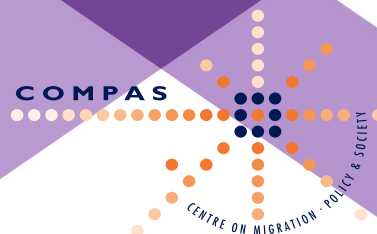


# **Autumn Academy 2017**

## **Irregular Migrants and Rejected Asylum Seekers: Conceptual and Policy Challenges for Europe**

Anna Triandafyllidou  
Laura Bartolini  
European University Institute

COMPAS



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## **Abstract**

The paper aims at reviewing the recent literature on irregular migration, highlighting both the new theoretical and empirical challenges that arise when dealing with the issue at various levels of governance in current times, when Europe is addressed by a manageable but unprecedented high number of new mixed migration inflows that also include asylum-seekers. In doing so, the paper employs the most commonly-used definitions to present the important connection between irregular migration and irregular work, which is considered both a pull factor and perpetrator of irregular migration. Although there is a dearth of reliable estimates on the current size of irregular migration in Europe, the available data on enforcement of immigration regulations – including returns and their ineffectiveness in reducing irregularity – are used to obtain a comparable picture of trends in Europe as a whole on third-country nationals found to be irregularly present and on rejected asylum seekers who might stay into irregularity. Frames of irregular migration in local and regional discourses open the discussion on the new challenges for the multilevel governance of irregular migration, where multiple tensions arise between the local, national and European levels. The paper concludes by discussing the political economy of migrant/asylum-seeker control, reception, processing, support, and re-localisation (within or outside Europe), where spaces for discrepancies across various governance levels widens. In the current situation of constant policy changes at multiple levels, new social and economic actors (or the mobilisation of old ones with new roles) play a role in unveiling inconsistencies and gaps in the multilevel irregular migration governance and in providing assistance and advocacy for solidarity mechanisms and human rights' protection, which should be among core values of European policy.

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## About the Authors

**Anna Triandafyllidou** is Professor at the Global Governance Programme (GGP) of the Robert Schuman Centre for Advanced Studies (RSCAS), European University Institute. Within the GGP she coordinates the Research Area on Cultural Pluralism. Before joining the Programme, she was part-time professor at the RSCAS (2010-2012). During the period 2004-2012, she was Senior Fellow at the Hellenic Foundation for European and Foreign Policy (ELIAMEP) in Athens where she headed a successful migration research team. She has been Visiting Professor at the College of Europe in Bruges since 2002 and is the Editor-in-Chief of the *Journal of Immigrant and Refugee Studies* since 2013. Her recent authored books include *Migrant Smuggling. Irregular migration from Asia and Africa to Europe* (2012, co-authored with Th. Maroukis), and *What is Europe* (2015, co-authored with R. Gropas). Her most recent edited volumes are: *The Routledge Handbook of Immigration and Refugee Studies* (2016), *Global Governance from Regional Perspectives* (2017, Oxford University Press), *The E. Elgar Handbook on Migration and Globalisation* (2018, in press).

Contact: [Anna.triandafyllidou@eui.eu](mailto:Anna.triandafyllidou@eui.eu)

**Laura Bartolini** is Data Focal Point at the International Organization for Migration (IOM) in Italy, working on large datasets on migrants assisted or surveyed within the IOM activities. She has been research associate at the European University Institute's Global Governance Programme (2011-2016) and has worked with FIERI research centre in Turin (2013-2015). Her current work focuses on survey design (for the DTM project) and quantitative analysis on IOM's datasets on transiting migrants in northern Africa and southern Europe and research on vulnerable migrants (victims of trafficking, unaccompanied and separated children). She has worked on irregular migration writ large and on migrants' integration in Europe during and after the economic crisis. Her most recent authored publication is "Migrant Vulnerability in Transit: The Central Evidence from the Central and Eastern Mediterranean Migration Routes" (IOM, 2017).

Contact: [laura.bartolini@eui.eu](mailto:laura.bartolini@eui.eu)

## 1. Introduction

Irregular migration is a multifaceted, dynamic phenomenon that attracts disproportionate media and political attention. Migrants represent 3.5 per cent of the world's population – notably a rather small fraction – and of those, according to recent estimates, migrants in an irregular situation represent between 15 and 20 per cent. This would thus mean approx. 1 per cent of the total world population, which still would involve 30-40 million individuals worldwide (UN OHCHR 2014; ILO 2015). Naturally such figures are estimates and vary among continents. As suggested by Koser (2007) and Fargues (2008), irregular migration is pervasive in some sectors and areas of Asia and Africa, reaching and exceeding 50 per cent; it is quite extensive in North America (according to Rosenblum and Ruiz Soto's 2015 estimate there were 11 million irregular migrants in the US in 2013) but quite limited in Europe, where the most recent comparable estimates (Kovacheva and Vogel 2009) put the number of irregular migrants between 1.9 and 3.8 million in 2008. Moreover, there are reasons to believe that irregular migration may have slowed during the economic and financial crisis in Europe and the United States, a trend that might be partially reversed due to the most recent developments affecting asylum-seeking and irregular migration flows from both Africa and Asia to Europe.

Irregular migration involves different types of irregularity – notably legal entry and irregular stay, entry with fake documents, entry and abuse of the terms of stay, to name a few. However as irregular migrants are human beings like anyone else, they are active in both the public and private space: they find employment (usually without appropriate documents) and accommodation, have families, have health and education needs; sometimes they even actively contribute to their communities despite their irregular status. They thus pose multiple governance, political, and moral challenges at the local, national, and European levels.

While the EU Returns Directive unequivocally states that people in an irregular situation cannot reside in the EU – they must either be returned to their country of origin/last country of transit or must regularise their situation – reality is far more complex. This is not only because return often proves too complicated to implement, but also because while national or EU laws may dictate the expulsion of a person, this person may have developed ties with their country of residence that cannot be severed so easily. Such ties may include children that go to school and whose lives will be disrupted, employers that value a hard-working and reliable employee, neighbours and friends – both natives and migrants – who do not care about the legal status of their friend. These contradictory situations, where national law comes up against social reality, are often left to be solved at the local or regional level by city and regional authorities that try to ensure that their cities and localities are welcoming, humane, yet also 'orderly' places to live. The challenges here can be political and moral (expelling somebody whose only offence has been to violate migration regulations) but also socio-economic (providing health and welfare to a person who is not paying and cannot pay taxes because they work without documents, tolerating illegal situations, dealing with people who find themselves homeless because they have no access to benefits and cannot hold a stable job because of their undocumented status).

This paper reviews recent literature, both theoretical and empirical, on these challenges that are certainly not recent but rather well known in many countries in Europe. Our paper does not seek to replicate all the important and interesting findings of the previous 20 years, but rather to highlight what is new, whether in terms of theoretical or empirical findings as well as in terms of new challenges arising given the surge in irregular migration and asylum-seeking flows of the last four years (since late 2013 and the tragic shipwreck outside Lampedusa). Our literature review

goes back five years, to 2012, but obviously when and if we found important studies dated earlier we have included them.

The paper is organised as follows. The first section presents a short theoretical reflection on the dynamics of irregular migration, on why and how it happens, and provides for a brief outline of related definitions. We pay special attention to the connection between irregular migration and irregular work – as we consider employment an important pull factor of irregular migration and at the same time as an important factor perpetuating it. We also seek to provide some data or estimates about the size of the irregular migrant population in Europe today although there is a dearth of reliable sources. In our analysis, we highlight why and how irregular migration needs to be conceptualised not as a black-and-white distinction between legal and illegal status but rather as a continuum of different statuses between legality and irregularity. We also point to the ways in which return and the impossibility thereof is linked to the persistence of irregularity.

Section three looks at how irregular migration is framed, particularly in local and regional discourses, while section four turns to the new challenges for the multilevel governance of irregular migration and the tensions between the local and the national/EU level. Section five discusses the new ‘migration industry’ – or rather, the political economy of migrant/asylum-seeker reception, processing, support, and relocation. We pay special attention to any studies that have documented the local or national or international dynamics of this area of reception and integration or return that is, however, quite recent as a phenomenon on a mass scale. We look at studies that have documented the funding of such policies as well as the emergence of new social and economic actors (or the mobilisation of old actors with new roles).

Section six presents our concluding remarks and raises questions for further research and for discussion.

## 2. A Dynamic and Multifaceted Phenomenon: Irregular Migration and Irregular Work

Paradoxically, while the global economy becomes increasingly integrated through capital flows, global supply chains and international trade, the movement of people across national borders becomes ever more tightly regulated. As recently pointed out in a comprehensive study by de Haas, Natter, and Vezzoli (2016), policy changes over the past twenty years have diversified immigration policies, making them more selective and targeted towards specific groups. This is applied using multiple criteria, differentiating among high- and low-skilled workers, students, refugees, and family members. In this panorama, policies towards family migrants, irregular migrants and border controls have been tightened in recent years; prospective international migrants seeking better jobs and life opportunities face increasingly higher walls, particularly if they aim to emigrate to high-income countries in Europe, North America, and Australia.

