



Reducing Prison Population: advanced tools of justice in Europe  
JUST/2013/Action Grants

WORKSTREAM 1-  
COMPARATIVE CONCLUDING REMARKS OF THE IN-DEPTH INTERVIEWS  
TO THE COUNTRY-EXPERTS



## Concluding remarks

The following report concerns the concluding remarks of the interviews conducted by the seven partners to some country-experts on alternatives to detention. These remarks do not provide a complete snapshot of the national system working on or dealing with this theme. In fact, this last aspect is covered by the literature analysis provided by the partners. Thus, the alternatives presented in the following schemes are not all the ones that are considered by the country legislation, but only the ones that are mentioned by the experts.

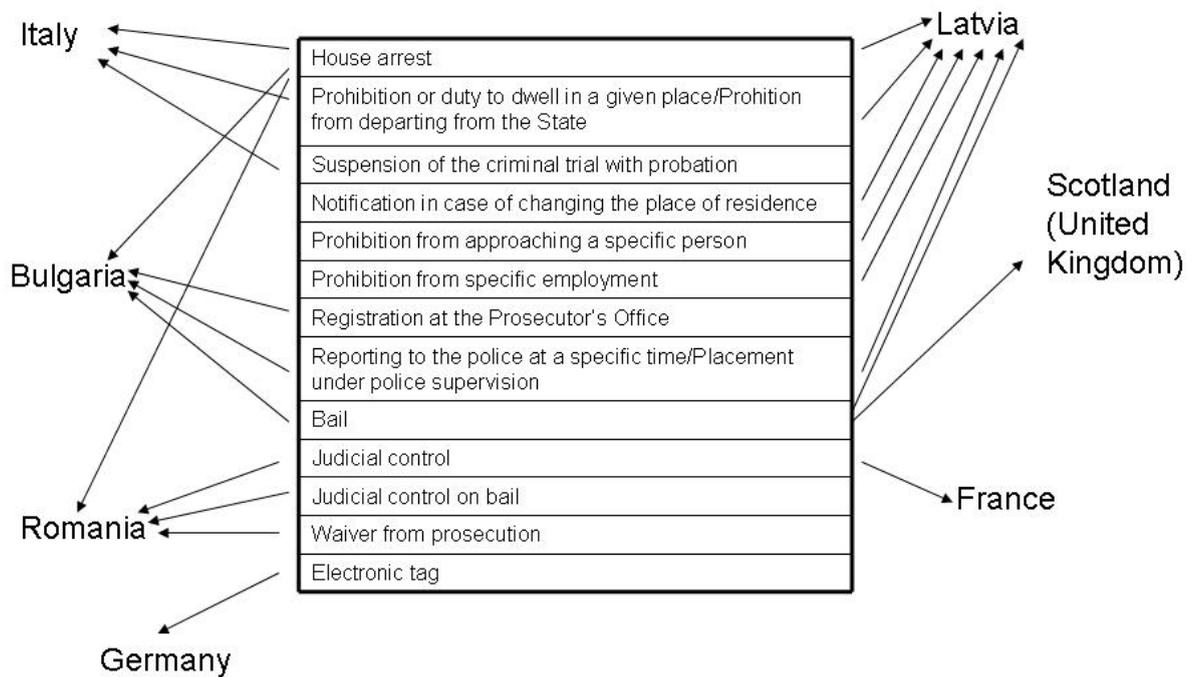
### 1. Different types of alternatives to detention – pre-trial

Different types of alternatives to detention – pre-trial	
<i>Italy</i>	<p>The pre-trial alternatives to detention are defined as precautionary measures (personal, if there is the restriction of personal freedom):</p> <ul style="list-style-type: none"> <li>• House arrest;</li> <li>• Prohibition or duty to dwell in a given place;</li> <li>• «Suspension of the criminal trial with probation»</li> </ul>
<i>Romania</i>	<p>The mentioned pre-trial alternatives to detention are:</p> <ul style="list-style-type: none"> <li>• Judicial control ;</li> <li>• Judicial control on bail;</li> <li>• House arrest;</li> <li>• Waiver from prosecution (one of the most effective methods).</li> </ul>
<i>Scotland (UK)</i>	<ul style="list-style-type: none"> <li>• The most common alternative is bail (it is usually self-monitored, but there can be 'bail supervision packages', which comprise bail with mentoring, supportive accommodation in a specific house, or a combination of them).</li> <li>• One of the interviewees said that in the locality where he/she lives there are some specific alternatives to detention for young offenders (18 and below) and low-level female offenders (adults). Their aim is to divert criminals to activities that that can help them address the underlying causes of their offending behaviour (for instance, a thief has a financial consultancy that helps him solve the financial problems that leads him to commit crimes). The interviewee suggests that this program should be adopted also for adult males in the future.</li> </ul>
<i>Bulgaria</i>	<p>The mentioned pre-trial alternatives to detention are:</p> <ul style="list-style-type: none"> <li>• Registration at the Prosecutor's office;</li> <li>• Bail;</li> <li>• House arrest.</li> </ul>
<i>Germany</i>	<p>The mentioned pre-trial alternatives to detention are:</p> <ul style="list-style-type: none"> <li>• Electronic tag (there is an open debate about this measure, which for example concerns net-widening effect, relapse prophylaxis, cost-benefits and security issues).</li> <li>• Suspension of an execution. This alternative shall be implemented when: <ul style="list-style-type: none"> <li>▪ the execution of a warrant of arrest is merely justified by a risk of flight that can be fully prevented through appropriate measures;</li> <li>▪ The execution of a warrant of arrest is motivated by the risk of tempering with evidence, which can be adequately avoided, for instance, through abstaining from contacts with co-accused persons, witnesses, or experts may be considered;</li> <li>▪ There are grounds to assume that the accused will be able to be compliant with some instructions and, thus, fulfill the purpose of the detention</li> </ul> </li> </ul>

	<ul style="list-style-type: none"> <li>• In Bremen, there is a service for those who do not have a permanent address and due to this are detained because of the risk of flight (NGO Hoppenbank). This service is also provided in other federal states and allows eligible accused to leave the pre-trial confinement or to avoid it and start living in a therapeutic supervised accommodation. This service is also aimed at offering the accused a good preparation for trial.</li> </ul>
<i>Latvia</i>	<p>The mentioned alternatives to detention are:</p> <ul style="list-style-type: none"> <li>• Notification in case of changing the place of residence;</li> <li>• Reporting to the police authority at a specific time;</li> <li>• Prohibition from approaching a specific person;</li> <li>• Prohibition from specific employment;</li> <li>• Prohibition from departing from the State;</li> <li>• Prohibition or duty to dwell in a given place;</li> <li>• Personal guarantee;</li> <li>• Bail;</li> <li>• Placement under police supervision;</li> <li>• House arrest.</li> </ul>
<i>France</i>	<p>The mentioned pre-trial alternative to detention is:</p> <ul style="list-style-type: none"> <li>• Judicial control (curfew with electronic monitoring) (contrôle judiciaire). Pre-trial detention can be pronounced only if this measure is not able to meet some conditions provided by the law.</li> </ul>

To summarize...

