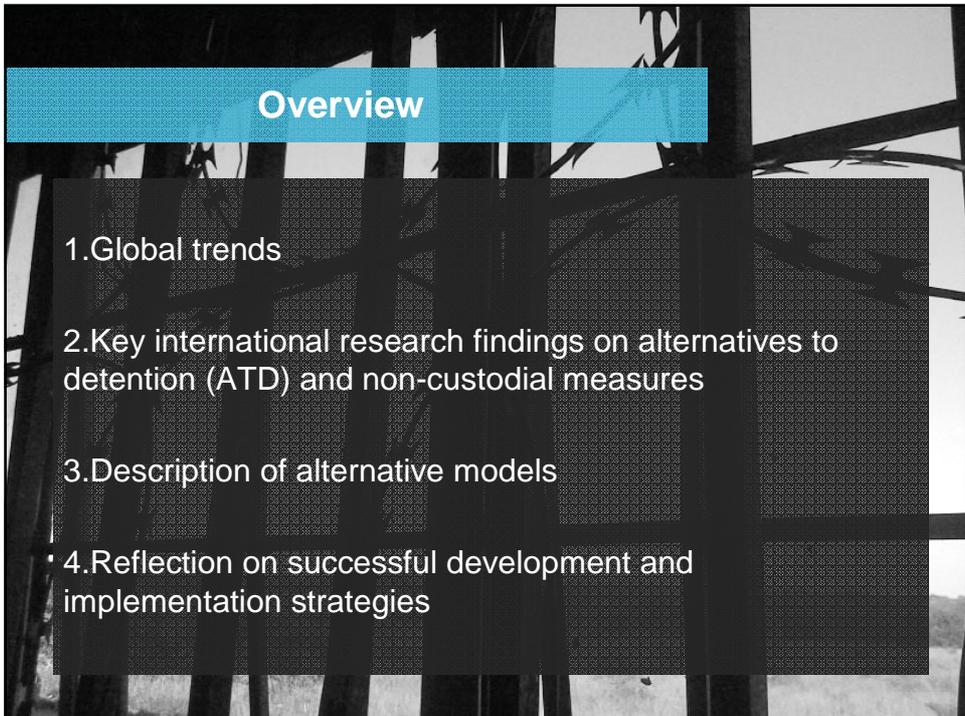




# Alternatives to Detention in Europe in the Returns Context

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

Riga, May 2015



## Overview

1. Global trends
2. Key international research findings on alternatives to detention (ATD) and non-custodial measures
3. Description of alternative models
4. Reflection on successful development and implementation strategies



Children at Pagani Detention Centre in Greece.  
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## Global trends

1. States are increasingly concerned about effective migration management, especially with regards to irregular migration or presence, and the use of immigration detention is on the rise.
2. There is an increasing global awareness, exploration and implementation of non-custodial, community-based alternatives to detention (ATD).
  - Detention has proven financially costly.
  - Detention has been criticised for its impact on human rights.
  - There is no evidence that detention deters irregular movement.
  - Migrants in detention decreased across the EU by 5% every year 2009-13 (European Migration Network, 2014).

## Alternatives to Detention (ATD)



Photo: Migrant shelter in Lebanon

European Court of Human Rights has interpreted prohibition on arbitrary detention as requirement to use less restrictive alternative measures before resorting to detention as last resort.

IDC: 'Any legislation, policy or practice that allows refugees, asylum seekers and migrants to reside in the community with freedom of movement while their legal status is being resolved.'

- Research conducted in 28 countries
- Highlighting spectrum of available ATD and the benefits of ATD
- *Community Assessment and Placement (CAP)*



## Benefits

### Overview



The benefits of ATD are many:

- High rates of compliance
- Cheaper than detention
- Reduce wrongful detention and litigation
- Reduce overcrowding and prolonged detention
- Protect human rights
- Improve health and well being
- Increase voluntary departure rates
- Improve integration outcomes

## Benefits

### Compliance



- Alternatives maintain high rates of compliance and appearance.

90% average compliance rates

- A recent study collating evidence from 13 programs found compliance rates ranged between 80% and 99.9%.

## Benefits

### Cost savings



- Alternatives cost less than detention.  
On average 80% cost savings  
The average ATD cost globally is \$100 / day
- For example: A cost saving of 93% was noted in Canada, and 69% in Australia, compared with custodial detention costs.

## Benefits

### Voluntary departure & integration



- Alternatives increase independent departure and voluntary return rates for refused cases.  
65% average  
In Sweden in 2013, 76% refused asylum-seekers returned voluntarily from the community
- Alternatives improve long-term integration outcomes.