Nonetheless, the demand for cheap irregular labour in migrant-receiving countries, coupled with the need of decreasing demographics and economic pressures of booming young populations in origin countries, create a powerful pull/push mechanism that defies border controls, visa restrictions, and internal control measures. In fact, restrictive policies ‘generate’ illegal residence status and irregular work to the extent that they reduce legal channels for labour migration, raise the requirements to be fulfilled for family reunification or family formation, and make regularisation of status difficult to reach. One might argue that this is precisely the objective: to make the lives of irregular migrants impossible and cut them off from both jobs and welfare so

that they leave or stop coming. However, as we know, migration is a phenomenon that can be governed yet not controlled. It is not a tap that can be opened and closed. There is no single national interest on migration as politicians often argue, but rather several different interests of employers, workers, trade unions, and different sections of the 'native' population that may benefit or suffer from migration. Legality or irregularity are not two opposites, they are two extremes on a continuum where migrants can be located at several intermediate positions.

Patterns of irregularity are diverse and can include people who crossed a border unlawfully as well as visa over-stayers, children born to undocumented parents, migrants who lost their legal status because of unemployment or non-compliance with certain legal requirements, and last but not least, rejected asylum seekers. Irregularity is not entirely of the migrant's making: it may have to do with red tape or with labour market dynamics that privilege irregular stay and irregular work. Researchers have coined the term 'befallen irregularity' (González Enríquez 2014; Vickstrom 2014) to specifically characterise the cases in which migrants in southern Europe fell to irregular status because of red tape around stay or work requirements that were impossible to fulfil. The term 'befallen irregularity' or 'semi-legality' (Kubal 2013) is also used to emphasise the fact that migrants, particularly in southern Europe but not only, may alternate periods of legal stay and work with periods of irregular stay and irregular work and may live in conditions of partial legal status, e.g. with the right to stay although not to work, or participate in a regularisation programme yet eventually fail to fulfil all the conditions and obtain a durable legal status. Additionally, research has shown that irregularity is functional to labour market conditions in specific sectors such as construction, domestic work, agriculture and the food industry as irregular migrant workers provide a cheap and plentiful workforce (Jordan and Düvell 2002, Van der Leun and Kloosterman 2006, Cheliotis 2017). In other words, by creating conditions of legal stay and work that are impossible to meet, states indirectly support the interests of unscrupulous employers and create ethnic segmentation and hierarchies in the labour market that are functional to the national economy.

Irregular migrants are often not completely deprived of formal papers that testify to their presence in a given country. They may be documented but still illegally staying. Recent studies (Vasta 2008, Chauvin and Garces-Mascareñas 2012) have shown that irregular migrants may possess legal documents such as social security numbers, work contracts, certificates of enrolment for their children in school, or local identity cards issued by municipalities while still not having a regular stay permit. Such documents testify to the de facto inclusion of the migrant in the labour market and social life, and are important in illustrating the dynamism and complexity of the irregular migration phenomenon as well as the fragmentation of its governance. A typical example of such fragmentation comes from Spain where municipalities require all migrants to register with the local registry, the *padrón*, even if they do not have legal stay permits, which are issued by the national administration.

While regularisation of one's status is generally seen as the outcome of an individual application of the migrant and her/his family, Europe has experienced two large indirect regularisation waves through successive EU enlargements to the east, in 2004 and 2007. Citizens of 'new' member states who were irregularly residing/working in the 'old' member states became EU citizens, thus shifting to a regular stay with full socio-economic and labour rights. This of course has had important implications for all aspects of their lives and socio-economic and political inclusion in the countries of residence, even if it certainly did not automatically mean that they also acquired a job in the formal economy (Ruhs and Anderson 2006).



In addition, over the past two decades, a number of countries have repeatedly resorted to regularisation programs as a response to the presence of irregular migrants within their territories (Kraler 2009). Southern European countries have regularized the largest number of migrants with amnesties, but a measurable number of migrants has also been regularized by Belgium and France and to a lesser extent Germany, the Netherlands, and Sweden (Baldwin-Edwards and Kraler 2009). While some 3.5 million migrants received a regular residence permit within the EU through regularizations, in recent years only Poland carried out a measure of that kind (in 2013) as the EU Return Directive explicitly restrains member states from implement them, referring to such measures as ‘exceptional’.

## 2.1 A continuum of irregular stay and work

### 2.1.1 Stocks of irregular migrants

Although the concept of irregular migration is often treated as self-evident by media and political discourses, it deserves some careful reflection to avoid ambiguities and inconsistencies (Triandafyllidou 2010). A number of different terms and expressions are used for persons who enter a country illegally, overstay their terms of legal residence, live in a country without a residence permit, or break immigration rules in a way that makes them liable for expulsion. At the academic level but also in the media and public debate, terms like irregular, undocumented, or unauthorized have been preferred to the more discriminatory ‘clandestine’ or ‘illegal’ immigrants. Indeed, even though no human being is illegal per se (Ambrosini 2013), specific practices and behaviours in breach of the law can be referred as ‘not legal’ (for example, illegal border crossing).

Kovacheva and Vogel (2009), distinguish between irregular *residents* – foreigners without any legal residence status in the country and who can be subject, if detected, to an order to leave or to an expulsion order (stocks) – and irregular *entrants* – those who cross an international border without the required valid documents (flows). As regards their residence status, foreign residents might experience different forms of irregularity:

- Persons with forged papers or persons with real papers but assuming false identities.
- Persons with seemingly legal temporary residence status. The so-called working tourists – who entered on a tourist visa and are working irregularly – are assumed to be the majority of irregular migrants in some countries. Migrants with a temporary conditional permit such as seasonal and contract workers may likewise be liable to expulsion if they break their contract terms (for example because they work longer than permitted).
- Persons who lose their residence status because they no longer satisfy its conditions and the activity that granted the permit initially (unemployed no longer able to demonstrate an employment relationship to obtain a work permit, students whose course of study has ended, expiration of family permit for young adults of majority age, etc.).
- Persons who never had a regular status because they entered illegally and could not find a way of regularizing their status.
- Persons who never had a regular status but are registered to public authorities because they have been denied protection after lodging an asylum application.

- Tolerated persons without a regular status, with or without a document to prove the suspension of their removal and thus their semi-legal residence status. This occurs when removal of the illegally-residing alien or return to the country of origin is not possible because there is no agreement with the country of origin or transit<sup>1</sup>, or it is not possible to establish the nationality of the migrant.

### 2.1.2 Flows of irregular migrants

Inflows and outflows of irregular migrants continuously contribute to the stock of irregular residents. Such flows may be demographic (births<sup>2</sup> and deaths), physical (actual entry or departure) or legal, notably change of status from legal to irregular or vice versa. Geographical movements in and out the country may take place through unguarded border crossings or undetected unlawful entries at guarded border crossings. The continuing refugees' and migrants' crisis and the different and changing practices applied by European countries in terms of entry/transit of these flows is likely to result in an increase in the number of irregular migrants in Europe, as not all new arrivals are able or willing to lodge an asylum application.

Status-related flows concern people who fall into irregularity after a period of regular residence. The largest of such inflows is that of visa over-stayers: persons who enter with a tourist or other temporary visa and overstay the allowed period and possibly engage into paid employment while their visa allows only for tourism/leisure activities. Status-related flows also include asylum seekers whose application has been rejected or people whose permanent or temporary permit has been withdrawn as a consequence of a criminal offence. On the other hand, there are status-related outflows from irregular residence, ranging from regularization through marriage to collective amnesty programmes (Baldwin-Edwards and Kraler 2009), which are now, however, less frequent and smaller in size compared with the 1990s and early 2000s.

Third-country nationals may repeatedly shift from regular to irregular status and vice versa. Migration policy reforms may create new status options or make established ones available for new groups of people. While widening legal options would represent a functional equivalent to regularisation for them, European migration regimes are becoming more restrictive and more fragmented as the refugee crisis is threatening the current system and pushing each member state to individual and less coordinated responses.

### 2.1.3 Links between irregular work and irregular migrants

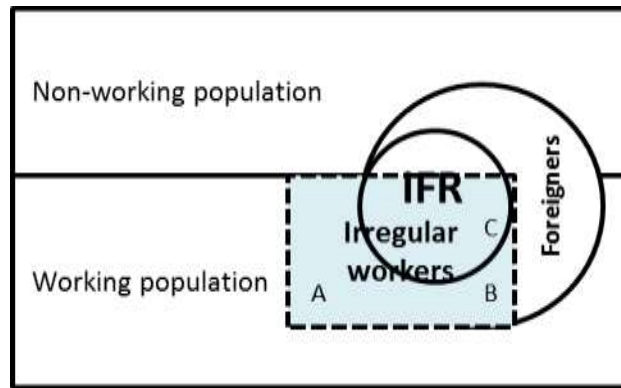
Not only are the realities of irregular residence and irregular work blurred, they also combine in multiple ways, preventing clear-cut definitions and requiring attention to single national practices and legal frameworks even within the European context. We should better speak of a continuum between legality and irregularity, ranging from situations where one is a regular foreign resident allowed to work and with a formal employment contract to cases in which one is an irregular foreign resident with an undeclared job.

