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The Criminalisation of Migration in Europe

A State-of-the-Art of the Academic Literature and Research

Joanna Parkin

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Abstract

In the last 30 years, a clear trend has come to define modern immigration law and policy. A set of seemingly disparate developments concerning the constant reinforcement of border controls, tightening of conditions of entry, expanding capacities for detention and deportation and the proliferation of criminal sanctions for migration offences, accompanied by an anxiety on the part of the press, public and political establishment regarding migrant criminality can now be seen to form a definitive shift in the European Union towards the so-called 'criminalisation of migration'.

This paper aims to provide an overview of the 'state-of-the-art' in the academic literature and EU research on criminalisation of migration in Europe. It analyses three key manifestations of the so-called 'crimmigration' trend: discursive criminalisation; the use of criminal law for migration management; and immigrant detention, focusing both on developments in domestic legislation of EU member states but also the increasing conflation of mobility, crime and security which has accompanied EU integration. By identifying the trends, synergies and gaps in the scholarly approaches dealing with the criminalisation of migration, the paper seeks to provide a framework for on-going research under Work Package 8 of the FIDUCIA project.

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Introduction

In the last 30 years, a clear trend has come to define modern immigration law and policy. A set of seemingly disparate developments concerning the constant reinforcement of border controls, tightening of conditions of entry, expanding capacities for detention and deportation, and the proliferation of criminal sanctions for migration offences, accompanied by an anxiety on the part of the press, public and political establishment regarding migrant criminality can now be seen to form a definitive shift in the European Union towards the so-called 'criminalisation of migration.'

This trend has begun to attract the attention of scholars from diverse disciplines, including migration studies, security studies, criminology, policing and law. A long tradition in US scholarship examining the issue of migrant criminality[1] has been followed by a younger but expanding academic literature that has begun to chronicle this process in the European context. The literature focuses both on developments in domestic legislation of EU member states and on the increasing conflation of mobility, crime and security that has accompanied EU integration. Furthermore, a number of EU-funded research projects have addressed diverse aspects of these phenomena, from the perspective of social exclusion, fundamental rights, sociology of crime and security and migration studies (see Annexes 1 & 2).

This paper aims to provide an overview of the 'state-of-the-art' in the academic literature and EU research on criminalisation of migration in Europe.[2] By identifying trends, synergies and gaps in the scholarly approaches dealing with this topic, it seeks to provide a framework and steer the research agenda of work package 8 of the FIDUCIA project.

In setting the terms of this state-of-the-art, a few methodological notes should be made. First, the term 'criminalisation of migration' refers to a set of very broad and cross-cutting phenomena. Palidda (2011) defines the criminalisation of migrants as "all the discourses, facts and practices made by the police, judicial authorities, but also local governments, media, and a part of the population that hold immigrants/aliens responsible for a large share of criminal offences." In view of the expansive nature of this term, this paper does not try to provide a comprehensive or systematic overview of the complete state of knowledge concerning the criminalisation of migrants and ethnic minorities. In order to narrow the field, the paper focuses primarily (but not exclusively) on irregular migration. This group constitutes the prime target of the broader, punitive turn in the regulation of migration that has emerged, particularly in the European context, since the mid-1970s. Irregular immigrants are targeted by highly restrictive immigration policies that contribute to/construct their status of illegality, while the systematic use of criminal sanctions, together with administrative detention and deportation as the main policy tools in European governments' continuing struggle against unauthorised immigration confers on this migrant category a "dynamic of hyper-

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[1] In the United States, the Chicago School produced an important body of work which tested claims linking immigrants and criminality. See, for instance, Shaw and McKay (1969).

[2] In terms of EU-funded research, this paper limits its focus to a narrow category of research projects primarily carried out within the scope of the EU's 6th and 7th Framework Programmes as well as ad hoc studies funded by various departments of the European Commission, European Parliament and the Fundamental Rights Agency in the past five years. For a further overview of the EU's research relating to migration, see A. Singleton (2009), "Moving Europe: EU Research on Migration and Policy Needs", Research Policy Socio-Economic Sciences and Humanities Series.

criminalisation" (De Giorgi, 2010). The criminalisation of irregular migration therefore crystallises some of the preeminent themes, dilemmas and questions that emerge from the broader criminalisation of migration.

Second, this paper takes as a starting point the Statistical Review and Summary produced within the work package 8 of the FIDUCIA project which charted the statistical landscape covering the criminalisation of migration and ethnic minorities (Allodi et al, 2013). The statistical research revealed a paradox. Over-representation of foreigners in the criminal justice systems of European member states and strong public perceptions linking migrants to crime, are contrasted against the lack of any concrete empirical evidence substantiating a correlation between immigration figures and crime rates. The paper briefly highlights a number of drivers which serve to fuel the 'myths' linking migration and crime, including factors that artificially amplify the statistical representation of migrants and minorities in criminal activities. These include the proliferation of immigration-related criminal offences, and discriminatory treatment by police, including ethnic profiling.

This paper aims to build on these findings and investigate further the trends and discrepancies revealed by the statistics on migration and crime. It asks several key questions: to what extent does the criminalisation of migration represent a change or continuity with past patterns and practices? What are the driving forces behind these trends? How do they compare or diverge among different European member states? And what consequences does the criminalisation of migration bring for the individuals targeted as well as European societies and their criminal justice systems?

The literature covering the criminalisation of migration is dealt with under a variety of competing frameworks and approaches; however it is possible to distinguish three key categories: discursive criminalisation; the use of criminal law for migration management; and immigrant detention. The paper is structured accordingly: The first section examines the 'discursive' dimension of the criminalisation of migration. It looks at how scholars have understood the role of discourses that link immigration to notions of crime, deviance and security and construct the figure of the migrant as a risk category. The second section examines the intersection between criminal law and immigration control, exploring the potential reasons behind the increasingly blurred distinction between criminal law and immigration law and its consequences. Finally, the third section explores the academic debates covering the use by governments of migration-related sanctions falling outside of criminal law, namely detention. In each of these three categories, the impact of European level law, policy and official discourse is seen to have an increasingly influential role. Therefore, in addition to highlighting national case studies, the paper will also trace the academic literature examining the impact of EU policy on European trends and practices. Finally, the conclusion will identify the synergies and gaps in the current academic research covering the criminalisation of migration, as well as potential implications for trust in justice and judicial legitimacy that will be of particular relevance for on-going FIDUCIA research.

1. The discursive dimension of criminalisation

A considerable contributor to the phenomenon of criminalisation of migration takes place beyond the realm of criminal and administrative law and practice. What we call the 'discursive' dimension of criminalisation refers to the way in which discourses on immigration, deviance and security construct the idea of a criminal threat that is inexorably linked to immigrants as 'deviant' characters and immigration as the harbinger of security risks (Maneri, 2011).

Academic literature addressing the discursive dimension of criminalisation takes a number of different angles and approaches, reflecting the multi-layered (linguistic, social, cultural economic and political) factors that affect the way in which immigration is framed and perceived in European societies.

Yet, despite the necessarily broad scope of this topic, analysing this aspect of the criminalisation phenomenon is critically important. It allows us to understand the social and political conditions, as well as the public perceptions, which allow the construction of migrants as a risk category. A number of authors have made a clear link between criminalising discourse and policy-making. For instance, De Giorgi (2010) contends that public discourses "have become powerful catalysts for the consolidation of a punitive governance of migrations revolving around a process of 'categorical criminalisation' of immigrants", while Vollmer, during his study of discursive criminalisation of irregular migration during the EU-funded

Clandestino project,[3] identified specific examples of where political and media discourse led to very concrete policy measures in the policing and punishment of irregular migrants.

The following section explores the broad themes and debates in academic scholarship concerning the discursive dimension of migrant criminalisation. It will set the foundation for Sections two and three, by asking how scholars have shed light on the processes that have led the migrant to become a primary target of European penal systems. What are the drivers and who are the actors behind these processes?

1.1 Change and continuity in the criminalisation of migration

Much of the literature on the criminalisation of migration puts the accent on the novel nature of the criminal turn in migration law and policy in Western countries. However, several authors have identified lines of continuity in the way in which the 'outsider' has been framed and governed throughout the centuries. Weber and Bowling (2008), for instance, have examined the parallels with current migration regimes in the Tudor control of vagrancy and 18th century poor laws in the UK, which saw administrative and criminal law employed to control the mobility of paupers and beggars. The incarceration and expulsion beyond the boundaries of the parish of such 'undesirables' demonstrates how the unregulated mobility of those deemed 'outsiders' – both in a socio-economic and geographical sense – have long been associated with social unease and disorder; well before notions of identity, borders and resources were organised at the national level.

Bridget Anderson (2013) too, has historicised the migration challenge, charting the development of state control and criminalisation of, first, poor people within the territorial boundaries of a realm, then later of non-citizens outside the state. This historical perspective is useful, in that it contextualises assumptions concerning sovereignty, citizenship and the state, and highlights the necessity for any analysis of the criminalisation of migration to consider questions of socio-economic status and the organisation of labour (see also Melossi, 2003).

Most emblematic of these trends perhaps, is the figure of the Roma, who has come to embody the mobile, 'vagrant', 'outsider' and the consequent threat of social disorder that these qualities imply. Sigona and Trehan (2011) describe how the construction of Roma as a people racially predisposed to crime, vagrancy and idleness has been centuries in the making, highlighting the deep-rooted nature of assumptions and framings that link migrants with crime, but also the racialisation of the migrant/crime association, especially for visible minorities. Indeed, when examining the discursive aspects covering the criminalisation of migration, the boundaries between migration, race and ethnicity are often highly blurred.

