

Legal geographies of irregular migration: An outlook on immigration detention

Jukka Könönen 

The Centre of Excellence in Law, Identity and The European Narratives, University of Helsinki, Helsinki, Finland

Correspondence

Jukka Könönen, The Center of Excellence in Law, Identity and The European Narratives, P. O. Box 4, 00014 University of Helsinki, Finland.
Email: jukka.kononen@helsinki.fi

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Abstract

In this article, I discuss legal geographies of irregular migration, drawing on a case study on immigration detention in Finland. Based on analysis of detention records, four different types of legal geographies are identified, relating to south–north movement of third-country nationals inside Europe, criminalised Eastern European EU citizens, irregularity during the asylum process (in particular, related to the Dublin Regulation) and irregularly residing foreign nationals, including deportable long-term residents. The analysis focuses on the relations between space, law and persons during detainees' irregular migration trajectories, paying attention to their varying entry routes, residence times, legal grounds for removal and detention and removal countries. I argue for the need for empirically contextualised analysis that addresses the complex relations between law and geography beyond a particular national context, in order to better understand the dynamics of irregular migration in all its variety.

KEYWORDS

deportation, entry ban, immigration detention, irregular migration, legal geography

1 | INTRODUCTION

Despite being one of the most topical themes during the last decades, the discussion on irregular migration often remains rather tentative due to the lack of reliable and comprehensive information on the phenomenon. The scale and forms of irregular migration continue to be difficult to estimate based on the available data, such as population censuses, regularisation programmes or rejection rates among visas, residence permits and asylum applications (Koser, 2010). In addition to unauthorised entry, “status-related outflows” due to the regularisation of undocumented migrants complicate estimations on irregular migration (Kraler & Reichel, 2011). Deportation gaps—the difference between removal orders and effective removals—provide perhaps the best indicator of the extent of irregular migration (Gibney, 2008; European Commission, 2014), yet self-organised returns, reapplications for asylum and migrants' movement to other EU member states in the Schengen

area distort estimations. Usually, the discussion on irregular migration draws either on the analysis of immigration policies, highlighting the legal production of irregular migrants through restrictive entry and residency regulations (Dauvergne, 2008; de Genova, 2002) or on empirical case studies, which have produced valuable information on irregular migrants' struggles and survival strategies (e.g., Andersson, 2014; Menjivar, 2006). Nevertheless, there are respective challenges of deductive and inductive reasoning: In theoretical and legal analyses, irregular migration often appears as an empty category without external referents, whereas empirical case studies are limited to particular groups and national contexts. Furthermore, varying definitions of the phenomenon complicate comparative analysis on irregular migration (see Triandafyllidou, 2010).

In this article, I examine the various forms of irregular migration, drawing primarily on analysis of detention records from the year 2016, which formed part of the data in my multisited ethnographic

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research in the immigration detention system in Finland. Detention records provide a unique platform to examine irregular migration, as they reveal both the grounds and outcomes of detention, including the country of removal, for more than 1,000 detained migrants in 2016 in Finland. Additionally, detention records include—to varying degrees—information on detainees' previous migration history in Finland and elsewhere in Europe. For some reason, little attention has been paid to immigration detention as a platform to examine irregular migration, even if immigration detention is a pre-emptive security measure precisely with regards to irregular migration: Either detained migrants have been undocumented or the authorities estimate that they are likely to become irregular migrants by entering the country without entry permission or staying without legal residence status. Immigration detention is a logistical centre of the border regime, which is employed to control both entry (preadmission detention) and exit (preremoval detention) in the national territory (e.g., Broeders, 2010; Mainwaring, 2012). Of course, immigration detention does not provide a complete view on irregular migration, as the varying resources and administrative practices, together with readmission agreements, result in underrepresentation and overrepresentation of some migrant groups in detention. Nevertheless, immigration detention provides valuable data to examine the different and potentially unexpected forms of irregular migration. As the analysis demonstrates, in addition to irregularity related to the asylum system, EU citizens' and legally residing third-country nationals' movement in the European space can become irregular as well. Alongside tight regulation of entry and residence, criminalising practices targeting foreign offenders also contribute to irregularising migratory movements.

More precisely, the article focuses on the question of how the relations between law, space and persons are articulated in detainees' irregular migration trajectories. By irregular migrants, I refer to migrants who are deportable due to a failure to meet the entry or residency requirements, including an effectual entry ban. While irregular migration is often discussed in national contexts, focusing on the potential inflows of irregular migrants, here, the analysis also addresses the outflows of irregular migrants in the wider European context by considering the countries of removal and deportable migrants' remigration preferences. Despite its peripheral location in Northern Europe, Finland is part of the European space of mobility and the common border and asylum system; additionally, the border between Finland and Russia is the longest external territorial border of the EU. Moreover, Finland provides an interesting platform to examine irregular migration as a whole, instead of presumed groups, due to the relatively modest number of migrants and deportees and availability of administrative data. This article contributes to the discussion on irregular migration by providing an empirically contextualised analysis of the phenomenon. I argue also for the relevance of administrative data and an analytical framework beyond a particular national context, in order to better understand the dynamics of irregular migration in all its variety. The analysis builds on the previous research on irregular migration and uses the framework of legal geography to examine the relations between space, law and persons in the context of irregular migration, discussed in the next section.