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<sup>1</sup> See the Regulation adopted by the European Parliament on 13 October 2016 regarding a uniform European travel document for the return of illegally staying third country nationals (European travel document for return), <http://data.consilium.europa.eu/doc/document/PE-30-2016-INIT/en/pdf> Last accessed on 6 June 2017.

<sup>2</sup> Births into irregularity of children of irregular migrants.

Figure 1: Conceptualising the total resident population by work status, citizenship, and residence status



Source: Authors' compilation. IFR stands for Irregular Foreign Residents.

Moreover, one's status is not fixed. Changes in status (of residence, of permission to work, of employment condition) are frequent and not necessarily in the direction of progressive improvement and stability (EMN 2016a). 'Spaces of' and 'pathways to' illegality' (Ruhs and Anderson 2006, Düvell 2011) have hence to be found within the triangle of migration policies, labour market dynamics, and the individual choices of social actors – the migrants themselves. Different types and degrees of irregularity can be produced and negotiated among all actors involved; semi-compliance to (some) rules might be a frequent case. Figure 1 summarizes the possible intersections of citizenship, residence and work status: irregular employment can be found among the native labour force (A), foreigners legally residing (B), and foreigners who are irregularly residing in the country (C).

Table 1 provides for an inventory of different types of irregular migration status, also discussing whether the person is employed or not and in what kind of employment as more often than not having a job is a 'passport' or a necessary (even if not satisfactory) condition for being legally present in a country.

Table 1: Irregular Stay and Work of Migrants in the EU

Nationality	Residence status	Known/ registered by authorities	Entitlement to work	Nature of employment (if any)	Examples of irregular (undeclared/under-declared) working conditions
TCNs	Pending (right to stay and wait): - ongoing renewal - ongoing regularization - ongoing asylum procedure	Pending procedure, registered by authorities	Yes / depends	Semi-regular	Foreigners who are waiting for a renewal or a regularization usually continue working while waiting. In some cases there might be dis-alignment between the issuing of a permit and the date of start / resume a job. Authorities usually consider this as not irregular.  While awaiting a decision on their status, asylum seekers can be prevented from working for periods that vary from 0 months to 1 year or more, depending on the country.
	Irregular	Forged papers/ identity	Formally yes	Regular/ Irregular	Until detected, foreigners with forged papers might work and live as regularly residing ones.
	Regular	Visa-free / tourist-visa	No	Irregular	Tourists with or without visa who are working irregularly.
	Irregular	Visa over-stayers	No	Irregular	Foreigners who over-stay the length of the visa and work irregularly.
	Irregular	Lost status / expired documents: no renewal, end of period of study, end of family permit for those aged 18+, end of seasonal permit	No	Irregular	Foreigners who do no longer satisfy conditions for obtaining a residence permit might decide to stay and work informally, for example if they have an irregular job that is not valid to obtain the permit or if they are looking for a job after finishing the study period.
	Irregular	No status: rejected asylum application	No	Irregular	
	Irregular	No status: never had (irregular entry)	No	Irregular	
	Irregular (transit)	No status	No	None / Irregular	Transit irregular migrants without a real residence: migrants who entered unlawfully and avoid controls while trying to reach another country might sometimes engage in informal jobs to survive during the journey and can make use of smuggling networks to reach their destination.
	Irregular	No status	No	None	Irregular immigrants not working; family members reunified without authorization and not working (including children).
	Irregular / tolerated	Registered because detected at some point	No	Irregular	Foreigners whose removal/ deportation is suspended (formally or not) and therefore are known to authorities but tolerated

Source: Authors' compilation from (OECD 2000; Kovacheva and Vogel 2009).

## 2.2. Data on irregular migrants

Figures on irregular migrant residents are difficult to compile, and national authorities of most EU countries do not provide any official estimate of the number of irregular foreign residents in their territory. The last comprehensive effort for an EU-wide figure reflects numbers that are almost a decade old, recorded by the Clandestino Project (Kovacheva and Vogel 2009), which estimated the number of irregular migrants as between 1.9 and 3.8 million, that is, between 7 and 12 per cent of the total migrant presence in the EU-27 in 2008.

Since then, some updated estimates are available for some countries: irregular migrant residents were estimated at between 180,000 and 520,000 in Germany in 2014 (Vogel 2015); around 300,000 in Italy in 2013;<sup>3</sup> around 1 million in the UK in 2010;<sup>4</sup> and around 33,000 in Sweden in 2017.<sup>5</sup> In general, most official and independent sources speak of an irregular migrant presence ranging from 6 to 10 per cent of the total foreign resident population in Europe before the eruption of the so-called refugee or migration crisis in 2014-2015.

As already argued, while a number of countries repeatedly resorted to regularisation programs through the late 2000s (Kraler 2009), such measures have become increasingly rare and when implemented they target specific populations that are small in numbers. Hence, while there were little efforts to reduce numbers of irregular migrant residents through legalising their stay over the last years, most European countries have focused on boosting returns, which the EU Return Directive foresees as the main tool for dealing with irregular migrants (see below).

While national authorities have not released any new estimates of irregular migrants in their respective countries in the 2010s, data on enforcement of immigration legislation in all EU countries has been regularly released by national and European statistical offices.

Many scholars have underlined the issue of double-counting individuals who engage in multiple cross-border movements when commenting on the figures released by Frontex.<sup>6</sup> This was particularly evident between 2015 and 2016, when thousands of migrants passed from Turkey to Greece and then to central and northern Europe via the so-called Balkan route.<sup>7</sup> A harmonized Eurostat series on enforcement of immigration legislation, however, might give an overview on trends in the number of migrants found irregularly present on the soil of a EU country.

According to Eurostat, the number of third-country nationals refused entry at external borders was relatively constant (300,000-400,000 annually) from 2010 to 2016. The number of third-country nationals found to be “illegally present” has registered an increase since 2012, peaking at 2.1 million in 2015 (911,000 – or nearly half – in Greece only) and falling to

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<sup>3</sup> See ISMU Foundation: <http://www.ismu.org/irregolari-e-sbarchi-presenze/>

<sup>4</sup> See Migration Watch UK: <https://www.migrationwatchuk.org/key-topics/illegal-immigration>

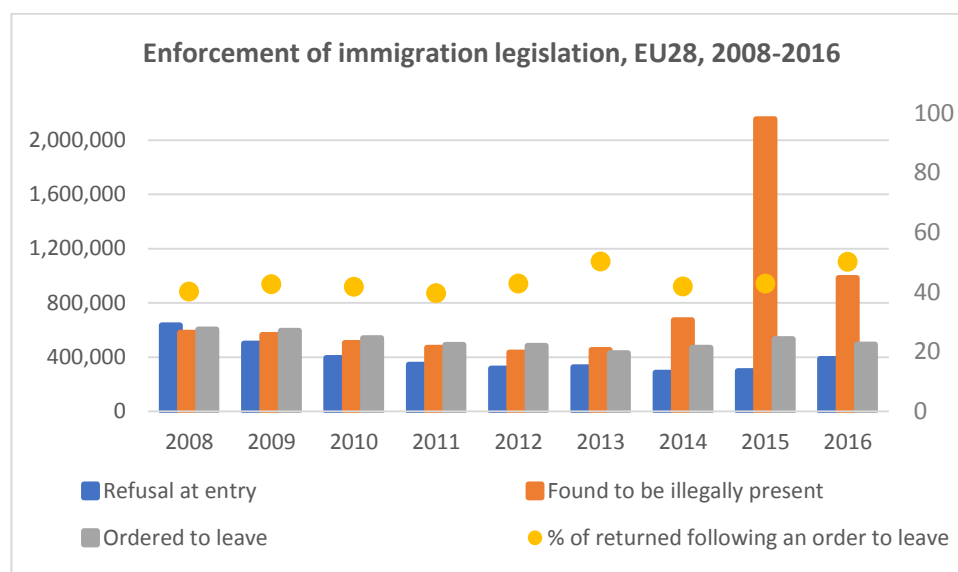
<sup>5</sup> The Swedish Migration Agency (Migrationsverket) estimated that around 33,000 migrants who have been denied a residence permit will remain irregularly in Sweden between 2017 and 2019.

<sup>6</sup> Frontex (the European Border and Coast Guard Agency) provides monthly series of detections of irregular border-crossing rather than the number of individuals; as the same person may cross an external border several times, it is not possible to obtain from these figures a precise number of persons entering the Schengen area irregularly.