## Key findings

### Key research findings

ATD programs are most successful when:

1. Individuals are informed and feel they have been through a fair process
2. There is a focus on early intervention
3. They provide holistic case management with a goal of case resolution, not simply removal
4. Conditions are not overly onerous
5. Individuals are able to meet their basic needs (work, housing & welfare support)

### Community Assessment and Placement model

#### DECISION MAKING PROCESS

- 1.**  
Presume detention is not necessary
- 2.**  
Screen and assess the individual case
- 3.**  
Assess the community setting
- 4.**  
Apply conditions in the community if necessary
- 5.**  
Detain only as the last resort in exceptional cases

**Not detain**  
Open accommodation

**Conditional release**  
Alternatives to detention

**Detain**  
Last resort with review

#### PLACEMENT OPTIONS

## Step 1

## Presumption against detention

Ensuring a presumption against detention, and detention as a last resort in law and there is a legal mandate for alternatives in law, including:

- Certain vulnerable groups are not detained
- Grounds for detention as a last resort and limitations on detention are clearly outlined in law

### Community Assessment and Placement model

#### DECISION MAKING PROCESS

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#### PLACEMENT OPTIONS

## Step 2



## Screening and assessment

Screening and assessment processes allow informed decisions on the need to detain.

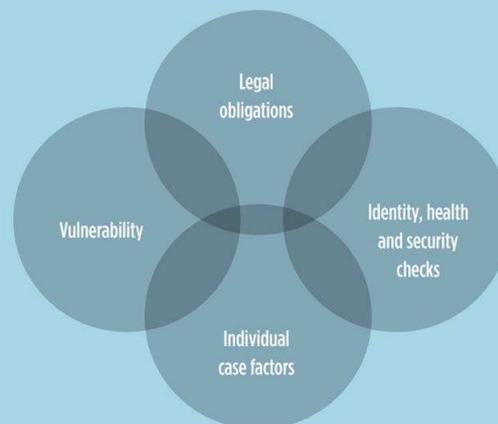
Screening can identify both risk factors, and vulnerabilities and protection needs that make detention inappropriate.

The vast majority of EU Member States either prohibit or limit to exceptional circumstances the detention of vulnerable people.

## Step 2



## Screening and assessment



## Step 2

### Vulnerability considerations



## Screening and assessment

Age	Elderly and children, particularly unaccompanied and separated minors
Gender / Diversity	Women at risk, nursing mothers and pregnant women; and those at risk due to sexual orientation or gender identity
Health	Physical and mental ill health or disability and psychosocial and welfare factors
Protection needs	Refugees, asylum seekers, stateless persons, trafficked persons, survivors of torture and trauma and of sexual and gender-based violence

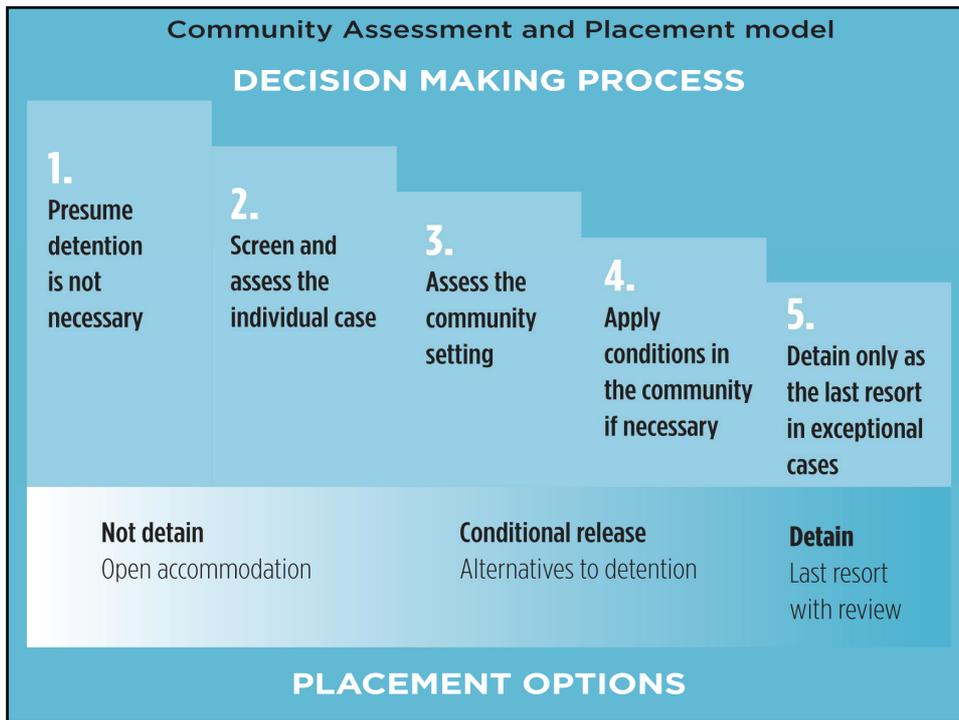
## Step 2



## Screening and assessment

Developments in international law recognize that children should never be detained because of their parents' migration status.

