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FINAL REPORT

Applying Engagement-Based Alternatives to Detention of Migrants in Bulgaria: Opportunities and Challenges

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I. INTRODUCTION

Several years past the peak of the so-called migration crisis in Europe, which saw increased numbers of asylum seekers and migrants trying to find refuge on our continent, it is clear that the policy responses formulated at national and EU levels are based mainly on prevention, returns and tightening of borders. This enforcement-based approach to managing migration relies heavily on the use of immigration detention under the assumption that it would lead to increased return rates and would serve as a deterrent, discouraging migrants from coming in the first place. Bulgaria is no exception to this trend, and strengthened migration controls and increased rates of returns to countries of origin or transit are central to both the Programme of the Bulgarian Presidency of the Council of the EU (January 2018 – June 2018) and the 2018 and 2019 implementation plans of the National Strategy on Migration, Asylum and Integration 2015-2020. But this approach raises a number of increasingly important questions that require investigation. For example: is detention the most effective policy approach to managing migration flows? Will stronger border control, deportation and detention measures lead to lasting solutions of the continent's migration issues? Are there more humane, yet effective, policies that could be implemented to help manage migration through and into Bulgaria? How can we build an evidence base that engagement-based alternatives to detention (ATD) can help governments achieve their policy objectives, while contributing to the migrants' well-being? The pilot project described below, on which this report is based, attempted to answer these questions through testing the case-management method of applying community-based ATD.

For the period from 01.01.2017 to 30.04.2019, the Center for Legal Aid – Voice in Bulgaria (CLA), in partnership with Bulgarian Lawyers for Human Rights (BLHR), conducted the project “Protecting migrants with precarious status: decreasing the use of detention and applying community-based alternatives”, funded by the Network of European Foundations (NEF) through the European Programme for Integration and Migration (EPIM). The goal of the project was to advocate for limiting immigration detention in Bulgaria, using it only as a last resort, proportionally and to the minimum necessary extent mandated by law. It also aimed at encouraging the complete suspension of detention of vulnerable groups of migrants, and helping prevent the (re-) detention of migrants at risk, through legal and social support, through its Case Management component.

The Case Management component of the Project employed the Community Assessment and Placement (CAP) model developed by the International Detention Coalition (IDC) to support a target number of 50 migrants at risk of pre-deportation detention, to help successfully resolve their cases in a community placement setting. This included needs assessment, the preparation of an individual profile and case plan, legal consultations and representation before the institutions, including the courts, referral to community services and to specialists, accompaniment to appointments (with doctors, psychologists, notaries, landlords, etc.) as needed, and other types of support.

II. SETTING THE STAGE: CURRENT BULGARIAN LEGISLATIVE FRAMEWORK ON DETENTION

1. Detention and Alternatives to Detention

In current Bulgarian law, immigration detention is regulated in the Law on Foreigners in the Republic of Bulgaria (LFRB) (in force from 27.12.1998), chapter 5, article 44 and the following articles. The LFRB contains provisions that regulate the access to, stay on, and removal from Bulgarian territory, as they pertain to citizens of third countries (i.e., those from outside of the EU), and does not apply to asylum seekers. This text of the legislation does not explicitly use any of the internationally recognized terms for detention, such as administrative or immigration detention, but instead uses the term “accommodation”. The facilities in which foreigners are detained are referred to as “special homes for the temporary accommodation of foreigners” (SHTAF). In essence, however, they are closed facilities, which have all the essential characteristics of a detention facility. According to the LFRB, these “special homes” are part of and are managed by the Migration Directorate of the Ministry of the Interior (MoI). At present, there are two functioning SHTAFs in the country; one is located in the Busmantsi neighbourhood of Sofia (SHTAF – Sofia), with a total capacity of 400 people, and the other is located in the town of Lyubimets (SHTAF – Lyubimets), and has a total capacity of 300 people.

Initially, the LFRB provided only one measure alternative to detention in a SHTAF, which was a requirement on the part of the foreigners to present themselves for weekly reporting at the respective local office of the MoI, which constitutes a type of parole. Following the amendments of the LFRB in 2017, two new alternative measures were introduced in article 44, paragraph 5 of the LFRB. These two alternative measures consist of a monetary guarantee (a type of bond), and the handing over of travel or identity documentation, both as a form of collateral. The law requires that these measures be imposed alternatively, or some or all together, when there are obstacles to the foreigner’s “immediate leaving of the country”.

2. Legal Grounds for Detention

Art. 44, par. 6 of the LFRB lists “risk of absconding” and “obstructing the execution of the removal order” as the only conditions that trigger detention. Although the law does not sanction detention as a result of non-established identity, foreigners without documents, respectively with non-established identity, are considered to pose “risk of absconding”.

The LFRB requires that in order for “risk of absconding” to be established, there needs to be a “justified supposition” that the foreigner “will attempt to avoid the execution of the imposed measures” (para. 1, point 4c of the Additional Provisions of the LFRB). The LFRB also provides a non-exhaustive list of the factors that may lead to the supposition of a risk of absconding; for example that the person “cannot be found at the declared address of residence, existence of prior violations of public order, [...] has forged documents or has no documents, [...] and other”.

The case law indicates that the authorities consider the condition “obstructing of execution of removal order” to be met when the third country national does not agree to voluntary return or lacks travel documents.

The initial detention order is issued for six months and can be appealed in a period of 14 days before the regional administrative court, whose decision can be appealed before the Supreme Administrative Court (SAC). This right to judicial review of the initial detention has not been exercised effectively by detainees due to limited access to legal aid and an inability to begin the process of the appeal by themselves from within the detention facilities. This conclusion is supported by statistics on detention orders issued and appealed in the period from 2013 to mid-2016, which show that less than one percent of detentions orders ever reached court review during that period.¹

The LFRB prohibits the detention of unaccompanied minors and limits the duration of detention of accompanied minors to a maximum of three months, which may be extended. However, a common and troubling practice still reported is the ‘attaching’ unaccompanied children to an adult as a de facto guardian, where the adult is randomly selected from the group the minor has travelled with, and often has no relation whatsoever to the minor either in law or practice. Problems with correct age assessment are also reported. This provides the authorities with a loophole by which to justify the detaining of unaccompanied minors, despite the clear prohibition of the practice in Bulgarian law.

1. Information provided by the MoI under the Law for Access to Public Information (LAPI) to Foundation Access to Rights (FAR) for project “HEAR”, available at: <http://hear.farbg.eu/evidence-collection/analytical-report/>; Confirmed by statistics on received by the CLA for the report “Who Gets Detained”, available at: <http://detainedinbg.com/blog/2016/09/22/final-report-who-gets-detained-increasing-the-transparency-and-accountability-of-bulgarias-detention-practices-of-asylum-seekers-and-migrants/>

According to the LFRB, detention in a SHTAF “continues as long as the circumstances [which led to the detention] are still present, but no longer than 6 months”. The Director of the Migration Directorate is required to conduct monthly checks to verify whether these circumstances are still present and ongoing. The law provides that this six-month period may be extended by another 12 months (for a maximum duration of 18 months), if: (1) the person refuses to cooperate with the competent authorities; (2) there is a delay in obtaining the documents necessary for the forcible removal or expulsion. Our observations from providing legal aid in the detention centres show that extension is almost 100 % automatically imposed through issuing of a follow-up six-month detention order by the Director of the Migration Directorate. The order can be appealed before the court, but it depends upon the ability of the detainee to organize the appeal of the continued detention order within 14 days, including payment of state court fees for interpretation at court hearings, as well as possible legal fees for the Migration Directorate legal representative, if the court confirms the order. Keeping in mind the detainees’ limited access to judicial review of the initial detention orders, as well as the lack of systematic follow-up legal aid provided in the detention centres (especially for those detained in the Lyubimets facility, which is geographically isolated from service-providing organizations, which are generally based in Sofia), it is likely that the continuation of detention will not be appealed. One additional obstacle to the access to judicial review of the detention orders are the fees, which the applicant must pay to appeal the negative decision of the administrative court. With the recent amendments in the Administrative Procedure Code the fees to appeal before the Supreme Administrative Court were increased 14 times, from 5 to 70 BGN (New Art. 227a of Administrative Procedure Code, State Gazette 77/2018, in force from 01.01.2019).