<sup>7</sup> See <https://migrantsatsea.org/2015/10/14/clarification-of-frontex-data-on-persons-detected-at-eu-external-borders-includes-significant-double-counting/>

980,000 in 2016. While this drop may be due to a change in legal status of migrants found in an irregular position (for instance, through lodging an asylum request), of the roughly 500,000 annually ordered to leave since 2010, between 40 and 50 per cent has returned to the origin country. According to most recent policy documents at the EU and national levels, the return of irregular migrants – including rejected asylum seekers (see below) who no longer have the right to stay in the EU – is one pillar of the EU’s policy on migration and asylum (EMN 2016b).<sup>8</sup>

Figure 2: Enforcement of Immigration Legislation, EU-28, 2008-2016

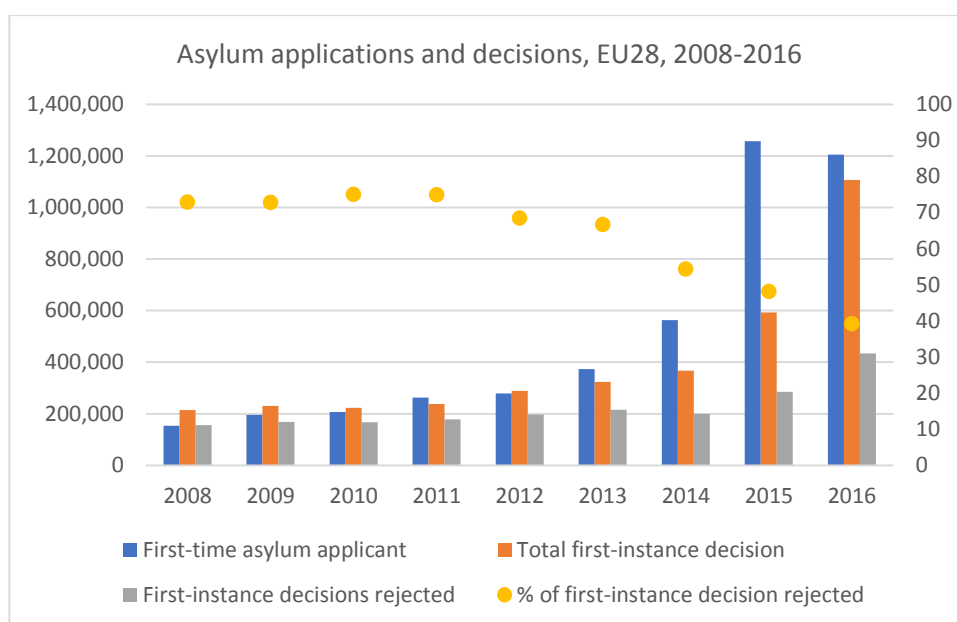


Source: Eurostat 2017 [migr\_eirfs, migr\_eipre, migr\_eiord, migr\_eirtn].

Asylum statistics should be analysed alongside migration data, given that a large number of migrants entering the Schengen area irregularly since 2013-2014 have applied for asylum within the EU. First-time applications registered a surge in 2015 and 2016, corresponding to lack of obstruction on the Balkan route followed by migrants transiting towards northern Europe at that time. Also, decisions on asylum applications have increased proportionately over the last years. Although the share of rejected asylum seekers in first-instance decisions has declined (from 75 per cent in 2011 to 39 per cent in 2016), the absolute numbers of rejected asylum seekers is rising. These migrants might appeal the first-instance decisions and still have the right to remain in the EU for the time of the judgement. Nevertheless, for all those whose application will be unsuccessful, the processing time of the asylum applications merely postpones a situation of irregularity.

<sup>8</sup> In line with the Return Directive, all member states are asked to first encourage rejected asylum seekers to return voluntarily before using forced return which includes coercive methods.

Figure 3: Asylum Applications and Decisions, EU-28, 2008-2016



Source: Eurostat 2017 [migr\_asyappctza, migr\_asydcfsta, migr\_asydcfina].

While the number of rejections is quantified (although data on final decisions are not available for all EU countries), what happens to these individuals after they exit from the reception system while the asylum procedure is active, remains unmapped. These migrants, who might or might not have integrated well into local societies through language, training courses, and possibly work experiences, are then pushed to the margins of the system and exit the official accounting of people in need. Most are likely to remain in the EU as irregular foreign residents (Tazzioli 2016).

## 2.3 The challenge of (sustainable) return

Having outlined the challenges of counting/estimating irregular foreign residents, a word is in order here about return. Why do so many people stay without documents despite the dangers from their legal precarity? And why is it the case that return schemes do not work?

In his seminal paper on return, Cassarino (2004) spoke about the migration cycle in the biography of the migrant and migrants' preparedness for returning to the country of origin. He considered return sustainable when the migration cycle is complete, and that assessment of favourable return conditions is both objective and subjective (in the eyes of the migrant) (see also Cassarino 2016: 217). It is clear that when return follows apprehension and irregular residence and informal work, the migration cycle is not only incomplete but has been abruptly interrupted.

Not only is the migrant not prepared for returning but s/he also facing important vulnerabilities in the country of origin (Schuster and Majidi 2013, Koser and Kuschminder 2015). And while Assisted (Voluntary) Return has become a very popular concept and practice among policymakers, scholars (Cassarino 2016, Kuschminder 2017) point to the gap between the presumed success of the return policies and the actual reality of return and

reintegration, particularly when a migrant has been expelled. Indeed, research (Webber 2011, Kuschminder 2017) suggests that it would be better to speak of 'Assisted' but not 'Assisted Voluntary' Return when migrants take part in one of the several EU-funded return schemes managed by IOM or other institutions after they have been apprehended with irregular status.

Unfortunately there is no systematic monitoring and assessment of the sustainability of return within Assisted Return schemes and particularly among such programmes that return irregular migrants yet (Kuschminder 2017). Nevertheless, scholars have begun studying the moral implications of dealing with assisted and voluntary returns on local authorities as well as on implementing organizations such as IOM and others (Vandevoordt 2016, Koch 2014). Moreover, a study conducted in Switzerland (IOM 2011) found that 11 per cent of all Assisted Voluntary Return programme participants had re-migrated roughly one year after their return.

More recent work has also unveiled how challenging migrants find the reintegration phase in the country of origin. Reasons include the shame of a failed migration project; the lack of resources; the fact that the migrant is returned to the capital city of their country rather than his/her own place of origin (which creates a problem of uprooted apprehended and returned irregular migrants for the origin countries too); their lack of a viable life perspective, if that existed in any case in the first place; or the lack of viable development policies in the country of origin. Oftentimes such situations are further complicated by bureaucratic hurdles and complex mobility patterns. For instance, Afghan nationals who previously lived in Iran for a number of years and sought to migrate to, say, Germany and saw their asylum application rejected, may be returned to Kabul in Afghanistan. Sometimes, however, these returnees only lived in Afghanistan as children and have no documentation to prove they are Afghans and which region of Afghanistan they come from. The way the system works in Afghanistan, they need to travel to their city/town of origin (which may be located in an unsafe area) and find two community elders who will testify to their identity (name and origin, to which family they belong). The returnee must then go back to Kabul and apply for Afghan identity papers. This is a very challenging process that frequently is not completed, leading to the returnees' de facto marginalisation and ultimately pushing them to seek to re-emigrate (for further discussion see McAuliffe 2016).

The lack of alternatives is an important perspective to keep in mind when considering the fate of rejected asylum seekers or irregular migrants who persist and stay at the destination country despite the hardship they face.

### 3. Framing Irregular Migrants and their Deservingness

Migrant and refugee flows towards Europe have been rising over the last 25 years. However, their socio-economic and political context has shifted through this period. While in the 2000s irregular migration was largely accommodated in fast-growing economies in central and northern as well as southern Europe, the early 2010s arrived with two concomitant dramatic developments: the global economic and Eurozone debt crisis and, in 2014, a sudden surge of asylum seekers fleeing to Europe from Syria and the Middle East. Thus, while the challenges of addressing irregular migration and rejected asylum-seeker cases have been a long-standing concern at both local and national levels, the debate and policy development today



takes place in a context marked by this 'refugee emergency' (particularly since winter 2015-2016).

What is interesting, however, is that cities and oftentimes regions/sub-state units of governance often militate against the exclusion and expulsion of irregular migrants and rejected asylum seekers, raising arguments about the need to respect their fundamental rights and guarantee them a decent life, alongside arguments of vulnerability, responsibility, deservingness, or simply the city's or region's public interest.

As Chauvin and Garcés-Mascreñas (2012, 2014) have convincingly argued, a whole moral economy of migrant illegality emerges where irregular migrants are asked to prove their belonging and integration by performing different abiding roles: as good workers, by paying taxes, contributing to the welfare system, having a stable residence, being traceable, and sending their kids to school, for instance. They thus built a surrogate form of citizenship that might be useful in making them potentially legitimate members of the community if a chance for regularising their status arises. Indeed, this is an interesting process of constructing a sense of civic deservingness by being a good 'citizen' even if illegally staying in the country. Here, of course, local actors such as employers but also municipalities play a crucial role as guarantors of this good conduct of the irregular migrant. Local NGOs, third-sector associations, and trade unions can also play a role here by testifying to the good conduct of the migrant and of their being a good 'citizen'.

This set of practices not only constructs a sense of legality within an overall irregular status but is also buttressed by relevant discourses about how an illegally-staying person can make a moral claim for staying by proving they are an honest, law-abiding, hard-working, contributing member of the local community.

While this framing implies a sense of activism and voluntariness that is welcome, it risks taking away any sense of moral or political responsibility of the host society to protect and preserve the fundamental rights of irregular migrants and rejected asylum seekers as well as to acknowledge the frequent contradictions or imperfections of migration and labour laws that can lead to 'befallen illegality' conditions.