Despite the long historical concern of governments to deter, control and incarcerate the mobile, there is a wide consensus among scholars that the criminalisation of migration has intensified in Western Europe in the last three decades, echoing the situation in the United States (Vollmer, 2011; De Giorgio, 2010; Huysmans, 2006; Bigo, 2004; Melossi, 2003). What has driven this change?

Insight into this question is provided by Salvadore Palidda's study of the racial criminalisation of migrants and minorities across Europe and the US, drawing on research conducted as part of the EU-funded CRIMPREV project.[4] Interestingly, Palidda (2011) finds that intensification of criminalisation trends in specific national contexts is not linked to increases in crime rates or immigration. He finds no correlation in the criminalisation of aliens and rises in crime, while periods of high immigration often see no marked change in criminalisation trends. Rather, he notes that periods of economic difficulty often see the fiercest proliferation of criminalisation discourses and surges of xenophobia.

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[3] CLANDESTINO (Undocumented Migration: Counting the Uncountable Data and Trends Across Europe) was an EU-funded collaborative research project financed under the EU's 6th Framework Programme that aimed to support policy-makers in designing and implementing appropriate policies regarding undocumented migration (see http://clandestino.eliamep.gr/).

[4] The CRIMPREV (Assessing Deviance, Crime and Prevention in Europe) Project was a European Commission funded research project financed under the EU's 6th Framework Programme. The project aimed to produce a European comparative assessment of: factors of deviant behaviours; processes of criminalisation; perceptions of crime; links between illegal or socially deviant behaviour and organised crime; and public policies of prevention (see www.crimprev.eu).

The correlation between criminalisation trends and periods of economic crisis finds synergies with Dario Melossi's thesis that the criminalisation and penalisation of migrants is primarily driven by moments of 'crisis' – economic, political and social. Melossi (2003), alongside other academics including Bigo (2004) and De Giorgi (2010), chart an intensification in public discourses concerning migration and security at a moment when politicians were encountering the economic challenges and urban crises beginning in the mid-1970s, when post-Fordist processes of globalisation and re-structuring of the economy led to considerable social dislocation. As Melossi notes, this hypothesis is consistent with the research on racism and xenophobia, which shows that the degree of xenophobic tensions are driven more by the perception of the threat posed by immigrants than by actual economic competition; a perception that is intensified by moments of social or economic crisis. Similarly, Bigo finds that:

> "The immigrant, considered beneficial in a period of economic growth, acquires a negative image during economic recession, ruining the welfare state by fraudulently claiming social security benefits and unemployment benefit…the image of the immigrant merges into that of the unemployed, the thief, the smuggler and the criminal – an image used by parties of the extreme right." (2003, p. 70)

To understand better how this process plays out, it is necessary to examine more closely literature on the development of public discourse surrounding crime and migration and the role of media and political institutions in shaping it.

1.2 Crime and migration in public discourse

Before examining the debates in academic scholarship on the role of media and public discourse, it is useful to first address the question of terminology. Several authors (Anderson, 2013; Düvell 2011; Vollmer 2011; Maneri, 2011; Guild, 2004) have pointed to the linguistic dimension of criminalisation and the implications it has for public perception and policy-making. As Maneri (2011) states, the "use of 'collective categories' that lack any descriptive coherence or precision, but are nevertheless replete with connotations and implicit associations ('clandestine', 'gypsies', 'extracomunatari', 'Muslims,' etc.) provide the raw material for the discourse on immigration."

The term 'illegal migrant' is a prime example of such a collective category. This term is not only misleading in that confers a criminal status on individuals whose only 'crime' is the administrative misdemeanor of lacking the proper documentation to authorise their presence/administrative status on a territory (Guild, 2004). It also collapses a highly complex question (about who is illegal and who is not) into a simplified construct. As both Bridget Anderson (2013) and Franck Düvell (2011) point out, there are a huge number of permutations and eventualities that lead to an irregular status, including overstaying a visa or breaking the complex conditions of entry (e.g. on employment) – a scenario which Ruhs and Anderson (2010) have referred to as leading to a status of 'semi-compliance.' This status of semi-compliance undermines the presumption of a straightforward binary opposition between 'illegal' and 'legal' migration. Nevertheless, and despite a recent counter-shift away from such terminology,[5] the use of terms such as 'illegal', 'clandestine' or 'clandestino' are still widely employed in both official and unofficial discourse, with their inherent implications of secrecy, deviance and criminality. Consequently, such language confers a stigma of suspicion on all migrants: the 'double punishment' described by Sayad (2004) and pursued by Marcello Maneri who characterises this stigma as lying "precisely in his or her ontological delinquency, in not being a neutral entity but rather a presence that constitutes a latent crime that is brought to light only once it is committed." (2011, p. 88).

A number of EU-funded research projects undertaken in recent years have also studied the negative implications of using criminal categories to describe irregular migrants (see Annex 1). For instance, the project Undocumented Worker Transitions (UWT)[6] found that terms like 'undocumented', 'irregular', 'semi-

[5] For instance, in April 2013 the Associated Press decided to stop using the term "illegal" to describe a person, reserving the term only for an action, such as entering or residing in a country illegally. Certain EU institutional actors, such as the Cecilia Malmstrom, European Commissioner for Home Affairs, have also promoted the use of alternative terminology.

[6] The UWT project was funded by the 6th Framework Programme of the European Commission's DG Research and was coordinated by the Working Lives Research Institute at London Metropolitan University with partners across seven member states. The project touched light on the experiences of undocumented workers in Europe, their working conditions and relationship with migration status.

compliant' and 'non-compliant' are more value neutral – and therefore preferable – to that of 'illegal immigrants'. Similarly the CHALLENGE[7] and CRIMPREV projects have examined how the use of this language connects the status of irregular migrants with criminality and security risk, facilitating restrictive policies and practices by public authorities by framing undocumented persons as 'non-rights holders' and even as 'non-persons' (Carrera and Merlino, 2009). Indeed, the use of such evocative categories by journalists and politicians pre-empts the policy approach to deal with such 'deviance'. Thus it becomes legitimate for 'illegal immigration' to be 'fought', and '*clandestins'* or '*clandestinos'* to be controlled and detained.

Other scholars have focused in more detail on the actors driving public discourse, looking primarily at the role of media and politicians. For instance, Tsoukala (2005), focusing mainly on the cases of Greece and Italy, finds that the discursive framing of migrants as bearers of social threat rests on specific categories of rhetoric which are expressed more and more openly by politicians, officials and the media and which are articulated around three principle axes: a socio-economic principle; a securitarian principle and an identity principle. Vollmer, drawing on Clandestino research, found that the threat dimension in discourses on immigration vary in degree and nature across the EU. France, for instance, has seen a heavy emphasis on crime and security while in Austria public discourses on irregular immigration have focused more on the welfare and resources impact. Nevertheless, he found the existence of a discursive element of threat (and its influence on policy-making) throughout all European discourses: in northern, southern and central European countries. Similarly, a study across seven European countries (Austria, Belgium, the UK, Ireland, the Netherlands, Spain, and Switzerland) carried out by the EU-funded project "Support and Opposition to Migration" (SOM)[8] found 'security and crime' to be the most frequent theme in discourses of politicians and journalists when addressing the topic of immigration (Berkhout, 2012).

Maneri's examination of public discourse on immigration in Italy finds a symbiosis of interests and mutually reinforcing interactions between media and politics. Television and print media increase the saleability of a news item by emphasising the threatening elements and by using the frame of emergency. While the media raise the alarm, other institutional actors are eager to exploit a symbolic threat and to validate, support and channel that threat towards certain targets. The result is a pattern of news coverage that sees cycles of attention focusing on crime news involving foreigners and which quickly assume the characteristics of a moral panic, often leading to enhanced police activities and the introduction of administrative decrees and special legislation (Maneri, 2011).

From this analysis, we deduce that a number of social institutions are driven by their own diverse but overlapping reasons to amplify the problems associated with immigration. Mass media, politicians and police find that (irregular) immigrants provide a convenient target. For police, irregular migrants represent an easily recognised means of meeting quotas for arrests and demonstrating action in a 'problem area' where there is social consensus (Vollmer, 2011); the press find a useful 'enemy' figure, playing on public fears of crime and anxiety surrounding dwindling societal resources as a means to increase profit margins. This has been found to be the case, particularly in those European countries where journalists have a freer hand to set the news agenda, such as the tabloid press in the UK (Berkhout, 2012). For politicians, immigration offers a platform where messages are transmitted relatively easily to the public: talking tough on illegal immigration is more straightforward for instance than explaining/distinguishing a party's economic policies or stance on foreign affairs. The result is a convergence of interests that sets in place a "complex systemic machine" (Melossi, 2003) driving a criminalising discourse around the figure of the migrant or foreigner.

1.3 Securitisation of migration

The role of specific actors in driving the criminalisation of migration is also explored by scholarship from the field of security studies, this time focusing on the role of security professionals and security agencies in

[7] CHALLENGE was a 5-year integrated research project financed under the EU's 6th Framework Programme and coordinated by the Justice and Home Affairs Section of the Centre for European Policy Studies and Sciences Po, Paris. It involved 23 universities and research centres from across the EU and aimed at facilitating a more responsive assessment of the rules and practices of security in Europe (see www.libertysecurity.org).

[8] SOM (Support and Opposition to Migration) is a collaborative project funded by the European Commission as part of the Seventh Framework Programme examining the politicisation of migration in seven European countries. For more information see http://www.som-project.eu/.

driving the discursive construction of migrants as a 'risk' category.[9] Prominent among these authors, Didier Bigo (2002) has described the creation of a continuum of threats by security professionals, which has transformed the traditional notions of security (associated with struggles against terrorists, criminals, spies and counterfeiters) towards other targets, including people crossing borders or individuals born to foreign parents. This process is driven by the direct interests of security professionals (national police forces, customs, intelligence services, consulates and security industries) to problematise certain social phenomena in the pursuit of power, influence and in the competition for budgets and resources of their services and is facilitated by the transformation of technologies they use (large-scale surveillance databases, data profiling etc).

