Migration-related Identity Fraud

A study
at the request of the
Dutch Advisory Committee on Alien Affairs (ACVZ)

Carolus Grütters
Karin Zwaan

Centre for Migration Law

Contents

Chapter 1   Introduction

The Dutch government in 2002 expressed its intention to fight fraud in all its appearances. This was also formulated in a policy document of 2003 proposing a more coherent and consistent way to fight, control and prevent fraud.[1] Initially, this policy focused on fraud within financial and economic contexts.

The current administration shifted its focus also to other domains, such as migrants and migration policy.[2] The Ministry of Justice suggested that the current frequency of migration-related fraud in The Netherlands in combination with publicity could undermine public support for the government's immigration policy. As a result, the ACVZ was asked for an advice on policies to prevent migration-related fraud.

In order to do so, not only the situation in The Netherlands but also in other countries had to be examined. This report focuses on the latter: the state of affairs on migration-related fraud in a number of countries outside The Netherlands.

1.1   Request

The initial request of the ACVZ indicated a preliminary study of document and identity fraud within the context of admission and residence of aliens. In order to be able to evaluate possible policy options for the Dutch situation, a comparative research was indicated to map current practices and regulation in a number of countries.

Subsequently, three questions were formulated:
- What definitions are used to describe the phenomenon of migration-related fraud?
- Are there any data available on size and types of migration-related fraud?
- What measures are implemented to fight migration-related fraud?

The ratio of these questions is that it has to be clear in the first place what the meaning is of migration-related fraud in the different countries under investigation. Subsequently, it has to be investigated whether there are data available on these types of fraud. And if so, the additional question arises what the scale is of these types of fraud and whether it is perceived as a problem. Finally it is useful to know whether certain measures in other countries have been implemented to fight these problems and whether something can be said about the effectiveness of these policies.

1.2   Method

Considering the limited amount of time available (4½ months), the research consisted of a questionnaire in combination with a literature study. The questionnaire had to reveal the actual state of affairs, whereas the literature study could clarify the terminology.

The idea was to send this questionnaire to academic experts in a number of countries representing 'new' as well as 'old' member states of the European Union (EU) and other countries outside the EU. Their answers to this questionnaire could then be compared. Some questions in the questionnaire were intentionally formulated in an open way, inviting the respondents to elaborate on certain issues. Afterwards, all

---

1   TK, 17050, nr. 234 and further elaborated in nr 250 (Dutch House of Representatives, parliamentary papers).
2   The Stockholm Programme, presented in 2009 by the presidency of the Council of the European Union, shows a similar shift to underline border control as a key element.

respondents were also approached over the telephone or by email asking them to go into more detail.

The selection of countries for this comparative study was based on a division in four categories:

- neighbouring countries (i.e. of The Netherlands);
- non-neighbouring old-EU countries;
- non-neighbouring new-EU countries; and
- non-EU countries.

The first category underlines the importance of land border crossings between neighbouring countries and the mutual influence of national policies on migration. The subsequent criterion is based on the idea that member states that recently joined the EU differ from 'older' member states on relevant aspects, such as the organizational infrastructure and applicable legislation. The last category implies the need for other, non-European insights on the subject based on the assumption that migration as such and hence migration-related fraud is not a European but a global issue.

As a result, the following countries were selected: Belgium and Germany (neighbouring countries), France, the United Kingdom and Sweden (non-neighbouring 'old' EU-member states), Bulgaria and the Czech Republic (non-neighbouring 'new' EU-member states) and Australia and Canada (representing non-EU states).[3]

The European Commission (EC) completed this list. Although the EC is not a nation itself, it has the power of formulating regulations and directives that, ultimately, will have to be implemented in national legislation of the EU member states. Therefore, any intention at EC level to prepare migration-related fraud regulations had to be taken into account.

1.3   Overview

This preliminary study contains successively an investigation of the applicable terminology (chapter 2) and a description of the state of affairs in a selection of countries, the results of our questionnaire and an analysis of our findings (chapter 3). Chapter 4 concludes this study with our main findings and recommendations.

Before elaborating the findings of our research we do want to express our gratitude to all the officials who were willing to present us with answers on our questions. We would like to extend a special word of thanks to three of our colleagues at the International Centre for Migration Policy Development (ICMPD) who were invaluable both in relaying us to specific agencies in a number of countries and providing us with detailed information on issues we otherwise would have missed: mr. Edward Geelen, mr. Albert Kraler and mrs. Nadya Dimitrova.

---

3   The limited amount of time available implied that we had to make a selection of countries that represented the different above-mentioned different four categories.

Chapter 2   Terminology

2.1   Starting point

The first research question aims at exploring the used terminology of the phenomenon under study: 'migration-related fraud'. What kind of description is used and to what kind of actions do they refer. The purpose hereof lies in the confinement of both terms migration and fraud.

2.1.1   Migration

Migration, as far as human migration is concerned, refers to the movement of people from one area to another. Within the context of this research it implies cross border movements from one country to another: from one jurisdiction to another. In general, two distinctions are made within the context of migration. First, a distinction is made between voluntary and involuntary migration. The latter includes e.g. asylum, the slave trade, trafficking in human beings and ethnic cleansing. This distinction refers to the extent that migration is based on a well-made decision of the migrant. This distinction however, between voluntary and involuntary (or forced) migration is not very sharp and depends on an assessment of social, economical and political circumstances. More recently, also climatic changes are said to be responsible for another form of involuntary migration: the phenomenon of 'climate refugees'.

A second distinction towards migration refers to the way in which the migration takes place. This qualification indicates or describes whether a certain procedure is followed or not. From that point of view a terminology of irregular versus regular migration or legal versus illegal migration is used. Although both dichotomies are used apparently having similar meanings, it does make a difference whether a term as 'irregular migration' is used or 'illegal migration'. The former implies a fairly neutral terminology whereas the latter stigmatises migration as being related to crime subsequently implicating that migrants are related to criminals.[4] A similar issue arises when speaking of guest workers, immigrants or settlers. Thus, it has to be underlined that the use of language implies a political choice to the image that the user would like to project.[5]

2.1.2   Fraud

The other relevant term, fraud, can indicate all kinds of dishonest behaviour varying from credit card fraud to deception by hackers, false advertising, tax evasion, marriage fraud, scams, hoaxes or journalistic scandals such as plagiarism and fabrication. In our questionnaire we asked for available data on 'document and identity fraud in the area of immigration'. This type of fraud was referred to as: 'to intentionally commit fraud with a document or with (existing or fictitious) identifying data, aiming at the attainment of an advantage or the reduction of a disadvantage within the context of the application for (or renewal of) a residence permit and related rights and facilities'. It was also explained that 'residence permit' within this context meant: 'any document, including visa that allows an alien to enter or stay in a country for a certain period of time or indefinite'.

---

4   Commissioner for Human Rights (2010) refers to Resolution 1509(2006) of the Council of Europe Parliamentary Assembley preferring the term 'irregular migrant'.
5   Commissioner for Human Rights 2010, Cholewinski 2007, Guild & Minderhoud 2006 and Lee 2005.

2.1.3 Initial description

The aforementioned description of 'document and identity fraud in the area of migration' is not an accurate definition of the phenomenon under study. It was merely used in order to cover as much variations of fraudulent acts this study focuses on as possible. As will be pointed out in the next paragraph, this also had to do with the situation that all kinds of different definitions were used. A second reason for the usage of this description was that it was used in other preliminary studies related to this one at the request of the ACVZ. This, however, illustrates the problem in this area: a lack of explicit commonly accepted definitions. Terms as 'fraud', 'document fraud', 'identity fraud', 'identity theft' and 'identity-related crime', to name a few, are used with different sometimes overlapping meanings within different legal contexts.[6] Starting point is therefore not one fixed clear term but a collection of expressions that refer to certain intended activities that are labelled as deceiving and are of crucial importance for the selection process of individuals intrinsic to the movement of persons across international borders.

2.2 Related research on terminology

The available literature focuses on concepts like 'identity', 'migration', 'fraud' or 'identity fraud'. However, we did not come across any literature combining all these terms in one distinct concept: migration-related identity fraud.

