

Luca Falsone*

The Effectiveness of Administrative Detention of Migrants in Relation to Return Rates: A Compared Analysis along States of EU South Frontier: Italy, France, Greece and Spain as Cases Study

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Abstract: Administrative detention has gradually become a fundamental instrument in migration policies of European States. The law generally assigns to this measure a key role in supporting removal procedure. On the other hand, administrative detention has been recognised as a symptom of the crimmigration crisis. This article aims to challenge the expected benefits of administrative detention as an effective measure to guarantee the enforcement of removal procedures, analysing available data of imprisonments and removals relative to Italy, France, Spain and Greece in the period of time 2014–2019.

Keywords: administrative detention, migrants, Italy France Spain Greece, return effectiveness

1 Introduction

In last decades, deportation and detention of migrants has become a global-scale phenomenon that juridical science has observed under different perspectives. Among these, the so-called “crimmigration theory” seems to provide adequate theoretical instruments to understand the juridical institutes of deportation and detention of aliens. Crimmigration is a term coined by Juliet Stumpf (2006) that refers to the progressive intersection between criminal law and immigration law in United States context. This proposal that emphasizes the contamination between these legal disciplines has caught the eye of many scholars involved in migration studies also in other countries: a tendency towards criminalization of migration

*Corresponding author: Luca Falsone, Università degli Studi di Torino, Torino 10124, Italy, E-mail: lucafalsone@gmail.com

law has been detected in different legal systems throughout the western world (Menjívar, Cervantes and Alvord 2018; Sampson and Mitchell 2013). Crimmigration analysis has identified the increased use of administrative detention as immigration sanction that parallels the typical criminal sanction of incarceration as a symptom of the gradual convergence between criminal procedures and rules governing immigration law (Stumpf 2006: 391). In particular, administrative confinement reveals the growing “use of penal tactics to manage international conflict and migrant and refugee flows” (Martin and Mitchelson 2009: 460).

Since the 1990s, administrative detention has gradually become an instrument involved in day-to-day operational management of migrations, inside and outside Europe. Its use dates back to the beginning of the nineteenth century in some bounded national contexts, in particular during period of instability and military conflicts and generally consigned to praxis of the border police (Campesi 2013). However, today administrative detention finds legitimacy in specific legislative instruments (Wilsher 2011): deportation and detention have gained a long-term consideration in the development of European institutions, the Council of Europe and the European Union (EU).¹

This article aims to investigate the latent functions of administrative detention with respect to its relation with expulsion procedures, namely in its form of pre-removal detention. Its use is justified by the assumption that immigration detention is a non-punitive and indispensable measure to enforce immigration and asylum policies (Majcher 2013: 9). The objective of this article is to challenge this orthodox view: we inquire whether the use of administrative detention really ensures an increase in return rates without taking into account its relation with asylum and pre-admittance proceedings. In other words, the question is whether such measure can be evaluated as a useful instrument when compared to its legal purpose of guaranteeing the effectiveness of removal procedures. The attempt to find an answer to this query allows us to analyse not only the efficiency of this instrument, but also its hidden functions eventually linked to the paradigm of criminalization and exclusion of migrants. Indeed, despite administrative confinement is not formally a punishment, it shares many characteristics with criminal incarceration such as deprivation of liberty and police surveillance (Bosworth and Turnbull 2014: 4). For this reason, and by considering its increasing

¹ In particular, the Article 5 § 1 (f) of European Convention of Human Rights (ECHR) allows States to deprive aliens of liberty in immigration context. The first limb of that provision permits the detention of an immigrant (also asylum seeker) prior to the State's grant of authorisation to enter, while the second allows the deprivation of liberty of the irregular migrant in order to guarantee her or his expulsion or extradition. Moreover, we find the first regulation of administrative detention in the EU legal system with the adoption of the so-called “Return Directive” in 2008 (see Article 8 § 4 Directive No. 2008/115/EC, 16 December 2008).

use, “questions about its purpose, justification, and legitimacy can no longer be ignored” (Bosworth and Turnbull 2014: 2).

The research method consists, first of all, in collecting data concerning detention and deportation orders. Therefore, through a comparison between pre-removal detention numbers and effective return rates, we investigate the effectiveness of administrative confinement with respect to its purpose of guaranteeing the successful of expulsion procedures. In other words, we intend to verify if this peculiar form of deprivation of liberty finds its justification under the purpose assigned by law, or if its use meets other political demands.

The research field of our work is restricted both in time and space. With regard to the time frame considered, the relationship between imprisonments and returns is assessed looking at available data from 2014 to 2019, for each singular national context. Under the second profile, the domain of study consists in countries of the EU’s Mediterranean basin, i.e. Italy, France, Spain and Greece. Different reasons justify this choice: first of all, these countries are part of the EU’s external border attracting the greatest media attention to their immigration policies. In other words, they constitutes the walled enclosure of the “Fortress Europe”: they consequently occupy a strategic position related to the securitization paradigm that affects the mainstream narrative concerning the “control” and the “protection” of the European area (Campesi 2016; Jansen 2015; Karaki and Rigo 2010; Kariotis 2012). Moreover, they occupy the first positions in EU on the basis of the number of removal decisions. In particular, the 22.1% of the 478,200 persons ordered to leave a EU Member State in 2018 were ordered to leave France. The next highest numbers were recorded in Spain (12.4%) and in Greece (12.2%).² In addition, numbers concerning administrative detention has undergone a constant increase from year to year, not only in terms of number of detainees but also considering the impact on public finances. For example, in France the Finance Act of 2017 decreed 40,7 million to be allocated for the functioning of administrative detention centres (La Cimade 2018: 14), whereas in Greece, according to Joint Ministerial Decision issued at the end of 2018, the estimated budget for pre-removal detention facilities is 80,799,488 euro for the three-year period 2019–2022.³ Therefore, as well as being places where people are deprived of their freedom without having committed a crime causing human rights suffering, pre-removal detention centres represent also a large heading to Member States’ budget

² Data was referred by Eurostat (see https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Enforcement_of_immigration_legislation_statistics#Non-EU_citizens_refused_entry_into_the_EU-28).

³ We refer to the planned budget that results from the Ministerial Decision n. 8038/23/22-πζ/, Gov. Gazette B’ 5906/31.12.2018.

(Arbogast 2016; Lunaria 2013; Rodier 2012). Finally, all four countries taken into account has intervened from a legislative point to implement administrative detention system in the last 5 years. Therefore, the kind of analysis propose may challenge the legitimacy of the policies currently pursued.

