

International Detention Coalition

Human rights for detained refugees,
asylum seekers and migrants

Operationalising Alternatives to Detention in Greece *Options Paper*

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Envisioning a world without unnecessary immigration detention

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ABOUT THE IDC

The International Detention Coalition (IDC) is a unique global network of over 300 non-governmental organisations, faith-based groups, academics and practitioners in more than 65 countries that advocate for and provide direct services to refugees, asylum-seekers and migrants in administrative detention. We are the only international organisation focused explicitly on immigration detention and alternatives to detention. With an international Secretariat based in Melbourne, Australia, the IDC works globally through Regional Coordinators in Africa, the Americas, Asia-Pacific, Europe, and the Middle East & North Africa (MENA).

SUMMARY

Greece is currently experiencing considerable pressures to reduce the movement of large numbers of asylum seekers, refugees and migrants across its borders and onwards into Europe. Notably, a recent EU-Turkey agreement establishes a principle to return all new irregular migrants from Greece to Turkey. These regional pressures are weakening the Greek government's ability to sustain its commitment of February 2015 to limit the use of immigration detention.¹ In particular, there is an emerging practice of converting existing reception 'Hotspots' to also be places of detention for the purposes of removal.

This document aims to provide assistance and guidance to Greek authorities, UN bodies and stakeholders in supporting and expanding alternatives to detention in this context.²

Options Moving Forward

- In partnership with civil society, Greek and EU authorities should be supported to develop and expand alternatives to detention for new arrivals and for those in the returns process.
- Analysis is needed of the new law 4375/2016 and the new border procedure to identify when, where and by whom alternatives to detention can be considered.
- A screening and assessment process that links individuals with appropriate placement options is needed. Through such a process, governments can identify and evaluate risk, needs, vulnerabilities and strengths to make informed case-by-case decisions on how to place, manage and support individuals while their immigration status is being resolved.
- Given that a third of arrivals are children and many are likely to be seeking family reunion, screening tools and community placement options targeted to these particular cohorts must be strengthened and expanded.
- Adequate resources must be allocated to expand the country's reception capacity, with a particular emphasis on supporting national and local co-ordination and expanding capacity for case management, accommodation, material support, legal advice and psychosocial support.
- A rapid evaluation of existing community-based placement options in Greece is required to identify models that can be rapidly strengthened and expanded.
- In considering possible locations of such alternatives, care must be taken to ensure that community tension is kept to minimum and individuals have easy access to a wide range of community support.

RECENT DEVELOPMENTS IN GREECE

In February 2015, the Greek government announced its intention to limit the use of immigration detention and started releasing those in detention.³ The scale of detention drastically declined after the announcement⁴ but the number of those in detention has started to increase again recently: on 4th March 2016, 1,204 people were held in pre-removal detention centres.⁵ IDC has received reports from our members that alternatives to detention are not consistently considered or applied by the authorities.

The rapid acceleration in migration in the region has led to significant policy developments. On 7 March 2016, a new EU-Turkey agreement established a principle to return all new irregular migrants who cross

¹ The International Detention Coalition, December 2015, 'Greece and Turkey - Countries at Immigration Detention Crossroads, December 2015' <http://idcoalition.org/news/greece-and-turkey-countries-at-immigration-detention-crossroads/>

² The required brevity of this document prevents full elaboration of these points. Please contact the IDC for further information.

³ Reuters, "Greece pledges to shut immigrant detention centres", 14 February 2015, available at <http://ukreuters.com/article/uk-greece-politics-immigrants-idUKKBNOLIOQ720150214>

⁴ However, there has been no repeal of the Ministerial Decision endorsing the Opinion of the Legal Council of the State (No 44/2014), allowing immigration detention beyond the maximum time limit of 18 months set by the EU Returns Directive.

⁵ AITIMA, Monitoring Immigration Detention Quarterly Report December - March 2015, March 2016. The number excludes those detained in police cells.

from Turkey to the Greek islands.⁶ A joint Greek-Turkish declaration on readmission was issued on 8 March 2016 to accelerate readmission procedures. Further, on 3 April 2016, law 4375/2016 came into force in Greece. This law introduces institutional and practice changes to the Greek asylum system while also embedding border procedures.

As part of these developments, “Hotspots” in the Greek islands will likely change from being used for ‘registration and screening before swift transfer to the mainland’ to being used for ‘implementing returns to Turkey’. Accordingly, ‘the infrastructure in the hotspots would need to be reconfigured to accommodate the readmission and asylum offices and to deal adequately with vulnerable groups’.⁷ Further, a substantial increase in reception capacity on the islands is proposed. This could include separate facilities for irregular migrants and those undergoing the longer procedure of an asylum request, and detention capacity for individuals who are assessed as a risk of absconding.⁸

While there are many unknowns in this rapidly changing context, we do know that:

- Women and girls now account for nearly 60% of people seeking safety in Europe⁹
- More than a third of people seeking safety are children¹⁰
- Immigration detention damages individuals and is costly but does not stop people seeking safety¹¹
- International and European law provide that immigration detention should only be used as last resort and that alternatives to detention should be explored in the first instance
- Detention is never in the best interests of a child and is always a child’s rights violation¹²

UNDERSTANDING THE CASELOAD IN GREECE

The European Commission’s operational information suggests several different caseloads will be present at the Hotspots in Greece. The anticipated caseload includes:

Those who do not claim asylum in Greece, whose asylum claims are deemed inadmissible, or whose asylum claims (and subsequent appeals) have been refused and face return – Case management and specialised support with return must be a first option, before applying conditions or detention. Under a strong case management model, individuals in the community are likely to remain in contact with the authorities while receiving assistance in preparation and counselling for return, while also exploring all options to remain in the country legally. If individualised screening and assessment shows that there is a risk of absconding, the authority should consider what types of community settings and support can mitigate such risks. Where there are barriers to removal such as vulnerabilities, existing community options can be replicated on the islands or the mainland to help them to engage with the process and prepare for return (for example, Assisted Voluntary Return, making contact with support services available in Turkey). Where there is no realistic prospect of removal, temporary visas and other methods should be used to facilitate lawful status.¹³

Those whose claims for asylum are being considered by the authorities (including appellate authorities) for admissibility – Research suggests that those who remain hopeful for their future and feel their cases are treated fairly are likely to comply with immigration procedures. By strengthening case management mechanism and improving communication, it is possible that local projects using hotels, apartments and families on the islands or the mainland can be involved in providing support. Large-scale open reception centres are also an option, enabling UNHCR,

⁶ European Commission, *Next Operational Steps in EU-Turkey Cooperation in the Field of Migration*, COM(2016)166final, 2016. Retrieved from http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/european-agenda-migration/proposal-implementation-package/docs/20160316/next_operational_steps_in_eu-turkey_cooperation_in_the_field_of_migration_en.pdf

⁷ *ibid.* p.4.