2 | LEGAL GEOGRAPHIES OF IRREGULAR MIGRATION

By definition, migration is a geographical phenomenon, as it involves movement of people across spaces and, more precisely, across state borders. At the same time, migration implies a relation between persons, space and law, as people entering a foreign territory are subject to the immigration regulations of the respective state. Accordingly, irregular migration is inherently linked to immigration systems, which inversely produce the condition of irregularity by establishing the terms of legal movement and residency (Dauvergne, 2008); without immigration regulations, there would be no legal or irregular migration, only human mobility. Immigration regulations have a geographical dimension, or a spatial frame of reference (see Volpp, 2012), starting from visa requirements that differentiate the opportunities for legal movement among foreign citizens (Van Houtumn, 2010). In Europe, EU citizens are exempt from entry regulations, whereas third-country nationals from impoverished countries often need to rely on unauthorised and dangerous migration routes due to tight visa policies. Borders produce different forms of legal and irregular migration by differentiating the terms of movement and residence based on citizenship and the reason for migration (Balibar, 2002). In addition to controlling entry, immigration law regulates foreign citizens' presence and access to various public institutions and their mobility in the labour markets based on assigned legal statuses (e.g., Könönen, 2018; Sainsbury, 2012); in a way, borders follow noncitizens inside the state. Ultimately, immigration law has concrete geographical implications through removal orders.

Due to the mutually constitutive relations between movement, law and space in cross-border migration, legal geography provides an interesting yet rarely utilised framework to examine migratory movements. As Delaney (2015) has pointed out, "closer critical scrutiny of the involvement of distinctively legal phenomena in the events of particular interest to human geographers can open up productive lines of inquiry that are foreclosed by the conventional neglect of the legal in human geography" (p. 216). While geographical perspectives provide an important starting point for examining migratory movements (e.g., King, 2012), spatial imaginaries are insufficient to understand cross-border migration due to its distinctively legal nature (see also Mezzadra & Neilson, 2013). Irregular migration has been largely overlooked in theoretical debates in legal geography (Delaney, 2015; Braverman, Blomley, Delaney, & Kedar, 2014), even if a few scholars have drawn from the legal geography framework to discuss immigration detention and deportations (Hiemstra, 2019; Martin, 2013) or irregular migrants' phenomenological spatio-legal consciousness (Flores, Escudero, & Burciaga, 2019). However, immigration regulations irregularise migrants in various ways, resulting in complex relations not only between law and territory but between law and persons as well (Rigo, 2005, p. 4). Therefore, instead of just assuming legal geography as a general frame or metaphor to discuss migrants' unauthorised movement or presence in particular national contexts, legal geography can be employed as a theoretical framework to examine the relations between both law/territory and law/persons in

migratory movements, including the different forms of irregular migration.

In addition to clandestine border crossings, an unauthorised entry can take place with counterfeit travel documents or documents using false information, or due to effectual entry bans—although the latter has received little attention in the discussion on irregular migration. Violations of residency requirements may result from overstaying the residency period stipulated in either a visa or residence permit or losing residency rights due to dissolution of the ground of residence (e.g., divorce) or the tightening of residence requirements. Additionally, criminal offences can lead to a removal order regardless of the length of residency; consequently, criminal law also plays a role in the legal production of deportable migrants (see Zedner, 2013). While many scholars include “illegal work” as one category of irregular migration (e.g., Düvell, 2011; Triandafyllidou, 2010), it is better conceived as what Ruhs and Anderson (2010) call “semi-compliance,” as violations of employment regulations do not necessarily lead to a removal order. In practice, the boundary between “legal” and “illegal” migration is indeterminate (Cvajner & Sciortino, 2010; Menjívar, 2006). First, due to the temporal nature of first residence permits, deportability (de Genova, 2002) forms a common horizon for foreign citizens until they obtain a permanent residence status. Second, migrants often move between different immigration categories during their migration process (Goldring & Landolt, 2013): for example, “illegally” residing persons become “legal” at the time of submitting their asylum application. Third, due to the differential inclusion in the sphere of rights (Könönen, 2018; Sainsbury, 2012), legal migrants with limited access to necessary services may find themselves in a similar position as irregular migrants. Notwithstanding the different paths to irregularity or semi-legality (Kubal, 2013), from the perspective of immigration enforcement, a noncitizen is either deportable or not.

The discussion on borders and migration management has privileged border-crossings at external borders, leading to what Walters (2018) calls the “ingression bias.” Moreover, in Europe, the Mediterranean Sea has become the focal point for the empirical and theoretical analysis of borders, migration management and irregular migration; for example, the articles in the recent anthology *The Borders of “Europe”* (de Genova, 2017) focus predominantly on migration across the Mediterranean Sea. Accordingly, the eastern borders of Europe often remain unaddressed in the migration literature, despite the fact that during recent years the largest groups among enforced removals and detected “illegal” stays in the EU countries have concerned Ukrainian and Albanian citizens (Frontex, 2019). In addition to the geographical bias towards southern borders of EU, irregular migration inside Europe has received less attention, notwithstanding the few studies addressing the secondary movement of asylum applicants (e.g., Belloni, 2016; Brekke & Brochmann, 2015) and other migrants with precarious legal statuses (Eule, Borrelli, Lindberg, & Wyss, 2019; Wyss, 2019). As a consequence of migrants' movement across the European states, they might, in fact, be legal in one country and irregular in others. In addition to irregularities caused by understaying or overstaying the

required residency periods in the EU member states (Ahrens, 2013; Kubal, 2013), the national and Schengen entry bans accompanying removal orders for noncompliant migrants further complicate legal geographies of irregular migration in the European space and beyond.¹ Consequently, legal geographies of irregular migration are not limited to the past and present. They also extend into the future through entry bans, which sanction remigration for a number of years, constituting personal borders that will be faced in the future.