## Pre-trial alternatives to detention



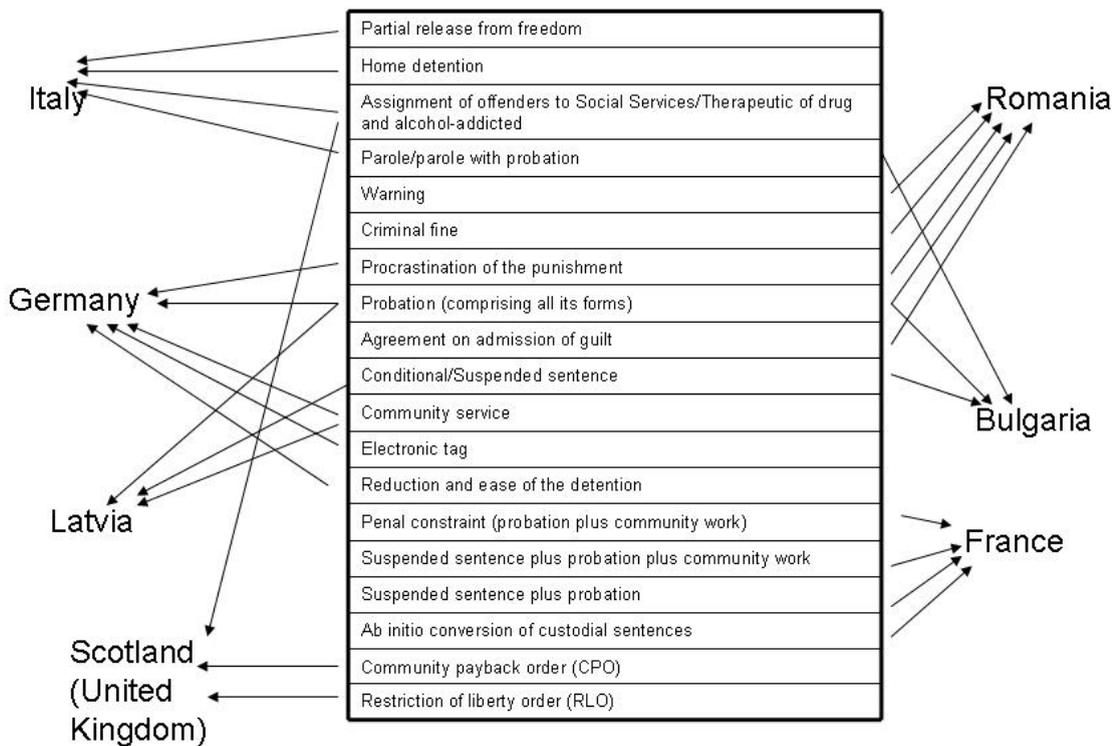
## 2. Different types of alternatives to detention – post-trial

Different types of alternatives to detention – post-trial	
<i>Italy</i>	<p>The mentioned post-trial alternatives to detention are:</p> <ul style="list-style-type: none"> <li>• Partial release from freedom;</li> <li>• Home detention;</li> <li>• Assignment of offenders to Social Services;</li> <li>• Therapeutic assignment of drug or alcohol -addicted;</li> <li>• Parole.</li> </ul>
<i>Romania</i>	<p>The mentioned post-trial alternatives to detention are:</p> <ul style="list-style-type: none"> <li>• Warning;</li> <li>• Criminal fine (which could be converted into community work, if there is no possibility of paying it);</li> <li>• Procrastination of the punishment (one of the most effective methods);</li> <li>• Probation prior to completion of punishment (one of the most effective methods);</li> <li>• Agreement on admission of guilt.</li> </ul>
<i>Scotland (UK)</i>	<p>The mentioned post-trial alternatives to detention are:</p> <ul style="list-style-type: none"> <li>• Community payback order (CPO), which is a combination of 9 different requirements (at least 1 or more);</li> <li>• Restriction of liberty order (RLO);</li> <li>• Therapeutic assignment of drug-addicted: Drug Treatment and Testing Order (DTTO).</li> </ul>
<i>Bulgaria</i>	<p>The mentioned post-trial alternatives to detention are:</p> <ul style="list-style-type: none"> <li>• Conditional/suspended sentence → post-trial;</li> <li>• Probation → post-trial;</li> <li>• Parole → post-detention;</li> <li>• Parole with probation supervision for the remaining period of the sentence → post-detention</li> </ul>
<i>Germany</i>	<p>The mentioned post-trial alternatives to detention are:</p> <ul style="list-style-type: none"> <li>• Community service;</li> <li>• Electronic tag (there is an open debate about this measure, which for example concerns net-widening effect, relapse prophylaxis, cost-benefits and security issues).;</li> <li>• Procrastination of the punishment;</li> <li>• Reduction and ease of the detention due to victim–offender -mediation;</li> <li>• Probation is a possible result of victim–offender -mediation;</li> <li>• Anti-violence training (which can present some security problems).</li> <li>• Alternatives measures concern also those who failed to pay a fine. These alternatives concern community service and training courses to help people manage their finances.</li> </ul>
<i>Latvia</i>	<p>The mentioned post-trial alternatives to detention are:</p> <ul style="list-style-type: none"> <li>• Community service;</li> <li>• Suspended sentences;</li> <li>• Probation prior to completion of punishment;</li> <li>• Probation programs (supervision, electronic monitoring).</li> </ul>
<i>France</i>	<p>The mentioned post-trial alternatives to detention are divided depending on the phase of the post – trial criminal justice system</p> <ul style="list-style-type: none"> <li>• <u>Sentencing phase:</u> <ul style="list-style-type: none"> <li>- Penal constraint (probation plus community work sentence);</li> <li>- Suspended imprisonment sentence with probation;</li> </ul> </li> </ul>

	<ul style="list-style-type: none"> <li>- Suspended sentence plus probation plus community work.</li> <li>• <u>Post-sentence:</u> <ul style="list-style-type: none"> <li>- Ab initio conversion of custodial sentences. Sentences can be transformed into a great variety other sentences or measures (e.g. probation and community work, semi-freedom, EM and so on);</li> </ul> </li> </ul>
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To summarize...