The resulting securitisation of migration (Balzacq, 2010; Huysmans, 2006; Stumpf, 2007) therefore creates a series of 'new migratory threats.' These threats, once framed as such by security agencies, are allocated a particular weight and legitimacy, because the professionals that propagate them occupy an established position and are invested with a (supposed) privileged knowledge.

A concrete example of the securitisation of migration in practice is the increasing conflation of irregular migration with organised crime phenomena, particularly smuggling and trafficking (Grewcock, 2003). This supposition is supported by field research of the Clandestino project which found that UK Border Agency officials display a tendency to overestimate the role of smuggling in irregular migration to the UK.[10] The discursive association of irregular entry with smuggling communicates to the public that controlling this kind movement is an immense challenge, since authorities are not up against humble individuals but organised criminal networks, which increases the task to a new level of difficulty and danger (Vollmer, 2011).

Indeed, this desire to demonstrate efficiency is explored by the securitisation literature, which highlights the paradox in the tendency by governments to roll out ever more visible and costly migration control measures, whose efficacy is strongly questioned (Cornelius, 2005). Ever tighter border controls are not only expensive but counter-productive. Evidence from the Clandestino project (among other sources) indicates that most irregular migrants achieve this status through overstaying a visa not via clandestine entry (Düvell, 2011). Moreover, coercive border controls force border-crossers into ever more dangerous forms of travel (Spijkerboer, 2007), and encourage those who manage to overcome them to prolong their stay (Castles, 2006). As migration controls could not become efficient without putting at risk (some would argue, even greater risk) the democratic values specific to European countries as well as their budgets, public policies with regard to security and immigration have become effectively symbolic (Bigo, 2004). As described by Weber and Bowling: "The Gatekeeper state seeks to maintain its currency as a provider of protection from suspect mobilities, even though building walls within a 'space of flows' is increasingly futile." (2008, p. 360)

1.4 The EU dimension of discursive criminalisation

Literature delineating the securitisation of migration and its link to crime fighting gain particular salience when examining the EU dimension, and the Europeanisation of discourses surrounding the 'criminal migrant'. Moreover, the shifting of focus to the European level opens a new set of questions over who are the actors responsible for driving the discursive governance of migration? Who is targeted and how are risk categories constructed?

Didier Bigo charts how the establishment of Schengen and EU free movement was underpinned by a strong discursive component driven by police and security experts, who argued that that the abolition of border controls would constitute a major security deficit (Bigo, 1996). The notion that European integration via the opening of internal borders would lead to an increase in crime and more mobile criminal organised groups became the shared belief underpinning Schengen and has served to justify the proliferation of a range of compensatory security measures and transnational cooperation in policing and border enforcement (Faure-Atger, 2008). These include the establishment of new European security agencies, such as Europol and

[9] Such a theoretical approach has developed out of the 'securitisation theory' literature of the Copenhagen School. Whereas the Copenhagen School focus on the role of 'speech acts' in the construction of security threats, more recently scholars, such as Didier Bigo and Jeff Huysmans, have shifted the emphasis away from discourse-centred processes to the role of actors, networks and technologies in driving securitisation processes.

[10] According to an officer of the UKBA, it is estimated that more than 75% of all 'illegal' border-crossers made their way into the UK by using the assistance of smugglers. The EU-funded Clandestino project (on which Vollmer's research was based) found such estimates to be a rather unrealistic percentage.

Frontex, whose role in creating knowledge on migration-related risks and consolidating official EU discourse linking migration to a continuum of threats (human smuggling, human trafficking, terrorism) has been explored in an earlier FIDUCIA deliverable (Parkin, 2012). The knowledge and activities generated by these new actors in the criminalisation of migration in turn serve to legitimate the pan-European integration project and the need for transnational governance of crime and security. Consequently, border security and irregular immigration have become 'urgent challenges' and actions to combat them are strategic priorities within the EU's Internal Security Strategy (Parkin, 2012; Guild and Carrera, 2011).

Indeed, preventing cross-border crime has been, on the discursive level of policy formation, the prime justification for the creation of a series of European surveillance systems, such as the Schengen Information System (I and II), the Visa Information System, EURODAC, and EUROSUR to name but a few (Aas, 2011). Although ostensibly serving different functions, what these large-scale databases have in common is monitoring and controlling the mobility of non-EU citizens. Irregular migration has even become the primary area of activity for the Schengen Information System, which was ostensibly created to detect and immobilise criminals crossing EU external borders (Parkin, 2011). These EU surveillance systems have not only come to embody the convergence of crime control and migration control at the European level, they also provide an ideal example of the selective identification of risk categories. As Aas has argued, these EU "cross-border surveillance networks…embody the changing modes of risk thinking and social exclusion, and are inscribed with specific notions of otherness and suspicion" (2011, p. 332).

2. Intersections between criminal law and migration management

The second manifestation of the criminalisation of migration is evidenced through the increasing intersections between criminal law and migration management. Where regulation of immigration has in the past primarily taken place in the civil sphere, the increasing use of criminal provisions in immigration law is beginning to attract the attention of both migration scholars and criminologists, who have expressed surprise at this turn in criminal justice systems: traditionally criminal law seeks to prevent and address harm to individuals and society that stems from fraud, violence and evil motive (Sendor in Stumpf, 2007) while immigration law decides who may cross and border and reside in a territory. How then do scholars understand the increasing merger between these two fields, and what are the implications for individuals as well as the consequences for criminal justice?

2.1 Intersections between criminal law and migration management in Europe

Scholarship exploring the intersections between criminal justice and migration control is a great deal more developed in the United States than in Europe, where reflection and debates on the so-called 'crimmigration law' phenomena are still at an early stage (Aliverti, 2012; Chacon, 2012; Sklanksy, 2012; Stumpf, 2007).

In the European context, Ana Aliverti (2012) has conducted some of the most extensive research on the rise of criminal offences at the core of immigration law in the UK, which has a long-standing history of using criminal penalties to punish immigration related offences but which has nevertheless seen a dramatic intensification of the use of criminal law in its migration policy during the past two decades (Webber, 2008). Italian specificities have also been explored, including from a migration perspective, with authors investigating the marked prohibitionist and securitarian approach to immigration law (Palidda, 2011; Merlino, 2009). However, a genuine cross-comparative analysis of the use of criminal law to manage immigration across different European national contexts is currently lacking. Nevertheless, research exists that can be drawn upon to make some general observations on the use of criminal law provisions in immigration enforcement in Europe. These intersections can be divided into two essential categories. First, 'crimes' that only foreigners can commit, and second, 'crimes' that are committed by those assisting irregular migrants.

In the first category falls the crime of irregular entry and stay. The research project 'Fundamental Rights of Irregular Migrants in an Irregular Situation' funded by the EU's fundamental Rights Agency and carried out by a network of academic researchers in 2010, made a systematic assessment of the legislation governing irregular migration across the (then) 27 EU member states (FRA, 2011). The project found that in 17 member states irregular border crossing or irregular stay is, at least on paper, considered a criminal offence, usually punishable by fines and detention. In the remaining member states, this act is either considered an

administrative offence, or a crime only under certain conditions. For instance, in the Netherlands, an irregular migrant who is apprehended repeatedly for illegal residence or who has been convicted of certain crimes can be declared an undesirable alien by the Ministry of Justice, for whom continued residence in the Netherlands is regarded as a crime against the state, punishable by up to 6 months imprisonment (Leerkes and Broeders, 2010).

In addition to entry and unauthorised stay/residence, other crimes committed by foreigners include re-entry into a country from which the individual has been banned, the forging or possession of false visas or identity documents and unauthorised employment. There are also those crimes whose punishments are significantly increased when they involve foreigners, for instance the refusal to show identity documents to a law enforcement officer in those countries where not carrying ID is unlawful.

The second category of criminal penalties are targeted at those accused of *assisting* irregular migrants. Sanctions cover the act of assisting illegal entry (including carrier liability penalties for transporting undocumented migrants, for failing to supply full passenger information or for failing to prevent unauthorised disembarkation), for employing migrants unauthorised to work, and for providing humanitarian assistance to those fleeing persecution (otherwise known as 'humanitarian smuggling'.) For instance, in the UK the maximum sentence for assisting people to breach immigration law doubled to 14 years from seven when the offence was first introduced, the same as the maximum offence for human trafficking, although there are marked differences between these two activities (Webber, 2008).

These criminal offences covering third countries in some member states come alongside 'duties to report', which oblige service providers (e.g. schools, healthcare providers) as well as private agents to report the presence of undocumented migrants to authorities. In Germany these reporting obligations have elicited particular discussion. Following concerns from civil society movements the German federal legislation on reporting duties was revised and softened in 2011, exempting educational facilities and healthcare providers, although it remains in force for other public services such as social welfare offices (FRA, 2011). Although usually these 'duties to report' constitute obligations under civil law, in rare cases the violation of such obligations imply criminal penalties. For instance, Dutch law contains a provision that obliges persons who shelter migrants in an irregular situation to inform the authorities. Breach of this obligation implies a fine of 3, 350 EUR or 6 months imprisonment (FRA, 2011). The result of this second category of penalties is that various groups from the public and private sector are co-opted into the role of border or law enforcement agents, obliged to police the mobility or actions of irregular migrants or to report their presence to the authorities if they are to avoid sanctions themselves.

