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Masterthesis:

‘Unwanted’

‘The criminalisation of migration in the EU and the influence of deterrent migration policies on the aspirations for European immigration’

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Abstract

International migration has increasingly been regarded to as a security issue in the European Union in the last two decades. To combat this perceived security threat and to keep maximum sovereignty over immigration policies, EU Member States have increasingly incorporated aspects of criminal law into their migration laws. This process is called the criminalisation of migration. Through this process criminal sanctions are used for migration offences. In addition, the quality of international protection declines in a race to the bottom to provide the bare minimum to not appear attractive for immigrants relative to other Member States. According to analyse of data from Ukraine, Morocco, Turkey and Senegal the perceptions of how a potential migrant is treated in the EU does influence their migration aspiration. Many other more important factors influence this decision, with the country of origin being the most influential predictor. This reaffirms the importance of the local socio-economic context in the migration decision-making process among potential migrants.

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1. Introduction

1.1 Migration Crisis

The notion of crisis is one of the most popular ways of describing the arrival of people seeking refuge in the EU in the past few years (European Commission, 2019). This was especially true for the year 2015, where migration has been “the major theme of 2015, with record numbers of refugees and migrants arriving in Europe” (International Organization for Migration, 2015). Sadly, 2015 was also the deadliest year on record for migrants trying to reach Europe with approximately 3,270 reported deaths at sea (International Organization for Migration, 2015). This received much attention in the media and in politics as dramatic experiences and images of migrants trying to reach the EU became a common phenomenon (Carrera, Blockmans, Gros & Guild, 2015).

Combating and preventing irregular migration has been a major objective for the EU since the 1989 Palma document which created ‘areas of essential action’. This includes surveillance of external frontiers, combating illegal immigration networks and information exchange on inadmissible migrants (Bunyan, 1993). Since 2015, these areas became the top priority in EU policy on migration (Cholewinski, 2000). The Palma document also introduced the EU doctrine that internal free movements require tough control on immigration and strict control of the external borders (Düvell & Vollmer, 2009). The EU prefers the development of policies that are security-driven, with the main focus on border controls, return and readmission in combination with fighting human smuggling and reducing the incentives for irregular migration when dealing with migration challenges (Carrera et al, 2015). A side effect of this security-driven approach is that, in trying to deter potential immigrants and control migration flows, migration management policies and migration laws became increasingly complex and intemperately harsh with regard to the protection needs of migrants and refugees (Bigo & Guild, 2019).

Side-to-side developments in policy and law-making can be recognized in the EU with a control-based approach towards migration (Huysmans, 2006). These developments brought forth a process of further strengthening the external borders of the EU (Walters, 2002) through “*constant reinforcement of border controls, tightening of conditions of entry, and expanding capacities for detention and deportation*” (Parkin, 2013, p. 1). Laws that set criminal sanctions for migration offences are simultaneously increasingly implemented (Parkin, 2013). Driven by political ambitions, the aim of this process is to assert more control over migration flows and to potentially deter unwanted immigrants.

Immigrants are often portrayed as “*the carriers of many ills*” (...) and (...) “*waiting to invade and plunder the social welfare systems of affluent European nations*” (Cholewinski, 2000, p. 361). This negative

image of immigrants also creates a rhetoric that migration related restrictions are needed to protect social welfare systems of Member States and prevent crime (Cholewinski, 2000). The prevalence of this negative image in European politics (van Houtum & van Naerssen, 2002) has caused Member States to *“try to dissuade immigrants if they believe they will bring social and political problems”* (...) and (...) *“usually restrict immigration on the grounds of preserving ‘national identity’ or maintaining social stability”* (Stalker, 2002, p. 163). To address the idea of an immigration crisis, coercive measures are increasingly becoming the norm in migration management in the EU. More restrictive and punitive measures towards migrants such as apprehension, detention and deportation (Provera, 2015) are introduced, a phenomenon known as the ‘criminalisation of migration’ (Parkin, 2013). This not only penalises migration attempts, but it also normalises the violence of migration management (Carrera & Merlino, 2009) on and around the EU borders and even in external (border)regions.

However, regarding decreasing irregular migration numbers as a successful outcome of stricter EU migration policies overlooks many issues arising from these restrictive policies (Bigo & Guild, 2019). To evaluate if the process of criminalisation of migration in policy and law-making is effective in asserting more control of migration flows, it is necessary to look at how the EU in general is perceived from outside the EU. The extent to which policy, with regard to rights of immigrants, may have an effective impact on immigration patterns will depend on these perceptions of Europe (Wilson & Millar, 2007). This research will focus on how these EU policy tries to shape the perceptions on democracy and human rights among potential immigrants and how these perceptions might affect attitudes towards immigration.

1.2 EU Response and Migration Management

Despite the trend towards a stricter and control-based migration management system, it is not clear whether the implemented measures of stricter border control and stricter migration laws (Bigo & Guild, 2019) are successful in curbing immigration flows or in deterring people to migrate towards the EU. The massive growth in both migrant numbers and migration related policies (Carrera, Blockmans, Gros & Guild, 2015) suggests that control over migration flows through stricter migration policies and laws is more of an aspiration than reality (Castles 2004). Furthermore, the ability to shape migration flows through policy is constrained by structural migration determinants (De Haas et al, 2019). Examples of these structural determinants are economic conditions and opportunities, global labour demand, legal options, human & social capital (Hagen-Zanker, 2008), social networks and migration networks (Aliu, 2012). Above all, migration flows are regionally dependent. As migration becomes an integral part of the local culture it turns into a self-developing and self-sustaining phenomenon,

creating a 'culture of migration' (Massey & España, 1987) in the region. Effective migration policy should therefore take account of, and try to influence, the factors that influence the motivation for migration. These factors are moreover not limited to factors manageable by the state, such as laws and regulations, but also include factors influenced by private and civil society actors (Aliu, 2012).

The EU policy response has been a security-driven approach and have overlooked many other relevant policy sectors, both internally and in cooperation with non-EU members (Carrera et al, 2015). Due to the complexity of motivations and triggers for migration, migration policies should not be developed considering migration as only a threat to national security (Pinyol-Jiménez, 2012). In addition, politicians, citizens and policymakers should realize that securing their borders cannot be done by simply regulating or discouraging entry (Weiner & Münz, 1997). This raises the question if the commonly implemented policy instruments linked to controlling migration flows are capable of effectively asserting control over these migration flows towards the EU.

1.3 Policy Development

Surprisingly little attention has been paid to the role of policy in this regard. To shape the context in which immigration takes place, immigration policies are introduced with the intention and expectation to influence immigration flows. Although theory stresses the role of states in shaping this context, it fails to conceptualise the ways of how immigration policy should affect immigration flows (Bjerre, 2017). One of the problems is that theoretical approaches towards immigration are formed from the state-centric perspective of the EU political landscape, in which a security-driven discourse is predominant. These theories illustrate how ideal policies should be made but remain vague as to which issues it provides a solution for in practice (Aliu, 2012). Effective migration policy should look at migration as a whole and take all stages of the migratory process into account, not only the arrival at the migration destination (Pinyol-Jiménez, 2012). A variety of theories have been proposed to explain how international migration is initiated and continued, but perceptions of Europe from a non-EU viewpoint are largely unexplored (Timmerman et al, 2010). Only looking at the arrival stage thus overlooks an important stage in the immigration process (Castles, 2004). Most importantly, it overlooks how these perceptions of Europe play a central role in the migration aspiration of potential immigrants (Wilson & Millar, 2007). The extent to which policy, with regard to rights and conditions of immigrants during the migration process, may have an effective impact on immigration flows will depend on these perceptions of Europe (Timmerman et al, 2010). Reducing the incentives for irregular migration through more hostile and deterrent practices towards immigrants (Guild, 2006) is common practice in the EU. Research suggests however that these policies, such as decreasing treatment

conditions for arriving immigrants are ineffective in achieving their proposed goal of controlling migration (Pinyol-Jiménez, 2012). If policymakers are concerned with how (un)attractive the immigration process towards the EU is perceived by potential immigrants in order to deter irregular immigration, it is important to study these perceptions (Wilson & Millar, 2007).

1.4 Effects on Irregular Immigrants

Insufficient attention has been paid to the humanitarian and political aspects of framing immigration as an issue in terms of threat, emergency and insecurity (De Vries & Guild, 2018). To address this, I use my own observations during my internship in the local shelter for undocumented migrants in Nijmegen, the Netherlands, managed by the foundation named Stichting Noodopvang Vluchtelingen Nijmegen (SNOV), as an example of treatment conditions for immigrants. The foundation provides emergency shelter for immigrants who are residing irregularly in Nijmegen and are no longer able to use national shelter provisions. Not providing emergency shelter provisions for irregular immigrants is part of the national policy regarding irregular migration (Scholten, Van Zwol & Myjer, 2019). Research on European migration in general, and research on irregular migration, is often also driven by policy concerns (Düvell, 2008) and *“Certain claims, such as estimates of the level of irregular migration, are unfortunately taken as authentic and then constantly repeated in publications without further testing their validity”* (Düvell, 2008, p. 485). In addition, irregular migrants are not a well-studied subject at all, as only rough estimates exist of the number of irregular migrants residing in the Netherlands or the EU (Kovacheva & Vogel, 2009). Taking the living conditions for irregular migrants using the SNOV shelter provisions in Nijmegen as an example I can narrow down a broad but elusive field of research into researchable examples on a generally unknown phenomenon: the living conditions of immigrants in irregular stay in the EU. Using this as a starting point I can illustrate the harm migration policy developments in the EU and The Netherlands are causing immigrants with irregular status, and how this contradicts human rights treaties signed by The Netherlands (Slingenberg, 2015b). To follow up, by using data from potential migrants outside the EU from the EUMAGINE project (Timmerman et al, 2010) I can analyse if the perceptions of living conditions for immigrants has an influence on the decision to migrate to the European Union.

Research on irregular migration rarely gives an explanation or justification as to why such research is conducted. In researching controversial topics and vulnerable research subjects this is important, as one should question whether *“potential social benefits from the research are higher than potential social harm that the research may induce”* (Düvell, 2008, p. 15). However, taking into account the absence of adequate policy and avoidance of responsibility by the Dutch government regarding the

situation of irregular migrants, I would argue that not doing research would risk inducing potential harm more than ignoring the phenomenon. Ignoring it would deteriorate the already precarious situation for irregular immigrants staying in the Netherlands. This follows the argument of Humphreys (1970) that *“ignoring the problems of discriminated groups by not researching them adds more to the discrimination than the investigation”* (Humphreys, Frouws & Forin, 1970, p. 173). The central case in my thesis is limited to the experiences of immigrants in irregular situation residing in the SNOV shelters in Nijmegen. Although gives little reliable basis for generalization of findings to the wider population of immigrants in irregular situation in the EU (Flyvbjerg, 2006), it does shed light on the local reality of a very vulnerable group of people who have to deal with the effects of the hostile migration policies on a daily basis. By creating more insight on the influence migration policy has on the actual situation and living conditions of irregular migrants, this research can help prevent abuse and the deterioration of their access to (international) protection (Bigo & Guild, 2019).

1.5 Framework and Methods

In my research I use data from EUMAGINE (Timmerman et al, 2010) to analyse the possible relationship between immigrant’s perceptions of treatment conditions for immigrants in the EU and migration plans towards the EU. By researching if potential immigrants’ migration plans are influenced by their perceptions of treatments conditions in the EU, I can identify and study the deterrent effect of the current EU migration policy. During the EUMAGINE project, data on how Europe is perceived from outside the EU and how the perceptions on democracy and human rights affect the perceptions and attitudes towards migration was collected (Timmerman et al, 2010). The results from the large-scale quantitative survey conducted in 16 total regions in Morocco, Senegal, Turkey and Ukraine, which have been made publicly accessible in 2015 (Timmerman et al, 2010), are used in my analysis. Besides perceptions of Europe, various background data were also collected during the project on a large-scale. Through the use of regression analysis of the EUMAGINE data, I can identify which factors possibly influence potential immigrant’s migration plans towards the EU.

1.6 Research Question

The aim of my thesis is to show how migration laws and policies are shaped by the EU and its’ Member States with the aim of controlling immigration, how migration policies influence the migration process of immigrants and how these policies influence motivations for migration outside the EU. My research focuses on migration from EU border regions in the countries Morocco, Senegal, Turkey and Ukraine towards the EU. In this thesis, I start with an overview of the recent developments in European

migration discourse, law and policy. Then I will examine how different European migration policies have different effects on immigration based on Bjerre's (2017) conceptual framework of immigration policy effects. The main focus is on deterrent policy effects and how these are implemented with the aim of influencing the flow of immigrants towards the EU. As international immigration is a complex process however, other relevant regional and structural factors that influence the stock and flow of potential European immigrants are included in the analysis.

My observations from the SNOV shelters can provide insight in the side effects of (deterrent)migration policies in the Netherlands. Subsequently, by using the data from EUMAGINE I can draw conclusions on the effectiveness of deterrent EU policies on potential migrants' plans of migration towards the EU. For my research I analyse the results from EUMAGINE's large-scale quantitative survey through multilevel regression analysis. With this technique I can identify the relation between perceptions of treatment conditions in the EU and migration plans and accurately determine the effects of regional and structural factors on migration plans. This allows me to answer the following research question:

How do migrant's perceptions of treatment conditions in the EU influence migration plans, can this be explained by migrant's perceptions of life satisfaction, perceptions of economic opportunity in the EU, migrant's perceptions of economic opportunity in their country of origin and are the potential effects different based on migrant's gender identities?

2. Criminalisation of Migration

2.1 Criminalisation of Migration in Europe

Migration numbers worldwide have increased in recent years due to conflict, persecution, environmental change and a profound lack of human security (McAuliffe & Ruhs, 2017). This caused a record number of vulnerable persons to ask for international protection as refugees in the European Union in the last five years. A person qualifies as a refugee if that person has a well-founded fear of persecution for reasons of race, religion, nationality, political opinion or membership of a particular social group (UNCHR, 2016). If a person is given refugee-status, that person can apply for asylum and has the right to international protection in EU territory under the Common European Asylum System (Council of Europe, 2015). Each application will then be subject to individual assessment to make sure that the case has been thoroughly researched and a well-founded decision can be made on whether to accept the asylum application. Then the applicant can receive the valid documentation necessary to remain in the territory of the EU (Regulation 562/2006). All Member States of the EU are legally obliged to provide effective protection for people who apply for asylum before, during and after the application process. Furthermore, states cannot send such people back to countries where such protection is not guaranteed (Council of Europe, 2015).

In 2015 the numbers of refugees asking for asylum in the EU were the highest since the Second World War, often described as the 'refugee crisis' (European Commission, 2019). The crisis reaches its peak when more than 10.000 people crossed the Greek border with Turkey into Europe irregularly in a single day. In total, over 1,5 million people have crossed the border into EU Member States in 2015, mostly from Syria (European Commission, 2019). This refugee 'crisis' has had immediate and far-reaching implications for the European Union, its' Member States and for refugees and asylum seekers trying to reach the EU (European Commission, 2019). To handle the high number of immigrants the EU created the European Agenda on Migration. This agenda has involved the deployment of significant diplomatic, policy and financial resources since 2015. Most notable are the Hotspot approach in Greece and Italy, the EU agreement with Turkey (European Commission, 2019), the expansion of the European Border and Coast Guard (Frontex) and a 300 percent increase in funding for migration and border management (Hornwoord, Frouws & Forin, 2019). However, despite expanding capacity for a *"more sustainable way of managing migration and border security in the EU"* (European Commission, 2019, p.1) the agenda did not at the same time provide adequate protection for asylum applicants. It also did not prevent returns to unsafe countries (Hornwoord et al, 2019). Further responses and the development of longer-term measures by the EU do not address these shortcomings, rather they *"reveal a preponderant emphasis on border control, forcing those in need of protection to remain in*

either countries of first asylum or countries at the EU's external borders, without any certainty that conditions there will improve" and "that far more detail was devoted to returns than to resettlement or safe and legal avenues." (Council of Europe, 2015, p.3). Migration is not an independent social phenomenon and the idea of regular and irregular migration exist only in relation to state and EU policies. Illegal or irregular immigration is not a legally defined term but *"as a rule of thumb any migration that is not explicitly permitted is de facto considered illegal"* (Düvell & Volmer, 2009, p.18). Therefore it is a social, legal and political construction and the meaning of what is regular and irregular, or legal and illegal, can change over time (Düvell, 2011). European financial hardship during the Eurozone debt crisis and mismanagement of the Syrian refugee crisis for example, gave rise in xenophobic and anti-immigrant sentiments (Pallida, 2011). This consequently contributed to a rise in populism, nationalism and far-right anti-immigrant parties throughout the EU (Hammerl, 2019). In addition, stalling negotiations around the reform of the EU Common Asylum System has led EU Members States to prioritize border control and to increasing rely on bilateral agreements with countries in the EU border region (PICUM, 2017). These bilateral agreements can be formal as well as non-binding and are mostly focused on readmission and deportation (Hornwood et al, 2019). The call for stricter border control fits a clear trend in the development of migration attitudes, law and policy over the last 30 years, and in particular the last 5 years. Even though it remains unclear if it is effective in controlling immigration, law and policy in the EU has shifted towards the 'criminalisation of migration' (Parkin, 2013).

Criminalisation in the context of migration is a broad and intersecting phenomenon (Parkin, 2013). Palidda (2016) described it as covering all the discourses, facts and practices shaped by governmental institutes, the media and parts of the population that view immigrants as responsible for a disproportional share of criminal offences or even view migration itself as a criminal activity. In the United States context, the criminalisation of migration concerns *"the integration of criminal law "processes, categories and techniques" into immigration control; the integration of immigration law into the sphere of criminal law (such as the expulsion of migrants convicted of particular crimes); the prioritisation of resources towards deportation of migrants akin to a criminal enforcement approach; the adoption of criminal law enforcement strategies (such as preventative detention and plea bargaining); and the concurrent use of state and federal actors (such as enforcement officials and the judiciary)"* (Provera, 2015, p.2). In the European context, it is more broad and also includes repressive action of police forces and judicial proceedings for violating administrative, civil or criminal code, as well as the discourses surrounding immigration. In addition, it includes the use of detention sanctions and even repressive action of police forces and judicial proceedings, for acts of solidarity with irregular migrants (Provera, 2015). Criminalisation of migration has come to define modern migration

management in Europe, both at the EU level and the national level (Parkin, 2013). How the criminalization of migration works in practice is described by Parkin (2013) as a *“the constant reinforcement of border controls, tightening of conditions of entry, expanding capacities for detention and deportation and the proliferation of criminal sanctions for migration offences, accompanied by an anxiety on the part of the press, public and political establishment regarding migrant criminality”* (Parkin, 2013, p.1).

From the various descriptions given by scholars, three dimensions of the criminalisation of migration can be dissected. The first dimension is discursive, more specifically it constitutes the discourse in the public, the media and politics with a negative and fearful attitude towards immigration. Such a discourse leads to the normalisation of views and state measures on immigration that used to be seen as extreme in the past and eventually developments in law- and policymaking that reflect these views. The discourse in the media also heavily influences the other dimensions in the criminalisation of migration in Europe, as it is a self-reinforcing process. A stricter migration discourse calls for stricter migration measures, which reinforces and exaggerates the image of migrants as a danger to society. The public and the media then adopts this negative image, which strengthens anti-immigration sentiments and legitimates stricter anti-immigration measures (Maneri, 2011). The second dimension is that of migration law, specifically the increasing occurrence of laws that set criminal sanctions for migration (Parkin, 2013), assisting migrants (Hammerl, 2019) and migration laws that are increasingly developed at supranational level. Laws are developed to conform to the growing anti-immigration sentiments in some EU Member States and to legitimate new strategies of border controls. The third dimension is the area of migration policymaking, specifically the development of governing through exclusion and control. This is done by further strengthening the external borders of the EU (Walters, 2002) through the focus on border controls, tightening of conditions of entry and the expansion of capacities for the detention and deportation of immigrants in EU Member States (Parkin, 2013). Furthermore, the process of the criminalisation of migration as a whole is a self-reinforcing process, as stricter migration discourse calls for stricter migration measures which causes more migrants to break the stricter migration laws or forces migrants to clandestine migration routes. This reinforces the image of immigrants as dangerous, which creates a stricter migration discourse (Maneri, 2011).

2.2 Developments in Migration Discourses

2.2.1 The Notion of Crisis

While migration is a constant in human history, the way in which we discuss migration is not. The changes in the discourse of the migration debate in Europe are fuelled by the increasing visibility of the dangerous journeys of migrants and by the impact the rising number of immigrants have on existing societies (McAuliffe & Ruhs, 2017). Since the 'refugee crisis', described by McAuliffe & Ruhs as: *"the mass migration to and through Europe in 2015, during which migrants (including refugees) demonstrated significant determination in reaching particular destinations such as Germany, Sweden and Austria"* (McAuliffe & Ruhs, 2017, p.1), the discussion about immigration to the EU has evolved. From the mid-1990s the EU is vigorously protecting its external border through increasing means like fences, border patrols and legal obstacles for immigrants (Düvell & Vollmer, 2009). Expanding the regime started with the aim to develop and coordinate measures for controlling illegal migration from Central and Eastern Europe. From 1995 onwards, the center of focus regarding migration shifted towards the Mediterranean Sea (Düvell & Volmer, 2009). The fixation on controlling the external borders of the EU against unwanted and irregular immigrants is remarkable as, especially prior to the 2015 refugee crisis, irregular migrants overwhelmingly enter the EU legally and then overstay their visa (Düvell, Triandafyllidou & Vollmer, 2010). The meaning attached to border security and control goes beyond numbers and the material (Düvell & Vollmer, 2009) as it *"involves political principles, the integrity of borders, symbols, the sovereignty of the state, and emotions, fears for uncontrolled population movements"* (Düvell & Volmer, 2009, p1). These emotions drive the process of criminalisation of migration and is very effective in creating, reproducing and reinforcing a negative image of immigrants as the 'other' (van Houtum & van Naerssen, 2002). Portraying immigrants as the 'others' creates an general view of immigrants as dangerous to society. The existence of a discursive element of threat when discussing migration, in the public as well as the policy area, is found throughout the Member States and EU institutions (Berkhout, 2012). For example, the president elect to the European Commission after the 2019 EU parliamentary elections, Ursula van der Leyen, created a new role which would include responsibility for migration policy and called it the vice-presidency of 'protecting our European way of life' (Horwood, Frouws & Forin, 2019).

Besides the element of threat, describing high numbers of refugees trying to reach the EU as a 'crisis' immediately creates a sense of urgency to solve this 'problem' (Maneri, 2011). After 'crisis', the most frequent themes found when discussing migration in Europe are 'security' and 'crime' (Berkhout, 2012), even though no correlation is found in the criminalisation of migrants and rises in crime numbers (Palidda, 2016). Rather, periods of economic difficulty spark the fiercest proliferation of

criminalisation discourses (Palidda, 2016). Valid or not, the image of immigration as a dangerous and criminal phenomenon and placing the arrival of immigrants in an 'us-versus-them' dichotomy in which protection against 'them' is needed is predominant in the migration discourse in the EU. This discourse surrounding European immigration suffers from several biases and is highly politicized (Düvell & Vollmer, 2009). The areas for treating and controlling immigration that have received the most public visibility in the media and in politics are both external (the patrolling of borders, the management of detention centres) and internal (police operations in urban areas including evictions, searches, patrols and controls) (Maneri, 2011). However, both are linked to protecting European citizens against the 'threat' of immigrants, either from migrants outside the country or those already present. Media framing plays an important role. In reporting migration related cases, the vast proportion of major news items on immigrants can be attributed to one of three media frames: migrants as a terrorist threat; migrants as part of an invasion; and migrants as criminals (Maneri, 2011).