⁸ *ibid.* p.4.

⁹ Nils Muižnieks, *Migrant women and girls need stronger human rights protection*, 2016 available at http://www.humanrightseurope.org/2016/03/nils-muiznieks-migrant-women-and-girls-need-stronger-human-rights-protection/?utm_source=twitterfeed&utm_medium=twitter.

¹⁰ UNICEF, More children and women seek safety in Europe, available at http://www.unicef.org/media/media_90000.html.

¹¹ International Detention Coalition, *Briefing Paper: Does Detention Deter?* 2015. Available at http://idcoalition.org/wp-content/uploads/2015/04/Briefing-Paper_Does-Detention-Deter_April-2015-A4_web_final_3.pdf.

¹² United Nations Committee on the Rights of the Child (CRC), *Committee on the Rights of the Child, Report of the 2012 Day of General Discussion on the Rights of All Children in the Context of International Migration*, 28 September 2012.

¹³ See Sampson et al., *There are alternatives*, *op.cit.*, p. 54 - 58.

international NGOs and other groups to provide case management support and services, although providing individualised intensive case management support might be more difficult in large open reception centres. Also such centres must be near urban areas to ensure access to necessary services and support.

Further, we note accelerated procedures do not require detention. Research has found that the great majority of accelerated asylum procedures in the EU are based in open reception centres or other non-detention environments. Where detention has been used in the United Kingdom, it has been subject to successful legal challenge, leading to the suspension of the process. Switzerland has piloted a non-detained procedure in Zürich that has been welcomed by a wide range of stakeholders, including independent evaluators.¹⁴

Those whose claims for asylum are recognized by the authority as admissible and are in asylum determination procedures – The European Commission document seems to indicate that such cases could be placed in an accelerated procedure. Other European state examples show that automatic detention of claimants in accelerated procedures is not the norm. As above, alternatives projects could meet this need. Given the uncertainty around the speed with which these individuals' claims will be concluded, the authorities should consider referring such cases to arrangements on the mainland, in order to avoid overcrowding on the island facilities. Case management should focus on assisting the individuals to continue to engage with the asylum determination procedures.

Notably, in 2015, nearly 80% of asylum seekers who applied for asylum in Greece complied with the obligation to present themselves before the Asylum Service and engage with immigration procedures, such as renewal of their asylum cards and attendance at their interviews.¹⁵ This data shows mandatory detention of asylum seekers is not necessary.

Those identified as vulnerable, including children – We note that UASC and vulnerable asylum seekers are exempt from the exceptional border procedures under Greece's new law. Existing shelters for unaccompanied minors can be scaled up to meet the growing need for such facilities. Where specialist services that have been identified as necessary after the screening process are not available on the island, referrals to the mainland must be made. This requires the establishment of an effective referral mechanism to providers of specialist services catering for the needs of vulnerable individuals.

Those who are released from detention in a Reception and Identification Centre due to reaching the 25-day maximum period of detention as established in Law 4375/2016. This cohort will place further demands on reception and case management capacity.

ALTERNATIVES TO DETENTION

The phrase 'alternatives to immigration detention ('alternatives')' is not an established legal term nor a prescriptive concept. Alternatives shift the emphasis away from enforcement to a pragmatic and proactive approach focused on case resolution. With this in mind, the IDC defines alternatives to detention as:

Any law, policy or practice by which persons are not detained for reasons relating to their migration status.

The IDC has undertaken a programme of research to identify and describe alternatives to detention, which is described in detail in our report, *There Are Alternatives*.¹⁶ UNHCR has also presented various alternatives to detention, including in two 2015 Options Papers.¹⁷

Our research shows that *alternatives to detention offer a range of benefits to states and migrants alike*,¹⁸ including that:

¹⁴ Detention Action, 'Alternatives to detention in accelerated asylum procedures', April 2016, <http://detentionaction.org.uk/wordpress/wp-content/uploads/2016/04/briefing-alternatives-asylum-0416.pdf>

¹⁵ Greek Council For Refugees, The implementation of Alternatives To Detention in Greece, December 2015, available at: <http://goo.gl/V3azfm>, pp. 58-60 (in Greek)

¹⁶ Sampson et al., *There are alternatives*, *op.cit.*

¹⁷ UNHCR, "Options Paper 1: Options for governments on care arrangements and alternatives to detention for children and families", 2015, <http://www.refworld.org/docid/5523e8d94.html> and UNHCR, "Options Paper 2: Options for governments on open reception and alternatives to detention", 2015, <http://www.refworld.org/docid/5523e9024.html>

- **Alternatives are highly effective** – Alternatives achieve effective case resolution outcomes. Alternatives have been shown to achieve up to 95% appearance rates and up to 69% voluntary and independent departure rates.¹⁹
- **Alternatives are more affordable** – Alternatives are up to 80% cheaper than detention due to lower running costs. They also eliminate litigation and compensation claims. Further, independent returns save approximately 70% compared to escorted removals.²⁰
- **Alternatives are more humane** – Alternatives are less harmful than detention. Community placement supports health and wellbeing and upholds human rights. Alternatives also see asylum seekers, refugees and migrants better placed to move forward with their life once their migration status is resolved, whether it be integration or departure.²¹

Key elements for successful alternatives in terms of compliance (including with negative immigration decisions), cost and well-being outcomes include:

- Individuals are informed and feel they have been through a fair process
- There is a focus on engagement and early intervention
- The alternative aims at holistic case resolution, not simply on removal
- Individuals are able to meet their basic needs (housing, food, etc.)
- Any conditions applied are not overly onerous / don't set people up to fail

Most successful alternative to detention programmes identified by the IDC were those that used constructive engagement rather than enforcement to ensure individuals comply and cooperate with migration authorities, thus reducing and eliminating the need for detention.²² Although such programmes sometimes make use of residential facilities as part of a management system, the location of the individual is not of primary concern. Instead, the focus is on assessing each case and ensuring that the community setting contains the necessary structures and conditions that will best enable the individual to work towards a resolution of their migration status with the authorities.