## Post-trial alternatives to detention



### 3. Main actors involved

Main actors involved	
<i>Italy</i>	<p><u>Sentence phase</u>            The prosecutor (“<b>Pubblico Ministero</b>”) presents his opinion to Surveillance Court (“<b>Tribunale di sorveglianza</b>”), which consists of supervising magistrates, honorary judges on whether to grant or not the alternative to detention.            Judges of the “<b>Tribunale di sorveglianza</b>” decide whether to grant or not the alternative to detention. The <b>condemned</b> may appeal to the <b>Italian Supreme Court of Cassation</b>.</p> <p><u>Implementation phase</u></p> <ul style="list-style-type: none"> <li>• <b>Condemned;</b></li> <li>• <b>Educators, social services, psychologists, volunteers</b> → work within jail;</li> <li>• <b>U.E.P.E.</b> (along with local governments and police) → organize social services.</li> </ul>
<i>Romania</i>	<p>Within the law system, the main actors involved are:</p> <ul style="list-style-type: none"> <li>• <b>Police authority;</b></li> <li>• <b>Prosecutor</b> → deals with criminal prosecution in all its aspects);</li> <li>• <b>Judge</b> → takes the decision;</li> <li>• <b>Probation services</b> → monitor the compliance with the obligations stated by the Court and the person after executing the penalty or after the probation;</li> <li>• <b>Probation counsellors</b> → responsible for the application of alternatives to imprisonment before and after the trial.</li> </ul> <p>Without the law system, as external stakeholders, there are:</p> <ul style="list-style-type: none"> <li>• <b>NGOs</b> → influence policies;</li> <li>• <b>Private citizens;</b></li> <li>• <b>Victims</b> (their rights are in accordance with the European standards . Another important aspect is protection).</li> </ul>
<i>Scotland (UK)</i>	<p><u>Actors involved in the pre-trial alternatives:</u></p> <p>Diversion</p> <ul style="list-style-type: none"> <li>• <b>Police and social workers</b> (experimental in interviewee’s locality)</li> </ul> <p>Sentencing</p> <ul style="list-style-type: none"> <li>• <b>Procurator fiscal and defence agent</b> → present the case to the judge;</li> <li>• <b>Judge</b> → decides whether to grant bail or not;</li> <li>• <b>Civil society</b> → may affect policy making and the legislation of bail conditions that should be imposed on the accused.</li> <li>• <b>CJSW</b> → provides an assessment report for repeat offenders. This report is optional.</li> </ul> <p>Bail</p> <ul style="list-style-type: none"> <li>• <u>No supervision required:</u> No involvement of the police (“bail is self-policed”), which are responsible for the implementation and enforcement of the rules. Police get involved if the offender breaches bail conditions or if they need to check adherence to the conditions of curfew (if any).</li> <li>• <u>Supervision required:</u> There are supervision packages organized by Criminal Justice Social Work (CJSW): mentoring bail, supportive accommodation in a specific house, a combination of these alternatives.</li> </ul>

	<p><b>Actors involved in the post-trial alternatives (especially, Community Payback Order-CPO-)</b>          Sentencing</p> <ul style="list-style-type: none"> <li>• The <b>judge</b> → decides on the type of sentence.</li> <li>• <b>Procurator fiscal and defence agent;</b></li> <li>• <b>Victim;</b></li> <li>• <b>Professionals;</b></li> <li>• <b>CJSW</b> → helps the judge in understanding the kind of treatment that the offender requires.</li> </ul> <p>Implementation</p> <ul style="list-style-type: none"> <li>• <b>CJSW</b> → coordinates the implementation of CPO requirements by involving different agencies;</li> <li>• <b>Agencies/NGOs</b> → organize specific services depending on the individual needs and issues of the offender (e.g., counselling for mental health issues; drug treatment for substance misuse problems).</li> </ul>
<i>Bulgaria</i>	<p>The mentioned actors are:</p> <ul style="list-style-type: none"> <li>• <b>Judge</b> → decision phase on the basis of the measures proposed by the prosecutor (pre-trial) or after a report of the probation service</li> <li>• <b>Prison, arrests, Probation service</b> → implementation phase (imprisonment, probation, pre-trial detention)</li> <li>• <b>Victims</b> (although they are not encouraged to participate);</li> <li>• <b>Civil society</b> → advocacy and campaigning , legislation amendments, social service for offenders;</li> <li>• <b>NGOs</b> → supporting role</li> </ul>
<i>Germany</i>	<p>The mentioned actors are:</p> <ul style="list-style-type: none"> <li>• <b>Public prosecution</b> → decides about alternatives to detention;</li> <li>• <b>Court of Execution of Prison Sentences;</b></li> <li>• <b>Lawyers;</b></li> <li>• <b>Courts;</b></li> <li>• <b>Probation Service;</b></li> <li>• <b>Magistrate;</b></li> <li>• <b>Social service of justice</b> → they are state institution which collaborate with prisons, courts, private institutions and other state facilities;</li> <li>• <b>Prisons;</b></li> <li>• <b>“Freie Traeger”</b> → Organisations (mainly NGOs) that receive public funds and involve convicted into different activities, such as community service, accompanying convicted upon instalment payment of imposed fines, in group homes or running victim – offender violations).</li> </ul> <p><b>This is not a victim-related system.</b></p>
<i>Latvia</i>	<p><u>Pre-trial:</u></p> <ul style="list-style-type: none"> <li>• <b>Accused or suspect;</b></li> <li>• <b>Prosecutor</b> (to choose a procedural compulsory measure that infringes upon the basic rights of a person as little as possible);</li> <li>• <b>Court;</b></li> <li>• <b>Prison personnel;</b></li> <li>• <b>Providers of social services;</b></li> <li>• <b>Investigating judge</b> (to understand whether a person is reliable or not).</li> </ul>

	<p><u>Post-trial:</u></p> <ul style="list-style-type: none"> <li>• <b>People who committed a criminal violation, a less serious crime, a serious crime whose detention lasts between 3 and 5 years.</b> It is important to consider the personality and behavior of the convicted person. The convicted should also fulfil some other specific criteria;</li> <li>• <b>Victim</b> (who can count on the respect of the victim's rights by the Court, although the involvement of the victim in the punishment process is not commonly used in practice).</li> </ul>
France	<p><u>Pre-trial:</u></p> <ul style="list-style-type: none"> <li>• <b>College of investigation or judge of freedoms and detentions</b> → may order the judicial review;</li> <li>• <b>Probation service</b> (called "State probation") → are in charge of supervision;</li> <li>• <b>Police</b> → are in charge of supervision;</li> <li>• <b>Third-sector</b> → are in charge of supervision less often, but they are said to deliver more qualitative service;</li> </ul> <p><u>Post trial:</u></p> <ul style="list-style-type: none"> <li>• <b>Court</b> → pronounces the sentence of imprisonment along with penal constraint;</li> <li>• <b>Judge</b> → can implement or not the sentence;</li> <li>• <b>JAP</b> (sentences' implementation judge) or TAP (three JAP tribunals);</li> <li>• <b>Prosecutor.</b></li> </ul>

To summarize...