2.2.2 Media Frames: The Politics of Fear

The first media frame is that of a constant (Islamic) terrorism threat. The public is led to believe that the religious views immigrants hold are constantly threatening the status quo and daily lifestyle in European nations. Religious differences are portrayed as dangerous, as deviance to 'our' values is presumed and in the end Islamic values as a whole are seen as fundamentalist and fundamentalism is automatically regarded as terrorism (Maneri, 2011). This leads to the construction of an over-generalized 'us' versus 'them' dichotomy: our democratic institutions versus Islamic terrorism. This translates into a dominant narrative about the state which defends its citizens from a threatening enemy and portrays religious difference as problematic in the case of a threatening and fundamentalist Islam, whose followers are 'infiltrating' European societies (Maneri, 2011). Like in the USA after the attacks of September 11, 2001 it is the fear of terrorism that is the most important element (Altheide, 2006). Such fear of a terrorist attack is instrumental in associating immigrants with nonconformity, deviance and crime (Hornqvist, 2004). The terrorism threat is constructed in the media as an indication that laws are not enough to provide security to citizens (Hornqvist, 2004). This rhetoric is also not uncommon in political debates. For example, various politicians in the Dutch parliament have made such claims in 2015: Malik Azmani from the liberal party VVD stated that '*there shall be jihad fighters among them (Syrian refugees), who will pose a threat to the security in Europe*'; Geert Wilders from the populist PVV stated that '*everyday, again and again, IS (Islamic State) sends terrorist to us*' and Louis Bontes, member of parliament, stated that '*young Muslim men, armed with sticks and iron bars, are trying to reach the Netherlands*' (Stoffelen & De Zwaan, 2020).

2.2.3 Media Frames: The Invasion Threat

The second media frame involves the idea of protecting external borders from massive numbers of invading immigrants who have no right to claim asylum and are only trying to profit from welfare benefits in European nations (Maneri, 2011). This view of immigrants was cemented in 2015, when a record number of people tried to reach Europe from North Africa by sea through extremely dangerous methods. The dangerousness of these methods was illustrated when on 19 April 2015 over 700 people lost their lives off the coast of Lampedusa in a single incident (European Commission, 2019). Discourse is important in the framing of groups of people, in particular the use of collective categories (Maneri, 2011) that hold negative connotations and implicit associations but lack any descriptive coherence or precision. For example, official documents in The Netherlands use both the term asylumseeker and the term 'vreemdeling', which translates into 'alien', in conjunction when describing immigrants (Scholten, Van Zwol & Myjer, 2019). Especially the use of the term 'vreemdeling' reinforces the idea that immigrants are on the other side of the 'us-versus-them' spectrum in the context of migration. The term 'illegal' when discussing migration is another example of such a collective category. The use of the term 'illegal' is an oversimplification of the complex legal and political issues into a simple 'us-versus-them' dichotomy: legal versus illegal (Parkin, 2013). The process of using the word 'illegal' for describing immigrants is also very effective in creating, reproducing and reinforcing a negative image of the 'other' (van Houtum & van Naerssen, 2002). Just the use of the word 'illegal' when discussing migration is effective in achieving this (Anderson, 2013). Illegal as a term is not an administrative or judicial category, but rather an anthropological one and is characterised by associations with deviant behaviour (Maneri, 2011). National order is supposedly disturbed by immigrants who cross the border through irregular means. These immigrants are then presented as illegal, which *"confers a criminal status on individuals whose only 'crime' is the administrative misdemeanour of lacking the proper documentation to authorise their presence/administrative status on a territory"* (Parkin, 2013).

2.2.4 Media Frames: The Criminal Immigrant

The third frame is that of protecting society from criminal activity caused by 'illegal' immigrants. It is a discourse that firstly speaks to us of deviance to national values and institutions. This way of thinking follows Huntington's idea of a 'clash of civilizations' (Huntington, 2000) that people of different civilizations have *"different views on the relations between God and man, the individual and the group, the citizen and the state, parents and children, husband and wife, as well as differing views of the relative importance of rights and responsibilities, liberty and authority, equality and hierarchy"*

(Huntington, 2000, p25). Interaction between people who are different does not necessarily lead to conflict (Huntington, 2000), but it does enhance feelings of in-group solidarity and out-group hostility by emphasising intergroup differences (Brewer, 2001). When these differences between immigrants and citizens are emphasised, immigrants are associated with dangerous and criminal activity or are portrayed as deviant and as a threat to society. In addition to the fear of letting in immigrants who have no right to claim asylum and are only trying to claim welfare benefits, there is also the fear of letting in potentially violent (war)criminals. However present in the public and among politicians, that fear is unfounded. Within the 12.570 cases of Syrian refugees which were reassessed by the Dutch government to screen for war crimes, 63 suspects arose and in only 1 case there was enough evidence to withdraw the residence permit on the basis of war crimes (Stoffelen & De Zwaan, 2020). It is a discourse that not only speaks of criminal activity but puts heavy emphasis on the theme of violence. This is done with the use of descriptive terms such as 'overexcited', 'aggressive' and 'ferocious' (Maneri, 2011) and describing young male immigrants as '*those bearded men*' and '*testosteronbombs who make it unsafe for our daughters and women to walk the streets*' (Stoffelen & De Zwaan, 2020). The trait that applies to all these expressions is that this threat caused by illegal and criminal immigrants prevails 'under the eyes of everyone', 'in the light of the day' and 'in the open' (Maneri, 2011). It is a discourse that also cements the marginality of immigrants with descriptive terms, besides illegal, such as 'alien', 'desperate', 'hopeless' (Maneri, 2011). Again, especially the use of the word illegal promotes irregularity to illegitimacy and through that to criminality. The constant use of these terms reinforces the idea that most immigrants are 'illegal' and bring degeneration and danger, creating the image of all immigrants as a social risk to society (Anderson, 2013).

2.3 Developments in Migration Law

2.3.1 International and European Asylum Law

The second dimension in the criminalisation of migration is law. More specifically, it encompasses both criminal law and all migration related laws. These range from international (refugee) law, composed of international treaties signed and ratified by state, and EU migration laws, such as the Schengen regime, to national immigration laws of Member States within the EU (Bigo & Guild, 2019). If migration was unrestricted there would be no need for the current complex network of migration laws, treaties and regulations. However, migration is not restricted and states have a growing interest in the control of their borders and who crosses them (Bjerre, 2017). To control movement, certain labels are needed to categorize types of migrants. Certain rights, rules and regulations are then applied to the differently labeled categories of migrants, which are carried into effect by different legal and institutional regimes. Like with migration discourses, this also means that these categories or given rights can change at a certain point in time or across places. Immigrants can be unlawful in one state or one point in time while being lawful in another state or other point in time (Bjerre, 2017).

The right to grant asylum follows the principle that sovereign states have exclusive control over its territory and the persons present in its territory. Thus, the right of asylum has been viewed as the right of a state in international law (Boed, 1994). In 1977, the Council of Europe adopted the Declaration on Territorial Asylum that reaffirms the right of states to grant asylum (Boed, 1994). However, as the recent increase of people seeking asylum in the EU has shown, its implications are not something any one state can bear on its own. Already in 1994, Boed stated that the plight of refugees *“is a phenomenon of our modern world community and must be addressed by all states as a global issue”* (...) while *“at the same time, it must be recognized that in the exercise of their sovereignty and of their police powers, states have a legitimate interest in the control of their borders and in the maintenance of internal safety, two areas affected by the arrival of aliens”* (Boed, 1994, p.31).

According to EU law, third country nationals who are staying within the territory of an EU Member State must be in the possession of valid documentation according to their migration status. If a third country national is not in possession of these documents, that person gains the legal status ‘irregular’. The Council of Europe states in the European Pact on Immigration and Asylum that on principle irregular immigrants residing on a member states’ territory should leave the EU (European Commission, 2008). This irregular status is given through illegal border crossing; using invalid documents or providing false information about the documents; overstaying a visa; breaching or failing to meet residence conditions; rejection of an asylum application; the state failing to enforce a return

decision; or being born to parents with an irregular status (European Union, 2005). 'Irregular stay', in a legal sense, means the presence of a non-EU national on the territory of an EU Schengen State who does not fulfil, or no longer fulfils, the conditions of entry as set out in the Schengen Borders Code (Regulation 562/2006), or other conditions for entry, stay or residence in an EU State. If a person does fulfil the conditions of entry that person can apply for asylum. In international law, asylum refers to the protection granted by states to an individual against non-refoulement, meaning persecution or harm in a third state (Schmälter, 2018).

The laws and practices in the EU are inspired by fundamental human rights, most notably the 1951 Refugee Convention and the 1967 Additional Protocol, and common 'European' values written down in for example the European Social Charter (2013). These fundamental rights are often seen as a threshold which other laws cannot go below. Key rights laid down in the Refugee Convention (1951) are the right to be protected from refoulement and the minimum standard of treatment of refugees. The right to asylum has not been formulated explicitly in human rights treaties. International law on asylum is based on two main bodies of law: specific refugee rights written down in the 1951 Refugee Convention and general human rights standards agreed upon in various international and regional treaties. The right to asylum in the EU is formulated within the European Convention for the Protection of Human Rights and Fundamental Freedoms, ECHR (Council of Europe, 1950). This convention is not to be confused with the European Court of Human Rights (ECtHR), which interprets the ECHR. The right to asylum is recognized in the Charter of Fundamental Rights of the EU (CFR) as an enforceable right but not is formulated explicitly. The ECHR does however explicitly state a prohibition of refoulement and the right to international protection and liberty (European Union, 2007). Article 5 reads: "*Everyone has the right to liberty and security of person. No one shall be deprived of his liberty (...)*". In addition, article 14 reads: "*Everyone whose rights and freedoms as set forth in this Convention are violated shall have an effective remedy before a national authority (...)*." (ECHR, 1953).

2.3.2 European Integration

The ongoing processes of immigration towards Europe, European integration and the development of the CEAS have implications for internal safety in Member States. The abolishment of internal borders between EU Member States to facilitate free movement of people implied the strengthening of the external EU borders (Winand et al, 2016). Traditionally, the field of criminal law sought to address and prevent harm to individuals and society caused by fraud, violence and evil motives, while the field of immigration law sought to decide who could cross a border and reside within a given territory. The two fields are becoming more and more interwoven (Bigo & Guild, 2019). The increased blurring of boundaries between criminal law and migration management operates under a two-way process. On

one hand, the criminalisation of migration for the field of law means the adoption of criminal law characteristics in immigration management, resulting in criminal law increasingly intersecting with immigration law and being invoked to regulate migration matters. On the other hand, administrative regimes are adopting immigration consequences as punitive measures for criminal law infractions with increasing prevalence. This results not only in imposing punitive sanctions for migrating (Provera, 2015), but also in denying legal protection for migrants (Bigo & Guild, 2019).

By abolishing the internal borders in the EU, the responsibility for migration law and border control is shifting away from national responsibility to supranational organs through various processes of European integration. This happens mainly through the reform of the Common European Asylum System (CEAS) (Horwood, Frouws & Forin, 2019). The goal of the CEAS is the harmonisation of EU asylum laws. This process of harmonising laws is initialised to control movement of stateless migrants or migrants from third countries. In addition, the practical goals are to create a uniform status of asylum and subsidiary protection valid throughout the EU, a common system of temporary protection, a common asylum procedure, criteria and mechanisms for determining which Member State is responsible for handling certain asylum applications, a standard concerning reception conditions, and more cooperation with third countries (European Union, 2005). The legal basis for the reform of the asylum system is covered by the articles in the Treaty for the Functioning of the European Union, TFEU or Lisbon treaty of 2008 (European Union, 2007). As more international and European treaties concerning migration laws are formulated several Member States are increasingly concerned with encroachment of EU legislation on their national asylum arrangements (Schmälter, 2018). These concerns are not unfounded as France, Italy, Germany and Spain together received 49% of the total visa applications in the Schengen area in 2009 (Aliu, 2012). Ten years later, France, Germany, Greece, Italy and Spain received 72% of the total applications in 2018 (Union, 2019). To compensate for these concerns, Member States granted EU institutions the capability to set out common rules for the management of the external EU borders under article 74 and 77, but Member States kept respective sovereignty to control and monitor their respective borders (European Union, 2005). As a result, six Member States in the Schengen Area have reintroduced internal border controls (European Commission, 2019) in contrast to the founding idea of the Schengen Area.

Reform of the CEAS is therefore needed to restore the functioning of the Schengen area. However, proposals are currently in deadlock (European Commission, 2019). The CEAS consists of five legislative acts with the aim of ensuring that asylum seekers are welcomed and treated the same humane way and in all Member States (Schmälter, 2018): (1) The Asylum Procedures Directive establishes common procedural standards and guarantees access to fair and efficient asylum procedures; (2) The Reception

Conditions Directive sets out minimum standards of living conditions for asylum applicants; (3) the Qualifications Directive establishes common grounds for granting international protection and rights related to refugee or subsidiary protection status; (4) the Dublin Regulation determines which member state is responsible for examining a given asylum application; (5) the Eurodac Regulation organises fingerprint database. These directives and regulations form the basis of the CEAS and give the EU the capacity to harmonise asylum laws between Member States. This in turn raised questions on how Member States, together with the EU, should coordinate the control of the external borders, investigations of criminal activities and the implementation of the CEAS (Carrera, Den Hertog & Parkin, 2013).

To address these questions, three kinds of EU Home Affairs Agencies were established: Frontex, Europol and the European Asylum Support Office (Carrera, Den Hertog & Parkin, 2013). Frontex has the aim of coordinating and assisting Member States' actions in the surveillance and control; Europol has the aim of supporting and strengthening action by Member States in preventing and combating international organized crime, terrorism and other forms of serious crime; EASO has the aim of facilitating, coordinating and strengthening practical cooperation among Member States towards the implementation of the CEAS (Carrera, Den Hertog & Parkin, 2013). The three agencies are special because of the discrepancy between their *de jure* competencies and their *de facto* activities. The agencies are officially coordinators between Member States, but their activities go beyond that by allowing them to intervene in national arenas of the Member States. The result is that some of the activities performed by Frontex, Europol and EASO present sensitivities to specific fundamental rights and create *"a high degree of vulnerability of third country nationals on the move by making it difficult for them to obtain access to justice in cases of alleged breaches of fundamental rights and guarantees"* (Carrera, Den Hertog & Parkin, 2013, p. 357).

2.3.3 Carrier Sanctions and the Criminalisation of Solidarity

In addition to expanding migration law to facilitate Member States' and Frontex's operations to externalize EU border control and to control migration flows from outside EU territory, the EU has also introduced sanctions for those who 'facilitate' irregular migration. These include the so called 'carrier sanctions'. Carrier sanctions were technically introduced to give penalties to private companies for carrying passengers without adequate documentation to enter a states' territory (Baird, 2017). Checks for documentation are performed at points of departure by the private organisations themselves, making carrier sanctions one of the leading examples of the privatisation and externalisation of migration management (Baird, 2017). It is also a tragic consequence of the criminalisation of migration, as carrier sanctions increasingly affected humanitarian action around the EU's external borders and in

its Member States. The criminalisation of migration does not only affect immigrants. Since the handling of the 2015 refugee crisis, it also affects individuals and organisations which provided humanitarian assistance to asylum seekers (Hammerl, 2019). Due to political pressure to tighten borders and to gain more control over migration flows, the implementation of carrier sanctions has caused an increase in discriminatory practices in the form of racial profiling of suspected immigrants (Baird, 2017). In addition, carrier sanctions have increased the risk of harm for immigrants due to the criminalisation of those assisting immigrants on their migration routes and in the EU (Hammerl, 2019). In the Mediterranean Sea, members from European NGO's, Search and Rescue (SAR) teams, fishermen and crew members of trade vessels were publicly defamed, stopped from leaving and entering Spanish and Italian ports, accused of human smuggling or refusing cooperation with the Libyan Coast Guard. Citizens, NGO's, human rights activists and churches in the EU who were assisting immigrants were intimidated, arrested or accused of facilitating human smuggling, illegal migration or assisting illegal residence (Hammerl, 2019). The use of public defamation and criminal law against third parties who assist in the migration process is effective in compromising assistance to asylum seekers. This makes migration even more dangerous and effectively compromises the protection of immigrants on migration routes before reaching EU territory (Hammerl, 2019).

2.3.4 Race to the Bottom

The rights and guarantees of third country nationals on the move, refugee status or not, are preserved in the TFUE. Article 78 of the TFUE makes a distinction between the protection of refugees and the protection of persons under human rights treaties of general applicability (European Union, 2007). This legal distinction between refugee status and subsidiary protection is important. Subsidiary protection describes the protection regime for migrants who do not meet the formal definition of 'refugee' as stated within the 1951 Refugee Convention or the 1967 Refugee Protocol, but who are in a comparable situation and are in need of protection against refoulement. In the ECHR, this is covered in Article 3: *"No one shall be subjected to torture or to inhuman or degrading treatment or punishment."* (Council of Europe, 1950). To invoke protection, a person does not need to be classified as a refugee and no exceptions to deny protection are allowed. To be granted subsidiary protection, the person must show substantial grounds that there is a real risk of refoulement or being subjected to serious harm. This real risk must be assessed based on all relevant factors, regarding both the general situation in the country of origin and the personal circumstances that may increase the risk of ill-treatment (Council of Europe, 2020). According to the ECtHR, this does not stop with physical harm. This potential ill-treatment also includes physiological harm and forms of socio-economic deprivation or discrimination as a result of deliberate action (Council of Europe, 2020). Cessation of or exclusion from subsidiary

protection is possible only under three conditions: Subsidiary protection can and must be ended if the circumstances which led to the granting of the subsidiary protection status have changed significantly and non-temporarily to such a degree that protection is no longer needed; if there is serious reason to believe that a person has committed a serious or an international (war)crime; or if the subsidiary protection was obtained through fraudulent methods (Council of Europe, 1950).

While the ECHR, together with jurisprudence from the ECtHR, has specifically formulated when a person is eligible for international protection, they have not specifically formulated what this protection should include. This created a lack of consensus on how a fully integrated asylum system should be formed and created a situation where most instruments provided by the CEAS leave considerable discretion for the Member States to construct their own asylum systems, even to the point of non-compliance with the CEAS (Schmälder, 2018). When Member States discussed how the CEAS should be formed, many proposals were adjusted downwards with regard to individual rights of refugees and asylum seekers in addition to leaving the precise implementation of the CEAS open to a Member States' own interpretation. This created a so called 'race to the bottom', wherein Member States would create laws and policies that meet the absolute minimum standards laid down in the CEAS. This was done to prevent their country being more attractive to migrate to compared to other Member States, as for example Denmark's decision to cut refugees' benefits and advertise this decision in countries of first asylum (Parliamentary Assembly, 2015). A similar reaction occurred earlier, after the 2004 EU enlargement and the following concerns about welfare migration from new Member States to the EU 15 Member States (Kvist, 2004). Even though little empirical evidence was found to support the assumption that Member States with generous welfare benefits would become magnets for welfare migration, the EU 15 Member States did enter strategic interactions to temporarily restrict free movement of workers to prevent their country from being more attractive to migrate to compared to other Member States (Kvist, 2004).

2.4 Developments in Migration Policy

2.4.1 European Migration Management

While migration law is increasingly becoming the responsibility of supranational organizations, internal safety remains the responsibility of individual Member States through criminal law (Guild, 2006). Since the Maastricht treaty, the EU started to shape common migration policies which have been further worked out in the Amsterdam Treaty, the Schengen Agreement and the Treaty of Lisbon (Aliu, 2012). While the TFEU has centralized migration policymaking for more effectiveness, the EU *“respects all member states’ own constitutions and regulations because all member states have their sovereignty rights and some member states which suffer from high migration and asylum flows, are referring to their national law and regulations”* (Aliu, 2012, p. 3). The growing public concern and increasing anti-immigration sentiments about the European refugee crisis (Van Houtum & Bueno Lacy, 2020) and the concerns about the general increase in the numbers of migrants worldwide (McAuliffe & Ruhs, 2017) fuelled by the media, is reflected in politics at all levels. As a consequence, lawmakers are incorporating the criminalisation of migration into official policy. The criminalisation of migration has embedded the idea that immigrants pose a social risk for society. To reduce this risk, European Member States have given preference to both external and internal policies that are control based (Hornwoord, Frouws & Forin, 2019), EU state-centric (Aliu, 2012) and security-driven (Carrera et al, 2015). Additionally, by framing immigration as a security issue during the Refugee Crisis, other non-security related policy sectors regarding migration are marginalised (Carrera et al, 2015). Detention of immigrants as a form of immigration enforcement, thus placing migrants outside the state, has increased substantially in the past decade (Parkin, 2013) and the Parliamentary Assembly of the Council of Europe has voiced concerns over the priority given by the EU to try and keep immigrants out or at the periphery of the EU (Carrera et al, 2015). This method has been used to make immigrants less visible by placing them outside of the society and to ‘protect’ citizens from immigrants through various policies (Van Houtum & Bueno Lacy, 2020).

These policies fall into two categories. First, the external policies regarding the execution, externalization and responsibility of external border by the EU such as: border controls (Burrige, 2017), bilateral agreements (Pirjola, 2009), the Hotspot approach (European Commission, 2019), carrier sanctions for transporting immigrants (Baird, 2017) or fighting human smuggling efforts (Carrera et al, 2015). Second, the (2) internal policies regarding the reception, protection and handling of immigrants by EU Member States such as: detention (Parkin, 2013), enforcing return decisions (Carrera et al, 2015), social exclusion (Carrera & Merlino, 2009), limiting access to international

protection (Bigo & Guild, 2009) or reducing the incentives for irregular migration altogether (Carrera et al, 2015).

2.4.2 External Policy: EU Priorities

Driven by the criminalisation of migration and the focus on immigration as a security issue, EU policy regarding the regulation of migration made a punitive turn (Parkin, 2013). The interests of the EU and its Member States are mostly founded in security, diplomatic and military concerns. This caused the policy responses to be largely focused on fighting human smuggling, the removal and readmission of irregular migrants and the reinforcement of border controls (Carrera et al, 2015). This response to the 2015 refugee crisis is in line with Melossi's and Selmini's (2003) position that the criminalisation of migration is primarily driven by moments of economic, political or social crisis and is consistent with the relationship between xenophobic tensions and the perception of threat during moments of social or economic crisis (Parkin, 2013). This is reflected in official EU policy by the main four 'levels of action' in the 2015 European Agenda on Migration: (1) reducing the incentives for irregular migration; (2) border management – saving lives and securing external borders; (3) Europe's duty to protect – a strong common asylum policy; and (4) a new policy on legal migration (Carrera et al, 2015). In addition, this punitive focus is also reflected in the immediate response to the large number of arriving immigrants during the 'Refugee crisis'. Here the Agenda identified six short term actions: (1) A temporary and emergency-driven relocation mechanism for Member States with the highest influx; (2) A relocation mechanism for 20,000 refugees outside the EU; (3) increasing the capacity of Frontex and budget for control and surveillance operations in the Mediterranean Sea; (4) increasing emergency funding to frontline EU Member States and setting up a new 'hotspot approach'; (5) strengthening joint maritime operations to deal with migrants' smuggling; and (6) establishing a Common Security and Defence Policy Operation to dismantle human trafficking networks and the 'business model' of smugglers (Carrera et al, 2015).