Some governments have developed alternatives to detention, and their experiences are informative. The IDC has observed that, in general, the development of alternatives includes: a) identifying population to target with a pilot project; b) developing a collaboration mechanism for government and community service providers to develop, implement and monitor the pilot; c) establishing key performance indicators such as cost, compliance, health; and d) embedding essential elements, such as case management, shelter, and legal support.

IDC further observes that involvement of civil society organisations brings a number of benefits including: a) cost and resource savings; b) services provided; c) prevention of and rapid response to emerging problems; d) assistance with complex cases; and e) transitional support including release, integration, repatriation and resettlement assistance. This element is particularly relevant in the case of Greece; despite the long-term economic difficulties and the chaotic nature of the asylum and immigration systems, Greek civil society organisations and community groups have demonstrated resourcefulness in filling the reception gaps left by the Greek government and the EU in general and are tremendous assets. Without their ongoing participation, no community-based programme is likely to be successful.

¹⁸ Sampson et al., *There are alternatives*, *op.cit.*

¹⁹ *Ibid.*

²⁰ *Ibid.*

²¹ *Ibid.*

²² These findings have been supported by subsequent research in Europe and internationally, see Jesuit Refugee Service Europe, *From Deprivation to Liberty. Alternatives to Detention in Belgium, Germany and the United Kingdom* (2011) available at <http://www.jrseurope.org/JRSEuropeFromDeprivationToLiberty20122011.pdf>; and Cathryn Costello & Esra Kaytaz, *Building Empirical Research into Alternatives to Detention: Perceptions of Asylum-Seekers and Refugees in Toronto and Geneva* (UNHCR, 2013) <http://www.refworld.org/pdfid/51a6fec84.pdf>.

EXPANDING ALTERNATIVES TO DETENTION IN GREECE

The IDC's policy framework for alternatives to detention – the Community Assessment and Placement model (CAP model) – outlines five areas that together contribute to avoid unnecessary application of detention and ensure community options are as effective as possible. The CAP model is described in Annex A. This section reviews the alternatives to detention that already exist in Greece, based on the five components of the CAP model.

The principle of liberty in Greece

Strong systems of governance are grounded in a principle of liberty, ensuring that detention is avoided unless absolutely necessary in the individual case. In the case of asylum seekers who arrived before the EU-Turkey agreement, the principle of liberty was largely respected, with reception provided to some arrivals via open reception centres. However, asylum seekers and other migrants who arrive from Turkey are, in many cases, now facing mandatory detention.

For children and other individuals in situations of vulnerability, detention is not appropriate. Articles 9, 14 (2) and 14(8) of Law 4375/2016 direct authorities to identify and provide special care to vulnerable individuals including, *inter alia*, unaccompanied minors, single parents with minor children, and those with a post-traumatic disorder (in particular survivors and relatives of victims of shipwrecks). This can include referring such persons to appropriate social supports and alternative facilities. It is particularly important unaccompanied minors are appointed a guardian, to increase trust in the process and reduce the risk of disappearance. Greece's existing structures will require additional resources to adequately cater for an increase in this cohort.

Screening and assessment in Greece

As the European Commission's statement makes clear, "every case needs to be treated individually ... There is therefore no question of applying a 'blanket' return policy."²³

Individualised screening and assessment will be crucial in the current Greece and European context, because of the diverse demographic profile of new arrivals. This includes large numbers of women and children, many seeking family reunification with family members already in the EU. Many are Syrians, Iraqis and Afghans with possible protection needs (although screening and assessment must not be based on nationality alone).²⁴

Moreover, the European asylum acquis requires Greece to consider alternatives to detention in each case. If it does not exist already, Greece needs to develop a robust screening and assessment process that informs decisions about placement options.

Placement in the community without conditions in Greece

Annex B describes the types of community placement options in Greece and our quick assessment of the scalability and transfer to the islands for each. Some specific examples of placement in the community without conditions, which includes reception options, are described below. All highlight the vital contribution of civil society organisations in supporting individuals in the community. A few examples from other countries are provided in Annex C.

Example 1 - Hosting at family homes – Solidarity Now is running a hosting scheme that encourages Greek households to accommodate asylum seekers in order to meet the acute demand for reception places in Greece. In and around Athens and Thessaloniki respectively, 600 and 100 households, who have been screened by social services, will be involved in the project. The hosting arrangement can last for two months with a possibility of extension. The household receives a small sum of support (€ 2.5 for each guest asylum applicant). The asylum seekers' subsistence needs are met by supermarket vouchers. Through their centres in Athens and Thessaloniki, Solidarity Now provides services to the hosted asylum seekers, including primary health care, legal aid, asylum application support, and psychological social support and legal aid to children to facilitate their case resolution. They are also supported by a team of trained social workers. The scheme is funded by UNHCR.²⁵

²³ *ibid.* p.4.

²⁴ However, the quality of screening and assessment practice has been extremely poor during the refugee "crisis", with many states relying on crude and unreliable forms of screening. For a period, nationality-based screening was the norm at many borders, with Syrians, Iraqis and Afghans being allowed to cross the borders. It will take a considerable effort to move away from this nationality-based mindset towards an adequate individualised screening and assessment process.

²⁵ Based on email communications with Solidarity Now. The organisation also runs a hosting project in an old hotel in Athens for 300 individuals as well as an open reception centre that can accommodate 1,000 individuals per night.