3. Short-Term Detention

The so-called “short-term detention” is a period of detention lasting up to 30 days in which to establish the identity of foreign nationals who arrive irregularly. These LFRB provisions took effect starting in June 2018, and are applied mainly to newly-arrived foreigners. According to our observations, short-term detention has been applied to a limited extent so far, though in some cases apparently arbitrarily, such as in cases of persons living in Bulgaria for over 20 years and being of well-known identity.

III. DESCRIPTION OF THE CASE MANAGEMENT APPROACH APPLIED

The case management method in general consists of a “comprehensive and systematic service delivery approach designed to ensure support for, and a coordinated response to, the health and well-being of people with complex needs. Case management centres on understanding and responding to the capacities, needs and challenges of individuals and their context, including personal resources, vulnerability, protection and risk factors”.²

The CLA’s case management activities are aimed at supporting each individual’s ability to improve his/her well-being, as well as to continue to be engaged with the respective migration authorities while making informed decisions regarding his/her immigration situation. Although case management is aimed towards case resolution, meaning a lasting legal outcome of the person’s migration status, it emphasises the process of regular communication with the client; the efficient delivery of information about the migration procedures, including all legal opportunities to obtain residency status and their limitations; and his/her empowerment to make short- and long-term decisions towards case resolution in a dignified way. It helps clients to understand their legal rights and circumstances in order to plan for their future more effectively and work towards a timely and just case resolution.

The assumption on which this method is based is that it increases the migrant’s ability to participate efficiently and transparently in their migration procedures and in this way it shortens the time frame and increases the likelihood of a positive case resolution, including – though not specifically promoting it – voluntary returns, thus encouraging cooperation with the administrative authorities and decreasing irregularity in the migration system. Case management is conducted by trusted and trained case managers and assistants, who proactively encourage clients to stay engaged with the case management team, thus serving as intermediaries between the authorities and the migrants.

2. *International Detention Coalition (IDC), There Are Alternatives*, available at: <https://idcoalition.org/wp-content/uploads/2016/01/There-Are-Alternatives-2015.pdf>, pp 47 – 58.

The approach is individualized, strengths-based and includes a needs assessment procedure. The case management officer identifies the supports and services needed by each individual client, on the basis of the client's:

1. personal resources and skills;
2. social networks and resources, including family, friends and relatives; ethnic and faith communities; relationships established in the workplace with colleagues and employers; sports, arts and other interests (see Chapter V below);
3. vulnerabilities, including those related to age, mental and physical health circumstances, physical or cognitive disabilities, exposure to or experience of torture, sexual violence, trafficking or exploitation, and exposure to any other human rights abuses and/or discrimination;
4. risk factors, including risks of disengaging with the Case Management programme and/or absconding;
5. individual needs and expressed personal goals and aspirations.

The method is based on a holistic approach to client support, where the support consists not only of legal aid, but also other forms of complex assistance as described above. Although legal aid is essential in terms of exhaustion of all possible legal opportunities the client has for resolving his/her residency situation, it ultimately has the limitation that when all legal means are exhausted, the individual is left with no reason for further engagement. Thus the main difference that we discovered between the traditional method of providing legal aid and the holistic approach of case management is that, in the latter, the process and the communication with the individual is paramount, not the final case resolution by itself. Thus, the individual engaged in case management is encouraged to stay in touch with the case management team and the migration authorities, even when no legal resolution of his/her situation is expected or possible, while s/he is empowered to make efficient and well-informed life decisions. In this regard, the case management team is much more proactive in reaching out to the individuals at a much earlier stage than the time when they would likely be in need of legal aid. This early intervention reduces to a substantial extent the risk of future long-term irregularity and increases the probability of faster and more efficient case resolution.

IV. DESCRIPTION OF THE PILOT PROJECT TARGET GROUP AND FINDINGS

1. Target Group Description

Under the Case Management component of the project, the CLA worked with 50 foreign nationals at risk of pre-removal detention. Most of them were enrolled in the early stages of the project lifecycle. There was a wide diversity in terms of their countries of origin, gender, age, family situation, history of detention, vulnerability, etc.

They represented 13 countries of origin with the greatest numbers coming from Iraq, Iran and Côte d'Ivoire (CDV).

<i>Afghanistan</i>	5
<i>Bosnia and Herzegovina</i>	1
<i>Bangladesh</i>	2
<i>Cameroon</i>	4
<i>CDV</i>	8
<i>Eritrea</i>	1
<i>Ghana</i>	3
<i>Guinea</i>	1
<i>Iraq</i>	12
<i>Iran</i>	7
<i>Palestine/Lebanon</i>	2
<i>Rwanda</i>	1
<i>Somalia</i>	3

Out of the 50 participants, 44 were male and 6 were female. The majority of them were aged between 18 and 40 years. Two families with a total of six children participated in the project, with the children not included as separate cases in the statistics. The Case Management group did not include any unaccompanied minors.



At the point of enrolment in the Case Management programme, the majority of the clients had been in Bulgaria for a period between 3 and 5 years. This is because a key selection criterion was the person to be under threat of longer-term pre-removal detention. On the basis of experience, such threat usually arises after the third-country national's initial asylum procedure is completed with final (confirmed by the court) decision for denial of international protection. The length of a first asylum procedure, including judicial review, varies from 2 to 3 years, but can take longer in some circumstances, such as return under the Dublin Regulation or different judicial treatment at first and second instance.

Length of stay in Bulgaria when enrolled in case management



Case management is a long-term process, which requires systematic observation and analysis throughout a longer period of time. The planned duration of the project was 2 years, and an extension of 4 months was granted in the beginning of 2019, which gave the Case Management component a period of 2 years and 4 months in total, including the initial set-up and planning period. In objective terms, this is at the lower end of the range of average time needed to achieve case resolution in what are usually complicated migration situations. That is why the Case Management team was purposeful in utilizing as efficiently as possible the maximum available term in as many of the cases as possible. Thus, we aimed to recruit the majority of clients in the beginning phase of the Case Management programme, with more than 50 % of the participants being part of the project for a period of 18 months up to 2 full years.

It is important to note that half of those who participated in the programme for a short time terminated their participation due to positive resolution of their migration situations, with 4 voluntary returns and 1 status granted.

Time of participation in the pilot

<i>Less than 6 months</i>	8 people
<i>6 months – 1 year</i>	12 people
<i>1 year – 18 months</i>	10 people
<i>18 months – 2 years</i>	18 people
<i>More than 2 years</i>	2 people

2. Findings

The findings listed below are as of February 2019. At that point, out of the 50 included cases, 27 were completed and 23 of them were still ongoing, with no final case resolution. The CLA will continue to work on the 23 unresolved cases and to apply the case management approach for as much time as needed for their resolution, even after the project is formally completed. In all of these 23 not completed cases, the participants have been part of the project for a period of over 1 year. The fact that 46% of the cases could not be resolved in this time further proves the fact that case management is a long-term process and should be analysed over a longer period of time.

Out of the 27 completed cases, 52 % (14 cases) ended with either legal status in Bulgaria (7 cases) or voluntary return to their country of origin (10 cases).

In 4 of the completed cases with granted legal status the clients received humanitarian status as a result of their enrolment in the Case Management programme – thorough legal aid and support to follow the procedures. The rest received long-term residence status outside of the international protection regime. In 3 of the cases, long-term residence status was granted after re-entry in Bulgaria/EU on the basis of family reunification, following voluntary return, whereby the case managers facilitated the procedures of voluntary return and re-entry in frequent communication with migration authorities.

Case Example 1: long-term residence obtained

A. is a woman from C., who came to Bulgaria irregularly in 2013. In the following 5 years she was initially detained at entry for 2 months, after which she went through several unsuccessful asylum procedures, an attempt to leave Bulgaria and respective imprisonment for that for 9 months. In spite of her misfortunes, she was well-integrated in Bulgarian society and the labour market, built a good social environment and sustained a stable way of life, including developing a personal relationship with a Bulgarian national. Through the legal and social assistance of the Case Management team, she arrived at the decision that for her the best option was to leave voluntarily the country in order to get married to her Bulgarian partner in C. and to come back to Bulgaria legally with the long-term visa type “D” on the basis of having a Bulgarian family member. She left Bulgaria voluntarily without getting in a situation of detention and she is now legally residing and well-established back in Bulgaria.