During the response to the refugee crisis, the focus was mostly on controlling and closing the main migration routes to Europe to prevent too many arrivals of immigrants in the EU. This was instigated partly by the public fear that many of the immigrants were ineligible for asylum or had malicious motives for entering the EU (Maneri, 2011). Instead of expanding legal pathways for regular migrants, most arrivals during the peak in the 2015 refugee crisis were treated as unauthorised and irregular border crossings (Parkin, 2013). Only after having gone through the first control mechanisms, implemented through the short-term actions of the European Agenda on Migration, could the immigrants start an asylum procedure (Carrera et al, 2015). In dealing with migration in general,

irregular migration has become the primary area of activity for the Schengen Information System, which was originally created to detect and immobilize 'criminals' crossing EU external borders (Parkin, 2011). The discursive construction of immigrants as a threat transformed traditional notions of security and creates a "*series of 'new migratory threats'*" (Parkin, 2013, p. 6), with irregular migration organised by criminal networks as the prime example (Parkin, 2013). As a response to public concerns, governments have the tendency to develop more visible and costly migration control measures, even though tighter border controls are proven counter-productive to control irregular migration at large. This leads to border-crossings to become more dangerous and encouraging those who cross to prolong their stay once arrived (Parkin, 2013). In addition, this sparks a vicious cycle as more dangerous irregular migration leads to more chaos at the borders, which amplifies the idea of a border crisis which leads to the implementation of stricter border control mechanisms and deterrence as a response, making immigration an even more dangerous endeavour (van Houtum & Bueno Lacy, 2020).

To apply for asylum, immigrants must be in the territory of the European Union, and due to the lack of legal pathways (Parkin, 2013) there is no other choice than to cross the EU border through irregular means. Rather than classifying immigrants as regular or irregular in accordance with EU laws, many immigrants are classified as irregular upon arrival through the process of crossing the border, even though many might be eligible for asylum and relocation. In reality, many immigrants start as asylum seekers and should be classified as regular or irregular only after an starting the asylum application process and not prior to (Bigo & Guild, 2019). The criminalisation of irregular migration therefore illustrates some the preeminent problems, dilemmas and questions that emerge from the broader criminalisation of migration (Parkin, 2013). In the 2015 European Agenda on Migration (Carerra et al, 2015) irregular immigrants are "*the prime target of the broader, punitive turn in the regulation of migration that has emerged, particularly in the European context, since the mid-1970s*" (Parkin, 2013, p. 1). Irregular immigrants are targeted by highly restrictive immigration policies that contribute to and construct their status as illegal criminals. Meanwhile the systematic use of criminal sanctions, together with administrative detention and deportation as the main policy tools in the European governments' response against unauthorised immigration, confers on this migrant category a "dynamic of hyper-criminalisation" (De Giorgi, 2010).

2.4.3 External Policy: Border Externalisation and Bilateral Agreements

Besides the securitisation of the external EU borders, the EU and some of its' Member States have made a growing number of bilateral agreements with countries located near the EU external border (Van Houtum & Bueno Lacy, 2020), with some deals being part of official EU Neighbourhood Policy

(Akkerman, 2018). This process is called 'border externalisation' and the primary goal is to stop immigrants pre-emptively from entering the EU. This turns third countries into *"outpost border guards to prevent forcibly displaced persons from even reaching the external borders of the EU"* (Akkerman, 2018, p. 12). This outsourcing of EU migration control mechanisms to non-EU countries is stretching the EU's border far beyond EU territory, externalising the actual border (Van Houtum & Lacy, 2020). This process is subject to heavy criticism for multiple reasons. First is that in order to stop migrants from trying to cross the EU border, the EU is essentially 'hiring' non-EU countries as *"its immigration policy enforcers in exchange for large sums of money"* (Van Houtum & Bueno Lacy, p. 718), which some EU politicians have described as outright bribing practices (Verhofstadt, 2018). The largest and most infamous example is the EU-Turkey agreement, in which Turkey is given 6 billion euros and the promise of visa-free travel for Turkish citizens for stopping migrants at the Greek-Turkish border (Van Houtum & Bueno Lacy, 2020). Second is that some bilateral agreements are made with autocratic regimes and countries which violate the international rights of asylum seekers and refugees, especially the prohibition of non-refoulement (Van Houtum & Bueno Lacy, 2020). While the EU considers its *"regional system of human rights and other normative standards, its founding values and its strong tradition of promoting peace, security and human rights"* (Crépau & Purkey, 2016, p. 32), its border externalisation policies *"suggest that it is perfectly willing to set those values aside when it comes to the priority of expelling or preventing forcibly displaced persons"* (Akkerman, 2018, p. 28). 35 countries which are listed as priority countries under the Partnership Framework by the EU. Within these 35 countries which are eligible for European Union Emergency Trust Fund funding or have some form of bilateral agreements with the EU or its Member States, only 4 countries are democratic and 3 are listed as 'free' (Akkerman, 2018). In the same list, 17 countries have an authoritarian government and in 12 countries citizens face extreme risks to their human rights (Akkerman, 2018). Since 2013, the EU signed multiple bilateral agreements, called 'mobility partnerships', with Azerbaijan, Jordan, Morocco and Tunisia as part of the Global Approach to Migration and Mobility (GAMM). The aim is to cooperate on issues ranging from *"development aid to visa facilitation, circular migration programmes and the fight against unauthorised migration, including cooperation on readmission"* (Crépeau & Purkey, 2016, p. 10). The most significant bilateral deal, the EU-Turkey agreement, is particularly concerning as in 2016 the Turkish ambitions to join the EU were thwarted based on the Copenhagen human rights criteria. Jean-Claude Juncker stated that Turkey *"won't be ready for EU membership for ten years or more"* (Chadwick, 2016) as its human rights standard for its' citizens is not comparable with the EU standard. However, the EU-Turkey agreement proves a double standard: despite not conforming to the 'normative standards and founding values', the EU considers Turkey's human rights standard fit to detain refugees and asylum seekers (Virdee and McGeever, 2018). The bilateral readmission agreement between Italy and Libya has created even worse human rights violations. Despite the 2012

court ruling of the European Court of Human Rights that returning migrants travelling by sea back to Libya violated the ECHR, the practice continues (Crépeau & Prukey, 2016). In Libya *“one of the most disturbing contemporary episodes in human history”* (Asongu & Kodila-Tedika, 2018, p. 291) is now taking place in the form of an extensive economic network of human trafficking and slave trading.

2.4.4 External Policy: Hotspot Approach and Border Camps

The large number of immigrants arriving at the EU external border in 2015 showed that the current system leaves a few frontline countries in the southern EU region to bear a disproportionate responsibility for handling asylum seekers (Carrera et al, 2015). An important part of the immediate action to assist these Member States facing disproportionate migratory pressures at the EU’s external border was the implementation of the Hotspot approach by the European Commission. The Hotspot approach *“will concentrate on registration, identification, fingerprinting and debriefing asylum seekers, as well as return operations (...) and (...) “contribute to the implementation of the temporary relocation schemes proposed by the European Commission”* (European Commission, 2015). On the ground, the European Asylum Support Office (EASO), Frontex, the EU Police Cooperation Agency (Europol) and the EU Judicial Cooperation Agency (Eurojust) will assist these frontline Member States. On paper the Hotspot approach works as follows: *“those claiming asylum will be immediately channeled into an asylum procedure where EASO support teams will help to process asylum applications as quickly as possible. For those who are not in need of protection, Frontex will help Member States by coordinating the return of irregular migrants. Europol and Eurojust will assist the host Member State with investigations to dismantle smuggling and trafficking networks”* (European Commission, 2015, p. 1). Italy and Greece are the first countries where this approach is implemented. Other Member States can also request aid via the ‘Hotspot Approach’ (European Commission, 2015). However, after the implementation, critics claim that these hotspots are in reality *“spatially segregated border camps”* (Van Houtum & Bueno Lacy, 2020, p. 722) with the purpose of detaining immigrants. While migration flows are slowed down or stopped all together, the systems for detention, deportation and forced-returns are sped up (Tazzioli, 2018). The relative speed at which the ‘temporary’ Hotspot Approach of swiftly identifying and fingerprinting immigrants has been implemented causes many asylum seekers to remain stranded in border-site camps. Because other accelerations in the migration procedures have not been implemented besides the Hotspot Approach, many are stuck waiting for a response to their first asylum claim or appeal against a denied asylum claim in camps (Tazzioli, 2016). In addition, due to the lack of a legal framework, the activities in for example the Italian hotspots are not regulated by any Italian or European legally defined standard and *“are often in clear contrast to the provisions of laws concerning international protection and the infringement of personal freedom”* (Capitani, 2016,

p. 2). Oxfam states that the Italian police together with Frontex representatives have been *“operating an arbitrary distinction between asylum seekers and irregular migrants at border crossings”, (...)* *“witnesses report episodes of violence and intimidation during fingerprinting operations” (...)* and (...) *“worst of all, soon after disembarkation a large number of migrants have been given return orders, based on hurried and inaccurate interviews showing an inconsistent legal basis and many errors in process”* (Capitani, 2016, p. 2). The implementation of the Hotspot Approach *“seriously violates the fundamental rights of people reaching Italian shores”* (Capitani, 2016, p. 2) and in any case does not conform with international human rights standards (Carrera et al, 2015). The situation in Greek border camps is not much better. NGOs report rising mental health issues, a rising number of suicide attempts and gender-based violence among immigrants (Lucas, Ramsay & Keen, 2019).

The Hotspot Approach is one of the strategies of spatial containment to keep immigrants invisible to society (Tazzioli, 2018). This strategy is not limited to block people moving to the EU. For immigrants reaching the EU it also entails *“moving migrants back and (...) forcing migrants to move around”* (Tazzioli, 2018, p. 19). Asylum seekers are relocated to other Member States from hotspots while immigrants moving inside EU territory are *“apprehended and transferred or returned while they are trying to find a way to cross or while they temporarily stay in informal camps or in the cities”* (Tazzioli, p. 19). Besides Hotspots at critical border-sites there exist many camps throughout the EU with the purpose to receive, shelter, relocate or detain refugees and asylum seekers. Deprivation of liberty for migration related reasons is only permitted when no other measures are available. Still, many irregular migrants and asylum seekers are subjected to detention when waiting for an asylum procedure or when waiting to be returned due to an unsuccessful claim to international protection or because they are identified as having entered the EU in another Member State (Crépeau & Purkey, 2016). All EU Member States practice some form of immigrant detention (Parkin, 2013). In most Member States, this detention of immigrants for migration related reasons is defined as administrative detention as opposed to penal detention, as administrative detention does not require conviction of a crime (Parkin, 2013). Following the trend of the criminalisation of migration this boundary between criminal law and migration management is becoming increasingly blurred (Bigo & Guild, 2019). The EU wide Return Directive leaves significant room for the interpretation of its’ application with Member States however, and administrative and judicial practices have not been harmonised within the EU. This explains the differences between EU Member States regarding the practice of immigrant detention: some Member States restrict immigrant detention to special ‘removal centres’, while some Member States, despite different legal definitions (Parkin, 2013) detain immigrants in penitentiary institutions. Despite being prohibited by the Court of Justice of the European Union in 2011 some immigrants in Bulgaria, Cyprus, Finland, France, Latvia, Slovakia and Greece are even detained in police stations where there is little

judicial control and immigrants often have no access to doctors or lawyers (Arbrogast, 2016). Irregular migration is not a criminal offense (Crépeau & Purkey, 2016) but through detention irregular migrants are treated as criminals. Prolonged detention without a criminal sentence has a negative effect on mental health *“by contributing to post-traumatic stress disorder, anxiety and depression”* (Crépeau & Purkey, 2016, p .11) as well as physical health as effective access to healthcare is often lacking (Crépeau & Purkey, 2016).

2.4.5 Internal Policy: The Netherlands

The EU has gained more responsibility for the control of external borders and for the drafting of EU migration laws. This is done mostly through cooperation and joint operations with Member States. Member States are often assisted by EU institutions which ‘support’, ‘coordinate’ or ‘facilitate’ Member State actions, such as the EASO, Frontex, Europol and or Eurojust (Carrera, Den Hertog & Parkin, 2013). However, individual Member States are still sovereign in the interpretation of EU laws and the following application of those laws. Member States are thus solely responsible for immigrants residing on their respective territory. According to the Dublin procedure this does not apply to the handling of asylum applications if the Member State is not the state through which the immigrant has first entered the EU. Especially during the 2015 Refugee crisis, many immigrants travelled through the Mediterranean Sea to Italy, as that route to Europe is the shortest way to reach EU territory in the absence of legal channels. According to the Dublin procedure, after arriving in the EU across the Italian border the immigrants should be identified and must apply for asylum in Italy. As a consequence of too many people travelling to Italy during the 2015 Refugee crisis, this system could not operate in accordance with the Dublin procedure. Once arrived, many immigrants avoided identification and subsequently travelled on to northern Europe. While the EU opposes the possibility for asylum seekers to choose the country in which to apply for international protection, the result was a contradictory situation where the failure of the system did create a situation for de facto „asylum shopping“ without any form of protection. This exposed the most vulnerable people to additional risks because the only option to move was with the help of more or less organised illegal networks of smugglers (Capitani, 2016).

The influence of the criminalization of migration is not limited to EU legislation and border protection policies. The growing trend of linking asylum seekers with social disorder and criminal activities (Hammerl, 2019) caused anxiety on the part of the press, public and political establishment about the number of immigrants trying to reach the EU and the forced admission of a percentage of these immigrants through the EU resettlement programme (Parkin, 2013). This anxiety consequently

contributed to a rise in populism, nationalism and anti-immigrant tendencies (Hammerl, 2019). In The Netherlands, this was not only reflected in the rise of far-right parties but also in established parties incorporating such rhetoric, in the Dutch case Islamophobia in particular (Van Houtum & Bueno Lacy, 2017), into their political views. By adopting these preferences, anti-immigration views which were previously regarded as extreme became part of official governmental policy (Van Houtum & Bueno Lacy, 2017). This also further normalized the idea that immigrants are a threat to society and legitimised the criminalisation of migration.

Asylum seekers who apply for asylum in The Netherlands get their claim processed by the Immigration and Naturalisation Service (IND) and are received by the Central Agency for the Reception of Asylum Seekers (COA). There are several forms of central reception facilities where asylum seekers are received during the asylum procedure. First, asylum seekers are received in a Central Reception Location (COL) managed by the COA. When the asylum procedure starts the asylum seekers are moved to a Process Reception Location (POL) or when they are eligible for an extended asylum procedure to an Asylum Centre (AZC) (VluchtelingenWerk Nederland, 2020). If the result of the asylum procedure is a negative decision, the asylum seeker can submit a repeated asylum application after the final rejection of the asylum seeker's claim if the asylum seeker considers that there are new facts and circumstances that make the asylum seeker eligible for international protection. New circumstances are for example new evidence for the same case or a change in personal circumstances such as religious conversion, announcement of LGBTQ+ orientation or a deterioration in the overall security situation in the country of origin (Scholten, Van Zwol & Myjer, 2019). Since 2017, three measures were introduced with regards to the asylum procedure, judicial procedure for asylum seekers and the return procedure (Scholten, Van Zwol & Myjer, 2019). First, the government plans to include some form of preselection in the reception procedure. Asylum seekers with a high 'change of success' will be received in smaller reception centres, while asylum seekers with a small or no chance of success will be received in medium-sized reception centres. The second measure is the curtailment of the current legal aid system for asylum seekers. Asylum seekers will only receive free legal aid when it becomes clear that their application will be denied. In the event of a second application, the option for a court hearing will be abolished if there is no chance of success based on the provided documents. According to the government, this measure will free up legal capacity which can be used by the IND to speed up other procedures with a higher chance of success (Scholten, Van Zwol & Myjer, 2019). The third measure is the expansion of the use of migrant detention for immigrants with a rejected asylum application. Immigrants who did not leave The Netherlands despite a return order can receive shelter on a temporary basis in one of eight National Provision Centres for Aliens (LVV). These centres are meant to shelter undocumented immigrants with no right to residence on a conditional basis. To

receive shelter in one of the centres, the undocumented immigrant must comply with a government assisted return procedure. Shelter rights and return assistance can even be denied if the person does not comply with the return procedure (Scholten, Van Zwol & Myjer, 2019). The Return Directive states that in the case of prolonged detention periods, this detention must be reviewed with judicial supervision by the authorities at reasonable intervals of time. The Return Directive does specify the nature of that supervision however, meaning Member States retain authority to determine the terms and intervals for review of detention (Loubeyre & Fernandez, 2017).

Security rationales have dominated policies and practices regarding migration. In addition, EU Member States have been giving priority to maintaining control over their borders through restricting entry and exit as well as restricting internal movement *“under the guise of protecting national security”* (Crépeau & Purkey, 2016, p. 23). The focus of this security approach is mainly on strategies to combat human and migrant smuggling, preventative detention of immigrants and the criminalisation of irregular migration and illegality (Crépeau & Purkey, 2016). Detention of migrants with the goal of placing migrants outside the state and separating them from society is not only practiced at or outside the EU external border but it happens in all Member States. In addition, irregular immigrants are not only the ‘prime target’ for external border control mechanism implemented in the EU (Parkin, 2013), but also for internal control mechanisms. The phenomenon that people without a right to residence remain in a country is both historically and internationally not a unique phenomenon (Scholten, Van Zwol & Myjer, 2019). Nevertheless, in the Netherlands irregular migration has received top policy priority over the past 25 years and every Dutch cabinet has taken measures to prevent foreign nationals who do not meet the conditions for a residence permit from residing in the Netherlands (Scholten, Van Zwol & Myjer, 2019). In 1998 the Dutch parliament adopted the ‘Koppelingswet’, which states that a person can only claim provisions and benefits from the authorities if they reside lawfully in the Netherlands (Scholten, Van Zwol & Myjer, 2019). The goals of this law are to prevent illegal immigrants from receiving government provisions so that their illegal residence can continue and to prevent illegal immigrants from building up a too strong legal position which prevents them from being expelled (Minderhoud, 1998).

In 2018, there were a total of 101.837 immigrants with refugee status and 12.303 immigrants who applied for asylum present in The Netherlands (VluchtelingenWerk Nederland, 2020). In the same year, 64,8% of first asylum applications and 39,9% of appeals against a negative decision were (VluchtelingenWerk Nederland, 2020). Scholten, Van Zwol & Myjer (2019) also state in their research on long-term residence of foreign nationals that approximately 70% of asylum applications in The Netherlands are denied in total, including after appeal against a negative decision. According to

immigration law, those with a denied asylum application who have no option to appeal the decision must leave The Netherlands within 28 days. Since 2007, The Repatriation and Departure Service (DT&V) and the UN's International Organization for Migration (IOM), coordinate returns of immigrants without a right to residence. In addition, they help people to return to their country of origin with financial compensation, arranging return papers or the purchasing of a plane ticket. Despite the presence of assistance in returning, there is little demonstrable voluntary return or forced return among the group. Out of the total of 21.410 departures in 2018, 5.900 were forced (28%) and 3.480 were voluntary (16%). In contrast, 12.030 (56%) departed 'with unknown destination'. In practice, this means that it is not known whether more than half (56%) of the foreign nationals obliged to leave had actually left the Netherlands (Scholten, Van Zwol & Myjer, 2019). To realise forced return to the country of origin, the consent and cooperation of that country is required. Many countries are reluctant to cooperate with the forced return of their respective citizens and will not issue the required travel documents if the national does not want to return (Scholten, Van Zwol & Myjer, 2019). In 2002, the figures of the Association of Dutch Municipalities (VNG) showed that an estimate of about 1,700 rejected asylum seekers were residing in 170 municipalities throughout the Netherlands (Koppes, 2017). The Dutch government is aware of undocumented persons staying irregularly in the territory of The Netherlands but unaware of the exact number (Ministerie van Justitie, 2016). The Mobile Supervision Safety (Mobiel Toezicht Veiligheid) team of the Dutch Military Police is tasked with checking persons randomly, based on information or experience data, close to the internal borders of the Schengen area. The team found 1080 persons without a valid residence permit in 2014 and 810 persons in 2015. However, this drop in numbers is likely caused by missing data due to a lack of capacity (Ministerie van Justitie, 2016).

Another important reason for the lack of demonstrable returns is that Member State governments have limited possibilities to realize forced departure within the EU legal framework. The same limitations apply for administrative deprivation of liberty, in the practice of detention of immigrants, although this was still applied to a limited extent. Despite the existence of the Koppelingswet (Scholten, Van Zwol & Myjer, 2019), many municipalities throughout The Netherlands have a long existing infrastructure of emergency shelters for immigrants with a return order, the so called 'Bed-Bath-Bread shelters'. The Dutch government stopped financing these shelter accommodations in 2017 because a national provision was preferred. Since 2017, the COA offers shelter to 450 immigrants with a return order in the Freedom-Restricting Location (VBL) based in Ter Apel. This is conditional however, as immigrants must actively work with the DT&V to realise their return. In principle, a stay in the Freedom-Restricting Location is for a maximum of 12 weeks. This period can be extended indefinitely if there is a realistic prospect of departure (Scholten, Van Zwol & Myjer, 2019). If an immigrant with a

return order does not cooperate to realise return, the government can impose surveillance measures such as reporting to the police on a regular basis, confiscating of the person's passport or paying a deposit or deny access to shelter rights and return assistance altogether. In addition, if a risk assessment by the DT&V or the police shows that the immigrant with a return order may not comply with the planned deportation or is at risk of evading surveillance, the immigrant can be placed in immigration detention prior to the deportation (Scholten, Van Zwol & Myjer, 2019).

The cessation of funding from the central government has not resulted in municipalities ceasing to provide emergency shelters in the form of Bed-Bath-Bread locations. For the group of undocumented immigrants with no prospect to return to their country of origin, there is no alternative. The provisions set up by the central government will not receive them when there is no compliance to return from either the immigrant or their country of origin. Immigrants with a return order who do not cooperate with their return order have no right to shelter provisions in one of the eight LVVs on the basis that compliance with the return order is a necessary condition. If the country of origin does not comply, they cannot be returned and therefore they cannot cooperate with a return decision. Consequently, they also cannot receive shelter provisions. In addition, because of protection under international law, they cannot be detained for a prolonged period. In extreme cases they could also be detained in the VBL in Ter Apel, however this detention must be terminated where there are no longer any reasonable prospects for removal according to the Return Directive (Loubeyre & Fernandez, 2017). Despite this, the government estimates that number of foreign nationals with a return order who stay in the Netherlands for a long time is *"only a few percent of the total number of foreign nationals"* (Van Scholten, Zwol & Myjer, 2019, p. 7).

Many foreign nationals who use the Bed-Bath-Bread shelters have been in the Netherlands for a long time and a relatively high amount are struggling with medical and psychological problems (Winter et al, 2018). Municipalities indicate that providing Bed-Bath-Bread shelters is needed from the perspective of maintaining public order as well as from the perspective of humanitarian considerations (Winter et al, 2018). In terms of organisational structure and facilities, there are major differences across municipalities. Usually there are separate facilities for undocumented immigrants but in a small number of cases the shelters are combined with existing shelters for homeless people (Winter et al, 2018). In some municipalities there are only facilities for night shelters, while some municipalities offer 24-hour shelter facilities or a combination of both forms depending on the target groups, for example shelter facilities for women only (Winter et al, 2018). In all municipalities, the criteria for the intake of immigrants with a return order are similar and a person is eligible to stay in a shelter provision if the foreign national is residing legally in the Netherlands but is deprived of central government facilities

for reception, income and insurance. This is under the condition that the foreign national is actively and verifiably cooperating with the return order but cannot realize return within the 28-day time frame and is therefore not eligible for receiving shelter in central government facilities; or if the municipal council deems it unacceptable on humanitarian grounds for the foreign national to stay outside any form of shelter (Winter et al, 2018). In most municipalities, one of the criteria is also that immigrants must actively work with the DT&V to realise their return. In practice this criterion is not strictly monitored however (Winter et al, 2018).