In a study on identity, Ricoeur distinguishes two different forms of identity: *idem* identity and *ipse* identity.[7] The first, *idem* identity, refers to the sameness of (things or) persons. It is related to the term identical, meaning that a person at one time is the same person at another time. The latter, *ipse* identity, refers to the individual's sense of self, or the idea of being unique.[8] These two different meanings of identity with references to either objective or subjective criteria of identification are a source of confusion. Within the context of this research we refer to the *idem* identity because the essential aspect of a procedure linked with migration is the verification of the sameness of a person.

Between 2004 and 2009 the FIDIS consortium[9] did extensive research on 'identity' and produced a number of reports including one on identity-related crime (ID-related crime).[10] One of the main conclusions in 2005 was: 'that there is no consensus on the exact phenomenon we are talking about and just what constitutes ID-related crimes'. In 2009 this conclusion was repeated: 'commonly accepted definitions are lacking, thus blurring available statistics and policies'.[11] This statement underlined once more the problematic character of our research, which we will elaborate upon in the next chapter.

---

6   Koops *et al.* 2009 and Vries *et al.* 2007.
7   Ricoeur 1990 & 1992, Hildebrandt 2008, Koops *et al.* 2009.
8   See, for instance, Benmayor & Skotnes (2001).
9   FIDIS (Future of Identity in the Information Society) is a NoE (Network of Excellence) supported by the European Union under the 6th Framework Programme for Research and Technological Development within the Information Society Technologies (IST) priority <www.fides.net>.
10 FIDIS 2006.
11 Koops *et al.* (2009, p.20) also state within the context of identity-related crime that 'the very nature of the issues at hand – crime, vulnerability, threats and hence fear – fuels an entire industry that benefits from inflating the terms and accompanying figures to play on public fears'.

A major attempt to formulate proper definitions was made by another consortium, PRIME.[12] The terms and definitions formulated by PRIME in 2008 are understandably not yet commonly accepted.[13] The problem however is that this attempt of standardization is not very likely to have the intended effect: a common terminology and an international overall approach. Although the terminology itself might be defined within a consistent and complete topology, a more important issue remains, i.e. the different wordings and meaning within current legislation and existing case law in different countries. The differences in the provisions particularly in a number of identity-related laws and regulations in different countries were made insightful by the Identity Law Survey project, a project that unfortunately has not been continued.[14]

A comparative research on 'identity fraud' within the context of provisions in criminal codes of a number of countries was done by Vries *et al.* (2007).[15] In their extensive report they conclude that identity fraud is a global problem connected with different forms of cross-border criminal behaviour such as human trafficking, drug trafficking, arms smuggling, and terrorism. The report of Vries *et al.* also illustrates the rather loose usage of terms we indicated at the beginning of this chapter, such as (in)voluntary, (ir)regular and (il)legal. Furthermore, it is noteworthy that the research by Vries *et al.* shows that even within the jurisdiction of one state, fraud may have different connotations.

This means that fraud only becomes a relevant legal and predominantly but not necessarily criminal term if used as an adjective constructing a 'fraudulent act'. Subsequently, fraud is the means by which an act is caused to occur. At the same time, a fraudulent act may refer to both criminal and other non-criminal acts like breaches of contract, offences or infractions. Thus, both criminal fraudulent acts and non-criminal fraudulent acts exist. The distinction between these two types of fraudulent acts, however, is not sharp. And to complicate things further, fraudulent acts that fall within the scope of criminal fraudulent acts in one jurisdiction, might be outside that scope in another jurisdiction.

From the previous it can be concluded that fraud as such is a container or catchall term, which is not very helpful in finding a clear meaning of the phenomenon under study. Primarily, this has to do with the circumstance that the aforementioned literature on relevant terminology can be qualified as focused on a semantic level and a too large scale. If that is true, another approach might be useful: focussing on a pragmatic level in the context of migration.

2.3   A pragmatic approach

2.3.1   Context of fraud

Fraud can be characterized as an intentional misrepresentation. The subsequent question however what is misrepresented and who is deceived by this mis-representation can be answered in many different ways. And depending on these

---

12 PRIME (Privacy and Identity Management for Europe) is a research project supported by the European Union under the 6th Framework Programme and the Swiss Federal Office for Education and Science; zie: <www.prime-project.eu>.

13 PRIME 2008.

14 The Identity Law Survey is a project of the FIDIS network and provides a not yet complete overview of identity-related laws and regulations, in the European Union and a selection of non-EU countries, focussing on legislation related to official ID documents and ID fraud <idls.rechten.uvt.nl>.

15 The report of Vries et al (2007) analyzes provisions in The Netherlands, USA, UK, France Belgium and the European Union.

answers one ends up within civil, criminal or administrative law or no law at all.[16] This research, however, is limited to the context of migration and the meaning of fraud should therefore be restricted to migration-related fraud.

2.3.2 *Context of migration*

Migration in the context of this research refers to border crossing: the movement of an individual from one state to another. A border between states represents the difference in jurisdiction and the applicability of different sets of rules. A border therefore also implies the possibility of selecting who may enter or leave and who cannot.[17] This selection process is, from a legal perspective, essential for migration. Any kind of migration-related fraudulent act therefore has to be seen within this selection process of admission of individuals.

Assuming that the permission to leave or enter a state is conditional and at least depending on the possession of a travel document, the implementation of admission rules implies four phases:
1) the administrative process aiming at the issue of a travel document by a country to one of its nationals;
2) the administrative process aiming at the issue of a particular document by a country that allows entry into a particular country by a non-national;
3) the actual control of individuals and their travel documents at the border; and
4) the expiration of the conditions under which the permission to enter and stay in a country was granted.

The first phase enables an individual to travel, i.e. to leave his own country. In general, a passport or identity card enables this. Although a passport facilitates the holder of that document leaving and re-entering the country that issued the passport, it does not automatically grant permission to enter another country.

A number of countries request additional travel documents like a visa to enter the country, which entails the second phase. The issue of such a document can either take place outside the country of destination or at the border of the country of destination. Increasingly, the issue of such an additional travel document implies a certain amount of time of investigation that cannot be performed at the border.[18] Subsequently, the request has to be made beforehand at a consulate or embassy of the country of destination.

The third phase takes place at the external borders of states, international airports and harbours. Within this phase the actual control of travel documents is performed and the actual admission to enter a country can be realized.[19]

The fourth phase, finally, marks the expiration of the permission to stay in a country. Monitoring this last phase is intrinsically difficult since it depends on the willingness of the foreigner to comply with the provision that his or her stay is no longer permitted.

Whereas the first three phases refer to the permission of the authorities of a country to enter and stay, the fourth phase refers to the ending of such a permission implying the obligation to leave the country. It also indicates that the first three phases refer to a number of distinct moments in time whereas the fourth phase is a period that 'only' starts at the moment of expiration of validity of the travel document.

---

16 This refers, for instance, to an ethical question not regulated by law.
17 The right to leave en re-enter one's own country is formulated in the Universal Declaration of Human Rights (UDHR) art. 13(2) and the International Covenant on Civil and Political Rights (ICCPR) art. 12(2).
18 The need for such additional visa primarily depends on the country of origin of the migrant.
19 Or, in European context as a consequence of the Schengen agreement, to the European Union.

2.3.3 Context of identity

Migration-related fraudulent acts can be identified, although labelled differently, within the context of these four different phases of migration. Crucial element in this context is that an individual is authorized (or not) to enter a country, which implies that the concept of identity has to be taken into account. Most studies recognize that identity is a complex concept and that every individual has different identities, which are defined by context.[20] Another way of formulating this is to state that every individual has a unique set of attributes, which can be arranged in smaller subsets of attributes generating four types of identities:

    a) attributed identity: attributes that are given to a person, usually at birth (such as name, date, place of birth);

    b) biometric identity: attributes that are more or less unique to a person (such as iris, fingerprint, retina, DNA, gait, dynamic signature, keystroke behaviour);

    c) biographical identity: attributes that build up over time (such as life events, details of education and qualifications); and

    d) chosen identity: attributes that are chosen by a person (such as pseudonym, nickname, username, artist or stage name).[21]

Any kind of fraudulent act in this context can be directed therefore at least at one of the aforementioned attributes that are part of an identity not belonging to the individual in question. As a consequence, an individual that intentionally unjustly claims to have at least one identity attribute that does not belong to his identity and does so within the context of migration, is culpable of migration-related identity fraud.