Another 3 of the 10 voluntary returns happened from within detention centres on the basis of well-informed and fast decisions on the part of the individuals concerned due to their participation in the Case Management programme. Voluntary return from within detention centres takes place after the individual signs a respective declaration, which is part of the requirements of the IOM, who are responsible for voluntary returns in Bulgaria, with the operational collaboration of the Migration Directorate. An explicit declaration that they agree to return on part of the individual is usually needed also for the migration authorities to be able to obtain travel documents from the respective consular officials. This process can lead to long periods of detention without efficient return procedures carried out if the

foreign national does not sign such declaration. In the discussed cases, although re-detention happened in spite of the efforts made to avoid it within the Case Management programme, the fact that they made well-informed decisions to sign declarations of [genuinely] voluntary return led to short detention, continued state of well-being and timely case resolution.

Re-detention

In 44 out of the 50 included cases, the clients had already experienced detention prior to entry into the pilot project, for periods ranging from 15 days to up to 1 year. This is because all foreign nationals coming into the country while not possessing identity documents are issued by law deportation and detention orders, not distinguishing between migrants in general and asylum seekers. It is disquieting that in 7 out of the 50 cases the clients experienced re-detention while being part of the project, as one of the project's goals was to prevent it. Re-detention usually happened after exhausting all legal options, and in 2 of the cases it happened in spite of the fact that individuals were on alternative measures of weekly reporting with police. Out of these 7 cases, as described above, 3 ended with fast and consensual return procedures from within detention, which can be attributed to the prior participation of the foreigners in the pilot Case Management Programme. In 2 out of the 7 the re-detention cases, the foreigners were released due to successful court appeals and proven existence of conditions for alternative measure of reporting to be applied by Migration. Only one of them ended with actual forcible return (deportation). One of the Case Management clients was still in detention as of February 2019.



Case Example 2: return following detention

B. is a 31-year-old citizen of C., who came to Bulgaria legally in the end of 2016, in order to participate in a judo competition. He overstayed his visa and subsequently applied for asylum, which ended with a negative decision. He was practicing with a judo team in Bulgaria on a voluntary basis, hoping to continue with them professionally. He was also working at a ceramics factory, had a good and supportive work environment and was able to send money to his family in C. He also had a supportive conjugal relationship.

After exhausting the asylum procedure, the client spent several months in an irregular situation before being detained, at which stage he quickly decided to go back voluntarily to C. and was returned from within detention.

The client had no prior experience of detention in Bulgaria. He was part of the Case Management project for 9 months. Case management had a huge impact on his ability to make informed decisions, and helped improve his ability to work towards case resolution.



Lost contact and absconding

In 9 of the total 50 cases the clients absconded – left Bulgaria irregularly while the case management work with them was ongoing. The Case Managers are still in contact with 5 out of the 9 absconded people. The likely reasons for absconding are the restrictions in the national migration and asylum system, described in details in the following section of this report. With only 3 of the case management participants contact was lost during the pilot project term.

Case Example 3: absconding

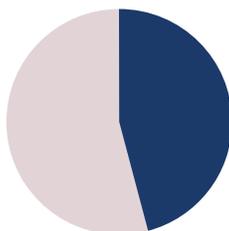
C. is a 27-year-old citizen of B. who entered irregularly the country in 2016 through Turkey. He was detained at entry for a period of 10 months and was released through successful litigation as part of the project's Legal Aid component, due to irregular asylum procedure carried out from within detention. After being released from detention, he was placed in an open camp.

The client regularly visited the consultation hours of the CLA and had daily contact with the project team. He actively participated in all legal and administrative procedures concerning his case. The refusal of the State Agency for the Refugees (SAR) to grant him international protection was appealed before the court and the court declared the SAR decision void. The case was sent again to the SAR for assessment anew, whereby they again refused. The decision was confirmed by the Administrative Court – Sofia City and appealed before the Supreme Administrative Court (SAC). Then the client absconded, not waiting for his court hearing at the SAC.

The client had decided firmly not to return to his country and was determined to stay in Bulgaria. At the same time, he gradually became aware that it is almost impossible to receive asylum in Bulgaria or to regulate his stay through other means, and that most probably he would be re-detained. The client was well integrated, in good health and optimistic for his future. He was motivated to work hard and to study. He was in almost everyday contact with the project team, initiating legal actions and participating in all procedures with the authorities, thus being transparent and in contact with them.

Ongoing

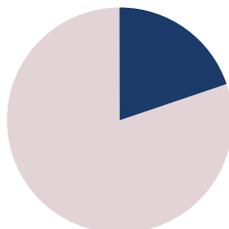
23 people



46 % (as of February 2019)

Voluntary returns

10 people

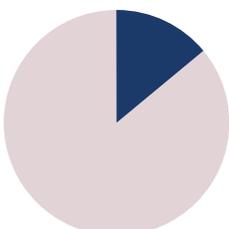


20 %

out of them: 3 returned from within detention
3 re-entered with legal status in Bulgaria or elsewhere in the EU

Received status

7 people

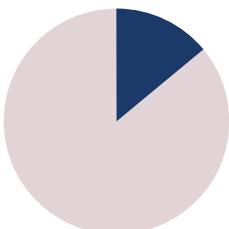


14 %

out of them: 4 humanitarian status
3 - residence status after re-entry

Re-detained

7 people

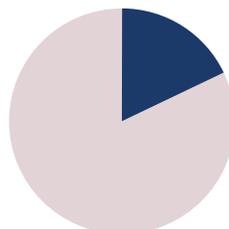


14 %

out of them: 3 signed voluntary return applications and were returned from within detention
2 re-detained and released
1 currently in detention (as of February 2019)
1 deported from within detention

Absconded

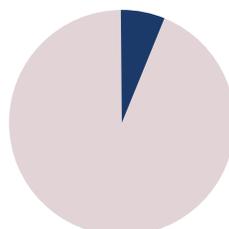
9 people



18 %

Lost contact

3 people



6 %

As pointed out in the previous section, a distinguishing characteristic of the case management approach is the emphasis it puts not solely on the case resolution, but on the process of empowerment and improvement of the well-being of the individuals, including facilitation of their regular communication with the migration authorities and ability to make informed decisions.

In this context, the results achieved by the pilot project confirm the hypothesis that quality case management in the application of engagement-based alternatives to detention, although not able to correct the deficiencies of the current national migration and asylum system, can have a positive impact on people's ability to engage with immigration procedures, thus efficiently working towards lasting case resolution. This conclusion is confirmed by the interim evaluation report of the three ATD pilot projects funded by EPIM in Bulgaria, Cyprus and Poland, published in July 2018.³

The evaluation report of the three pilot projects from July 2018 is based on assessment of each individual case in six areas:

- person's **ability to engage with the immigration procedures** over time;
- person's **level of risk** over time;
- person's **level of trust** in the system;
- person's ability to participate in **informed decision making process** in immigration procedures over time;
- **contribution towards timely and fair case resolution** for the individual over time;
- **coping and well-being of individuals** (that allows them to better engage with immigration procedures) over time.

In the Bulgarian pilot, in 94 % of the cases the participants remained in constant contact with the case management team and actively engaged with the authorities, working towards resolution of their migration situation. Contact with the case management team in particular was kept even in 5 of the 9 cases of absconding when people decided to terminate their communication with national authorities and left the country.

In more than 90 % of the cases, the individuals' ability to participate in informed decision-making, as well their coping skills and well-being, were substantially improved.