The framing and justification of irregular status is, however, different when the illegally-staying alien is a minor. Indeed, past research has shown how street-level bureaucrats and local and regional authorities have gone the extra mile in order to guarantee the schooling of children whose parents are illegally staying (Spencer 2016). Interestingly, two frames are common here. One concerns the vulnerability of children as minors and hence the need to protect them and guarantee what is appropriate for their age. The other focuses on the fact that children have no responsibility for the decisions and actions of their parents so they should not be made to 'pay' for them. Cities have been particularly vocal on both counts in the effort to guarantee the protection of children, notably their right to an education but also to health care (Spencer 2016, 2017).

Earlier studies (Ellerman 2006) have shown how local and regional authorities and street-level bureaucrats can navigate different strategies with a view to guaranteeing migrants' rights without colliding head-on with national authorities. Thus, they may turn to local constituencies and mobilise them by making reference to specific people and cases and by showcasing the violence (not necessarily physical but moral and psychological) involved in expulsions; they may also mobilise on a case by case basis by using local resources and seeking to avoid implementing national decisions.

Recent researches (Oomen 2017) have also shown how cities (particularly in the Netherlands) have come to engage directly with international law and international human rights instruments in their effort to counter restrictive national decisions and implement policies of protection in the domain of housing and basic provisions to rejected asylum seekers or irregular migrants.

Last but not least, the discourses of mayors, local and regional authorities of various types, and even of NGOs may often embrace a more utilitarian frame, arguing that having people who live rough on the streets without due access to housing and basic facilities does not help in their expulsion while it becomes a public health and safety risk because people may fall ill and not be treated or may be desperate and engage in criminal acts out of destitution and despair.

It is within this context of often-conflicting but sometimes also conciliatory frames as to how to deal with a persistent challenge of irregular migration that the multi-level governance of irregular migration takes place. In the following sections, we discuss some of the most recent developments that bring the imprint of the recent asylum emergency, related EU funding, and the challenges faced by cities.

## 4. Multi-level Governance and Policy Dilemmas

While integrating irregular migrants and rejected asylum seekers has been a long standing concern for European countries and particularly for the municipalities that host them (as discussed further below), the media and political debate of the last couple of years has focused on the significant funds mobilised particularly at EU level to confront the recent flows of people who are crossing the Mediterranean. We have therefore considered important to provide the general framework of such funds, and outline their incidence on national and regional budgets related to migration management and migrant integration overall, before addressing specifically the issue of irregular migrant support and integration and the differing challenges that each country/city faces.

### 4.1 The EU framework of funds and contributions to state budgets

Migration management and protection of vulnerable migrants including asylum seekers, refugees and migrants at the margins of irregularity are inscribed at the European level within the DG Home actions. The definition of migration and immigration policies is mostly left to national authorities and the discussion on whether and how to build a more effective Common European Asylum System (CEAS) never reaches a definite point. Nonetheless, in trying to cope with constant changes in migratory trends and policy approaches at the national level, the two European funds assigned to migration and security for the period 2014-2020 provide member states with a policy and budgetary framework for national and local implementation of programs and actions which are meant at once to include/integrate those who deserve it and to control/exclude those who do not, notably those without a secure legal status.

The Asylum, Migration and Integration Fund (AMIF, EUR 3.1 billion) promotes actions towards a common approach to asylum and immigration with a specific focus on strengthening the Common European Asylum System (CEAS), on legal migration and

integration of third-country nationals, on returns as means to combat irregular migration and on solidarity towards member states which are most affected by recent asylum flows. The Internal Security Fund (ISF, EUR 3.8 billion) aims at improving border management, visa regimes, and travel within the EU and at combatting cross-border crimes, terrorism, and other threats to internal security. Additional funds for curbing irregular migration are also allocated from the EU aid and development facilities in order to finance better border management in key African transit countries.<sup>9</sup>

The Commission also proposed the establishment of an additional emergency instrument to provide a more targeted response to major humanitarian crises and to comprehend all mixed migration flows towards Europe (EUR 700 million between 2016 and 2018). Moreover, the European Emergency Trust Fund (EUR 1.8 billion) and the Refugee Facility for Turkey (EUR 3 billion) were set up. In June 2016, the Commission also proposed allocating, through the AMIF, EUR 10,000 per person resettled (from a third-country of first asylum), EUR 6,000 per person relocated from Italy and Greece (and EUR 500 for the two relocating countries to cover travel expenses). Overall, the EU budget with potential implications for asylum seekers and refugees is larger than what is only foreseen through dedicated funds (OECD 2017), which are implemented by all EU member states except Denmark.

All in all, these various budget lines provide the baseline framework within which national and local governments can move to provide basic and humanitarian services to all those in need at first reception (including irregular migrants), to control irregular migration and expel those without legal status, and gradually integrate all migrants with a right to stay. While the policy priority is clearly on controlling irregular migration and improving the management of asylum, these funds can be used flexibly depending on the needs and priorities of local and national governments.

Government spending along these lines varies widely across countries in Europe. Thus countries at the geographical frontline may absorb such funds for purposes of first reception/registration of the newly arrived and processing of asylum applications, or also provision of first medical screening and shelters, while countries further north and west in Europe which are less exposed to new arrivals may use such funds to cover for their long-term integration services including for those who do not have a secure legal status. At the same time it should be noted that countries like Germany, Austria and Sweden have been confronted with significant secondary arrivals of asylum seekers and irregular migrants which led to a significant change in their prioritisation of services as well as in their focus on identifying and expelling those who do not satisfy the necessary conditions.

This complex situation makes it difficult to fully assess the distribution of costs among several government levels. A recent OECD report estimates that Germany spent around EUR 16 billion (0.5 per cent of its GDP) for migrants in 2015, the year when it received around 900,000 asylum seekers. That same year, Sweden spent EUR 6 billion for its 163,000 asylum seekers, i.e., around 1.35 per cent of its GDP. Outside Europe, during the Obama administration, the United States funded one of the largest resettlement programmes to date, covering some 70,000 migrants in 2015-2016 and 110,000 in 2016-2017, for an estimated expenditure of around 0.01 per cent of GDP for the relative fiscal year.<sup>10</sup>

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<sup>9</sup> See [https://ec.europa.eu/europeaid/regions/africa/eu-emergency-trust-fund-africa\\_en](https://ec.europa.eu/europeaid/regions/africa/eu-emergency-trust-fund-africa_en)

<sup>10</sup> President Trump announced a deep cut in quotas of migrants to be resettled to the US in fiscal year 2017-2018.

The distribution of spending between different levels of governments varies in relation to the overall state centralization or decentralization level and the way the asylum and integration system is structured within it. The share of sub-national government spending in this field is estimated between 35 and 45 per cent in OECD countries after receiving fiscal transfers from the central states. In this way, local and regional governments usually co-fund housing, language training, actions against labour exploitation and for the surfacing of irregular work, integration programmes as well as social benefit payments, and often claim that the central government is late or non-compliant in reimbursing the additional fiscal cost generated from having a larger population to assist. Overall, formulas for allocating grants and transfers vary but often seek to incentivize a shared distribution on the national territory of asylum seekers and reception facilities (decoupling transfers from actual spending with lump-sum amounts per person received). While no reassignment of responsibilities has been implemented so far, the reinforced EU financial instruments are meant to support sub-national governments implementing policies for which they are not fully compensated at the central budget level.

## 4.2 Mobilisation of funds and sub-national governments

The mobilisation of funds to respond to different challenges such as controlling irregular migration, enhancing a common European asylum system and acting towards better integration of legally residing migrants is constantly debated at the European and national levels, as some important norms are under revision (e.g. Dublin Regulation, Procedure Directive) and member states are constantly putting into question solidarity mechanisms that are not as effective as foreseen on paper.<sup>11</sup>

The overlapping responsibilities of European, central and local governments for immigration control and the provision of public services, together with local governments' geographical proximity to their populations that makes them the visible and most responsible to provide for the overall wellbeing of local societies, has strong implications on the multi-level governance of migration-related issues (Spencer 2017). Literature has highlighted the frequent contrasts between the public announcement of strong enforcement measures and the shadow politics of employers who need (irregular) migrant labour, and between the need to offer a symbolic reassurance of the public and simultaneously attend to the pragmatic needs of security and social wellbeing of a polity (Guiraudon 2000).

The “vertical” and “horizontal” relationships between the EU and national governments and between tiers of national governments has been investigated by the literature, highlighting the multiple spaces for overlaps in both policy framing and policy implementation and in which non-governmental actors play a role (Scholten and Penninx 2016, Hepburn and Zapata-Barrero 2014). While the issue of multi-level governance and overlapping responsibilities concerns the whole spectrum of immigration and migration policies, the primacy of local governments is particularly relevant when it comes to the definition and

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<sup>11</sup> The European Commission routinely reports on the implementation of the relocation mechanism put in place with the adoption of the European Agenda for Migration in May 2015 (see [https://ec.europa.eu/home-affairs/what-we-do/policies/european-agenda-migration/proposal-implementation-package\\_en](https://ec.europa.eu/home-affairs/what-we-do/policies/european-agenda-migration/proposal-implementation-package_en)). The 12th Progress Report, released on 16 May 2017 calls “on all Member States to deliver and meet obligations” to meet the foreseen target of 40,000 departures from Greece and Italy ([http://europa.eu/rapid/press-release\\_IP-17-1302\\_en.htm](http://europa.eu/rapid/press-release_IP-17-1302_en.htm)). At the end of May 2017, 23,000 have been relocated, with some member states not complying with planned quotas.

implementation of rights and modalities to access public services for specific groups - including vulnerable migrants, unaccompanied children, asylum seekers, and irregular migrants (Spencer 2017).