In addition to the stringency of legal entry and residency policies, immigration enforcement practices have an impact on legal geographies of irregular migration. While the deportability of migrant labour is a common argument in explaining the continuance and toleration of irregular migration in the United States (de Genova, 2002; Golash-Boza, 2015) and Southern European countries (Ambrosini, 2016; Calavita, 2005), difficulties in enforcing removal orders after the so-called “refugee crisis” in 2015, in particular, will increase the number of undocumented migrants, at least in the Northern European context. Readmission agreements significantly affect the removal of irregular migrants, in practice making some irregular migrants more deportable than others. For example, the EU has readmission agreements mainly with Eastern European and some Asian countries, but not with most African and Middle Eastern countries. As Collyer (2012) notes, “Any account of the geography of deportations requires an analysis of the political relationship between the states involved in the deportation process” (p. 280). In addition to enforcement policies, deportees' individual remigration preferences shape the dynamics of irregular migration. The emerging field of deportation studies has highlighted deportation as a temporary disruption of migration trajectories, as remigration forms a potential prospect for deportees (e.g., Schuster & Majidi, 2013). Indeed, detained migrants may have been detained and deported even several times before (e.g., Könönen, 2019; Leekers & Kox, 2017). In discussing the dynamics of irregular migration, it is important to take into account legal geographies of deportation as well, in particular in the common European border system, where the country of removal is not necessarily the same as the country of citizenship.

3 | THE DATA AND CONTEXT

Immigration detention in Finland is mainly used for the enforcement or preparation of removal orders for noncompliant noncitizens based on the risk of absconding. The detention capacity is currently 110 places: The Metsälä detention unit in Helsinki has 40 places, whereas the Konnunsuo unit near the Russian border has a capacity of 70 places. Recently, the annual number of detention orders has been just over a thousand in Finland, mainly imposed on young males from Eastern European and African countries (see Table 1). Due to effective removal policies, together with the highly regulated labour markets and relatively low overall extent of migration, irregular migration has been a small-scale phenomenon in Finland. The total number of foreign citizens (258,000 in 2018) accounts for 4.7% of 5.5 million

TABLE 1 Detention records in Finland in 2016

Citizenship	Detention orders					Removed		Released	Other ²	Average time (days)
	Total	Persons	Men	Women	Total	Country of citizenship	Other EU countries			
Estonia	176	119	115	4	164	158	2	9	3	2.1
Romania	127	123	97	26	117	49	68	7	3	4.4
Gambia	66	56	54	2	53	9	44	8	5	19.6
Iraq	63	61	57	4	54	12	42	8	1	13.2
Russia	48	45	35	10	39	25	14	8	1	10.6
Morocco	41	40	39	1	32	16	16	4	5	30.2
India	37	37	37	0	35	35	0	2	0	39.5
Afghanistan	37	37	36	1	31	7	24	6	0	21.7
Somalia	36	35	22	13	34	2	32	2	0	21.3
Belarus	36	32	31	1	31	27	4	4	1	9.5
Nigeria	35	34	17	17	17	1	16	15	3	14.5
Stateless ³	30	21	21	0	26	26	0	4	0	5.9
Algeria	29	27	27	0	21	7	14	5	3	66.2
Turkey	22	20	18	2	13	11	2	7	2	27.3
Albania	18	17	15	2	18	16	2	0	0	20.9
Senegal	16	13	13	0	15	1	14	1	0	14.1
Latvia	14	11	11	0	14	6	8	0	0	5.0
Cameroon	12	11	10	1	6	5	1	4	2	29.4
Kosovo	11	11	8	3	11	11	0	0	0	10.7
Tunisia	11	9	9	0	9	4	5	1	1	38.6
Total	1,059	947	824	123	889	499	390	137	33	14.9

inhabitants; Estonians comprise the biggest group by far, followed by citizens from Russia, Iraq and Sweden. In addition to around 20,000 new residence permits issued for third-country nationals based on employment, family relations and studies, Finland has received on average a few thousand asylum applicants annually, with the exception of more than 32,000 asylum applicants in 2015. Despite the dramatic decrease in the international protection rate since 2016, the number of undocumented migrants in Finland is estimated to be around a few thousand.

My ethnographic fieldwork, conducted mainly in 2016, comprised 300 hours over 75 visits in the two detention units, where I carried out more than 100 informal interviews with detainees. I also followed the judicial review process for the extension of detention: in total, I monitored 112 detention hearings at the district courts. Additionally, I carried out interviews with detention unit workers ($N = 18$) and other actors involved in the detention system ($N = 12$) to address different perspectives on immigration detention. After the fieldwork, I submitted official research permit applications to the police and the border guard to obtain all the detention orders issued in 2016, in order to get an overall view of the detention practices and the different detained migrant groups. It took almost half a year to receive the detention orders, which were extracted

from an electronic database, but in the end, I was also offered accompanying open description forms for internal use; in these, the authorities write background information as well as updates on the process of detention and removal for each detainee. In addition to the legal grounds for detention and technical details concerning the time and places of detention and the responsible authorities, the detention records contain—to varying degrees—information on the preparation of removal orders or the implementation of removals, the processing of residence permits or asylum applications, criminal charges and detainees' previous individual migration trajectories in Finland or elsewhere in Europe.