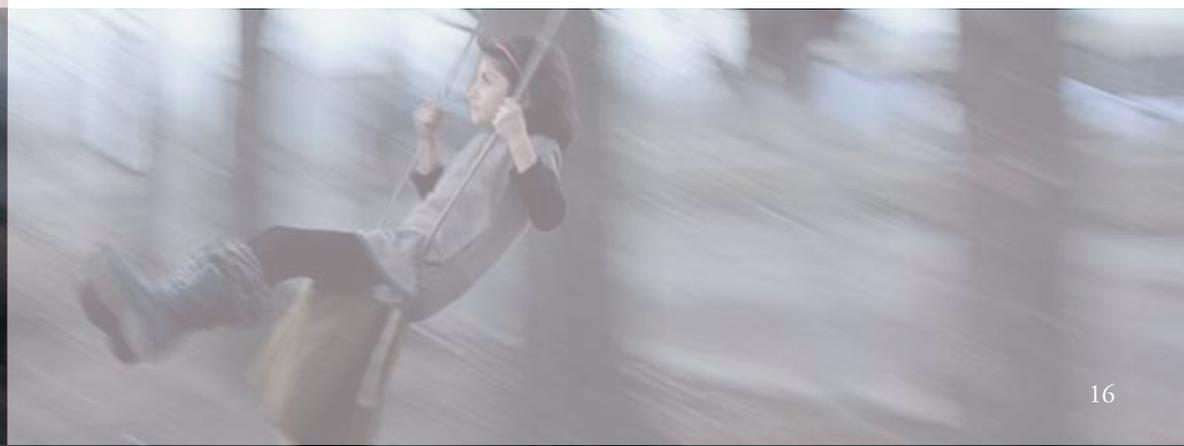
3. Eiri Ohtani, "Alternatives to detention from theory to practice - Evaluation of three engagement-based alternative to immigration detention pilot projects in Bulgaria, Cyprus and Poland", available at: https://www.epim.info/wp-content/uploads/2018/10/ATD-Evaluation-Report_FINAL.pdf

Case Example 4: subsequent asylum procedure

D. is a 27-years-old woman from A. who came to Bulgaria with her husband and their 2 minor children (aged 5 and 3 years) as asylum seekers in 2016. They were deemed not in need of protection and were ordered to leave Bulgaria. The client is in a vulnerable situation as a survivor of torture and trauma in her country of origin. While in Bulgaria, she experienced 3 months of detention together with her children in 2016 after the first rejection of her asylum case, and 3 months re-detention in 2017, after an attempt to leave for Serbia irregularly. The client was referred to the Case Management programme by the IOM and the Animus Association (a Bulgarian NGO), who continuously during the case management process assisted her with securing interpreters, medical and psychological services, social orientation support, and played a huge role in the client's empowerment. Through the case management interventions, the client was moved to a reception centre for asylum seekers after the re-opening of her asylum procedure, and she was reunited with her husband, who was released from detention and enrolled in the Case Management program as well. The children were enrolled in kindergarten.

During the time of the case management, progress was made towards informed decision-making, taking active steps towards case resolution and ability to cope.

Final case resolution is still difficult to hope for, having in mind the shortcomings in the quality of the national asylum system in regard to general asylum assessment and, in particular, an evident bias towards claims by A. nationals.



V. THE ROLE OF LOCAL COMMUNITIES

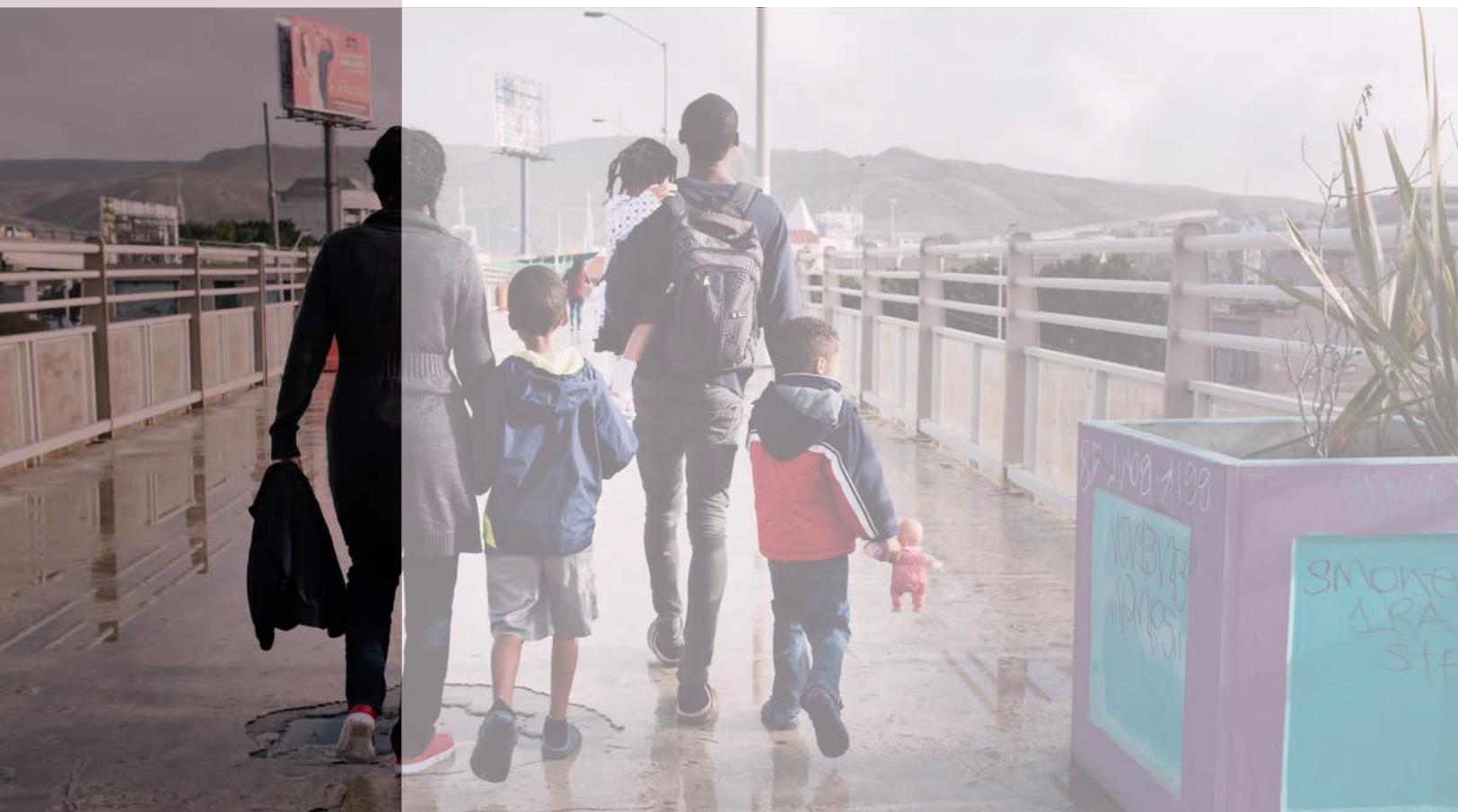
The pilot project has demonstrated the important role played by different types of communities, both in terms of their individual members, and by formal and informal community organizations. They have provided logistical, linguistic, social and other support during the case management process. Individual members of these communities, which are often language- or ethnicity-based, have also been directly involved in securing suitable housing, temporary accommodation, and/or employment for CLA clients, which has been instrumental in achieving better case outcomes for these individuals.

In the cases of the 50 clients involved in CLA's pilot programme, the workplace was most consistently identified as the main place where community relationships are forged. More than two-thirds of the clients, including those regularly and irregularly residing in the country, were involved in some kind of work environment, where they had most often created the lasting relationships of trust that provide informal access to various types of social assistance and support. This assistance may include some or all of the following: provision of safe social environment, facilitating communication with landlords, direct renting or free accommodation from the employer, preparation of letters of support for the foreign national to serve before courts or an administrative authority; direct communication of the employer with the respective administrative authority; assisting the foreign national in applying for a Bulgarian work permit, etc. Such relationships have been very useful and instrumental to the case workers, in terms of facilitating the relationship between the foreign national and the administrative authority, and this intermediary relationship has often performed some of the work traditionally associated with a case worker. Work communities can be found in almost any sector of the economy, and for the Case Management clients included the fields of: construction, manufacturing, auto repair and auto washing, the service industry, call centres, cosmetology, local open markets (the Ilentsi Market, for example), the film industry, and others. Indeed, many foreign nationals work with large international organizations as interpreters or social mediators, including organizations such as the UNHCR, the International Organization for Migration (IOM), and also with local NGOs. This kind of direct involvement in the labour market provides invaluable security and connections for the third-country nationals who hope to permanently establish themselves in Bulgaria.

Communication with Bulgarian employers during the project implementation has consistently shown a growing demand for motivated and trainable employees with medium and low levels of skill, particularly in the production and service industries. This is in line with data from the National Institute for Statistics, which has shown that 2016 saw the

first decrease in Bulgaria's economically active population since 2011, particularly among working youth.⁴ Since young workers with lower levels of training make up the largest share of Bulgaria's refugees and migrants, this is an excellent opportunity for community development on both sides.