### 4.3 Contain & control versus solidarity: the role of local actors

The literature largely relates to legal migrants when addressing the issue of local approaches diverging from national policies (Caponio and Borkert 2010, Ambrosini 2013, Scholten and Penninx 2016, Bellabas and Gerrits 2017), with a focus on large cities rather than smaller municipalities, to explain different patterns in terms of ethnic mobilization, relative political openness or closure in a specific territory, and broader pragmatism to solve locally perceived hot issues of inclusion and coexistence (see Spencer 2017 for a broader review).

A most pragmatic distinction to describe the role of cities and civil society in the current mixed migration crisis is that between the conditions and actions of actors which are geographically on the frontline as entry or transit points which unavoidably have to deal with the basic humanitarian needs of first-reception, and the role of big cities everywhere in Europe which have always acted as a magnet for all migrants, including irregular ones.

As regards to small and peripheral locations in many European countries crossed by large migration inflows, places like some Greek islands, the areas surrounding the green borders across all western Balkan countries, the coastal areas of southern Italy as well as green borders within the EU and the Schengen space have acquired more visibility as they are continuously affected by the arrival and transit of migrants from the Middle East and North Africa for years now.

In 2014-2015, the media intensively reported on the silent march of thousands of migrants across porous land borders over the Balkan route and being rescued at sea off the Libyan coasts or Greek islands. Those border crossings in most cases violated the Schengen Agreement and Dublin Regulation, but migrants were allowed by local and national authorities to transit multiple borders to reach central and northern Europe while associations and individuals provided logistic and humanitarian support in many transit locations.

In these and many other locations within the Schengen space, such as Ventimiglia, Como, Lesvos, Chios, Calais, and Val Roia, small municipalities at border areas coped with the large influx of transiting individuals thorough formally and informally organised distribution of food, blankets, and hot beverages against the cold weather, legal advice, internet and recharge hotspots for mobile phones and, in some cases, squatting of empty buildings to offer a temporary shelter to those in need.

While national and European actors acknowledged the role of these municipalities as first entry points or transit hubs, the debate on the boundaries of their actions and on the coherence of local solidarity with nation-wide policies that focus on security is ever-present. The clash between solidarity actions at the local level and the need to secure borders and control who is inside and outside national and European borders produces conflicting views, also fuelled by the scarcity of evidence-base information and by the ambiguities of policy objectives at multiple levels. The national and European level, indeed, do need the involvement of the local actors – both local authorities and civil society – to avoid major human rights violations and deal with the most basic needs, while accusing sometimes the

same local actors of representing a pull factor that reproduces the issue of new incoming flows. On the other hand, as recently pointed out by Glick Schiller (2016), local forms of solidarity which have flourished in various forms especially in 2015 to welcome refugees were based upon the recognition of commonalities between the group of migrants and non-migrants ('sociabilities'): at least in its initial phases, these actions were not distinguishing between 'deserving' and 'non-deserving' migrants.

Challenges for large European cities differ from those of the smaller towns that became major entry or transit points. They have always attracted new flows of migrants including those unauthorised and asylum seekers as they offer opportunities for irregular work. Co ethnic and other networks are also dense in these big cities providing support, information, accommodation and even contacts with smugglers to move on.

Street-level bureaucrats and local or regional authorities confronted with the challenge of managing these new arrivals, and particularly those that lack legal status, come up with innovative solutions which may contradict and even transform national regulations. They may thus provide for education to children of undocumented parents, prevent education or health authorities from reporting irregular status to migration authorities, or create spaces for human rights organisations to provide shelter and support for undocumented migrants and rejected asylum seekers (Ellerman 2006, Laubenthal 2006, Provera 2015, Van der Leun 2006).

Italian and German regions and cities and Dutch local authorities have often resisted or flouted national regulations in order to provide support and services to irregular migrants. The rationales for such support have been dual (Ellerman 2006): general humanitarian principles and the concerns of the wider local society for avoiding homelessness and destitution, preventing health concerns or ensuring that children do not pay for the actions of their parents (see Spencer 2016 on education rights). In this framework, civil society groups and 'alternative' solidarity networks have been seen as a support by local institutions, sometimes incapable or unwilling to respond to the basic humanitarian needs of all those in need.

#### 4.4 The criminalization of civil society support

The protracted status of emergency and need has progressively led to a shift in local and national discourses which now revolve around the need of the welcomed asylum seeker or refugee to demonstrate, through his/her hard work and civic performance, or through his/her specific vulnerability to be different from the 'standard' irregular migrants, and therefore that they deserve to stay (Chauvin and Garcés-Mascareñas 2014). Since the EU-Turkey statement in March 2016, the progressive closure of the Balkan route, the "hotspot approach" adopted with the European Agenda on Migration (2016), and the renewed controls within the Schengen area, the overall context has been reshaped. In the public discourse and in the everyday practice of local authorities, the shift towards the criminalization of migrants and refugees as well as those supporting them (individuals and organizations) has been progressively justified by security concerns and the threat of terrorism, especially after the attacks in Paris, Nice, Berlin, Stockholm, and London. In this changing context, civil society networks of solidarity across Europe are being progressively perceived as an impediment to the new management and control of migrants' mobility, and their humanitarian support in favour of transiting migrants is increasingly being viewed as

undesirable and criminalized, to be discouraged in order to avert civil society eyes from possible blatant human rights' violations of migrants in need by local and national authorities.<sup>12</sup>

This criminalization process is rooted in the "Facilitation Directive" (Directive 2002/90/EC) which foresaw humanitarian exception provisions to curb irregular migration in Europe and determines sanctions against organizations and individuals providing assistance to irregular migrants and favouring their mobility within Europe. The impact of the Directive at the national level has been examined in a recent report commissioned by the European Parliament at the request of the LIBE Committee, which highlights the ambiguity of the Directive in discerning between proper smuggling services and humanitarian assistance to irregular migrants, which has repercussions on the way each organization operates within Europe and at sea and on the perceptions the public audience has on their activities (Carrera *et al.* 2016). While penal cases against activists and volunteers garner media coverage, the everyday practice of intimidation and lack of cooperation from authorities is reported as a systematic means of deterrence from action by many of the civil society's actors involved (Carrera *et al.* 2016, 51). Moreover, national and international organizations feel their ability to engage in advocacy action is compromised as a consequence of this criminalization trend of which the Directive is part and parcel.<sup>13</sup>

The contradictions and transformations of the humanitarian and support work of many local and international actors, and their level of cooperation/support/substitution to public authorities in the provision of baseline and humanitarian aid is constantly adjusting to the political climate around irregular migrants in Europe. One of the latest media cases, which erupted in March 2017 in Italy, involved allegations by some political parties that led to a judicial inquiry into some NGOs carrying out humanitarian search-and-rescue operations in the Mediterranean Sea. These groups were accused of acting as a "pull factor" for migrants in Libya and, even more serious, alleged to have contacts with smugglers on the other side of the sea. While no single investigation has been brought to judgement so far, the media campaign had the immediate effect of discrediting both national and international NGOs and is likely to have an impact on their fundraising activities in favour of migrants. While it is worth noting that this is happening in Italy, a country that has implemented several formal and informal practices providing services to irregular migrants (Delvino and Spencer 2014,

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<sup>12</sup> The prohibition of food distribution in open spaces was decided in mid-2016 by the municipality of Ventimiglia to prevent NGO and informal solidarity networks activists from providing food to transiting migrants in the train station areas and informal camps in dismantled areas of the city where hundreds of migrants trying to cross the border between Italy and France sleep at night. The repeated evictions from the large camp at Calais as well as the camp near the Tiburtina station in Rome have the immediate impact of dispersing migrants in the city and discouraging volunteers who work to collect tents, blankets, and food thrown away almost every week. In France and Italy (Ventimiglia, Como, Udine, Val Roja, Marseille), there have been numerous incidents of activists given an 'expulsion order from the area' by the local authority trying to discourage the international and inter-city networks of individuals who act to support migrants.

<sup>13</sup>: The two recent laws passed in Italy on the reform of the asylum system and the pursue of more regularity and order across the country are the last example of the interconnection between humanitarian practices and actions and security provisions. The decrees transform the social worker at reception centres into a social "controller" while diminishing guarantees and rights within the Italian asylum system to make the process faster at the expense of rights and access to full protection. The two "Minniti-Orlando" laws, after the names of the two proposing ministries can be retrieved at:

<http://www.gazzettaufficiale.it/eli/id/2017/04/18/17A02767/sg%20;jsessionid=i4bhGDjBkaBCAr1b1jfOQw...ntc-as5-guri2a> and <http://www.gazzettaufficiale.it/eli/id/2017/04/21/17A02811/sg>



Spencer and Hughes 2015), the fallout from such media reports has led Italy to take further steps to better control solidarity actions of NGOs operating at sea in a wider EU Action Plan to support Italy recently released by the European Commission.<sup>14</sup>

All these expressions of discouragement, distrust, and intimidation of local and international efforts by local municipalities, civil society, and NGOs offering humanitarian support to mobile populations (regardless of their irregular status) make more visible a fundamental contradiction in which most European states seem to be trapped. As recently pointed out by Faist (2017), there is an irreducible tension between national concerns on security and cultural issues and human rights entered in the rule of law by the ratification of international conventions (the Geneva Convention of 1951 being one of those). Moreover, it has been noted that there is a wide recognition of the gap between the moral obligations and inaction at the local and national levels, a sort of cognitive dissonance in psychological terms (Festinger 1957). This tension between conflicting views is evident throughout Europe and across different levels of governments. While the UK government takes actions to restrict access to services to irregular migrants, some municipalities close to Calais try to manage the high presence of migrants in the area, notwithstanding the fact that the Calais camp has been evicted multiple times and that a high wall now impedes access to the port/train connection on the shore.