The literature concerning administrative detention often refers to its ineffectiveness in enforcing removal policies (among others see Faleh Pérez 2013: 4; La Cimade 2018: 18; Severino 2019: 94; Valentini 2018: 236) underlining how this measure has progressively taken such a punitive meaning towards migrants (Miller 2003: 619). This article is an attempt to contribute to the discussion in so far as the analysis of different national contexts allows to fruitfully compare them and detect possible general trends. Of course, it is worth noting how the quality of the information collected hinders the method of investigation. The public access of data is not always guaranteed and it is most often dependent on the degree of transparency which affects these places of deprivation of liberty. Indeed, in countries where law provides for a precise regulation of monitoring activities, such it happens in France, data concerning administrative detention are certainly more complete. On the contrary, where this regulation does not exist, completeness and accuracy of data are sometimes missing being bound to discretion of governments and police authorities. Therefore, the presence of disaggregated data, both in time and space, has made this research particularly difficult.

According to the goal of this paper, the argument is developed in two main sections. The first deals with the legal purpose that EU legislation grants to administrative detention. The second section discusses the effectiveness of the instrument compared to its purpose of guaranteeing the successful of return procedures.

2 The Purpose of the EU Law Accords to Pre-removal Administrative Detention

The so-called “Return Directive” (2008/115/EC) admits the use of administrative detention of third-country national who is subjected of return procedure in order to prepare the return. The article 15 of Return Directive also defines the general conditions under which this measure of deprivation of liberty is justified and set detailed standards that limit the Member States’ prerogative to detain aliens. Some of the principles set out in EU law assume particular importance for our investigation. In particular, since EU provision qualifies administrative detention as an exception from the right to liberty, it must be justified under conditions of lawfulness and proportionality (McBride 1999) as underlined in the *Handbook on*

European law relating to asylum, borders and immigration (European Union Agency for Fundamental Rights 2019: 151). The condition of proportionality may be declined in three different legal principles (Hans 2000).

First, according to EU legislation administrative detention is a measure of *extrema ratio* such that its use has to be limited to circumstances in which it is impossible to resort to less coercive measures of control.⁴

Second, concerning pre-removal detention, article 15 § 1 of Return Directive states the possibility for Member States of keeping in detention “a third-country national detention who is the subject of return procedures”. The EU legislator clarifies that the requirement that justifies this measure consists in preparing the return or carrying out the removal proceeding. Moreover, the norm states that the measure of deprivation of liberty should be as short as possible and, in any case, maintained as long as the removal arrangements are in progress and executed. Therefore, the main function assigned to administrative detention by EU law is to guarantee the effectiveness of expulsion (or extradition) procedure and its execution.⁵ Accordingly, it is possible to argue the performativity of the so-called “suitability principle”, which consists in an adequacy relationship between detention regime and its purpose (Huysmans 2006: 239). This connection may be understood also as functional one: the detention order is justified if and only if its adoption depends on the necessity to guarantee the success of expulsion orders. Consequently, also the length of detention should not exceed the time reasonably required for the purpose pursued, given the principle according to which any deprivation of liberty shall last for the period as short as possible.⁶ What follows is that the detention may be considered not justified if any reasonable perspectives of removal do not exist. Moreover, the suitability principle has to be verified *ab initio* as well as throughout the entire time of detention: if the reasonable expectation of removal ceases to exist during expulsion or extradition procedures, then the person confined shall be released immediately.⁷

Third, the principle of proportionality finds a corollary in the principle according to which pre-removal detention constitutes a non-punitive measure of administrative nature. Formally unrelated to criminal law, its purpose must be

⁴ This principle is expressly stated in article 15 § 1 of Return Directive.

⁵ Coherently, the norm specifies further justified conditions whose existence has to be verified in order to a lawful use of a measure of deprivation of liberty: first, when there is a risk of absconding, namely when circumstances of the case are such as to suggest that the person by expelling may escape (Article 15, § 1 lett. a), Return Directive); second, when the alien avoids or hampers the preparation of return (Article 15 § 1, lett. b), Return Directive).

⁶ This principle is stated by article 15 § 2 Return Directive as well as reaffirmed by ECtHR in *Mikolenko v. Estonia* case (App No 10664/2005, judgment of 8 October 2009, paras 60).

⁷ Article 15 § 4 Directive 2008/115/EC.

different from a punishment and its use should not consist in ascribing a penalty in reason of an administrative irregularity relative to residence conditions in a Member States.⁸ Moreover, also the possibility of detaining an irregular migrant on grounds of public order and public safety cannot be based on Return Directive. With this regard, in 2009 the European Court of Human Rights (ECtHR) clarified in *Mikolenko v. Estonia* that EU law does not allow Member States to use administrative detention as a form of “light imprisonment”.⁹ On the contrary, administrative detention represents a measure applicable in order to guarantee the implementation of immigration procedures. In particular, the purpose of detention as provided by article 15 § 4 of Return Directive is “to assure that returnees do not undermine the execution of the obligation to return by absconding” (European Union Agency for Fundamental Rights 2014: 78).

3 The Effectiveness of Pre-removal Detention in Numbers

In the following subsections, we focus on the framework of pre-removal detention in Italy, France, Spain and Greece. These case studies will be observed through the analysis of data concerning the number of detentions and the number of expulsions. We try to verify the effectiveness of administrative detention with respect to its legal function by relating the trends of the two phenomena and underlining any measures of implementation of this measure that have occurred from 2014.

3.1 The Italian Case Study

At the end of 2016 the Italian Ministry of the Interior elaborated a roadmap concerning problematic issues about efficiency of removal procedures. This document underlines a negative trend with regard to the possibility to successfully complete expulsions of irregular migrants. What the roadmap of 2016 states is certainly

⁸ This principles was recently reaffirmed also by the UN Working Group on Arbitrary Detention, which states that “the irregular entry and stay in a country by migrants should not be treated as a criminal offence” (2018). With this regard see *El Dridi* decision of the European Court of Justice (ECJ) (Case C-61/11, *El Dridi, alias Soufi Karim*, 28 April 2011). Therefore, even if detention represents a typical instrument of criminal law, administrative internment has to not be considered as a way of punishing irregular migrants.

⁹ *Mikolenko v. Estonia*, paras 60.

supported by data concerning the repatriation procedures. According to the numbers collected by the Italian Senate's Human Rights Extraordinary Committee, in the period between 2014 and 2017, there has been a downward trend in return rates compared to the number of removal orders issued. In 2015, for example, 34,107 third-country nationals were addressees of expulsion measure. Since only 15,979 individuals were actually dismissed, while 18,128 have never left the country, the efficiency of expulsion procedures seems to be reached only in the 46% of the cases (Commissione Straordinaria per la Tutela e la Promozione dei Diritti Umani 2017: 17). Although the rapport identifies the inadequacy of administrative detention system as one of the relevant causes of the failure of Italian removal policies (Commissione Straordinaria per la Tutela e la Promozione dei Diritti Umani 2017: 13), even where administrative detention is ordered a similar downwards trend is observed. Between 2014 and 2016, about 12,196 third-country nationals passed through Italian detention centres (CPR), but less than 50% of them were actually addressed by a removal order. In particular, the return rates referring to the years just considered are as follows: 55% in 2014, 52% in 2015 and 44% in 2016.¹⁰