Actors within legal and institutional system:

- **Accused** (pre-trial)/**Condemned** (post-trial);
- **Police** deals with investigative aspects or may be in charge of supervision;
- **Prosecutor/Procurator** (in Scotland, there are the "**Procurator fiscal and defence agent** "; while in Italy there is the "**Pubblico Ministero**") → deals with criminal prosecution and may propose alternative to detention to the Court that should decide about granting it or not;
- **Judge/Court** → decides whether to grant ATD or not; in Italy this role is played by the Surveillance Court ("Tribunale di sorveglianza").
- **Court of Cassation** (Italy and France) → analyzes the appealed sentences;
- **Probation services** → monitor the compliance with the obligations stated by the Court and the person after executing the penalty or after the probation; Bulgaria reminds of probation counselors, who are responsible for the application of alternatives;
- **Social services, psychologists, volunteers, educators** → collaborate with prisons, courts, private institutions and other state facilities.

Country-specific actors within the legal and institutional system

- **U.E.P.E.** ("Uffici per l'esecuzione penale esterna") (**Italy**) → are local and operative subjects of the Penal Administration in charge of the social services coordination;

- **C.J.S.W. (SCOTLAND)** (“Criminal Justice Social Work”) → organizes “supervision packages” in the pre-trial phase; helps the judge to decide the best approach required for dealing with the offender in the sentencing phase and coordinates the CPO services in the implementation phase.
- **J.A.P.** (“sentences’ implementation judge”) or **T.A.P.** (“three JAP tribunals”) (**France**)→ created for some release decisions pertaining to long-term sentences;

#### External stakeholders

- **NGOS** can influence policies or manage services related to alternatives to detention;
- **Civil society/Private citizens** can influence policies;
- **Third sector**, in charge of the supervision of ATD, though less often. They are said to deliver more qualitative services.

#### Country-specific external stakeholders

- **“Freie Traeger”** (Germany) → Organizations (mainly NGOs) that receive public funds and involve convicted into different activities, such as community service, accompanying convicted upon instalment payment of imposed fines, in group homes or running victim – offender violations.

#### The victim

- Romania, Scotland, Bulgaria and Latvia recognize the role of the victim in the legal procedure/punishment, even though the latter two countries rarely encourage the active participation of the victim in this process. Italy and Germany do not present a victim-related system.

#### 4. Main target of the alternatives to detention

Main target of the alternatives to detention	
<i>Italy</i>	Target depends on the entity of the committed crime, since alternatives to detention are allowed for less relevant crimes: minor drug dealers and scammers, non-violent burglars, drug addicted (the most studied group).
<i>Romania</i>	There is no certain reference group. There are drug dealers as well as criminals who committed patrimonial crimes (burglary, aggravated burglary, robbery, breach of trust, fraudulent management, fraud, embezzlement, destruction, disturbance of possession, concealment). These are accompanied by economic crimes, corruption crimes, drug traffic, driving under alcohol influence, driving without a license, manslaughter.
<i>Scotland(UK)</i>	<p><b>Bail:</b>            Anyone, with the exception of those who:</p> <ul style="list-style-type: none"> <li>• tried for an offence of personal violence or sexual offence and have previously been convicted with such offences on indictment;</li> <li>• tried for a drug trafficking offence and have a previous conviction on indictment for drug trafficking offence;</li> <li>• believed to pose a risk to the public or witnesses.</li> </ul> <p><b>Community Payback orders (CPO):</b></p> <ul style="list-style-type: none"> <li>• Low-level criminals</li> <li>• NO serious offenders, including sex offenders and domestic violence offenders (who go on specific programmes tailored for their needs).</li> </ul>
<i>Bulgaria</i>	Offenders which can be granted alternative provisions depending on the features of their case. Therefore, no specific target (although someone stressed the presence of many programs involving persons convicted for drunk driving)
<i>Germany</i>	It depends on the individual case (benchmark: severity of offenses; the suitability of an individual to imprisonment; the suitability of an offense to an alternative to detention)
<i>Latvia</i>	<p><b>Pre-trial:</b></p> <ul style="list-style-type: none"> <li>• Accused or suspect</li> </ul> <p><b>Post-trial:</b></p> <ul style="list-style-type: none"> <li>• People who committed a criminal violation, a less serious crime, a serious crime whose detention lasts between 3 and 5 years. It is important to consider the personality and behavior of the convicted person. The convicted should also fulfil some other specific criteria.</li> </ul>
<i>France</i>	Some target groups were mentioned when presenting the concrete alternatives to detention at local and national level (although they are not likely to entail all the involved categories). They are: dissocialized or homeless offenders, multi-recidivists with psycho-social needs, sex offenders, offenders belonging to ethnic minorities (for instance, Kanak tribes in New Caledonia).

## 5. Main advantages and drawbacks of the alternatives to detention

	Advantages	Drawbacks
<i>Italy</i>	<ul style="list-style-type: none"> <li>• Lower costs (economic advantages);</li> <li>• Low relapse rate;</li> <li>• Constructive, not only restrictive (it is a productive factor and of improvement);</li> <li>• More respectful of human dignity.</li> </ul>	<ul style="list-style-type: none"> <li>• Not easily granted</li> <li>• Lack of institutional, personnel and economic resources both within and without prison;</li> </ul>
<i>Romania</i>	<ul style="list-style-type: none"> <li>• ATDs allow not to lose contacts with the community (more possibility of recovery). Thus, the person is not removed from his living environment.</li> <li>• The person has other members of the family in his care;</li> <li>• Relapse rate is low, because alternatives are thought for the persons who do not persist in relapsing and who have the chance to correct their wrongs without being introduced to an imprisonment system;</li> <li>• Intervention programs aimed to re-integration;</li> <li>• They avoid overcrowding of people;</li> <li>• They are less expensive than imprisonment;(which involves costs of staff, food, clothing. Moreover, the person pays taxes to the state budget and does not represent a cost for the State.</li> <li>• No negative effects due to closed environment (as it would be in case of imprisonment);</li> <li>• More efficient w.r.t. effectiveness in the rehabilitation of criminals</li> <li>• They do not tear the rhythm of the person's life and his or her environment</li> </ul>	<ul style="list-style-type: none"> <li>• Perception of the community, which wants criminals to be punished because they do not see condemned people as part of the society (they see imprisonment as the realization of social justice). Moreover, they want a program that solves the problems of criminals, not one that helps them reintegrate.</li> </ul>
<i>Bulgaria</i>	<ul style="list-style-type: none"> <li>• Value for money (cost/benefit ratio compared to prison);</li> <li>• Reduction of the negative impact of imprisonment;</li> <li>• Easier reintegration of offenders into society (more effectiveness in the rehabilitation and reintegration of</li> </ul>	<ul style="list-style-type: none"> <li>• Rigidity of the legislation;</li> <li>• Little space for flexibility and discretion by the judge (the offender does not receive a sentence that is fully adequate to his/her situation and needs);</li> </ul>