Example 2 - Shelter for UAMC - The Society for the Care of Minors runs supported housing for male unaccompanied minors and children in downtown Athens. The shelter has a long history in the community and can accommodate up to 17 children over the age of 12. A friendly family atmosphere is maintained in this small-scale operation where staff members with a social work background provide individually tailored case management support, helping the children towards case resolution. Some are seeking family reunion and others are in the process of exploring all options that are available to them towards case resolution. Local schools, businesses and residents and volunteers provide support and connections to the young residents. The programme was funded by the European Refugee Fund, followed by the Greek government.

Example 3 - Fostering network for UAMC - METAdrasi²⁶ is developing a network of foster families as an alternative to the detention of unaccompanied and separated children in Greece, which both addresses the best interests of the child and is more cost efficient than placing UASC in shelters. Based on research on the existing European foster care systems for UASC, this pilot project prepared the selection criteria of foster families. Using this model, METAdrasi now has a register of 16 families (11 Greek speaking, 3 Arabic speaking, 2 Farsi speaking). So far five particularly vulnerable UASC for whom accommodation facilities were not appropriate have been placed with foster families and a further six are in the process of being fostered. While the pilot project operates in Athens, METAdrasi aims to provide some support for UASC arriving at the borders, by placing UASC with families directly from the borders. They are working in close collaboration with Public Prosecutors in border locations. Public Prosecutors have already expressed an interest in facilitating this procedure for extremely vulnerable cases. In addition, METAdrasi runs two transit accommodation facilities in Lesbos and Samos to limit the time the UASC stay in detention or in unsafe conditions.

Placement in the community with conditions in Greece

A proactive approach using case management to work towards resolution of migration matters is effective in the majority of cases. However, conditions may be necessary after screening and assessment has identified concerns in the individual case.

In Greece, article 22 (3) of Law 3907/2011 provides for conditions that may be imposed including regular reporting to the authorities, deposit of an adequate financial guarantee, the submission of documents or the obligation to stay at a certain place. Within the new asylum procedures, there is an obligation to examine such alternative measures before detention is imposed.

Case management and case resolution in Greece

The example community placement options described above suggests case management is provided by some services in Greece. However, the depth of experience and application with different cohorts is not well established. Further analysis of case management capacity in the country will be required as part of the proposed rapid evaluation process.

We understand that case resolution options in Greece would likely include resettlement of refugees to the EU through burden sharing arrangements; resettlement to a third country; family reunification; local integration; removal to Turkey; or removal to country of origin. Further analysis of case resolution options will be required as part of the proposed rapid evaluation process.

Minimum standards in Greece

All placement options achieve the best outcomes when minimum standards are applied. Minimum standards help to ensure the proper functioning of migration governance systems, the effectiveness of alternatives and the respect of the dignity and rights of all persons regardless of migration status. These include respect for fundamental rights, meeting basic needs, legal status and documentation, legal advice and interpretation, fair and timely case resolution, and regular review of placement decisions.

In the Greek context, minimum standards relating to asylum seekers are established by the recast Reception Conditions Directive. This ensures applicants have access to housing, food, health care and employment. Greek authorities will require financial support and resource allocation to be able to meet these standards moving forward.

²⁶ METAdrasi has been involved with UASC in Greece since 2011. It also escorts UASC from the border entry points to accommodation facilities on the mainland thus limiting the time UASC remain in detention or unsafe conditions. They have 25 trained escorts undertaking this activity on a regular basis and have safely escorted over 3,500 UASC since 2011. Through locally based lawyers in the northern Aegean islands, Samos, Chios and Lesbos, they have full access to and provides free legal aid inside detention facilities with an emphasis on vulnerable cases

Other Considerations

In terms of possible geographical locations of such community-based alternatives, IDC has been informed that pushback from local communities is likely on islands, due to fears of the impact many asylum seekers might have on tourism, small communities and the limited infrastructure to absorb new arrivals.²⁷ Recent attacks on asylum seekers by Golden Dawn members on the islands demonstrate the need take seriously safety considerations. To reduce risk, such alternatives should be located close to urban areas, so as to facilitate speedy integration of those that are granted refugee status and to avoid ghettoization. In urban areas, alternatives can also benefit from support from community organizations of previously settled refugees. For example, UNHCR is currently using Greek Forum of Refugees members as community workers around Athens. Urban areas also contain second generation migrant groups who can act as a bridge between new arrivals and the Greek state and society.

There are also other systemic considerations. IDC's global research shows that the effectiveness of community-based alternatives to detention depends on the level of trust individuals place in the system. Yet, presently there are many practices in Greece which undermine such trust. Mandatory detention, lack of information, slow family reunification and relocation, and inadequate access to legal counsel and other specialist services all erode this trust and can encourage individuals to disengage with the immigration procedures. For example, the Greek government has been trying to convince many asylum seekers stranded in Idomeni (Greek-Macedonian border) and at the port of Piraeus to relocate to newly constructed open reception facilities. It has been reported to IDC²⁸ that asylum seekers' lack of cooperation with the authorities stems from the fear that if they are taken to these camps, they will be detained and returned to Turkey, based on developments in the Hotspots on the islands. The authorities therefore need to be mindful of the unintended impact of the hotspot regime and ensure that the whole asylum and immigration system from beginning to end maintains credibility in the eyes of asylum seekers and migrants.

