



Working together to
end immigration detention:
A collection of noteworthy practices

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Executive Summary

This briefing presents noteworthy practices at the national and European Union (EU) level related to safeguarding the rights of people in immigration detention and ultimately ending detention for migration purposes, by focusing on a wide range of actors spanning from civil society to national governments. It focuses on three advocacy objectives:

1. **raising the visibility of detention and its harms,**
2. **ending the detention of children in the context of migration, and**
3. **implementing community-based solutions that can ultimately prevent and contribute to ending detention.**

The first chapter of the briefing explores civil society efforts aimed at unveiling what happens in immigration detention centres as well as the harmful impact of immigration detention itself. Ensuring that people in detention speak to the outside world and giving NGOs access to detention centres have been identified as the most important tools in this regard. It is also contended that further research, as well as litigation and advocacy, related to the right to communicate is needed. NGOs in the Netherlands and the UK have set up hotline systems to establish contact with individuals in detention, most of whom do not have access to their mobile phones. In Italy, strategic litigation has challenged the state's denial to grant NGOs access to detention facilities. Both activities – phone communication and civil society visits – can be seen as part of a wider advocacy strategy advocacy to end immigrant detention, as exemplified by the work of civil society coalitions

and organisations in Belgium, Italy and the United Kingdom, among others.

The second chapter focuses on immigration detention of children, a practice which is never in the child's best interests and should always be forbidden.¹ While EU law still allows for immigration detention of children, there have been developments at the political and legislative levels in Germany, Belgium, France and Greece aiming at restricting the situations in which children could be detained for immigration purposes. The cases of Ireland, Italy and Spain are also explored, as these states do not generally detain children (whether they are unaccompanied or with their families). Overall, to comply with international standards and to put an end to child detention in the migration context, further efforts are needed at both the EU and national levels.

The final chapter focuses on community-based solutions to prevent or end immigration detention. This section focuses in particular on the advantages of providing support through case management, which is a structured social work approach which empowers individuals to work towards case resolution (i.e., any temporary or permanent migration outcome, such as a visa, regularization scheme, re-migration or voluntary return). This section explores case studies from Belgium, Bulgaria, Poland, the UK and Italy, where case management projects are run by civil society originations, in cooperation with local (Belgium) or national (Bulgaria, Poland, UK) governments. Although each national experience is unique, the independent evaluation of these projects

1 Committee on the protection of all Migrant Workers and Committee on the Rights of the Child, [Joint General Comment No. 4 \(2017\) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and No. 23 \(2017\) of the Committee on the Rights of the Child on State Obligations Regarding the Human Rights of Children in the Context of International Migration in Countries of Origin, Transit, Destination and Return](#), CMW/C/GC/4-CRC/C/GC/23, paras. 10-13; Special Rapporteur on the human rights of migrants, 2020, [Ending immigration detention of children and providing adequate care and reception for them](#), para. 86.

showed that they have some features in common: high levels of compliance of the people involved with the project, the limited numbers of migrants who have access to case management in comparison to the number of undocumented migrants, and the fact that these projects need to be accompanied by

a general policy shift towards the implementation of non-coercive solutions in migration management. To conclude, this briefing analyses the practices of two countries, Ecuador and Uruguay, which are among the few states in the world that never applied or no longer resort to immigration detention.

Scope and methodology

This briefing is produced in the context of PICUM's project 'A Three-Fold Strategy Against Immigration Detention in the EU', which aims to identify knowledge gaps in the area of immigration detention and to develop recommendations for further research and actions in this area. This paper focuses on noteworthy practices on immigration detention, in particular with the purpose to identify opportunities for advocacy at the national and EU levels.

This briefing is based on desk research as well as on information gathered through interviews conducted with representatives of PICUM members and other stakeholders. The study includes an analysis of policies and practices related to immigration detention, alternatives to detention, case management, and the role of civil society in the implementation of complementary strategies to end the detention of migrants.

Introduction

Administrative detention refers to the detention of asylum seekers or undocumented migrants to carry out administrative procedures. Across Europe, children, families, men and women, often with pre-existing situations of vulnerability or traumas, are detained solely because of their **migratory status**.

In theory, immigration detention has no punitive function. Nevertheless, it is perceived as a punishment by people who are subjected to it.² Detention is a harmful and disproportionate practice that has serious impacts on migrants' rights and can expose them to torture and inhuman treatment, physical and mental suffering, and separation from their families.³ In 2022, a report by the WHO Regional Office for Europe found that immigration detention can have a severe impact on **migrants' health**, especially mental health, and called on EU member states to use alternatives to detention.⁴

Despite a large body of evidence on the harmfulness of immigration detention, **EU member states** are increasingly resorting to detention in order to control and deter migration, as well as for criminal law-related purposes.⁵ Detention was also maintained during the Covid-19 pandemic in Europe in 2020 and 2021, even though travel restrictions and border closures due to the pandemic significantly reduced the chances of carrying out returns during these years. The only exception was **Spain**, where civil society advocacy, the ombudsman and the courts prompted the government to close detention centres.⁶ However, far from reflecting a new, human rights-based approach to the issue, the Spanish decision was conditional and lasted for four months.⁷ As soon as deportations resumed at the end of 2020, detention centres were quickly reopened. Moreover, even during the pandemic, detention of people arriving by sea never stopped, in line with

2 See Bosworth M., 2019, [Immigration Detention, Punishment and the Transformation of Justice, in Social and Legal Studies](#); Fernández Bessa C., 2021, Los centros de internamiento de extranjeros (CIE): Una introducción desde las Ciencias Penales.

3 For instance, Esposito F., Ornelas J., Briozzo E., Arcidiacono C., 2019, [Ecology of sites of confinement: everyday life in a detention center for illegalized non-citizens](#), "American Journal of Community Psychology"; von Werthern M., Robjant K., Chui Z., Schon R., Ottisova L., Mason C., Katona C., 2018, [The impact of immigration detention on mental health: a systematic review](#), "BCM Psychiatry"; BVMN, 2023.

4 WHO, 2022, [Addressing the health challenges in immigration detention, and alternatives to detention: a country implementation guide](#).

5 See PICUM, Between administrative and criminal law: an overview of criminalisation of migration across the EU, forthcoming.

6 A few countries (Belgium, the Netherlands, the UK) released most of the people detained during the first months of the 2020 following the outbreak of the pandemic, but the centres were not definitively shut down. See PICUM, 2020, [Non-exhaustive overview of European government measures impacting undocumented migrants taken in the context of COVID-19](#).

7 Interview with [Servicio Jesuita a Migrantes](#), Spain, on 20 December 2022, according to whom the pandemic eventually led to further restrictions of the rights of migrants in detention.

the 'hotspot approach' also implemented in Italy and Greece in recent years.⁸ Recent EU legislative reforms on return and asylum risk further multiplying the grounds and situations in which detention can be applied, particularly at the EU's external borders.⁹

Against this background, a number of actors at international, European and national levels are advocating **to end administrative detention**. To this end, efforts are made to expose the reality of what happens inside detention centres, as well as to gain consensus over alternative ways of carrying out immigration procedures that do not involve deprivation of liberty.

This briefing focuses on **noteworthy practices** undertaken and promoted by either civil society organisations, governments or local authorities along specific thematic lines that correspond with three objectives of advocacy or policy actions:

1. Shining a light on detention centres and advancing migrants' rights in detention
2. Ending the immigration detention of children
3. Implementing community-based models instead of coercive measures

⁸ Brandariz J. A. and Fernandez-Bessa C., 2021, [Coronavirus and Immigration Detention in Europe: the Short Summer of abolitionism?](#), Social Sciences.

⁹ PICUM, 2020, [More detention, fewer safeguards. How the new EU Pact on Migration and Asylum creates new loopholes to ignore human rights obligations](#); PICUM, 2022, [How is detention considered in the EU Pact on Migration and Asylum](#).