Research on detention facilities and the use of administrative data containing confidential information on detainees require careful consideration of ethical questions throughout the research process. I negotiated permissions with the respective authorities to conduct the research at the different institutions. During my fieldwork, I used verbal consent and made great efforts to ensure that detainees understood my role as a researcher that participation in the research was voluntary and confidential and that it would not affect their immigration procedures. A written info sheet on the research project in seven languages, as well as my contact information, was available for detainees. Detention records were used to form an

overview of the operation of the detention and removal system without examining individual cases in detail or connecting the fieldwork data on individual research participants to the administrative data. In practice, this would not even have been possible, as I anonymised the fieldwork data already when writing the field diaries. The research has been completed independently without any governmental attachments; I am only obliged to send a free copy of published research papers to the National Police Board. The authorities did not place any specific conditions on the use of the detention records, other than strictly respect of standard research procedures concerning the analysis of confidential data, including technical details on data management and the requirement to use the data solely for the research purpose and following ethical guidelines. Table 1 summarises the analysis of the detention records, containing relevant information for the largest detained groups in 2016 by citizenship.⁴

There are different ways to examine legal geographies of irregular migration, depending on emphasis on either the geographical or legal aspect, respectively. From the geographical perspective, it is possible to focus on different entry routes at the external borders, points of apprehension and the exit routes, whether enforced or voluntary. From the legal perspective, irregular migration can be distinguished on the basis of different violations of immigration law. In this article, I aim to examine the wider dynamics of irregular migration by taking into account the intersections between law, space and movement among detainees' migration trajectories. I analysed the detention records by citizenship, focusing on detainees' removal countries, detention times, grounds of detention and their previous migration histories, when available. The detention records do not include a separate entry for "illegal residence"—or the detainees' status as asylum seekers—but this can be deduced from the additional information, the effectual entry ban or a warrant. Detention is contingent on administrative practices, which may lead to overrepresentations of presumed risk groups; the difficulties in enforcing removals to Iraq and Afghanistan, in particular, due to the lack of readmission agreements, affect the detention of their citizens.⁵ While not all detainees have been irregularly in Finland, detention records provide a unique platform to examine different forms and dynamics of irregular migration. Due to the wider focus and the requirement of anonymity, I do not address gendered dimensions of irregular migration except when there were clear and known gendered patterns. In the next sections, I discuss four different types of legal geographies of irregular migration related to (a) third-country nationals' south–north movement inside Europe, (b) criminalised EU citizens, (c) the asylum process and (d) noncitizens residing in Finland without a legal residency status.

4 | SOUTH–NORTH MOVEMENT INSIDE EUROPE

Based on this research, one form of irregular migration in Finland is related to the south–north movement (inside the European space) of

third-country nationals, mainly from African countries. While the secondary movement of migrants in Europe is primarily affiliated with the Dublin system (Brekke & Brochmann, 2015; Picozza, 2017), legally residing migrants also continue to look for more favourable conditions elsewhere (Ahrens, 2013; Wyss, 2019). However, removal to another EU member state is based on the Dublin Regulation only if the person reapplies for asylum, even if, for example, Picozza (2017) uses the term "Dubliners" for mobile migrants who have already obtained legal residence status. Indeed, West Africans—in particular, Gambian citizens—detained in Finland had a legal residence status in Italy or in some cases in Spain. Legally travelling third-country nationals—as well as those who did borrow valid documents to circumvent the border controls—often arrived in Finland by low-cost airlines or by taking a ferry from Tallinn or Stockholm to Helsinki. While the issued residence permit provides a legal right of movement in the Schengen area similar to a tourist visa, employment requires applying for a new residence permit. Furthermore, detention can be ordered for individuals either because of insufficient funds to support themselves or, most commonly, due to the preparation of a removal order based on suspected or committed criminal offences. In Finland, an expulsion order for third-country nationals can be issued without a criminal sentence, for example, if there are "reasonable grounds" to assume the foreign national would commit crimes or earn income by dishonest means.

Based on the analysis of the detention records, West African nationals' movement from Italy to Finland involves a particular legal geography of irregular migration, resembling the onward movement of Nigerians identified by Ahrens (2013) in Spain. In all probability, their irregular migration trajectories extend to other Northern European countries, as the same individuals detained in Finland had been detained in other EU member states; some had also been removed from Finland earlier and had an effectual entry ban. During my fieldwork, the research participants told that they had been living in precarious conditions in Italy, similar to undocumented migrants, due to the lack of reception services, despite their legal residency status as humanitarian migrants. Other studies have brought up the strategic movement of migrants in Europe: Irregular migrants reapply for asylum in other countries to temporarily access accommodation and minimal welfare services (Belloni, 2016; Wyss, 2019). While new asylum applications submitted during detention complicate legal geographies of irregular migration, the detention of the West Africans under analysis was often initially related to small-scale criminal offences, mainly suspected drug sales based on possession of a small amount of cannabis for a "selling purpose" (sometimes just a few grams, which in all probability would result in an admonition or a fine for Finnish citizens). Despite limited employment opportunities, the West Africans seemed to have relatively good support networks in Finland that facilitated movement by providing informal accommodations. Moreover, intimate relationships seemed to be the main opportunity for regularising their legal status in Finland: A few did get married during detention, creating the grounds for a residence permit application. Additionally, legal geographies of irregular migration can involve specific gendered aspects: during detention, a few West African women

were accepted into the assistance system for victims of human trafficking.