OPTIONS MOVING FORWARD

Framework for expanding community-based alternatives in Greece

- **Expand and develop community-based placement options with quality case management to facilitate timely, humane and fair case resolution.** This will require a rapid evaluation of existing placement options, advice from local actors, consideration of community impact and appropriate resource allocation.
- **Link up screening and assessment with appropriate community placement via a referral mechanism.** There needs to be a clear process to decide on the best placement options on a case-by-case basis, including the ability to identify vulnerable individuals and apply appropriate conditions, if judged necessary. Analysis of the new law 4375/2016 and the new border procedure should be conducted to identify when, where and by whom screening and assessment is carried out and alternatives to detention can be considered.
- **Coordinate and collaborate at regional, national and local levels.** Authorities, civil society organisations, service providers and other stakeholders need to work together closely. We recommend the process be piloted at a smaller scale before being expanded.
- Gather information about **the size of the population**, including anticipated size of various cohorts. Calculate possible costs of 1) setting up and running an alternative to detention pilot for each cohort and 2) scaling up and maintenance costs. Where possible and desirable, calculate comparative costs savings that are generated by replacing detention with alternatives. The largest **cost saving** is likely to come from reduction of the detention estate. To achieve cost-neutrality, such savings can be reinvested in community-based alternatives to detention.
- **Secure and allocate financial resources and capacity building support.** Additional resources must be not only secured but efficiently allocated. Further, adequate capacity building must be provided to ensure all involved can support the best outcomes.

²⁷ Communication with Open Society Foundation.

²⁸ Communication with the Open Society Foundation.

- **Pre-empt potential expansion of detention on the mainland.** There is a real risk that detention on the mainland will also increase. As pre-20th March asylum claims are processed, more individuals will be placed in the returns process. Greece currently underuses alternatives to detention for those preparing for return.

Proposed process for coordination and operationalisation

1. Identify local actors

First and foremost, identify local actors who can lead this process, both on the mainland and the islands. For example, the Greek Coordinating Body for Management of the Refugee Crisis could take the lead, with the support of EU representatives, UNHCR, IOM, international and national civil society groups, while engaging communities. Effective cooperation with the Greek Asylum Service, Appeals Authority and "backlog" Committees is vital for implementation. IDC does not have sufficient local knowledge of specific actors to elaborate on this further.

2. Conduct rapid evaluation

Support those key bodies to conduct a rapid evaluation of existing community-based models that can be strengthened and replicated or scaled up. It will be vital to identify existing case management operations that can be supplemented through partnership work, capacity building and investment, particularly in relation to working with children, families, vulnerable individuals and those facing return. IDC's CAP model and explanation of the foundations of effective case management²⁹ could be used as a guide to identify shortcomings in, for example, meeting minimum standards (respect of fundamental right, basic needs, formal status and documentation, legal advice and interpretation, fair and timely case resolution, regular review of placement decisions) and assess the current level of case management capabilities of each existing community-based model.

3. Draw up an implementation plan

Based on the result of the rapid evaluation, draw up an implementation plan. This process must involve a range of actors, including civil society organisations, lawyers, social workers, INGOs, other specialists and municipalities and other key partners. Such a plan should ensure that adequate support is provided to these actors, as well as Greek society and economy. Such alternatives should not be located in areas of likely local opposition or far from urban areas and community networks.

4. Develop collaborative working relationships

In delivering the implementation plan, collaborative working relationships and information sharing mechanisms among participating stakeholders and communities need to be developed and maintained. This should include a range of local service providers, including health care, education, legal advice, family and child support, trauma counselling and other specialist services, municipalities, police, NGOs and other civil society groups and community representatives such as faith groups. Individuals embedded in a supportive community network are more likely to remain in contact with their community supporters and the authorities and achieve case resolution. Gaps can be addressed through partnership arrangements with locally available service providers and communities. Such mechanisms can also promote community cohesion.

5. Undertake regular evaluation

Regular evaluation of the community options, including effectiveness of referrals to placement options, should be undertaken by the Greek government and the EU to monitor wellbeing, costs and compliance outcomes of community-based ATDs and make adjustments to improve the programmes.

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²⁹ Case management builds on the foundations of: early intervention, face-to-face, one-on-one contact, regular assessment and review, confidentiality and information management, consulting key stakeholders, trust, building rapport, consistent relationships and information provision, explore all available options to empower individuals to make decisions, clear roles and expectations and resources and options for individuals as needed. See Sampson et al., *There are alternatives, op.cit.*, p. 47 - 58.

ANNEX A – COMMUNITY ASSESSMENT AND PLACEMENT MODEL (CAP Model)

The IDC's revised Community Assessment and Placement (CAP) model provides governments with a framework to explore alternatives for their context, so that:

- Detention is shown to be legal, necessary and proportionate in the individual case
- Detention is only used as a last resort in exceptional cases
- Community options are as effective as possible

As shown in Figure 1, the CAP model includes enacting the principles of liberty and of minimum standards, while reducing the need for detention through appropriate screening and assessment, placement and case management. This paper primarily focuses on the central three elements of the CAP model.

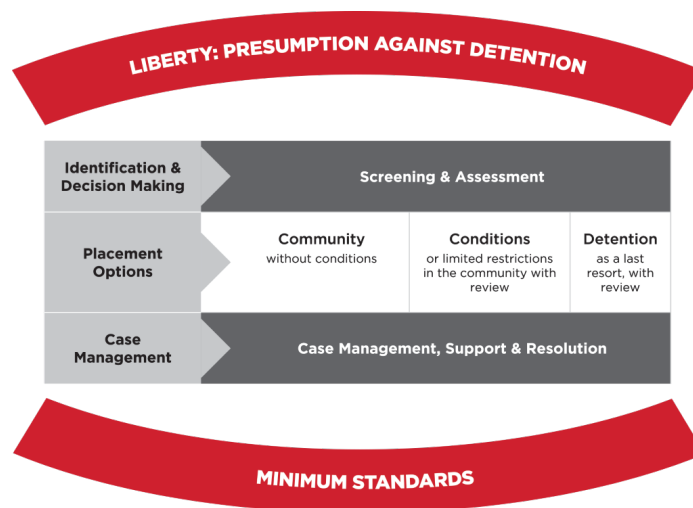


Figure 1: The Community Assessment and Placement Model (CAP model)

Liberty: Presumption against detention

The right to liberty and a presumption against detention are the first of two principles that underpin the Revised CAP Model. The right to liberty is a fundamental human right, enshrined in all major international and regional human rights instruments. It is guaranteed to all persons, including refugees, asylum seekers, migrants and stateless persons, irrespective of their legal status. This right to liberty imposes a number of limitations on the power to detain, including the requirement that detention is justified by a legitimate objective, is in accordance with the law, and is not arbitrary. Any system seeking to avoid unnecessary and arbitrary detention must be based on a presumption of liberty.