2.4.7 Internal Policy: Shelter Rights for Irregular Immigrants in The Netherlands

The laws and practices in the EU are inspired by fundamental human rights and based in 'common European values'. A good example of how this works in practice is the creation of the European Social Charter (ESC) signed by Member States (European Social Charter, 2013), in which such common values are written down. The Netherlands signed the ESC and accepted the additional protocol of the ESC about the collective complaints procedure in 2006. By signing the protocol, a Member State authorizes the Council of Europe's European Committee of Social Rights (ESCR) to judge if the provisions as stated in the ESC are applied in an adequate manner (Slingenberg, 2015a). Judgements made by the ESCR are not legally binding but hold 'great weight' (Ulfstein, 2012), as the Committee of Ministers, with a two-third majority, draw up recommendations directed to Member States on how to apply the ESC in an adequate manner. Member States must then assume the correctness of the contents of the decision of the ESCR and can only disregard the decision if there are valid arguments against it (Ulfstein, 2012). Like with the interpretation of the precise implementation of the CEAS, the ESC leaves considerable discretion for the Member States to interpret application of provisions in the ESC (Slingenberg, 2015b). In practice, the ESC is often seen as an European threshold of which national laws cannot go below. This does not only apply to the control of the external borders of the EU, but also to how Member States apply European migration laws as formulated in the CEAS during the asylum and return procedures. Asylum policy is a very sensitive issue throughout the EU and the more complex or controversial an issue is, the more Member States lean towards non-compliance (Schmälter, 2018). The simultaneous development of policies, with the goal of stricter protection of the external EU borders and stricter regulating of immigration in Member States, are not always congruent with fundamental human rights agreed upon by EU Member States (van Houtum, 2010). In addition, it has the (side)effect of limiting access to international protection for migrants in the EU (Bigo & Guild, 2019). By leaving the precise implementation of the CEAS open to a Member States' own interpretation, differences in how Member States work around the upholding of these fundamental human rights are created. The subsequent 'race to the bottom' (Kvist, 2004) in the practical implementation of the CEAS, and even situations of non-compliance with the CEAS (Schmälter, 2018),

resulted in a high degree of vulnerability of immigrants during their migration journeys and sensitivities to specific the fundamental rights for immigrants at the external EU borders as well as in Member States themselves (Carrera, Den Hertog & Parkin, 2013).

Conditions for undocumented persons with irregular status are set up in such a way that they are as unappealing as possible, to try and dissuade immigrants to migrate towards The Netherlands (Fischer, 2017) (Winter et al, 2018). However, the policies implemented in this race to the bottom do not conform with the international human rights standards as agreed upon by EU Member States in the European Social Charter (2013). A demonstrable example in practice is how The Netherlands, by denying unconditional access to government provisions, violated the shelter rights of undocumented persons as set out in the Reception Conditions Directive in the CEAS (Schmälter, 2018). This was demonstrated by the decision given by the ECSR on 10 November 2014 regarding case 'AWB - 17 _ 13382 – Asylum seeker vs COA' (*Dutch Central Organ for sheltering asylum seekers*) (Slingenberg, 2015a). This decision was made after a complaint by the Conference of European Churches (CEC) against The Netherlands, 90/2013, made admissible on 1 July 2013. The CEC stated that *“the Dutch government has failed to fulfil its obligations under the European Social Charter to respect the rights of undocumented adults to food, clothing and shelter”* as well as *“that law and practice in the Netherlands is not in conformity with Article 13 § 4 (the right to social and medical assistance – specific emergency assistance for non-residents) and Article 31 § 2 (the right to housing – reduction of homelessness”* (European Social Charter, 2013). In article 13 § 4, it is stated that Member States must apply the provisions in the article on equal footing with the nationals to nationals of other Parties lawfully within their territories. This choice of wording means that persons in question do not need lawful residence but only need to be within the territory lawfully, which is an important difference. Since 2004, the ECSR has ruled that some rights derived from the ESC can, under certain circumstances, also be applied to persons residing unlawfully within the territory (Slingenberg, 2015b). In any case, unlawfully residing persons fall under the scope of the ESC article 13 § 4 and EU Member States must apply the provisions in the Social Charter on equal footing with nationals and nationals of other states lawfully residing within their territory. Since 2004, the ECSR also ruled that some rights derived from the ESC can, under certain circumstances, be applied to persons who are residing irregularly within their territory (Slingenberg, 2015b). Persons with an irregular status are thus not exempt from protection under European law. The ECSR in their verdict, following the complaint by the CEC against the Netherlands, decided that without exception all migrants staying in an irregular situation fall under the scope of article 13 § 4 of the ESC in regard to emergency assistance and under article 31 § 2 with regards to shelter rights (Slingenberg, 2015a). Reasoning behind this, is that access to necessary nutrition, clothing and shelter is closely linked to preserving the most fundamental human rights as well as

human dignity (Slingenberg, 2015a). This idea was invigorated by the Committee of Ministers, which stated that limitations in the scope of the ESC “(...) *do not relieve states from their responsibility to prevent homelessness of persons unlawfully present in their jurisdiction*” (Committee of Ministers, 2010). In addition, the law in the Netherlands states that an asylum applicant has shelter rights if the applicant is a third-country national or a stateless person who has made an application for international protection which has not yet been the subject of a final decision, regardless of the result of the final decision (Slingenberg, 2015b).

This fits the line of the previous decision by the Committee of Ministers, in which the limitations of the scope of the ESC were recognized but that “*this does not relieve states from their responsibility to prevent homelessness of persons unlawfully present in their jurisdiction*” (Committee of Ministers, 2010). In addition, the existence of the International Covenant on Economic, Social and Cultural Rights (ICESCR) obliges states to the progressive realization of socioeconomic human rights to the maximum of its available resources (Assembly, 1966). The Dutch government reacted to this with serious objection by stating that a clear provision in the ESC was ignored by the ECSR (Slingenberg, 2015a). The reaction by the Dutch government to question the legal assessment of the ECSR, together with the weak obligations imposed on the Netherlands following this verdict, means that international political and diplomatic consequences against the Netherlands are very unlikely (Slingenberg, 2015a). The verdict made by the ECSR thus had little to no influence on the central governments’ policy regarding undocumented migrants, or their actual situation. Still, the Dutch government states that: “*Third country nationals who are not are not entitled to a residence permit, for any reason whatsoever, or never applied for a residence permit are deemed illegal. They must leave the country.*” (Scholten, Van Zwol & Myjer, 2019).

On top of the already existing measures, or rather the lack of, regarding immigrants with irregular status, the Dutch liberal party VVD proposed a law to criminalise irregular status in the Netherlands. This was later repealed, however. The VVD stated the following on their website: “*We want to criminalise residing or helping someone to reside illegally in The Netherlands. We must be active in tracking down and expelling illegals. We also want municipalities to stop providing shelter to illegals. Because of this sheltering, there is no stimulant to leave The Netherlands. In fact: it encourages them to stay as long as possible in hope of getting a residence permit.*” (VVD, 2020). Criminalising irregularity would have a ‘signal function’; a ‘preventive effect’ which would “could discourage migrants from settling illegally in the Netherlands”; and a ‘deterrent effect’ which “may result in illegal immigrants already residing in the Netherlands to leave the country” (Kamerstukken II, 33512 nr. 3, 2013). This political point of view violates migrant’s social and economic rights as described in the European Social

Charter (2013), a treaty which “lays specific emphasis on the protection vulnerable persons such as elderly people, children, people with disabilities and migrants” (Council of Europe, 2020). This is in line with the general trend of the criminalisation of migration in the EU and with the EU policy responses to the challenges of immigration in general, which seem to be for a large part focused on border control and the removal and readmission of irregular migrants to their country of origin (Carrera et al, 2015).

3. Managing European Immigration

3.1.1 Managing Migration from an EU perspective

The development of EU wide common asylum and immigration policies among EU Member States has as its goal the harmonisation of the protection of asylum seekers and the protection of the EU's external borders (Guild, 2006). The latter seems to be generally favoured, as Member States appear to be committed to official and universal agreements on protection of asylum seekers and migrants on paper but simultaneously develop policies aimed towards (border)control that seem to be in opposition of these commitments (Pirjola, 2009). Moreover, some policies are even outright hostile towards migrants (Guild, 2006). In 2009, Pirjola noted that *"in spite of the fair words in the EU documents, the protection-related actions of the EU seem to be focused mainly on prohibiting admission and increasing control, instead of preventing human rights violations and providing protection"* (Pirjola, 2009, p. 350). It is expected that developments in international law and evidence from social science research produced in the last decade would form the basis of EU policies towards migration. However, previous research concludes that *"the EU (...) continues to refrain from acknowledging the findings of social science research, and instead persists in advocating migration control policies that give rise to multiple ethical and fundamental human rights dilemmas within the EU and outside it"* (Carrera & Merlino, 2009, p. 32). Not using results from practical experiences or social science research (Carrera & Merlino, 2009) means a mismatch between political goals and ambitions and the social realities regarding immigration challenges. In addition, despite harmonisation processes in EU migration law (Guild, 2006), so far as immigration from outside the EU is concerned, governments still prefer national policies to supranational ones (Stalker, 2002). The upholding of the European common values seems to be incorporated in the developing of European migration law (Crépau & Purkey, 2016). However, this does not seem to be true when looking at the recent developments in migration policy and in particularly the criminalisation of migration. This results in a gap between EU migration law on paper and how these laws are translated into migration policy. Ultimately, this undermines the EU's ability to deal with immigration challenges (Carrera & Merlino, 2009).

This discrepancy is a manifestation of the classic 'fact-value problem' between political philosophy and science (Putnam, 2002). The result is the empirical-normative split in the field of migration management, similar as the split identified by Rosenthal & Buchholz (2000) in the field of business ethics. They state that *"scholars who are interested in business ethics seem for the most part to have split into two camps"* (Rosenthal & Buchholz, 2000, p. 399) along the empirical-normative dichotomy.

In the field of international migration, this dichotomy can be found between the recent developments of EU Member States' migration policies and EU migration law. Policy makers who follow the empirical approach when researching migration focus on identifying and describing definable and measurable factors within individual and social contexts that influence behaviour. By attempting to describe and explain using established methodologies, complex social phenomena are shaped into measurable variables such as the Human Development Index, the Fragile States Index or the Visa Restrictions Index (McAuliffe & Ruhs, 2017). Law makers often follow the normative approach and focus on *"questions of what ought to be, how an individual or business ought to behave in order to be ethical"* (Rosenthal & Buchholz, 2000, p. 399) and develop standards by which practices can be evaluated. Examples are the 1951 Refugee Convention, the European Convention for the Protection of Human Rights and Fundamental Freedoms or the European Social Charter. In an ideal situation, there is a theoretical integration of both approaches *"involving alterations or combinations of theory, assumptions and methodology"* (Rosenthal & Buchholz, 2000, p. 400) or at least a symbiotic and practical relationship where the empirical and normative approaches rely on each other for agenda setting and the interpretation and application of research results (Treviño et al, 1999). In European migration this is not the case, illustrated by the recent developments throughout the EU (Schmälter, 2018). This leads to a parallel relationship. On one side, migration law, focused on upholding international protection, is becoming more harmonised at the supranational level through the creation of the CEAS. On the other side, Member States' politicians and policy makers at the national level focus on empirical indicators, such as the number of irregular border crossings, to the point where there is no consensus between Member States on how to incorporate the laws set out the in CEAS into national policy (Schmälter, 2018).

3.1.2 Empirical and Normative Approaches to Migration Management

In international law, including European Law, the normative approach is the dominant approach in the field, as it looks at the relation between the behaviour of states and circumstances under which international treaties and commitments are most likely to be observed (Thompson, 1967). As national values comprise the framework for policy making, standards for judging good and bad policy go beyond measuring effectiveness based on numbers. Rather, these standards are interdependent of evolving national interests and the link between ethics and context (Thompson, 1967). Under the normative approach, values and norms are singular but plural. Primary issues are influenced by secondary issues, and vice-versa, and *"the route to clarity and the beginnings of wisdom are not necessarily achieved through simplicity"* (Thompson, 1967, p.154).

In international studies, the empirical approach was the dominant approach in the field. Researchers can shape complex social phenomena into measurable variables to be used as argument for the creation of policies. However, for governments in a crisis situation it is difficult to identify the real issues between different parties (Thompson, 1967). When primary issues are clear, possible secondary issues arising are much more obscure. This is especially the case in international migration, as migration is influenced by many factors (Hagen-Zanker, 2008) and many actors besides governments (Aliu, 2012), in particular in the complex landscape of EU politics. Thompson (1967) states that governments cannot afford to negotiate in public when national prestige is at stake, which is in particular true for democratic societies where governments run the risk of losing voters by yielding points at issue or by justifying *“policy by proclaiming that it served wider international goals at the expense of vital national interests”* (Thompson, 1967, p. 153).

Within the field of European migration, there seems to be a complete split between politicians and policy makers favouring the empirical approach towards immigration issues and migration researchers and law makers favouring the normative approach towards immigration issues. Due to the developments in international migration and the growing complexity of the migration cycle, international migration can no longer be viewed as a simple, linear trajectory divided into departure, incorporation and return (Timmerman et al, 2010). Through the criminalisation of migration with the use of the empirical approach, the complex social migration issues are securitised, and immigration numbers are simultaneously simply transformed into a easily measurable variable: crime numbers. These immigration numbers are now crime numbers as well and are thus connected with a sense of increasing threat, emergency and insecurity for society (De Vries & Guild, 2018). This caused the EU and its Member States to easily adopt the perception of immigration as a threat to national security (Pinyol-Jiménez, 2012), further fueled by the political deadlock on how the reforms of the CEAS should be implemented caused by non-yielding Members States (Schmälter, 2018) and the political pressure, especially from far-right political parties (Van Houtum & Bueno Lacy, 2017), arising from the 2015 Refugee Crisis. While there is little relation to empirical developments of crime rates among immigrants, the degree to which immigrants are perceived as a threat to society appears to be the determining factor in criminalisation trends (Parkin, 2013).

The criminalisation of migration in the EU, through public discourse; the use of immigrant detention and the use of criminal law in migration management (Parkin, 2013), gives policy makers legitimisation to tackle European immigration through the empirical approach. Following the empirical approach by focusing on the number of arrivals and irregular border crossings, and in particular the number of irregular immigrants arriving by sea through the Western, Eastern and Central Mediterranean route

(European Commission, 2019), politicians and policy makers can circumvent politically sensitive normative issues, such as the ethical and fundamental rights dilemmas caused by more restrictive migration policies (Carerra & Merlino, 2009). In addition, politicians and policy makers can simultaneously concede to growing anti-immigration tendencies in European domestic politics. With this logic, lowering the number of immigrants, especially irregular immigrants, would reduce the threat to society and protect citizens. This gives the legitimisation for stricter migration policy. These developments in EU migration management, driven by the criminalisation of migration, create an oversimplification of international migration and transform a complex social phenomenon into a security issue based primarily on immigration numbers. However, just looking at decreasing immigration numbers as a successful outcome of policies which call for the constant reinforcement of border controls, tightening entry conditions and using criminal sanctions for migration offences overlooks many issues arising from these restrictive policies and gives insufficient attention to the humanitarian aspects (Bigo & Guild, 2019). Operations conducted by Frontex in particular represent a preventive means against illegal immigration without mentioning the humanitarian aspects of illegal immigration (Carrera, Den Hertog & Parkin, 2013). The need of securitisation of the external borders, not the protection of immigrants, drives the strategy of migration management. This creates a situation in which this protection of citizens requires the violation of the human rights of non-citizens (Bigo & Guild, 2019).

3.1.2 Criminalisation of Migration as a Deterrence

The goal of having more control over migration flows towards the EU through stricter border controls, restrictive policies, criminal sanctions for migration related offences and combating irregular immigration seems to be more of an aspiration than a reality (Castles, 2004). The EU claims that these policies are successful because arrivals of forcibly displaced persons to the EU have gone down. However, this 'success' comes at a high price as immigration is increasingly seen as a criminal offence and therefore immigrants as criminals and thus treated as such. Historically, criminal law and migration management were separate fields. Through the criminalisation of migration, the boundary between migration law and criminal law is increasingly blurred throughout EU Member States (Parkin, 2013). In most states, detention in the context of migration management was originally used as a last resort measure for individual cases. However, many states are currently using detention as a large-scale instrument and *"targeting specific categories of persons and leaving less scope for consideration of individual circumstances"* (Parkin, 2013, p. 16). This trend of criminalisation of migration raises questions about how scholars across disciplines should approach questions on 'crimes' of mobility (Bun et al, 2020), if criminalising migration can be understood within existing theoretical frameworks on

crime; punishment and society (Parkin, 2013); if policies that criminalise migration are effective in achieving their declared objectives (Castles, 2004) and if migration should be seen as a criminal offence at all (Bigo & Guild, 2019).

What kind of behaviour is seen as criminal by society is based on what behaviour is judged to be in violation of the prevailing norms and values in society. When behaviour is judged as criminal, a state may intervene to punish those who engage in criminal behaviour (Bun et al, 2020). The most common form of punishment for serious offences states use is imprisonment. Imprisonment aims at a combination of incapacitation, to remove the threat from society, and deterrence, to prevent people from engaging in criminal behaviour, to lower the crime rate (Bun et al, 2020). Policies which criminalise certain behaviour under penalty of imprisonment, or policies which increase sentence lengths for existing penalties, are based on the same expected effects of incapacitation and deterrence (Bun et al, 2019). Rational choice crime models view criminal behaviour as a purposeful choice based on a comparison of costs and benefits shaped by a potential criminals' beliefs, preferences and constraints (Becker, 1968). The idea that the crime rate can be reduced by raising the expected cost of criminal behaviour, the deterrence hypothesis, is based on the economic crime model (Becker, 1968) rooted in the rational choice theory. Based on this theory a criminal behaves "*in a calculated manner, considering the benefit of the illegal act together with the risk of apprehension and conviction as well as the likelihood and severity of potential punishment*" (Bun et al, 2020, p. 2305). The creation of policies which use criminal sanctions for migration offences follows the same logic: if the cost for the criminal behaviour, migrating in this case, is raised in comparison to the benefits of the criminal behaviour, less people will make the choice to engage in that behaviour. Following this logic, under the criminalisation of migration different processes alongside of migrant detention have all increased the cost of migrating towards the EU. In addition to a general increase of migrant detention in EU member states (Parkin, 2013), all recent developments in EU migration policy, including the increased risk of apprehension through stricter border controls (Crépeau & Purkey, 2016); the creation of spatially segregated border camps under the Hotspot approach (Van Houtum & Bueno Lacy, 2020); the lack of medical or judicial aid for irregular immigrants (Arbogast, 2016); stricter policies on return orders (Loubeyre & Fernandez, 2017); and denying unconditional access to shelter in accordance with international human rights (Winter et al, 2018), have all had the effect of increasing vulnerability and limiting international protection for immigrants in or en-route to the EU and thus also increasing the potential 'costs' of migrating.

Deterrence effects have received the most attention within literature and policy development in the context of international migration. This is unfortunate, since the different types of policy effects can

work in opposite direction, potentially cancelling each other out (Bjerre, 2017). A policy set out to increase the number of regular immigrants might result in increased numbers of irregular immigrants due to a general increase in immigrants. It can also work the other way around, a policy set out to decrease the number of regular immigrants might result in increased numbers of irregular immigrants due to more immigrants overstaying their visa (Djajic, 1999). In addition, the effect of using criminal sentences and the denial of international protection as a deterrence measure in migration control policy is questionable. This is illustrated for example by migrants who illegally cross the Mediterranean with knowledge of the mortal dangers en-route, but who are not dissuaded by this information and try to cross into Europe anyway. In addition, empirical studies on economic crime models provide mixed evidence on whether stricter law enforcement policies influence criminal activity at all (Bun et al, 2020).

How the criminalisation of migration may have an impact on immigration flows will depend on these perceptions of the immigration process by potential immigrants. Perceptions of Europe and the decision by potential immigrants to migrate to Europe are shaped within origin or transit regions (Timmerman et al, 2010) and not in Europe. Due to the externalisation of EU borders, the impact of EU migration policy is becoming increasingly important for non-EU countries. However, perceptions of Europe are usually studied from within the EU instead of from outside the EU, meaning the perceptions of Europe from a non-EU viewpoint remain largely unexplored (Timmerman et al, 2010). How the criminalisation of migration impacts the individuals targeted by these laws, policies and practices is not clear, as *“there is no systematic research that focuses specifically on the question of how criminalisation practices in different member states impact the socio-economic position, choices and legal statuses of migrants”* (Parkin, 2013, p. 18) and how the effects of criminal laws in the EU impact non-EU citizens are largely unexplored (Timmerman et al, 2010). If the aim of EU migration policy is (partly) to deter people to make the decision to migrate, it is important to look at how this decision-making process is shaped outside the EU. Likewise, as migration decision-making is a complex process shaped by local contexts and various contextual and individual factors, the influence of the perception of the immigration process on a potential migrants’ decision to migrate will depend on the context in which the decision is made (Timmerman et al, 2010).

For policy to deter criminal behaviour it must take into account what causes individuals to engage in criminal behaviour (Bun et al, 2020). Due to the complex nature of international migration (Pinyol-Jiménez, 2012), securing the external borders of the EU or deterring immigrants from trying to cross these external borders cannot be done by simply regulating or discouraging entry (Weiner & Münz, 1997) through the introduction of more restrictive and punitive measures focused on the

apprehension, detention and deportation of immigrants (Provera, 2015), or a general criminalisation of migration attempts (Carrera & Merlino, 2009). For EU migration policy to deter migration to the EU, it must take into account what causes individuals to migrate to the EU. If the aim of migration policy is to deter potential migrants to make the decision to migrate by influencing the potential cost of migration, it is necessary to also look at what influences the potential benefit of migration. In addition, if the goal of restrictive migration policies is to deter potential immigrants, it is important to not only measure its' effectiveness in terms of immigration numbers (Castles, 2004) but also in terms of how the immigration process is perceived by potential immigrants outside the EU (Wilson & Millar, 2007).

4. Motivations for International Migration

Since September 11, 2001, many western countries approach international migration as a security issue due to perceived terrorism risks. This has since been the most dominant approach, as also seen in the handling of the 2015 refugee crisis by the EU. However, the securitization of migration goes back much further (Castles, 2004). The development of effective migration policies is often negated by one-sided explanatory models of international migration and short-term narrow views of the migratory process (Castles, 2004). Besides the recent view of immigration as a security issue and a threat to society, countries are also concerned about the possible economic threat which international migration might create (Gheasi & Nijkamp, 2017). These threats are combined as policymakers argue that *“immigration is an economic burden, because immigrants may create social tension and increase criminality (Gheasi & Nijkamp, 2017, p. 2)”*. In the development of international migration policy, this is mostly reflected by the belief that through bureaucratic policies, the idea that stricter regulations on admission and residence effectively shape migration behaviour, and economic policies, the idea that individuals maximise their utility and change migration decisions if the cost-benefit equation changes, migration can be *“turned on and off like a tap by appropriate policy settings”* (Castles, 2004, p. 858).