2.3.4 Context of migration-related identity fraud

The preceding implies that the controlling activity essential to the procedure linked to migration should focus on the verification of all identity attributes. That however, is seldom the case in practice. The actual controlling activity – mostly directed at the first and second type of identity attributes – can be split into two stages:

    1) the verification of an identity that an individual claims to have; and

    2) the authentication that the documents presented by an individual proves this claim.

If and only if these two stages of verification and authentication are completed correctly, an individual can subsequently be authorized to enter a country. Thus, if the authorization is wrongful it must be caused by an undetected wrong attribute within the verification stage or the authentication stage. It follows from the previous that the determination of the identity of an individual is crucial and that any intentional misrepresentation of any of the attributes of an identity falls within the meaning of migration-related identity fraud. Given the fact that identities are verified by authenticated documents, it is irrelevant to make a distinction between 'migration-related *document* fraud' and 'migration-related *identity* fraud'.

As indicated above, several phases can be distinguished within the procedure concerning the admission of an individual to a country. Subsequently, all these phases include moments in which identity fraud can be committed or detected. Documents are therefore of vital importance and the detection of false or forged documents is of primary importance. This, however, does not mean that every kind of migration-related identity fraud always implies the presence of a forged or false document. Such

---

20 Koops *et al.* 2009 and Vries *et al.* 2007.
21 Koops *et al.* (2009) have extended the terminology from a UK study on identity fraud (Cabinet Office 2002).

a situation occurs if a passport, or an additional visa is issued by mistake or at false pretences, i.e. the agency that issues the document has not recognized a misrepresentation of identity attributes that should have led to a refusal of the issue of the document, if recognized. Whenever such a mistake is made, at least one of the identity attributes falsely claimed by an individual, is 'inserted' into a travel document suggesting that the holder of the document is the 'rightful owner' of this particular identity attribute. The action of this individual is fraudulent provided that the mis-representation is intentional. The travel document, however, is genuine, not a forgery and therefore undetectable during border control.[22]

Next to the fraudulent acts by forgery of travel documents and a wrongful issue of a travel document a third type of migration-related identity fraud exists: the so-called look-alike identity fraud. In such a case someone who very much looks like the person to which the travel document has been issued, presents him or herself with the otherwise genuine travel document. This document is not forged or false nor is it issued at false pretences. It is 'only' used by an individual that falsely claims to have the identity that is mentioned in the travel document.[23]

Along with the detection of migration-related identity fraud during border control activities, just as much attention should be paid to prevent migration-related identity fraud by verifying all relevant identity attributes and the underlying documents before a passport, identity card or a visa is issued.[24]

2.4 Asylum

The requirement of travel documents is essential within the context of migration. Only with a genuine travel document and the possible appropriate visa an individual may be authorized to enter a country. There is however one exception: in case of an asylum seeker. Individuals that claim asylum at the border of a country often do not have a genuine passport. Firstly, this has to do with the circumstance that in a number of countries where asylum seekers come from, the possession of a passport is unusual and the actual application for a passport may be suspicious. Such an application may attract a certain attention of the authorities that asylum seekers are actually trying to flee from. After all, asylum seekers fear persecution from their authorities. Secondly, most (industrialized) countries of destination for asylum seekers, maintain strict regulations for carriers regarding the transportation of undocumented aliens. This means that individuals without proper travel documents are not admitted by carriers because these carriers risk substantial penalties if they do. Recently, the European Commissioner for Human Rights stated: "Thus carriers' sanctions may result in refugees being obliged to use the services of smugglers who provide them with false or forged documents in order to get around the vigilance of the carriers".[25] So, the enforcement of carriers to 'keep out' individuals without proper travel documents, directly triggers the practice of migration-related identity fraud by asylum seekers.

This deficiency, however, should not be held against them according to article 31 of the United Nations Convention Relating to the Status of Refugees (Refugee Convention), provided they are recognized as individuals in need of protection. Notwithstanding this 'guarantee' in the Refugee Convention, most asylum seeker

---

22 Unless the wrongfulness of the issue of the travel document is detected, the validity is cancelled and the document is withdrawn.
23 The insertion of biometric identity attributes in travel documents could eliminate this type of identity fraud.
24 Or any other type of residence permit.
25 Commissioner for Human Rights (2010).

receiving countries have regulations that do not 'favour' asylum seekers with false or forged travel documents.[26]

In essence, the intentional deception performed by asylum seekers is directed at the possibility of leaving their country of origin and seeking refuge in a country of destination deceiving the authorities of their own country, whereas all other migrants involved in migration-related identity fraud primarily try to deceive the authorities of a country of destination about their identity.

2.4.1   *Terminological framework*

From this perspective, it might be discussed whether migration-related identity fraud should be subdivided into (a) *emigration*-related identity fraud and (b) *immigration*-related identity fraud. The former is applicable to asylum seekers using forged or false documents; the latter is not. Emigration-related identity fraud by asylum seekers is only aimed at the intentional deception of the authorities of the country they want to escape from. Immigration-related identity fraud, however, constitutes an intentional deception of the country of destination.

Based on the idea formulated in the Refugee Convention that the possession and usage of false or forged documents by asylum seekers should not be held against them, the consequence of this subdivision of migration-related identity fraud into *emigration*-related and *immigration*-related identity fraud has to be that emigration-related identity fraud by asylum seekers does not fall within the scope of the phenomenon under study.

This implies that controlling activities directed at migration-related identity fraud should make a sharp distinction between asylum seekers and all other migrants.[27] Subsequently, any form of emigration-related identity fraud by asylum seekers should not be qualified as objectionable or categorized as an infringement of the law of the country of destination of the asylum seeker. It is pardonable.

2.5   Governmental Fraud

So far, migration-related identity fraud committed by individuals was discussed. There is, however, a form of migration-related identity fraud that is committed by or on behalf of governments or governmental agencies. One of these manifestations can be found, of course, with secret services. An historic example is the action of the Mossad in 1960 by kidnapping war criminal Eichmann in Argentina who was then smuggled out of the country dressed as an El Al official and brought to Israel.[28]

Another kind of migration-related identity fraud has nothing to do with secret services. In January 2010 a German governmental agency was accused of deliberately using false documents. After investigation, a local German court decided that the extradition of a national of Sierra Leone was unlawful because the German agency that was responsible for the transportation of the alien did not acquire a genuine Emergency Travel Certificate from the Sierra Leone's authorities but deliberately made use of forged documents.[29]

---

26 The Dutch Supreme Court (HR 13 October 2009, LJN: BI1325) for instance, decided that within the context of article 31 of the Refugee Convention it was incorrect to make a distinction between the possession of false documents and illegal entry or presence as the Court of Appeal had done earlier (Hof Den Bosch 23 January 2007, LJN:AZ7334)).

27 In a far wider context this relates to the discussion whether one of the essentials of fraud as such is the existence of a victim (Vries *et al.* 2007).

28 Bascomb (2009).

29 Verwaltungsgericht Bremen 9 January 2010 (Az: 4V 1306/09). The local agency is said to have paid for some 100 forged documents. The reason for this might have been simple: timesaving.

A third example is on the edge of personal and institutional fraud. In February 2010 the director of the Bulgarian Migration Department of the Interior Ministry, was arrested because he had used his position to provide illegal assistance to foreign citizens coming to Bulgaria. The director provided them with fake documents stating they had a permanent job in the country thus making them eligible for a permanent residence status.[30] A related example illustrating the possibility of making a business out of selling immigration papers is the conviction in February 2010 of a business-woman by the State Supreme Court of New York (USA). The court ordered her to pay more than 2,8 million US dollars in restitution and penalties.[31]

Undoubtedly, these examples can be supplemented with numerous similar incidents or practices. The purport, however, is that migration-related identity fraud is not restricted to individuals or migrants. Evidently, it is an activity that is also applied by governments or governmental agencies and businesses, both secretly and overtly, publicly and privately.