Shining light on detention centres and advancing migrants' rights

Despite the fact that more than 100,000 migrants are detained in Europe every year.¹⁰ there is still little public scrutiny of what happens inside detention centres. On the one hand, the management of these sites by governments or private actors **lacks**

transparency. Data is inaccessible or incomplete, and physical access by researchers and NGOs is often denied or limited.¹¹ On the other hand, migrants' voices are systematically silenced while in detention.

Communicating with the outside world

Depending on the country, the use of mobile phones, smartphones and internet devices is either prohibited or restricted.¹² Restrictions on the use of smartphones are usually justified due to privacy or security grounds. These limitations are rarely based on individualised orders applying a proportionality test. Instead, they are the consequence of practices and bureaucratic decisions. **There is no codified rule on the right to communication while in administrative detention at the European level.** However, the 2017 position of the **European Committee for the Prevention of Torture and Human or Degrading Treatment or Punishment (CPT)**¹³ suggested that people in detention “should have every opportunity to remain in meaningful contact with the outside world

and should have regular access to a telephone or their mobile phones”.¹⁴ In practice, this recommendation is widely disregarded.

In several EU countries (including **Austria, Belgium, Bulgaria, France, Poland**), people in immigration detention are only allowed to keep and use mobile phones without a camera.¹⁵ Since smartphones (which include cameras) are nowadays much more common than phones without cameras, this results in the fact that most people in detention are in practice prohibited from using their personal phones. In federal or regional states, such as **Germany** and **Italy**, the use of phones varies in different regions or centres. In some facilities in Italy, mobile phones

¹⁰ Global Detention Project, 2022, [Annual Report](#).

¹¹ See Jesuit Refugee Service Europe, 2023, [Visiting Migrants in Detention. How it is and how it should be](#).

¹² In the United States and Australia, mobile phones use in immigration detention is prohibited. Many EU countries confiscate migrants' personal phones, as they do not allow the use of smartphones. See Global Detention Project, 2021, [Overview United States](#); Global Detention Project, 2022, [Overview Australia](#).

¹³ Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), 2017, [Immigration detention factsheet](#).

¹⁴ Ibid., p.3.

¹⁵ EMN, 2018, [Ad-Hoc Query on Ad-hoc query on detention and material detention conditions](#). Computers (with internet) are accessible on a regular basis, but this varies from one centre to another. Information provided by Jesuit Refugee Service Belgium.

are completely banned, while in others, their use is accepted with very few restrictions.¹⁶ The situation is similar in Greece, where practices change according to each detention centre.¹⁷ Only a few EU member states allow the use of smartphones or internet devices with time limitations. In **Portugal and in Spain**, personal phones are allowed but according to a strict time schedule.¹⁸ In **Belgium**, some detention centres partially lifted restrictions on the use of personal phones during the pandemic to counteract feelings of isolation,¹⁹ yet re-introduced them after the end of the pandemic.

Overall, further research is needed in this field, as information on the limits to the use of phones, mobile phones and internet devices is incomplete and not up to date in several countries in Europe. In a digital world in which smartphones represent the most common and easy way for people to stay in touch with families and friends, to store documents and personal information, and to exercise their rights to defence, information, and communication with the outside world, the bans and limitations placed in detention centres on the use of mobile phones appear disproportionate and unnecessary. **Courts in Italy and Spain** have already recognised

that excessive limits on the use of phones result in a violation of migrants' fundamental rights.²⁰ However, litigation on this subject does not appear to be widespread. Further steps need to be taken to ensure that people in detention centres are able to communicate, including through their smartphones and mobile apps.

Against this background, and in order to facilitate communication with the outside world and to make the voices of people in detention heard, some civil society organisations have set up hotline systems. These allow detained people to speak to NGOs and volunteers by calling them from the phones in detention centres without additional costs.

In **Belgium**, people in detention have to pay for their phone calls out of their own pocket. This often represents a challenge and forces people to rely on NGOs providing them with mobile top-ups and old phones without cameras.²¹

In the **Netherlands**, the NGO **Stichting Los** launched the initiative 'Meldpunt Vreemdelingendetentie',²² which provides a free number which can be called by people in detention ('immigration detention

16 Global Detention Project, [Italy](#) and [Germany](#) country profiles [accessed 23 October 2023]; EMN, 2018, [Ad-Hoc Query on Ad-hoc query on detention and material detention conditions](#). On Italy, see CILD, 2021, [Black holes](#).

17 For instance, in Tavros Pre-removal detention facility (PRDF) and police stations, detainees are not allowed to keep their phones. In Amigdaleza PRDF and Korinthos PRDF detainees may keep their phones even if they have cameras. In Paranesti PRDF they are allowed to keep their phones if they don't have a camera. In Kos, throughout 2022, containers within the Pre-Removal Detention Centre (PRDC) section of the new EU-funded Multi-Purpose Reception and Identification Centre (MPRIC) were used to quarantine newly arrived asylum seekers. During quarantine, individuals held in the containers could not communicate with anyone outside of the detention area and had no access to legal aid, as their phones were arbitrarily confiscated upon arrival. Information provided by a representative of the Greek Council for Refugees, Greece.

18 Global Detention Project, [Portugal](#) country profile [accessed 23 October 2023]; EMN, 2018, [Ad-Hoc Query on Ad-hoc query on detention and material detention conditions](#).

19 Jesuit Refugee Service Belgium, 2021, [Centres de détention pour migrants](#).

20 Decision of 'Juzgado de Control' n° 1 y 7 de Barcelona, 15.01.2014; Civil Court of Milan, 23.2.2021 (an abstract in English is available on the [website](#) of the EU Agency for Asylum).

21 Information provided by [Jesuit Refugee Service Belgium](#) and [Move Coalition Belgium](#).

22 Meldpunt Vreemdelingendetentie is part of an organisation called Stichting Los, a network committed to the (collective) interests of undocumented migrants in the country.

hotline'). In the Dutch detention system, the use of mobile phones is prohibited, and access of NGOs or journalists to detention facilities is limited. The hotline aims to expose abuses in detention centres, with the ultimate goal of ending administrative detention. This hotline is one of the only ways to monitor detention conditions and what is happening inside the centres.²³ 'Meldpunt Vreemdelingendetentie' also collects complaints made by individuals in detention and their relatives, staff of detention centres, medical services and policymakers. When possible, it provides legal assistance and other forms of support. The NGO aims to collect and connect the complaints to gain insight into the conditions of detention and to raise awareness as well as political and media attention. Conditions of detention are not litigated at a judicial level. Lawyers focus on challenging detention or deportation decisions and do not work on abuses or violations of the rights of individuals during detention. Through the hotline, 'Meldpunt Vreemdelingendetentie' has started to write complaints and send them to the Supervisory Committee (CvT),²⁴ an independent body responsible for investigating complaints and adopting decisions on monetary compensation. All complaints are collected in a juridical database managed by Stichting Los. This has also contributed to the professionalisation of the Complaint Mechanism system.

Support to people in detention through a phone hotline is similarly provided by the organisation **Detention Action**,²⁵ which operates an Advice Line in the United Kingdom. In the **UK**, migrants can be detained without any time limit: the usual duration is 28 days, but detention can last up to months or

even years. Undocumented people can be detained for immigration-related purposes either in administrative facilities or prisons. Personal smartphones are systematically confiscated upon detention, in administrative detention facilities people are given a basic mobile phone (without internet or a camera) and in prisons there is limited access to landline phones. The hotline developed by Detention Action is active five days per week and is supported by trained volunteers who answer the phones. All contact with people that call the advice line is registered in a database and volunteers are supported by the NGO staff through an instant messaging system. The 'Advice Line' provides migrants with practical advice and support (e.g., establishing contacts with a solicitor, advocating on healthcare issues with detention staff or applying for legal aid). As people in detention can experience strong feelings of isolation, it also offers crucial emotional support and the opportunity to talk to someone. The hotline is free for people held in immigration detention centres, while calls have to be paid for by people held in prison (in this case, the number also has to be approved by the prison staff). To address this issue, the NGO offers phone credit to those detained in prisons. This system is combined with regular visits to detention centres. However, the helpline has allowed the organisation to reach more people over a wider geographical area and to include people in prisons, where physical access is more difficult.