Faith-based communities have been identified as the second most common source of community support for the migrants in the Case Management programme. In Sofia in particular, several local Christian Evangelical churches, as well as Bulgarian Orthodox communities and the Latter-Day Saints (Mormon) community, serve as a source of support for many foreign nationals. Such communities provide not only spiritual and emotional support, but also practical support in the form of advice, food and shelter, and trustworthy relationships with local people. These groups can also help secure declarations of guarantee for residence and financial support as required by the Migration Directorate to accord an alternative to detention measure, assistance with court papers and administrative procedures, intermediation with specific health, psychological, and educational needs, and Bulgarian and English language instruction. Representatives of such communities have been consistently in contact with the Case Management team, serving as intermediaries and facilitators.



4. Capital, "Работната сила намалява със 73 хиляди през 2016 г." ("The workforce decreased by 73 thousand in 2016), 15 March 2017, available at: https://www.capital.bg/politika_i_ikonomika/bulgaria/2017/03/15/2935612_rabotnata_sila_namaliava_sus_73_hiliadi_prez_2016_g/ (in Bulgarian)

Case Example 5: voluntary return

E. is a national of C., who arrived in Bulgaria in December 2012, irregularly from Turkey. He has college education from his country of origin with majors in History and Geography. At his entry in Bulgaria he spent 4 months in detention, from where he applied for asylum and was transferred to an open camp. After the refusal of his asylum claim, he left irregularly for Greece, from where he was returned to Bulgaria under the Dublin Regulation, and was placed for 1 month in detention upon his return. He was released after the submission of a subsequent request for asylum, which later on was again rejected. During his participation in the Case Management programme, several unsuccessful attempts to re-open asylum procedures were undertaken. E. had a good community in Bulgaria among his Christian church and colleagues at the workplace, who also maintained regular contact with the Case Management team. With their help, and with several interventions with the state authorities, E. was spared detention by the migration authorities. After several conversations and a lot of hesitation, and with the support of his community, while being sure he had exhausted all possible legal paths for legalization of his status, in December 2018 he decided to return to his country through the IOM assisted voluntary return programme, which he did in December 2018. He is currently in C. and is still in contact with his CM team.

Local **migrant and ethnic communities** have been also a source of support and referrals for both the clients and the Case Management team. There are a number of well-established migrant communities in Bulgaria, for example, the Afghani, the Palestinian and Syrian ones. In several cases such communities were a source of humanitarian support, help with accommodation, as well as connection with the labour market. Local communities are a natural environment for the migrant's integration, orientation and empowerment. Encouraging migrant-run organizations in Bulgaria is needed and has to be further pursued, as empowering communities can help the empowering of the individuals they support as well.

Case Example 6: community activism

F. is a 38-year-old woman from C. who has been in Bulgaria since 2013. She has passed through unsuccessful asylum procedures multiple times, has a 16-month history of detention and several months of imprisonment for an attempt to leave Bulgaria irregularly. She was enrolled in the project while in a very vulnerable situation. However, she is exceptionally integrated in the migrant community in Bulgaria and is organizing the African community in Bulgaria to register their own migrant-run organization for mutual support of the African migrants in the country and cultural exchange with the Bulgarian communities. The client is assisted in this process by the Case Management programme and feels encouraged to pursue the initiative.

Family and cohabitation relationships form the third most common type of alternative community support, which provides by far the strongest link between the individual and the local community, and contributes most to successful case resolution, for example, when the persons marry and/or have children, on the basis of which he/she can apply for long-term residence in Bulgaria according to the Law on Foreigners. Indeed, out of 50 cases, the Case Management team has noted that three have resulted in the successful voluntary return of the individuals, followed by application for legal residence in Bulgaria on the grounds of marriage to a Bulgarian national.

There were four cases, in which **sports societies** provided an alternative community for the person. These have been mainly African country nationals practicing football or martial arts. Sports have provided a natural environment for integration and engagement of individuals with local people who, on their side, have been supportive in different ways.



VI. ONGOING CHALLENGES TO THE SUCCESSFUL IMPLEMENTATION OF COMMUNITY-BASED ATD

Alongside significant achievements, the project faced a series of challenges arising from systemic gaps, which are outlined below:

1. Asylum Procedures: Access and Quality

The specialized substantive and procedural content of the grant of asylum and refugee status in Bulgaria is regulated by the Law on Asylum and Refugees (LAR). The asylum procedure begins with a request on behalf of the applicant and continues until the final decision is issued by the Bulgarian State Agency for the Refugees (SAR). The majority of these asylum requests are submitted on behalf of clients from within state detention centres, where most irregularly-entering asylum seekers are placed at first entry into the country. For the duration of the asylum procedure, any imposed administrative measures, such as deportation and detention, are suspended and the asylum seekers are entitled to some legal rights, including the right to free movement on the territory of Bulgaria, to be issued an asylum seeker card, work, education, social security, and other rights (art. 29 LAR).

The decision to refuse international protection is usually made without a thorough examination of each asylum seeker's particular circumstances and the context, which is evident from the many decisions in which the reasoning is schematic and in which the conclusion does not follow from the information presented. Authorities generally rely on basic information about the country of origin of each asylum seeker, rather than on an individual assessment of the protection needs of that person, including their particular vulnerabilities or experiences.

The statistics confirm this hypothesis – for example, for Afghani asylum seekers, the rate of positive decisions (refugee or humanitarian status) was 6% in 2018, compared to 46% average for the EU.⁵ Concerns regarding the functioning of the Bulgarian asylum system, including the above-mentioned striking difference between the Bulgarian and the EU average recognition rate for Afghans, have been raised by the European Commission in a letter to Bulgaria from July 2017.⁶ More recently, the shortcomings in the Bulgarian asylum system led to a European Commission letter of formal notice from 8 November 2018 for non-compliance with EU law, raising concerns related to: accommodation and legal representation of unaccompanied children; correct identification and support of vulnerable asylum seekers; provision of adequate legal assistance; and detention of asylum seekers, as well as safeguards in detention procedures.⁷

The quality of the SAR's decisions is measured internally by the rate of repeal by the final judicial instance – the Supreme Administrative Court (SAC) – which might explain why every repeal of a refusal of asylum by the first-instance court is appealed by the SAR to the SAC, regardless of how explicit the directions of the court are to grant protection, and without consideration of exposing the asylum seekers to many more months of uncertainty and undermining their faith in the fairness of the system. Concerns are raised also in regards to the quality of judicial review, especially by the Supreme Administrative Court, of the decisions of the asylum authorities.⁸ This, together with the length of the proceedings, also vastly increases the risk of absconding on the part of asylum seekers in Bulgaria.

The LAR allows for subsequent asylum requests to be filed after the first request, but only in the case that there is written evidence of new facts and circumstances pertaining to the asylum story (art. 76a and following of LAR). For the individuals in the Case Management programme, it has been particularly challenging to avail of the humanitarian protection provided by art. 9 of the LAR. This possibility is by rule assessed in the course of the initial application assessment, together with eligibility for refugee status. With several years down the road after the individual has undergone an unsuccessful procedure for international protection, their situation often worsens and they develop mental and/or physical issues, the ties with the country of origin are weakened, and some degree of integration in Bulgaria has occurred. In order to have these circumstances examined by the SAR, they need to meet the very high threshold of presenting written evidence of new facts in order for their application to be found admissible and considered. The SAR does not collect statistics on outcomes of

5. *European Council on Refugees and Exiles (ECRE), The Asylum Information Database (AIDA), Country Report: Bulgaria, 2018 Update, available at: <https://www.asylumineurope.org/reports/country/Bulgaria>, p. 43*

6. *European Commission, Measures for improvement of the Bulgarian asylum system, 6 July 2017, available at: <http://bit.ly/2EudWMH>,*