Another unexpected side effect of certain policies to fight fraud was signalled in France. A well-known French television and radio interviewer, Anne Sinclair, made it known to the media that she had been forced to produce endless series of documents to prove she was French, when simply renewing her identity cards, on the pretext 'there was a lot of fraud'.[32]

---

30 Sofia News Agency, 16 February 2010 <www.novinite.com/view_news.php?id=113219>.
31 Supreme Court of the State of New York, 25 February 2010, casenr. 401160/2009. New York Times, City Room section, 1 March 2010 <cityroom.blogs.nytimes.com/2010/03/01/3-million-judgment-in-immigration-fraud-case/?scp=1&sq=3 million migration fraud&st=cse>.
32 Le Parisien 22 January 2010, Le Figaro, 22 January 2010 and <annesinclair.typepad.fr>.

Chapter 3   Country results

In this chapter we will describe the results of our research concerning the state of affairs in a selection of countries. First of all, we will sketch a number of problems we encountered during our research, the way we tried to handle these problems and the consequences we were confronted with. Also certain data on migration-related identity fraud are presented. Partially this information results from the questionnaire. Another important part originates from a study performed in 2007 by the International Centre for Migration Policy Development (ICMPD in Vienna).

3.1   Problems

Soon after we had started making an inventory of relevant literature and formulating the questions of the questionnaire, we ran into a serious problem. In short, our assumption that respondents should be found in academic circles appeared to be inaccurate.[33] Although we contacted a number of academic experts at research centres familiar with the subject, the greater part of them declined our request to co-operate. Most common ground for this refusal was not the subject as such but the lack of data on the subject. To put in briefly, our experts were not aware of any relevant data. In fact, our search for relevant literature confirmed this. Although some reports indicated that some types of migration-related identity fraud did appear, the magnitude of these types could hardly be established. Meanwhile, the phenomenon was indicated as a serious problem suggesting that the scope had to be substantial. Nonetheless, we were unable to establish whether the number of actual migration-related identity fraud cases was of such an extent that the qualification 'serious problem' had to be issued.

Such a lack of data is not unusual – criminologists, for example, are used to study a domain where dark numbers are predominantly present. Meanwhile, we were confronted with an increasing shortage of research time. In order to gather nonetheless as much relevant information as possible we shifted our focus and tried to locate possible respondents in other less academic but more practically oriented, governmental organisations. In most cases we arrived at highly specialized agencies responsible for a specific governmental task, such as border control or the inspection of false documents.

This methodological change implied three important consequences. The first was anticipated: a more detailed view by our respondents on certain processes linked to migration-related identity fraud combined with a lack of overview on the phenomenon itself. The second consequence was not expected. It turned out to be the case that all investigated countries had different approaches on migration-related identity fraud. Meaning, different infrastructures and combinations of institutions, different competences and authorities, and different qualifications of infringements of regulations connected to criminal, civil or administrative law. The third consequence was the most obvious one. While moving our attention from academic experts to practicing professionals, we were introduced – and had to introduce ourselves – to all kinds of agencies that we were not familiar with. The patently obvious consequence of this was that most agencies were not very eager to inform us about their activities, disclose their data or search for answers on our questions.

Merely because of the helpful assistance and mediation of other experts and our persistence to get results, we were able to reveal a certain limited amount of relevant

---

33 This was also an explicit request of the ACVZ.

information. Consequently we only succeeded in revealing some fragments of the larger picture. The closer we looked, the more detail we saw, but the less we got an actual overview in terms of comparable data. Moreover, the most common reaction from all our respondents was that we were looking for data that were not available or might even not exist.

3.2   ICMPD special Survey

During our search for relevant literature we came across a special survey performed by the International Centre for Migration Policy Development (ICMPD) and published in their 2006 Yearbook.[34] This yearbook contains a very interesting survey on counterfeit documents in Central and Eastern European countries. This special survey was a once-only report included in the annual reports issued by the ICMPD, the so-called Yearbooks on Illegal Migration, Human Trafficking in Central and Eastern Europe. One of the possible reasons why this yearbook, and the special survey in particular, was not found as a reference in other literature could be that the ICMPD has mainly former Eastern bloc countries as Members States.[35] Nevertheless, it contains valuable information. Although not exactly covering the countries that are the topic of this preliminary CMR study, the data and information provided in these yearbooks and the special survey in particular form a valuable illustration for the phenomenon under study.

In particular the special survey of the ICMPD 2006 Yearbook is of importance.[36] It deals with Counterfeit Documents in Central and Eastern Europe (CEE).[37] The remainder of this paragraph is based on that survey. The data compiled in successive editions of the ICMPD Yearbook indicate that ever since the 2004 enlargement of the EU there has been a general downward trend of border apprehensions across the CEE region. Nevertheless it is acknowledged that a serious development over the past few years has been a widely observed increase in the use of false or falsified documents for irregular migration purposes.[38] Such documents are often of high quality, suggesting the involvement of professional criminal actors on a large scale.

3.2.1   Detection of counterfeit documents at CEE borders

In order to learn more about the misuse of documents on a regional level, the ICMPD decided to carry out a Special Survey that was distributed to Border Guard Services together with the standard questionnaire for the annual Yearbook of 2006. Based on these answers, a special chapter in the 2006 edition gave a regional overview and an analysis of patterns and trends in the use of counterfeit documents.

The ICMPD gives consideration to the fact that the numbers of irregular border crossings are dropping. One of these considerations is:

> *There is the strong possibility that there are fewer detected irregular border crossings not because there are necessarily so many fewer irregular migrants but because irregular migrants find other means of crossing borders that are at*

---

34 The ICMPD Yearbook (2006) includes a special survey on counterfeit documents in Central and Eastern European countries.

35 Current Member States of the ICMPD: Austria, Bulgaria, Croatia, Czech Republic, Hungary, Poland, Portugal, Slovakia, Slovenia, Sweden and Switzerland.

36 Every ICMPD Yearbook includes a special survey on particular themes. Unfortunately, neither the 2008 Yearbook nor the 2009 Yearbook were yet published during our research.

37 ICMPD Yearbook 2006, p. 35-56.

38 Interestingly, the Yearbook 2006 contains in its title 'illegal' migration, whereas the survey uses both the term 'irregular' and 'illegal' migration without indicating the difference.

least quasi-regular. An example of this would be obtaining regular visas by misrepresenting the purpose of travel or residence (e.g. student visas, au pairs, business trips through fake invitations, overstaying tourist visas, sham marriages, etc.) or through corruption and bribery. (Recent visa-scandals in Western embassies across the region and globally provide some hints on such phenomena of irregular migration which, strictly speaking, do not involve illegal border crossings and do thus not result in border apprehensions).[39]

In their report the ICMPD uses the following definitions.[40]

There are a number of ways in which documents can be fraudulently used for illegal migration purposes. Some documents may be complete counterfeits and others may be forged or falsified, while yet others may be authentic documents but used by somebody else. In this chapter, the general terms "use of false or falsified documents" or "use of counterfeit documents" refer to the fraudulent use of travel documents for the purposes of illegal migration and illegal border crossing. The following more detailed terminology will also be used in this chapter:

1. *False documents (complete counterfeits).*
2. *Falsified documents (original documents changed ex post).*
3. *Forged documents (also called "camouflage" documents, these are counterfeit documents that have no originals as such or look different from the originals).*
4. *Fantasy documents (documents from countries/organisations that do not exist).*
5. *Impersonation (use of authentic documents by somebody else).*
6. *Fraudulent acquisition (e.g. by theft, corruption, use of sham data).*

Subsequently, the ICMPD notes that statistics are subject to problems of interpretation. In particular, the level of skills and specialized equipment of border guards and police officers has an important influence on the capacity of law enforcement personnel to detect counterfeit documents in the first place. The quality of falsifications is often very high and access to accurate and timely information on the latest trends in the ways and means of counterfeiting travel documents is crucial and may not be available in equal measure at all times and in all places.