Although the data relative to the number of aliens detained in CPRs show how pre-removal detention was a ineffective recipe to reverse the trends of return rates, the Italian government intervened by deploying this measure. In 2017, Italy adopted Law 46/2017¹¹ (the converting law of the decree known as *Minniti-Orlando*¹²), which established new measures in order to control immigration and asylum procedure, in particular implementing administrative detention. The government allocated 13 million EUR to establish new detention centres. Indeed, among the cornerstones of the reform, one is to extent the network of pre-removal centres in order to speed up the identification and repatriation procedures of irregular migrants. The decree introduced essentially four innovations. As well as it changed the appellation from CIE (*Centro di Identificazione ed Espulsione*) to CPR

10 In the period between 1st January and 31st December 2014, 4986 third-country nationals were detained inside CPRs while only 2771 were actually expelled by the country. This means that the proper functionality of administrative detention – namely, prepare and ensure the effectiveness of removal procedure – was reached in 55% of cases. The same trend were confirmed in the two following years. In 2015 (1 January–20 December), 5242 individuals were detained in CPRs, while only 2746 were actually expelled (52%). In 2016 (1 January–15 September) the degree of returns was even less. Only the 44% of detainees were actual expelled. 1,968 aliens were detained, but only 876 were repatriated (Commissione Straordinaria per la Tutela e la Promozione dei Diritti Umani 2017: 13–14).

11 Gazzetta Ufficiale, Legge 13 aprile 2017, No. 46, 13 April 2017.

12 Gazzetta Ufficiale, Decreto – Legge 17 febbraio 2017, No. 13, 17 February 2017.

(*Centro di Permanenza per il Rimpatrio*),¹³ on one hand it intervened by extending the possibility of using this coercive measure by widening the mesh of the concept of “risk of absconding”. Coherently, on the other hand, the decree provided the establishment of new centres, one for each Italian Regions, in order to reach a total of 20.¹⁴ The approach followed by Italian government in 2017 was characterized by a passionate as much as unjustified trust in detention measures that was also shared by the other political parties that have taken over the government of the country in June 2018. Indeed, in 2018, the Italian Immigration Law was further amended with the Decree Law 113/2018,¹⁵ known as *Decreto Salvini*, later adopted as Law 132/2018.¹⁶ This last legislative action intervened on administrative pre-removal detention by determining both a temporal and a spatial extension of this measure. As regards the temporal profile, the decree introduced an amendment concerning the maximum deadline for the length of the detention of irregular migrants waiting for return that was raised from 90 to 180 days.¹⁷ Turning to spatial profile, the greater innovation of *Decreto Salvini* concerns the places of detention: it determined an unprecedented extension of the group of detention facilities. According to article 4 of the Decree the judge may authorise the temporary staying of the irregular migrants also in “adequate” facilities different by CPRs, when there is no seat available in the latter. What “adequate” means represents one of the main causes for concern about this reform. Since this term does not find an accurate specification by law, it may allow multiple forms of deprivation of liberty in various places, where the rights of the detainees risk to suffer ever greater suffering in practice.¹⁸

Leaving aside the problematic issues of the above-mentioned laws, what we should underline is how these interventions represent signs of the Italian implementation of administrative detention to improve the efficiency of its policies to counteract irregular migration. In view of this implementation, does this

13 As a matter of fact, this aspect concerning the name of pre-removal facilities represents a recurrence characterising the different legislative reforms that have involved the institution of administrative detention in Italy. For further informations related to the legislative interventions that have transformed administrative detention over years see Valentini 2018: 59–81).

14 At the time of the adoption of Minniti-Orlando Decree there were only four detention centres in operation, namely CPRs located in Brindisi, Torino, Roma and Caltanissetta. According to plans of legislators, in this way the number of places available should have been 1600 against the 449 attested in 2017. Data was referred by Commissione Straordinaria per la Tutela e la Promozione dei Diritti Umani (2017: 4).

15 Gazzetta Ufficiale, Decreto-Legge 4 ottobre 2018, No. 133, 4 October 2018.

16 Gazzetta Ufficiale, Legge 1 dicembre 2018, No. 132, 1 December 2018.

17 Article 14 § 5 TUI (Testo Unico in materia di Immigrazione – Legge 18 Agosto 1998, No. 191, 18 August 1998).

18 Gazzetta Ufficiale, Decreto-Legge 4 ottobre 2018, No. 133, 4 October 2018.

institutional effort produce positive results in terms of efficiency of removal procedures? Data for the years following the reform of 2017 provide a negative response. During 2018, 9,092 people were detained in Italian CPRs, but only 1768 of them were repatriated, confirming a return rate below than 50%, namely 43%, if compared to the number of detainees (Garante Nazionale dei diritti delle persone detenute o private della libertà personale 2019: 1). The same trend seems to be verified by data relative to the first six months of 2019 (January–June): detainees in CPR were 2267, but only 1022 of them were finally addressed by an expulsion order. Therefore, only 45% of cases detention was justified in the light of its function to ensure an expulsion procedure (Garante Nazionale dei diritti delle persone detenute o private della libertà personale 2019: 11).

3.2 The French Case Study

France makes the greatest use of administrative detention among EU Member States. According to data released by French government, more than 45,000 people were detained in CRAs (Centres de Rétention administrative) and LRAs (Locaux de Rétention Administrative) in 2018, considering both metropolitan and overseas areas (La Cimade 2019, 6). Even if the official data for 2019 have not yet been made public, the association La Cimade has found that in the CRAs visited during that year the number of migrants retained is increased of 36%, if compared to the number of individuals detained in the same facilities in 2016 (La Cimade 2020). This may be seen as evidence of how administrative detention has not only represented but still represents a central instrument of French migration policies. Moreover, during 2018 the government intervened in the direction of giving this measure even more importance. First, Law n. 187/2018¹⁹ intervened by widening the number of potential recipients of administrative detention order. Indeed, it provided a “legal basis” for the *rétention* of persons who are not yet subjected to an expulsion order by making the definition of risk of absconding wider. In this way, it allowed an almost systematic recourse to administrative detention against individuals subjected to Dublin procedure.²⁰ It means that the third-country nationals may be detained also during the phase of individuation of the State responsible for receiving the application for asylum and, therefore, before that a transfer decision has been taken.²¹ Second, the Law n. 778/2018 has doubled the

¹⁹ Loi No 2018-187, 20 March 2018.

²⁰ As known, the purpose of Dublin Regulation (Regulation (EU) No 604/2013, 26 June 2013) is to determine which States is responsible for examining an asylum application (generally, the State where the asylum seeker first entered the EU).