The research identified the following strategies to protect the right to liberty. These strategies are strongest when established in law; however, they can also be stated in policy or established in practice.

These include laws, policies and practices that:

- Establish a presumption of liberty
- Provide a mandate to apply alternatives in the first instance
- Only permit detention when alternatives cannot be applied
- Prohibit the detention of vulnerable individuals

Identification and decision-making

Screening and assessment are crucial for ensuring effective migration governance. Individual screening and assessment are the only ways to ensure detention meets the tests of necessity and proportionality and is not arbitrary. Indeed, immigration authorities are increasingly using screening and assessment to 'screen out' those who should not be detained and to make informed placement and management decisions.

Through individual screening and assessment, governments can identify and evaluate risk, needs, vulnerabilities and strengths to make an informed case-by-case decision on how to place, manage and support an individual while their immigration status is being resolved. Screening and assessment can occur at all stages in the migration process, including prior to making a placement decision and at periodic intervals during such placement. Ongoing periodic reassessment is crucial to review and adjust placement decisions and to ensure any conditions on their placement are still necessary.

The key areas that are central to effective case management and hence inform the screening and assessment framework are:

- Legal obligations of states towards individuals
- Identity, health and security checks
- Vulnerability
- Individual case factors
- Community context

Placement options

There are various placement options available to a State in supporting and managing an individual, pending case resolution:

- Placement **in the community without conditions** is the preferred option and applicable in the majority of cases
- Placement **in the community with conditions** if necessary and proportionate after individual screening and assessment has identified concerns
- Placement in **detention is the measure of last resort**, to be used in exceptional circumstances, provided the standards of necessity, reasonableness and proportionality have been met in the individual case

All placement options achieve the best outcomes when minimum standards, including basic needs, formal status and documentation, legal advice and interpretation, are applied.

Conditions or limited restrictions that are applied while individuals remain in the community may include:

Monitoring ensures that individuals remain in contact with authorities and can be located to participate in the progress of their cases as required. Monitoring mechanisms can include registration with authorities, nominated address, reporting requirements and directed residence.

Supervision involves a more substantial commitment to directly monitor, evaluate and respond to an individual's compliance with their undertakings and monitoring activities. It is separate from case management due to its specific focus on compliance and case resolution. Supervision can be conducted directly by migration authorities or through delegation.

Surety and other consequences for non-compliance are sometimes used with the intention of encouraging individuals to meet the conditions placed upon them, although there is no evidence that such negative consequences increase compliance. Examples include bail, bond, surety or guarantee and threats of harsher conditions, or (re)detention.

The need for conditions or restrictions can be mitigated by providing assistance and tools in the community, such as case management and legal advice, that enable individuals to remain engaged with the immigration procedures.

Case management, support and case resolution

The majority of successful alternatives identified by the IDC rely on case management to work towards case resolution, while maintaining high levels of compliance with conditions and supporting health and wellbeing.

Case management is “a comprehensive and co-ordinated service delivery approach ... to ensure a co-ordinated response to, and support of, the health and wellbeing of vulnerable people with complex needs.”³⁰ Case management relies on identifying all the needs and strengths of the individual;

³⁰ Sampson et al., *There are alternatives*, op.cit., p. 30.

addressing those needs and building upon the strengths as able with available resources; and building resilience in the individual to deal with the range of outcomes before them. Case managers form working relationships with individuals and families to empower, enhance their wellbeing and problem-solving capacities, resolve outstanding issues, provide information on how to obtain services and resources in their communities, and work towards the protection of people who are not in a position to do so themselves. Satisfactory outcomes can often be achieved without the imposition of onerous reporting or other restrictive conditions.

Case resolution focuses solely on the outcome of the migration case. This responsibility sits with immigration authorities. However, case management can contribute to timely case resolution by identifying barriers to migration outcomes and working on shared solutions. Case resolution can draw from a wide range of visa, residency and departure options.

Minimum standards

The second principle in the Revised CAP model is minimum standards. These minimum standards underpin all decision-making and placement processes in the Revised CAP model. There are a number of minimum standards which States must respect and uphold for all individuals, regardless of legal status. These minimum standards help to ensure the proper functioning of migration governance systems and the effectiveness of alternatives.

Without these minimum standards in place, alternatives are also less likely to achieve desired rates of compliance, case resolution and respect for human rights. Individuals are better able to remain in compliance with authorities if they can meet their basic needs while in the community. They are also more likely to accept a negative visa or status decision if they believe they have been through a fair immigration process; they have been informed and supported through the process; and have explored all options to remain in the country legally.

Minimum standards include:

- Respect of fundamental rights
- Basic needs
- Formal status and documentation
- Legal advice and interpretation
- Fair and timely case resolution
- Regular review of placement decisions

ANNEX B – EXISTING COMMUNITY PLACEMENT OPTIONS IN GREECE

Reception capacity

The previous national law guaranteed a minimum level of living standards for one year for those who have lodged an asylum claim, although the majority of applicants did not receive this support.

As of 15 September 2015, the Greek government had 1,271 places³¹ in 17 open reception centres (each accommodating 18 to over 300 persons) or 24 apartments operated by civil society organisations. The system has been unable to cope with the scale of the need,³² and many individuals find their own accommodation or remain destitute. Provisions, such as the amount of subsistence money or services, vary significantly from one centre to another.³³

Arrival numbers

This capacity is far outstripped by the number of people needing accommodation. According to the Open Society Foundation, as of 6 April 2016, 13,163 people were accommodated in five facilities designated as ‘shelter structures’ in Cherso, Nea Kavala, Diavata, Eleonas and Schisto. A further 11,828 were accommodated in open centres that provide temporary accommodation, including 4,536 in a former airport terminal and two Olympic sports halls and 5,102 in port passenger terminals. In addition, families were being hosted in hotels and apartments. A map available [here](#) uses government data to show where people are located in Greece. The purple dots designate larger camps, blue ‘hospitality in closed centres’ which includes both temporary camps and other places such as passenger terminals, green and brown designate where people are staying in open spaces and red the Hotspots where people are detained.³⁴

Types of community placement options in Greece

The IDC has identified at least **six types** of community placement options operating in Greece.³⁵ They are described briefly below together with our initial assessment of scalability, based on limited publicly available information.