In contrast to the West Africans, most of the North African detainees had lived in an irregular situation around Europe for years, some for even more than 10 years; many of them were kind of “veteran migrants” (Andersson, 2014), who had been deported several times earlier from Europe. During my fieldwork, many of them told about their lives in various cities in Spain, Italy, France, Germany and Sweden; they often spoke various European languages. Existing social networks, including relatives or family members, shaped their irregular trajectories around Europe. The grounds for detention for North Africans varied from the asylum investigation (discussed later) to suspected criminal offences, such as drug and property offences. The average detention times were considerably higher, especially for Algerian detainees, as some tried to prevent removal by refusing all cooperation with the authorities; a few were undocumented in a literal sense, as the police could not confirm their identity (see Griffiths, 2012). Due to the North African migrants' often very complex personal migration trajectories, involving multiple identities, asylum applications, recurrent removals and remigration, it is difficult to distinguish primary and secondary movements; in a way, there are tertiary, quaternary, quinary movements and so on.

According to the detention records, of the almost 300 detained African nationals in 2016, only 50 were removed to their country of citizenship; most were removed to other EU member states, mainly to Italy. For example, only one Nigerian and one Senegalese detainee were escorted to their respective countries of citizenship, although half of the 32 removals of Moroccan detainees were implemented to Morocco, despite their often long residence times in Europe. According to the detention records, Italy seemed to have significantly relaxed readmission policies, as they even accepted removals of migrants whose residence permits were expired. Even more importantly than the opportunity for legal movement in Europe, humanitarian permits provide a safeguard against removal to the country of citizenship, consequently changing legal geographies of deportation. While those having a residence permit in Italy often complied with the authorities, detention became a whole different matter for those waiting for removal to their country of citizenship (Könönen, 2019). Compared with West Africans, who had arrived in Italy through the dangerous Central Mediterranean route, North Africans seemed to have safer routes available for the clandestine border crossing to Spain. The different legal geographies of deportation also have practical implications, as most removals to South European countries were carried out unattended on commercial flights, compared with escorted removals to African countries.

5 | CRIMINALISED EASTERN EUROPEAN EU CITIZENS

Around one third of the detention orders in 2016 in Finland were issued to EU citizens, mainly Estonian and Romanian citizens, and to a lesser extent Bulgarian, Lithuanian, Latvian and Polish citizens.

Detention and removals of EU citizens are often overlooked in the migration literature, and EU documents, directives and statistics exclude altogether the potential irregularity of EU citizens. Although EU citizens are exempt from entry and immigration regulations, they need to demonstrate economic self-sufficiency, follow public security regulations and register their residency if staying for more than 90 days. Therefore, the inability to support oneself economically or becoming an unreasonable burden on the state can result in a removal order (Maslowski, 2015), as can the failure to comply with public policy, public security or public health requirements (Queiroz, 2018, pp. 49–50). Based on the analysis of detention records and my fieldwork, the detention of EU citizens in Finland is mainly related to crime control, similar to France (Vrăbiescu, 2019). Although some had completed prison sentences or already had an effectual entry ban by Finland, EU citizens were often detained due to suspected criminal offences and the consequent preparation of removal orders. Nevertheless, detainees often accepted removal because otherwise their detention time could be considerably prolonged, becoming a de facto punishment comparable with a prison sentence. Similar to third-country nationals, the application of immigration law enables the police to bypass the tighter procedures of criminal law (see Zedner, 2013), producing criminalised EU citizens.

Geographical proximity and travel connections shape the dynamics of legal and irregular migration. Due to frequent, affordable and short ferry connections between Helsinki and Tallinn, together with the wage differentials between the countries, Estonians constitute the largest labour migrant supply in Finland. Removal orders for Estonians were initially related to criminal offences, mainly property offences or drug and traffic violations. Detained Estonians included several long-term residents, who had lived and worked in the construction industry unofficially for years; some also had partners and children in Finland. For them, detention and removal caused logistical problems; to quickly return to Finland because of upcoming work shifts, they often requested the police to expedite implementation of removal. Thus, contrary to the prevalent argument (de Genova, 2002), removals seemed to comprise more of a logistical challenge for Estonians, rather than increasing their vulnerability in the labour markets, as they seemed to have good relationships with their employers, often Estonian subcontractors. Due to their compliance and the frequent travel connections, the detention times for Estonians were exceptionally short, only around 2 days on average in 2016, with “longer” detention times being caused mainly by weekends.

Based on this research, the circular movement among Estonians comprises a particular legal geography of irregular migration, as they are subject to recurrent detention and removals due to effectual entry bans by Finland. Of the detained Estonians in 2016, more than 1/4 of the detained Estonians were detained more than once, most of them 2 to 3 times but including 5 who were detained 5–6 times and one who was detained 8 times. The number of removals among detained Estonians is probably even higher, as removals can be implemented on short notice, even without detention, by escorting detainees to the harbour in Helsinki. Moreover, according to the detention records, many had been detained several times during previous years. In

Finland, violation of an entry ban was criminalised only in the end of 2018, with a maximum sanction of 1 year of imprisonment; at the time of research, the equivalent sanction was a fine for immigration violation. During my fieldwork in the detention units, I encountered several Estonians again after removals had implemented, as they had returned to Finland and gotten caught, some of them even several times; a few told that they sometimes take even the same ferry from Tallinn back to Helsinki. Their irregular presence in Finland varied from days to years—possibly including untraced visits to Estonia. Nevertheless, entry bans are a significant instrument in irregularising migratory movements among EU citizens.