²¹ With this regard see the Rapport 2018 edited by La Cimade (2019: 10).

maximum length of detention from 45 up to 90 days.²² Finally, French government has allocated additional funds for the year 2019 in order to increase by 45% the places available in the structures destined to administrative detention of foreigners in *métropole* (La Cimade 2019: 12).²³

However, such investments – together political, legislative and economic – seem to be unjustified in relation both to the pre-existing situation and to benefits obtained. As regards to the first, we point out as the implementation of administrative detention occurred in 2018 seems out of place compared to a measure that had previously proved ineffective considering its purpose of ensuring the effectiveness of removal procedure. Indeed, in the years 2014, 2015 and 2016, the rate of actual return of persons retained were below 50%.²⁴ The same happened in 2017, when 25,274 migrants were detained in CRAs in *métropole* area. Among them, expulsion procedures have reached a positive outcome only in 10,114 cases, corresponding to a success rate of 40.4%, while in 56.9% of cases the detainee is released. Also looking at data referred to 2018, it is possible to reach the same conclusion: 24,912 persons were detained in CRAs in *métropole*, but among them only 9646 were actual removed (40.5%).²⁵

Even if these detention measures do not seem to achieve the desired result, France continues to resort to administrative detention. In this sense, the relationship between the length of detention and the success of expulsion procedure is particularly significant: in the light of the reform that extended the period of detention to a maximum of 90 days, to what extent do detention measures impact on the effectiveness of return policies? Data prove that the answer is they do not: in 2019, 91.5% of expulsions from CRAs are carried out over the first 45 days of *rétenion*, while in 41% of cases the removal order is executed within the first 10 days. The passing of time appears inversely proportional to the success of removal procedure: only the 3.6% of return orders are taken after the 60th day of

²² Loi No 2018-778, 10 September 2018.

²³ In particular we refers to the Avis sur le projet de loi de finances pour 2019 (no 1255, Tome VII, Immigration, asile et intégration, Commission des affaires étrangères, Assemblée nationale, 12 octobre 2018).

²⁴ In 2014: 24,072 imprisonments in metropolitan CRAs compared to 11,093 removals (return rate of 46.1%). In 2015: 26,294 imprisonments in metropolitan CRAs compared to 11,449 removal decisions (43.5%). In 2016: 22,860 imprisonments in metropolitan CRAs compared to 9440 removal decisions (41.3%). Data are referred by La Cimade (2019: 12).

²⁵ Data are referred by La Cimade (2019: 18). In this case, we prefer to refer only to data of detentions within metropolitan CRAs. Indeed data referred to imprisonments in LRA consists in estimates: for 2018 data concerning LRAs were provided by the Ministry of the Interior only for the first half of the year. Consequently, the number of people locked up in LRAs has been doubled to establish an estimate over the full year. The number estimated for 2018 consists in 1702 individuals detained in metropolitan LRAs.

internment.²⁶ On the other hand, a direct proportional relations between the length of detention and the possibility of expulsion can be denied by looking at data referring to the years prior to the 2018 reform. For example, we witnessed an increase in the average length of detentions between 2017 and 2018: from 12.6 days in 2017 to 14.6 days in 2018. It is even more significant the increase in the number of imprisonments lasting 30 days: from 2468 in 2016 to 4432 in 2018. However, as we observed before, this trend does not seem to match with a more effectiveness considering the goal of enforcing returns of people detained. Moreover, the increased time of detention over the years is hardly justified by return rates that seem to be higher during the first 48 h of detention (La Cimade 2019). Considering this trend and the legislative reform occurred in 2018, we should conclude that people are being held longer and longer but unnecessarily.

3.3 The Spanish Case Study

In Spain, the amount of population held in pre-removal centres is much smaller than in France: during 2018, 7855 people were detained in *Centros de Internamiento de Extranjeros* (CIE).²⁷ This shows that the number of detentions has decreased since 2017, when third-country nationals deprived of their liberty into a Spanish CIEs were 8814. On the other hand, the numbers of imprisonments in 2018 does not represent a systematic decline: indeed, data for this year are similar to the ones for 2014, 2015 and 2016 when the individuals detained were respectively 7286, 6930 and 7597. Hence, it seems clear that in Spain numbers of imprisonments remained almost consistent during the second half of last decade.

²⁶ See La Cimade (2020) to observe complete data concerning the rate of actual returns related to length of detention. It should be considered that this study (and, therefore the data reported in our work) take into account only 7 of the CRAs working in France in 2019, namely those in Mesnil-Amelot, Bordeaux, Hendaye, Rennes, Toulouse, Les Abymes (Guadalupe) and Cayenne (Guyane).

²⁷ Data are referred by Servicio Jesuita a Migrantes (2019: 1). In order to understand these numbers, it may be useful to clarify two essential points. First, reported data do not take into account other forms of deprivation of liberty to which foreigners are subjected according to migration law. In particular, Spanish legislation provides for temporary detention of foreigners in the so-called *salas de inadmisión de frontera*. Moreover, these statistics are not comprehensive of numbers of aliens “hosted” at the so-called *centros de estancia temporal de inmigrantes* (CETI) of which are emblematic examples the centres located in Ceuta and Melilla, two legal enclaves of Spain but physically situated in Moroccan territory (on this issue, see Acosta Sanchez 2014). Secondly – as well as we are going to specify later on – we should consider that the CIEs’ population is composed not only by aliens subjected to expulsion procedures for irregular staying, but also of those individuals subjected of refoulement procedures at the border.

We should underline that, according to Spanish law, both the juridical preconditions that underpin administrative detention and the categories of third-country nationals who may be held in these places are various. First, those who are subject to expulsion on the grounds of their illegal residence, or for having committed an administrative offence qualified by law as serious (i.e. *graves*) or very serious (i.e. *muy graves*) may be detained in CIEs (i.e. *orden de expulsión*).²⁸ Second, administrative imprisonment is systematically used to prepare the expulsion ordered as penalty that follows a criminal conviction (i.e. *expulsión por haber sido condenado*).²⁹ Finally, Spain uses this type of coercive measure towards people who are intercepted on the territory as the result of either an irregular entry or when border police denies the entry arranging the rejection. In the latter case, if the alien's refoulement (i.e. *devolución*) cannot be carried out within 72 h, the competent court may authorise the detention in CIEs.³⁰ If this clarification concerning legal grounds of administrative detention is needed, a specification on the empirical effects of such forecasts is also necessary. It is worth noting that the 70.04% of detention orders taken in 2018 was justified on the grounds of illegal entry in the country, while only 15.86% of CIEs' population was made up of *extranjeros* interested by an expulsion procedure traced back to the first of the above-mentioned cases.³¹ This reveals how administrative detention in Spain constitutes an ordinary instrument of border management and control rather than a juridical institution ancillary to expulsion procedure. In this sense, we may argue about a functional distortion with respect to the purpose that *Return Directive* assigns to this measure. However, the most interesting aspect is represented by return rates considered both in relation to their trend over time and in the light of the number of measures of detainment. Looking at the period between 2014 and 2017, aliens detained has been effectively repatriated in less than half of cases. Indeed, 2016 and 2017 were particularly significant for the lowest return rates of the last 6 years. According to the above-mentioned data concerning the number of persons held in CIEs, only 2205 removal orders were effectively taken in 2016 (namely, in 9.02% of cases), while expulsions following administrative

28 Articles 53–54 Ley Orgánica no 4/2000 (LOEX).

29 Article 58 § 2 LOEX.

30 Articles 58 § 3 lett. (a)–(b) LOEX.

31 In 2018, 5502 (70.04%) of detention orders aimed to removal were justified on the basis of irregular entry in the country while only 1246 (15.86%) on the basis of irregular stay. The other grounds for administrative detention were the followings: expulsion orders following criminal conviction in 281 cases (3.58%), refoulement decisions by reason of irregular entry by means of transport other than ships, vehicles in 223 cases (2.84%) and refoulement decisions given on ground of an entry contrary to a previous re-entry ban in 212 cases (2.70%) (see Servicio Jesuita a Migrantes 2019: 24).

imprisonments were 3286 (37.28%) in 2017.³² Consequently, also Spain's situation seems to be characterized by a failure of migration policies based on coercive measures so much that they result in a massive needless suffering for migrants (Servicio Jesuita a Migrantes 2018).