²³ Information provided by 'Meldpunt Vreemdelingendetentie' (Stichting Los).

²⁴ Dutch Supervisory Committee ([Commissie van Toezicht](#)).

²⁵ See Detention Action's [website](#).

Access to detention centres and civil society campaigns

Alongside the use of phones and mobile apps to advance migrants' rights and make them visible, civil society efforts have focused on improving **access to detention centres**, with the dual aim of providing legal and social counselling to migrants and conducting more comprehensive monitoring of detention conditions. Independent monitoring of detention facilities is a crucial element in ensuring adequate conditions of detention but can also be a way to reinforce advocacy for the abolition of immigration detention.

According to EU law regulating detention, "relevant and competent national, international and non-governmental organisations and bodies shall have the possibility to visit detention facilities",²⁶ even though their access might be subject to authorisation. Whilst visits of international and national monitoring bodies (such as the CPT, National Preventive Mechanisms, and Ombudspersons) are not generally hindered, **NGOs face severe restrictions**. This is the case in several countries, including **Croatia, Hungary and Poland**.²⁷ Even in states where the law explicitly regulates the accessibility of detention centres, such as in **Spain or Greece**,²⁸ NGOs have reported obstacles when trying to visit the facilities on a regular basis,²⁹ and very few organisations are

allowed to enter the centres.³⁰ More than ten years ago, in 2011, several NGOs launched the EU-wide campaign 'Open Access Now'³¹ to promote civil society access to detention facilities.

In **Italy**, one of the most criticised features of the detention system is the lack of a comprehensive legal framework on detention conditions. These are regulated only by ministerial orders. NGOs have been denied access to detention centres on the basis of a restrictive and arbitrary interpretation of a 2014 order from the Ministry of Interior, which disregards the provisions of the EU Return and Reception Condition Directives.³² Since 2019, the **Italian Association for Juridical Studies on Immigration (ASGI)**³³ has systematically requested access to detention centres and hotspots. Every time the administration refused to authorise the visit, ASGI challenged the decision before the competent regional administrative court. Between 2020 and 2023, several regional courts granted the right to visit the facilities in all cases brought to their attention, establishing through their jurisprudence the right of civil society to monitor the conditions of detention and recalling the direct applicability of EU law.³⁴ This result has been achieved through a judicial litigation strategy set up by ASGI, which was met

26 Article 16 of the Return Directive (2008/115/CE) on the detention of undocumented migrants.

27 EMN, 2018, [Ad-Hoc Query on Ad-hoc query on detention and material detention conditions](#).

28 Spanish Aliens Act, Article 62 bis; Greek Law 3907/2011, Article 31(4).

29 See Servicio Jesuita a Migrantes (SJM), 2019, [Informe CIE 2019. Diez años mirando a otro lado](#); Irídia, 2021, [Informe sobre violencia institucional en 2020](#); The same was confirmed during the interview with Ana Bocsh and Pep Buades, [Servicio Jesuita a Migrantes](#), Spain, on 20 December 2022.

30 Interview with Manon Luis, Mobile Info Team/Border Violence Monitoring Network, Greece, on 8 February 2023; see also Mobile Info Team - MIT, 2023, [Prison for Papers: Last Resort Measures as Standard Procedure](#).

31 More information on the EU-wide campaign 'Open Access Now' in this [letter](#).

32 Alongside the Return Directive, the Reception Condition Directive (2013/33/EU) sets the rules for detaining asylum seekers and similarly provided for international and national bodies and NGOs representative of asylum seekers to have access to detention facilities.

33 ASGI is an Italian membership-based association focusing on legal aspects of immigration. ASGI's members provide their contribution at various levels: administrative, policymaking and legal, both in national and European contexts.

34 For an overview of the cases see In Limine. In Limine is an ASGI project that focuses on monitoring and challenging human rights violations at Italian external borders and particularly in the context of hotspots and detention facilities (in Italian).

with positive responses from the courts. ASGI has additionally developed models for requesting access to the centres, to be disseminated and used by other civil society organisations. For ASGI, monitoring the detention conditions and fundamental rights violations occurring in detention centres is a crucial step in the advocacy campaign to end immigration detention.

In **Belgium**, amplifying the voices of people detained and improving access to detention facilities to provide socio-legal support are two pillars of the **Move coalition** strategy to end immigration detention.³⁵ The organisations forming Move have been members of an informal Belgian platform of accredited visitors to detention centres for twenty years. Move reaffirms the right to freedom and challenges

the practices as well as legislation that make administrative detention possible. Among its activities, Move provides training to new visitors and promote awareness raising among elected representatives and legal professionals, to support them in assisting people in detention.³⁶

At European level, **JRS Europe** collects, analyses and publishes comparative reports based on the observations of JRS detention visitors in 11 countries.³⁷ The aim of this work is to shine a light on detention conditions, describing them through the voices of the people detained and those of the visitors. By doing this, JRS hopes to put pressure for detainees' rights to be respected and, ultimately, to grow consensus to end the use of administrative detention.

³⁵ Move is a coalition created in 2021 as a joint initiative of Caritas International, CIRÉ, Jesuit Refugee Service Belgium and Vluchtelingenwerk Vlaanderen.

³⁶ Move Coalition, 2021, [Toolkit Juridique](#); Move Coalition, 2021, [Guide pour les parlementaires](#).

³⁷ See JRS Europe, [Detention Under The Spotlight. JRS' call to end immigration detention](#), [accessed 6 November 2023].

Ending detention of children in the immigration context

Research has shown the serious impact of detention on children's health, psycho-social development and well-being.³⁸ Detaining children for reasons related to their or their parents' migration status conflicts with the **best interests of the child**. Immigration detention is never in the child's best interests and should always be forbidden.³⁹

The UN Committee on the Rights of the Child has deemed child immigration detention to be in violation of the UN Convention on the Rights of the Child, and a growing number of international bodies have called on states to put an end to the immigration detention of children.⁴⁰

This outcome was made possible thanks to the **active campaigning of several organisations** who joined together in the 'Global Campaign to End Child Detention at the United Nations Human Rights Council' launched by International Detention Coalition (IDC)⁴¹ in 2012. In the following years, a general consensus over the abolition of

child immigration detention was reached among international human rights bodies. In 2014 the Parliamentary Assembly of the Council of Europe (PACE) recalled⁴² that unaccompanied children should never be detained, and that the detention of children based on their or their parent's immigration status is contrary to the best interests of the child. In order to raise further awareness and encourage states in Europe to adopt alternatives to detention that are in line with the best interests of the child and allow children to remain with their family members in community-based settings, in 2015 PACE launched a campaign to end the immigration detention of children.⁴³

In the Global Compact for Safe, Orderly and Regular Migration,⁴⁴ as well as in the Global Compact on Refugees,⁴⁵ states committed to developing "non-custodial and community-based alternatives to detention", in particular for children, with the ultimate aim of ending child detention in the context of migration.

38 S. Mares, 2021, [Mental health consequences of detaining children and families who seek asylum: a scoping review](#), "European Child & Adolescent Psychiatry", 30; Save the Children Action Network, 2018, [5 Harmful Long-term Effects of Family Detention on Children](#) [accessed on 23 October 2023]; A. Farmer (2013), [The impact of immigration detention on children](#), "Forced Migration Review"; International Detention Coalition – IDC (2012), [Captured childhood](#); PICUM, 2019, [Child detention in Europe](#); and PICUM, 2021, [Immigration detention in Europe: what safeguards for people with vulnerabilities?](#).