Type 1: Small scale open reception centres on the mainland – These are centres and apartments which existed on the mainland before the migrant “crisis”, as a formal part of the Greek asylum reception infrastructure. A total of 1,271 beds are managed in clusters, their size ranging from 18 to over 300 beds. These centres are run by civil society organisations, working under the National Centre of Social Solidarity. Adults, families, single parents and UAMs are accommodated and receive differing degrees of case management and other support. It appears that there is generally a significant departure rate.

It is possible that these could be scaled up and established on the islands, with increased case management support. Where necessary and justified, conditions could be applied.

Type 2: Large-scale open reception centres on the mainland – As described, the Greek government, with the help of the army and others, has recently started opening a number of large-scale open reception centres. It has been reported the operation has experienced considerable difficulties. For example, those who are stranded at Idomeni are reluctant to be transferred if they believe that the border might reopen. On social media, volunteers have reported inadequate conditions and material provisions at these centres,³⁶ including inadequate provision of information. It is unclear if any case management support is offered at these centres.

The conditions and the level of assistance offered at these reception centres must be improved quickly, especially as these individuals are likely to need to stay there for some time. Where these centres are located near urban areas and robust case management can be offered, they could be potentially

³¹ As of September 2015.

³² However, a high turn-over of the residents due to frequent departures from accommodation mitigated the overcrowding situation. AIDA, report p80.

³³ AIDA report p78 “The involvement of external service providers (NGOs and others) in the operation of the reception facilities is regulated on a case-by-case basis, depending on the provisions of the individual programme agreement concluded between the external service provider and the Division of Social Protection and Solidarity, Department for the Protection of Refugees and Asylum Seekers at the Ministry of Labour, Social Security and Social Solidarity. By virtue of Ministerial Decision 93510/2011, coordination of the third parties involved in the system for managing accommodation was assigned by the Ministry of Health to the National Centre for Social Solidarity (which is placed under the supervision of the Ministry of Labour, Social Security and Social Solidarity)”

³⁴ This information was supplied by the Open Society Foundation.

³⁵ IDC has identified the following existing types and examples of community placement options, with varying degrees of material and case management support. This list is not exhaustive; local actors must be consulted to gather more information.

³⁶ See for example, daily updates from Are You Syrious? on Facebook.

expanded. Where necessary and justified, conditions could be applied. However, many of these centres appear to be located in isolated areas, and providing adequate case management in large centres is likely to be challenging.

Type 3: Open reception centres on the islands - Before the EU/Turkey deal, temporary open shelters were provided on the islands for those waiting for registration (to obtain Expulsion Papers) and those who were waiting for the ferry to Athens. While it was reported that the conditions could be improved, the open nature of the reception centres made it possible for UNCHR, MSF and other international NGOs and many formal and informal groups of staff members and volunteers to provide much needed assistance that the Greek government was not able to provide.

With adequate case management and applying conditions only where necessary, there is no reason why such open reception centres cannot be maintained. However, local communities' responses to such centres and availability of necessary services are not clear.

Type 4: Hotels and other accommodation - Some hotels have been used in Athens to accommodate families waiting for relocation,³⁷ with management and support by UNHCR. We also understand that Solidarity Now manages one such hotel in Athens that can accommodate up to 300 and the Greek Council for Refugees hosts vulnerable individuals in hotel rooms.

It is possible that these could be scaled up, with increased case management support and conditions where necessary.

Type 5: Informal support centres / support networks - Various community options have been created and run by citizens' groups with limited resources, both on the islands³⁸ and the mainland.

These actors provide vital case management support and must be involved if community-based alternatives to detention are to be developed. Depending on the set-up of the programmes, they could also be scaled up.

Type 6 - Self-funded accommodation and/or destitution - Because of the limited availability of statutory asylum reception, many people have resorted to private accommodation. Although asylum seekers with asylum cards can apply for work permits, in practice getting a job is difficult due to a strict labour market test and the general economic collapse in Greece. As a result, many fall into destitution.

IDC's research shows that when asylum seekers and migrants are unable to maintain minimum level of welfare support, they tend to disengage with the immigration procedures. Therefore, it is strongly recommended that individuals are not left destitute.

³⁷ <http://tracks.unhcr.org/2016/03/lost-and-found/>

³⁸ See examples of All Together Village <http://www.reinform.nl/?p=8139> and PIKAS https://secure.avaaz.org/en/petition/Mr_Galinos_Mayor_of_Mytilini_SAVE_LESVOS_SOLIDARITY_CAMP_PIKPA/?fpJoLab&pv=8 There have also been numerous social media reports of local families supporting new arrivals on a temporary basis.

ANNEX C – INTERNATIONAL EXAMPLES

There are a number of examples of alternatives to detention internationally, which may have some insights for the current Greek context.

Case management with migrants

In Australia, case management was introduced in a series of community-based alternatives to detention pilot projects (from 2005 to 2009), as part of a shift from a “one-size fits all” enforcement approach to one that engaged with individuals³⁹. A number of these programmes used social work principles borrowed to inform, support and empower individuals to prepare for all possible immigration outcomes, rather than focusing exclusively on achieving return. They also included screening and assessment, access to legal advice, the provision of translated information and partnerships with civil society in implementation. These programmes proved highly effective in minimising the use of detention. They achieved high levels of voluntary departures and low levels of absconding, while ensuring the rights and dignity of asylum seekers and migrants were upheld. For example, one programme demonstrated a 99% compliance rate over five years, with 84% of refused asylum seekers voluntarily repatriating⁴⁰. On average, 94% of people within the programs complied with their reporting requirements and did not abscond⁴¹. Furthermore, the use of alternatives to detention also proved a cost saving to government, at one-third the cost of traditional detention and removal practices.