	<p>the offender);</p> <ul style="list-style-type: none"> <li>• Reduction of the number of prisoners;</li> <li>• Synchronization with EU standards and regulations;</li> <li>• Family and community links are not broken, unlike in the case of prison;</li> <li>• Need for less personnel than prison;</li> <li>• There is the safeguard of human rights and human dignity (unlike prison)</li> <li>• ADTs involve less harsh punitive element.</li> </ul>	<ul style="list-style-type: none"> <li>• Underfunding.</li> </ul>
<p>Scotland(UK)</p>	<p><u>PRE-TRIAL ALTERNATIVES:</u></p> <ul style="list-style-type: none"> <li>• Less costly option than remand</li> <li>• Allow the offender to remain in the community;</li> <li>• Do not introduce them to the prison environment where they are exposed to a potentially unfavourable prison environment.</li> </ul> <p><u>POST-TRIAL ALTERNATIVES:</u></p> <ul style="list-style-type: none"> <li>• Flexibility (tailored to the needs of the offender)</li> <li>• Cost</li> <li>• Remain in the community</li> <li>• No introduction in the prison environment</li> <li>• Reduction of likelihood of reoffending</li> <li>• Beneficial contact with professionals (mentoring) and services that are aimed to improve offender’s welfare</li> <li>• Guidance and support on how to deal with problems while on non-custodial orders</li> <li>• Offenders gain skills that they would not if they were in jail (routinely going to work, vocational training,..)</li> <li>• Allow the offender to pay back to the community for the harm done.</li> </ul> <p><u>BAIL-SPECIFIC:</u></p> <ul style="list-style-type: none"> <li>• Effective, in most cases, and preferable to detention.</li> <li>• Available for all, with the exception of serious repeat and violent offenders.</li> </ul>	<p><u>PRE-TRIAL ALTERNATIVES:</u></p> <ul style="list-style-type: none"> <li>• Risk to the victim and the public (if the accused re-offends).</li> <li>• Not effective for offenders with serious substance misuse issues.</li> </ul> <p><u>POST-TRIAL ALTERNATIVES:</u></p> <ul style="list-style-type: none"> <li>• Offender’s engagement with the order might not always be present;</li> <li>• Offender might be exposed to the factors that push him to commit the crime;</li> <li>• They might not be effective with repeat offenders;</li> <li>• Not enough leeway in the legislation/practice that allows for flexible approach when things do not work out according to the initial plan.</li> </ul> <p><u>FINANCIAL PROVISION –SPECIFIC:</u></p> <ul style="list-style-type: none"> <li>• Bias against the poor</li> </ul>

	<u>FINANCIAL PROVISION – SPECIFIC:</u> <u>-Good compliance</u>	
<i>Germany</i>	<ul style="list-style-type: none"> <li>• The detained is kept in his/her social environment;</li> <li>• Avoidance of the loss of work and/or apartment and/or social ties (ATD also allow preserving family from the loss of a source of income); a fixed daily routine and an healthy environment have a stabilizing effect;</li> <li>• Low relapse rate;</li> <li>• Allowance of new future perspectives, finding a job, treatment (drug-addicted) and self and impulse control (violent criminals);</li> <li>• People are taught how to deal with the causes of the offences they committed (the same intensity can neither be reached through pre-trial confinement nor imprisonment after trial ;</li> <li>• Avoidance of the transmission of criminal techniques;</li> <li>• Cheapness (cost/benefit relation, which concern both economic advantages and the prevention of relapse);</li> <li>• In conclusion, there is better rehabilitation and stabilization of the accused.</li> </ul>	<ul style="list-style-type: none"> <li>• Not every eligible person would be reached and a “best selection” would occur. This means that not all the eligible people would have the economic and work requirements (for instance, the case of electronic foot chain);</li> <li>• Not enough attractive for some inmates;</li> <li>• Not available for those who do not speak the native language (linguistic barriers);</li> <li>• Dependence on public budget.</li> </ul>
<i>Latvia</i>	<ul style="list-style-type: none"> <li>• Economic and social advantage</li> <li>• They allow to provide for the family, which is a preventive factor</li> <li>• Community work leads to concrete savings for employers.</li> <li>• Alternatives to detention deals with the causes of criminal offences and with the individual approach to each offender. Therefore, these interventions enable specialists to influence the values of the offender, to change the way a person thinks and to foster a shift in attitude while considering the sociopsychological needs of the offender, to change the way a person thinks and to foster a shift in attitude while considering the sociopsychological needs of the</li> </ul>	<ul style="list-style-type: none"> <li>• Insufficient social support system (this weak point concerns mainly people who are released prior to completion of punishment)</li> <li>• Pre –trial : They do Not always concern people who are responsible and willing to follow limitations;</li> <li>• Pre-trial: limited capacity of authorities to control implementation of these security measures;</li> <li>• Post-trial: there are individuals that expect to be punished through alternatives rather than through deprivation of liberty</li> </ul>

	<p>offender and adjusting the intervention to the required extent.</p> <ul style="list-style-type: none"> <li>• Person remains within society, does not lose social contacts and can remain financially and economically active;</li> <li>• Effectiveness of rehabilitation and reintegration of offenders;</li> <li>• Cost benefits</li> <li>• They allow a reaction that is proportional to crime.</li> </ul>	<p>(tendency to commit more crimes without paying for them)</p>
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*To summarize...*