39 PICUM, 2022, [Immigration detention and de facto detention: what does the law say?](#), Q.6.

40 See Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and Committee on the Rights of the Child, 2017, [Joint General Comment No. 3 of the CMW and No. 22 of the CRC in the context of International Migration: General principles](#). See also UNHCR, 2017, UNHCR's position regarding the detention of refugee and migrant children in the migration context; OSCE Office for Democratic Institutions and Human Rights (ODIHR), 2022, Immigration detention is never in the best interest of children and must end, OSCE human rights head says [accessed on 23 October 2023].

41 [International Detention Coalition](#) (IDC) is a global network of organisations, groups, individuals, and representatives of communities impacted by immigration detention, based in over 75 countries. Its mission is to put an end to immigration detention, by implementing rights-based alternative to detention.

42 Parliamentary Assembly of the Council of Europe (PACE), 2014, [The alternatives to the immigration detention of children \(Recommendation 2056 \(2014\)\)](#).

43 For more information see PACE, [The Parliamentary Campaign to End Immigration Detention of Children](#) [accessed on 23 October 2023].

44 United Nations, 2019, [Global Compact for Safe, Orderly and Regular Migration \(A/RES/73/195\)](#).

45 United Nations, 2018, [Global Compact on Refugees](#).

Under the European legal framework, immigration detention of children remains possible. The extensive case law of the European Court of Human Rights (ECtHR) has established that child detention is not prohibited, but states must prove that their detention is necessary and proportionate. In practice, the Court usually finds a violation of the right to liberty and of the right not to be subject to ill-treatment in cases concerning children.⁴⁶ Despite the fact that the

European Parliament has called for the end of child immigration detention in four different resolutions,⁴⁷ European Union law merely provides that detention of children should be applied as a measure of last resort and when alternatives are not available,⁴⁸ specifying that undocumented minors shall be detained only in exceptional circumstance, thus in practice permitting it.

Detention of children: developments at the national level

According to the 2022 IOM, UNHCR and UNICEF Recommendation,⁴⁹ 27 countries in Europe still resort to child detention in the immigration context. In 2019, the EU Fundamental Rights Agency documented that the detention of children has been on the rise since 2015 and that, according to available data, in 2016, detention of unaccompanied children pending return was allowed in 19 EU Member States.⁵⁰ In this respect, **Ireland** appears to be one of the very few EU countries in which detention of both unaccompanied and accompanied children does not routinely take place. The lack of dedicated facilities has played

a role in maintaining this status quo.⁵¹ In general, detention (even of adults) in Ireland is exceptional and does not generally occur during the asylum procedure.⁵²

In some countries, the prohibition of child detention has been achieved through civil society and parliamentary lobbying. In **Italy**, the so-called 'Zampa Law', the first text entirely devoted to the protection of unaccompanied children, was adopted in 2017.⁵³ The law reaffirms **the principle of the best interests of the child and prohibits the expulsion and**

46 Ex multis, ECtHR, 12.10.2006, *Mubilanzila Mayeka and Kaniki Mitunga v. Belgium*, app n° 13178/03; ECtHR, 15.4.2011, *Rahimi v Greece*, app n° 8687/08; ECtHR, 19.1.2012, *Popov v France*, app n° 39472/07.

47 European Parliament, [European Parliament resolution of 3 May 2018 on the protection of children in migration](#); [European Parliament resolution of 18 July 2019 on the situation at the USA-Mexico border](#) Report on the implementation of the Return Directive, 2 December 2020; [European Parliament resolution of 11 March 2021 on children's rights in view of the EU Strategy on the rights of the child](#).

48 Article 16 of the Return Directive (2008/115/EC); Article 10 of the Reception Condition Directive (2013/33/EU).

49 IOM, UNICEF and UNHCR, 2022, [Safety and dignity for refugee and migrant children: Recommendations for alternatives to detention and appropriate care arrangements in Europe](#).

50 Fundamental Rights Agency, 2019, [Children in migration](#), p. 16.

51 As of 2022, a dedicated immigration detention facility has been established at Dublin airport, but it has very limited capacity as it holds maximum 4 people for up to 24 hours. Irish Penal Reform Trust, [Immigration detention facilities at Dublin Airport Garda Station](#) [accessed 23 October 2023].

52 Although immigration detention is not a routine occurrence in Ireland, it is important to note that where it does occur, it is criticised by commentators on the grounds that mainstream prisons and police station are used. Interview with Catherine Cosgrave, [Immigrant Council of Ireland](#), Ireland, on 20 December 2022. See also Global Detention Project, [Ireland](#) [accessed 23 October 2023].

53 E. Rozzi, 2017, [The New Italian Law on Unaccompanied Minors: a model for the EU?](#)

detention of unaccompanied children. The same principle also applies to children with their families, leading to an implicit prohibition of their detention.⁵⁴ In **Spain**, L. 4/2000,⁵⁵ as amended in 2009, prohibits the detention of unaccompanied children in return procedures. According to L. 12/2009,⁵⁶ both unaccompanied children and children with their families cannot be detained in the context of asylum procedures. As in Italy, despite the lack of an explicit prohibition of the detention of children with their families for return purposes, these children are no longer detained in practice.⁵⁷

Several organisations have been implementing campaigns and other initiatives to promote community-based solutions for children in immigration procedures. This includes the International Detention Coalition⁵⁸ at the international level, and the International Commission of Jurists⁵⁹ at the European level. These advocacy campaigns can influence the decisions of states. In the context of the International Migration Review Forum (IMRF), for instance, some States, including Colombia, Mexico, Thailand, and **Germany** among others,⁶⁰ made pledges regarding the ending of child immigration detention and promoting best practices on this matter.

In other countries, developments with regard to child detention are the result of civil society advocacy combined with litigation.⁶¹ In **Belgium**, the detention of unaccompanied children is prohibited and the detention of families in closed centres was suspended in 2009, following the communication of two ECtHR judgements for the ill-treatment and violation of the right of liberty against minors in detention.⁶² However, between August 2018 and April 2019, Belgium started once again to detain children and families in closed centres for migration purposes. Fifteen associations, including DCI-Belgium, and the Order of the French-speaking and German-speaking Bars of Belgium, seized the Council of State.⁶³

A few months after the reopening of the detention centre for children, the Platform Minors in Exile mobilised to try and convince the government, opposition parties, civil society organisations and the larger population that the detention of children constitutes a violation of their fundamental rights, through the 'You don't lock up a child' campaign.⁶⁴ In addition, a doctor and the two Belgian children's ombudsmen repeatedly asked the government to stop detaining children, citing the negative impact

54 Although in immigration law there is not an explicit prohibition of detention of families with children, they cannot be expelled according to a combined reading of Articles 19, par. 2 and 31 of the Italian Consolidated Text on Immigration. The only exception to the general rule is when it is proved to be in their best interest to follow the parents who received a deportation order. This is rarely the case and, even so, detention facilities are not equipped to detain families with children. This results in a generalised absence of child detention.

55 Ley Organica on foreigners n. 4/2000 of 11.1.2000.

56 Ley Organica on the right to asylum n.12/2009 of 30.10.2009.

57 In 2015, the Spanish Supreme Court declared invalid the clauses that still allowed adults accompanied by their minor children to be detained, even in specific units dedicated to families. This ruling was the result of the strategic litigation promoted by three NGOs: Asociación pro Derechos Humanos de Andalucía, Federación de Asociaciones de SOS Racismo del Estado Español and Federación Andalucía Acoge. Judgment of the Supreme Court of 10 February 2015. (Ref. BOE-A-2015-548). Information provided in writing by Servicio Jesuita a Migrantes on 11 October 2023. See also Servicio Jesuita a Migrantes (SJM), [Informe CIE](#) (see for instance the 2019, 2021 and 2022 report).