In 2012, the Committee on the Rights of the Child called on states to "cease the detention of children on the basis of their immigration status." The Committee stated that alternatives should be used that allow children to remain with their parents or guardians.



## Step 3



## The community setting

Assessing the community setting can identify factors that support or undermine a person's ability to remain engaged in process and comply with authorities. This enables decisions on referral, support and management required.

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## Step 3

### Case management



## The community setting

Case management involves supporting and managing individuals whilst their immigration status is being resolved.

It enables:

- Informed decision-making
- Timely and fair status resolution
- Improved welfare
- Improved trust in the system

## Step 3

### Case resolution



## The community setting

Successful case management for those facing return:

- Identify barriers to departure
- Stabilize health and assist individuals to cope and have trust in the process
- Assist individuals to explore a long-term sustainable solution, such as:
  - Exploring legal options to remain
  - Exploring third country options and relocation to other areas in country of origin
  - Exploring return support needs

## Community support examples

- Community centres to access:
  - Information
  - Legal advice
  - Emergency assistance
  - Information and advice on assisted voluntary return programs
- Accommodation
  - Shelters
  - Open reception centres
  - With family or friends
- Case management
- Permission to work

## Case study: case management in Australia

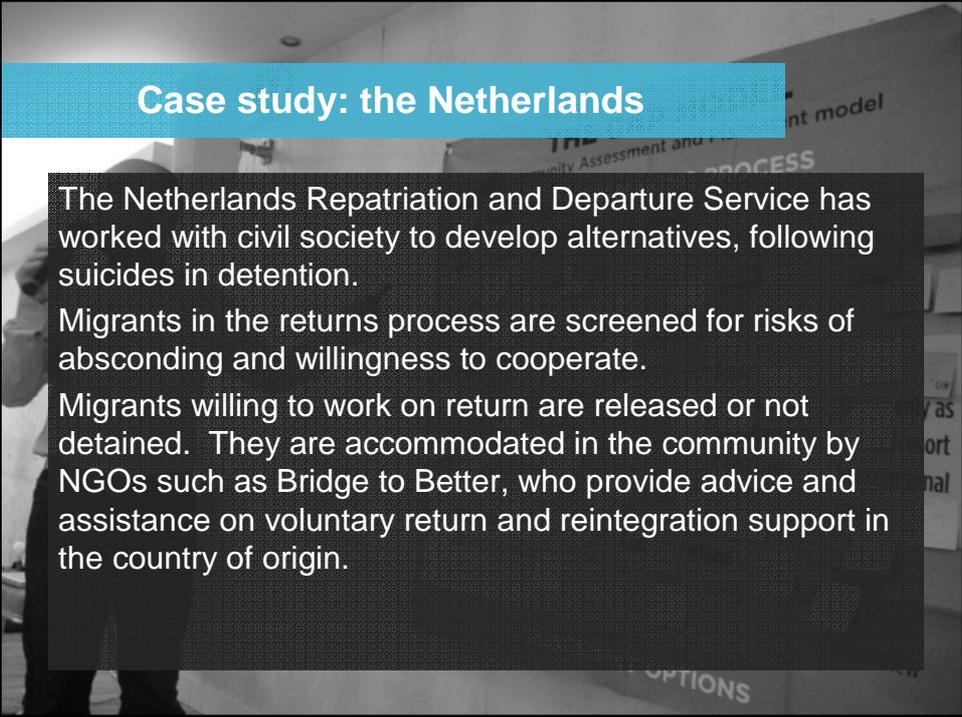
Australia developed alternatives to detention as it moved away from mandatory indefinite detention.

The Community Care Pilot supports and prepares asylum-seekers and migrants in the community to integrate or depart.

It involves case management, accommodation / work rights, temporary visas, advice on voluntary return.