Since 1992 and even more aggressively since 2005, the EU has developed a set of policies with the aim of externalising Europe’s borders so that forcibly displaced people never get to Europe’s borders at all. The aim is to *“identify and intercept potential transit migrants, prevent them from moving on to western Europe”* (Düvell & Vollmer, 2009). EU policies which interact with its neighbouring region are almost single-mindedly obsessed with migration control regardless of its costs for the region or for forcibly displaced persons. These policies involve agreements with Europe’s neighbouring countries to accept deported persons and adopt the same policies of border control, improved tracking of people and fortified EU borders. However, these agreements do not only target unwanted irregular migration from distant countries but also from countries neighbouring the EU external borders (Düvell & Vollmer, 2009). In practice, these agreements have turned Europe’s neighbours into Europe’s new border guards. These practises take place far outside of EU territory, so the impact is almost completely invisible to EU citizens and the media (Akkerman, 2018). Nevertheless, approaching international migration as a European security issue is a narrow and ultimately self-defeating concept of security because it does not tackle the root causes that cause people to migrate (Castles, 2004). While EU policies, in particular the externalisation of the EU border, put great focus on the geographical aspects of international migration, these policies are mainly developed to try to control migration flows. By identifying and closing migration routes to the EU, in addition to the development of supranational EU

migration control systems and increasing bilateral cooperation with non-EU countries (Düvell & Vollmer, 2009), the EU tries to prevent migrants from reaching the EU through certain regions rather than to tackle the root causes of why people migrate towards the EU from these regions. Many of these regions that are targets of EU border externalisation policies are located within countries that deal with fragile internal security and stability situations. The EU's one-sided approach focused on policies and measures to stop migration shows a disregard for the consequences this may have for the country or region targeted by these policies (Akkerman, 2018).

4.1 Developing Migration Policy

For the development of effective migration policy and to influence the migratory process through policy interventions it is necessary to view international migration as more than a security or economic issue but as a *“long-term social process with its own inherent dynamics”* (Castles, 2004, p. 853). This goes beyond crossing a border at a given time and includes *“the entire migratory process, starting from the initial movement right through to settlement, community formation and emergence of new generations in the immigration country”* (Castles, 2004, p. 853). To develop policies which effectively influence migration flows, it is necessary to identify the factors drive migratory processes and cause people to migrate. The theoretical discussion on human mobility and international migration is expanding rapidly, but there is not yet a holistic theoretical approach that covers the full complexity of migration processes (Gheasi & Nijkamp, 2017). However, it is possible to identify certain important factors for both the initiation of international migration and the development of migration policy. By identifying these factors, it is possible to separate the factors which can potentially be influenced by migration policy. Castles (2004) identifies three types of possible categories of factors which drive international migration based on relative importance: (1) factors arising from social dynamics; (2) factors linked to globalisation and transnationalism; and (3) factors shaped by political systems.

4.2 Globalisation, Transnationalism and the Local and Regional Contexts

European policies developed to regulate migration and the process criminalization of migration have seen large developments, in particular with respect to preventing illegal migration and readmission. Although policy approaches developed to mitigate the causes of outward migration have been on the EU agenda since 1992 (Crawley, Castles & Loughna, 2003), little progress has been made to address the causes of forced displacement or European immigration. In addition, the focus on preventing illegal migration appears to *“have undermined the momentum to address the root causes of forced migration to the EU”* (Crawley, Castles & Loughna, 2003, p. 1). The main focus in the EU and its member states'

migration and asylum policies have been on entry restrictions and control of migration flows despite the recognition of the need to focus on the underlying causes of migration (Crawley, Castles & Loughna, 2003). As concepts of rule of law, human rights and democratic processes function across borders, so does the impact of migration policy because both *“form the framework for political and legal development at a regional level”* (Timmerman et al, 2010, p. 2). While the EU is increasingly concerned with the local context in migration policies and bilateral agreements between the EU and neighbouring states, the focus is solely on the control of migration flows by influencing local security efforts to combat illegal migration (Loubeyre & Fernandez, 2017). Like migration flows and the effects of restrictive migration policies, the root causes of migration are too dependent on the local context (Timmerman et al, 2010). This local emigration environment consists of the social, political and economic context, as well as the nature of migration as a social and cultural phenomenon shaped by the local context (Timmerman et al, 2010).

Classical theories on international migration, which look to economic processes to explain migration, have focused on the impact of economic factors on international migration at regional levels. Neoclassical macroeconomic theory states that migration happens because of differences in economic development and differences in wages between countries and regions (Gheasi & Nijkamp, 2015). Neoclassical microeconomic theory expands on this by stating that migrants also take rational cost-benefit decisions, meaning that *“the greater the differences in expected returns to migration between the country of origin and the country of destination, the larger the dimension of migration flows will be”* (Gheasi & Nijkamp, 2015, p. 3). The straightforward explanation of international migration through neoclassical economic theory has strongly shaped public opinion and the development of migration policy (Massey et al, 1993). While there is no single theory which accurately explains international migration (Gheasi & Nijkamp, 2017), scholars agree that international migration is not solely driven by economic processes *“but also due to other numerous factors that sociologists identify in the form of push and pull factors”* (Gheasi & Nijkamp, 2017, p. 3). More important is the concept of migrant agency (Castles, 2004), as *“migrants are not isolated individuals who react to market stimuli and bureaucratic rules, but social beings who seek to achieve better outcomes for themselves, their families and their communities by actively shaping the migratory process”* (Castles, 2004, p. 860). This idea of achieving better relative outcomes through migration is reflected in the push-pull theory (Ravenstein, 1889). The push-pull model of human migration assumes that migration is not a random or chaotic phenomenon, but that it follows certain patterns, assuming that there is a market economy and freedom of movement. Motivation to migrate comes from a two-way component. First, the negative push factors in the origin location and secondly the positive pull factors in the new location. These factors may then be weighed

according to the costs and benefits of migration by every individual (Ravenstein, 1889), which will lead to migratory movement if the benefits outweigh the costs.

The push-pull model has become the dominant model in theories of international migration, because it is the most flexible. Additionally, it can integrate other theoretical insights besides economic and bureaucratic influences on migration into its model (Gheasi & Nijkamp, 2017). Push factors are factors which motivate or even force people to move from their country of origin to another country. Push factors include not only economic conditions such as global wage differences and poor economic opportunities in the country of origin, but also natural disasters, civil wars or regional conflicts (Gheasi & Nijkamp, 2017). Possible pull factors are phenomena such as selective migration policies to attract highly educated migrants, a higher standard of living and better employment and educational opportunities (Gheasi & Nijkamp, 2017). The dual labour market theory (Piore, 1979) includes economic mechanisms as possible pull factors due to higher wages and the need for *“unskilled and cheap migrants, because of labour market changes and demographic changes”* (Gheasi & Nijkamp, 2017, p. 4). Moreover, migration flows can also be shaped by pull factors which are not of socioeconomic nature such as existing migrant networks, postcolonial ties, language or cultural similarity (Gheasi & Nijkamp, 2017).

While state migration control efforts still follow a national logic (Castles, 2004), the weight of both push and pull factors in the migration decision are regionally depended. For example, the consequences of push factors such as natural disasters or civil wars are naturally more severe in the specific region they occur and within countries there can exist major economic and cultural differences. Pull factors can also be shaped by specific regions as, for example, certain regions with a large agricultural sector are dependent on seasonal migrant labour (Castles, 2004) and migrants' choices of routes and destinations are strongly influenced by existing social networks (Castles, 2004). Additionally, push and pull factors are not absolute or objective values in the decision-making process to migrate. Rather, people interpret the factors subjectively as people hold certain culturally constructed images of the world's regions (Timmerman et al, 2010). Theories of migration should be embedded in broader social and socio-economic theory, as changes in global economic and political relationships also result in changes in local contexts (Castles, 2010). Thus, understanding migration requires an understanding of how certain political, social and economic factors all shape the local context and influence the migration decision-making process. In addition, awareness of change usually starts at the local level. Therefore, it is important to link local-level experiences of migration with global processes of migration (Castles, 2010).

The New Economics of Migration (Stark, 1984) first introduced the importance of the local context in migration decision-making. Besides escaping hardships in a country of origin, the prospect of moving to a place with better opportunities in terms of work, education, political rights, human security and health care often strongly motivates people to migrate to certain areas (De Haas & Rodríguez, 2010). While scholars have engaged in promoting a greater understanding of the universal value of human right principles in international migration, less attention has been paid to examining how these rights become relevant to individuals and communities (Aguilar, 2008). The core assumption is that perceptions of human rights and democracy, migration aspirations and migration decisions are structured by various discourses and are culturally and socially embedded (Stark, 1984). In addition, these perceptions formed at the local level discourses will influence the perceptions at the individual level and through that the potential decision to migrate (Timmerman et al, 2010). The local context thus plays a central role in the migration decision-making process as *“imagination of the qualities of certain places in the world, the people inhabiting these places and the existing social, political and economic possibilities characterizing these places significantly contributes to the decision to migrate and where to migrate”* (Gregory, 1994, p. 180). Castles (2004) model of drivers for international migration indicates, that besides the socially and culturally shaped local context in both the communities in a country of origin as well as local communities in migrant-receiving countries, potential migrants' views of the social, political and economic context are the most influential in the migration decision-making process (Castles, 2004). According to the push-pull model for international migration (Ravenstein, 1889), this means for EU immigration that views of how an immigrant is treated and which economic opportunities an immigrant has in an EU country relative to the country of origin are the two main factors for shaping the local migration context and thus influencing the decision to migrate. These dimensions are displayed in figure 1. In this chapter, hypotheses about the effects of how migration aspirations are affected by the influence of push and pull factors on the local migration context will be formulated.

Figure 1. Motives for international migration

Migration motives		
	Non-Economic	Economic
Pull	Environmental and Social context in EU	Economic Opportunity in EU
Push	Environmental and Social context in CoO	Economic Opportunity in CoO

4.3 Political Systems and the Perception of Treatment Conditions

The criminalisation of migration has embedded the idea that uncontrolled immigration is a criminal phenomenon which must be dealt with into European politics and migration policy (De Vries & Guild, 2018). Many instruments have been developed which are restrictive and punitive towards immigrants (Provera, 2015) in order to control and prevent migration towards Europe. Most notable are administrative detention for irregular immigrants (Leerkes & Broeders, 2010), criminal sanctions for migration 'offences', criminalisation of illegal status (Parkin, 2013) and diminishing access to international protection and legal assistance for irregular immigrants (Bigo & Guild, 2019). Although seldom pronounced explicitly, these instruments are used to create a deterrence effect for potential immigrants (Bjerre, 2017) (Leerkes & Broeders, 2010). The idea is that these developed instruments work by lowering the expected return of immigration to the EU, which makes it less attractive for potential immigrants to choose migration towards the EU. This is in particular true for administrative detention, which is formally not a punishment but merely an administrative measure, which can be experienced as a punishment worse than regular detention, as the level of deprivation and separation from society are higher and legal protection lower (Leerkes & Broeders, 2010). The result is that *“the perceived threat of administrative detention is meant to deter potential unwanted migrants from violating migration and residence laws, just as the threat of criminal detention is supposed to suppress criminal behaviour in the non-criminal population”* (Leerkes & Broeders, 2010, p. 836).

The concept of deterrence effects in immigration policy and law is implicitly inherent in the classical functional push-pull theory. Within this line of theory, people are expected to move as a function of the costs and benefits associated with moving in accordance with the maximisation of net lifetime returns (Gheasi & Nijkamp, 2017). Leerkes & Broeders (2010) state that the use of administrative detention is not only *“intended to increase the pressure on detainees to leave the country and cooperate with the expulsion procedure, just as criminal detention is intended to pressure criminals into law-abiding behaviour”* (Leerkes & Broeders, 2010, p. 836), but also to *“deter potential unwanted migrants from violating migration and residence laws, just as the threat of criminal detention is supposed to suppress criminal behaviour in the non-criminal population”* (Leerkes & Broeders, 2010, p. 836). Administrative detention is only one instrument developed, but it is characteristic for the instruments developed within the European process of the criminalisation migration. Other restrictive and punitive instruments follow the same logic that by raising the expenses of immigration to the level of irregularity, which gives states the legitimacy to treat potential immigrants as potential criminals, it is expected to deter irregular immigration and to stimulate irregular immigrants to return. Another example of this phenomenon is the case of whether food and shelter should be provided to irregular migrants who have had their asylum application rejected, which has been a point of debate for many

years in the Netherlands. This debate is mainly centred around receiving-country based push-pull models (De Haas, 2011). In the same way as the use of administrative detention is used to deter potential immigrants, the denial of shelter rights and international protection is not a formal punishment. Rather, it is used as an instrument to make irregular migration less attractive. The main argument is that providing shelter to undocumented migrants would make The Netherlands more attractive for migrants with a small chance of successfully receiving asylum, thus creating an extra 'pull factor'. To try to abolish this extra pull factor the Dutch government would not give irregular migrants emergency assistance if they became undocumented, legitimised with the argument that undocumented migrants could solve their need for emergency assistance by returning to their country of origin (Fischer, 2017). The criminalisation of migration leads to worse treatment conditions for immigrants, to the level of equal or even worse to criminals, as first EU member states together are afraid that positive treatment conditions for immigrants in the EU will attract more immigrants in general. Additionally, individual EU member states are afraid that more positive treatment conditions for immigrants relative to other EU member states will attract relatively more immigrants to their country. In line with the push-pull theory on international migration (Ravenstein, 1889), the expected effect of perceived treatment conditions for immigrants in the EU on potential immigrants is hypothesised as follows:

1. *More positive perception of treatment conditions in the EU among potential immigrants will lead to a higher chance of having migration plans towards the EU among potential immigrants*

The perception that the countries of the EU offer a high level of peace and public order is undoubtedly an attraction (Castles & Miller, 2003), however it is also relative to the current situation in the country of origin. In particular, the prospect of democratic institutions and effective protection under law can create an attractive pull factor for those who have been persecuted by their own governments or for individuals or groups that the government is unwilling or unable to protect (Castles & Miller, 2003). Research by Castles, Loughna and Crawley (2003) indicates that forced migration is generally a survival strategy in the face of threats to human security. Repression, discrimination of minorities, human rights abuse, civil wars, ethnic conflict and the number of Internally Displaced Persons (IDPs) relative to the population are the leading push factors for immigrants (Castles, Loughna & Crawley, 2003). Push factors are not only limited to situations of natural disasters, conflict or civil war, but can also relate to more permanent or continual situations of undesirable conditions. While there is no direct link between empirical indicators of underdevelopment like the general Human Development Index (HDI) score, life expectancy, population density and adult illiteracy rate and immigration flows towards the

EU, underdevelopment is a crucial factor in precipitating indicators of conflicts, which are the best predictors of outflows of forced migrants (Castles, Loughna & Crawley, 2003). In addition, underdevelopment in areas of health and education caused by inefficient administration, corruption and authoritarian rule is linked to “*a limited capacity to achieve future development*” (Castles, Loughna & Crawley, 2003, p. 24). Merton & Merton (1968) describe this as 'relative deprivation': a situation where individuals set certain goals for themselves and devise strategies to achieve these goals but are unable to reach these certain goals. By using certain strategies to achieve the corresponding goals, individuals are trying to provide a stable source for a positive self-image (Merton & Merton, 1968). If achieving the set goals and this positive self-image is threatened, this will lead to stress. This higher stress level causes these individuals to try and adapt their strategies to still achieve the set goals (Merton & Merton, 1968) and restore their positive self-image. In the desperate struggle to alleviate the feeling of relative deprivation, it can sensitise individuals to incorporate deviant activity into their strategies (Webber, 2007). This effect is intensified in recent years due to increases in communication technology and the emergence of social media (Castelli, 2018). The ease of communication with the diaspora of family members abroad and the increased exposure to living conditions in other parts of the world contributes to the desire of escaping poverty and builds “*the myth of western countries as Eldorado*” (Castelli, 2018, p. 6). In line with the push-pull theory on international migration (Ravenstein, 1889), the expected effect of the perceived general living conditions in the country of origin for potential immigrants is hypothesised as follows:

2. *More positive perception of general living conditions in the country of origin among potential immigrants will lead to a lower chance of having migration plans towards the EU among potential immigrants*

4.4 Perceptions of Economic Opportunity

In examining the factors that cause people to migrate, the existence of conflict in a country is the primary underlying cause of forced migration to the EU. In contrast, economic factors appear to be less significant factors (Castles, Loughna & Crawley, 2003). However, not all immigrants who arrive in the EU have migrated from areas with active conflicts. In addition, even those who are fleeing violence or persecution have some degree of control over their migratory process and choice of final destination (Castles, Loughna & Crawley, 2003). Besides social and political factors, economic factors play a major part in the migration decision making process, even for those who are genuinely in need of protection (Castles, Loughna & Crawley, 2003). Globalisation in the 21st century and the effects it has on the world economy, such as the demand for labour and migration laws may affect international migration,

in particular influences the choice for certain destinations (Hagen-Zanker, 2008). The fundamental shifts in economic processes and political and military power relationships are closely interwoven with shifts in social relationships (Castles, 2010). Within the push-pull theory, the prospect of better economic opportunity can be a strong pull factor for many immigrants (Piore, 1979). This is prompted by the relatively strong economies and developed welfare and health systems of EU member states compared to an immigrant's country of origin, which offer the chance of reasonable living standards for immigrants from countries with high degrees of inequality, low economic opportunity and war-devastated economies (Castles, Loughna & Crawley, 2003). In the migration decision-making process, economic factors play a significant role, demonstrated by four large economic theories that explain international migration which have been developed during the 20th century (Gheasi & Nijkamp, 2017).

The first theory is the neoclassical approach, which attempts to explain international migration through macroeconomic and microeconomic theories (Lewis, 1954). Neoclassical macroeconomic theory focuses on international labour migration and indicates that international migration is driven by a continuous process of global inequality in economic development and wage differences (Lewis, 1954). In line with the push-pull theory on international migration, individuals strive to maximise their income by migrating to regions or countries with higher wages. Neoclassical microeconomic theory expands on this process by assuming that *"labour migration happens not only because of wage differences, but also because migrants take a rational cost-benefit decision (...)"* and that *"(...) this cost-benefit estimation relates to the personal intention and personal characteristics"* (Gheasi & Nijkamp, 2017, p. 3). In short, the size of the international gap in wage rates is directly related to the volume of international migration over time and across countries accordingly. Later models of neoclassical theory on international migration suggest that it is not the absolute wage gap that influences the migration decision-making process among potential migrants, but rather the expected earnings gap (Massey et al, 1993).

The second approach is the New Economics of Migration theory, which also starts from a cost-benefit estimation to explain why people migrate. It expands on this estimation by indicating that migration is a family-based decision (Stark, Blackwell & Ghatak, 1991). The New Economics of Migration focuses on the household or family as the relevant decision-making unit instead of the individual (Gheasi & Nijkamp, 2017). According to this principle, people do not only migrate to maximize their own individual income but also as a response to income risk and failures in a variety of markets. In developed countries, these risks to household income are generally minimised through institutional methods such as governmental policies or private insurance. However, in developing countries these institutions are often lacklustre, absent or inaccessible to the poor (Massey et al, 1993). In those

situations, migration by one member of the household or family is a legitimate strategy to minimise income risks, as families are in a better position to control income risks than individuals by diversifying the allocation of household resources (Gheasi & Nijkamp, 2017).

The third economic approach to explain international migration is the Dual Labour Market theory. This theory, introduced by Piore (1979), is distinctly different from the neoclassical and new economics approaches, because it does not focus on rational choice within the migration decision by individuals or households. Rather, the Dual Labour Market theory focuses on the labour demands of modern industrial societies as the main driver of international migration (Massey et al, 1993). The focus lays on the demand side of international economics. Therefore, Piore (1979) states that it is not the push factors in sending countries, such as low wages or high unemployment, but the pull factors in receiving countries, in the form of a permanent demand for immigrant labour, that drive international migration (Massey et al, 1993). In contrast with neoclassical theory, the demand for labour in modern industrial societies is permanent according to the Dual Labour Market theory due to labour market changes, demographic changes and the reduced social appreciation of low-paying jobs. Therefore, labour migration can occur without an existing wage gap between sending and receiving countries. Moreover, the demand for immigrant labour can reduce the wage gap between sending and receiving countries as a result of an increase in the supply of immigrant labour (Massey et al, 1993). Another approach, based on the World Systems theory (Wallerstein, 1974), expands on the Dual Labour Market theory by stating it is not just the demand for labour in modern industrial societies that drives international migration, but rather the structure of the capitalist global economy (Massey et al, 1993). According to the World Systems theory, international migration is regarded as *“a natural outgrowth of disruptions and dislocations that inevitably occur in the process of capitalist development”* (Massey et al, 1993, p. 445). Migration flows are generated because land, natural resources and labour come under the influence and control of global markets. As these products are moved across the globe, migration flows are inevitably generated as they follow the movement of these products (Massey et al, 1993).

The final economic approach to international migration is the Migration Systems theory (Fawcett, 1989). This theory combines the various propositions of the economic theories mentioned above and expands on these by suggesting that international migration flows *“acquire a measure of stability and structure over space and time, allowing for the identification of stable international migration systems”* (Massey et al, 1993, p. 454). These international migration systems are characterised by the relatively intense exchange of goods, capital, labour and information (Gheasi & Nijkamp, 2017) between a core receiving region and a set of specific sending countries (Massey et al, 1993). The Migration Systems approach integrates macroeconomic and microeconomic approaches to international migration and

considers these dynamic processes in which regions are connected by various linkages. When conditions change due to social change, economic fluctuations or political turmoil, so do migration systems and countries may join or drop of a migration system as a response (Gheasi & Nijkamp, 2017). In addition, migrants can establish and develop their network in receiving countries within migration systems. These networks then act as a possible pull factor by encouraging immigrants to move to a specific receiving country. Through the influences of the experiences and social capital of their networks, this increases the expected return of the decision to migrate (Gheasi & Nijkamp, 2017).