For example, Hungary which typically records the highest number of counterfeit documents (mainly falsifications of visas and residence permits) in 2006 registered a 70% decrease of visa and residence permit falsifications and attributes this development to the regularization of some 510,000 irregular migrants in Italy. A large part of regularized persons were Ukrainians working in Italy, who had previously transited through Hungary. As a result the number of detected falsifications of Italian residence permits in Hungary decreased dramatically without, however, implying a permanent downward trend of the use of counterfeit documents. The ICMPD discerns that using the numbers of legal border crossings the incidence of identified false or falsified documents among all recorded cross border movements varies widely among countries in the CEE region. Nevertheless, in general it is exceedingly small. On

---

39 ICMPD Yearbook 2006, p. 17.
40 ICMPD Yearbook 2006, p. 35.

average only 10 cases of using counterfeit documents per 1 million legal border crossings are detected.[41]

The countries the ICMPD study covers are: Bosnia-Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Estonia, Hungary, Kosovo, Latvia, Lithuania, Poland, Romania, Serbia, Slovakia, Slovenia and Ukraine. These countries in fact cover the whole eastern border of Europe from Finland to Turkey. The large majority of counterfeit documents are detected at official road border crossings (61% in 2006), while only around 15% was detected at airports. A further 7% was detected at railway border crossings (often inside trains) and 5% at the green borders. Inland controls made up 11% of detections, while the sea borders accounted for less than 1% of all detections across the region.[42]

Looking at the types of document falsifications or document abuses detected across the CEE region, we can see that – in the aggregate – it was mainly document falsifications (by various methods, see further below) that were registered by the border guards. Document falsifications made up 50% of all counterfeiting, while the use of false documents, i.e. complete counterfeits, made up 20% of all detected cases. Impersonation (use of authentic documents by somebody else) made up a further 14% of cases, while other types of document abuse were far less common.

With regard to the organisational structures and inter-agency cooperation it emerges that most responding States have a special unit for intelligence gathering and analysis for the fight against counterfeit documents within the State Border Guard administration.[43] Also, the CEE States are cooperating internationally against the use of counterfeit documents. For EU Member States the standards and exchange of intelligence information with their counterparts in other EU countries are of paramount importance for the development of their capacities to fight the use of counterfeit documents. All the more strange that, with the exception of Austria, Switzerland and Portugal, none of the (other) old EU Member States participate within the ICMPD. Next to the ICMPD, the most important European platforms for collaboration and exchange on counterfeit documents are:

- The Working Group for Border Issues (FRONT) of the Council of the European Union.
- The Working Group on False Documentation (FAUXDOC) of the Council of the European Union.
- Meetings, seminars, working groups and trainings organized by Frontex.[44]
- The False and Authentic Documents Online (FADO) of the Council of the European Union and its Users Working Group (FUG).

Frontex coordinates operational cooperation between Member States in the field of the management of external borders and assists Member States in the training of national border guards, including the establishment of common training standards on counterfeit documents. Training programmes on counterfeit documents are designed to fulfil the standards of the EU for the management of external borders.

Apart from EU programmes, special training courses are carried out in cooperation with bilateral partners and international organisations. For example, in Cyprus the USA Embassy in Nicosia, the UK High Commission in Athens and the Embassy of

---

41 ICMPD Yearbook 2006, p. 39.
42 ICMPD Yearbook 2006, p. 40. This ratio of 10 per million seems to be confirmed by data represented in reports of the Australian border service agency
43 See for an illustration of these agencies, Appendix 2, a reprint of the table in ICMPD Yearbook 2006, p. 48.
44 Frontex is the European Agency for the Management of Operational Cooperation at the External Borders (based in Warsaw).

The Netherlands in Amman organize special seminars for the recognition of falsified travel documents.[45]

3.2.2 Relevance of the ICMPD survey to Western Europe

From this interesting and relevant survey at least two conclusions can be drawn. Firstly, as far as anything can be said about the magnitude of migration-related identity fraud in the CEE region, the volume seems to be very small: only 10 out of every million legal border crossings appears to be done using counterfeit documents. The ICMPD Yearbook 2006 states that the number of legal border crossings within 15 Central and Eastern European countries, i.e. entries only, varies between 600 million in 2002 and 650 million in 2006.[46]

Of course, this small fraction of 10 per million can also be interpreted the other way around, meaning that most border agencies in CEE countries are not equipped with sufficient tools to detect a larger part. There are, however, at this moment no additional data available of other years that might indicate whatever interpretation is correct. However, data from a completely different part of the world, i.e. Australia, suggest that a similar ratio is applicable to Australia.[47] Data from the Canadian Border Service Agency indicate that the ratio for Canada could be around 40 (per million).[48]

Secondly, an assumption can be made about the volume of migration-related identity fraud in Western-European countries. This assumption is based on the hypothesis that the larger part of migration flows towards Western Europe occurs over land. If so, the volume of migration-related identity fraud that can be detected each and every time a land border is crossed further to the West, must be decreasing. In other words, if the border control agencies of 15 CEE countries succeeded in 2006 in detecting some 12,000 counterfeit documents at their land, sea and air borders,[49] it is unlikely that a far greater number should be detected at the external borders, i.e. mainly airports of Western European countries.

3.3   The availability and comparability of data

Our initial selection of countries to investigate comprised (along with the European Commission): Belgium, France, Germany, the UK, Sweden, Bulgaria, the Czech Republic, Australia and Canada.

As we indicated in the previous paragraph, we were unable within the restricted period of time to get in touch with the appropriate experts in all of these countries. And as far as we did, a number of these experts were unable to answer our questions or needed at least another month or so to find out whether the data we were looking for actually existed.

This resulted into a tripartition of the countries under study: (a) non-responding countries, (b) partially responding countries and (c) fully responding countries. The first category refers to countries in which we were unable to locate experts that were able or allowed to provide relevant information on our subject. This category includes the Czech Republic and Australia. So far as these countries are concerned we could

---

45 ICMPD Yearbook 2006, p. 49.
46 "Adding the number of registered exits (which are, however, often undercounted compared to entries), the total number of legal border crossings in these 15 countries combined in 2006 was about 1.28 billion" (ICMPD Yearbook 2006, p. 19).
47 See Australian Border 2005 and Australian Border 2009.
48 Canada Report 2009
49 ICMPD Yearbook 2006, p. 38.

only find relevant information in the earlier mentioned special survey of the ICMPD[50] (for the Czech Republic) and the website of the Australian Immigration Department[51].

The second category refers to countries in which we were able to gather some relevant information, although this was primarily done by personal communication and only partially supported by documentation. This category includes the UK, Canada, France and the European Commission. In the UK and Canada we were able to get in touch with experts within the governmental border agencies.[52] These experts, however, had to ask permission of their superiors which implied such delays that the larger part of the requested information could not be delivered in due course. Our French contact, however, could not, in spite of her efforts, get hold of the relevant information and finally had to refer us to the possibility of writing to the Minister of Immigration – a procedure that could easily have taken at least six months. An official of the European Commission stated that the information we were interested in was simply not available at the level of the European Commission. Nevertheless, he confirmed that migration-related identity fraud was a serious problem although he could not provide us with any data whatsoever.

The third category refers to the countries that were able and allowed to provide us both with documentation and answers to our questionnaire. However, even within this category a general tendency emerged that most of our questions were unanswerable. This category includes Germany, Belgium, Bulgaria and Sweden.

Before we will summarize the data of the selected countries in the following paragraphs, we would like to make a remark on the incomparability of the data. As indicated above, the lack of a coherent set of definitions concerning migration-related identity fraud leads to a situation that the available statistics are difficult to interpret. Sometimes a certain term, such as fraud, is used whereas different meanings are referred to. The opposite also goes where one particular phenomenon is indicated but named in various ways, which is the case with immigration marriage fraud, marriage fraud, marriage of convenience, bogus marriage or sham marriage.