Nevertheless, this state of affairs seems to have undergone a change of course in 2018. For the first time in the decade the expulsion rate following detention has risen above 50% of cases achieving 58.8%: among 7855 migrants detained, 4584 of them were effectively removed from the country (Servicio Jesuita a Migrantes 2019: 26). If, on the one hand, we must acknowledge that the administrative imprisonment seems to have suddenly become more effective, on the other hand, we cannot refrain from investigating the causes of this change. What are the conditions that changed? The improvement in the effectiveness of removal procedures should be understood looking beyond the coercive measure in itself and explained through certain political and administrative choices: according to recommendation of the Spanish Government, the Police authority should have given priority to detain those subjects in respect of which the actual execution of return decision would have been easier. Indeed, it is no coincidence that in 2018 the 35.66% of detainees in CIEs were of Moroccan origin, while the 31.99% came from Algeria, although more than 90 different nationalities were declared by the CIEs' population during the year.³³ The underlying *ratio* for these political choices regards the existence of readmission agreements between Spain and the two extra-EU countries above-mentioned, so that repatriations to Algeria and Morocco would certainly be easier. Despite of this return rate has increased but not significantly stopping at little more than half of the number of detainees. On the other hand, one of the main result of this institutional choice consisted in imprisonments resulted by police conducts based on racial bias. The Spanish police operated indiscriminately arrested individuals whose physical features could suggest an origin from the above-mentioned sub-Saharan countries (Servicio Jesuita a Migrantes 2019; Martín 2019).

³² Data referring to 2016 and 2017 seems particularly problematic revealing a systematic inefficiency of the measure of deprivation of liberty with respect to the purpose of executing the expulsion order. On the other hand, a similar situation is photographed also referring to the years 2014 and 2015. In 2014, 7286 individuals were detained in Spanish CIEs, but only 3483 (47.80%) of them were actual removed by the country. In 2015 detention orders were 6930 compared to 2871 expulsions (41.43%) (Servicio Jesuita a Migrantes 2019: 26).

³³ In particular, 2801 individuals of the 7855 foreigners detained in 2018 were of Moroccan origin and 2511 were Algerian. The following groups of extraUE countries most represented in CIEs' population were: Guinea with 418 individuals detained (5.32%), Senegal with 320 (4.07%), Gambia with 252 (3.21%) and Mali with 208 (2.62%). Hence, the representation of the remaining 84 nationalities declared not exceeding 2% (Servicio Jesuita a Migrantes 2019: 26).

Hence, even with regard to Spain, the framework described seems to confirm how the use of measures of deprivation of liberty is not an effective instrument to ensure a better efficiency of expulsion procedures. Indeed, a positive effect of detention in terms of increasing return rates appears only in presence of readmission agreements. On the other hand, we observed that also Spain – and even more than France and Italy – resorts to administrative detention of migrants to pursue other goals different from keeping non-citizens waiting to be expelled: administrative detention in Spain seems to be mostly used as a tool for managing arrivals and controlling external frontiers.

3.4 The Greek Case Study

For a number of years, detention has represented Greece's main policy in the management of migrants, particularly with regard to irregular arrivals (Bosworth and Fili 2015; Skordas 2002). The country holds a unique consideration as bastion of defence of EU's external border because of its strategic geographical location with respect to migratory routes from Middle East (Mavrikos-Adamou 2017).³⁴ For this reason, since the early 1990s, the domestic political debate concerning immigration has been articulated on three main pillars: internal security, cultural identity and welfare (Koutsouraky 2017). The narrative marked by internal securitisation and wariness of aliens seems to strengthen with the economic crisis that has affected Greece since 2009: immigration has been depicted as threatening the welfare of Greek citizens in austerity-ridden Greece (Fili 2018: 163; see also Karamanidou 2016). In this context, characterised by a widespread anxiety about the effects of surging migration,³⁵ Greece responded by employing several techniques – both formal and informal – to contrast immigration. Among them we should consider administrative detention (Laliotou 2013; Mavrikos-Adamou 2017).

During the last few years, Greece's migration policies have got the attention of media as well as of supranational institutions and non-governmental organisations involved in monitoring activities of conditions of detention regime. Reports confirmed the government's engaging in a large-scale investment in pre-removal detention facilities in order to increase the return rates (UN Human Rights Council 2013). Starting from the assumption that every migrant entering in Greek territory is irregular, the government developed a migration policy focused on measures of coercion involving not only “undocumented” persons who have to be expelled but

³⁴ With this regard See European Commission recommendations (2016a, 2016b).

³⁵ During 2019, more than 62,000 people have reached Greece's land and sea borders, compared to around 38,000 combined in Spain and Italy, the other two frontline countries (Stamouli 2019).

also – and for the majority – individuals who enter in Greece, including asylum seekers. Already in 2013, the Minister of Citizen's Protection stated that "our aim is that every illegal migrant, unless the competent authorities decide that he is entitled to international protection, will be detained until he is returned to his home country" (2013). Most recently, the same approach has been proposed by the new government that in October 2019 has intervened on the Greek International Protection Act (IPA) redefining the legal grounds for detaining asylum seekers.³⁶ Although this is not the place to address this issue, the political purpose of this reform should be underlined.³⁷ According to government's plans, Greece will shut down camps for asylum seekers located on the Aegean islands and build new closed pre-removal detention centres on the mainland in order to transfer third-country nationals waiting for reply to their asylum application. Considering the huge number of asylum seekers staying in Greece, certainly this project is expected to lead to an increase in the number of detentions in the next year. On the other hand, over the past few years the population of pre-removal detention facilities was already fairly divided between people awaiting of being expelled and seeking international protection. Indeed, in 2018 – during which 66,969 applications were registered with the Asylum Service – the Hellenic Police detained 18,204 asylum seekers in pre-removal detention centres (Mouzourakis 2019). It means that more than one in four applicants have been detained, which seems to be in flagrant contradiction with the *last resort* principle as claimed in art. 10 of EU Directive 2013/33/EU.³⁸ The systematic recourse to detention as an instrument of asylum policy is also confirmed in relation to data referred to previous years: 4072 applicants were detained in 2016 and 9534 in 2017 (Asylum Information Database 2018: 146). This shows how the number of asylum applicants detained in pre-removal facilities has increased by almost double every year.