Although the influence of economic factors differs according to different economic theories on international migration, economic factors undoubtedly play a significant role in international migration. The various theories are not mutually exclusive and can all play a role in the migration decision-making process in the form of various push and pull factors (Massey et al, 1993). Within the push and pull model of international migration, both individuals and households can engage in cost-benefit considerations and these considerations are dependent on the socioeconomic context. In turn, this context is determined by structural factors at both the national and international level (Massey et al, 1993). In addition, migrants are not a homogenous group and many differences in personal characteristics such as age, socioeconomic status and gender exists within migrant groups. These differences can influence the relative importance of economic push and pull factors in the decision to migrate (Gheasi & Nijkamp, 2017). More importantly, the socioeconomic context differs greatly between potential migrants due to differences in available human capital, and their households, and due to differences in access to income-generating resources, such as land (Massey et al, 1993). Economic push and pull factors of international migration can therefore not realistically be measured in absolute numbers such as a wage-gap, because levels of wages differ between sending countries as well. There, the expected economic returns of migrating should be considered as a predictor for international migration (Massey et al, 1993). In line with the push-pull theory on international migration (Ravenstein, 1889), the expected effects of the perceived economic opportunity in the EU and the country of origin for potential immigrants are hypothesised as follows:

3. *More positive perception of economic opportunity in the EU among potential immigrants will lead to a higher chance of having migration plans towards the EU among potential immigrants*
4. *More positive perception of economic opportunity in the country of origin among potential immigrants will lead to a lower chance of having migration plans towards the EU among potential immigrants*

4.5 Migration as a Gendered Process

The migration of women has always been a fundamental part of international migration, but due to processes of globalisation it is becoming even more important. 49% of international migrants in 2000 were women or girls, both as part of worker flows and as part of the flows of forced migrants (Martin, 2004). Literature shows the importance of the local context in the migration decision-making process. Personal identities shape migration networks and their characteristics, which both influence and are influenced by global changes brought about through migration. These changes, in turn, influence cultural norms and behavioural expectations about personal identities, in particular gender relations (Curran & Saguy, 2001). The structuring of and changes in (gender)identity formations can have a large impact on how resources are distributed in different societies and how cultural forms of organisation are shaped, which in turn influences migration patterns. Gender identities not only motivate migration differently, but migration networks also reinforce these identities. This supports the construction of divergent migration patterns for men and women based on gender identity (Curran & Saguy, 2001). While women are obviously not a minority in numerical terms, they often experience a disproportionate lack of representation in both society and politics. In addition, women face specific protection challenges and remain particularly under-represented in scientific research (Commission of the European Communities, 1999). This is also the case in studies on international migration, despite indications by recent research that women and men have different migration patterns (Timmerman et al, 2010). Statistics on international migration are often published without correct and reliable classifications by sex or age, making it difficult to assess the full implications of international migration as a gendered process (Martin, 2004).

Gender perspective is an essential aspect to understanding the process of international migration (Martin, 2004), and gender is becoming a more studied subject. The EU strives for better integration of the gender dimension in research and innovation projects and calls for the integration of the gender dimension into research and innovation content (Schiebinger & Klinge, 2020). Considering sex, gender and intersecting factors will add to the in-depth understanding of people's needs, behaviours and attitudes (Schiebinger & Klinge, 2020). Thus, treating international migration as a gendered process adds to the understanding of international migration. As more and more women are taking part in most areas of economic, social and political life, the socio-economic contexts which can influence the migration decision-making process also changes through various processes such as *"the evolution over time of men's and women's conditions, the situation of women on the labour market and in terms of social exclusion and integration, the prospects opened up to women by new models of development including the promotion of women as entrepreneur, and the place of women in emerging systems of governance and citizenship"* (Commission of the European Communities, 1999, p. 14). In the field of

migration, researchers recognize that there are *“significant differences between men and women in terms of motivations, risks, and norms governing and promoting their movement and assimilation, as well as differential consequences”* (Curran & Saguy, 2001, p. 54).

Gender inequality can be a deciding factor in the migration decision-making process when women have political, social and economic expectations that do not match their opportunities in their country of origin (Martin, 2004). Specific social norms and corresponding social constraints embedded in the local context can limit women’s agency disproportionately relative to men’s agency in the migration decision making process. This discrepancy can lead to gendered imaginations, gendered migration aspirations and a gendered migration decision-making process (Akkerman, 2018). In addition, many immigrants who arrive in the EU are forced migrants who move away from areas or countries where a conflict exists. In such areas, and especially in ethnic conflicts and internal or civil wars, discrimination against women and gender-based violence often plays a major part in the conflict (Castles, Loughna & Crawley, 2003). These forms of discrimination and violence are *“often exacerbated and/or justified on the basis of social norms and mores regarding women’s behaviour and status in society”* (Castles, Loughna & Crawley, 2003, p. 18). Immigrants face specific challenges at every step of the migration process, and women and girls, especially those who are forcibly displaced, face increased risks of sexual violence, exploitation and harassment (Akkerman, 2018). The ongoing process of criminalisation of migration and border securitisation in the EU exacerbates these risks, as the goal of broadly excluding undesirable immigrants often leads to situations with increased risks of violence against women (Akkerman, 2018). This is not only evident during the migration process, as a significantly larger percentage of women in administrative detention in the EU report feelings of unsafety during their period in administrative detention compared to men (Leerkes & Broeders, 2010). Moreover, the development of restrictive immigration policies in the EU has also given rise to a growing industry of human-trafficking, which mainly affects women and children (Castles, 2010). A person’s gender can have a significant influence on the human agency of that person in the migration context. In addition, migrating tends to be a riskier endeavour for women than for men because of imposed social structures or individual risks assessment. As women run significantly higher risks of experiencing gender-based violence, harassment and becoming a victim of human-trafficking in both prior and during the migration process, a net positive outcome from making the decision to migrate becomes harder to achieve for women compared to men. In line with the push-pull theory on international migration (Ravenstein, 1889), the expected effect of gender on the relation between the perceived treatment conditions for immigrants in both the EU and the country of origin on the chance of having migration plans towards the EU among potential immigrants are hypothesised as follows:

5. *The effect of the perception of treatment conditions in the EU among potential immigrants on the chance of having migration plans towards the EU is weaker for potential immigrants who identify as female than for potential immigrants who identify as male*
6. *The effect of the perception of treatment conditions in the country of origin among potential immigrants on the chance of having migration plans towards the EU is stronger for potential immigrants who identify as female than for potential immigrants who identify as male*

Globalisation processes have a large influence on patterns of economic migration, as more women migrate independently as labour migrant instead of migrating with or dependent on male partners or relatives (Martin, 2004). Processes of labour force restructuring driven by globalisation, create new labour market segmentations. Within these segments, the chances of getting jobs do not only depend on a person's human capital, but also on their gender identity, ethnicity, origin and legal status (Castles, 2010). In addition to the social and political conditions, economic conditions can shape a migrant's agency and thus also provide the context in which the migration decision-making process takes place. However, the social context, and especially cultural norms and behavioural expectations related to gender identities, can also hamper women's access to resources and educational opportunities. This can in turn negatively affect women's agency in the migration decision-making process (Martin, 2004). In situations where families or households choose migration by one member of the family or household as a strategy to minimise income risks (Gheasi & Nijkamp, 2017), gender norms and gendered family roles are decisive in who migrates (Martin, 2004).

Historically, women have tended to participate in the labour force up to the time of their first birth, or to a lesser extent after children had grown, and to earn supplemental income for themselves or their families (Massey et al, 1993). In recent years, due to rising divorce rates and changes in social status of women's work, female labour force participation is on the rise in both developed and developing countries. However, globalisation has also brought foreign-owned factories into regions considered economically peripheral (Massey et al, 1993). These factories brought growth to both the informal economy and the economy of the domestic-service and care-worker sector, which frequently employ women under highly exploitative conditions (Castles, 2010). This undermines the local economy by mass producing goods that compete with locally made goods, while at the same time feminising the workforce by socialising women for industrial work and modern consumption. The resulting lack of employment opportunities for the male workforce creates a population that is socially and economically uprooted and prone to migration (Massey et al, 1993). In line with the push-pull theory on international migration (Ravenstein, 1889), the expected effect of gender on the relation between the perceived economic opportunity for immigrants in both the EU and the country of origin on the

chance of having migration plans towards the EU among potential immigrants are hypothesised as follows:

7. *The effect of the perception of economic opportunity in the EU among potential immigrants is weaker for potential immigrants who identify as female than for potential immigrants who identify as male*
8. *The effect of the perception of economic opportunity in the country of origin among potential immigrants is stronger for potential immigrants who identify as female than for potential immigrants who identify as male*

5. Data and Operationalisation

Data from the EUMAGINE project (Timmerman et al, 2010) will be used to test the hypotheses formulated in the previous chapter. The EUMAGINE project is a European research project funded by European Commission under the Seventh Framework Programme and carried out in collaboration with universities across the EU, the United Kingdom, Norway, Turkey, Morocco, Ukraine and Senegal. A total of eight institutions have contributed to the research, namely: *University of Antwerp, Belgium; Centre on Migration, Policy and Society (COMPAS) and International Migration Institute (IMI) from the University of Oxford, United Kingdom; Peace Research Institute Oslo (PRIO), Norway; Koc University, Turkey; Université Mohamed V Agdal (UMVA), Morocco; Centre of Sociological Research (CSR), Ukraine; and Université Cheikh Anta Diop (UCAD), Senegal*. The composition of the project team safeguards that the EUMAGINE project is interdisciplinary and the collected data of non-Eurocentric in nature (Timmerman et al, 2010).

During the project, researchers from these institutions studied how Europe, and more specifically the EU compared to other migration destinations, is perceived from outside the Europe. In addition, the specific focus on perceptions on democracy and human rights, and subsequently how such perceptions influence migration attitudes, aspiration and decision-making is included (Timmerman et al, 2010). As formulated by the researchers, the 'ultimate' goal of the project was *"to study the relation between perceptions of migrant and non-migrant individuals from source countries on human rights and democracy at the local, regional, national and international level on the one hand and migration aspirations and migration decision-making on the other"* (Timmerman et al, 2010, p. 1).

As the EU considers democracy and human rights central features in its legislation and policymaking, which include its international, migration and asylum policies, it is valuable to study the links between the perceptions of democracy and human rights and the migration decision-making process (Timmerman et al, 2010). While such perceptions are usually studied from within Europe, and thus only explore the viewpoint of people who already migrated, the EUMAGINE project is unique in including the perceptions of non-migrants. By collecting data outside the EU, the EUMAGINE project can not only draw from data collected among potential migrants but also from an essential control group, namely the non-migrant. The starting point of the EUMAGINE project is that by analysing and comparing a diversity of local contexts, it is possible to make analytical generalisations on how these perceptions of Europe are formed and how these perceptions possibly influence migration decisions (Timmerman et al, 2010). The specific focus on the local contexts, emigration environment in different regions around Europe and the characteristics of the themes which are leading for the survey

questions, ensures that the data from EUMAGINE is a good fit to answer the research questions of this study. The aim while collecting the data was to survey a representative random sample of 8000 respondents, in the form of 500 respondents from a total of 16 regions. This large total number of respondents surveyed during the project ensures that analytic results based on the EUMAGINE dataset have a high degree of statistical reliability.

5.1 Data collection

The data collected by the abovementioned institutions during the project consisted of three main methodological components. Researchers first undertook ethnographic fieldwork, which was then expanded by a large-scale quantitative survey and followed up by semi-structured qualitative interviews, directed by an interview guide, with selected survey respondents (Ersanilli, Carling & de Haas, 2011). To test the hypotheses as formulated in the previous chapter, the data from the individual questionnaire collected from the large-scale quantitative survey is used. The research design and the final content of the questionnaire were prepared in collaboration with the eight research institutions affiliated with the EUMAGINE project.

In order to collect data from a diversity of local contexts relevant to the EU migration environment, the selection of respondents was done based on a sample in two parts. In the first part, four countries were selected for the EUMAGINE project, namely: Morocco, Senegal, Turkey and Ukraine. These four countries were selected based on the criteria that the country is: (1) the source and transit countries of substantial migrant populations in Europe; (2) attraction poles outside Europe's external borders for migrants coming from farther away relative to Europe; (3) the source countries of both regular and irregular migration; (4) and have specific human rights and democracy situations. (Ersanilli, Carling & de Haas, 2011). After the selection of countries, four types of locations were selected within each country to reflect the diversity within each country. These locations were carefully selected based on information provided by local partners. In each of the four country, one region is selected based on high-emigration rates; one region which is comparable to the first but with low-emigration rates, one region with a strong immigration history, and one region with a specific human rights situation (Ersanilli, Carling & de Haas, 2011). Table 2 shows the regions selected for data collection.

Table 2. Selected research areas in the EUMAGINE project. Source: EUMAGINE (Timmerman et al, 2010).

Morocco	Senegal	Turkey	Ukraine
Todgha Valley	Darou Mousty	Emirdağ	Zbarazh
Central Plateau	Lambaye	Dinar	Znamyanska
Tanger	Golf Sud	Fatih	Solomyansky
Tounfite	Orkadiere	Van Merkez	Novovodoloaz'ka

In the second part, the selection of respondents is based on a representative sample of 500 respondents with the age of 18 to 39 within each selected region. This population has the highest probability to perceive migration as a possibility (Timmerman et al, 2010). To select respondents the researchers used a stratified cluster with random walks (Ersanilli, Carling & de Haas, 2011). Selected regions were first stratified according to sub-counties and a rural-urban dimension and then given fifty batches of ten interviews with fixed intervals according to the relative size of strata. Further selection is based on clusters, in the form of neighbourhoods and villages. Within these clusters, households were chosen based on a random walk. Within the selected households, respondents were randomly chosen from all household members belonging to the target population and those aged 18 to 39, weighted based on a selection probability for the within-household selection (Ersnailli, 2012). Selected respondents were then questioned face-to-face with structured questionnaires. Selection of respondents in each region continued until a total of 500 interviews were completed (Ersanilli, 2012). There is a large amount of variation in response rates between the selected regions due to numerous reasons such as occupancy rate (*vacant houses during the survey period*), social structures (*support from local chiefs*), language barriers or differences in the size of households (Ersanilli, 2012). Between the selected regions, there is a strong variation in the number of households contacted to achieve the desired 500 respondents, as shown in table 3 below. The total response rate in all regions combined is 59.05%. Table 3 shows the total response rates for each selected region.

Table 3. Response rates by selected region, absolute and % of contacted households. Total= 59.05%. Source: EUMAGINE (Timmerman et al, 2010).

Morocco	<i>Contacted households</i>	Senegal	<i>Contacted households</i>	Turkey	<i>Contacted households</i>	Ukraine	<i>Contacted households</i>
Todgha Valley	829 60.31%	Darou Mousty	501 99.8%	Emirdağ	2495 20.04%	Zbarazh	1324 37.76%
Central Plateau	-	Lambaye	510 98.04%	Dinar	1751 28.56%	Znamyanska	1441 34.7%
Tanger	861 58.07%	Golf Sud	556 89.93%	Fatih	2127 23.51%	Solomyansky	3233 15.47%
Tounfite	517 96.71%	Orkadiere	512 97.66%	Van Merkez	607 82.37%	Novovodoloaz'ka	1657 30.18%
Total	71.7%		96.36%		38.62%		29.53%

Since the EUMAGINE data is not based on a Simple Random Sample, the calculation of selection weights to account for differences in selection probability could be beneficial for the generalisation of results. However, in all selected regions there is no exact knowledge on the number of households within selected villages and reliable information on the composition of households is also lacking. Without this information it is of no value to introduce post-stratification weights, which means the data used in the analysis in this research will not be weighted (Ersanilli, 2012).

5.2 Data selection

To answer the research questions with as much accuracy as possible, and to correctly interpret the results from the analysis based on the EUMAGINE data, it is important to select the relevant respondents from the dataset. Missing data is common in social science research and dealing with missing data is thus an important part of the data selection. Multiple methods are available to deal with missing values in datasets. Choosing the right method depends on the nature of the missing values. Traditionally, and most commonly, researchers chose to drop all observations in the dataset wherein at least one variable contains missing values. This process is called listwise deletion (Pepinsky, 2018). Ideally, the method chosen to deal with missing data preserves as much information as possible from the collected data. Listwise deletions is inefficient in preserving data however, and often biased based on the nature of certain missing values (Pepinsky, 2018), when for example social desirability plays a role in answering an interviewer.

Within the EUMAGINE dataset this is not the case however, as most missing values arose because no answer was given (*code 999: refusal*), the interviewer made a mistake (*code 789: interviewer error*) or closed-ended questions were answered with “*don’t know*” (*code 888*) (Ersanilli, 2012). This suggests that some of the same problems that cause the large variation in response rates, such as cultural context, social desirability or suspicion of interviewers (Ersanilli, 2012), caused some respondents to not understand the interview or caused uncooperativeness among respondents who were taking the interview. Answers from these respondents are likely highly unreliable and this suggests that the missing data are missing not at random, as the pattern of missingness depends on the missing data itself but cannot be predicted using the observed data in the dataset (Pepinsky, 2018). Pepinsky (2018) states that in the case where the data are missing not at random, listwise deletion provides results which are more efficient, less biased and have better coverage of the target population compared to other methods. The data of the respondents with missing values are thus removed with listwise deletion from the dataset. The total number of respondents (N) left in the dataset is 7565. The paragraphs below will explain in detail how the selection of respondents and the final construction of the variables was performed. Table 2 at the end of the chapter shows the frequency distribution and relevant descriptive statistics of all variables used in the analysis. The final frequency distributions of all relevant variables in the analysis after the removal of missing values can be found in appendix B.

5.2.1 EU Migration Plans in 5 years

In order to study the effects of the local context on the migration aspirations of potential migrants outside of the EU, it is important to include the respondents from the data who gave an indication if they wanted to migrate to the EU or not. First, to answer the research question, a clear concept of ‘migration plans towards the EU’ is needed. First, based on these criteria, all respondents who had no missing answers on question A1 are selected. Out of the 8000 respondents (N), 7999 answered question A1 correctly with a score of 1 or 0. Only 1 respondent answered the question incorrectly, meaning there is 1 missing value. As a result, this respondent is removed from the dataset using listwise deletion (N=7999). Question A1 is formulated as follows (Ersanilli, Carling & de Haas, 2011):

A1: *‘Ideally, if you had the opportunity, would you like to go abroad to live or work some time during the next five years, or would you prefer to stay in [this country]?’*

- 1: Go abroad - 0: Stay in [this country]

Secondly, the respondents were asked if they would actually try to reach that country in the close future in question A3. Out of 7999 respondents (*N*), 101 respondents did not answer the question correctly. As a result, these respondents are removed from the dataset (*N*=7898). Question A3 is formulated as follows (Ersanilli, Carling & de Haas, 2011):

A3: *'Will you try to go to that country within the next five years?'*
- 1: Yes - 0: No

Finally, it is necessary to select only those respondents who want to migrate abroad within 5 years and to a country located within the EU. All respondents who answered question A1 with a score of 1 were asked the follow-up question A2 where the respondent had to specify the country. Based on these answers, all regions and countries located within the EU in 2015 are given score 1 and all other valid answers are given score 0. Out of 7898 (*N*) answers, 42 were incorrectly answered and were consequently removed from the dataset (*N*= 7856). In short, the constructed variable gives all respondents who would like to go abroad to an EU country to live or work within the next five years a score of 1, and the rest with a score of 0.

5.2.2 Perception of Treatment Conditions in the EU

According to the theory, the criminalisation of migration leads to worse treatment conditions for immigrants and these worse treatment conditions for migrants in the EU would have a deterrent effect on potential migrants. With the data from the EUMAGINE dataset it is possible to study these effects, as the respondents are asked questions about their perception of how migrants are treated in the Europe prior to 'potential' migration in question A12. To measure the perceptions of treatment conditions in Europe for migrants from the respondents' respective countries, the respondents had to give a valid answer based on a five-level Likert scale ranging from *'strongly agree'* to *'strongly disagree'*. Out of 7856 (*N*), 122 respondents answered the question incorrectly in accordance with the formulated possibilities on the Likert-scale and were removed from the dataset (*N*=7734). Question A12 is formulated as follows (Ersanilli, Carling & de Haas, 2011):

A12: *'[people from this country] who live in Europe are treated badly there'*
- *Strongly agree | agree | neither agree nor disagree | disagree | strongly disagree*

5.2.3 Perception of Quality of Life in the Country of Origin

In order to tie in with the operationalisation of the variable 'Perception of Treatment Conditions in the EU', the perceptions of the relative life satisfaction of respondents are used to measure the quality of life in a respondent's country of origin. To measure life satisfaction, the respondents had to give a valid

answer on question L1 based on a five-level Likert scale, as with previous question A12, ranging from 'very unsatisfied' to 'very satisfied'. Out of the 7734 (N) respondents, only 2 respondents refused to give an answer and were subsequently removed from the dataset by failure to correctly answer the question in accordance with the formulated possibilities on the Likert-scale (N=7732). Question L1 is formulated as follows (Ersanilli, Carling & de Haas, 2011):

L1: *'All things considered, how satisfied are you with your life as a whole these days?'*

- *Very unsatisfied | rather unsatisfied | neither unsatisfied nor satisfied | rather satisfied | satisfied*

5.2.4 Perception of Economic Opportunity in the EU

Economic theory on migration primarily stresses the important of labour flows and wage differences between migrant sending and receiving countries. However, as perceptions of economic opportunity cannot realistically be measured in absolute numbers due to multiple factors (Massey et al, 1993), the perception of economic opportunity in the EU is measured in the perception of the job opportunity in EU. Respondents are asked in question PEU8 how easy they think it is to find a good job in Europe and are asked to give answers based on a five-level Likert scale ranging from 'strongly agree' to 'strongly disagree'. To measure this opportunity correctly, the final scores were flipped, meaning a higher score indicates that a respondent is more likely to agree to the statement. 124 respondents out of 7732 (N) did not give a correct answer to question PEU8 and were removed from the dataset (N=7608). Question PEU8 is formulated as follows (Ersanilli, Carling & de Haas, 2011):

PEU8: *'It is easy to find a good job in Europe'*

- *Strongly agree | agree | neither agree nor disagree | disagree | strongly disagree*

5.2.5 Perception of Economic Conditions in the Country of Origin

The EUMAGINE dataset contains various questions about the socioeconomic status of the respondents, and in particular the current financial situation of the respondent. While question P8 (*'it is easy to find a good job in this country'*) seems to be a good counterpart to question PEU8 used in the operationalisation of economic opportunity in the EU, it does not cover the concept of a respondent's perception of their economic conditions in the country of origin for two reasons. First, question P8 is placed among several questions about perceptions of corruption, inequality and social security in the respective country of origin (Ersanilli, Carling & de Haas, 2011). This indicates that the question is more likely to measure concepts about the state of fairness in socioeconomic systems than perceptions of economic condition. However, with the EUMAGINE data it is possible to measure the respondent's perception of their economic conditions based on how people experience this themselves. Besides

questions about ownership of luxury goods, the EUMAGINE dataset contains various questions about how the respondents view of their standard of living. These are the following questions:

L2: *'How satisfied are you with your current financial situation? are you'*

- *very unsatisfied | rather unsatisfied | neither unsatisfied nor satisfied | rather satisfied | satisfied*

L4: *'If you compare the financial situation of your household with that of other households'*

- *much worse | worse | the same | better | much better*

L5: *'Which of these statements best describes your own present living conditions?'*

- *can buy everything that I want | can buy most of the things that I want | can only buy the things that I need | cannot buy all the things that I need*

L7: *'Do you feel your standard of living is...'*

- *getting much worse | getting worse | staying the same | getting better | getting much better*

To check whether questions L2, L4, L5 and L7 measure the same concept of 'perceptions of economic opportunity in the country of origin', a factor analysis is performed using SPSS. The result of the factor analysis show that all four items are related to the concept of economic conditions in the country of origin (Child, 2006). All items have mutual correlation, which suggest they measure the same concept. For each item, the correlation with the concept, measured in communalities (lowest score is .343), is sufficiently high (*not less than .20*) and the internal consistency (Cronbach's alpha of .592) is acceptable (*between .5 and .7*). Moreover, the correlation between the factor scores and the scores on four Likert scale items together is extremely high (.996). The variable 'perception of economic condition in the country of origin' will therefore be comprised of the average score of questions L2, L4, L5 and L7. Respondents who gave a correct answer in accordance with the Likert scale items on questions L2, L4, L5 and L7 are selected for the analysis. Out of 7608 (*N*), 39 respondents did not answer these questions correctly and were removed from the dataset (*N*=7570). The results of the factor analysis can be found in appendix B.

