution.

9. www.atdnetwork.org

The pilot project in Sofia, Bulgaria, implemented by the organisation Center for Legal Aid – Voice in Bulgaria (CLA), member of the EATDN, is addressed at migrants at risk of detention. One of the pre-requisites to participate in the programme is to have at least some ties with the community and some familiarity with the Bulgarian system to ensure that it will be possible for the individuals to meet their basic needs. Most of the participants have been in Bulgaria for a period of 3 to 5 years.Although not having a formal agreement with the migration authorities, CLA has developed a close relationship with local detention centres, which allows them to provide regular case management within the centre in order to screen detainees potentially suitable for alternative measures.

Some numbers:

Between 2002 and 2019, the project in Utrecht reached high resolution rates:

59% **of participants were regularised and integrated into the local community**

19% returned to their countries of origin, **13%** were reinserted into national asylum shelters, and **9%** absconded.[10]

Similar results have been found by an interim evaluation report on three ATD pilots in Bulgaria, Cyprus and Poland, all members of the EATDN, where, after two years of implementation:

97% **of the participants remained engaged or achieved case resolution**

In **94%** of the cases, the pilot project increased the individuals' ability to participate in informed decision making, and in **93%** of the cases it improved their coping and well-being.[11]

These numbers confirm previous research by the International Detention Coalition (IDC), based on 250 examples of alternatives to detention in 60 countries, which found compliance rates of up to **95%**.[12]

10. Jan Braat (2019), Presentation at the International Conference organised jointly by the Council of Europe, the European Commission and the European Migration Network 4 April 2019 Agora, Council of Europe Strasbourg, France, available here.
11. Ohtani, E. (2018) "Alternatives to detention from theory to practice" European Programme for Integration and Migration, available here.
12. International Detention Coalition, 2015, "There are alternatives. A handbook for preventing unnecessary immigration detention (revised edition), available here.

3. REGIONAL GUIDANCE ON CASE MANAGEMENT-BASED ALTERNATIVES

Case management has received increasing support as part of a broader push for the development of effective alternatives to detention in Europe.

The "Legal and practical aspects of effective alternatives to detention in the context of migration"[13], published in 2018 by the Steering Committee for Human Rights (CCDH) of the Council of Europe, is the first guidance on alternatives developed by governments for governments. The analysis goes beyond traditional lists of measures to look at concrete elements that are effective in terms of increasing compliance, reducing costs and ensuring well-being. Six elements are identified as essential to effectiveness:

- Using screening and assessment to address individual circumstances, including vulnerabilities and risks;
- Providing clear and precise information about rights, duties and consequences of non-compliance to immigration procedures;
- Ensuring access to legal assistance from the beginning and throughout the process;
- Building trust in asylum and migration procedures;
- Upholding individualised case management services;
- Safeguarding the dignity and fundamental rights of the persons concerned.[14]

The European Commission has also been playing a leading role in promoting alternatives to detention in Europe. The 2017 Revised Return Handbook, a non-binding document guiding states on the implementation of the 2008 Return Directive, includes an expanded section on alternatives to detention. This section encourages states to develop: "a wide range of alternatives to address the situation of different categories of third-country nationals" and recognizes that "early engagement and holistic case management focused on case resolution has proven to be successful", recommending governments to develop such programmes. Since the publication of this guidance, the Commission has encouraged and supported Member States in the

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13. Council of Europe, Steering Committee for Human Rights (2018) "Analysis of the legal and practical aspects of effective alternatives to detention in the context of migration", available here.
14. Council of Europe, Steering Committee for Human Rights (2018), "Analysis of the legal and practical aspects of effective alternatives to detention in the context of migration", p. 8-9, available here.

States in the development of alternative to detention programmes, including through dedicated funds under the proposed 2021-2027 Asylum and Migration Fund.

In April 2019, the European Commission, the Council of Europe and the European Migration Network organised an International Conference on Effective Alternatives to the Detention of Migrants[15]. The report of the conference highlights that one of the key messages from the day is that "to be effective, alternatives to detention should adopt a holistic and person-centred approach based on responsibility and trust".[16]

A wider range of alternatives: addressing barriers and improving engagement

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.[17]

The alternatives currently relied upon in most EU Member States (e.g. bail, reporting requirements, designated residence), while enabling States to keep track of people, have generated little evidence of effectiveness in increasing compliance and case resolution.

Improving the effectiveness of immigration procedures requires investment in a wider range of tools that can address individuals' specific risks, needs, and strengths. Research shows that the most effective alternatives are those based on trust and meaningful engagement with migrants in working towards the resolution of their cases, in particular through a tailored and holistic case management approach.[18]

15. www.coe.int/en/web/special-representative-secretary-general-migration-refugees/detention

16. Council of Europe, European Commission and European Migration Network (2019), "Effective Alternatives to the Detention of Migrants, Report from the International Conference organised jointly by the Council of Europe, the European Commission and the European Migration Network 4 April 2019", p.1, available here.

17. International Detention Coalition (2015), "There are alternatives; A handbook for preventing unnecessary immigration detention (revised edition)", p. 16, available here; Detention Action (2016), Without detention; Opportunities for Alternatives, p. 26, available here.

18. International Detention Coalition, 2015, "There are alternatives. A handbook for preventing unnecessary immigration detention (revised edition), available here.

4.SETTING UP A CASE MANAGEMENT-BASED ATD PILOT

A thorough evaluation of the local context and client group is essential to the successful setting up of a case management ATD pilot, as there is no "one-size-fits-all" model and each programme needs to be targeted to its specific needs and circumstances.

During the setting up phase organisations need to develop specific guidelines for the selection of participants, protocols for intervention and assessment tools.[19] Practice and lessons learnt from similar contexts can be used as a source for inspiration and adapted to the national context.