Trends towards the use of criminal sanctions for migration control in member states' domestic laws have been accompanied by a similar shift in EU legislation. Scholars of EU migration law have noted that while the overwhelming majority of measures within the EU *acquis* on irregular immigration are targeted towards increasing the surveillance and control of the EU's external borders and enforcing the return of irregular migrants, a number of instruments also establish administrative and penal sanctions for third parties – including facilitators, carriers and employers – involved in the irregular immigration process (Carrera and Merlino, 2009).

In particular, at EU level the use of criminal law sanctions for individuals directly or indirectly involved in irregular migration process include the Facilitation Directive (2002/90/EC), which imposes on states the duty to penalise those who, for financial gain, intentionally assist an irregular migrant to enter and/or reside in the EU. This could also cover landlords who rent accommodation to irregular migrants. The Employers Sanctions Directive (2009/52/EC) meanwhile lays down common minimum standards on sanctions to be applied by the EU member states to employers violating the ban on employment of "illegally staying third country nationals". One of the core objectives of the Directive is to deter irregular immigration by tackling undeclared work. According to the Directive, employers who cannot show that they have undertaken certain checks before recruiting a third country national will be liable to fines and other administrative measures. The use of criminal penalties is foreseen in the case of repeated infringements, employment of significant numbers of irregular staff, particularly exploitative working conditions or knowingly employing victims of human trafficking or minors.

Literature on the Europeanisation on the criminalisation of migration, drawn from migration or securitisation studies and the field of migration law, examines how EU law-making can directly impel a restrictive stance in the criminal law of its member states. Webber notes increasing convergence in European legislation and practice as a result both of EU legislation on illegal entry and expulsion but also through operational

cooperation (2006). Foblets and Vanheule (2006), for instance, cite how the transposition of the EU's Family Reunification Directive into Belgian law led to the introduction of criminal penalties to combat so-called 'marriages of convenience'. Scholten and Minderhoud (2008), drawing on research conducted within the framework of the EU-funded CHALLENGE project, demonstrate that the process of influence is bi-directional, as member states upload their national approaches to the European level, or even use the EU law-making sphere as a venue to introduce controversial legislation that otherwise would meet resistance in national policy-making procedures. For instance, where the Dutch government met with parliamentary opposition in introducing criminal penalties for carriers found to bring irregular migrants onto national territory, the Netherlands turned instead to the EU level and was able to introduce a system of carrier sanctions by promoting the adoption of a Carrier Sanctions Directive (2001/51/EC) in EU negotiations, enabling it to bring criminal prosecutions and levy millions of euro in fines against airlines such as KLM.

2.2 Functions of criminal law in immigration enforcement

How does the literature explain the trends outlined above? What are the rationales driving the tendency to resort to criminal law for migration management objectives and what functions does criminal law play in immigration control?

The first possible explanation can be found in academic literature on migration control, which contends that the state seeks new means of exerting control over migration flows, both at the border and within state boundaries (Cornelius, 2005; Cornelius et al, 2004). States have increasingly pushed the limits of immigration law and policy in recent years in their quest to act as gatekeepers of human mobility, for instance expanding into foreign affairs diplomacy in order to control migration before individuals even arrive at state frontiers (Carrera et al, 2011). From this perspective, criminal law can be seen to offer new possibilities to enforce migration control when immigration law and policy reaches its limits.

However, scholars such as Aliverti (2012) and Broeders, (2010) have noted that the general underuse of enforcement powers presents a problem with the migration control thesis when applied to 'crimmigration'. For instance, in the UK (which has seen some of the most expansive use of criminal law in the policing of foreigners), 67, 215 people were subject to removal and voluntary departure in 2009 while only 549 people were proceeded against and 433 were convicted of immigration offences (Home Office, 2010 in Aliverti, 2012). Scholars have also noted the underuse of sanctions against third party agents such as employers as an example of under-enforcement.

Indeed, the fact that prosecution of immigration offences under criminal law is usually discretionary and often a means of last resort, indicates that there may be more complex factors at play driving the expansion of criminal law into the domain of immigration enforcement (or vice versa). An answer may be found in literature on the securitisation of migration, which stresses that government approaches that re-construct questions of mobility and migration under the rubric of security and crime often have a symbolic, rather than an effective, rationale (see Section 1.3 above). A similar appeal to the symbolic power of criminal law can be found in the literature on the new culture of criminal justice (see for example, Garland, 2001; Garland, 1996). Garland has posited that states increasingly resort to adopting more criminal legislation, in spite – or even because of – their limited margin of manouevre for dealing with contemporary social challenges, as a symbolic, or communicative act. The targets of the messages sent by the enactment of new criminal legislation are both the citizenry, who are to find reassurance in the power of the state to secure their continued protection from crime and deviance, but also the potential deviants themselves. Indeed, scholars of criminology contend that the deterrence function of criminal law is gaining ground above the traditional emphasis on retribution (Steiker in Aliverti, 2012). However, while the symbolic or communicative ('message sending') function of policy is a recurring theme in the migration debate it is rarely unpacked and tested against concrete case studies. The intended recipients of such messages; how these messages are interpreted and how in turn such policies themselves act on and shape the public and political debate are under-explored questions that warrant further research.

Much of the contribution of criminal law scholars in this field has situated the 'crimmigration' trend as part of a broader phenomenon of criminal law expansion that has been conducted in the US and Western Europe during the past two decades (Alverti, 2012; Sklansky, 2012; Chacon, 2012; Duff, 2010). This thesis posits that so-called "crimmigration…simply replicates in the context of immigration what we have already witnessed in fields ranging from corporate malfeasance to domestic violence: the relentless expansion of

criminal law." (Sklansky, 2012). The UK here would be a case in point: between 1997 – 2009 the New Labour government introduced a total of 84 new immigration offences (Aliverti, 2012).

Sklansky (2012) argues that the process of criminalisation is driven by what he terms 'ad hoc instrumentalism'. By this he means the general sense that the bounds of criminal law should be set pragmatically, not philosophically. Debates about whether to criminalise a certain behaviour are therefore dominated by questions of whether criminal enforcement 'works' and not whether a certain practice deserves to be criminalised. This way of thinking is linked to the broader tendency to see law as instrumental.

Sklanky's thesis would appear to be supported by the research conducted by Ana Aliverti in her investigations on the use of criminal law in immigration enforcement by the UK Border Agency (2012). Aliverti found that the reproduction of criminal provisions in immigration laws in the UK in recent years is partly driven by symbolic motivations to demonstrate the states' control over immigration flows. But it is also to a great extent the outcome of the pragmatic and strategic use of the criminal law in everyday enforcement practices. She argues that from this perspective, "the criminalisation of migration appears to be a mundane, bureaucratic and repetitive exercise of criminal powers geared by convenience and efficiency in delivering outcomes rather than to represent a punitive rationale to sanction morally wrong conducts."

2.3 Consequences of 'crimmigration' law

What are the effects of the increasing intersection between criminal law and immigration control?

Scholarship highlights a number of unintended consequences resulting from so-called crimmigration trends. The first set of effects, dealt with primarily by the migration studies literature, focuses on the consequences for the individuals targeted while the criminology scholarship has focused primarily on the implications of these trends for criminal justice systems and criminal law.

Turning first to the implications for individuals. Although there has been little in-depth academic research devoted to this topic, a number of authors, particularly those drawing on work conducted as part of EU-funded research projects, have highlighted some of the negative consequences resulting from 'crimmigration' laws on individual migrants (see Annex 1). The FRA research project on fundamental rights of migrants in an irregular situation, for instance, found that duties to report imposed on service providers, as well as direct police enforcement practices (e.g. police operations targeting irregular migrants outside schools and hospitals)[11] acted as barriers to migrants accessing basic social rights such as housing, healthcare, and education. Consequently, the Book of Solidarity project (Providing Assistance to Undocumented Migrants)[12] found that irregular migrants rely to a large extent on social networks (migrant communities, social and political activists, NGOs, church groups etc.) to access basic social rights. Policy analysis by the CHALLENGE project meanwhile has argued that the use of criminal law to target employers may have counter-productive effects on employment and working conditions (Carrera and Guild, 2007). The penal framework established by the EU Employers Sanctions Directive could have harmful effects in terms of guaranteeing employment security and preventing exploitation. Moreover, by dissuading employers from hiring third country nationals for fear of incurring sanctions, the Directive could ultimately harm the employment prospects of third country nationals in the EU.

Studies have also found that police targeting of irregular migrants via identity checks often led to racial and ethnic profiling (see FRA, 2011). Writing from a US perspective, Chacon (2012) argues that converting immigration enforcement into a criminal problem fuels and sanctions racial profiling by police. Further, the EU-funded CRIMPREV project found that the practice of singling out visible minorities for police controls not only consolidates the association of criminality and deviance around irregular migrants it also artificially inflates the statistics on foreign crimes more generally (Palidda, 2011). A concrete example of this process is provided by Mucchielli and Nevanen's study of the penal treatment of foreigners in France (2011). The authors found that pressure on French police to demonstrate improvement in performance led them to focus on crimes that bring 'higher yields' in terms of successful stops and arrests. Consequently, 2001 – 2007 saw

[11] As reported by civil society survey respondents in Cypus, France, Germany, Ireland, Luxembourg and Spain.

[12] The Book of Solidarity project (Providing Assistance to Undocumented Migrants) was funded by the European Commission's Directorate-General for Employment, Social Affairs and Equal Opportunities and coordinated by PICUM (the Platform for International Cooperation on Undocumented Migration).

a drive by the police to target irregular migrants resulting in significant growth in the number of foreigners reported in France, with 70% of that increase accounted for by 'illegal' immigration.

The resulting fear and distrust by migrant communities towards police further enhances their vulnerability, dissuading migrants who may have been subjected to violence or exploitation from coming forward and reporting crimes against them (FRA, 2011). Both the EU-funded CLANDESTINO and EUMARGINS[13] projects conclude that there is a strong likelihood that the use of criminal legislation and over-policing serve to drive migrants into "informal, shadow and niche activities" (Duvell, 2011; see also Kallas et al., 2011).