5.2.6 Gender

Gender in the EUMAGINE dataset is constructed as male-female dichotomy. Unfortunately, no other answer options to gender identity are given according to question HH3 'sex' in the codebook (Ersanilli, Carling & de Haas, 2011). Male respondents are given code 0 and female respondents are given code 1. No missing values are found.

5.3 Control variables

5.3.1 Partner

The respondents were asked their marital status in question HH9. Possible answers are *'never married; married monogamous; married polygamous; living with partner not married; divorced; widowed; separated'*. 1 of the 7570 (N) answered the question incorrectly with code 888 (*don't know*). This respondent is removed from the dataset (N= 7569). Almost half of the respondents are *'married, monogamous'* (3643). 203 and 43 respondents respectively are *'married polygamous'* and *'living with partner, not married'* and will be considered as having a partner (score 1). Respondents without a partner are given score 0.

5.3.2 Family Migration Experience

Research suggests that social networks, in particular family networks and migration through family reunification, are important aspects of international migration by which migration flows are formed and maintained (Castles & Miller, 2003). It is possible to study this effect with the EUMAGINE dataset, as the respondents are asked about migration experiences of family members in question MG1: *'do you have any family members above 16 years old who are currently living in another country?'*. 1 person out of 7569 (N) refused to answer question MG1 and was removed from the dataset (N=7568). Respondents with family members who are living abroad are given score 1, respondents without are given score 0.

5.3.4 Children in Household

All respondents were asked if they had children living in their household in question CF6: *'Do you have children who live in the household with you?'*. A score of 0 means there are no children and a score of 1 means there are children present in the household. 1 respondent answered the question incorrectly and was subsequently removed from the dataset (N=7567).

5.3.5 Years of Education

Research suggests that individual human capital characteristics that increase the likely rate of remuneration, or the probability of employment in the destination relative to the sending country (e.g., education, experience, training, language skills), will increase the likelihood of international movement (Massey et al, 1993). In the data, education is measured in years based on question HH7:

'if [name goes to school or went to school: what was the year [name] completed?'. In 1 case out of 7567 (N) a missing value occurred, and this respondent was removed from the dataset (N= 7566).

5.3.6 Age in years

All respondents were asked their year of birth in question HH4 'what is [name]'s year of birth?'. Some of the respondents are outside of the target group of the EUMAGINE research (younger than 18 or older than 39) but were nevertheless kept in the dataset to maintain 500 surveys per research area (Ersanilli, Carling & de Haas, 2011). Weighing is impractical and the number outside the target range is very small, causing the risk of interfering with the data to be minimal. Out of 7566 (N), 1 case noted an interviewer error (code 789) and was deleted from the dataset.

Table 2. Descriptive Statistics of Variables used in analysis. (N=7565). Source: EUMAGINE (Timmerman et al, 2010), N=7565

	Descriptive Statistics			
	Mean	Std. Dev.	Minimum	Maximum
EU Migration Plans in 5 years (0= no plans, 1= plans)	0.271	0.444	0	1
Perceptuon of Treatment Conditions in the EU	1.875	1.117	0	4
Perception of Life Satisfaction in CoO (0= very unsatisfied, 5= very satisfied)	3.237	1.028	1	5
Perception of Economic Opportunity in the EU (0 very bad, 5= very good)	3.264	1.068	1	5
Perception of Economic Conditions in CoO (0= very bad, 3= very good)	1,772	0.675	1	3
Gender (0= female, 1= male)	0.55		0	1
<i>Control variables</i>				
Age in years	27.87	6.493	16	51
Education level	1.481	1.001	0	3
Partner (0= no, 1= yes)	0.514		0	1
Family Migration History (0= no, 1= yes)	0.317		0	1
Children in household (0= no, 1= yes)	0.452		0	1

6. Analysis and Results

6.1 Method

The hypotheses formulated in chapter four are tested using multiple logistic regression analysis with the use of the statistical programme SPSS. In case the outcome of the dependent variable is dichotomous, *one or zero*, regular linear regression analysis is not possible as some important regression assumptions are violated and predicted chances can exceed 0 or 100%. Logistic regression analysis can be used in this case to predict a dichotomous categorical variable from a set of predictor variables consisting of a mix of continuous and categorical variables. The predicted dependent variable is a function of the probability that a particular subject will be in one of the two categories of the dependent variable (Wuensch, 2014). This technique enables the estimation of odds ratios and confidence interval, which describe the strength and the significance of the relationship between a mix of continuous and categorical variables and the odds that the outcome variable equals *one* instead of *zero* (Wuensch, 2014).

The logistic model is based on probability ratios, called odds. Because an odds has a range of 0 to infinity instead the natural range of minus infinity to infinity the natural logarithm of the odds is used, called the log odds or logit (Wuensch, 2014). The use of logistic regression models is thus required to analyse whether a person's perception of the treatment conditions of migrants in the EU is associated with the likelihood of having plans to migrate to the EU within 5 years. Additionally, through the use of logistic regression analysis the effect on the likelihood of having migration plans of various other characteristics can be calculated under control of all other characteristics in the model. Path analysis by means of sequential regression models can be used to test the influence of the other theorised factors presumed to be associated with having migration plans. In this case, the *perception of life satisfaction in the country of origin*; *perception of economic opportunity in the EU*; and *perception of economic opportunity in the country of origin*. These variables will be added to the logistic regression model to test the assumed effect of the explaining factors in the relationship between the perception of the treatment conditions of migrants in the EU and the probability of having migration plans towards the EU within 5 years. The odds in the models provided in this chapter are the probability of a person in the dataset having *EU migration plans in 5 years* divided by the probability of not having *EU migration plans in 5 years*

6.2 Model Building

The analysis includes a total of seven regression models. Table 3 includes the first 3 regression models. Model 1 shows the results of the regression analysis including the main independent variable *perception of treatment conditions in the EU* and the control variables relating to migration decisions *gender; age; education level; partner; family migration history* and *children in household*. Model 2 contains the additional independent variables *perception of life satisfaction in the country of origin; perception of economic opportunity in the EU; and perception of economic opportunity in the country of origin*. Model 3 is expanded further to include the countries *Ukraine, Morocco, Turkey* and *Senegal* in the regression analysis.

The R-square (R^2) value is used to measure the explanatory power, the total explained variance in the model, of the models. Logistic regression analysis does not provide a proportion of the explained variance in the model, the explanatory power provided as R^2 , in the same manner as defined for variables in a linear regression model. The use of a pseudo- R^2 in logistic regression analysis, which is comparable to the R^2 values in linear regression analysis, does make this possible. The Nagelkerke R^2 can reach a value of 1, where a value of 1 means 100% of the variance is explained by the model, and will therefore be used for clarity of interpretation (Hosmer & Lemeshow, 1989).

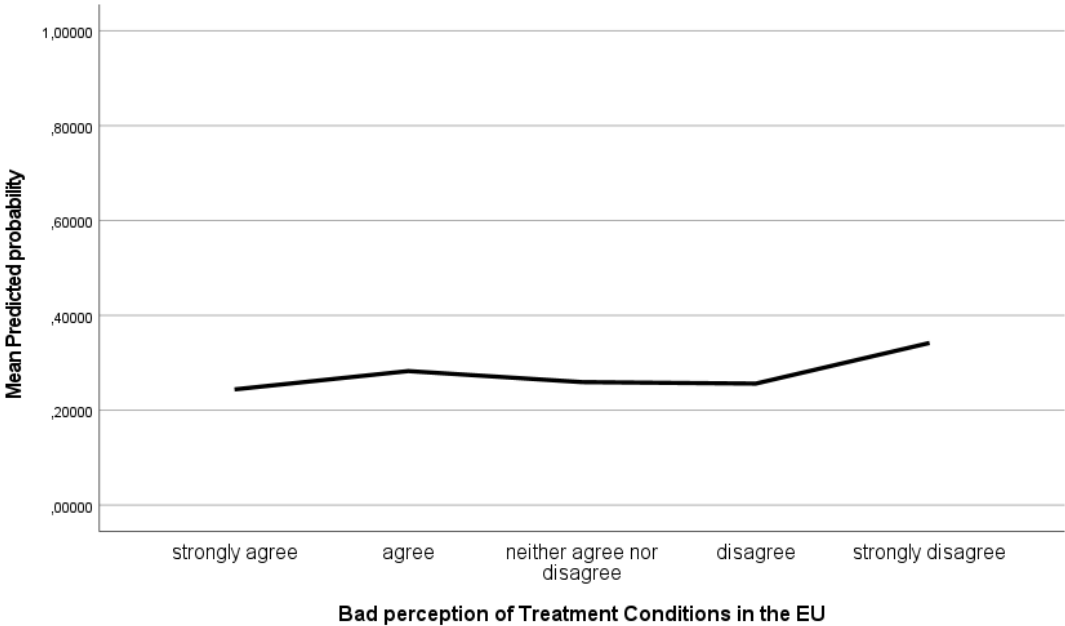
In addition to the explanatory power, the collinearity between the variables in the models is examined. Collinearity is a possible problem related to the predictors included in a regression analysis. It occurs when a predictor can be expressed as a weighted sum of one or more other predictors. In short, this means that two predictors measure the same effect, for example if two predictors which measure age and year of birth would be included in an analysis. If predictors show collinearity, this can be problematic because the estimated effect of the predictor ($\hat{\beta}$) changes strongly with only small changes in the scores on the predictor. Another consequence of collinearity is that the variance in $\hat{\beta}$ of a predictor belonging to the set of collinear predictors can be much larger compared to the variance in $\hat{\beta}$ of the same predictor if it were independent of other predictors (Belsley, 1991). The correlation between the independent variables included in all models was examined by means of a linear regression analysis in SPSS, through which SPSS can produce VIF (variance inflation factor) values. Based on this analysis, multicollinearity between the independent variables can be excluded with relative certainty as all VIF-values are sufficiently low (<5) (Menard, 2002). The VIF-values can be found in appendix B.

6.3 Treatment Conditions in the EU

Model 1 is used to test the first hypothesis: 'More positive perception of treatment conditions in the EU among potential immigrants will lead to a higher chance of having migration plans towards the EU among potential immigrants'. The model is statistically significant (662,15, $p < .001$), which suggests it can distinguish between potential migrants with and without plans to migrate towards the EU and explains 12% of the variance in the dependent variable based on the Nagelkerke R^2 .

Based on the results of Model 1 as presented in table 2, hypothesis 1 is supported. All dummy variables of the outcome variable (*Bad*) perception of Treatment Conditions in the EU have a significant positive relation with the reference category. This indicates that, compared to potential migrants who *strongly agree* that migrants from their country of origin are treated badly in the EU, potential migrants in all categories (*agree*; *neither agree nor disagree*; *disagree*; *strongly disagree*) who have a more positive perception of treatment conditions in the EU, have a higher chance, 36.2%; 33.2%; 35.2%; and 70.8% respectively, to have *EU migration plans in 5 years*. The largest differences exist between potential migrants who strongly agree and who strongly disagree with people from their country being treated badly in the EU, 70.8%, which further supports hypothesis 1. Figure 2 visualises the main effect by presenting the mean odds of having *EU migration plans in 5 years* per category of the *Bad perception of Treatment Conditions in the EU*.

Figure 2. Mean Predicted probability of EU Migration Plans in 5 Years per category of Bad perception of Treatment Conditions in the EU. Source: EUMAGINE (Timmerman et al, 2010), N=7565



As shown in Table 2, several control variables included in Model 1 have a significant influence on the likelihood of having *EU migration plans in 5 years*. People who identify as *female*; have a *higher level of education*; have a *partner* and have *children present in the household* are less likely to have migration plans. In addition, having a *family member who has migrated to Europe* increases the chance of having migration plans. No effect was found for *age*.

6.4 Bivariate Effects

Model 2 estimates the effects of potential migrant's other motives for international migration on having migration plans towards the EU within 5 years. In Model 2, the variables *Perception of Life Satisfaction in the Country of Origin (CoO)*; *Perception of Economic Opportunity in the EU*; and *Perception of Economic Conditions in the CoO* are added to regression Model 1. In this model, the relationship between a more positive perception of treatment conditions in the EU and a higher chance of having *EU migration plans in 5 years*, as predicted in hypothesis 1, is persistent. With the help of this model the hypotheses 2, 3 and 4 can be tested.

Results of the estimated effects of the *perception of life satisfaction* show partial support for hypothesis 2. There is no significant result for the second and last categories of the variable in Model 2. However, the third and fourth categories do show a significant negative relationship. This indicates that a when person is *unsatisfied* or *very satisfied* with their living conditions, this has no effect on the chance of having *EU migration plans in 5 years* compared to a *very unsatisfied person*. However, potential migrants who are *neither unsatisfied nor satisfied* or *satisfied* are, 22.6% and 27.3% respectively, less likely to have migration plans towards the EU compared to potential migrants who are *very unsatisfied* with their lives.

A potential migrant who either has a *neither bad nor good*, *good* or *very good* perception of economic opportunity in the EU has a significantly higher chance of having migration plans to the EU, compared to when a person's perception is *very bad*. There is no difference in the chance of having *EU migration plans in 5 years* between a *bad* perception and a *very bad* perception, however. In addition, the effect is stronger when the perception is more positive: 32,1%, 52% and 111% for *neither bad nor good*, *good* and *very good* respectively. These results support hypothesis 3.

Hypothesis 4 is partly supported by the results in Model 2. The results suggest that there is no significant difference in the chance of having *EU migration plans in 5 years* between potential migrants who have a *low* perception of their economic conditions and potential migrants who reported a *neither high nor low* perception. However, potential migrants who reported a *high* perception of economic

opportunity in their country of origin are 31.3% less likely to have *EU migration plans in 5 years* towards the EU than those who have a *low* perception.

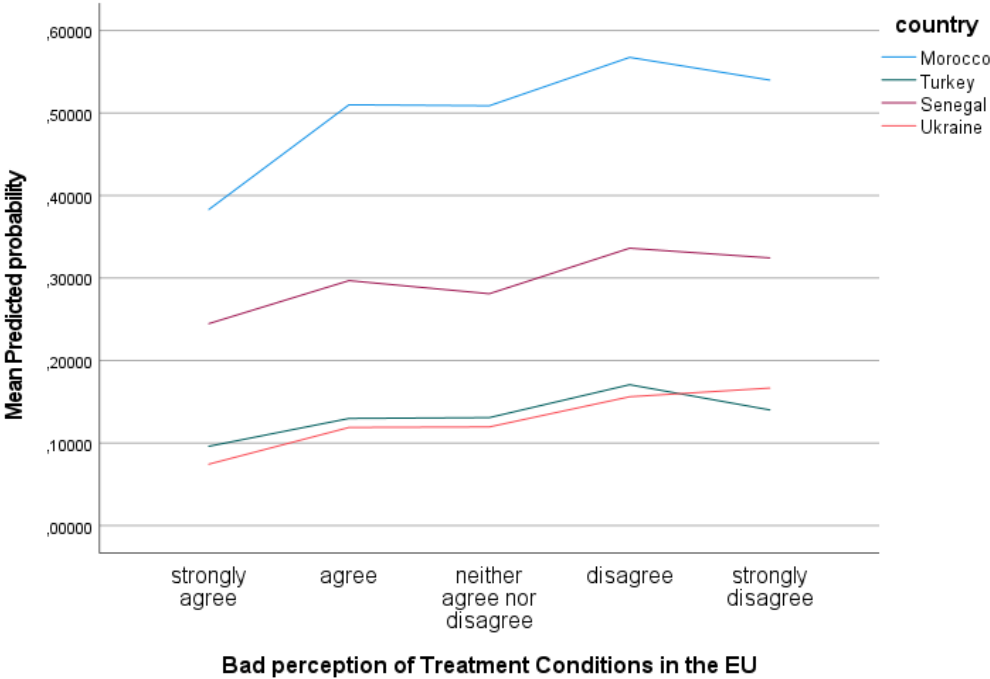
Furthermore, the perceptions of *life satisfaction in the CoO*; *economic opportunity in the EU* and *economic conditions in the CoO* not only have a direct effect on having *EU migration plans in 5 years* in Model 2. The inclusion of these perceptions also has a partly confounding effect on education level, as the addition of the variables to the analysis precludes the differences between *primary education* and *no education*, which effect is no longer significant in Model 2. In addition, these perceptions also act as a suppressor effect for *age*. Under control of the added variables, *age* has a significant negative relationship with having *EU migration plans in 5 years*, which states a 1% less chance to have migration plans for every 1-year increase in *age*, while *age* had no significant relationship with the dependent variable in Model 1.

6.5 Regional Context and the Effect of the Local Emigration Environment

The root causes of international migration are dependent on the local context. This local context is, in addition to socio-economic contexts, shaped by differences in migration policies for different regions and bilateral agreements between the EU and neighbouring states as a result of political processes. To measure the effects and potential differences between local contexts, country variables are added to the regression model in Model 3. In Model 3, the influence of living in *Morocco*, *Turkey* and *Senegal* compared to *Ukraine* on the chance of having *EU migration plans in 5 years* can be observed. Compared to potential migrants from *Ukraine*, both living in *Morocco* and *Senegal* have significantly higher chance, 513,7% and 184% respectively, of having *EU migration plans in 5 years*. There is no significant difference in the chance of having *EU migration plans in 5 years* between potential migrants from *Turkey* and *Ukraine*. The addition of the country variables to the model increases the R-square of the model, raising it to 24,2% explained variance in the dependent variable from 14%, which indicates that countries are an important predictor for the likelihood of potential migrants having plans to immigrate to the EU within 5 years.

By adding country variables to the model, the positive effect of a more positive *perception of treatment conditions in the EU* on the chance of having *EU migration plans in 5 years* is persistent and even stronger compared to the previous regression models. This further confirms hypothesis 1, indicated by the higher Odds Ratio's for all categories of *Bad perception of Treatment Conditions* in Model 3. Figure 3 visualises the main effect per country by presenting the mean odds of having *EU migration plans in 5 years* per category of the (*Bad*) *perception of Treatment Conditions in the EU* for each country in the regression analysis.

Figure 3. Mean Predicted probability of EU Migration Plans in 5 Years per category of Bad perception of Treatment Conditions in the EU per country. Source: EUMAGINE (Timmerman et al, 2010), N=7565



The addition of the country variables to the analysis in Model 3 presents additional changes to the relationships between the predictor variables and the dependent variable in the analysis. The inclusion of *countries* in the regression model indicates a suppression effect for the economic pull and push factors *Economic Opportunity in the EU* and *Economic Conditions in CoO* in the previous regression models. Compared to Model 2, the effect of having a *neither high nor low* perception of economic opportunity in the CoO has a significant negative effect on the chance of having *EU migration plans in 5 years* (-22.4%) compared to having a *low* perception of economic opportunity in the CoO in Model 3. In addition, the previously found effect of *high economic opportunity* is stronger in Model 3. Furthermore, the inclusion of *countries* also creates a significant positive relationship on the likelihood of having *EU migration plans in 5 years* for potential migrants who have a *bad* perception of economic opportunity (40.4%), compared to those with a *very bad* perception. In addition, the inclusion of *countries* amplifies the previously found effects in Model 1 & 2 for the categorical variables *neither bad nor good, good* and *very good*.

The inclusion of *countries* also has a remarkable effect on the relationship between *education level* and having *EU migration plans in 5 years*. The effect of adding *countries* to the analysis partly precludes the previously found significant effect of education in Model 1 & 2. Only the effect of having a *higher* education level, compared to *none*, persists in Model 3. This indicates a partly spurious relationship between *education level* and having *EU migration plans in 5 years*, as the effects of *education level* are partially explained by the differences between countries.

Table 2. Results Logistic Regression analysis with the dependent variable *EU Migration Plans in 5 years*. Model 1, 2 & 3

	Model 1			Model 2			Model 3		
	B	S.E.	O.R.	B	S.E.	O.R.	B	S.E.	O.R.
Constant	-,022	,168	,978	-,131	,225	,560	-1,545***	,266	,213
(Bad) Perception of Treatment Conditions in the EU									
<i>Strongly agree</i>	Ref.			Ref.			Ref.		
<i>Agree</i>	,309**	,103	1,362	,350***	,106	1,419	,450***	,109	1,569
<i>Neither agree nor disagree</i>	,288**	,106	1,333	,330**	,109	1,390	,488***	,113	1,629
<i>Disagree</i>	,302**	,108	1,352	,297**	,111	1,346	,697***	,116	2,008
<i>Strongly disagree</i>	,535***	,128	1,708	,468***	,130	1,238	,571***	,134	1,770
Perception of Life Satisfaction in CoO									
<i>Very unsatisfied</i>				Ref.			Ref.		
<i>Unsatisfied</i>				,008	,117	1,008	-,128	,124	,880
<i>Neither unsatisfied nor unsatisfied</i>				-,295**	,114	,774	-,433***	,121	,649
<i>Satisfied</i>				-,319**	,117	,727	-,535***	,125	,586
<i>Very satisfied</i>				-,301	,157	,740	-,481**	,167	,618
Perception of Economic Opportunity in the EU									
<i>Very bad</i>				Ref.			Ref.		
<i>Bad</i>				,165	,140	1,179	,339*	,145	1,404
<i>Neither bad nor good</i>				,278*	,136	1,321	,407**	,140	1,502
<i>Good</i>				,419**	,132	1,520	,664***	,137	1,943
<i>Very good</i>				,747***	,145	2,111	,797***	,148	2,219

Perception of Economic Conditions in CoO										
<i>Low Economic Opportunity</i>					Ref.				Ref.	
<i>Neither High nor Low “</i>					-,112	,068	,894	-,254***	,074	,776
<i>High Economic Opportunity</i>					-,375***	,106	,687	-,525***	,113	,591
Gender (ref= male)	-,461***	,057	,631	-,450***	,058	,638	-,423***	,061	,655	

Control Variables

Education Level

<i>None</i>	Ref.			Ref.				Ref.	
<i>Primary</i>	-,172*	,082	,842	-,103	,084	,902	,106	,091	1,112
<i>Secondary</i>	-,701***	,072	,496	-,617***	,074	,539	-,003	,089	,997
<i>Higher</i>	-1,345***	,106	,260	-,1213***	,109	,297	-,264*	,124	,768
Partner (ref= no partner)	-,565***	,086	,568	-,533***	,086	,587	-,400***	,091	,670
Family Migration History (ref= no history)	,487***	,057	1,628	,574***	,059	1,775	,504***	,062	1,655
Children in Household (ref= no children)	-,430***	,089	,651	-,443***	,090	,642	-,205*	,095	,814
Age in years	-,009	,005	,991	-,010*	,005	,990	-,014*	,005	,986
Country									
<i>Ukraine</i>							Ref.		
<i>Morocco</i>							1,814***	,101	6,137
<i>Turkey</i>							-,070	,106	,933
<i>Senegal</i>							1,044***	,116	2,840

Nagelkerke R ²	0.122			0.140			0,242		
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Source: EUMAGINE (Timmerman et al, 2010), N=7565

*= p<0,05; **=p<0,01; ***=p<0,001

7. Gender and Motives for International Migration

7.1 International Migration as a gendered concept

A person's gender can have a large influence on the person's agency in the context of the migration decision-making process. Results from Models 1, 2 and 3 show that gender has a significant effect on the likelihood that a potential migrant has *EU migration plans in 5 years*. In the regression model with the highest explained variance, Model 3, respondents who identify as *women* are 34,5% less likely to have *EU migration plans in 5 years* in comparison to the respondents who identify as *men*.