<b>Advantages</b>	<b>Drawbacks</b>
<ul style="list-style-type: none"> <li>• Lower costs (since 1) ATDs have less costs of staff, food, clothing,... and 2) the condemned pays taxes and does not weigh on public budget);</li> </ul>	<ul style="list-style-type: none"> <li>• ATDs are not easily granted. This may also be due to a rigidity of the legislation;</li> </ul>
<ul style="list-style-type: none"> <li>• Low relapse rate;</li> </ul>	<ul style="list-style-type: none"> <li>• The perception of the community towards ATDs is usually negative;</li> </ul>
<ul style="list-style-type: none"> <li>• ATDs are more respectful of human dignity and human rights;</li> </ul>	<ul style="list-style-type: none"> <li>• Lack of institutional, personnel and economic resources. Moreover, there may be an insufficient social support system. In some countries, a strong dependence on public budget could be present;</li> </ul>
<ul style="list-style-type: none"> <li>• ATDs do not tear the rhythm of a person's life: the accused/condemned does not lose social contacts, work and/or apartment. Moreover, he/she provides for the family and does not deprive it of a loss of income.</li> </ul>	<ul style="list-style-type: none"> <li>• There may be a "best selection". This means that not every eligible person would be granted an ATD.</li> </ul>
<ul style="list-style-type: none"> <li>• There is not the negative impact of imprisonment (which consists of the closed environment experience);</li> </ul>	<ul style="list-style-type: none"> <li>• In both the pre-trial and post-trial phases, there could be a limited capacity of the authorities to control implementation of these security measures</li> </ul>
<ul style="list-style-type: none"> <li>• ATDs are effective in the rehabilitation and reintegration of criminals</li> </ul>	
<ul style="list-style-type: none"> <li>• ATDs are constructive, not only restrictive, since offenders gain skills that they would not have if they were in jail, pay the community the committed harm and are taught how to deal with the causes of the offences they committed. Moreover, ATDs allow for new future perspectives through the finding of a job, a treatment (drug-addicted) and self and impulse control (violent criminals);</li> </ul>	
<ul style="list-style-type: none"> <li>• ATDs avoid overcrowding of prisons</li> </ul>	
<ul style="list-style-type: none"> <li>• ATDs allow for effective reintegration and rehabilitation of prisoners.</li> </ul>	

## 6. Main obstacles and necessary conditions for the implementation of alternatives to detention

Main obstacles for the implementation of alternatives to detention	
<i>Italy</i>	<p>The main obstacles entail:</p> <ul style="list-style-type: none"> <li>• Little pragmatism in spite of the multiple “cognitive” resources;</li> <li>• There is no willingness (especially political) to state that alternatives to detention are more efficient than detention itself.</li> </ul>
<i>Scotland(UK)</i>	<p><b>Obstacles of bail (pre-trial):</b></p> <ul style="list-style-type: none"> <li>• Legislation gaps (not worth worrying): <ul style="list-style-type: none"> <li>- “financial provision” (a sum of money paid for the accused) is not implemented because its use is discouraged nowadays (although it is in the legislation).;</li> </ul> </li> </ul> <p><b>Post-trial:</b></p> <ul style="list-style-type: none"> <li>• There is a gap between what the law provides and what can be actually implemented in practice. There are audit reports that remark the “patchy nature” of the CJSW services across Scotland. - They are fragmented and non-transparent in terms of what they provide and how they implement non-custodial measures in different Scottish localities (e.g., there may be places, which are not able to offer certain types of CPOs or fulfill all of the possible CPO requirements.);</li> </ul>
<i>Germany</i>	<ul style="list-style-type: none"> <li>• The “Freie Träger” decide to use their alternative to detention in the individual case. Due to this, the selection procedure might exclude difficult cases in order to increase the success rate (relapse rate).;</li> <li>• It seems that media often reports negatively on alternatives to detention;</li> <li>• Lack of outcome evaluation, although it is quite complicated to perform it well when analyzing these issues.</li> </ul>
<i>Latvia</i>	<p>There are some gaps in the legal framework, but they are not necessarily an obstacle.</p>
<i>France</i>	<ul style="list-style-type: none"> <li>• Lack of outcome evaluation: lack of knowledge in evidence-based practices;</li> <li>• Strong resistance to criminology and to English language literature;</li> <li>• Terrible financial state of French criminal justice system, which prevents alternatives from being fully convincing both for decision-makers and public opinion.</li> </ul>

<b>Necessary conditions for the implementation of alternatives to detention</b>	
<i>Italy</i>	<p>The mentioned necessary conditions are:</p> <ul style="list-style-type: none"> <li>• Focus on the person itself;</li> <li>• Need for “social detention” (structures with specialized operators);</li> <li>• Judicial Authority should carry out consultations with the local human and economic resources through agreements and memoranda of understanding.</li> <li>• Need for decentralization and a central site of probation, which has a specialized personnel and has the duty of managing all the alternatives.</li> <li>• It is also important to involve private non profit entities in the re-education of the convicted .</li> </ul>
<i>Romania</i>	<p>The mentioned necessary conditions are:</p> <ul style="list-style-type: none"> <li>• Need for trained personnel, especially regarding the new Criminal Code;</li> <li>• Need to improve and equip the work conditions of Probation Services personnel;</li> <li>• Need for more support of the community , civil society and NGOs.</li> </ul>
<i>Scotland(UK)</i>	<p><b>Pre-trial:</b></p> <ul style="list-style-type: none"> <li>• Resources;</li> <li>• Police supervision, if required;</li> </ul> <p><b>Post trial</b></p> <ul style="list-style-type: none"> <li>• Resources (e.g., mental health services for offenders with mental health problems).</li> <li>• Good coordination among different agencies involved in the implementation of the orders.</li> </ul>
<i>Bulgaria</i>	<p>The mentioned necessary conditions are:</p> <ul style="list-style-type: none"> <li>• Need for more spreading out of electronic monitoring;</li> <li>• Flexible legislation;</li> <li>• Lack of personnel raised in a good quality manner;</li> <li>• Facilities/infrastructures → necessity for more funding to make rehabilitation more effective;</li> <li>• Necessity of more involvement of NGOs, specialist bodies and other organizations;</li> <li>• Need for more interagency cooperation.</li> </ul>
<i>Germany</i>	<p>The mentioned necessary conditions are:</p> <ul style="list-style-type: none"> <li>• Reliable structures with fixed structures which implement the measures as agreed;</li> <li>• Cost-effectiveness;</li> <li>• Less dependence on public budget to have a solid and reliable basic funding;</li> <li>• Competition among different structures;</li> <li>• Enhance the responsibility of people.</li> </ul>
<i>Latvia</i>	<p>The mentioned necessary conditions are:</p> <ul style="list-style-type: none"> <li>• Strong legal framework, since it is a crucial precondition for the implementation of alternatives to detention;</li> <li>• Resources (financial, personnel and capacity);</li> <li>• Awareness raising and educational measures for effective application of alternatives (for society at large and practitioners working in the field);</li> </ul>

To summarize...