58 For more information on the International detention coalition work to end Child Immigration Detention, see [here](#).

59 For more information on EU Training materials on Alternatives to Detention for Migrant Children see [here](#).

60 International Detention Coalition (IDC), 2022, [Beyond the 2022 IMRF: What's Next?](#).

61 Interview with Anna Sibley, [GISTI/Migreurop](#), France, on 6 February 2023.

62 ECtHR, 13.12.2011, Kanagaratnam and Others v. Belgium, app. n° 15297/09; ECtHR, 19.1.2010, Muskhadzhiyeva and Others v Belgium, app. n° 41442/07.

63 PICUM, 2019, [Fighting against the detention of migrant children in Belgium](#).

64 Platform Minors in exile and UNICEF Belgium, 2019, ['You don't lock up a child. Period'](#). See also PICUM, 2019, [Fighting against the detention of migrant children in Belgium](#).

detention had on them.⁶⁵ Thanks to these collective efforts, in April 2019 the Belgian Council of State temporarily suspended the Royal Decree that provided for the detention of families,⁶⁶ and later annulled some of its provisions.⁶⁷ In light of this decision, families with children cannot be detained in 'closed centres', but they can be held in 'return houses', where they are subject to restrictions of their freedom of movement, and considered to be detained from a legal perspective.⁶⁸ Civil society campaigns and joint litigation influenced the political parties, as **Belgium** included the aim to end child immigration detention in its 2020 government coalition agreement.⁶⁹ At the time of writing, a legislative proposal that would definitively confirm the prohibition of child detention in 'closed centres' is under discussion in the Belgian Parliament.⁷⁰

In **France**, the pre-removal detention of unaccompanied children within the territory is prohibited, because the law prohibits their deportation. However,

it is possible to detain children who are with their families, as well as unaccompanied children in port or airport transit zones.⁷¹ In 2019, on the occasion of the 30th anniversary of the Convention on the Rights of the Child, UNICEF launched the '**VousAvezLaClé**'⁷² (**You have the key**) campaign to put an end to child detention. In the same year, several NGOs, including La Cimade⁷³ and Anafé,⁷⁴ submitted a **petition** to the French Parliament on this issue. In addition, between 2020 and 2022 the **European Court of Human Rights** found in several cases concerning child detention⁷⁵ that France was in violation of Article 3 on the prohibition of ill-treatment and Article 5 on the right to liberty. Following these developments, the French Government suggested limiting the possibility to place families with children in detention in its 2022 proposal to reform the immigration and asylum law.⁷⁶ The proposal prohibits the detention of children younger than 16 years old in detention centres on the French territory. However, as NGOs pointed out,⁷⁷ the restriction remains permissible in transit zones, in

65 PICUM, 2019, [Fighting against the detention of migrant children in Belgium](#).

66 Council of State, Decision No 244.190, 4 April 2019.

67 Council of State, Decision No 251051 of 24th of June 2021.

68 Plateforme Mineurs en Exil, 2021, [Les maisons de retour en Belgique : Une alternative à la détention à part entière, efficace et respectueuse des droits de l'enfant?](#)

69 Le Soir, 9 March 2023, [Accord migratoire: pour Nicole de Moor, «un statu quo n'était plus supportable»](#).

70 Chambre des représentants de Belgique, 29 Septembre 2023, 'Projet de loi modifiant la loi du 15 décembre 1980 sur l'accès au territoire, le séjour, l'établissement et l'éloignement des étrangers et la loi du 12 janvier 2007 sur l'accueil des demandeurs d'asile et de certaines autres catégories d'étrangers sur la politique de retour proactive.'

71 Transit zones are those part of territories situated in ports or airports between the arrival/landing point and the customs controls. In France, informal detention in these areas has a particularly long history. Already in 1998, the European Court of Human Rights (ECtHR) states that maintaining migrants in the Paris airport transit zone would amount to a deprivation of liberty. According to UNICEF, 3.135 children were placed in detention because of their parents' undocumented status in 2021. According to ANAFÉ, Hundreds of unaccompanied minors were held in port/airport transit zones.

72 For more information on the campaign see [here](#).

73 La Cimade is a network of organisations aimed at supporting migrants, campaigning at the political level and raising awareness on migration issues.

74 ANAFÉ (Association nationale d'assistance aux frontières pour les étrangers) support migrants and asylum seekers at French border through advocacy action and legal support.

75 ECtHR, 25.6.2020, Moustahi c. France, app. n° 9 347/14; ECtHR, 22.7.2021, M.D. et A. c. France, app. n°57035/1822. In the Moustahi case, the Court found a violation of both Articles 3 and 5 because of the placement of two unaccompanied children in the Mayotte detention centres together with adults. In M.D. et A.D., the detention of an asylum seeking mother with her infant child was deemed contrary to Articles 3 and 5 of the Convention.

76 ANAFÉ, [Projet de loi immigration: l'UNICEF France et 20 associations appellent le Gouvernement et les parlementaires à interdire définitivement l'enfermement administratif des enfants](#), 1 February 2023 [accessed on 23 October 2023].

77 Idem.

the overseas territories⁷⁸ and for children older than 16. Civil society organisations continue to advocate for the full abolition of child detention.⁷⁹

In **Greece**, the combined impact of several decisions by the European Court of Human Rights,⁸⁰ and the European Committee of Social Rights (ECSR) contributed to the **end of the systematic detention of children in the so-called 'protective custody' system and to the reform of the reception system**.⁸¹ This system, under which children were detained in police stations and administrative facilities, had been ongoing for years⁸² and criticised by several NGOs.⁸³ Both the European Court of Human Rights⁸⁴ and the ECSR⁸⁵ found this practice to be contrary to the best interests of the child and unlawful, as it involved deprivation of liberty and ill-treatment. In 2020, the 'protective custody' system was abolished and a

new system of protection and accommodation was introduced.⁸⁶ These legislative changes have been welcomed by national and international organisations, although efforts are still needed to ensure their full implementation in practice.⁸⁷ Children in Greece also continue being detained or deprived of their freedom of movement on other grounds. For instance, in the new EU funded Multi-Purpose Reception and Identification Centres (MPRICs) on the Greek islands of Kos, Samos and Leros, unaccompanied children were prohibited from exiting the fenced "SAFE AREA" container section guarded by security personnel. This 'restriction of liberty' remained valid until their placement in shelters for minors, a process which took an average of two months in 2022.⁸⁸ In addition, the detention of unaccompanied children is still happening in pre-removal detention centres.⁸⁹

78 In the 'outre mer' territories there are four detention centres (CRA) and several temporary detention facilities (LRA) situated in the proximity of police stations. The four CRA are situated in Guyane, Guadeloupe, la Réunion and Mayotte. Migrants detained in those centres account for 62.5% of the entire population of migrant detainees in France. The number of children detained in 'outre mer' CRA, and particularly in the Mayotte CRA is 40 times higher than in the territory. La Cimade, 2022, [Centre et locaux de rétention administrative](#).

79 ANAFÉ, [Projet de loi immigration: l'UNICEF France et 20 associations appellent le Gouvernement et les parlementaires à interdire définitivement l'enfermement administratif des enfants](#) [accessed on 23 October 2023].

80 See ARSIS, [The ECHR grants interim measures putting an end to the detention of unaccompanied minors in police stations](#), 10 October 2019 [accessed on 23 October 2023].

81 The European Committee of Social Rights is a Council of Europe body in charge of monitoring the compliance of States Parties with the Charter of Social Rights. It also examines complaints lodged by social partners and non-governmental organisations. On the Greek case, see [ECSR](#), complaint n. 173/2018.

82 Greek Law allowed for placing homeless children in police stations and closed centres with a view of ensuring their 'protection'. In practice, this resulted in children's deprivation of liberty and exposure to degrading living conditions. Ex multis, Working Group on Arbitrary Detention, 2019, [Preliminary Findings on its report to Greece](#); State Watch, 2019, [No End in Sight](#); EKKA, 2019, [Situation Update: unaccompanied children \(UAC\) in Greece](#).