At the same time, while the municipal government of Rome is routinely evicting occupied places and informal camps to discourage migrants from stay in the Italian capital, the municipality of Milan has organized a network of shelters for transiting people. Raids and punitive actions against migrants (and Roma people) are on the rise from xenophobic groups all over Europe (from Golden Dawn in Greece to many fascist and xenophobic groups), while some municipalities organize themselves to provide inclusive services to asylum seekers (from the widely-reported example of Barcelona to small rural towns in Italy repopulated by refugees) and humanitarian support to all those in need (see for example Proactiva Open Arm, the Catalan NGO operating with two boats in the Mediterranean, with volunteer staff and with operational costs covered through crowdfunding).

## 5. Irregular Migration and Asylum Seeking as Factors in Local Economies

Estimating the impact of the presence of migrants on tax and welfare systems and the net fiscal consequences of immigration for public administration and the economy as whole, while also considering trends in unemployment and wages, is one of the most debated branches of the economic literature, with regards to both national (macro) and local (micro) economies (Dustmann and Frattini 2014, Ruhs and Vargas-Silva 2015, Peri 2017).

This discussion becomes even more complex when the focus is restricted to only one part of the immigrant population, that of irregulars. We provide here a non-exhaustive list of areas and sectors to be taken into consideration when addressing the question of which kind of impact, the irregular migrant population may have on local economies.

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<sup>14</sup> See the European Commission's Press release: [http://europa.eu/rapid/press-release\\_IP-17-1882\\_en.htm](http://europa.eu/rapid/press-release_IP-17-1882_en.htm)



As a premise, we have to acknowledge that while irregular migrants are officially not integrated into the local economies – they might have access to some public services under certain conditions but are in principle not allowed to work and therefore contribute to the local informal economy when they are active – asylum seekers can have the right to work regularly after a waiting period that varies across countries (OECD 2016b) and are officially entitled to most local and national public services available to all regular residents.

### 5.1 The skill waste effect

With varying degrees, the first consequence of their irregular status for migrants of working age is the difficulty, if not impossibility, to fully utilise their human capital in the local labour market, producing what in the literature is known as “skill waste”. While migrant workers are often found to be more able, resourceful, and with higher entrepreneurial skills than their non-migrant co-nationals (positive selection), the impossibility of having their previous experiences and qualification recognized, as well as the difficulty of translating their expertise in the local context of reception/ residence (including language and communication issues) makes the loss in terms of access to a matched occupation likely (Quintini 2014, Aiyar *et al.* 2016).

### 5.2 The “quality” of migrants

Irregularity also affects the average “quality” of migrants. Since migration is a risky and costly investment, more skilled migrants are expected to have more practical and technical tools to better enter the host-country labour market. Therefore, they are often assumed to have higher expected benefits than lower-qualified migrant co-nationals. The same holds true with regards to migration costs, which are lower for the more skilled with access to greater and better information and thus more likely to find a job and adapt to their new situation abroad. This positive selection can no longer be verified in the case of irregular migration. As it reduces returns on human capital investments, it lowers the incentive to migrate for the more skilled and educated. On the other hand, irregular migration is costly and possible only for those with sufficient resources. The total effect on migrants’ selection depends on the combination of these two effects, but it may tend towards a disincentive to migrate for the most skilled, if the majority of irregulars in a country is represented by over-stayers. When instead the majority of the irregular migrants in a country/territory is represented by recent mixed migration flows from Africa, the Middle East, and South-East Asia, qualified migrants in need of protection might try to reach countries where they expect their skills and qualifications to be more valued (e.g. positive selection of Syrians explicitly welcomed by Germany in 2015-2016).

### 5.3 Labour market effects of irregularity

The presence/increase of an irregular migrant population implies an increase in the labour supply of the local economy, which is typically associated with a form of unfair competition against the regular workforce because irregular migrants (and also asylum seekers hosted in reception facilities) can offer to work for lower wages than both natives and regular migrants. The overall effect of the presence of a specific share of undocumented migrants among workers, however, is far from being clear because it relates to the different skill, age, and sex composition of the regular and irregular workforce and the impossibility for irregular migrants to compete for the same jobs accessible to the regular workforce.

Many studies suggest the complementary nature, rather than substitutive, of the presence of irregular migrant workers. Others claim that substitution is observed only in some specific market niches and locations (Ottaviano and Peri 2012, Peri 2017). Moreover, and this is even more valid for asylum seekers who have the right to some sort of protection during the application process, the literature is also researching the impact on the creation of new jobs in the reception system writ-large. For both migrants at the fringes of irregularity and those who are accompanied in a process of progressing inclusion into local labour markets, some cases studies have assessed the entrepreneurial role of migrants in the reactivation of previously abandoned industries, the creation of new business and industries (Kloosterman and Rath 2002), and the reactivation of local remote areas suffering from emigration and ageing in many parts of Europe (Ragkos and Nori 2016).

It should also be noted that irregulars are typically concentrated in sectors and occupations such as agriculture, tourism, construction or care services that are not intrinsically outsourceable to other low-wage countries. The revamping of low-paid domestic jobs (caring, cleaning, cooking) over the last two decades has substituted in many European countries for the housework that was previously performed by unpaid female household members, allowing women to enter the labour market (Bettio *et al.* 2006, Christiansen *et al.* 2016).

From the point of view of native workers and employers, there seems to be an “economically optimal level of illegal migration” (Boswell and Straubhaar 2004) and that immigration can “grease the wheels” (Borjas 2001) of the labour market even in its irregular form: keeping migrants in a non-regular position in employment seems to add particular, though unfair, economic advantages to their presence (Düvell 2006).

Large incoming flows of migrants with humanitarian needs via the central and the eastern Mediterranean routes have produced a domino effect for the creation of services which did not previously exist and the expansion of services in new areas and places to cope with the necessities of migrants from their first humanitarian relief onwards. This has clearly a positive economic impact on the overall local and regional economy and even at national level as it increases public spending, creates jobs mostly for locals and overall fuels demand of goods and services in the local and national economy.

Indeed, this reception economy has grown mostly in the country of first-arrival but also in all those northern European countries which were and are welcoming not only of migrants arriving by land but also those redistributed through relocation and others arriving with resettlement programmes. The list of services where the impact of asylum seekers and refugees is most evident serves to show the breadth of the areas of intervention for public and private actors and which require professional staffing and expertise to efficiently manage such high numbers.

*Figure 4: Local Economies and the Reception Economies of Incoming Migrants*



Source: EESC 2016, 20.

First-aid and relief services in countries at the borders of Europe and search-and-rescue activities of public and private actors in the Mediterranean Sea mobilize huge resources from European and states' budget, as well as from private donations. Procedures that pertain to first identification and registration, emergency shelter and immediate first aid, and referral to the national asylum procedure are typically assigned on arrival to central government actors (police forces, immigration forces) with the support of the European and humanitarian agencies (EASO, Frontex, UNHCR, IOM, etc.).

Depending on the level of state decentralization and the way the national asylum system is designed, the central government and all the sub-national level of authorities (regions, municipalities) are responsible for the implementation of shelters for first- and second-tier reception, basic training (language), legal and administrative support to the asylum seekers throughout the process (legal counselling and assistance to help with completing forms and administrative work, for example to access the national healthcare system), training, education and mentoring, as well as for awareness-raising campaigns and actions fostering mutual understanding of cultural diversity in the receiving societies.

Baseline provision of primary and secondary education (inclusion of migrant children), social welfare provisions, housing, active labour market policies and language training, channelling national and European funds through different budget lines, is usually the responsibility of sub-national levels of governance in coordination/competition with a wide range of other actors. These range from local cooperatives and third-sector organizations to national and international NGOs providing supporting services (for example, social workers, interpreters and cultural mediators, lawyers) as well as international and UN organization and European agencies who are perceived in some cases as an 'army' of external experts to replace/coordinate/support local municipalities and actors. Tensions between different actors in the same areas – especially in emergency settings and the first reception system for newly-arrived migrants – might frequently arise through differences in organizational culture, knowledge of the local context, the spoken language (local versus English) and salaries and rewarding (ranging from the EU agencies' officers to the short-term contracts of local staff of municipalities and NGOs).

These actors, whether directly funded by public resources (European, national, or local) or private fundraising, add to the impact on the 'normal' local economy from the presence of asylum seekers and irregular migrants in terms of providing market services (food, housing, clothing) and activating or increasing available services, from public transport to classrooms.