Contrary to Estonians, most detained Romanians had been visiting Finland only temporarily, usually just weeks, and did not have significant social ties in Finland, excluding a few detainees who had partners. Detention of Romanian citizens—including persons belonging either to the majority or the Roma minority—was mainly based on suspected criminal offences, such as shoplifting, theft, payment fraud and drug sales. According to the detention records, the police invoked the professional nature of the criminal activities or cited a threat to public security to justify the detention and removal of EU citizens. Whereas only three of the detained Estonians were women, every fifth detained Romanian (26 out of 127) was a woman—although the grounds for detention and removal did not differ significantly between the sexes. Based on my fieldwork, Finland seemed to be just one staging post in the Romanians' mobile routes across the European countries; according to the detention records, the detained Romanians had entry bans or warrants in other EU member states, such as Sweden, France, Germany and Denmark. Consequently, the legal geographies of irregular migration among Romanian EU citizens extend to the whole European space, where their presence might be irregular in some countries and legal in others due to several national entry bans.

Despite detention, deportable EU citizens have the right to leave to another EU member state, presupposing they pay the travel expenses by themselves. Therefore, among Romanians, in particular, there have emerged specific legal geographies of self-deportation: Of the 116 removed Romanians, 23 left for Estonia and 44 for Sweden, whereas 49 returned to Romania. Similarly, many Latvian and Lithuanian citizens opted for removal to Estonia instead of their country of citizenship. The preference for Sweden or Estonia was inevitable for those detainees having cars in Finland, yet it was also motivated by their remigration preferences and plans to continue their journey elsewhere in Europe. For some, removal represented subsidised free travel to their home countries, which they planned to visit at some point anyway. Nevertheless, the right to choose the country of removal constitutes a distorted form of the freedom of movement for EU citizens.

6 | IRREGULARITY DURING THE ASYLUM PROCESS

In the common European asylum and border system, entry routes have implications for legal geographies of irregular migration. In

addition to unauthorised entry in Europe due to the lack of legal entry channels, asylum seekers often move irregularly around Europe as they try to avoid being registered in the Southern or Eastern European member states (see Vianelli, 2017). In 2015, most of the 32,000 asylum applicants registered in Finland arrived through Eastern and Central Europe, starting from Greece and continuing through Balkan and Central European countries before crossing the border from Sweden into Northern Finland in Tornio. However, irregular entry among asylum applicants usually results in detention only if their identity or travel routes are unclear (for example, at border checks at the airport). In 2016, most detention orders for asylum applicants were issued for the enforcement of removal. However, instead of a negative asylum decision, they were mainly related to the Dublin Regulation, which determines the EU member state in charge of processing the asylum application. Furthermore, detention can be ordered if an asylum applicant disappears from the reception centre or tries to leave the country during the asylum process or goes underground or avoids the police after the notification of the negative decision. Additionally, any person can apply or reapply for asylum during detention, including detainees who have completed criminal sentences.

The Dublin regulation contributes to the emergence of legal geographies of irregular migration in Europe, resulting in particular Dublin geographies between the signatory European countries (see Schuster, 2011). According to the detention records, more than 100 detention orders were related to outgoing Dublin transfers, mainly concerning Iraqi, Somali and Afghan citizens, whereas dozens of asylum seekers were detained as result of incoming Dublin transfers or an attempted departure from Finland. Dublin transfers are usually implemented quickly, resulting in short detention times, although multiple identities or possible previous asylum applications and issued visas elsewhere can complicate the determination of the state responsible for an asylum application. The varying reception conditions and recognition rates for international protection in the EU member states also shape detainees' migration preferences. For example, a few asylum seekers from Middle Eastern countries chose to voluntarily return to their country of citizenship instead of returning to Eastern European member states such as Bulgaria and Hungary. While Dublin applicants represent irregular movement in the European space (Brekke & Brochmann, 2015), due to their pending asylum decisions, they are not necessarily undocumented and deportable migrants. However, if the Dublin applicant has already received an enforceable removal order, the Dublin transfer accounts for a transit phase before subsequent removal to their country of citizenship. Some detainees in Finland—in particular, North African nationals—had applied for asylum multiple times in EU member states, contrary to the objective of the Dublin Regulation. Reapplications may provide temporary access to welfare services (Wyss, 2019), yet continuous mobility can also be related to social or family ties. In some cases, migrants can end up repeating ineffectual patterns. In 2016, one asylum applicant was detained and consequently removed from Finland for the 13th and 14th times.

In comparison to entry through the EU area, different legal geographies of asylum applicants emerged in the case of dozens of asylum

seekers who arrived in Finland via northern border-crossing points from Russia in 2016. These were mainly South Asian citizens who had managed to acquire a visa to Russia or other ex-Soviet countries. Many were detained as they had attempted to leave for Sweden during the asylum process, because of doubt of a thorough investigation of their asylum claims in Finland; they told that the police had pressured them to return voluntarily even before the asylum interview. Indeed, due to their entry into the EU area from Russia, which is considered a safe third country, their asylum applications were not initially taken under substantial investigation, resulting in a removal order to their home country or Russia. Therefore, the different legal entry geographies (between arrival from other EU member states and third countries) have implications for the asylum process as well as removal geographies, even though most South Asians opted for voluntary return to their home countries instead of Russia.