83 Human Rights Watch, 30 June 2020, [Children's Rights and Alternative Care: Submission to the Committee on the Rights of the Child](#).

84 ECtHR, 28.2.2019, H.A. and Others v. Greece, app. n° 19951/16; ECtHR, 13.6.2019, Sh.D. and Others v. Greece, Austria, Croatia, Hungary, North Macedonia, Serbia and Slovenia, app. n° 14165/16.

85 ECSR, International Commission of Jurists (ICJ) and European Council for Refugees and Exiles (ECRE) v. Greece, Complaint No. 173/2018.

86 Law 4760/2020 of 11 December 2020 excluded unaccompanied minors from the categories of persons to whom protective custody can be lawfully applied under Article 118 of Presidential Decree 141/1991 which disciplined the protective custody. However, detention is still possible under Article 50 of Law 4939/2022 "on international protection and other provisions".

87 Interview with Alexandros Konstantinou, [Greek Council for Refugees](#), Greece, on 2 December 2022. For an overview of the new system, International Rescue Committee, 2021, [A Chance for a Better Future](#).

88 Greek Council for Refugees, 2023, [AIDA Report 2022](#).

89 In 2022, 14 unaccompanied children has been placed in detention and 515 were kept (de facto detained) in pre-removal detention centres. Ibid.

Development of community-based models to prevent detention

International human rights standards establish that immigration detention shall be a measure of last resort. This entails that detention can only be used if, in the individual circumstances of the case, certain conditions are met. Even when there is a legal ground for detention, states should examine whether less invasive measures (e.g. alternatives to detention) can be applied instead of detaining the person.⁹⁰

Under EU and international law, “alternatives to detention” can be applied solely when the grounds for detention are met. They may entail different levels of coercion but cannot be applied outside the cases where detention is possible, for instance when there is no reasonable prospect of removal.⁹¹ If there is no legal ground for detention (for instance, no risk of absconding), detention is not lawful, hence the person should not be detained at all. In this regard, alternatives to detention must not be considered as alternatives to unconditional release, and persons eligible for release should not be channelled into alternatives to detention.⁹²

Governmental practices of alternatives to detention take various forms, ranging from enforcement-based alternatives (such as regular reporting to the authorities, release on bail or other securities) to community-based solutions.⁹³ The least intrusive measures should be used.⁹⁴ In the past years, several governments have adopted policies and laws implementing community-based alternatives to detention.⁹⁵ Community-based solutions allow people to live in the community while working on their migration procedures. Contrary to enforcement-based solutions, which aim to control, restrict and deter migrants, community-based solutions are grounded in engagement and holistic support. As underlined by the Council of Europe’s “Legal and practical aspects of effective alternatives to detention in the context of migration,” provision of case management is one of the key components of effective alternatives.⁹⁶

90 WGAD, Revised Deliberation No. 5 on deprivation of liberty of migrants, para. 18; SRHRM, Detention of migrants in an irregular situation, para. 73; CJEU, FMS, FNZ, SA, SA Junior v. Országos Idegenrendészeti Főigazgatóság Dél-Alföldi Regionális Igazgatóság, Országos Idegenrendészeti Főigazgatóság, C-924/19 PPU, C-925/19 PPU, (May 14, 2020), para. 293. See also P. De Bruycker, A. Bloomfield, L. Tsourdi, J. Petin (2015), Alternatives to Immigration and Asylum Detention.

91 See also PICUM, 2022, [Immigration detention and de facto detention: what does the law say?](#), Q.7.

92 Ibid.

93 See PICUM, 2021, [FAQ migration policies, detention and return](#).

94 Special Rapporteur on the human rights of migrants, 2020, [Ending immigration detention of children and providing adequate care and reception for them](#), para. 73; Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, [General comment No. 5 on migrants' rights to liberty, freedom from arbitrary detention and their connection with other human rights](#), para. 51.

95 International Detention Coalition, 2022, [Gaining Ground. Promising Practice to Reduce and End Immigration Detention](#).

96 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](#). For more information see [EATDN and PICUM](#), 2020, [Implementing Case Management Based Alternatives to Detention in Europe](#).

Community-Based Solutions: Transforming the Approach Beyond Detention and Return

Community-based solutions are based on a broader case resolution approach, and cannot be viable if they are implemented in the context of policies which focus on deportation and return as the only possible outcome for people in an irregular administrative situation. Such a focus is likely to result in situations marked by socio-economic exclusion, discrimination, and human rights violations, whether in the country of origin when people are forcibly returned or when individuals are compelled to live in an irregular status, often for extended periods. To address this issue, effective and large-scale community-based solutions need to be accompanied by a shift away from considering return as the primary – or often only – option for people in an irregular administrative situation. Instead, there should be consideration of various case resolution options, including pathways to attain a regular residence status. For instance, over 60 national protection statuses exist in the EU in addition to international protection, including on humanitarian or medical grounds, exceptional circumstances, best interest of the child, and non-refoulement.⁹⁷

Yet, many people still fall through the cracks because the criteria to apply are too stringent or arbitrary, and because of administrative or legal barriers to access these permits or other forms of regularisation. Given this context, community-based solutions can play a crucial role in assisting individuals and their families as they navigate these often complex procedures, serving a more extensive purpose than just preventing migration detention.

This chapter will analyse different examples of **community-based solutions** that provide case management to support undocumented people and

people at risk of detention while allowing them to live in their communities. These projects take as a starting point that single adults, families and children without regular residence should themselves be actors of their sustainable future project, and that these projects should be based on engagement rather than enforcement.

In 2017, the European Alternatives to Detention Network (EATDN)⁹⁸ was founded by a group of NGOs with the objective to build evidence on engagement-based alternatives to detention. The network is facilitated by IDC and supported by EPIM (European

⁹⁷ PICUM, 2022, [Barriers to return: Protection in international, EU and national frameworks](#); EMN, 2020, [Comparative overview of national protection statuses in the EU and Norway](#).

⁹⁸ For more information, see: <https://atdnetwork.org/about/>.

Programme for Integration and Migration)⁹⁹ while PICUM leads the network's advocacy at the EU-level. The EATDN currently includes eight organisations in seven different countries (**Belgium, Bulgaria, Cyprus, Greece, Italy, Poland and the UK**).¹⁰⁰ The members of EATDN implement pilot projects based on the provision of **case management**.

Case management refers to a structured social work approach, which implies personal support throughout a person's immigration procedure, to work towards case resolution. In this model, the case manager 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. A resolution can imply any temporary or permanent migration

outcome, and can refer to a variety of solutions, such as a visa, regularisation scheme, re-migration or voluntary return. The case manager facilitates contact 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 well-being.¹⁰¹ An evaluation of three of the pilot projects (in Bulgaria, Poland and Cyprus) conducted by EPIM¹⁰² demonstrated the positive impact of case management on people's ability to work towards case resolution. It also showed that for pilot projects to be able to successfully achieve high rates of case resolution, they need to be accompanied by changes in the overall system.

⁹⁹ For more information, see: <https://epim.info/>.

¹⁰⁰ The organisations part of the network are: Jesuit Refugee Service Belgium; Centre for Legal Aid – Voice in Bulgaria; Cyprus Refugee Council; Human Rights360 (Greece); Italian Coalition for Civil Liberties and Rights - CILD and Progetto Diritti (Italy); Association for Legal Intervention (Poland); Detention Action and Action Foundation (UK).

¹⁰¹ EATDN and PICUM, 2020, [Implementing case management-based alternatives to detention in Europe](#).

¹⁰² EPIM, 2020, [Alternatives to detention: building a culture of cooperation. Evaluation of two years engagement-based alternative to immigration detention pilot projects in Bulgaria, Cyprus and Poland](#).