These kind of interactions – when not seen purely in terms of more market customers or client-spending – are in some cases explicitly managed/driven by policymakers in order to stimulate previously-depressed areas, industries, activities: from small, local experiences of single municipalities setting their development agenda for the future on the availability of new, young generations of citizens<sup>15</sup> to the EU-wide network of EUROCITIES<sup>16</sup>, there is growing recognition that cities should play a more evident/explicit role as policymakers, service providers, employers, and buyers of good and services in all those cross-cutting activities pertaining to migrant integration and the construction of more inclusive societies.

## 5.4 Challenges at the city level

Fostering the economic and social integration of asylum seekers, refugees, and irregular migrants presents various challenges that arise from the inherent local labour market structure and its needs as well as the day-by-day implementation of the multi-level governance described in previous sections.

Issues of coordination among different actors, with different agendas and objectives, to ensure an efficient use of funds and provision of services, are at stake in all activities and services listed above (multi-level and multi-stakeholder governance). This also involves taking into consideration instances of corruption in public procurement contracts, which are more frequent in case of "emergency" public bids for providing reception and integration services. Beyond criminal offenses, the cost efficiency and effectiveness of public spending in this field is particularly relevant because of the attention of the public and of the high level of funding made available at different levels.

The reception and integration economy for migrants who are officially recognized and assisted needs careful scrutiny for the correct implementation of all necessary steps and the fluid participation of all actors involved. The informal migration industry that is made by and for all those migrants who are in, or fall outside, the regular system (rejected asylum seekers as well as irregular migrants) flourishes especially in those countries with a certain level of informal economy and a productive system for which the presence of cheap and informal labour is functional to its reproduction (low agricultural prices, low prices for domestic jobs that allow local women to work for the market). The role of employers in this respect is particularly relevant, and the need to involve them in negotiating opposing interests on the quality and type of goods sold in the market and the work and wage conditions of those producing these goods is evident in some seminal experiences, especially in the agricultural sector.<sup>17</sup>

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<sup>15</sup> See <http://www.aljazeera.com/indepth/inpictures/2016/04/refugee-settlement-programs-save-dying-italian-villages-160421113908416.html>

<sup>16</sup> <http://www.integratingcities.eu/>

<sup>17</sup> See, for example, the ongoing project financed by a multinational producer of cigarettes to combat exploitative working conditions in the Italian agricultural fields where tobacco is produced:

Even more important, there is a strong relationship between the presence of a flourishing informal economy with the possibility that illegal economic groups and mafias could make use of exploitable people in many sectors of the economy for their own purposes.

## 6. Concluding Remarks: Challenges and the Way Ahead

This paper has discussed the multiple challenges that arise in the multilevel governance of irregular migration within the European context. First and foremost, irregular migration involves different forms of irregular stay or work and can arise out of different and complex inter-connections of the desire and need to migrate, the lack of legal channels for migration and the imperfections and loopholes of both legal migration management and irregular migration control which leave some people falling through the cracks. There are powerful pull factors that motivate irregular migration and that create niches for irregular work. Past regularisation programmes testify to such socio-economic dynamics recognised a posteriori rather than governed proactively.

Relevant research has actually demonstrated that often irregular migrants are not undocumented: they have a plethora of documents (rent contracts, health cards, social insurance stamps, school certificates) that testify not only to their presence in the country but also to their being good members of a local/national community and showing a desire to integrate.

These ambivalent situations of de facto membership without appropriate authorisation have given rise to dissonant policies at national and local levels where there can be increasing restriction/enforcement at the national level and intensified efforts to protect and regularise at local level (or vice versa). Related public and political debates thus also construct notions of 'deserving' and 'undeserving' irregular migrants; those that are good members and should be given an opportunity to stay legally and those who should not. Such arguments are constructed around notions of vulnerability, on one hand, but also of responsibility and good civic behaviour on the other. Related debates as well as policies testify to the complexity of irregular migration and to the impossibility of drawing a clear line between authorised and unauthorised stay. Indeed instead of thinking of a black and white situations we need to conceptualise irregular migrants as on a continuum between full legality and full illegality with several different situations in-between. We need also to remember that oftentimes the same person, the same migrant and their household may have spent periods of time under different (more or less legal) statuses. This complexity raises important issues for both national and local authorities that seek to address irregular migration.

While paying attention to the long-term irregular migrants that may have been present in different European countries for several years, the last three years have brought to the fore a new challenge, the surge of migrant and refugee flows from crisis countries through the Mediterranean and the Balkan route. Many of these people are potential irregular migrants as their asylum applications may be rejected or they may be found to be unauthorised entrants.

A protracted waiting period for asylum seekers in process may push them inadvertently into irregular employment as housing and in-kind allowances may not be sufficient for them to

make ends meet. In addition such protracted no-work waiting periods may make their insertion into the formal labour market later even more difficult (OECD 2016a). Active labour market services, which are receiving more and more attention nowadays especially for what concerns youth unemployment, should also be implemented in a coherent way for all those migrant collectives – refugees, asylum seekers in process, and foreign residents with temporary/ seasonal permits – which are more likely to fall into irregular employment (Martín *et al.* 2016).

Policies aimed at combating the irregular employment of workers – be they migrants or not – have to deal with a general trend of fragile economic growth and parallel adoption of labour market reforms which decrease employment security and do not automatically facilitate the integration into the formal economy of young adults and migrant workers who are more exposed to irregular forms of employment. Also, irregular foreign migrant workers are typically concentrated in sectors and occupations such as agriculture, tourism, construction, domestic and care services that are not intrinsically outsourceable and are difficult to regulate and control.

In this dynamic landscape, our paper sought to underline the important role of cities to coherently address the contrasting needs and challenges that derive from an increasingly diverse population, where the management of reception and integration mechanisms for asylum seekers and refugees and humanitarian services for irregular migrants are essential to respond to symbolic and practical demands from the public. As in practical terms the line between regularity and irregularity is increasingly blurred by the interplay of different norms and practices on asylum, migration and work, new roles and responsibilities for non-state actors (NGOs, third-sector associations, volunteering groups) have emerged.

Moreover, the economic effects of irregular migration and asylum-seeking are direct, indirect, and induced in local economies. Direct effects are clear on the creation of public and private services which were not available before or on the expansion of those already existing to cope with the necessities of migrants from their first humanitarian relief onwards. The irregularity of status has implications for the possible skill-waste effect of workers who are not able to fully use their skills and expertise (Quintini 2014, Aiyar *et al.* 2016), on the disrupted mechanism of positive selection of prospecting migrants, on the overall labour market supply which increases and might tend towards a raise to the bottom of wages and labour conditions (although irregular migrants cannot compete for the same jobs accessible to the regular workforce). For both migrants at the fringes of irregularity and those who are accompanied in a process of progressing inclusion into local labour markets, the literature has shown some interesting cases of a migrant entrepreneurial role in reactivating previously abandoned industries, in the creation of new business and industries (Kloosterman and Rath 2002) and in the reactivation of local remote areas suffering from emigration and ageing in many parts of Europe (Ragkos and Nori 2016).

Challenges and contradictions between different levels of government in dealing with irregular migration are not new in the literature, but seem nevertheless magnified in the current political and economic discourse, which is geared towards increased securitization and controls and criminalizes single experiences of solidarity and humanitarian interventions at many levels and in different places within the boundaries of Europe.

As spaces for changing status and emerging into regularity are narrow and for many increasingly difficult to achieve, irregular migrants and rejected asylum seekers are trapped in

a situation whereby they feed and are fed by a local informal migration industry that flourishes especially in those countries with a certain level of informal economy and with a productive system that needs a cheap and flexible workforce to be functional. As suggested in the previous sections, the challenge here is again a multilevel coordination among public and private actors to negotiate conflicting interests on the quality and type of goods sold in the market and the working and salary conditions of those producing these goods.

Moreover, and to conclude on a moral and humanitarian note, irregular migrants and rejected asylum seekers still need to have their fundamental rights protected. For marginal individuals at the fringes of irregularity, as the vulnerability to multiple risks increases, the public discourse on enforcement of immigration policies should always take into consideration how illegal economic groups and mafias can profit from an irregular migrant presence to exploit. Measures to combat trafficking and labour and sexual exploitation seem even more needed in the presence of irregular migrants and vulnerable newly-arrived migrants whose experiences before arrival might sign their future in Europe, whichever their legal status would be (Galos *et al.* forthcoming).

In the current situation of constant policy changes at multiple levels, new social and economic actors (or the mobilisation of old ones with new roles) play a role in unveiling inconsistencies and holes in the multilevel irregular migration governance and in providing assistance and advocacy for solidarity mechanisms and human rights' protection, which should be among the core values of European countries.

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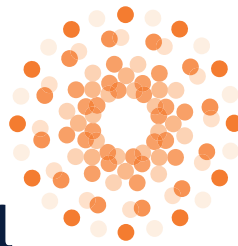
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The Global Exchange on Migration and Diversity is an ambitious initiative at the Centre on Migration, Policy and Society (COMPAS) opening up opportunities for knowledge exchange and longer term collaboration between those working in the migration field.