The significant increase in asylum applications in 2015 and the consequent dramatic decrease in international protection rates in 2016 have not been significantly reflected in immigration detention in Finland. The number of detained Afghan and Iraqi citizens—the two main nationalities among asylum applicants in Finland—has been relatively low compared with the overall numbers of rejected asylum applications. Moreover, of the 63 detained Iraqi citizens in 2016, only 12 were removed to Iraq and 42 to other EU member states; the respective numbers for 37 detained Afghans were seven and 24—including so-called voluntary returns and a few removals of long-term residents. In fact, the highest number of removals from detention to their country of citizenship among rejected asylum seekers concerned Indian and Albanian citizens. According to the detention records, only a few rejected asylum seekers had stayed in Finland for a longer time after receiving an enforceable removal order. In this respect, the situation might be changing; because of the difficulties in enforcing removals to Afghanistan and Iraq, the police have mainly implemented voluntary returns to those countries. However, instead of staying in Finland, rejected asylum seekers may leave to other European countries due to existing social networks and the perceived opportunities elsewhere. Therefore, legal geographies of irregular migration among asylum applicants often extend to the whole European space.

7 | IRREGULAR MIGRANTS IN FINLAND AND BEYOND

In addition to forms of irregularity related to migrants' secondary movement, EU citizens and the asylum system, discussed in the previous sections, detention records provide information to examine legal geographies of irregular migration inside Finland as well. To start with, not all detention orders result in removal, even if the police are determined to enforce removals in Finland. Due to the ineffective and formal judicial review process—the district courts supervising detention released only 15 detainees in 2016, totalling a modest 1.2 release rate (Könönen, 2017)—most release decisions were issued by the police themselves when the legal grounds for detention had expired. In addition to detained foreign nationals who met the entry or residency

requirements, release decisions concerned asylum applicants whose applications or appeals against negative decisions were being processed in Finland. Due to the consequent long processing times, they were transferred to reception centres to await the decisions. Some detainees were released from detention because of the insufficient grounds for a removal order, or the police could not enforce the removal within the maximum 12-month time limit; a few detainees also managed to escape during the removal process. In a few cases, the release was based on a positive decision regarding the residence permit or asylum application, designating an end to detainees' irregular trajectories as they exited detention as legal residents. While other detainees had pending applications during detention as well, the police may nevertheless enforce removals if they had already received an enforceable removal order, for example, based on negative asylum decisions.

Legal geographies of irregular migration also involve those migrants from different countries who have stayed in Finland for varying periods without a legal residency status. While the detention records do not include a separate category for irregular status, sometimes, "illegal stay" is explicitly stated as a ground for detention. Additionally, the police order a warrant for those noncitizens who neglect the reporting order or other appointments with the police or have disappeared from the reception centre. The police also actively search for undocumented migrants at known addresses. While some detainees have stayed in Finland as undocumented migrants for years, in most cases, the "illegal" period after receiving an enforceable removal order was weeks or months, as the police caught the absconding person before too long, even after a few hours. Sometimes, wanted persons reported to the police station on their own initiative. Contrary to many other countries (see Triandafyllidou, 2010), Finland has a low number of visa overstayers—in fact, some of the few Eastern European visa overstayers caught in Finland had a Schengen visa issued by another EU member state. Instead, irregularly staying third-country nationals had often received a negative asylum or residence permit decision, or their residence permits had expired or been cancelled; these even included citizens from the Western states. Nevertheless, the number of long-term undocumented migrants seems to be relatively low in Finland, although detention records do not provide comprehensive information in this respect.

Detention can follow the prison sentence, constituting specific carceral geographies (see Moran, 2015; Turnbull & Hasselberg, 2017), as happened for most detained long-term residents. Although many of them had arrived in Finland as minors and had obtained permanent residency status, they became deportable due to criminal sentences. According to the Finnish Alien Act, a deportation decision can be issued for long-term residents found guilty of an offence punishable by a maximum term of imprisonment of at least 1 year or based on repeated offences, subject to overall estimation. Therefore, in the case of deportations based on criminal sentences, irregular status (annulment of the residence permit) derives from the combined effect of the criminal law (criminal sentence) and the immigration law (deportation decision). While detention can be understood as a spatialised equivalent for migrants' irregular status, foreign citizens can serve

prison sentences without legal residency status as well. Carceral geographies emerge also in the other direction: Detainees may be transferred to prison to serve criminal sentences or to another European country based on extradition requests, again demonstrating complex intersections between law, space and persons. Criminal sentences have implications for removal, as airlines categorise convicts as risk passengers, requiring police escorts regardless of their compliance. Additionally, the receiving countries may be reluctant to readmit deportees guilty of serious criminal offences.

The low number of detained Russian citizens in Finland is surprising, considering the overall number of Russian immigrants, the common border between the countries and the considerable differences in living standards. Moreover, of the 48 detained persons categorised as Russians, 11 were removed to Estonia as they belonged to the stateless Russian minority there. The detained Russian citizens were mainly awaiting removal due to negative asylum decisions or criminal offences. Relatively generous visa policies explain the limited extent of irregular migration: Finland has issued more than half a million visas for Russian citizens annually, enabling circular migration between the countries. Indeed, Finland's St Petersburg embassy issues the most Schengen visas of all the EU embassies. (Schengen Visa Information, 2019.) Due to the geographical proximity of the countries, the removal of irregular Russian migrants may also be implemented directly from Finland without detention, either by trains or by escorting them to border-crossing sites.

Finally, in discussing the legal geographies of irregular migration, it is necessary to take into account deportable migrants' remigration plans (see, e.g., Andersson, 2014; Schuster & Majidi, 2013). Many detainees had been removed earlier from Finland or other EU member states or they expressed their remigration plans in case of removal. Indeed, during my fieldwork, many research participants answered my questions on their plans after impending removal by just naming the next country of migration, whether Germany, France, Netherlands, Sweden or saying they would come back to Finland (Könönen, 2019). According to the detention records, detainees even revealed their remigration plans to the police; in some cases, the removed detainees had been caught soon afterwards in another EU member state. Therefore, even if detainees may not have yet been undocumented migrants or they had been undocumented only for a short period, many are likely to become one when returning to Europe due to the entry bans accompanying the removal orders.