In this chapter, the formulated hypotheses about the interaction effects of gender on relationship between the motives for international migration and the likelihood of having migration plans will be tested. Besides the effect of gender itself on the decision to migrate, there might be differences for men and women on how different motives for international migration influence the decision to migrate due to gender roles and gendered imaginations and aspirations in the context of international migration. These effects are hypothesised in the hypotheses 5, 6, 7 and 8. Table 3 presents the results of Model 4, 5, 6 and 7, in which the influence of gender on the effects of the *Perception of Treatment Conditions in the EU*; *Perception of Life Satisfaction in the Country of Origin (CoO)*; *Perception of Economic Opportunity in the EU*; and *Perception of Economic Conditions in the CoO* on the likelihood of having *EU migration plans in 5 years* are tested. Interaction terms are added to logistic regression Model 3, as Model 3 has the highest percentage of explained variance, to test whether there are different effects in the relationship between the perceptions of treatment conditions, life satisfaction, economic opportunity and economic conditions and the likelihood of having migration plans for individuals who identify as women compared men.

7.2 Gender and Non-Economic Motives for International Migration

Model 4 and 5 presented in table 3 test if the influence of the environmental and social contexts in both the EU and the country of origin is different for women compared to men. The results of the regression analyses show whether the expected theory that international migration is a gendered concept is found within the data. In Model 4, the interaction term *Bad Perception of Treatment Conditions in the EU * Gender* is added to Model 3 to test the fifth hypothesis '*The effect of the perception of treatment conditions in the EU among potential immigrants on the chance of having migration plans towards the EU is weaker for potential immigrants who identify as female than for potential immigrants who identify as male*'.

The main effect of *gender* shows the effect for those with a score 1 on *gender* and a score 0 on (*Bad*) *Perception of Treatment Conditions in the EU*. As *gender* is no longer significant in Model 4, this indicates that for *women* there is no relationship between *bad perception of treatment conditions in the EU* and the likelihood of having *EU migration plans in 5 years* compared to *men* when both *strongly agree*. The main effect of (*Bad*) *Perception of Treatment Conditions in the EU* in table 3 shows the effects for those with a score 0 on *gender*, which in this case are *men*. These results match the results in earlier models.

The observed results from the *Bad Perception of Treatment Conditions in the EU * Gender* interaction term show that there is no interaction effect. The effects are non-significant, which indicates that the relationship between *Bad Perceptions of Treatment Conditions in the EU* is not different for *women* than for *men* in all categories. Hypothesis 5 is therefore rejected. While *women* have a lower likelihood to have migration plans in general, the influence of *Bad Perceptions of Treatment Conditions* on the likelihood in the likelihood to have *EU migration plans in 5 years* is the same for both *men* and *women*.

In Model 5, the interaction term *Perception of Life Satisfaction in CoO * Gender* is added to Model 3. The results observed in the analysis presented in this model tests the sixth hypothesis, '*The effect of the perception of treatment conditions in the country of origin among potential immigrants on the chance of having migration plans towards the EU is stronger for potential immigrants who identify as female than for potential immigrants who identify as male*'.

The effect of *gender* on the likelihood of having *EU migration plans in 5 years* is found to be significant in Model 5. The negative relationship indicates that *women* who are *very unsatisfied*, are 39,5% less likely to have *EU migration plans in 5 years* than *men* who are *very unsatisfied*. The effects of the added interaction term are non-significant, which indicates that there is no difference in the observed relationship between *Perception of Life Satisfaction in CoO* on *EU migration plans in 5 years* for *women* compared to *men*. These findings result in the rejection of hypothesis 6. This indicates that non-economic motives for international migration have the same influence on the chance to have migration plans for men and women alike.

With SPSS it is possible to test if adding the interaction terms for economic motives for international migration to the model adds useful information to the results by checking if the addition of the interaction variable causes a significant change in the -2 Log Likelihood. Unfortunately, the addition of *Bad Perception of Treatment Conditions in the EU * Gender* (sig.= 0.438) or *Perception of Life Satisfaction in CoO * Gender* (sig.= 0.901) to the regression model does not result in a higher percentage of explained variance in the model.

7.3 Gender and Economic Motives for International Migration

The results from Model 6 and 7, presented in table 3, test whether the effects of the hypothesised economic motives on aspirations of international migration, in the form of the pull-factor *Perception of Economic Opportunity in the EU* and the push-factor *Perception of Economic Conditions in CoO*, differ between *women* and *men* in the data. In Model 6, the interaction term *Perception of Economic Opportunity in the EU * Gender* is added to Model 3. This makes it possible to test hypothesis 7, '*The effect of the perception of economic opportunity in the EU among potential immigrants is weaker for potential immigrants who identify as female than for potential immigrants who identify as male*'.

Noteworthy is the effect of *gender* on the likelihood of having *EU migration plans in 5 years*, which is found to be non-significant in Model 6. This means that there is no difference in the likelihood of having *EU migration plans in 5 years* for *women* and *men* who report a *very bad* perception of *economic opportunity in the EU*. The interaction term is also non-significant. This means that for *women* there is no difference in the relationship between the *Perception of Economic Opportunity in the EU* and the likelihood of *EU migration plans in 5 years* compared to *men*. Hypothesis 7 is therefore rejected.

The final hypothesis is tested using Model 7. Hypothesis 8, '*The effect of the perception of economic opportunity in the country of origin among potential immigrants is stronger for potential immigrants who identify as female than for potential immigrants who identify as male*', is tested by adding the interaction term *Perception of Economic Conditions in CoO * Gender*. Noticeable in Model 7 is the significant negative effect of *gender*. This means that *women* with a *low* the *perception of economic opportunity in the country of origin* are 42,7% less likely to have *EU migration plans in 5 years* compared to *men* with a *low* perception. The interaction term in Model 7 then tests whether there are differences in the relationship between the *perception of economic opportunity in the country of origin* and the likelihood of having *EU migration plans in 5 years*. While there is no significant result for the category *High Economic Opportunity * gender*, the category *Neither High nor Low Economic Opportunity * gender* in the interaction term shows a significant positive relationship with an Odds Ratio of 1,284. This means that the influence of having a *neither high nor low* perception of economic conditions compared to a *low* perception on the likelihood of having *EU migration plans in 5 years* is 28,4% stronger for *women* than for *men*. These results partly support hypothesis 8, as the stronger effect for potential migrants who identify as *women* compared to *men* is only found in the relationship between having a *neither high nor low* perception of economic conditions compared to a *low* perception and not between a *high* and *low* perception on the likelihood of having *EU migration plans in 5 years*. A visualisation of the difference in effects is presented in figure 4.

In Model 6 and 7, the contribution of the interaction components (sig.= 0.068 & sig.= 0.097) to the model is significant ($\alpha= 0.10$), meaning that the explained variance of the model increases after adding the interaction term. For economic motives of international migration, this means that adding the interaction terms to the regression model does yield additional useful information.

Figure 4. Mean Predicted probability of EU Migration Plans in 5 Years per category of Economic Conditions in the country of origin for potential migrants who identify as male or female Source: EUMAGINE (Timmerman et al, 2010), N=7565

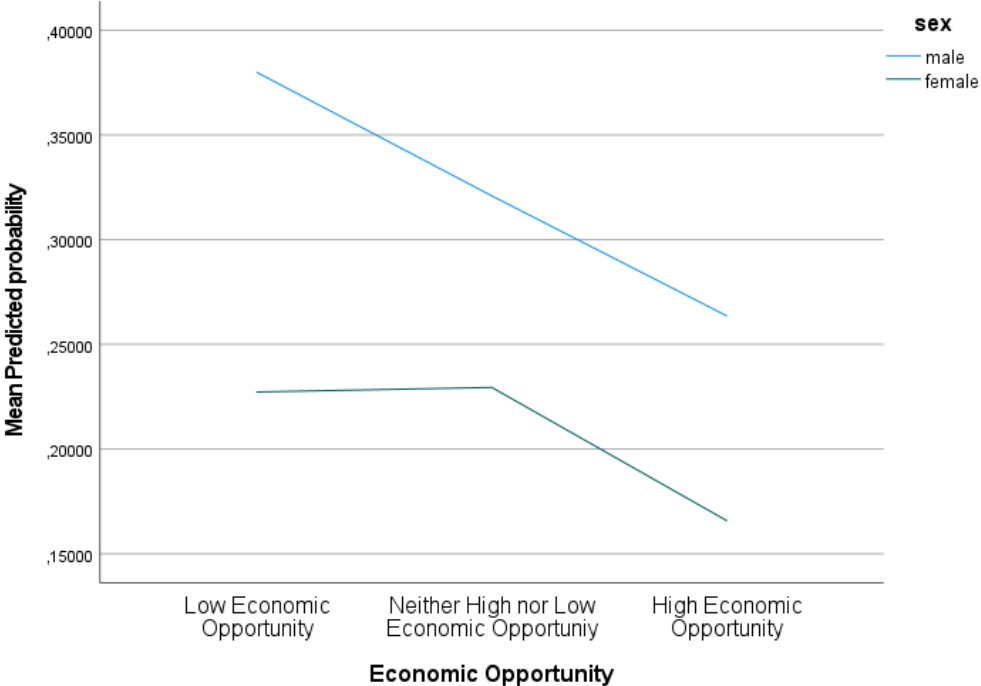


Table 3. Results Logistic Regression analysis with the dependent variable *EU Migration Plans in 5 years*. Model 4, 5 & 6. Source: EUMAGINE (Timmerman et al, 2010), N=7565

	Model 4			Model 5			Model 6			Model 7		
	B	S.E.	Exp(B)	B	S.E.	Exp(B)	B	S.E.	Exp(B)	B	S.E.	Exp(B)
Constant	-1,602***	,279	,202	-1,509	,282	,221	-1,609***	,294	,200	-1,482***	,269	,227
(Bad) Perception of Treatment Conditions in the EU												
<i>Strongly agree</i>	Ref.			Ref.			Ref.			Ref.		
<i>Agree</i>	,523***	,146	1,686	,450***	,109	1,568	,450***	,109	1,568	,452***	,109	1,571
<i>Neither agree nor disagree</i>	,505***	,155	1,656	,486***	,113	1,626	,487***	,113	1,627	,488***	,113	1,629
<i>Disagree</i>	,846***	,157	2,331	,697***	,116	2,007	,693***	,116	1,999	,696***	,116	2,005
<i>Strongly disagree</i>	,536***	,197	1,709	,573***	,134	1,774	,574***	,134	1,775	,580***	,134	1,786
Perception of Life Satisfaction in CoO												
<i>Very unsatisfied</i>	Ref.			Ref.			Ref.			Ref.		
<i>Unsatisfied</i>	-,129	,124	,879	-,121	,172	,886	-,132	,124	,876	-,127	,124	,881
<i>Neither unsatisfied nor unsatisfied</i>	-,435***	,121	,647	-,481**	,165	,618	-,437***	,121	,646	-,433***	,122	,649
<i>Satisfied</i>	-,538***	,125	,584	-,585***	,166	,557	-,540***	,125	,583	-,532***	,125	,588
<i>Very satisfied</i>	-,484**	,167	,617	-,596*	,231	,551	-,489**	,167	,613	-,476**	,167	,621
Perception of Economic Opportunity in the EU												
<i>Very bad</i>	Ref.			Ref.			Ref.			Ref.		
<i>Bad</i>	,337*	,145	1,401	,342*	,145	1,408	,224	,208	1,252	,346*	,145	1,414
<i>Neither bad nor good</i>	,403**	,140	1,496	,410**	,140	1,506	,512*	,201	1,668	,411**	,140	1,508
<i>Good</i>	,661***	,137	1,937	,668***	,137	1,951	,773***	,195	2,166	,672***	,137	1,959
<i>Very good</i>	,796***	,148	2,216	,800***	,148	2,225	,898***	,217	2,455	,805***	,148	1,673

Perception of Economic Conditions in CoO

<i>Low Economic Opportunity</i>	Ref.			Ref.			Ref.			Ref.		
<i>Neither High nor Low “</i>	-,251***	,074	,778	-,253***	,074	,777	-,251***	,074	,778	-,377***	,096	,686
<i>High Economic Opportunity</i>	-,522***	,113	,593	-,524***	,113	,592	-,522***	,113	,593	-,531***	,145	,588
Gender (ref= male)	-,290	,190	,748	-,502*	,205	,605	-,302	,250	,739	-,550***	,096	,577

Control Variables

Education Level

<i>None</i>	Ref.			Ref.			Ref.			Ref.		
<i>Primary</i>	,107	,091	1,113	,104	,091	1,109	,106	,091	1,112	,106	,091	1,111
<i>Secondary</i>	-,007	,089	,993	-,003	,089	,997	,003	,089	1,003	-,006	,089	,994
<i>Higher</i>	-,263*	,124	,768	-,262*	,124	,770	-,262*	,125	,770	-,266*	,124	,766
Partner (ref= no partner)	-,407***	,091	,666	-,404***	,091	,668	-,397***	,091	,673	-,407***	,091	,666
Family Migration History (ref= no history)	,504***	,062	1,655	,504***	,062	1,655	,505***	,062	1,657	,502***	,062	1,652
Children in Household (ref= no children)	-,203*	,095	,816	-,201*	,095	,818	-,204*	,095	,815	-,199*	,095	,819
Age in years	-,014*	,005	,986	-,014*	,005	,986	-,014*	,005	,986	-,014*	,005	,986
Country												
<i>Ukraine</i>	Ref.			Ref.			Ref.			Ref.		
<i>Morocco</i>	1,814***	,101	6,133	1,815***	,101	6,140	1,813***	,101	6,127	1,811***	,101	6,115
<i>Turkey</i>	-,073	,106	,930	-,071	,106	,931	-,071	,106	,932	-,076	,106	,927
<i>Senegal</i>	1,044***	,116	2,840	1,043***	,116	2,836	1,038***	,116	2,823	1,035***	,116	2,815

Interaction Variables

Bad Perception of Treat Conditions in the

EU * Gender

<i>Strongly Agree * gender</i>	Ref.		
<i>Agree * gender</i>	-,159	,214	,853
<i>Neither * gender</i>	-,050	,221	,951
<i>Disagree * gender</i>	-,305	,225	,737
<i>Strongly Disagree * gender</i>	,020	,266	,940

Perception of Life Satisfaction in CoO *

Gender

<i>Very unsatisfied * gender</i>	Ref.		
<i>Unsatisfied * gender</i>	-,012	,245	,988
<i>Neither unsatisfied nor unsatisfied * gender</i>	,097	,229	1,102
<i>Satisfied * gender</i>	,101	,224	1,106
<i>Very satisfied * gender</i>	,217	,305	1,242

Perception of Economic Opportunity in the

EU * Gender

<i>Very bad * gender</i>	Ref.		
<i>Bad * gender</i>	,229	,283	1,257
<i>Neither bad nor good * gender</i>	-,207	,273	,813
<i>Good * gender</i>	-,220	,266	,803
<i>Very good * gender</i>	-,186	,295	,830

Perception of Economic Conditions in CoO *

Gender

<i>Low Economic Opportunity * gender</i>			Ref.
<i>Neither High nor Low “ * gender</i>		,250*	,123 1,284
<i>High Economic Opportunity * gender</i>		,010	,191 1,010

Nagelkerke R ²	0,242	0,242	0,243	0,242
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8. Conclusion and Acknowledgement

Migration as a subject has risen to top of the priority of public policy issues & law-making within the European Union (EU). However, there seems to be a complete split between national politicians and policy makers and migration researchers and EU law makers on how to approach immigration issues. Individual EU Member States have relatively little influence in the creation of EU migration laws, while they do have sovereignty over criminal law. As a result, national governments try to shift elements from migration law to criminal law to try and control who enters and stays on their territories. Because internal safety remains the responsibility of individual EU Member States, migration issues are securitised by using immigration numbers as a proxy for crime numbers. This way, Member States can legitimise the implementation of stricter migration policy in the form of constant reinforcement of border controls, tightening entry conditions and using criminal sanctions for migration offences. In addition, such policies are implemented to appease growing anti-immigration sentiments in European societies as a result of the 2015 Refugee Crisis. The boundary between these fields of law within the context of migration becomes subsequently blurred as parts of criminal sanctions for migration offences are increasingly implemented. This phenomenon is called the 'criminalisation of migration' (Parkin, 2013).

Although seldom pronounced explicitly, these instruments are used to create a deterrence effect for potential immigrants in the same manner that the threat of criminal detention is supposed to suppress criminal behaviour in the non-criminal population. However, in trying to deter potential immigrants and control migration flows migration management policies and migration laws become increasingly complex and intemperately harsh with regard to the protection needs of migrants and refugees, resulting in a race to the bottom in the quality of subsidiary protection. This does not only apply to migrants and refugees themselves. Citizens and organisations who try to help those in need can be subjected to punishment, as exemplified by the introduction of carrier sanctions, criminalisation of solidarity. The result is that the criminalisation of migration creates a situation in which the 'protection' of citizens against the 'crime' of immigration requires the violation of the human rights of non-citizens.

It remains questionable if this strategy is successful in controlling migration flows. If treating immigrants increasingly worse through increasingly strict migration policies has a deterring effect on migration aspirations, it is not enough to look at migration numbers only as an outcome of such policies. To measure the full effect, it is necessary to look at how a potential migrants' perception on democracy and human rights in the EU potentially shapes their migration aspirations. The extent to

which policy may have an effective impact on immigration patterns will depend on these perceptions of Europe.

The ability to shape migration flows through policy is constrained by structural migration determinants in a same manner as migration flows themselves are shaped by structural migration determinants in both the EU and countries of origin. To analyse potential migrants' perceptions of the EU influence immigration aspirations, it is important to look at all relevant perceptions which might influence these aspirations. According to theories on international migration, different economic and non-economic push and pull factors can be identified as motives for international migration: the perceptions of treatment conditions and economic opportunity in the EU as primary pull factors, and the perceptions of life satisfaction and economic conditions in the country of origin as primary push factors. In addition, special emphasis is put on gender differences in the analysis as theory suggests gender inequality can be a deciding factor in the migration decision-making process.

The aim of the study was to analyse if there are relationships between migration aspirations and potential migrant's perceptions of treatment conditions in the EU; life satisfaction in their country of origin; economic opportunity in the EU; and/or economic opportunity in their country of origin. Data from the EUMAGINE project is used to measure the effects of these perceptions on migration aspirations. This data consists of the perceptions of non-migrants from Ukraine, Morocco, Turkey and Senegal. Hereby, data is not only collected from potential migrants but also from the essential control group non-migrants. With the help of the statistical program SPSS this data is analysed using a logistic regression analysis.

Hypotheses 1, 2, 3 and 4 are confirmed by the analysis. The results show that migrants who have a more positive perceptions of the treatment conditions or a more positive perception of economic opportunity in the EU have a higher chance of having migration plans towards the EU within 5 years. Migrants who have a more positive perception of life satisfaction or a more positive perception of economic conditions have a lower chance of having such migration plans. Potential migrants who are *older*; identify as *female*; have the *highest level of education*; have a *partner* and have *children present in the household* are less likely to have migration plans. In addition, having a *family member who has migrated to Europe* increases the chance of having migration plans. The relationships found the analysis do not differ based on gender identities, which indicates that international migration is not a gendered concept.

The strongest predictor for the chance of having migration plans is the country in which a person lives. In the analysis, the effect of living in of the three countries bordering the EU via the Mediterranean

Sea on having migration plans were compared to Ukraine. Compared to Ukraine, living in Turkey has no effect on the chance of having migration plans. This is most likely found because of the Association Agreements between both countries and the EU, opening legal channels for labour migration from Ukraine and Turkey to the EU. Living in Morocco (513,7%) or Senegal (184%), compared to living in Ukraine, has the strongest positive effect of all variables in the analysis on the likelihood that a migrant has migration plans to the EU. The addition of countries to the analysis also indicates a partly spurious relationship between *education level* and having *EU migration plans in 5 years*, as the effects of *education level* are almost completely explained by the differences between countries. This indicates that in a country with a generally higher education level, people are less likely to migrate. This seems to suggest that education level has a strong influence on the local migration context but not on the chance to have plans to migrate to the EU directly. In addition, controlling for the influence of countries causes all variables of perceptions of non-economic and economic motives for migration to exhibit a stronger relationship with the chance to have plans to migrate to the EU, which provides additional prove for the importance of the local context in the migration decision-making process.

The findings show that women, in general, have a lower chance of having migration plans to the EU compared to men. Theory suggests that that gender identities motivate migration differently. However, the results from the analysis mostly do not suggest this. Hypotheses 5, 6, and 7, are therefore rejected. This indicates that perceptions on treatment conditions in the EU, life satisfaction in the country of origin and perceptions of economic opportunity in the EU have the same influence on the chance to have migration plans for men and women alike. For perceptions of economic conditions in the country of origin, a difference in the effect on the likelihood of having migration plans between women and men was found. A stronger effect for potential migrants who identify as *women* compared to *men* is only found in the relationship between having a *neither high nor low* perception of economic conditions compared to a *low* perception on the likelihood of having *EU migration plans in 5 years*, which partly supports hypothesis 8.

Even though the analysis found that perceptions of treatment conditions in the EU influence the chance of having migration plans among potential migrants, it is important to interpret these findings with caution. The criminalisation of migration seems to have had a minor influence on the aspirations of migration among potential migrants. The consequences of the criminalisation of migration for immigrants, especially those with irregular status, are large, however. The question remains if the consequences in the form of stricter penalties for irregular immigration and diminishing guarantees of international protection for immigrants and refugees are worth it. In total, the regression models explained 24,2% of the variance in the answers in the dataset on the question if a person has plans to

migrate to the EU within 5 years. While this is a significant amount, 10% of the variance explained is caused by countries and the majority of variance is still unexplained by variables in the analysis. In addition, all other theorised motives for international migration and the control variables showed significant influence on the chance of having migration plans. Where these results suggest that policy outcomes can influence the flow of international migration, the results also show that this ability is constrained by the structural migration determinants within the local migration context. For follow-up research it could be interesting to look beyond the influence of countries now that countries are identified as an important predictor. The data was collected in 4 similar regions in each of the 4 countries, which makes it possible to compare the regions and possibly dissect important information about how local contexts influence the migration 'climate' in a region.

It is important to be careful about using perceptions as determinants for international migration in analytical models. Theoretically, this can cover the meaning of the concept, but in practice these perceptions can be very subjective. Imagining a realistic picture of the treatment conditions for migrants in the EU can be a difficult assessment for potential migrants outside the EU due to lack of information about the precise procedures or romanticised images of past success stories from friends or family. Although the perception of how a person is treated as a migrant influences their migration aspirations according to the analysis, the data is unable to tell if these perceptions are accurate. Caution is therefore advised when generalising these findings, as these perceptions could be influenced in many ways besides the idea of treatment conditions. To truly understand how perceptions of treatment conditions work, follow-up research could focus on how these perceptions are formed and if they are realistic. Unfortunately, with the data from the EUMAGINE this is not possible.

For the development of effective and fair migration policies, it is necessary to remain critical of the current developments in EU migration laws and policy. People migrating from one place to another throughout the world is as old as human history. The way in which migration as a concept is increasingly securitised and immigration is criminalised at a large scale is a new phenomenon, however. Prudence is necessary, as the process of the criminalisation is slippery slope. It presents a vicious circle, as a stricter migration discourse calls for stricter migration measures which causes more migrants to break the stricter migration laws or forces migrants to clandestine migration routes. This reinforces the image of immigrants as dangerous, which creates a stricter migration discourse. It is doubtful if these developments of handling migration as a local security threat instead of a complex and internationally interwoven social concept, are appropriate to challenge the issues which accompany international migration.