Outcomes:

- 1000 people in 2 years
- 60% voluntary return of refused cases
- 3% absconding rate

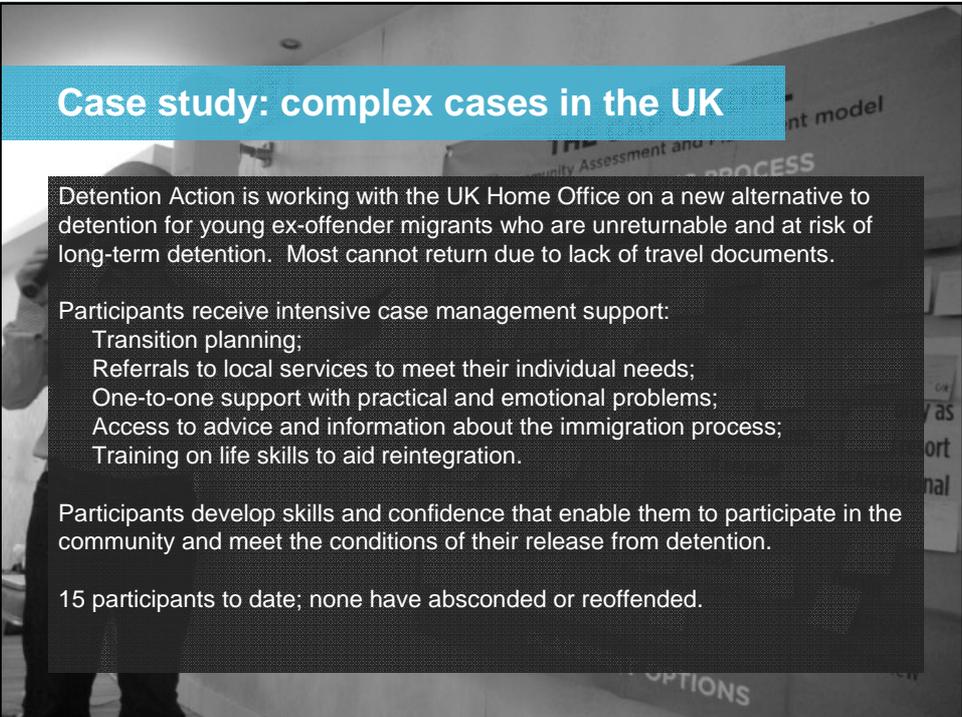


## Case study: the Netherlands

The Netherlands Repatriation and Departure Service has worked with civil society to develop alternatives, following suicides in detention.

Migrants in the returns process are screened for risks of absconding and willingness to cooperate.

Migrants willing to work on return are released or not detained. They are accommodated in the community by NGOs such as Bridge to Better, who provide advice and assistance on voluntary return and reintegration support in the country of origin.



## Case study: complex cases in the UK

Detention Action is working with the UK Home Office on a new alternative to detention for young ex-offender migrants who are unreturnable and at risk of long-term detention. Most cannot return due to lack of travel documents.

Participants receive intensive case management support:

- Transition planning;
- Referrals to local services to meet their individual needs;
- One-to-one support with practical and emotional problems;
- Access to advice and information about the immigration process;
- Training on life skills to aid reintegration.

Participants develop skills and confidence that enable them to participate in the community and meet the conditions of their release from detention.

15 participants to date; none have absconded or reoffended.