Case management to prevent detention

In **Turin, Italy**, the 'Channel of Solidarity' pilot project was implemented between 2020 and 2022 by Mosaico - Action for Refugees, a refugee-led organisation, the Kriol legal firm, the local Ombudsperson for People Deprived of Liberty and the law clinic of the International University College of Turin (IUC).¹⁰³ The project aimed to identify migrants at risk of detention - because of their irregular status and/or social vulnerability - and to provide them with socio-legal assistance. In this pilot, case management was provided by case workers from Mosaico, who all had lived experience of migration themselves. It aimed to promote guidance and inclusion policies through reasonable, effective, and respectful measures, improving the screening of vulnerabilities and decreasing the number of migrants in detention.¹⁰⁴ The project involved 17 migrants in 2021: three were previously detained, while the others were at risk of detention. Mosaico caseworkers provided people with both legal and social support; in most cases, with the assistance of lawyers, they supported people to regularise their position, therefore preventing detention.¹⁰⁵ Overall, case management improved the individual ability to participate in an informed decision-making process.¹⁰⁶

In **Belgium**, the NGO **Orbit**¹⁰⁷ developed a case management pilot project based on cooperation between NGOs, social services and the municipalities of Ghent and Antwerp.¹⁰⁸ In 2024 a new project will be developed in Bruges. The pilot projects were included as a policy choice in the Belgian Federal Government Agreement and are partly funded as such. The municipalities ensure access to a shelter and basic assistance, while different NGOs provide legal and social orientation and support for undocumented migrants. The objective is to create a situation in which people have space, tranquillity and feel respected. This allows them not to be in a 'survival mode' and, therefore, to make informed decisions on their future project based on a support model called 'future orientation'. The project - which has involved 20 people between 2022 and the beginning of 2023 - is characterised by the absence of coerciveness, and is not time-bound. Leaving the project does not have any further negative implications on the person's condition. So far, there has been a high level of commitment on the part of the authorities and of the people involved.¹⁰⁹

¹⁰³ MOSAICO, 2021, [Channels of Solidarity](#).

¹⁰⁴ Interview with Maurizio Veglio, Legal firm KRIOL, Italy, on 4 April 2023.

¹⁰⁵ Ibid.

¹⁰⁶ Ibid.

¹⁰⁷ [Orbit](#) is a socio-cultural organisation committed to promoting democratic dialogue and cooperation among cultures and the respect of human rights, particularly in the context of migration.

¹⁰⁸ Interview with Didier Vanderslycke, Orbit, Belgium, on 8 December 2022.

¹⁰⁹ Ibid.

Case management is also at the heart of the '**Plan Together**' project, implemented in **Belgium** by the **Jesuit Refugee Service Belgium** (JRS Belgium).¹¹⁰ The project is based on the provision of holistic case management to families with children who may be at risk of detention. Families are accompanied by a case manager in order to build a relationship of trust that will allow the people involved to explore all the possible options for a durable solution: regular stay in Belgium, transfer to another EU member state or voluntary return to their country of origin. The pilot project, albeit on a small scale, has shown a high engagement rate among families and has allowed JRS to improve cooperation with legal professionals, social services and local authorities.¹¹¹

These pilots differ from the so-called 'alternative to detention' put in place by the Belgian government. Return houses, semi-open governmental facilities where families with children are held, are the 'official' ATD in Belgium. However, while children can (in principle) go to school, families remain subject to a high degree of deprivation of liberty. From a legal perspective, they are issued a detention order, which places them under the same framework as people held in closed centres. Furthermore, they have to respect strict limitations to their freedom of movement, such as a curfew and the obligation for at least one adult to always be present in the facility.¹¹² According to an independent evaluation conducted by the NGO Plateforme Mineurs en Exil,¹¹³ return houses cannot qualify as a proper alternative to detention (rather as an alternative form of detention).

¹¹⁰ [Jesuit Refugee Service](#) (JRS) is an international catholic organisation whose mission is to accompany and serve refugees and 'forced' migrants, as well as to advocate for their rights. In Belgium, JRS is committed to promote hospitality, and to accompany and defend refugees and forced migrants in detention centres and return houses.

¹¹¹ JRS Belgium, 2023, [Plan Together. Case Management as an alternative to Immigration Detention](#).

¹¹² European Alternatives to Detention Network, 2023, [Plan Together: Gathering evidence and learning on case management as an alternative to detention in Belgium](#).

¹¹³ Plateforme Mineurs en Exil, 2021, [Les maisons de retour en Belgique: Une alternative à la détention à part entière, efficace et respectueuse des droits de l'enfant?](#)

Case management to replace detention

While the pilot projects in Belgium are based on cooperation between NGOs and local authorities, in other cases these pilots involve national governments as well. For instance, in **Bulgaria** the NGO **Centre for Legal Aid** (CLA) has run a case management project since 2017,¹¹⁴ After the successful completion of the first phase in 2019,¹¹⁵ CLA was able to work on a case management programme for people in vulnerable situations in return procedures between October 2019 and October 2022, funded by the national funding within the Asylum, Migration and Integration Fund (AMIF). The organisation has regular contact with the Ministry of Interior and there is a willingness to cooperate on the part of authorities.¹¹⁶ Besides working on individual cases, CLA has also engaged in advocacy campaigns to promote a positive and engagement-based approach to migration management and in litigation.

Examples of cooperation with national level government can be found also in **Poland** and in the **UK**, even though these solutions are characterised by restrictions to their freedom of movement, such as reporting obligations or other forms of coerciveness. This is different from the pilots implemented in Italy, Belgium and Bulgaria, which do not involve any reporting obligation. In Poland, the **Association for Legal Intervention** (SIP)¹¹⁷ has been piloting the 'No Detention Necessary' project: a case management

pilot project working with migrants who are already involved in return procedures and who have received a detention order. SIP coordinated its work with the Border Police in order to secure people's release from immigration detention into the programme. Most people were required to report to the authorities at least once a month.

Similarly, in the **United Kingdom**, the NGO **Action Foundation**¹¹⁸ has been working on a pilot project targeting women in detention. All but one of the participants had been previously detained in Yarl's Wood Immigration Removal Centre. The project was run as part of the Community Engagement Pilot Series launched by the UK Home Office in 2018 and was the first instance of a formal civil society and government partnership on ATDs. The 'Action Access' project ran between 2019 and 2021. It supported 20 women seeking asylum in a community-setting in Newcastle upon Tyne. After joining the pilot, the women were provided with shared accommodation and support to access legal counselling. UNHCR conducted an independent evaluation of the project, finding a high compliance rate (only one person absconded). It qualified the positive cooperation between the NGO, the Home Office and the legal support offered by the programme as a promising practice. On the whole, UNHCR assessed the project as more effective and humane compared to detention.¹¹⁹

114 [Centre for Legal Aid – Voice in Bulgaria](#) is a local NGO, mainly composed of legal professionals, whose mission is to promote and defend the rights of migrants, refugees and asylum seekers and other vulnerable groups in Bulgaria by providing legal aid and conducting advocacy.

115 Giteva D., Pavlova R. and Radoslavova D. (Center for Legal Aid – Voice in Bulgaria), 2019, [Final Report: Applying Engagement-Based Alternatives to Detention of Migrants in Bulgaria: Opportunities and Challenges](#).

116 International Detention Coalition, 2022, [Gaining Ground. Promising Practices to Reduce and End Immigration Detention](#), p. 43.

117 The [Association for Legal Intervention](#) (SIP) is a civil society organisation whose statutory objective is to take steps aimed at ensuring that human rights are respected and that no individual is treated unequally, disregard of their nationality, ethnicity, religion and migration status. SIP provide free of charge legal assistance to migrants, conduct research and carry out advocacy activities to promote migrants' and asylum seekers' rights.