In this phase, the establishment of contacts with other stakeholders (both at the local and the national level) is essential to build an effective case management programme and to ensure that individuals have access to services. This includes access to health care providers, legal advisors, psychological caregivers, shelters and immigration authorities.

The following checklist, based on the first evaluation report of the EATDN, can be useful to guide organisations towards the development of a successful case management-based ATD[20]:

- Review existing tools and literature, such as the UNHCR/IDC Vulnerability Screening Tool.[21]
- Identify the relevant cohort of individuals that will be targeted by the pilot.
- Where necessary, adapt or create administration and monitoring tools, to properly record case developments.
- Develop capacity building tools for new and current staff.
- Reach out and engage different stakeholders, to raise awareness of the project and to involve them in the referral of interested individuals and the provision of services.
- Develop an evaluation framework to monitor and evaluate the impact of the programme with an eye to improving and adapting it over time.

19. Ohtani, E. (2018) "Alternatives to detention from theory to practice", European Programme for Integration and Migration, p. 7, available here.
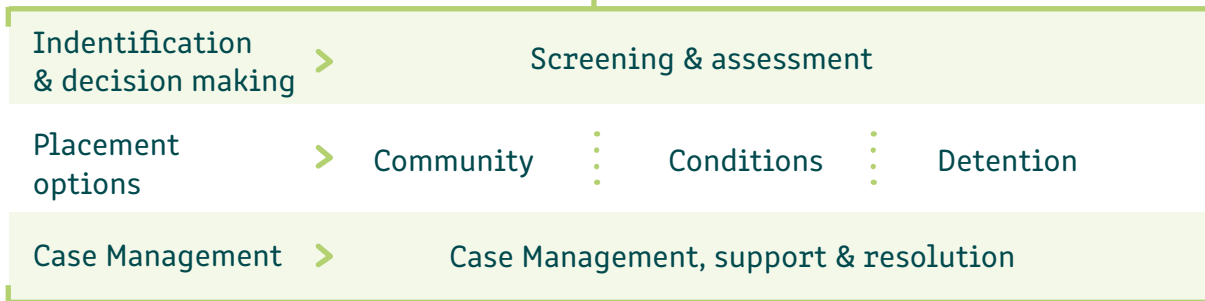**20.** Ohtani, E. (2018) "Alternatives to detention from theory to practice", European Programme for Integration and Migration, p. 8, available here.
21. UNHCR & IDC (2016) "Vulnerability Screening Tool", available here.

CAP The Revised Community Assessment and Placement Model[23]

The Revised Community Assessment and Placement model (CAP), developed by the International Detention Coalition building on research on more than 250 examples in over 60 countries, represents a useful tool for the development of alternatives to detention.

Liberty : presumption against detention

Indentification & decision making	>	Screening & assessment		
Placement options	>	Community	Conditions	Detention
Case Management	>	Case Management, support & resolution		

Minimum standards

The model is based on the following principles:
- Presumption against detention: detention can only be justified by a legitimate purpose and should not be arbitrary;
- Minimum standards, including fundamental rights, basic needs, formal status and documentation, legal advice, fair and timely case resolution;
- Identification and decision making based on screening and assessments of each individual's risk, needs and vulnerabilities;
- Placement options: placement in the community without conditions as a preferred option, placement in the community with conditions if necessary and proportionate, detention as last resort;
- Provision of case management.

23. International Detention Coalition (2015), "There are alternatives; A handbook for preventing unnecessary immigration detention (revised edition)", p. 16, available here; Detention Action (2016), Without detention; Opportunities for Alternatives, p. 26, available here.

CASE RESOLUTION AS A SHARED GOAL

By informing and supporting individuals to actively engage in migration procedures, case management is the base for humane and cost-effective ATDs that keep migrants engaged in the procedure. Its implementation, piloted in the past years in different EU countries, has led to high rates of compliance and improved ability to participate in the migration procedures. This demonstrates that migration authorities' objective of fair and timely case resolution is most likely to be met when meeting individuals' basic needs and respecting their fundamental rights, including the presumption of liberty.

In order to fulfil this objective, some pre-conditions must apply. First of all, case management should be applied as early as possible in the migration procedure. This avoids that protection gaps or unnecessary and arbitrary detention undermine individuals' trust in the system as well as their ability to work towards case resolution.

Secondly, the development of new pilot projects is necessary to ensure that case management can expand its coverage to include all interested and suitable individuals in a precarious or irregular status. Government support and long-term funding is also necessary to ensure the continuity of the programme and avoid that capacity and experience are lost. Such support can come from either from national governments or from local governments, as it has been the case in the Netherlands.

Finally, timely and fair case resolution is strictly dependent on the national legal framework. Case management, even when applied at the early stage of the procedure, cannot rectify structural gaps such as the lack of regularization mechanisms. Good relationships and collaboration between national immigration authorities and local level organisations can be crucial to raise such issues at the national level and pursue a sustainable structural solution.[24]

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24. Ohtani, E. (2018)" Alternatives to detention from theory to practice", European Programme for Integration and Migration, p. 3, available here.

USEFUL READINGS

- ATD Network, 2018: Interim Evaluation Report and Briefing Paper

- Center for Legal Aid "Voice in Bulgaria", 2019: Applying Engagement-Based Alternatives to Detention of Migrants in Bulgaria: Opportunities and Challenges.

- Council of Europe, Steering Committee for Human Rights, 2018: Analysis of the legal and practical aspects of effective alternatives to detention in the context of migration.

- Council of Europe, Steering Committee for Human Rights, 2019: Practical Guidance on Alternatives to Immigration Detention: Fostering Effective Results.

- Detention Action, 2016: Without detention

- DC, 2015: There are alternatives

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