Another example of the incomparability of data has to do with the following. The indication of fraudulent, counterfeit or false documentation linked to migration can have a very wide or narrow range depending on whether one or more of the following situations are in- or excluded: (1) the actual use of forged or false documents (2) impersonation using genuine documents (3) the actual use of forged airline tickets (4) the allegation of trying to apply for a visa on the basis of possible bogus supporting documents (5) allegations related to contrived marriages (6) the cancellation of a visa due to a criminal background (7) overstaying or other breaches of visa conditions (8) illegal work or (9) human trafficking. Next to these differences of seldom distinguished separate categories the available statistics are often unclear whether the events were detected at road borders, rail borders, green or land borders, sea borders and airports or just 'at the border'. Also, certain statistics do not make a distinction between *migrant*-related and *migration*-related and include in their data on migration related identity fraud also data of apprehended non-nationals at traffic controls.[53]

---

50 ICMPD Yearbook 2006, p. 35-56.
51 Australian Department of Immigration and Citizenship <www.immi.gov.au>.
52 The Canadian Border Service Agency and the UK Border Agency.
53 See, for instance French Report 2009.

3.4 Finality of data

It goes without saying that figures and statistics only represent a situation at a given moment in time. Almost always a notice is added indicating that the figures may differ from other, earlier statistics, due to for example administrative revisions. Statistics may include, for instance, cases that are under revision or in appeal. However, it becomes rather troublesome when only figures are included that indicate suspicious situations omitting the number of finalized cases.

This applies for instance to 'marriages of convenience' or 'contrived marriages'.[54] As far as this category of suspicious marriages is mentioned, the statistics do not state the number of marriages that are actually proven to be 'contrived marriages' – or whatever disqualifying label is attached. Precisely by only mentioning the volume of suspicious cases the impression cannot be avoided that the larger part will be finalized as being a marriage that has solely has been contracted for the purpose of obtaining a legal and secure status in the country of immigration. However, research indicates that only in a small number of cases, i.e. a one-digit percentage, the marriage is declared invalid. Apparently, evidence in this type of cases is very difficult to produce.[55] A similar example of this can be found in year reports of governmental agencies where the actual workload of referred cases is presented as a measure for the proven cases.[56]

The reason why this example of suspicious marriages is mentioned, is twofold. Firstly, it is the only category we came across that is treated in this way. Secondly, the question arises why the qualification suspicious marriage is only mentioned within the context of migration.

3.5 Data of selected countries

Our intention was to obtain data in a number of ways: through personal communication, a questionnaire and from statistical overviews in reports, yearbooks or publications on websites. As indicated above, we regrettably experienced a setback in the realization of this plan.[57] The moment we almost met our deadline, we had to come to the conclusion that out of ten countries (including the European Commission) we had received no more than four completed questionnaires.[58] Regarding the other six countries, we had only gathered general information. Furthermore, even the completed questionnaires show that little can be said about the magnitude of the phenomenon under study.[59] Although this could argue the case to rearrange our research in order to take a longer time frame into consideration, we had to meet our schedule. Due to this lack of comprehensiveness, we are unable to present comparable data along the lines of the questionnaire.[60] However, we would like to indicate a few matters that are at least worth mentioning.

---

54 Examples of this can be found in the Australian publications (Australian Border 2005, Chapter 12) <www.immi.gov.au/media/publications/compliance/managing-the-border/pdf/mtb-chapter12.pdf> and in the Belgian official report (Belgian Report 2008, p. 83).

55 Hart 2006.

56 Belgian Report 2008.

57 The short time period of our research made it impossible to contact other countries anew.

58 Germany, Belgium, Bulgaria and Sweden.

59 Although an alternative point of view could be presented implying that this type of information is classified.

60 The questionnaire (Appendix 1) contained a series of questions related to: (1) the processing of travel documents (including visa and residence permits), (2) the number of fraudulent requests or detected cases of migration-related identity fraud, (3) the inclusion of identity attributes in these documents, (4) the regulation of migration-related identity fraud, (5) the presence of a national fraud desk, (6) the associated policies and finally (7) trends or practical problems.

One of the subjects that is underlined by our respondents and emerges from the literature is that much more attention has to be paid to the training of personnel responsible for the actual control of travel documents and especially of supporting documents.

The ICMPD survey on counterfeit documents presented an interesting ratio: 'the incidence of identified false of falsified documents among all recorded cross-border movements'.[61] As mentioned, for the CEE region this ratio was in 2006 on average 10 per million. One might say that such a (low) ratio has to do with either a lack of staff or the know-how to detect counterfeit documents. However, it is interesting to investigate whether other countries in sometimes completely different situations have comparable ratios. In order to do so, we must elaborate on the notion of border crossings. The ICMPD survey mentions a ratio of 10 per million border crossings if one counts entries as well as exits. The countries we would like to compare with specify the number of detected counterfeit documents in the context of immigration, i.e. entries only. Taking that into account, the ratio for the CEE region comes to 18 per million border crossings (entries only). For Bulgaria this means a ratio of 34 in 2006, 11 in 2008 and 16 in 2009. Remarkably, the ratio for Australia was in their fiscal year 2004-2005 under 20 and in 2007-2008 around 11.[62] Canadian documentation indicates a ratio of 38 in 2007-2008.[63] The UK has no data published on this issue, only mentioning that around 30.000 people were refused entry in 2008 of which only a small part is refused on grounds related to identity fraud.[64]

country	year	number of recorded border crossings (entries only) in millions	number of detected counterfeit documents	ratio of detected counterfeited documents per million border crossings (entries only)
CEE region	2006	655	12.000	18
Bulgaria	2006	12	405	34
Bulgaria	2008	10*	106	11
Bulgaria	2009	10*	159	16
Australia	2004-2005**	11	207	19
Australia	2007-2008**	13	143	11
Canada	2007-2008**	50	1913	38

* estimated value
** fiscal year indication
source: own elaboration of ICMPD 2006 Survey, data from the questionnaire and other publications

It has to be underlined that these ratios, varying between 10 and 40 per million entries, are based on a very rough calculation. Nonetheless, it indicates further research on the question whether this ratio of detected cases of migration-related identity fraud on border control could be valid for other countries as well.

---

61 ICMPD Yearbook 2006, p. 39.

62 In 2004-2005 a total of 207 cases of fraud were detected during immigration control on a total of 11 million entries. In 2007-208 this number was 143 on a total of 13 million entries (Australian Border 2005 & 2009).

63 In 2007-2008 1913 cases of (immigration) fraud are listed on a total of some 50 million entries (Canada 2009).

64 UK Immigration 2008. If 10% would have been refused because of identity fraud, the ratio for the UK would have been around 30.

Chapter 4   Conclusions

This comparative research is based on the request by the Dutch ACVZ to investigate the state of affairs on migration-related identity fraud in a number of countries outside The Netherlands aiming at gaining an insight into possible policy options for the Dutch situation.

The first part of our research is meant to examine the terminology that is used to describe the phenomenon under study: migration-related identity fraud. The second part focuses on the actual size of instances of our subject enabling us to answer the question whether there is a problem and if so what the magnitude is thereof. This second part also includes an effort to reflect on policy options.

4.1   Terminological outcome

Our search for and analysis of the relevant terminology started with the preferred description of the ACVZ: 'document and identity fraud within the context of admission and residence of aliens'. This description, however, turned out to be inadequate. Consequently, we stipulated that the phenomenon had to be reformulated in the concept of 'migration-related identity fraud'. At the same time, we found that this concept could not be traced within the available literature and that the expressions that were used were highly ambiguous.

This has to do with the circumstance that the term fraud as such is a container or catchall term applied to numerous types of behaviour in which intentional deception is central and is differently qualified depending on the context. Also, the constitutive elements of fraud differ widely and depend on the particular context of the behaviour and the subsequent legal qualification in different jurisdictions. In addition, a more restricted concept of identity fraud is used along with other phrases or expressions such as impersonation, identity theft and document fraud whereas these wordings are not clearly defined.

Although the available literature shows that a coherent and consistent topology might be formulated in theory, current practice shows that various kinds of wordings are firmly fixed in case law and different forms of legislation are not consistent with each other.[65] An example can be found in the apparently easy way in which identity theft and identity fraud are used interchangeably. One of the key issues in this example is that the concept of identity theft – although present in the American Identity Theft and Assumption Deterrence Act – is impossible: one cannot steal an identity. At most, it is possible to state that one can misuse the identity of someone else. After all, the individual whose identity is misused has not lost his own identity, as would be the case if it would be possible to steal an identity.[66]

The inevitable consequence of this ambiguity on the terminology is that the available statistics are very difficult to interpret. Our efforts to gather comparable data more or less ended up into a collection not only of apples, oranges and peaches but a whole basket of fruit describing different and sometimes overlapping parts of the phenomenon under study. The differences in legal jargon in several countries also led to the conclusion that certain behaviour in one country that could be described as an orange was labelled as a peach in another.