118 [Action Foundation](#) is a charity based in Newcastle upon Tyne, providing support to disadvantaged refugees, asylum seekers and other migrants across Tyne and Wear. Through their supported housing projects; InterAction Drop-in; Digital Inclusion project and English language school, they aim to plug a gap in existing provisions and enable vulnerable migrants to avoid homelessness and extreme poverty; increase their skills and employability; access legal support; integrate and live independently.

119 UNHCR, 2022, [Action Access Evaluation Report](#).

A change of paradigm: no resort to immigration detention

Finally, a much more progressive approach based on alternative solutions can be found in **Ecuador** and **Uruguay**, where non- or less coercive solutions are used to manage migration and therefore completely replace detention. In **Ecuador**, the 2017 Migration Law¹²⁰ does not include detention among the measures that can be applied in the context of a deportation procedure. According to Article 145, possible measures include: reporting to the authorities, monetary fines, and other measures that guarantee that the person does not abscond. The law also prohibits the detention of children and victims of trafficking. The law has effectively ended the practice of immigration detention, carried out until 2017.¹²¹

In **Uruguay**, detention is not applied for migration purposes and deportation is not considered as the main option for people with irregular migration status. Articles 9 and 52 of the Migration Act¹²² establish that if a person has entered or has stayed irregularly in the country, the Uruguayan immigration authority has an obligation to inform and advise them on the possibilities to regularise their immigration status in the country. Deportation is only contemplated in exceptional circumstances; detention is never an option and is not provided for in the Migration Act. The UN Committee on Migrant Workers has underlined that Uruguay's 2008 Migration Act could serve as a model for other states to follow and notes that the Act recognizes that "no case involving a migrant in an irregular situation for administrative reasons warrants detention".¹²³

¹²⁰ Ley Organica de Movilidad Humana, n. 938 of 2017.

¹²¹ Álvarez Velasco S.; Bayón Jiménez M.; Hurtado Caicedo F.; Pérez Martínez L.; Baroja C.; Tapia J.; Yumbla M.R., 2021, [Viviendo al Límite: Migrantes Irregularizados en Ecuador](#).

¹²² Ley de migraciones n. 18250 of 2008, complemented by the Decreto de Reglamentación n°394/009 of 2009.

¹²³ Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, 2014, [Concluding Observations on the Initial Report of Uruguay](#).

Conclusions

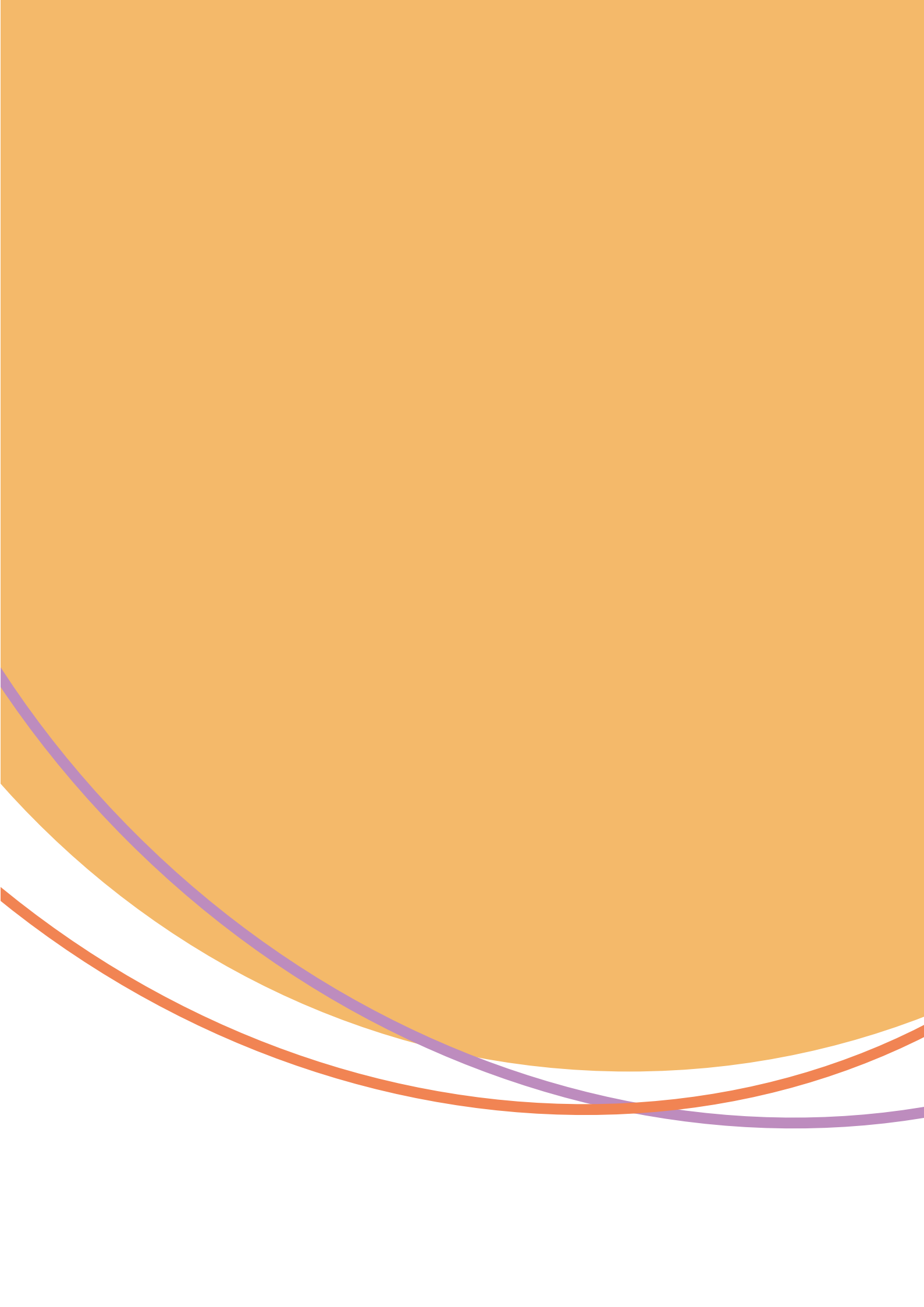
This briefing explored noteworthy practices related to immigration detention and community-based solutions. It focused on three dimensions: 1) civil society efforts to provide support to people in detention, to increase access to detention centres and to advocate for the end of immigration detention, 2) state developments towards ending child detention, and 3) civil society and national and local authorities working together on solutions to prevent people from being detained, and facilitate their access to case resolution.

The first chapter found that migrants' rights to communicate with the outside world or to be visited and assisted by civil society actors are often arbitrarily restricted by state practices. Advocacy and litigation, either through administrative complaints or judicial appeals, are the main tools deployed by lawyers and NGOs in order to promote full compliance with human rights standards. The most successful practices are based on an approach that combines litigation efforts with advocacy campaigns in order to transform individual positive outcomes for the people involved into more far-reaching policy and legal changes. In this regard, communication with the outside world, and civil society monitoring of administrative detention facilities, are conceived as tools to unveil the harmful and punitive nature of immigration detention, and thus to advocate for its end.

Chapter two analysed the level of progress made on working towards ending child detention. While some progress has been made at the international and national levels, several EU proposals will likely increase detention, including of children, in the near future and could have a negative impact on EU member states which implement or are considering implementing more rights-based practices.

Chapter three analysed different projects, mostly led by NGOs, but often in collaboration with local or national authorities, which provide case management with the purpose of preventing detention or facilitating individuals' release from detention.¹²⁴ While it might not always be possible to engage with public authorities, further research is needed to fully understand the role that local municipalities can play in promoting community-based solutions. A key issue remains how to ensure the economic sustainability of these projects over time, as well as how to support their expansion to cover more people. Finally, this chapter provided the example of countries where immigration detention is not envisaged as a tool to manage irregular migration.

¹²⁴ For a complete overview of pilot projects, see IDC, 2022, [Gaining Ground. Promising Practices to Reduce and End Immigration Detention](#).





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