The over-policing of migrants may also have wider spillover effects, beyond the impact on the individual, potentially bringing important implications for levels of trust in police among certain sections of European societies, such as migrant or ethnic minority communities. Research indicates that trust and confidence in policing is rooted in the public's estimation of procedural fairness and alignment of moral values (Jackson and Bradford, 2010). If certain social groups feel themselves singled out for excessive surveillance, or experience negative treatment at the hands of police authorities, this could undermine the fairness, engagement and relationship between police and public which underpin trust in justice and judicial legitimacy. Hence, in a case study of ethnic minorities and trust in criminal justice in France, the EU-funded Euro-Justis project found significantly higher levels of distrust by ethnic minority communities versus majority communities which was found to be linked to policing styles and over-use of stop and searches techniques (Roux, Roché and Astor, 2011). Consequently, a significant proportion of individuals from ethnic minority communities viewed police patrols in their neighbourhood as an 'intrusion' or a 'threat'. When taken further, such an erosion of trust between police and societal groups can cause a shift from a relationship of cooperation into one of opposition and adversarial relations.

The relationship between criminal law and social exclusion is a subject much explored in the criminological literature, however its focus has primarily been on the processes and consequences of exclusion for citizens of a society rather than 'outsiders'. This is clearly a gap in current criminological literature and deserves further examination, particularly as to whether criminal law plays a role in defining or redefining 'insiders' and 'outsiders' via the creation of laws for which only non-citizens may be punished.

Nevertheless, a growing number of scholars from the field of criminology have begun to explore the implications of the 'crimmigration' trend for criminal law and for basic principles underpinning criminal justice (Zedner 2013; Aliverti, 2012; Chacon, 2012; Sklansky, 2012; Legomsky, 2007).

Lucia Zedner discusses the way in which the insertion of immigration 'crimes' within criminal law results in the creation of offences that breach fundamental principles of the criminal law. According to Zedner, three core principles are put at risk: the basic requirement of fair warning (that people should be given adequate notice of a legal requirement so that they can adjust their conduct to accord with it); the culpability requirement; and the criminalisation condition that serious harm, or prospective harm, is caused by the offender. Indeed, with regard to the latter, criminal law scholars argue that immigration offences are not serious wrongs and are essentially victimless (Aliverti, 2012). Zedner thus contends that these breaches, taken together, "raise profound questions about the justifiability of criminalizing illegalities by immigrants where these do not meet the basic precepts of criminalisation" (Zedner, 2013).

David Sklansky (2012), examining the peculiar development and application of 'crimmigration law' – what he has termed 'ad hoc instrumentalism (see discussion in section 2.2 above) – also raises his concerns. His principal critique centres around the impact on political accountability. He argues that the blurred boundaries between criminal justice and immigration enforcement, the multiple actors involved and their overlapping responsibilities, complicates efforts to hold criminal and immigration officials accountable through political oversight and public pressure. Sklansky also argues that crimmigration law and the instrumental, ad hoc fashion that it is applied and enforced licenses low-level discretion that challenges rule of law principles such as legal certainty.

This argument is further pursued by Ana Aliverti (2012) who focuses on the highly discretionary way in which immigration offences are enforced in the UK (similar discretionary application of criminal law

[13] EUMARGINS (On the Margins of the European Community) is a collaborative project financed by The Seventh Framework Programme for research and technological development (FP7) of the European Union. The research focus is on inclusion and exclusion of young adult immigrants in seven European countries.

governing immigration control has been noted in Italy – see Anderson, 2013). Aliverti contends that the often arbitrary way that criminal sanctions are applied against immigration 'offenders' reveals just how contested and ambiguous the category of immigration offences is. Again, she posits that current trends and practice threaten principles of legal certainty, equal treatment and proportionality. This leads her to conclude that:

> "Criminal law as a specific mode of legal regulation should be reserved for the most serious wrongs. Further, because the goal is to eject immigration offenders from the country, criminal sanctions against immigrants are emptied of any normative function and are unjustified. Not only is the formal enactment of immigration offences in conflict with various criminal law principles, the actual enforcement of these offences is discretionary and random, casting doubts on the alleged generalised feature of the criminalisation of immigration and making criminal law highly unpredictable."

Aliverti's assertion that the normative justification of criminal law in immigration control is weak, and therefore should have no role to play in migration matters is one that is broadly supported in the criminal law literature. However, an interesting counterpoint is provided by the reminder from certain criminologists that not all reductions in the scope of criminalisation necessarily equal less restrictive or more proportionate regimes. For instance, Duff cautions that when considering the use of administrative measures to curtail wrong-doing, we should rather prefer criminalisation which at least "requires public proof of determinate wrong-doing before liberty is curtailed, and subjects any such curtailment to requirements of proportionality" (Duff, 2010, p. 295). The above discussion on the limits of 'crimmigration' law unfortunately shows how those safeguards normally attributed to criminal law are often, in the case of immigration offences, left to the wayside. Nevertheless, the wider point concerning the normative role of procedural safeguards in criminal law and their absence in the system of administrative measures comes to the fore when we consider the third principal manifestation of migrant criminalisation: immigrant detention.

3. Detention of migrants

All European Union member states practice some form of immigrant detention, by which we mean "the deprivation of liberty under administrative law for reasons that are directly linked to the administration of immigration policies" (Cornelisse, 2010, p. 4). Across the EU, detention for purposes of immigration enforcement has increased substantially over the past decade. The following section will explore the academic debates that explore the trends, drivers and effects of this phenomenon.

3.1 Trends and practices in the use of administrative detention

In most European countries the incarceration of migrants for migration related reasons is defined as administrative detention. This means that it is a measure that does not formally constitute a punishment and does not require conviction of a crime (Leerkes and Broeders, 2010). Nevertheless, although many scholars use the term 'administrative detention' to designate incarceration for purposes of immigration control, in many member states the precise boundary between detention as an administrative or penal measure is not so clear cut. This is partly due to the interaction between criminal proceedings on the one hand (e.g. the foreign detainee may initially have been apprehended on criminal charges) and administrative procedures governing detention and expulsion on the other. In addition, some member states do not make a clear distinction between those detention facilities that form part of the penal system and those that are reserved for individuals falling under immigration proceedings. Thus, where certain member states, such as the UK, restrict immigrant detention to specially allocated 'removal centres', in countries including France, Germany and Greece, migrants are regularly incarcerated in penitentiary institutions, prisons and police custody (Cornelisse, 2010).

In gaining a broad overview of the framework governing the use of detention in the EU, Elspeth Guild provides one of the most comprehensive summaries in a report produced for the European Parliament (Guild, 2005). In her "Typology of different types of centres in Europe" she distinguishes four scenarios under which a person may find themselves in administrative detention. The first covers detention on arrival, provided for in most EU member states' national legislation as a means to prevent unauthorised entry or ascertain whether grounds for lawful entry have been met. This form of detention often takes place in transit zones, located at or near national borders (e.g. airports). France, in particular, has become notorious for its

use of so-called *zones d'attente* of which there are more than 100 in the country (Mucchielli and Nevanen, 2011).

The second category covers the use of detention as part of the asylum system, whereby individuals are detained in reception centres while their application for asylum is assessed. However, Cornelisse notes a wide diversity of member state practices with regard to this form of detention. In some national contexts individuals are detained for a matter of days while authorities decide whether they have legitimate grounds to lodge a claim (e.g. Portugal), in others they are detained after they have received a negative decision and their detention serves their removal (Finland) while in countries like Cyprus deprivation of liberty characterises the entire asylum procedure. Cornelisse, who provides a detailed overview of detention practices across Europe in her study of immigration detention also finds that widespread discrimination exists in asylum detention practices, with some member states routinely detaining certain nationalities or ethnic groups, such as Roma in the UK (2010).

The third category concerns detention for reasons of irregular stay. In most member states, it is not sufficient to detain solely on grounds of irregularity and detention is usually justified on grounds that it is necessary to carry out removal. This category is therefore considered alongside the fourth scenario; detention for purposes of removal or expulsion. Cornelisse finds that despite the fact that this form of detention is intended for the purpose of facilitating removal, in practice in many member states foreigners are frequently detained for significant periods of time before deportation is arranged, although the maximum duration as stipulated in national legislation varies country by country. Cornelisse also notes the common practice of releasing detainees when deportations cannot be organised, only to re-apprehend and re-detain those individuals. As a result, migrants may spend long periods in detention, with only small breaks of freedom in between, despite legislation that lays down time limits. These periods of detention are not captured by statistics covering detention rates.

The notorious lack of clear statistics covering administrative detention in the EU makes it difficult to chart precise comparative trends in the use of this procedure. Nevertheless, there is a broad consensus in academic literature covering detention that the last decade has seen a dramatic increase in immigration detention rates across the EU. For instance, Welch and Schuster in their study of detention of asylum-seekers in the US, UK, France, Germany and Italy found that, despite diversities in specific practices:

> "In each of the nations examined, there are significant developments worth noting: growing detention populations and longer periods of confinement. Moreover, those governments are increasing their efforts to expand detention capacity" (2005, p. 347).

The authors note that in the UK, until the 1990s there were no permanent detention centres in Britain because detention was itself an exceptional measure. This situation changed significantly in the 1990s as numbers rose over a 10 year period from 250 people in detention in 1993 to 2260 in 2003. Powers to detain became increasingly expansive and successive governments built especially dedicated detention facilities. According to Webber, the UK 'detention estate' tripled in capacity between 1997 – 2007 (Webber, 2008).