<b>Main obstacles</b>
<ul style="list-style-type: none"> <li>• In some countries, there is no political willingness of spreading out the use of alternatives to detention. Moreover, media contribute to depict a negative picture of these measures;</li> </ul>
<ul style="list-style-type: none"> <li>• There may be differences in the possibility of implementing alternatives to detention at regional level due to financial or logistical problems ;</li> </ul>
<ul style="list-style-type: none"> <li>• There may be an unfair selection procedure of individuals due to the exclusion of difficult cases (offenders), in order to increase the success rate of a particular measure. Moreover, there may be a lack of outcome evaluation.</li> </ul>
<ul style="list-style-type: none"> <li>• Some countries present gaps in the legal framework (although they do not see it as a source of serious concern). There could be also a gap between what the law provides and what is actually implemented in practice.</li> </ul>
<ul style="list-style-type: none"> <li>• There may be a lack of financial resources or a resistance to allocate adequate funding to implement this kind of measures;</li> </ul>

<b>Main necessary conditions</b>
<ul style="list-style-type: none"> <li>• Trained and qualified personnel dealing with alternatives to detention. Moreover, the conditions of the personnel responsible for implementing such measures (e.g. Probation Service) should be improved;</li> </ul>
<ul style="list-style-type: none"> <li>• More involvement of NGOs, civil society and community;</li> </ul>
<ul style="list-style-type: none"> <li>• More financial resources;</li> </ul>
<ul style="list-style-type: none"> <li>• Good interagency coordination;</li> </ul>
<ul style="list-style-type: none"> <li>• Countries where the alternatives to detention are mainly supervised by the State wish a more significant involvement of private sector in the implementation of ATDs (for instance, private non-profit entities). Moreover, the introduction of competitive mechanisms should reduce the dependence of ATDs on public budget and make them more cost-effective.</li> </ul>
<ul style="list-style-type: none"> <li>• Presence of reliable structure and specialized operators which implement the measures as agreed.</li> </ul>

## 7. Suggestions for the identification of good practices

Suggestions for the identification of good practices	
<p><i>Italy</i></p>	<p><b><u>Reported suggestions</u></b>            It is necessary to know:</p> <ol style="list-style-type: none"> <li>1) the person</li> <li>2) The personality of the condemned</li> <li>3) The path that he/she is willing to follow.</li> <li>4) Thus, revision of what was committed in the light of past experiences, the personality of the subject and the type of his/her crime.</li> </ol> <p>EXAMPLES</p> <p><b>Successful experiences:</b></p> <ol style="list-style-type: none"> <li>1) CEC (Comunità Educante con I carcerati-PGXIII)</li> <li>2) ACERO (Regione Emilia Romagna).</li> </ol> <p><b>Unsuccessful experiences:</b></p> <ul style="list-style-type: none"> <li>• House arrests and home detention (because they have no rehabilitative aim);</li> <li>• “Sfolla-carceri” (because it makes personal freedom depend on funds availability);</li> <li>• Alternatives that are too much indulgent and easy-going. → alternatives should not be a prize, but a serious and severe path.</li> </ul>
<p><i>Romania</i></p>	<p><b><u>Reported suggestions</u></b></p> <ul style="list-style-type: none"> <li>• House arrest , the procrastination of the punishment, the reprieve of serving of the punishment under probation sanction, judicial control, judicial control on bail and criminal fine are considered successful experiences because they do not deprive criminal from freedom and because if they are properly applied they are the most efficient alternatives to detention;</li> <li>• Counselling programs with condemned persons;</li> <li>• Drink and Drive program for people who drove under the influence of alcohol;</li> <li>• Individualization of the penalty;</li> <li>• Procrastination of the punishment (because it is good for social reintegration);</li> <li>• Reprieve of the serving of the punishment under probation (because it is good for social reintegration).</li> </ul> <p>Ideal alternatives to imprisonment are considered:</p> <ul style="list-style-type: none"> <li>• Probation</li> <li>• Fines structured with daytime fines</li> </ul>
<p><i>Scotland(UK)</i></p>	<p><b><u>Reported suggestions</u></b></p> <ul style="list-style-type: none"> <li>• Pre-trial (bail):           <ul style="list-style-type: none"> <li>- Proper assessment of the accused: identify key risk factors and key need factors of the accused so that the most appropriate bail package can be imposed.</li> </ul> </li> <li>• Post-trial:           <ul style="list-style-type: none"> <li>The relationship between the supervisor/worker and the offender should be credible in the eyes of the offender (e.g., the supervisor should serve as an example; ideally it should be a person with a similar life experience and thus could gain more trust and cooperation from the offender );</li> </ul> </li> <li>• <u>Requirements of a successful offender programme:</u> <ul style="list-style-type: none"> <li>- Correct application of principles based on ‘what works approach’;</li> <li>- Identify key risk factors and key need factors;</li> </ul> </li> </ul>

	<ul style="list-style-type: none"> <li>- A plan which can appropriately targets those factors</li> <li>- Flexible approach that meets the needs of the individual and allows for monitoring, reviewing and, if necessary, changing the order over time according to the progress of the offender.</li> <li>- Good offender-supervisor relationship that is based on active listening, empathy and an understanding of the offender's needs coordinated, consistent and proactive approach that is sensitive to time limits;</li> <li>-Punishment has to be acceptable to the society as a whole and it has to be public;</li> <li>-It has to have a rehabilitative effect on the offender.</li> </ul>
<i>Bulgaria</i>	<p><b><u>Reported suggestions</u></b></p> <ul style="list-style-type: none"> <li>• They identified only one good practice, e.g. the reduction of the prison sentence when the inmate is working, studying, training or attending programs/intervention.</li> </ul>
<i>Germany</i>	<p><b><u>Reported suggestions</u></b></p> <ul style="list-style-type: none"> <li>• A good socio-, legal-and domestic policy strategy is best for crime prevention purposes and therefore can be seen as a good way to prevent imprisonment;</li> <li>• However, the choice of positive effects depends on every single case, The question regards which alternative to imprisonment would fit perfect for which person;</li> <li>• High empathy of social workers.</li> </ul>
<i>Latvia</i>	<p><b><u>Reported suggestions</u></b></p> <ul style="list-style-type: none"> <li>• High level of individualization and adjusted content of intervention.</li> <li>• Alternatives to detention should be customizable in accordance with the risks and the needs of the offender and must have an impact on the way offender thinks, on one's values and understanding of what is acceptable within the society;</li> <li>• Alternatives should not be more repressive than necessary;</li> <li>• Alternatives should be used in combination;</li> <li>• They should represent a balance between the goals of criminal proceedings and rights of the suspected or accused person.</li> </ul>
<i>France</i>	<p><b><u>Reported practices</u></b></p> <p><b>Pre-trial stage:</b></p> <ul style="list-style-type: none"> <li>• Pre-sentence supervision plus housing for highly dissociated offenders (meets most of the offenders' needs and save them from imprisonment; however, its financial stability is unsure since it is a local initiative);</li> <li>• Differentiated Supervision (high quality; unfortunately, no EBP);</li> </ul> <p><b>Probation and release:</b></p> <ul style="list-style-type: none"> <li>• Reinforced support (similar to Differentiated Supervision);</li> <li>• Release plus housing and supervision (similar to Pre-sentence supervision plus housing for highly dissociated offenders);</li> <li>• Reoffending prevention group work (innovative; no EBP; however, theoretical grounds seem to be poor).</li> </ul>