This increase in the use of coercive measures finds confirmation with reference to immigration management entirely considered, namely combining asylum policies and return procedures. At the end of 2014 the detained population had reached 7000³⁹ while data referred to the end of 2015 show a slight inflection of detention orders coinciding with the formation of a left-wing government.⁴⁰ Following this brief interlude year-long, the use of administrative detention has

³⁶ Greek Law no 4636/2019, 23 October 2019.

³⁷ In order to explore the most relevant profile of the Greek Asylum Reform, see the contribute of Mouzourakis (2019).

³⁸ Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection. In particular see article 8.

³⁹ As regards years prior to 2014 see Angeli, Dimitriadi and Triandafyllidou (2014a, 2014b).

⁴⁰ Between 2014 and 2015 the detained population fell from around 7000 to 5000 (Fili 2018b).

been gradually resumed increasing year by year: at the end of 2017, 25,810 persons had been detained in Greece's pre-removal facilities. It means that the number of imprisonments was increased by 60% compared to 2016, when 14,864 third-country nationals had been retained. This trend was also confirmed in 2018 when 32,718 detention orders were issued by Greek authorities (Greek Council for Refugees 2019a, 2019b). However, the scale of this phenomenon is likely to be even underestimated if we do not consider the fact that many imprisonments took place in other facilities than "closed" pre-removal centres. Police stations and other police structures are widely used for detaining non-citizens, including asylum seekers. For example, in 2018 almost one in three third-country nationals were retained in a police station, namely 835 individuals out of the total of migrants detained (28.4%) (Asylum Information Database 2018: 147).

Although we notice that the number of persons detained has significantly increased in last years, this is not mirrored by a corresponding increase in the number of forced returns. On the contrary, we argue how the trend concerning the use of forced returns turn out to be inversely proportional compared to that of detentions. Between 2008 and 2013, Greece issued 491,411 orders to leave of which only 24.5% were enforced. In 2014, in the middle of economic crisis, Greek government ceased all deportations given the extreme costs of forced returns (Fili 2018: 165). This approach was also followed in subsequent years so that the number of forced returns has decreased while the number of detention measures has increased: between 2017 and 2018 forced removals had an inflation from 13,437 to 7776 (Greek Ombudsman 2018 2019). Given this, it may be possible not only to assert the failure of administrative detention as a means of ensuring the effectiveness of return procedures, but also to address the question concerning the possibility that the systematic use of this measure may find its justification in other and different need far from the ground provided by law.

4 Conclusion: When Practices Betray Principles

According to the national contexts analysed, some conclusions can be highlighted.

First, the implementation of administrative detention seems to represent a widespread practice within the framework of asylum and immigration management, which affects a significant number of third-country nationals. Even if data concerning detentions seem to remain constant in the timeframe considered, legislative interventions have occurred to implement administrative detention in the last two years. This shows how deeply rooted is the idea that administrative detention would be essential to manage immigration phenomenon. Indeed, this instrument of deprivation of liberty has become one of the main pillars of

immigration policies in Europe, according to the idea that this would be the best recipe to compensate for the widespread problem of the ineffectiveness of expulsion procedures (Campesi 2013).⁴¹

Second, we argue how the policy and trust in administrative detention as shown by Italian, French, Spanish and Greek governments seem to be a paradox in the light of data collected. Indeed, these seem to show the ineffectiveness of administrative detention in relation to the purpose of ensuring the success of removal procedures: as data referred to Italy, Spain and France have shown, return rates for the population of pre-removal centres are very low. Indeed, the number of persons actually repatriated as a result of detention measure seems never to exceed 50%. Moreover, when we consider the number of expulsions carried out in general, we observe how there is no correlation between the trend of repatriations executed and the number of detainees: in the timeframe considered, data of return rates have remained steady such as the numbers of detentions and expulsions. Looking at Greece, we notice an increase in number of detentions in the last 3 years. However, this increase does not correspond to a growth in the number of expulsions: the number of imprisonments has increased even if the number of forced returns has fallen during the years of economic crisis.

With consideration of all the above, the failure of administrative detention system seems to be ascertained. Furthermore, the increase in its use and the trust in its usefulness open the issue concerning its arbitrariness with regard to its non-compliance with the suitability juridical principle. On the base of this, the legitimacy of the deprivation of liberty must be considered in light of the existence of a functional connection between the detention regime and its purpose, which law mainly identifies in guaranteeing the success of expulsion procedure. On the contrary, data confirmed how trends concerning use of administrative detention and numbers of expulsions are not related at all. Such dysfunction seems to justify the opinions of those who affirm the unlawful use of pre-removal detention. In that regard, the resort to detaining would accomplish purposes out of legal provisions, such as a deterrent action against irregular immigration and media function in order to give an exemplary answer to the public anxiety concerning the immigration phenomenon. In other words, administrative detention would be used as instrument linked to the criminalization process which involves mass of migrants: “immigration detention can be understood as both a policy and a practice that is directed towards the control of unwanted human mobility” (Turnbull 2016), as the phenomenon that results from the extension of techniques traditionally used in

⁴¹ This claim constitutes also the starting point for the European Commission itself when in 2014 it had declared that less than 40% of irregular migrants actual recipients of expulsion order had effectively left European territory (European Commission 2015).

criminal law to other different contexts as migration policies. Even if it is not formally a punishment, its ongoing use despite its ineffectiveness seems to assign to administrative detention the value of penalty mechanism against a specified category of subjects. Even if punishment in relation to border and territory control is not explicit, it is enacted through administrative policies and practices among which there is imprisonment technique (Bosworth and Guild 2008; Bosworth and Turnbull 2014; Georgoulas and Sarantidis 2012; Majcher 2013; Masera 2019; O'Nions 2008). For critical race theory scholars, immigration detention contributes to create a narrative based on racial discrimination, reproducing the “whiteness” of the citizenry and, consequently, naturalising the illegality of non-white (Sampson and Mitchell 2013).