---

65 FIDIS 2006, Vries et al. 2007, PRIME 2008 and Koops *et al*. 2009.

66 Essentially, this terminological discussion is identical to the question whether it is possible to steal data or information (quod non).

4.2   Practical outcome

We started off the practical part of our research by selecting a number of countries inside and outside the EU on which we intended to gather additional information. Throughout our research we discovered not only that the terminology was unclear but also that we could not find any academic colleagues that were able to throw light on the issue at hand in these countries. A general response from academic circles was that we were looking for data that probably were not there, and if they did exist they might be classified.

As a result we shifted our attention to non-academic practicing professionals mainly working within the area of border agencies and counterfeit document examination centres. Locating these specialists was an even more time-consuming effort that frequently led to a situation in which the management of these agencies was hesitant in granting permission to their employees to cooperate within our research. This led to serious delays and put severe pressure on our very restricted time schedule. As a consequence we were not able to get relevant information on all the countries we initially selected. And of those countries we did obtain relevant data, we could not always get answers on all our questions.

In short, the previously mentioned conclusions that the terminology on the subject of migration-related identity fraud is ambiguous and that the relevant statistics are either unavailable or difficult to interpret have to be extended with the conclusion that we could not generate a general comparable overview. We can, however, elaborate on certain fragments of the picture that might be useful within the framework of making policy choices.

4.3   Policy options

The first issue we want to discuss is the point of international cooperation and exchange of information on migration-related identity fraud. On our search for relevant literature we came across a very interesting survey on the detection of counterfeit documents at the border of Central and Eastern European countries. This survey published by the ICMPD in 2007 contained valuable information on parts of the subject of this study. However, we could not find any references to this survey in the available literature. Although the ICMPD aims at promoting 'innovative, comprehensive and sustainable migration policies and to function as a service exchange mechanism for governments and organisations', it has only 15 Member States which, with the exception of Portugal, are all located at the eastern border of Europe.[67] It might be useful if the intergovernmental dialogue on the issue of migration in general and migration-related identity fraud in particular with the ICMPD was extended to other European Union Member States, including The Netherlands.

A second issue is the hypothesis that identity fraud and migration-related identity fraud in particular could be fought successfully using more technology implying the use and storage of digital data. Although the presence of digital data in travel documents ensures an increase in the possibility of verifying biometric identities, it is also demonstrated that exactly the use of centralized storage of identity data increasingly facilitates the occurrence of identity fraud.[68] From that perspective one may have doubts about the effectiveness of the plans to introduce centralized storage of identity data used for the inclusion of biometric identity attributes in passports.

---

67 About the ICMPD <ICMPD.org/whatisicmpd.html>.
68 Koops *et al.* 2009.

A third issue concerns the question whether migration-related identity fraud has to be labelled as a problem. Our investigation shows that a sensible distinction can be made in the area of migration between asylum seekers on the one hand and all other migrants on the other hand resulting in the distinction between *emigration*-related identity fraud and *immigration*-related identity fraud. The former manifests itself in particular with asylum seekers who are more or less forced to use counterfeit documents to flee their country of origin. This, however, is excusable. The latter, immigration-related identity fraud forms the actual scope of the problem. Although exact numbers are missing it is only rational to state that the actual size of migration-related identity fraud is reduced if emigration-related identity fraud by asylum seekers is left aside. Although we could only gather a small amount of information on the actual size of migration-related identity fraud, it seems that the actual number of migration-related identity fraud cases is very small. The ICMPD survey presented an overall average of 10 counterfeited documents on every million legal border crossings. Of course this ratio of 10 per million reflects only the number of detected documents. However, governmental publications of other countries, such as Australia, Canada and the UK suggest a ratio varying between 5 and 40 per million. Thus, it could be the case that the actual number of migration-related identity fraud cases that occurs during Dutch border crossing is not alarming.

The fourth and final issue is the occurrence of migration-related identity fraud using genuine documents. If we exclude the look-alike cases, it seems plausible to state that a substantial number of these cases could only occur because of a lack of care at the phase of issuing a travel document. It might be the case that a substantial increase of attention to the verification of supporting documents could substantially decrease the number of migration-related identity fraud cases using genuine documents.

-.-.-

Literature references

Belgian Report 2008
  Dienst Vreemdelingenzaken FOD Binnenlandse Zaken *Activiteitenrapport 2008,* Brussel, 2009 (translated: Dpt. of Alien affairs of the Belgian Federal Service of Home Affairs, *Report of activities in 2008*).
Australian Border 2005
  Australian Government, Department of Immigration and Multicultural and Indigenous Affairs, *Managing the Border: Immigration Compliance 2004-2005 edition.*
  <www.immi.gov.au/media/publications/compliance/managing-the-border/>.
Australian Border 2009
  Australian Government, Department of Immigration and Citizenship, *Annual Report 2008-09*
  <www.immi.gov.au/about/reports/annual/2008-09/html/>.
Bascomb 2009
  Bascomb N., *Hunting Eichmann: How a Band of Survivors and a Young Spy Agency Chased Down the World's Most Notorious Nazi* Boston/New York: Houghton Mifflin Harcourt.
Benmayor & Skotnes 2001
  Benmayor R., and A. Skotnes (eds.), *Migration and Identity*, International yearbook of oral history and life stories, (vol. III, reprint), Oxford: Oxford University Press.
Cabinet Office 2002
  Cabinet Office (UK), *Identity Fraud: a study*, 2002
  <www.statewatch.org/news/2004/may/id-fraud-report.pdf>.
Canada 2009
  Canada Border Services Agency, *Admissibility Screening and Supporting Intelligence Activities – Evaluation Study,*
  <www.cbsa.gc.ca/agency-agence/reports-rapports/ae-ve/2009/assia-aeasr-eng.html#fn_ref_50>.
Carrera & Merlins 2009
  Carrera S. and M. Merlino, *Undocumented Immigrants and Rights in the EU. Addressing the Gap between Social Science Research and Policy–making in the Stockholm programme?*, CEPS December 2009
  <www.ceps.eu/ceps/download/2741>
Cholewinski 2007
  Cholewinski R., 'The Criminalisation of Migration in EU Law and Policy', in: A. Baldaccini, E. Guild & H. Toner (eds.), *Whose Freedom, Security and Justice? EU Immigration and Asylum Law and Policy,* Oxford: Hart Publishing, 2007 pp. 301-336.
Commissioner for Human Rights 2010
  Commissioner for Human Rights (of the Council of Europe), *Criminalisation of Migration in Europe: Human Rights Implications,* (Issue Paper), Strasbourg 2010.
FIDIS 2006
  Work Package 5, *D5.2b: ID-related Crime: Towards a Common Ground for Interdisciplinary Research*, FIDIS consortium, 2006
  <www.fidis.net/resources/deliverables/forensic-implications/#c1775>.
French Report 2009

Secrétariat Général du Comité Interministériel de Contrôle de l'Immigration, *Rapport au Parlement, Les Orientations de la Politique de l'Immigration*, sixième rapport établi en application de l'article L. 111-10 du Code de l'Entrée et du Sejour des Étrangers et du Droit d'Asile, Décembre 2009, Paris : Direction de l'information légale et administrative 2010 (translated: Report to Parliament, Policy lines on Immigration, 6th report of December 2009, published by the French dpt. of legal information).

Guild & Minderhoud 2006

Guild E. & P. Minderhoud (eds), *Immigration and Criminal Law in the European Union: The Legal Measures and Social Consequences of Criminal Law in Member states on Trafficking and Smuggling in Human Beings* Leiden: Martinus Nijhoff, 2006.

ICMPD Yearbook 2007

Futo P. (ed.), *2007 Yearbook on illegal Migration, Human Smuggling and Trafficking in Central and Eastern Europe. A Survey and Analysis of Border Management and Border Apprehension Data from 20 States*, Vienna: International Centre for Migration Policy Development, 2008.