*To summarize...*

- It is necessary that each penalty suits the characteristics of the accused and/or the condemned. The choice of the ATD according to its potential positive effects on the person accused/condemned indeed depends on every single case. The question regards which the most appropriate alternative to detention for the each individual is. Thus, it is necessary to know: the person, his/her personality (for instance, his/her risks and needs, values and the understanding of what is acceptable within the society), the path that he/she is willing to follow;

- Alternatives to detention should be evidence-based, tailored to the risks and the needs of the offender and must have an impact on the way offender thinks, on one's values and understanding of what is acceptable within the society. In fact, they should have a rehabilitative effect;
- Flexible approach that meets the needs of the individual and allows for monitoring, reviewing and, if necessary, changing the order over time according to the progress of the offender;
- Trustworthy relationship between the offender and the supervisor: the relationship between the supervisor and the offender should be credible in the eyes of the offender. This relationship should be based on active listening, empathy and understanding of the offender's needs.

7.1. *Some examples of good practices from mapped ones*

Country	Name	Aim	Strengths
<i>Italy</i>	C.E.C. – “Comunità educante con i carcerati”, e.g. Educational Community with convicted	The aim of CEC is the rehabilitation and reeducation of the convicted.	There is a strong focus on the individual: <ul style="list-style-type: none"> <li>• The convicted should analyze his/her living before the conviction and the reasons that lead him to commit the crime;</li> <li>• The timing of the rehabilitative process depends on the person and the crime he/she committed;</li> <li>• There is the involvement of the family of the condemned (and also civil society and local community);</li> <li>• Working has an educational and compensative role towards society.</li> </ul>
<i>Romania</i>	Procrastination of the punishment	This measure is imposed by the court if the person charged has agreed to do community work, had a good behavior prior to committing the crime, has made the efforts to alleviate or eliminate the negative consequences of his acts.	This practice is quite interesting because the Court may impose on the person whose punishment has been procrastinated the following rules (as well as other technical ones): <ul style="list-style-type: none"> <li>• Attend educational or competence courses;</li> <li>• Do community work;</li> <li>• Attend one or more programs of social integration;</li> <li>• Medical control and treatment measures.</li> </ul>
<i>France</i>	Reinforced support	The goal of Reinforced support lies in creating additional support for multi-recidivists with a host of psychological needs, as state probation was not in a capacity to supervise and support them adequately (there is also another variant of this program, which is dedicated to less risky subjects).	The strengths that make this practice good according to the above-mentioned criteria are the following: <ul style="list-style-type: none"> <li>• Helping people with multiple high level risks of reoffending and multiple needs (such as a lack of agency), which state probation is no longer in a capacity to supervise adequately;</li> <li>• ‘differentiating’ practices depending on offenders’ level of risk and needs. Moreover, there is a differentiation of support due to no or little agency;</li> <li>• Limiting incarceration by offering courts a more convincing and credible form of supervision and offender support.</li> <li>• Psychological support and coaching for participants.</li> </ul>

<p><i>Latvia</i></p>	<p>Suspended sentence and community service</p>	<p>This practice consists of a suspended sentence (granted if the offender is not likely to committing a violation again) applied together with community service as additional punishment.</p>	<p>There is a good work on the individual:</p> <ul style="list-style-type: none"> <li>• Avoidance of the exclusion of the individual from his/her social circles (work, families, schools);</li> <li>• Suspended sentence allows working on the way the offender thinks, improving person's understanding of values and what is acceptable within society and dealing with person's addiction that could be the root cause of offending;</li> <li>• Community service constitutes an additional punishing factor, which obliges the person to work for the society</li> </ul>
<p><i>Scotland(UK)</i></p>	<p>The community sex offender Groupwork Programme</p>	<p>CSOGP is a nationally accredited programme based upon research into what works to prevent sexual re-offending.</p>	<ul style="list-style-type: none"> <li>• The program focuses on how the thoughts, attitudes and emotional responses of sexual offenders are linked to their abusive behavior. For this purpose, there are specific treatment modules.</li> <li>• At the end of the programme, offenders draw up an action plan to manage their risk of offending;</li> <li>• Offenders characterized by a lower level of deviance and risk of harm to victims may be admitted to shorter programs (thus, this program takes into account the dangerousness of the offender).</li> </ul>
<p><i>Germany</i></p>	<p>Anti-Violence-Training "AGT-Stress"</p>	<p>Anti-violence program is designed for people without high impulse- and self-control, independent from their age. Participants have to absolve a training for re-socialisation or to avoid a penal procedure (as a probation requirement). Hence, they should acquire social skills in order to deescalate in threatening and difficult situations, to avoid anti-social-behaviour and violent excess.</p>	<ul style="list-style-type: none"> <li>• The attendants of the courses should analyze their own Achille's heels ( the trigger points of their aggression) and learn how to deal with them. Thus, they can use the prosocial knowledge acquired during the training sessions in stressful situations;</li> <li>• The needs of the potentially violent person are the key focal point;</li> <li>• The innovation of this project consists of its massive practical side (not only transfer of knowledge, but also training of the participants). The training involves outdoor education and evidence-based methods. Beyond communication, trust, confrontation and strategic exercises, there are also group-discussions, bio- and video-feedback and conflict- and stress-simulations ;</li> </ul>

			<ul style="list-style-type: none"> <li>• Participants can test what they learnt about emotional- and self-control in intensive and close-to-everyday life situations (especially in the framework of juvenile delinquency).</li> <li>• Unfortunately, there are some drawbacks of this kind of intervention: staff are required very high standards and can be physically assaulted during practical sessions, such as stress- and conflict simulations.</li> </ul>
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