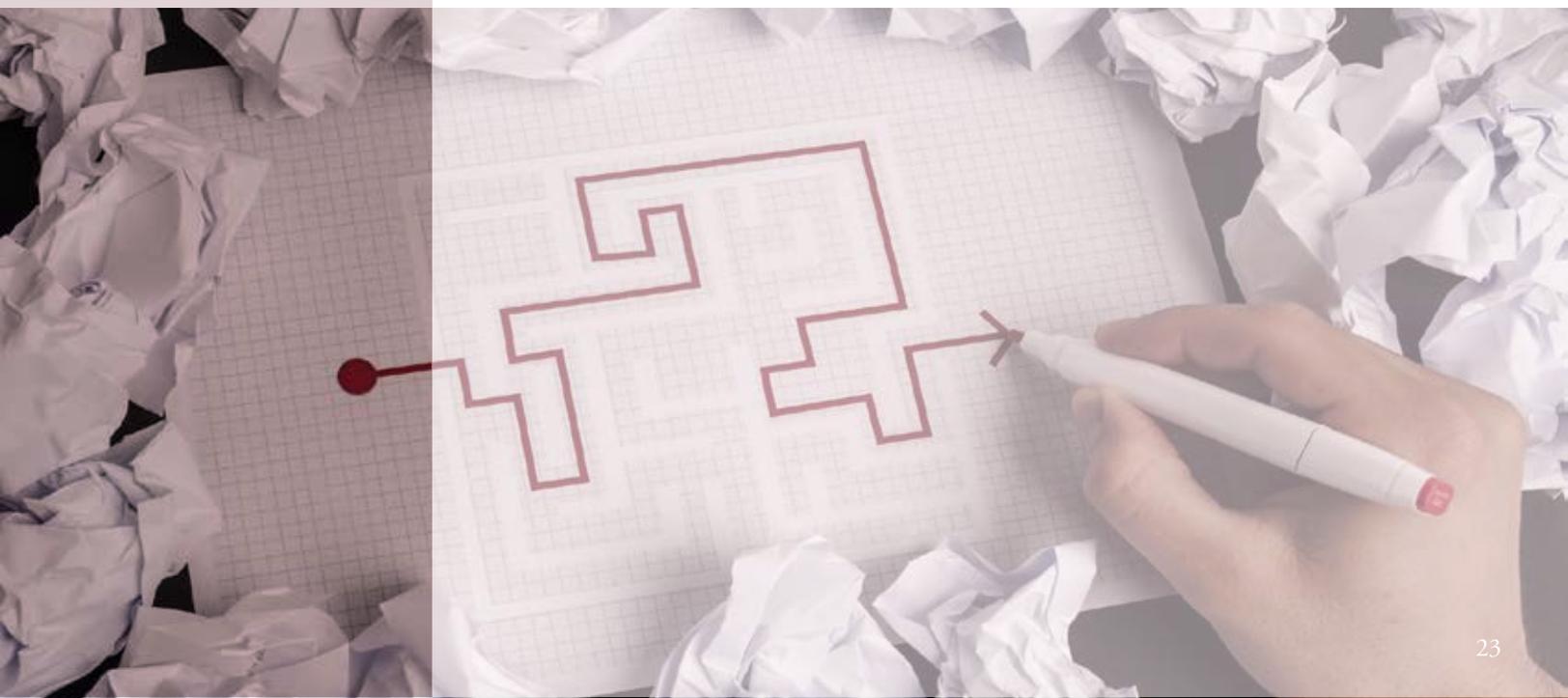
7. *European Commission – Fact Sheet, November infringements package: key decisions; Brussels, 8 November 2018, available at: http://europa.eu/rapid/press-release_MEMO-18-6247_en.htm*

8. *See European Council on Refugees and Exiles (ECRE), The Asylum Information Database (AIDA), Country Report: Bulgaria, 2018 Update, available at: <https://www.asylumineurope.org/reports/country/Bulgaria>, p. 11 “Appeals”*

subsequent claims admissibility decisions. Based on observation and experience, subsequent applications are very rarely found admissible, and in the small number of cases they have been admitted, this has been the result of intensive negotiations with the officials and/or court instructions.

2. Difficulty of Accessing Legal Alternatives to Detention

Obstacles for individuals out of asylum procedure to accessing legal alternatives to detention are largely connected with the difficulties that they encounter in attempting to secure legitimate housing and means of subsistence while not being allowed to earn an income and rent freely. This is instead to be done by a person, a Bulgarian citizen or legal resident, who would guarantee for them. In order to obtain an address, the foreigner is often willing to pay a significant amount to a person whom they do not know for the purpose of securing an address in order to establish a pro forma proof of residence before the Bulgarian authorities so that they may be released from detention. The amendments of the LFRB from 2017 introduced two additional alternatives to detention – as a form of collateral to ensure that they remain on the territory, foreigners may be allowed to provide a cash bond, and/or surrender their identification documents to local authorities. In 2018, the authorities did not regard either form of collateral as a sufficient guarantee on its own, and viewed them only as complementary to the already existing weekly reporting requirement for persons who have secured accommodation and financial support. As a result, the collateral practice has not resulted in decreased detention in numbers or in reduced duration of detention. Since there are currently no proportionality requirements stipulated in the LFRB, the coercive administrative measure “accommodation in SHTAF” is automatically imposed.



3. Difficulties in Accessing Housing

There are a variety of obstacles that foreigners face in finding and maintaining secure housing for themselves and their families. Most critically, if a foreigner is not in detention but lacks identity and residence documents, they cannot work legally in order to provide for their basic needs, including housing. In addition, if the person does not have legitimate identification documents, Bulgarian landlords are far less likely to conclude an official rental agreement with that person. This may be in part because such persons fear criminal responsibility for assisting “illegally residing” foreigners for personal economic gain, relating to their stay or transit in the country (see also article 281 of the Criminal Code).

In addition, there are difficulties in obtaining housing that foreigners encounter at the municipality level. For example, although Bulgarian law itself does not currently contain restrictions as to who can apply for public housing, until amendments were made in the Municipal Property Act in 2004, article 43, paragraph 1 of that Act had provided that only Bulgarian citizens were eligible. After the adoption of these amendments, this requirement was repealed, and now only refers to conditions laid down in municipal ordinances. In practice, however, many of these municipal ordinances have de facto retained this previous requirement, and currently restrict access to municipal housing only to Bulgarian citizens.⁹ Even if the Bulgarian citizenship requirement for access to municipal housing is not explicitly mentioned in local ordinances, there are often municipality-specific criteria and requirements that foreigners must meet in order to access public housing, and these often prove impossible obstacles for foreigners attempting to do so.

An additional difficulty is that currently in Bulgaria there is no governmental or non-governmental service or facility providing housing for migrants in precarious status and who lack personal documents, beside the crisis centres of several NGOs, available mainly for women at risk with small children. Such service is essential for securing minimum standards of rights and living conditions in the context of alternatives to detention.

4. Limitations in Labour Market Access

Foreigners face significant barriers in gaining access to formal and safe employment on the territory of Bulgaria, even in the case that they have secured working permits and other documents needed in order to work. Since Bulgaria prohibits employment of “illegally residing” third-country nationals, this puts pressure on those among them who are desperate

⁹ See, for example, art. 5, para 2, point 1 of the Ordinance on the Terms and Conditions for Managing and Disposal with Municipal housing on the Territory of Sofia Municipality, which requires, in order to apply for municipal housing at least one member of the family to be a Bulgarian citizen. The same requirement is included in art. 5, para 1 of the Ordinance on the Terms and Conditions for Managing and Disposal with Municipal housing on the Territory of Haskovo Municipality.

for work to gain access to employment through informal means. As a result, many such persons work in the absence of labour contracts and thus with very few of the protections that would otherwise be provided in Bulgarian law, including maximum working hours, decent working conditions, occupational safety, occupational health breaks and vacations, indemnification, and other forms of protection.

Some of the people who are in these unprotected circumstances had previously worked during their asylum procedure, during which time some were provided with training and professional education. As a result, many of the employers wish to retain these employees after the asylum procedure ends with a final negative decision, but encounter complicated and expensive administrative procedures, which also require the foreigner to leave the country and to apply for the respective work visa, without a guarantee that it will be granted. The situation is even more complicated for those people who have been banned from returning to country for certain period of time.

Third-country nationals' access to the labour market, including self-employment, is regulated by the Law on Labour Migration and Labour Mobility (LLMLM). The LLMLM refers to the LFRB in regard to the terms and conditions under which third-country workers and their family members, as well as third-country nationals who are family members of Bulgarian citizens, may enter, reside and leave Bulgaria. LLMLM art. 13, para. 1 explicitly prohibits third-country nationals from who are “illegally residing” on the territory of Bulgaria from being employed. Should an employer hire a third-country national irregularly staying in Bulgaria in violation of that prohibition, the employer would be liable to pay the worker the agreed remuneration, but not less than the minimum wage established for the country or for the economic activity concerned, for a period of three months unless the employer or the employee proves another duration of the employment. Payment is due and can be claimed under the Civil Procedure Code also after the citizen returns to his/her country, including the cost of payment transfer. In such cases, the employer is liable to a fine which can reach the amount of 30 000 euro for every illegally staying foreigner hired. The sanctioned employers may not participate in the measures for promotion of employment under the Employment Promotion Act for a period of one year from the establishment of the violation.