ICMPD Yearbook 2006

Futo P. & M. Jandl (eds.), *2006 Yearbook on illegal Migration, Human Smuggling and Trafficking in Central and Eastern Europe. A Survey and Analysis of Border Management and Border Apprehension Data from 20 States*, Vienna: International Centre for Migration Policy Development, 2007.

Hart 2006

Hart, B. de, 'The Marriage of Convenience in European Immigration Law', *European Journal of Migration and Law*, 8(3/4), p. 251-262, 2006.

Hildebrandt 2008

Hildebrandt M., 'Profiling and the identity of the European citizen', in: M. Hildebrandt & S. Gutwirth (eds), *Profiling the European Citizen. Cross-disciplinary Perspectives*, Dordrecht: Springer Verlag, 2008.

Koops *et al* 2009

Koops B.J., R. Leenes, M. Meints, N. van der Meulen & D-O. Jacquet-Chifelle, 'A typology of identity-related crime; conceptual, technical and legal issues', *Information, Communication & Society,* vol. 12 (2009), nr. 1, pp. 1-24.

Lee 2005

Lee M., 'Human Trade and the criminalisation of irregular migration', *International Journal of the Sociology of Law,* vol 33 (2005), nr. 1, pp. 1-16.

Legomsky 2009

Legomsky, S.H., 'Portraits of the Undocumented Immigrant: a Dialogue', *Georgia Law Review* 2009, pp. 65-160.

Newton & Adams 2009

Newton L. & B.E. Adams, 'State Immigration Policies: Innovation, Cooperation or Conflict?', *Publius: The Journal of Federalism,* vol 39(2009) nr. 3, pp. 408-431.

Owen *et al* 2006

Owen K., G. Keats & M. Gill, *The Fight Against Identity Fraud: A Brief Study of the EU, the UK, France, Germany and The Netherlands*, Leicester (UK): Perpetuity Research Group, 2006.

PRIME 2008

Work Package 14.1, *D14.1.c: Framework V3,* PRIME consortium, 2008 <www.prime-project.eu/prime_products/reports/fmwk/ pub_del_D14.1.c_ec_wp14.1_v1_final.pdf>.

Ricoeur 1990

Ricoeur P., Soi-même comme un autre, Paris: Éditions du Seuil, 1990

Ricoeur 1992

Ricoeur P., *Oneself as another*, Chicago: Chicago University Press, 1992.

Vries et al. 2007

Vries U.R.M.Th., H. Tigchelaar, M. van der Linden & A.M. Hol, *Identiteitsfraude: een afbakening: een internationale begripsvergelijking en analyse van nationale strafbepalingen*, Den Haag: Boom Juridische Uitgevers.

UK Immigration 2008

Home Office, *Control of Migration: Statistics United Kingdom 2008*, Home Office Statistical Bulletin, nr. 14/9, London: Home Office August 2009

Appendix 1   Questionnaire

Our questionnaire contained the following questions:

1) General
   a) What is your name?
   b) Where are you working?
   c) What is you function?

2) Residence Permit
   Definition: in this questionnaire we define a residence permit as any document (including visa) that allows an alien to enter or stay in your country for a certain period of time or indefinite. We do refer to all kinds of immigrants, including asylum seekers.

   a) How many requests for residence permits did your country receive (per year in the period 2005-2009)?
   b) What is the average processing time of such a request?
   c) What is the price?
   d) How many requests for residence permits are rejected (per year in the period 2005-2009)?
   e) Which organization is responsible for processing these requests and the issue of residence permits?
   f) Are there any records kept about fraudulent requests?
      If so:
      • What are the main reasons for fraudulent requests?
      • Could you describe the different forms (modus operandi) of fraudulent requests?
      • How many requests for residence permits are qualified at first sight as possibly fraudulent (per year in the period 2005-2009)?
      • How many requests for residence permits that are qualified at first sight as possibly fraudulent and further investigated, are labelled as fraudulent (per year in the period 2005-2009)?
   g) In case of fraud:
      • What are the consequences for the alien?
      • What kinds of sanctions are put into practice?
      • Is there a separate act on identity or document fraud?
      • Which organization carries out (and keeps track of) these sanctions?
   h) Are the following data included in a residence permit?
      please answer with: yes – no – (or) only if ...
      • name
      • date of birth
      • place and country of birth
      • sex

- nationality
- issuing governmental organization
- legal ground for permit
- photograph
- fingerprints
- other (biometric) data, such as: ....

3) Regulation of fraud in the context of the requests for residence permits.
   a) What types of rules are applicable? (civil, criminal or administrative)
   b) Who actually applies these rules?
   c) Could you give references for these rules (if possible, both in traditional form and as an internet reference)?
   d) Which entity may legally change these rules?
   e) Do these rules have a meaning in practice?

4) National 'Fraud Desk'
   a) Is there (something like) a (national) 'Fraud Desk' present in your country and if so, what is the actual name and address of this Desk?
   b) What are the tasks of this Desk?
   c) What is the authority of this Desk? (i.e. is it well respected for its expertise)
   d) Who is allowed to consult this Desk?
   e) What kind of data does this Desk collect?
   f) What measures are taken to protect the privacy of registered persons?

5) Accountability
   a) Who is (or are) politically responsible for carrying out the policy on Fraud? (ministers or vice-ministers)
   b) Is Fraud seen as a (political) problem?
   c) What measures (policies) are taken to tackle this (political) problem?

6) Trends
   a) Could you describe certain trends in the actual occurrence of (migration related) fraud?

7) Problem in practice
   a) What is seen as the most crucial problem related to Fraud?
   b) Is the problem addressed, and if so by whom?
   c) What kind of analyses has been made of this problem?
   d) What are the remedies or solutions that have been suggested?
   e) Which remedies or solutions have been implemented?
   f) What is done in terms of prevention?

g) Is privacy seen - in this context - as an obstacle?

h) Is this problem seen as a national or an international problem?

8) Your opinion

Is there anything else related to this research you would like to bring to our attention?

Appendix 2   Counterfeit Agencies in CEE countries

**Organisational arrangement of the fight against counterfeit documents
in selected Central and Eastern European Countries**

Country	Special unit or units dealing with counterfeit documents within the Border Guards	Other institutions/departments dealing with document security
Croatia	• Department for Analysis and Development	• -
Cyprus	• Crime Analysis Office of the Police Headquarters	• National Security Authority (NSA)
Czech Republic	• Unit on Documents • Analytical and Operational Unit	• -
Estonia	• Analysis Section of Intelligence Department	• Estonian Citizenship and Migration Board
Hungary	• Documentation Division of the Border Management Department NEKOR	• Institute of Experts of the Special Service of National Security • National HQ of the Police, Crime Directorate • Criminal Expert and Research Institution
Kosovo	• Special Intelligence Unit under establishment	• -
Latvia	• Special Intelligence Unit under establishment	• State Forensic Science Bureau at the Ministry of Justice • Departments within the Ministry of the Interior
Lithuania	• Document Examination Centre	• Service of Technological Security of the Ministry of Finance • Lithuanian Police Forensic Science Centre of the Ministry of Interior • Forensic Science Centre of the Ministry of Justices
Poland	• Criminal Analysis Unit within the Intelligence and Investigation Department • Criminological Laboratory • Strategic Analyses Bureau	• Central Criminological Laboratory of the Headquarters of the Police • Department of Technical Assistance of the Internal Security Agency • Laboratory of Research and Development Centre of Polish Security Printings Works • Department of Criminology of Adam Mickiewicz University in Poznań
Romania	• Risk Analysis Unit with subordinated regional compartments	• National Institute for Personal Data Records at the Romanian Police • National Institute for Forensic Expertise at the Ministry of Justice
Serbia	• Section for Criminal Intelligence Affairs	• -
Slovak Republic	• -	• National Unit for the Fight Against Illegal Migration at the Ministry of Interior
Slovenia	• Slovenian Border Police	• Police • Ministry of Interior
Ukraine	• Department of Passport Control at the State Border Guard Service • Criminal Analysis Unit of the National Border Management Services	• National Criminal Research Centre of the Ministry of Interior • Regional Criminal Research Units

Source: ICMPD Yearbook 2006, p.48