Figures available on immigration detention in the Netherlands also show a sharp increase (Leerkes and Broeders, 2010). Whereas in 1980 the capacity for administrative detention was 45 places, by 2007 this had increased to 3,807, with the new detention capacity specifically earmarked for (irregular) migrant detention (Broeders, 2010). Immigration detention doubled as a percentage of the total prison capacity between 1999 to 2006 (from 9.1% to 18.1%) and the annual number of administratively detained immigrants more than tripled between 1994 and 2006 (from 3,925 to 12,480).

In France, from 2003 to 2007 the capacity of administrative detention grew from 739 to 1,724 places and the number of people detained annually from 22,220 to 35,923. Mucchieli and Nevanen (2011) estimate that every year around 50,000 people are placed in administrative detention in France and approximately 16,500 in waiting zones, making the flow managed through these forms of detention at least four times greater than that in the prison system.

In addition to increasing capacity, authors have also highlighted a trend towards an expansion of the time limits for maximum detention (Merlino, 2009; Welch and Schuster, 2005; Mucchielli and Nevanen, 2011). An area deserving further consideration is the profile (nationality/ethnicity) of detainees. Certain member states, such as the UK, collate detailed statistics on the nationality of migrants detained annually. Analysis of

such data could provide greater insight into the migrant groups targeted by detention policies, as well as their effects.

The trends discussed above are mirrored in several pieces of EU legislation covering asylum and the return of irregularly residing third country nationals. The most important of these is the Directive on common standards and procedures in member states for returning illegally staying third country nationals 2008/115/EC (hereafter the Returns Directive), adopted in 2008, lays down EU-wide rules and procedures for the return of irregular migrants (Zwaan, 2011). During negotiations on the text of the legislation, the rules on detention proved particularly contentious and led to fierce criticism from academics and NGOs in the aftermath of its adoption (Acosta, 2009; Baldaccini, 2009). Indeed, while the Directive includes a number of important legal safeguards that make detention a measure of last resort and include the stipulation that member states should only detain a third country national in order to carry out removal, particularly where there is a risk of absconding, nevertheless it also introduces a mandatory re-entry ban and harsh rules on duration of detention. Thus, the text permits a six-month detention period with a possible 12-month extension in the case of delays or uncooperative behaviour in the removal process. Moreover, during negotiations, the insertion of any provisions likely to slow the process of return - e.g. restrictions on detention, obligations to provide legal aid and increased possibilities to challenge a return decision - were forcefully resisted, leading to claims that the legislation amounts to: "The codification at EU level of an expulsion regime that is lacking from a perspective of the rights of the individual" (Baldaccini, 2009).

Scholarly debate on the Europeanisation of a restrictive immigrant detention regime in the EU demonstrates a two-way process of mutually reinforcing norms. Thus on the one hand certain member states, (namely Germany, Greece, the Netherlands and the UK) were active in promoting their national norms and agendas in EU council negotiations (Acosta, 2009; Pelzer, 2011). At the same time, the adoption of the Returns Directive simultaneously legitimised more restrictive regimes at national level. Just as the final agreement on the text of the Directive was reached in June 2008, Italy amended its national legislation to increase the maximum period of detention for irregular migrants awaiting deportation from 60 days to 18 months (reported by the Italian media to be 'in accordance with European Union guidelines') (Baldaccini, 2009). A number of other countries also extended their maximum detention stays as a result of the Returns Directive, including Spain and Greece (Flynn & Cannon, 2010).

The outcome has led scholars such as Cornelisse to conclude that:

> "The institutionalised practice of immigrant detention has become an inherent part of a policy package that has as its main aim to deter future migrants and to remove those already on national territory as rapidly and effectively as possible."

Taking up this thread, the following sub-section will explore this thesis and the potential drivers behind this Europe-wide detention trend.

3.2 Functions of the new 'detention apparatus'

How does the academic literature frame and explain the proliferation of immigrant detention and what does it tell us about the criminalisation of migration?

Official statements surrounding the expansion of immigration detention by governments and state agencies usually focus on the immigration enforcement purposes of such measures. Hence the UK's re-naming of all its immigration detention facilities in 2001 as 'immigration removal centres' by the Labour government in order to communicate more clearly their purpose (Bosworth, 2012). Indeed, as we have seen in section 3.1, according to EU legislation, irregular migrants should be detained only within the context of removal proceedings. Such interpretations would support a migration control perspective that views increasing immigrant detention as a tool to facilitate the identification, removal and return of irregular migrants already arriving and residing in Europe (Albrecht, 2002).

However, a number of authors have problematised the use of immigrant detention as a migration control technique, identifying the very low rate of expulsions as a paradox at the heart of the detention apparatus (Broeders, 2010; Broeders and Leerkes, 2010). Removal rates fluctuate widely across Europe, so where 25% of agreed expulsions are carried out in Spain (Garcia and Bessa, 2011), in France less than 1% of third country nationals subject to return procedures are removed (Basilien-Gainche and Slama, 2011). In the Netherlands, Van Kalmthout and Van der Meulen put the figure at below 40% (2007). The reasons for low levels of removals are relatively well known: states encounter considerable obstacles when it comes to

implementing expulsions, usually due to difficulties identifying an individual, obtaining the right documentation, and the lack of cooperation agreements with countries of origin. However, the high costs associated with detaining an individual versus the low levels of removals raise fundamental questions about the official rationale behind this policy approach. Leerkes and Broeders identify the quandary as follows:

> "Given the persistence and widening of the gap between the large investments in immigration detention and the declining 'proceeds' thereof in terms of expulsions, the policy does seem to lack rationality. Therefore other explanations for the practice of the administrative detention should be considered" (2010, p. 836).

Consequently, they posit three alternative functions of immigration administrative detention, drawing on the Dutch context. First, deterring irregular residence. In this view, administrative detention – and the difficult conditions it engenders (see 3.3 below) – is intended to coerce detainees into complying with the removal procedure and leaving the country. It also may have a general deterrent effect of preventing potential migrants from travelling to a certain country or violating the terms of their stay. However, the authors cite a general lack of empirical evidence to support this thesis. i.e. growth in detention practices has not equalled a parallel growth in expulsion rates, nor caused decreases in irregular immigration inflows. The inefficacy of a deterrence function is also supported by Bosworth's study of UK removal centres:

> "British immigration removal centres fall short of the familiar justifications of custody, namely rehabilitation, deterrence or punishment. Because centres only hold around 3000 people per day, while hundreds of thousands of undocumented migrants live freely in the community… it is difficult to argue that such places deter. A border control system under such circumstances functions haphazardly at best" (2012, p. 103).

The second function suggested by Leerkes and Broeders is as a means of managing the external effects of poverty. Here they cite the fact that local authorities occasionally use detention as a form of 'poor relief' and the practice of detaining irregular migrants before large public festivities. Here the aim is not migration enforcement but rather to incapacitate a marginal population. This function finds synergies with research from the US on banishment, which contends that strategies aimed primarily at spatial exclusion have enjoyed a renaissance in recent years, with measures geared towards containment and confinement aimed first and foremost at society's socio-economic underclass of homeless, drug addicts and migrants (Beckett and Herbert, 2010).

The third hypothesis concerns managing popular anxiety and symbolically asserting state control. Despite the restrictions on the state's ability to control its borders and implement expulsion, the increase in immigration detention communicates the message that the state is still in control of the geographical and social boundaries that citizens want it to maintain.

This thesis is supported by authors who draw on David Garland's theory of the culture of control (2001). The failure of restrictive border and migration management policies forces governments to seek to create order through penal means (Weber and Bowling, 2008). Weber and Bowling make the following observation:

> "The economic and political capital invested in the politics of exclusion is clear when one considers border protection policies that usually fail the usual neo-liberal standards of fiscal restraint and cost-effectiveness, but retain popular appeal as powerful expressions of order-seeking through sovereignty… These strategies evince a sort of 'nationalist security' in which nationalist ideology merges with a national security agenda, so that border control resonates with fears of both cultural dilution and physical attack."

Finally, along similar lines, other scholars studying the drivers of immigrant detention have looked to the criminological literature on New Penology (Cornelisse, 2010, Broeders, 2012; Garcia and Bessa, 2011). The concept of New Penology, developed by Feely and Simon in 1992, leaves behind notions of correction or rehabilitation and puts the emphasis on actuarial policies and techniques that are concerned with identifying, classifying and managing groups by their categorisation as 'dangerous'. The new penology logic accepts the impossibility of eliminating crime and focuses instead on identifying risk – attributed to certain societal groups by dint of social factors associated with them. Migrants here become the latest risk category to join the underclass designated by actuarial, preventive policies. Thus, according to this argument, irregular migrants are in essence "not detained because of individual crimes or behavior, but because of their 'membership' of a group that is classified as dangerous, or at least unwanted. Administrative detention may simply be a way to deal with this group, especially when expulsion is failing" (Broeders, 2012, p. 182).

3.3 Consequences of criminalisation through detention

As discussed in section 3.2 above, the literature indicates that detention serves little deterrent function and its role in facilitating the state's objective to remove irregularly residing immigrants falls short of 'success'. What, then, are the unintended consequences and effects of the widespread use of detention in Europe?

Bosworth notes the lack of scholarly attention paid to this question, which she attributes to the general absence of information and transparency surrounding detention practices and the difficulties in obtaining permission to conduct empirical research in detention facilities (2012). However, sufficient research has come to light on detention conditions, which indicate the detrimental impact of detention practices of migrants' human rights. Guild (2005) highlights that detention of migrants in all European member states must comply with Articles 3 and 5 of the European Convention of Human Rights. Article 3 stipulates that conditions of detention must not constitute torture, inhuman or degrading treatment while Article 5 recognises that detention is contrary to the principle of liberty of the person and must be justified on the basis of a set of conditions laid down in Article 5.1.