References

- Acosta Sanchez, M. Á. 2014. “Las fronteras terrestres de España en Melilla: delimitación, vallas fronterizas y tierra de nadie.” *Revista Electrónica de Estudios Internacionales* 28: 1–34. Noviembre 2014.
- Angeli, D., A. Dimitriadi, and A. Triandafyllidou. 2014a. “Is the Indiscriminate Detention of Irregular Migrants a Cost-Effective Policy Tool? A Case-Study of the Amygdaleza Pre-removal Center.” *Midas Policy Paper*: 1–11. May 2014 <https://hdl.handle.net/1814/31574>.
- Angeli, D., A. Dimitriadi, and A. Triandafyllidou. 2014b. “Assessing the Cost-Effectiveness of Irregular Immigration Control Policies in Greece.” *Midas policy Paper*: 1–16. October 2014 <https://www.eliamep.gr/wp-content/uploads/2014/11/MIDAS-Policy-Paper-EN.pdf>.
- Arbogast, L. 2016. “Il fiorente business della detenzione dei migranti nell’Unione Europea. Subappalto e privatizzazione della reclusione degli stranieri.” *Rosa Luxemburg Stiftung*. <https://www.migreurop.org/IMG/pdf/detenzione-dei-migranti-small.pdf>.
- Asylum Information Database. 2018. “Country Report: Greece.” 2018. <https://www.asylumineurope.org/reports/country/greece>.
- Bloch, A., and L. Schuster. 2006. “At the Extremes of Exclusion: Deportation, Detention and Dispersal.” *Ethnic and Racial Studies* 28 (3): 491–512.
- Bosworth, M., and A. Fili. 2015. “Immigration Detention in Britain and Greece.” In *Detaining the Immigrant Other: Global and Transnational Issues*, edited by E. Douglas, G. Lamphear and R. Furman, 79–90. Oxford: Oxford University Press.
- Bosworth, M., and M. Guild. 2008. “Governing through Migration Control: Security and Citizenship in Britain.” *The British Journal of Criminology* 48 (6): 703–719.
- Bosworth, M., and S. Turnbull. 2014. “Immigration Detention, Punishment, and the Criminalization of Migration.” In *The Routledge Handbook on Crime and International Migration*, edited by J. Ham and S. Pickering, 91–106. London: Routledgepp.
- Campesi, G., 2013. *La Detenzione Amministrativa Degli Stranieri. Storia, Diritto, Politica*. Roma: Carocci Editore.
- Campesi, G. 2016. “Sicurezza, democrazia e diritti in Europa. A proposito della nuova Guardia costiera e di frontiera europea.” *Studi Sulla Questione Criminale* 11 (3): 7–36.

- Commissione Straordinaria per la Tutela e la Promozione dei Diritti Umani. 2017. "Rapporto sui Cetri di Identificazione ed Espulsione in Italia." [https://www.senato.it/application/xmanager/projects/leg17/file/Cie%20rapporto%20aggiornato%20\(2%20gennaio%202017\).pdf](https://www.senato.it/application/xmanager/projects/leg17/file/Cie%20rapporto%20aggiornato%20(2%20gennaio%202017).pdf).
- European Commission. 2015. "Comunicazione della Commissione al Parlamento Europeo e al Consiglio. Piano d'azione dell'UE sul rimpatrio." *COM. 453 final 2015:0453:FIN: IT:PDF*. <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM> (accessed September 9, 2015).
- European Commission. 2016a. "Commission Adopts Schengen Evaluation Report on Greece and Proposes Recommendations to Address Deficiencies in External Border Management." https://ec.europa.eu/malta/news/commission-adopts-schengen-evaluation-report-greece-and-proposes-recommendations-address_en (accessed 2 February 2016).
- European Commission. 2016b. "Implementing the European Agenda on Migration: Progress on Priority Actions." https://europa.eu/rapid/press-release_IP-16-271_en.htm (accessed February 10, 2016).
- European Commission of Human Rights. 2017. "Return Handbook." Annex to the Commission Recommendation, 78. https://ec.europa.eu/dgs/home-affairs/what-we-do/policies/european-agenda-migration/proposal-implementation-package/docs/return_handbook_en.pdf.
- European Union Agency for Fundamental Rights. 2014. Handbook on European Law Relating to Asylum, Borders and Immigration. June 26, 2014. <https://fra.europa.eu/en/publication/2014/handbook-european-law-relating-asylum-borders-and-immigration>.
- European Union Agency for Fundamental Rights. 2019. "Migration: Key Fundamental Rights Concern." *Quarterly Bulletin*. 1.1.2019–31.3.2019. <https://fra.europa.eu/en/publication/2019/migration-key-fundamental-rights-concerns-quarterly-bulletin-4> (accessed November 4, 2019).
- Faleh Pérez, C. 2013. "El Encierro de Extranjeros en España: crítica y alternativas a los CIE desde el sistema universal de protección del los derechos humanos." *Revista Electrónica Iberoamericana* 7 (2): 99–117. https://www.urjc.es/images/ceib/revista_electronica/vol_7_2013_2/REIB_07_02_Carmelo%20Faleh.pdf. ISSN-e 1988-0618.
- Fili, A., 2018a. "Containment Practices of Immobility in Greece." In *Critical Perspectives on Migration in the Twenty-First Century*, edited by J. Steiner, L. Southgate and M. Karakoulaki, 162–80. Bristol: E-International Relations Publishing.
- Fili, A., 2018b. "Immigration in Greece: Contemporary Challenges. A Briefing Paper." *Criminal Justice, Borders and Citizenship Research Paper*: 1–14. No. 3299551. https://www.law.ox.ac.uk/sites/files/oxlaw/greece_briefing_paper.pdf (December 11, 2018).
- Garante Nazionale dei diritti delle persone detenute o private della libertà personale. 2019. "Norme e normalità. Standard per la privazione della libertà delle persone migranti (Raccolta delle raccomandazioni 2016–2018)." <https://www.garantenazionaleprivatiliberta.it/gnpl/resources/cms/documents/ef9c34b393cd0cb6960fd724d590f062.pdf>.
- Georgoulas, S., and D. Sarantidis. 2012. "Migration and State Crimes. A critical criminological approach and a case study in Greece." *Antigone. Quadrimenziale di critica del sistema penale e penitenziario* 1: 92–109.
- Greek Council for Refugees (GCR). 2019a. Administrative Detention in Greece: Findings from the Field (2018). https://www.gcr.gr/media/k2/attachments/GCR_Ekthesi_Dioikitik_Kratisi_2019_en.pdf (accessed February 2019).