## Reintegration support for unreturnable ex-offenders in the UK



## Step 3

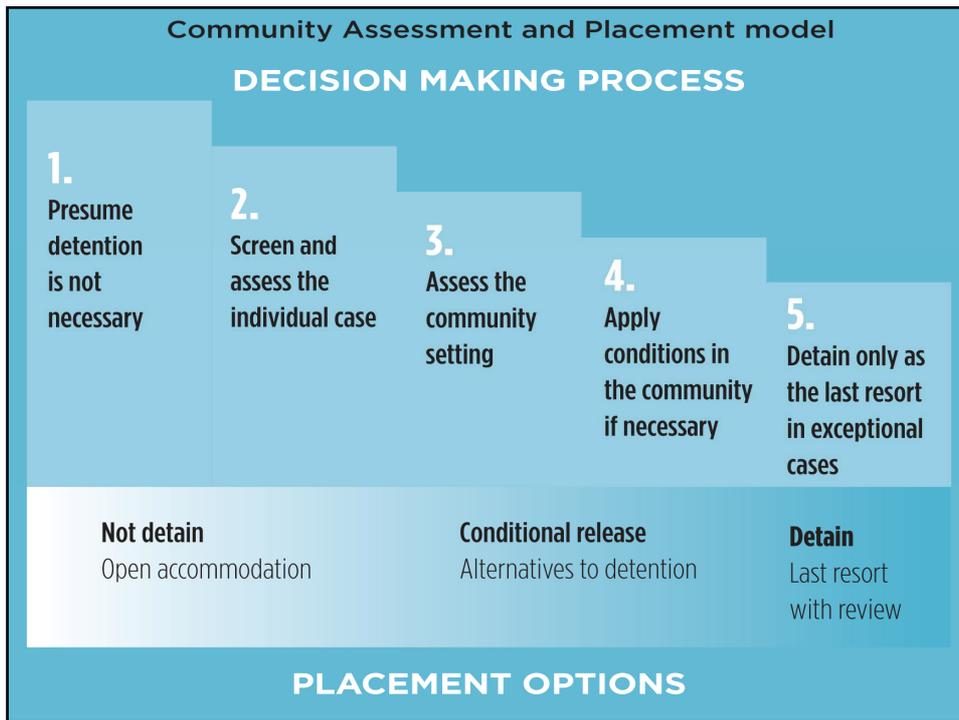
### Case resolution

## The community setting

Managing migrants in the community is more challenging in a transit country with limited minority communities.

However:

- Alternatives to detention can still stabilize migrants' situations
- Avoiding detention improves trust and increases the likelihood of compliance
- Transit countries can become destination countries (e.g. Turkey)



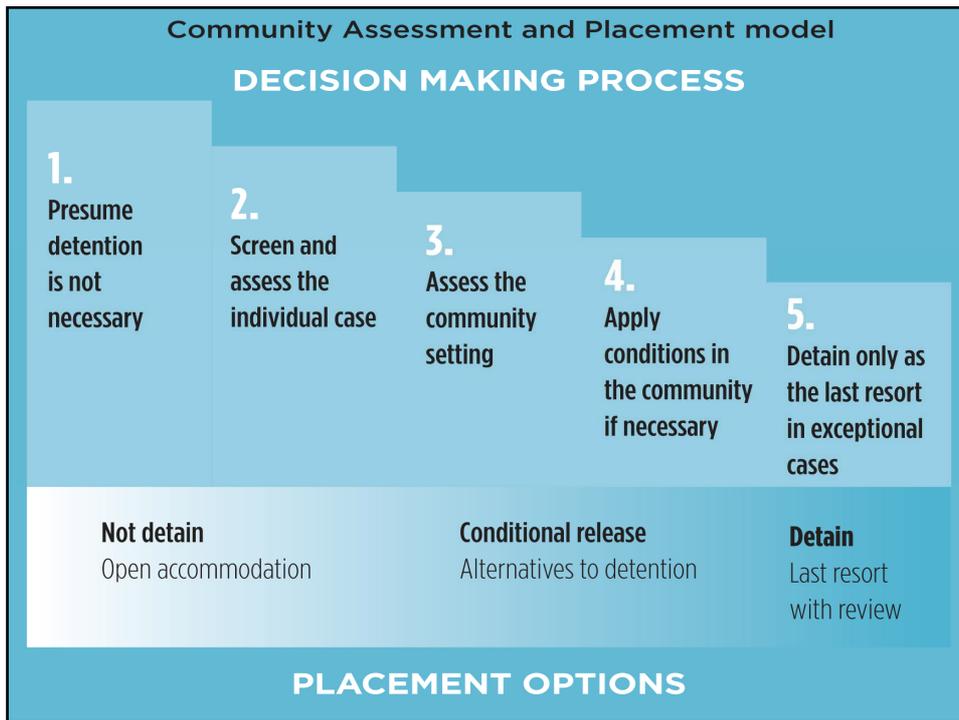
## Step 4



## Apply conditions if necessary

- ✓ **Individual undertakings** - Requirements on an individual to comply and cooperate such as: appearing at immigration hearings or interviews or respecting visa or residency status conditions
- ✓ **Monitoring & Supervision** - Mechanisms such as reporting, registration or nominated address, handover of travel documents, or directed residence
- ✓ **Negative consequences for non-compliance** - Such as bail, bond and surety arrangements

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## Step 5

### Detention as a last resort

Detention should only ever be used as a last resort

When it is used, it must be:

- Based in law
- Based on individualized assessment
- Necessary
- Proportionate
- Time-limited
- Subject to review
- Independent access and monitoring

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## How have alternatives been developed?

- ✓ Legislative or policy reform
- ✓ Research
- ✓ Working groups
- ✓ Pilots and programs
- ✓ Focus on a particularly vulnerable group or category of people

## Summary

ATD mechanisms can reduce the financial and human cost of immigration detention while meeting government and community needs.



Thank You

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