Breaches of Article 3 ECHR are identified by Webber (2008) who lists allegations of abuse, assault, threats and torture that have pervaded detention systems across Europe. Cornelisse, in her overview of detention practices in Europe, also indicates that illegal detention beyond maximum time limits, use of unlawful force by government officials and serious overcrowding are commonplace and in countries such as the Netherlands and France, detention conditions for foreigners detained under immigration legislation are of a lower standard than that of penal institutions (Cornelisse, 2010).

The requirement under Article 5 ECHR to justify the necessity and appropriateness of detention on a case-by-case basis also appears increasingly moribund in many national contexts where detention has become a systematic response in the authorities' management of asylum seekers and irregular migrants. Thus Cornelisse (2010) notes that whereas in most countries detention was originally intended as an individual measure of last resort, it has in contemporary practice become a large-scale instrument, targeting specific categories of persons and leaving less scope for the consideration of individual circumstances. Indeed, Welch and Schuster confirm that in the UK for instance "there is no automatic or independent scrutiny of the lawfulness, appropriateness or length of detention" (Welch and Schuster, 2005, p. 337). However, with the increasing use of detention by EU member states, recent years have seen a parallel emergence of jurisprudence before the courts contesting national practices under Article 5.1 ECHR. Further research is needed to examine whether this jurisprudence is impacting government policies on detention. For instance, are detention policies becoming more 'sophisticated' in order to bring them within the human rights framework?

Before proceeding it is worth remembering that, although immigration detention has become a customary feature and standard practice of different European legal systems, this is nevertheless an exceptionally severe juridical measure. Barring capital punishment, deprivation of liberty is the most serious sanction that a state can levy against an individual. Against this background, several authors, particularly those from the field of criminal law, have focused on the effects of resorting to administrative law in the implementation of immigrant detention. Ericson (cited in Broeders, 2010) describes this practice or measure as a form of 'counter-law' – laws invented to "erode or eliminate traditional principles, standards, and procedures of criminal law that get in the way of pre-empting imagined sources of harm." On a similar track, Becket and Herbert (2010) discuss the proliferation of legally hybrid techniques that blend elements of civil and criminal law, and as a result, often shift the burden of proof away from the state, providing minimal avenues for contestation, and diminishing the rights-bearing capacity of their targets. The general problem facing detainees of lack of access to judicial remedies and legal contestation is all the more critical when considering the use of waiting zones and extra-territorial detention, the latter of which is promoted and funded as a strategic element of the EU's migration policy. Such measures detain people even before they've arrived on the territory of a state, situating them in a legal grey area and without even the minimal guarantees applicable to the deprivation of liberty (Cornelisse 2010; Guild, 2005).

Finally, other authors have considered the impact of mass migrant detention on general perceptions of immigrants and the construction of migrants as a risk category. Chacon (2009), for instance, argues that detention creates a negative feedback loop in public opinion, further demonizing migrants and having a powerful effect in the representation of foreigners as criminal offenders, security threats and welfare abusers. Following a similar thread, Rahola (2011) argues that detention camps re-construct their inmates as persons potentially internable and deportable. Moreover, the 'detention machine' takes on the attributes of a

punishment to address a specific 'crime' – that of having crossed a border. Thus, despite the fact that administrative measures are not intended to be punitive, immigrant detention nevertheless produces both the crime of clandestinity and the criminal figure of the clandestine.

4. Conclusion

This paper has examined the scholarly debates drawn from academic literature and EU-funded research projects in order to understand the phenomena broadly termed the 'criminalisation of migration'. It finds that criminalisation has, during the past two decades, intensified significantly across the European Union in diverse manifestations: whether via public perceptions or discourse; in the increasing intersections between criminal law and migration management or in the widespread practice of immigrant detention as a large-scale instrument being applied as an automatic control mechanism to govern irregular migration.

The paper takes as its starting point the observation that there is little evidence that immigrants, regular or irregular, are responsible for a disproportionate share of crime. It therefore asks what is driving these trends if they cannot be understood as a response to problems of crime committed by non-citizens? It finds that this question has, during the past decade, attracted growing interest from academics from a wide range of disciplines, including scholars of migration law and studies, security studies, criminology and criminal law. Despite the diverse approaches and perspectives taken by academics, a number of synergies can be identified. At the same time, this state-of-the-art has also revealed a number of gaps in the research or questions deserving further enquiry and exploration. These synergies and gaps are summarised as follows:

First, the evidence presented in the literature indicates that criminalisation trends bear little relation to certain empirical developments that one might expect, such as fluctuations in crime rates or immigration rates. Rather, the determining drivers appear to be factors that affect the degree to which non-citizens are perceived as a threat – often periods of economic and social crisis and structural upheaval. One might logically expect that the past five years of economic crisis and recession, which has left almost no EU member states untouched, will influence criminalisation trends in Europe. This is a question that has yet to be explored and could pave the way for further research.

Second, the criminalisation of migration is a process driven by multiple actors, including politicians, press, security officials and agencies, who are motivated by diverse yet overlapping interests and agendas. The progressive transfer of powers to the European Union in the field of Justice and Home Affairs during the past 20 years has opened the way for new avenues and actors at EU level and created a dynamic impulse for the criminalisation of migration in EU law and policy, which appears to have both replicated national approaches and in turn is legitimising and institutionalising national practices. The continual evolution of European powers in these domains requires further in-depth research to ascertain who the actors are and which are the processes driving criminalisation of migration at European level. On what basis are these policy approaches pursued and how are they being translated into national policy, legislation and public discourses?

Third, the increasingly blurred boundaries between criminal law and migration management operate under a two-way process. First, criminal law is increasingly intersecting with immigration law and is being invoked to regulate migration matters. At the same time, administrative regimes are, with increasing prevalence, imposing sanctions akin to punishment but denying the protections of criminal process. These conflating trends open a series of deeper questions about how scholars across disciplines should broach questions of 'crimes' of mobility. Given the administrative nature of border control, detention, deportation etc, can these be understood within existing theoretical frameworks about punishment and society? What do they tell us about the changing nature and rationales behind punishment and the way in which penal power is expanding and changing its justification and effects? How do such crimes of mobility impact 'normative legitimacy' of criminal justice systems (Hough and Sato, 2013)? In other words, to what extent do they meet substantive criteria of fairness, effectiveness, accountability, transparency, rule of law and human rights? Given the important drawbacks already indicated in the literature of addressing migration management with criminal law, as well as the limitations of extending an administrative regime with the asymmetric incorporation of criminal norms (Legomsky, 2007), how best to delimit the process of 'crimmigration'? The lack of comparative research on 'crimmigration law' trends across European member states represents a notable gap in the literature here.

Fourth, there is a striking absence of social science research examining the consequences of criminalisation for the individuals targeted by these laws, policies and practices. While criminology literature has explored the social exclusion effects of criminal justice on diverse sections of the citizenry, it has so far overlooked this process with regard to non-citizens. With the exception of a handful of EU-funded research projects that make general observations, there is no systematic research that focuses specifically on the question of how criminalisation practices in different member states impact the socio-economic position, choices and legal statuses of migrants who fall under their scope. A cross-comparative research input could, in this respect, make a valuable contribution to assessing the gap between policy objectives and policy outcomes. Concerning administrative detention, scholarly attention to which migrant groups are targeted in particular by detention policies would be an important starting point to assess their consequences and effects.

Fifth, a recurring theme throughout the literature is the 'symbolic' nature of criminalising policies – geared primarily towards communicating a message towards the public rather than achieving stated policy goals. Indeed, when measured against various criteria of efficacy and impact (budgetary, societal, human rights, migration control), the success of such policies appears very limited. This observation generates a series of questions on the impact of criminalisation of migration for trust in public policy-making, the police and justice systems. Indeed, given the academic consensus surrounding the mis-application of criminal law in the field of migration control and its risks to the foundational principles of criminal justice, there is surprisingly little reflection in the literature to key questions that concern the FIDUCIA project, such as the impact on public trust in the police and courts as a result of 'crimmigration' trends. An important research question to pursue would therefore be what influence does this 'policy gap' between official policy goals and actual outcomes have on the empirical legitimacy of criminal justice systems (i.e. individuals' perceptions of the legitimacy of justice systems) and in levels of trust in justice institutions? Does the public believe that 'crimmigration' policies are legitimate? Do they see the structures of authority and policies regulating migrants, and those who act in solidarity with them, as fair and effective? On the one hand there is a general perception that the wider public endorses, even demands, restrictive migration control policies from their governments. One could therefore imagine a scenario whereby criminalisation of migration policies would instil greater public trust, leading to the paradoxical situation where trust is created through governments excluding and exacerbating the marginalisation of certain categories of individuals. However, any understanding of public perception and the criminalisation of migration should also examine the 'spaces of contestation' that have opened up around 'crimmigration' policies. More research on the proliferation of campaigns that have emerged in support of irregular migrants and against criminalising policies and practices in the past decade, including the use of civil disobedience by members of the public and professional groups, could help to provide a more multi-layered understanding of how criminalising migration impacts empirical legitimacy and public trust.

Finally, this state-of-the-art review underscores that the criminalisation of migration – as one of the four 'new crimes' examined by the FIDUCIA project - must be treated with a certain degree of sensitivity. Criminality here is less associated with an 'act' but rather treated as the condition of a person, i.e. illegality is not an action but a facet of a migrants' very being. Moreover, as several scholars argue, given the complex nature of regulations governing migration status in European countries, the law itself often creates the status of 'illegality.' Questions of fostering normative compliance with 'crimmigration' policies, must therefore be approached in this context. We would contend that the choice of whether to comply or not to comply with the law is here not the central question: in the vast majority of cases the individual would like nothing more than to regularise their status or comply with criteria for authorised residence and employment. Furthermore, fostering compliance with certain 'crimmigration' laws (e.g. legislation criminalising solidarity) could raise profound moral and ethical dilemmas: should, for instance, a doctor refuse to treat a patient because they are lacking the correct papers? Against this background, when considering the interplay between criminalisation of migration and trust in justice, public trust and institutional legitimacy should be considered as intrinsic values in and of themselves (rather than as means to foster compliance with the law) as well as points of reference in determining relations between communities and the police; influencing access to justice by vulnerable groups; and facilitating processes of integration and social inclusion of migrants and ethnic minorities.