Paragraph 1 points 13 and 14 of the Additional Provisions to LLMLM defines “illegal employment of a third-country national” as the employment of an illegally residing person on the territory of the Republic of Bulgaria, as well as the hiring or admission of a third-country national without the appropriate authorization or registration by the Employment Agency. The definition of “illegally residing” foreign national is given by the LFRB (para 1, point 3b of the additional provisions to LFRB). This is any foreigner who is a third-country national who is on the territory of the Republic of Bulgaria and who is not or ceases to be eligible for stay or residence.

Third country nationals can have access to the labour market after obtaining evidence of a written decision on the part of the Executive Director of the Employment Agency. Art. 11, para 1, point 3, 6 and 10 states that the Executive Director of the Employment Agency shall

refuse to issue decision (working permit) when:

- the employer has a penal decree that has entered into force in a previous two-year period for the use of the labour of a foreigner without the right of access to the labour market or for the hiring of an illegally residing foreigner;
- the employer has a penal decree that has entered into force in the previous one year for employment of a foreigner without the relevant permission by the Employment Agency;
- a third-country national employee has been penalized for illegal labour during a previous five-year period or has been working illegally in the Republic of Bulgaria on a previous stay or at the time the application was filed. Art. 75a, para. 1 (New, SG No. 24/1918, in force from 23.05.2018) of LLMLM envisages, that a third-country national who provides labour ... without the corresponding permission or registration with the Employment Agency shall be punished with a fine of BGN 500 to 5,000 (approximately EUR 250 to 2,500).

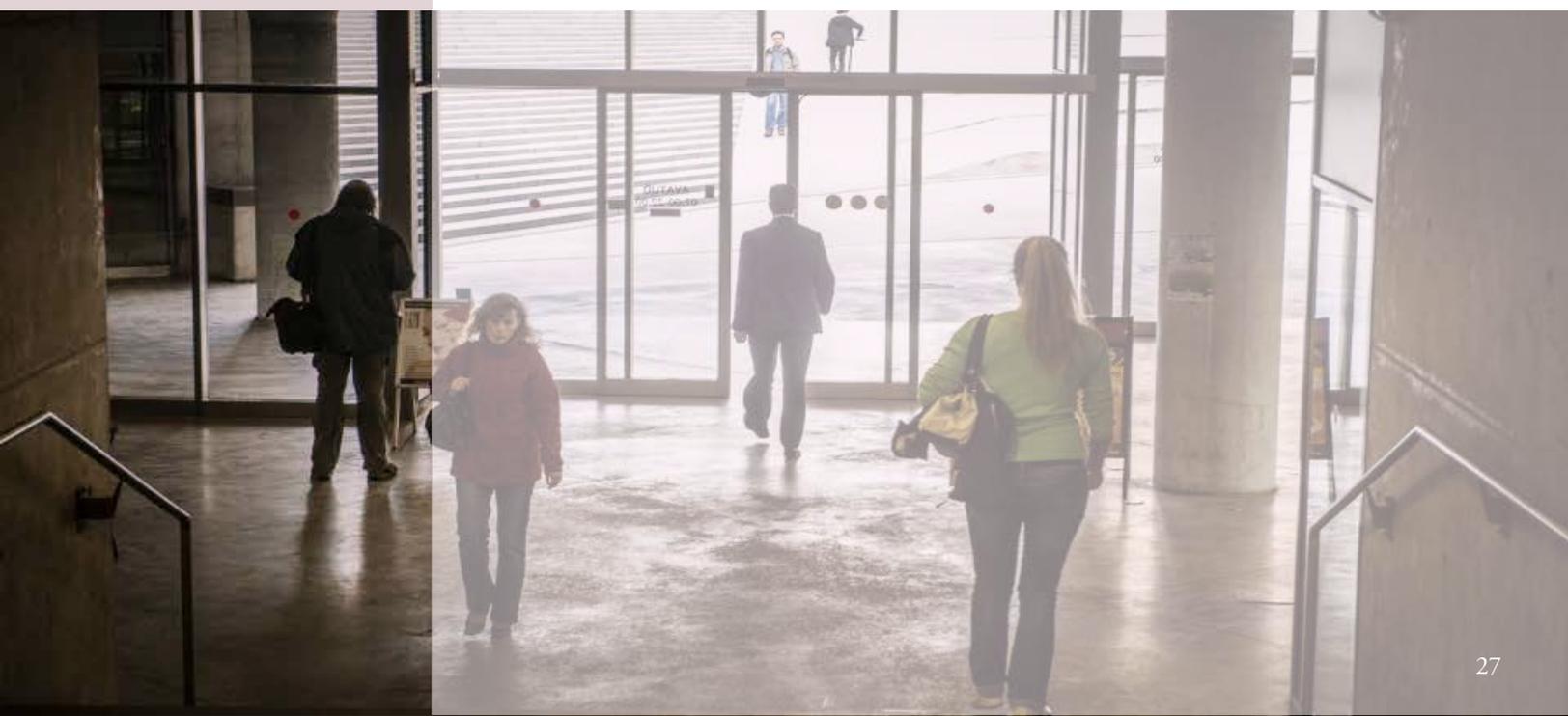
According to Art. 70 of LLMLM, even if third-country nationals are illegally employed, they have a right to notify the General Labour Inspectorate Executive Agency about any labour violations committed by their employer. In such cases, assistance to third-country nationals who are illegally employed “shall not be deemed to be assisting an illegal stay”, which is defined as a crime under the Criminal Code. The General Labour Inspectorate Executive Agency maintains on its website an updated list of employers who have been charged with administrative punishment for the employment of illegally residing foreigners within the last 5 years (Art. 74 of LLMLM). There is, however, no guarantee in law, that third-country nationals working without permission would not be penalized for that when it becomes known in the process of their reporting of a violation, thus the need for establishing a “firewall” policy, if such reporting is to be encouraged and facilitated.

According to article 44a. paragraph 2 of the LFRB, when a foreigner has to be expelled from Bulgaria to a country where his/her life and freedom are endangered and s/he would be subject to the threat of prosecution, torture or inhuman or humiliating treatment, and this threat is established by an effective judicial decision, the foreigner shall be issued an order by the authority that issued the expulsion order, which shall explicitly state the conditions and reasons which prohibit this foreigner from being deported to this country. If this expulsion order has not been carried out within one year from the time of its issue, the foreigner shall be allowed temporary access to the labour market under the terms and conditions of the LLMLM, which shall be valid until implementation of the expulsion. This is the only, very narrow, window in Bulgarian law allowing labour market access to persons without regular status. It has rarely, if ever, been applied, and it only includes persons with expulsion orders, while the vast majority of migrants in irregular situation in Bulgaria have deportation orders.

According to the art. 29, para. 3 of the LAR, foreigners who are asylum seekers have right to access the labour market (including programs and projects funded by the state, international or European funding), if the proceedings are not completed within three months of the filing date for reasons beyond the foreigner's control.

In addition, according to art. 9, para. 1, point 10 of the LLMLM, asylum seekers can work without a permit if the work performed takes place in the SAR accommodation centres. Reasonable interpretation suggests that a permit will be required for work outside the centres, which creates additional obstacles and is not in compliance with art. 29, para. 3 of LAR, which does not mention such limitations. In practice, after 3 months in asylum procedure and upon the request of the asylum seekers, the SAR issues a document testifying to this fact, which serves as a work permit. Some employers accept easily this document and hire asylum seekers, others, including some of the large international companies who are otherwise known as receptive to diversity and supportive of foreign workers on their staff, have adopted a policy of refusing to hire persons with "green card" (the asylum-seeker card issued by the SAR to persons who are in procedure). Some, arguably understandable, considerations of theirs would be that the "green cards" are issued for and renewed at every three months, which means that, as stipulated in the Labour Code, the employers should make only temporary contracts and renew them every three months. In addition, banks refuse to open accounts on the basis of a "green card" only and require a national passport to be presented, which many asylum seekers do not possess. This presents an additional difficulty for employers who generally do not have the practice to pay cash and are restricted from doing so.

The same difficulties are experienced by asylum seekers who want to open a business, since according to the LAR, the asylum seeker's registration card is not considered an official identification document (article 40, paragraph 3).