8 | CONCLUSIONS

In this article, I have discussed legal geographies of irregular migration in the European context, drawing mainly on the analysis of detention records from 2016 in Finland. I have used legal geography as a framework to discuss the constitutive relations between law, space and persons in detainees' migration trajectories, paying attention to entry routes, residence times, legal grounds of detention and the country of

removal. Based on the analysis of detention records and fieldwork in detention units, I identified four main types of legal geographies of irregular migration related to south–north movement of third-country nationals inside Europe, criminalised Eastern European EU citizens, irregularity during the asylum process (in particular, related to the Dublin Regulation) and irregularly residing foreign nationals, including deportable long-term residents. While not all removals are enforced through detention and not all irregular migrants are detained, the analysis of detention records revealed different forms of irregular migration from the perspective of immigration enforcement, providing a platform for empirically contextualised discussion. In addition to de facto deportability of noncitizens, administrative—and potentially racialized—police practices also shape detention policies. Therefore, crime-related removals are probably overrepresented in detention, whereas the low numbers of rejected Iraqi and Afghan asylum seekers are due to complications in enforcing removals to their respective countries.

The discussion on irregular migration often remains somewhat speculative due to a lack of reliable data. While the empirical analysis presented here is based on immigration detention in Finland, the findings of this research have wider relevance for the discussion on irregular migration by providing empirically driven analysis of irregular migration and by identifying groups overlooked in the migration research (in particular, EU citizens). In addition to tight entry, residency and asylum policies, the punitive application of immigration law for foreign offenders also plays a significant role in the production of deportable and irregular migrants (Vrăbiescu, 2019; Zedner, 2013), demonstrating the complex relations between law, territory and persons in the field of migration. Moreover, entry bans are an important yet overlooked instrument in irregularising migratory movements, especially among EU citizens and to a lesser extent in the case of mobile third-country nationals with a legal residence status elsewhere. Considering that the discussed EU citizens and African nationals also have entry bans and warrants in other European countries, the phenomenon is hardly limited only to Finland, notwithstanding the particular migration dynamics between Estonia and Finland. Interestingly, Eastern European irregular migrants—as well as the Eastern borders of the EU—have received little attention in the discussion of irregular migration. While the ongoing emergency around the Mediterranean Sea explains the geographical bias in migration studies, presumptions on irregular migrants may result in a self-reinforcing circle: The prevalent conception of irregular migrants as rejected asylum seekers or labour migrants may direct the design of empirical research, consequently reproducing assumptions on irregular migration. In Finland, for example, irregular Estonian migrants have been completely overlooked in the public and academic discussion, as they do not correspond to the prevalent conception of vulnerable undocumented migrants (see Ticktin, 2011). Therefore, the application of administrative data, if available, can challenge conceptions of irregular migration, as well as enable research on sensitive issues without risks of nondisclosure, as the information is already known by the authorities.

The research on irregular migration has usually either privileged the analysis of the legal production of irregularity, overlooking the geographical aspect or focused on irregular migrants' struggles in specific national or local contexts, with varying attention to their different legal situations. However, it is important to examine irregular migration in a wider geographical and legal context, not only focusing on unauthorised entry or residency but also taking into account individuals' previous migration trajectories as well as the consequent implications for removal policies. Indeed, in the common European border regime, the country of removal is not necessarily the same as the country of citizenship; a significant share of removals is implemented from one EU member state to another or to nearby areas, enabling remigration with relatively low costs despite the issued entry bans. While Europe constitutes a space of circulation for both irregular migrants and legally residing migrants who look for more favourable conditions elsewhere, they simultaneously become subject to national entry and residency regulations. Therefore, irregularity is a mobile category in both a juridical and geographical sense, as migrants move around European space and navigate between different migration categories and personal borders established by entry bans and removal orders. Migration rarely consists of a linear trajectory from the country of origin to the destination country and from a temporary residence permit to citizenship; rather, the migration process involves both geographical and juridical transitions, resulting in potentially diverse legal geographies of irregular migration and complex intersections between space, persons and national immigration laws.

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CONFLICT OF INTEREST

I have no conflicts of interest to disclose.

ORCID

Jukka Könönen  <https://orcid.org/0000-0002-4843-7741>

ENDNOTES

- ¹ According to the EU return directive article 11(1), an entry ban will be issued if “if no period for voluntary departure has been granted” or “the obligation to return has not been complied with.” An entry ban is issued nationally for EU citizens and for those third-country nationals who have legal residency status in another EU member state; otherwise, it applies to the whole Schengen area.
- ² The column “other” includes the cases when the detainee was transferred to a hospital, prison, or police custody; the police could not enforce the removal; or the information of the outcome was missing.
- ³ Almost all the detainees categorised as “stateless” belonged to the Russian minority in Estonia and were consequently removed to Estonia.
- ⁴ The analysed detention records do not completely correspond to the official statistics, according to which the police and border guard issued

1,073 detention orders in 2016. Human errors (e.g., duplicates and incorrect entries) and premade detention orders account for most of the differences.

- ⁵ Finland only has bilateral readmission agreements with other European states: Bulgaria, Estonia, Kosovo, Latvia, Lithuania, Romania and Switzerland.

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