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Annex 1. Themes and findings of EU-funded research projects in the field of criminalisation of migration

Common themes & findings	Project Title													
	Fundamental rights of irregular migrants in the EU (FRIM)	Assessing deviance, crime and prevention in Europe (CRIMPEV)	Undocumented migration: counting the uncountable (CLANDESTINO)	Regularisations in the European Union (REGINE)	The Changing landscape of European Liberty and Security (CHALLENGE)	Undocumented worker transitions (UWT)	Support and Opposition to Migration (SOM)	On the margins of the EU (EUMARGINS)	A typology of different types of centres in Europe	Book of Solidarity: Providing assistance to undocumented migrants	EU minorities and discrimination survey (EU MIDIS)	EURO-JUSTIS (Justice indicators)	EDUMIGROM (Ethnic differences in education and diverging prospects for urban youth	(TEMPO) Temporary migration, integration and the role of policies
Routes into irregularity			✓	✓	✓	✓				✓				
Data and statistics covering (irregular) migration			✓											
Role of terminology		✓	✓		✓	✓	✓							
Impacts of public discourse			✓			✓	✓			✓			✓	
Developments and trends in law and policy	✓	✓	✓		✓					✓				✓
(In)efficacy of restrictive policies and controls		✓			✓	✓								✓

Impacts on processes of inclusion & access to social rights	✓					✓		✓		✓	✓			✓
Trends and conditions of detention					✓				✓					
Obstacles to removal and return	✓			✓										
Impacts of policing for ethnic minorities		✓									✓	✓		

Annex 2. List of EU-funded projects examined covering the criminalisation of migration

Project title	Funding authority	Coordinator	Duration	Aims and objectives
Fundamental rights of irregular migrants in the EU (FRIM)	Fundamental Rights Agency	ICMPD, Austria	2009 - 2011	The aim of FRIM is to examine key aspects of the situation of irregular immigrants in the European Union in order to assess the extent to which their fundamental rights are respected and protected. Areas covered by the research include health, housing, education, social care, employment status and fair working conditions and access to remedies against violations and abuse. http://fra.europa.eu/en/publication/2012/fundamental-rights-migrants-irregular-situation-european-union
Assessing deviance, crime and prevention in Europe (CRIMPEV)	European Commission, DG Research (6th Framework Programme)	Centre National de la Recherche Scientifique, France	2006 – 2009	To produce a European comparative assessment of: factors of deviant behaviours; processes of criminalisation; perceptions of crime; links between illegal or socially deviant behaviour and organised crime; and public policies of prevention. More info at: http://www.crimprev.eu
Undocumented migration: counting the uncountable (CLANDESTINO)	European Commission, DG Research (6th Framework Programme)	ELIAMEP, Greece	2007 - 2009	To provide an inventory of data and estimates on undocumented migration (stocks and flows) in selected EU countries, to analyse these data comparatively, and to discuss the ethical and methodological issues involved in the collection of data, the elaboration of estimates and their use, and to propose a new method for evaluating and classifying data/estimates on undocumented migration in the EU. More info at: http://clandestino.eliamep.gr
Regularisations in the European Union (REGINE)	European Commission, Directorate General for Justice, Freedom and Security	ICMPD, Austria	2007 - 2008	To provide a thorough mapping of practices relating to the regularisation of third country nationals illegally resident in EU Member States; to investigate the relationship of regularisation policies to the overall migration policy framework, and examine the political positions of different stakeholders towards regularisation policies on the *national level* as well as potential options for policies on regularisation on the *European level*. http://research.icmpd.org/1184.html
The Changing landscape of European Liberty and Security (CHALLENGE)	European Commission, DG Research (6th Framework Programme)	Centre for European Policy Studies, Brussels	2004 - 2009	To facilitate more responsive and responsible judgements about new regimes and practices of the emerging security interface in order to minimize the degree to which they undermine civil liberties, human rights and social cohesion; to create an observatory charged with the analysis and evaluation of the changing relationship between sustainable security, stability and liberty in an enlarging EU, which upholds the values of democracy. http://www.libertysecurity.org/

Undocumented worker transitions (UWT)	European Commission, DG Research (6th Framework Programme)	Working Lives Research Institute at London Metropolitan University, UK	2007 to 2009	To deepen understanding of the impact of migration flows on EU labour markets and to theorise the relationship between the presence of 'informal' or 'shadow' industry labour markets and migration flows; to deepen knowledge of how legal status interacts with migrant labour market positions. http://www.undocumentedmigrants.eu/
Support and Opposition to Migration (SOM)	European Commission, DG Research (7th Framework Programme)	Swiss Forum for Migration and Population Studies, Switzerland	2009 - 2012	To examine the politicisation of migration in seven European countries and determine why and when potential conflicts over migration become politicised, examining both anti-immigration and anti-racist movements. The project aims to increase knowledge about the political dynamics related to migration, and provide policy-relevant information.
On the margins of the EU (EUMARGINS)	European Commission, DG Research (7th Framework Programme)	University of Oslo, Norway	2008 - 2011	To examine experiences of social inclusion/exclusion among young adults with immigrant background in seven local urban-metropolitan areas in seven different European countries and identify and prioritise those factors that matter most (for specific young adult migrant groups and in different countries as well as for all young adult migrant groups and across Europe), laying a foundation for recommendations that can assist the transitions from exclusion to inclusion, particularly focusing on dominant factors of unemployment/jobs and the related education aspects. http://www.sv.uio.no/iss/english/research/projects/eumargins/
A typology of different types of centres in Europe	European Parliament, DG Internal Policies of the Union, Directorate C – Citizens' rights and Constitutional Affairs	CEPS (Elspeth Guild)	2005	To examine three issues around the detention of foreigners in the EU: the law that governs camps; who is found in the camps; and what types of camps are missing. The starting place of this examination is the law of the European Union – what are the parameters within which national law applies and how does national law comply with those parameters. http://www.europarl.europa.eu/RegData/etudes/note/join/2006/378268/IPOL-LIBE_NT(2006)378268_EN.pdf
Book of Solidarity: Providing assistance to undocumented migrants (Volumes I-III)	European Commission, DG for Employment, Social Affairs and Equal Opportunities	Platform for International Cooperation on Undocumented Migrants (PICUM)	2003	To highlight the manifold ways solidarity is extended to undocumented migrants in on different geographical regions in Europe, exploring assistance to undocumented migrants and the rights of help providers against the background of a tendency to criminalise assistance to undocumented migrants, which albeit in an indirect way strongly affects undocumented migrants themselves. http://picum.org/en/publications/reports/

EU minorities and discrimination survey (EU MIDIS)	Fundamental Rights Agency	FAR/Gallup Europe	2007 - 2099	To provide primary survey data collected from selected ethnic minority and immigrant persons resident in the EU Member States. This survey data will support policy-makers and other key stakeholders in developing evidence-based and targeted policies that address discriminatory, racist practices, and improve support structures for victims of discrimination and racist crime. http://fra.europa.eu/en/project/2011/eu-midis-european-union-minorities-and-discrimination-survey
EURO-JUSTIS (Justice indicators)	European Commission, DG Research (7th Framework Programme)	Institute for Criminal Policy Research, Birkbeck College London	2008 - 2011	To develop and pilot survey-based indicators of public confidence in justice, to assemble contextual data for interpreting the indicators – on the assumption that there are close relationships between public perceptions of justice and the substantive quality of justice as reflected in the workings of the justice process – and to develop tools for presenting and interpreting the indicators in ways that are intuitive and accessible. http://www.eurojustis.eu/
EDUMIGROM (Ethnic differences in education and diverging prospects for urban youth	European Commission, DG Research (7th Framework Programme)	Central European University	2008 - 2011	To conduct a comparative investigation in ethnically diverse communities with second-generation migrants and Roma in nine countries of the European Union. http://www.edumigrom.eu/
(TEMPO) Temporary migration, integration and the role of policies	European Commission's 6th-7th Framework Programme, (via NORFACE)	Johannes Kepler University	2009 - 2013	To use an array of existing and new datasets to examine the causes and consequences of temporary migration, considering both the perspective of the source and the destination country; to study the patterns of integration of economic and non-economic migrants, and how they relate to the time dimension of the migration decision and look at the process through which policies towards temporary and return migration are formed. http://www.norface.org/migration6.html

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Founded in Brussels in 1983, the Centre for European Policy Studies (CEPS) is widely recognised as the most experienced and authoritative think tank operating in the European Union today. CEPS acts as a leading forum for debate on EU affairs, distinguished by its strong in-house research capacity, complemented by an extensive network of partner institutes throughout the world.

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- Carry out state-of-the-art policy research leading to innovative solutions to the challenges facing Europe today,
- Maintain the highest standards of academic excellence and unqualified independence
- Act as a forum for discussion among all stakeholders in the European policy process, and
- Provide a regular flow of authoritative publications offering policy analysis and recommendations,

Assets

- Multidisciplinary, multinational & multicultural research team of knowledgeable analysts,
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Financial Institutions and Markets
Energy and Climate Change
EU Foreign, Security and Neighbourhood Policy
Justice and Home Affairs
Politics and Institutions
Regulatory Affairs
Agricultural and Rural Policy

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