5. Difficulties in Accessing Education and Healthcare

Education

According to Article 53 of the Constitution of the Republic of Bulgaria, every person has right to education, and education up to the age of 16 is mandatory. This provision does not differentiate between nationals and foreigners. However, the Pre-school and School Act allows for free educational access only to foreign nationals from third countries who: 1) have received permission for permanent residence; or 2) have received permission for prolonged or long-term residence in the country, along with their families; or 3) have received permission to be educated under decisions of the Council of Ministers or according to international treaties; or 4) who are seeking or who have received international protection (Art. 9, para 2). Since undocumented migrant children do not fall under any one of these categories, they generally do not have access to school education. Paragraph 5 of the same provision, which references a decision by the Council of Ministers, stipulates that foreign nationals who do not fall into these categories may access education only after paying fees. Finally, according to Ordinance No. 3, on the conditions and the procedure for admission and training of persons seeking or having received international protection, persons seeking or having obtained international protection are defined as those who have requested or received protection under the Law on Asylum and Refugees (Paragraph 1 of the Additional Provisions for the Purposes of this Ordinance, issued 6 April 2017).

It is unclear whether undocumented foreigners who have received permission for prolonged residence in Bulgaria under Article 24z of the LFRB as subject to administrative or criminal proceedings fall within the second hypothesis of Article 9, Paragraph 2, Point 2 of the Pre-school and School Act, and can therefore access the educational system.

According to the LAR, child and adolescent foreigners who are seeking or who have received international protection have the same right to primary, secondary, and vocational education. However, this right is not available to adult asylum seekers, only to those who have been granted international protection (Article 26, Paragraph 1 and 2).



Health Care

The Health Insurance Act stipulates that foreign nationals or stateless persons permitted to reside in the Republic of Bulgaria must be registered in Bulgarian National Health Insurance plan (Article 33, Paragraph 3). According to Paragraph 4 of this provision, the same rule applies to persons with refugee or humanitarian status, or who have been granted special asylum by the President. In addition, uninsured aliens who are long- or short-term residents of the Republic of Bulgaria, including persons with dual Bulgarian and foreign citizenship, shall pay the cost of the medical insurance provided to them unless they fall under the conditions on an international agreement to which Bulgaria is a signatory (Article 39, Paragraph 5). However, the law does not specify regulations for undocumented foreigners, which means that in practice, they are excluded from government health systems and are left to assume the costs of all medical assistance.

Article 29, paragraph 1, point 5 of the LAR stipulates that during the asylum procedure, the foreigner has the right to health insurance, accessible medical assistance and free use of medical care under the same conditions as Bulgarian citizens, while article 40, paragraph 3, point 7 stipulates that asylum seekers are insured at the expense of the state budget.



VII. CONCLUSION

As was determined in the interim regional evaluation report of the three EPIM-funded pilot projects on ATD and was illustrated with examples above, the Case Management programme had a significant positive impact on the individuals enrolled in it. In the case of Bulgaria, in 97% of the sampled cases, there was a “huge” positive impact on several indicators such as improved well-being and ability to make informed decisions, as well as increased levels of trust in the system.¹⁰ This leads to more active participation and involvement on the part of the individual in their migration procedures, better and more regular communication between the applicant and the state authorities, and a well-informed decision-making process for the persons of concern in Bulgaria. This can contribute to faster and more efficient case resolution, without the need to resort to detention. Thus, the case management approach can deliver results for both the individual and for the state.

On the other hand, case management has limitations, key among which is that it cannot address systemic gaps, such as “structural issues relating to the migration system itself” or lack of minimal living standards, which may erode the individual’s trust in the system or impede his/her coping ability.¹¹ In the Bulgarian context, as the above analysis and examples demonstrate, the evident low levels of trust that the migration procedures are fair and that there is decent a chance to obtain legal status in Bulgaria – particularly when it comes to the international protection system – is a major risk factor for disengaging and/or absconding that case management alone cannot mitigate.

Concerning a minimum living standard regardless of the person’s immigration status, a significant gap in the Bulgarian system is the lack of legal and administrative mechanisms for a person in an irregular situation to access even the most basic services, such as medical care, or to earn an income so that they can secure housing and subsistence until the resolution of their migration status. A range of good practices exist in many European countries (e.g., Romania, Poland, Germany), such as a legislated “tolerance status” that allows a person who is under a return order to access the labour market and basic social services until the return is effected.

Finally, while the pilot project on applying community-based ATD through using the case management method showed promising results, as a pilot, its aim has been, above all, to test the method in the Bulgarian context. To achieve lasting results and systemic change, the application of engagement-based alternatives must be taken up by the responsible decision-making institutions, such as the Ministry of Interior. The case management method could be mainstreamed in the entire migration system in Bulgaria so that the positive results achieved by the pilot project can be scaled up to impact the entire migrant population and could lead to the improvement of the system itself.

10. Eiri Ohtani, “*Alternatives to detention from theory to practice - Evaluation of three engagement-based alternative to immigration detention pilot projects in Bulgaria, Cyprus and Poland*”, available at: https://www.epim.info/wp-content/uploads/2018/10/ATD-Evaluation-Report_FINAL.pdf , p. 29.

11. *Ibid.*, p. 25.

VIII.

RECOMMENDATIONS

To the National Legislature and Council of Ministers

- Establish in law channels for obtaining legal status from within Bulgaria outside of the asylum procedure, through appropriate regularization and/or tolerance regimes for non-returnable and well integrated in the community third-country nationals; one such channel could be the legal possibility to remain on a work visa without having to leave the country and without being penalized for previous irregular stay and/or work.
- Amend the Law on Foreigners and the Regulation for its application so as to require that engagement-based alternatives to detention are considered first, and reasons are provided for imposing a more restrictive measure; institute regular reviews of the measure imposed whereby reports are prepared to justify the continuation of a restrictive measure.
- Introduce a regulatory requirement and procedure for applying vulnerability identification mechanisms and referral mechanisms at the earliest possible stage of the administrative procedure concerning migrants, including in border police custody and short-term detention.

To the State Agency for the Refugees

- Improve the quality of asylum determination procedure in accordance with EU standards and practices in other EU countries, so that the rates of positive decisions for nationals of a given country are more consistent, in order to reduce the risks of absconding and secondary movement within the EU.
- Apply the provisions of the Law on Asylum and Refugees regarding humanitarian status (Art. 9) with due discretion so as to capture humanitarian cases on grounds such as health, destitution, level of integration in Bulgaria, and ease in such cases the standard for the required new evidence for the admissibility of a subsequent application for protection.

To the National Council on Migration and Integration

- Include engagement-based ATD in the National Strategy on Migration, Asylum and Integration, and budget for it, not least since the EC's proposal¹² for the Asylum and Migration Fund 2021-2027 specifically provides for such funding.
- Create a coordinating mechanism for working on migrants' cases holistically and in a synchronized manner, to be adopted by all implicated institutions (Border Police, Migration Directorate, State Agency for the Refugees, etc.). Designate a case manager from one of the implicated institutions who would be in communication with the foreign national for the duration of any asylum and migration procedures s/he may go through, and which case manager will provide support at all stages.
- Re-include in the Plan for 2020 the drafting of a Migration Code as part of the goal to improve institutional collaboration (item #32 in the Plan for 2018, whereas the mention of a draft Migration Code is omitted from the Plan for 2019), in order to provide the legal basis for case management to be applied by the state institutions, and to overcome the current state of fragmentation of responsibilities in the migration system in Bulgaria.

To the Ministry of Labour and Social Policy; Municipalities

- Create alternative housing possibilities with social institutions or municipalities, especially for vulnerable foreign nationals and regardless of their residency status.
- Create a “firewall” policy whereby migrants in precarious situations and with irregular status are able to access services and to file complaints without fear that this may reflect on their situation and expose them to risk of detention/deportation.

To NGOs working in the Migrant-Serving Sector

- Adopt the case management method in their work with migrants, following the cases long-term and considering their needs holistically, regardless of the particular area of specialization of the organization.
- Create an online “hub” of all available services for migrants, with an updated database including projects, events, places, where such services could be accessed.

12. “European Commission, Proposal for a Regulation of the European Parliament and the Council establishing the Asylum and Migration Fund, Strasbourg, 12.06.2018, COM(2018) 471 final, available at: https://ec.europa.eu/commission/sites/beta-political/files/budget-may2018-asylum-migration-fund-regulation_en.pdf