- Greek Council for Refugees (GCR). 2019b. "Greece. Issues Related to Immigration Detention." <https://www.globaldetentionproject.org/wp-content/uploads/2019/11/SUBMISSION-to-WGAD-Greece-October-2019.pdf> (accessed October 2019).
- Greek Ombudsman. 2018. "Return of Third-Country Nationals. Special Report 2017." <https://fliphtml5.com/hmpf/ymfm/basic> (accessed October 2018).
- Greek Ombudsman. 2019. "Return of Third Country Nationals. Special Report 2018." <https://www.synigoros.gr/resources/docs/english-final.pdf>.
- Hans, J. H. 2000. "Proportionality Revisited." *Legal Issues of Economic Integration* 27 (3): 239–265. https://www.rug.nl/research/portal/files/3123838/Proportionality_Revisited.PDF. ISSN 0377-0915.
- Huysmans, J., 2006. *The Politics of Insecurity. Fear. Migration and Asylum in the EU*. London, UK: Routledge.
- Karakali, S., and E. Rigo. 2010. "Mapping the European Space of Circulation." In *The Deportation Regime: Sovereignty, Space and the Freedom of Movement*, edited by N. De Genova and N. Peutz, 123–146. Durham, NC: Duke University Press.
- Karamanidou, L. 2016. "Violence against Migrants in Greece: Beyond the Golden Dawn." *Ethnic and Racial Studies* 39 (11): 2002–2021.
- Karyotis, G. 2012. "Securitization of Migration in Greece: Process, Motives and Implications." *International Political Sociology* 6: 390–408.
- Koutsouraky, E. 2017. "The Indefinite Detention of Underiderable and Unreturnable Third-Country Nationals in Greece." *Refugee Survey Quarterly* 36. Oxford University Press.
- Jansen, Y. 2015. "Deportability and Racial Europeanization." In *The Irregularization of Migration in Europe. Detention, Deportation, Drowning*, edited by Y. Jansen, R. Robin Celikates and J. de Bloois, 15–30. London: Rowman & Littlefield International.
- La Cimade. 2018. "Centres et Locaux de rétention administrative. Rapport 2017." https://www.lacimade.org/wp-content/uploads/2018/07/La_Cimade_Rapport_Retention_2017.pdf.
- La Cimade. 2019. "Rapport 2018 sur les Centres et locaux de Rétention Administrative." https://www.lacimade.org/wp-content/uploads/2019/06/La_Cimade_Rapport_Retention_2018.pdf.
- La Cimade. 2020. "Une politique d'expulsion de plus en plus répressive." *La Cimade (Online)*. <https://www.lacimade.org/une-politique-dexpulsion-de-plus-en-plus-repressive/> (accessed January 21, 2020).
- Laliotou, I. 2013. "Greek Crisis Foreseen: The Future in Migrancy." *Greek Review of Social Research*. 140–141: 247–260.
- Lunaria. 2013. "An Inhuman Cost. Public Spend to Combat Illegal Immigration in Italy." https://www.lunaria.org/wp-content/uploads/2013/05/costidisumani-web_def.pdf.
- Majcher, I., 2013. "'Crimmigration' in the European Union through the Lens of Immigration Detention." *Global Detention Project Working Paper* 6: 1–21. <https://ssrn.com/abstract=2340566>.
- Martín, M. 2019. "Interior bate récords de expulsiones desde los CIE." *El País (Online)*. https://elpais.com/politica/2019/06/02/actualidad/1559507111_004291.html. (accessed June 6, 2019).
- Martin, L. L., and M. L. Mitchelson. 2009. "Geographies of Detention and Imprisonment: Interrogating Spatial Practices of Confinement, Discipline, Law, and State Power." *Geography Compass* 3 (1): 459–477.
- Masera, L. 2019. "La Crimmigration Nel Decreto Salvini." *La legislazione penale*. June 24, 2019.

- Mavrikios-Adamou, T. 2017. "Immigration Law and the Politics of Migration in Greece." In: *Mediterranean Quarterly* 28 (2). Duke University Press.
- McBride, J. 1999. "Proportionality and the European Convention on Human Rights." In *The Principle of Proportionality in the Laws of Europe*, edited by T. Tridimas and E. Ellis Oxford: Hart Publishing.
- Menjívar, C., A. Gómez Cervantes, and D. Alvord. 2018. "The Expansion of "Crimmigration," Mass Detention, and Deportation." *Sociology Compass* 12 (4): 1–15.
- Miller, T. A. 2003. "Citizenship & Severity: Recent Immigration Reforms Ad the New Penology." *Georgetown Immigration Law Journal* 17: 611–666. <https://ssrn.com/abstract=2340566>.
- Mouzourakis, M. 2019. "All but Last Resort: The Last Reform of Detention of Asylum Seekers in Greece." *EU Immigration and Asylum Law and Policy (Online)*. <https://eumigrationlawblog.eu/all-but-last-resort-the-last-reform-of-detention-of-asylum-seekers-in-greece/> (accessed November 18) .
- O'Nions, H. 2008. "No Right to Liberty: The Detention of Asylum Seekers for Administrative Convenience." *European Journal of Migration and Law* 10 (2): 149–185.
- Rodier, C., 2012. *Xénophobie business. À quoi servent les contrôles migratoires?*. Paris: La Découverte.
- Sampson, R. C., and G. Mitchell. 2013. "Global Trends in Immigration Detention and Alternatives to Detention: Practical, Political and Symbolic Rationales." *Journal on Migration and Human Security* 1 (3): 97–121.
- Servicio Jesuita a Migrantes. 2018. "Detention Report 2017. Sufrimiento Inútil/Needless Suffering." <https://sjme.org/wp-content/uploads/2018/06/SJM-2017-Detention-Report.pdf>.
- Servicio Jesuita a Migrantes. 2019. Informe 2018. Discriminación de origen. https://sjme.org/wp-content/uploads/2020/02/Informe-CIE-2018-SJM_CAT.pdf (accessed June 2019).
- Severino, C. 2019. "Uno Sguardo d'Oltralpe. Aspetti Problematici Della Disciplina Dell'immigrazione in Francia." *Federalismi.it* 2: 81–98. <https://www.federalismi.it/ApplOpenFilePDF.cfm?artid=38275&dpath=document=25032019222332.pdf>=Uno%2BSguardo%2BOltralpe%2E%2BAspetti%2Bproblematici%2Bdella%2Bdisciplina%2Bdell'immigrazione%2Bin%2BFrancia%2B%2D%2Bstato%2B%2D%2Bdottrina%2B%2D%2B.'ISSN 1826-3534'.
- Skordas, A. 2002. "The New Immigration Law in Greece: Modernization on the Wrong Track." *European Journal of Migration and Law* 4: 23–48.
- Stamouli, N. 2019. "Greece to Move Asylum Seekers to Closed Camps. The Conservative Government Wants to Send a 'clear Message' to People, Considering Entering in Greece Illegally." *Politico (Online)*. <https://www.politico.eu/article/greece-move-asylum-seekers-closed-pre-removal-detention-camps-aegean-islands-immigration-noria-lesbos/> (accessed November 20, 2019).
- Stumpf, J. 2006. "The Crimmigraton Crisis: Immigrants, Crime, and Sovereign Power." *American University Law Review* 56 (2): 367–419. <https://ssrn.com/abstract=935547>.
- Turnbull, S. 2016. "Immigration Detention and Punishment." *Oxford Research Encyclopedia of Criminology*. https://www.researchgate.net/publication/311770251_Immigration_detention_and_punishment (accessed January 2016).
- UN Human Rights Council. 2013. "Report of the Special Rapporteur on the Human Rights of Migrants. Addendum: Mission to Greece." <https://www.refworld.org/docid/51b983ab4.html> (accessed April 18, 2013).

- UN Working Group on Arbitrary Detention. 2018. Revised Deliberation No. 5 on Deprivation of Liberty of Migrants. <https://www.refworld.org/docid/5a903b514.html> (accessed February 7, 2018).
- Wilsher, D. 2011. *Immigration Detention. Law, History, Politics*. New York, US: Cambridge University Press.
- Valentini, E. 2018. *Detenzione dello straniero e diritti fondamentali*. Torino: Giappichelli Editore.