Return-houses for families

In Belgium, an alternative to detention featuring case management and material, social and legal assistance has allowed the state to stop detaining families with children⁴². Families are accommodated in individual open housing units, called “return-houses” and have freedom of movement with some restrictions and rules⁴³. Every family member receives support in terms of food, medical care and social and legal assistance. Within the return-houses, families receive counselling from a return-coach, who works for the Foreigners Office and whose role is to prepare families for all possible immigration outcomes while supporting them in their current situation. They provide families with information and coordinate the involvement of other actors working with the family, for example, lawyers, and help children enrol in school. The focus is on “informed decision-making, timely and fair status determination, and improved support for coping mechanisms for the individuals themselves”⁴⁴. As a recent review noted, “The preliminary outcomes of this programme are positive. The majority of the families did not abscond and remain in contact with their case manager, suggesting that there is no need to detain the people in question.”⁴⁵

Shelters for asylum seekers

An asylum seeker shelter system is run by civil society in collaboration with authorities in Toronto, Canada. The system demonstrates holistic support in enabling individuals to live in the community while their migration status is being determined. As recent research explains:

*In conjunction with the available legal rights and state entitlements, the shelters seemed to ensure the treatment of asylum-seekers with dignity, humanity and respect, in particular in providing a supportive environment with adequate material support and accommodation. The right to work, which seemed both practical and effective in Toronto, was crucial in this regard. The shelters facilitate access to legal advice and representation from the outset of the RSD process, subject to the limits of the legal aid system. Caseworkers in the shelters filled the role of providing a sort of advisor although this did not amount to formal case management. In this context, aside from some common minimal requirements regarding notification of change of address to the immigration authorities, most asylum-seekers lived at liberty, without restriction ... [the system] provides all the key factors to ensure asylum-seekers’ cooperation, removing any need for detention at all.*⁴⁶

³⁹ IDC, *Case management as an alternative to immigration detention: The Australian Experience* (2009).

⁴⁰ *Ibid.*, p. 6

⁴¹ *Ibid.*, p. 10.

⁴² Launched in 2008, the project now accommodates families with children in return procedures, families with minor children at the border and families with minor children subject to the EU’s Dublin procedure. See for example, UNHCR, *Alternatives to detention for Asylum seekers in Belgium*, available at: <http://www.refworld.org/pdfid/524fc3ef4.pdf>

⁴³ For example one adult member of the family is normally required to remain present in the unit.

⁴⁴ Liesbeth Schockaert, “Alternatives to detention: Open family units in Belgium,” *Forced Migration Review* (September 2013), available at: <http://www.fmreview.org/detention/schockaert>

⁴⁵ *Ibid.* Absconding rates have hovered between 20% and 25% since the inception of the programme, see JRS Europe, *From Deprivation to Liberty: Alternatives to Detention in Belgium, Germany and the United Kingdom* (December 2011).

⁴⁶ *Ibid.*

Shelters for unaccompanied minors

UNHCR funds the operation of two shelters for unaccompanied minors (UAMs) in Indonesia, each housing about 30 young people. These minors are at various stages of their refugee protection process, including several stateless Rohingya youth. Most residents are boys. The shelters are located in rented houses, close to both the CWS and UNHCR offices where young refugees/asylum seekers are identified and referred to the shelter until they are resettled or they 'age out.' Unaccompanied and separated minors are identified either through UNHCR's registration process, or other partner organisations that alert the shelter to UAMs/separated children in detention centres across Indonesia. A written request for referral to the shelter is sent immediately to the immigration department and police and the UAM/separated minor is transferred to the shelter. There is also a community-based child protection programme in place for UAMs, but there is a limit on the number of families that can provide placement. This was why a group home or shelter had to be created.

Guardianship for unaccompanied minors

Several resources provide insights on working with unaccompanied minors.⁴⁷ The Connect project⁴⁸ identifies and promotes good practices on reception and protection of unaccompanied minors in Europe, focusing on the countries of Italy, the Netherlands, Sweden and the United Kingdom. The project has developed a series of practical tools to support actors involved in working with unaccompanied minors to address key issues such as access to reception services, legal representation, guardianship, education and health care.

The report on Italy may of particular relevance to the Greek authorities. The following excerpts have been collated from the report to provide a short summary:⁴⁹

Italy was the largest recipient of unaccompanied children in Europe in 2013. Italian law guarantees protection to all unaccompanied children with the right, and the permit, to stay in Italy even if they do not apply for asylum. Further, the law provides that if a child does not have a responsible adult they should be appointed a guardian "as soon as possible" by the Jurisdictional Authority, especially within 48 hours of their stated intention to apply for asylum.

Unaccompanied children cannot be detained and Italian legislation states that a child cannot be housed in centres with adult immigrants (Law Decree 25/2008, Art. 26.6; Directive 7/12/2006, Art. 2). It is provided by national law (Civil Code, Art. 330 and 403; Law 184/1983) that children in difficulty or a state of abandonment should be entrusted to a family or, alternatively, to a children's home. In practice, foster care for unaccompanied children is not widespread and placement in children's care facilities continues to be the first option.

To ensure the child "a family atmosphere" and better care, the law states that children's care facilities should be small facilities hosting a maximum of ten people, with two additional children under special circumstances (Law 328/2000, Art. 3; Law 184/1983, Art. 5, para. 4). In January 2014, 7,824 unaccompanied children were in children's care facilities.

⁴⁷ European Agency for Fundamental Rights, (2014) *Guardianship for children deprived of parental care : A handbook to reinforce guardianship systems to cater for the specific needs of child victims of trafficking*. Available at: <http://www.refworld.org/docid/53b14fd34.html>; UN High Commissioner for Refugees, (2014) *Safe and Sound: what States can do to ensure respect for the best interests of unaccompanied and separated children in Europe*. Available at: <http://www.refworld.org/docid/5423da264.html>.

⁴⁸ Reports and resources are available at <http://www.connectproject.eu/index.html>.

⁴⁹ Connect (2014) *The rules of the game: A mapping of the reception and protection of unaccompanied children in Italy*. Connect and European Commission. Available at http://www.connectproject.eu/PDF/CONNECT-ITA_Report.pdf.