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Criminalistic Aspects of Migration

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Abstract

Aim: The objective of this study is to explore whether the summary of scientific and practical knowledge related to the investigation of crimes associated with human migration can be considered a gap – or an area not yet addressed – In the pyramid model developed by Csaba Fenyvesi, which is based on the science of criminalistics. This is the criminology of migration, the systematization of which has not yet taken place within either the criminological or migration literature.
Methodology: This study examines the conceptual framework of crimes related to human migration, thereby identifying and excluding those offenses that may constitute migration-related crime. It then outlines the forensic tools and methods typically employed in the investigation of crimes related to migration.
Findings: The investigation of crimes related to human migration forms the basis of migration criminology. Migration criminology is not synonymous with criminal migration; therefore, its conceptual framework must be explored in a scientifically grounded manner. This conceptual framework encompasses various forensic tools and methods.
Value: The significance of this study lies in drawing attention to the fact that the field of migration criminology has not yet been systematically explored. It provides a well-founded theoretical framework for organizing the investigation of crimes related to human migration according to specific criteria, while also offering further guidance for a broader exploration of the topic.

Keywords: migration, criminalistics, migrational criminalistics, the criminalistics of migration, crimmigration.

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Introduction

Today, the scientific analysis of law enforcement, or simply put, the science of criminalistics, boasts a rich body of literature across almost every field of study, ranging from criminal law sciences through health sciences to biology, chemistry, or engineering. A synthesis of this within the Hungarian context – accessible through monographs or other publications providing a comprehensive overview – has been published by Csaba Fenyvesi in the form of a pyramid model in several scientific papers (Fenyvesi 2012; Fenyvesi, 2014). According to Fenyvesi, the foundation of the domestic pyramid model of criminalistics literature is formed by works dealing with the theory of the classic branches of the science of criminal investigation: criminalistics technique, tactics, or methodology. Built upon this foundation are works that focus on a specific detail rather than a comprehensive overview of a particular branch of criminalistics. In descending order based on the number of definitive sources, scientific source materials dealing with criminalistics technique are on the second level, criminalistics tactics on the third level, and criminalistics methodology on the fourth level. Reviewing the pyramid model itself, it may be interesting to explore the reasons why fewer substantial works are available on criminalistics methodology, which stands closest to the practice of law enforcement, or how it is possible, somewhat contrary to the international science of criminalistics, that domestic literature mainly comprises publications on the theory of criminalistics. An even more intriguing question, however, is the examination of the areas – termed „blank spots" by Fenyvesi – that have not yet undergone scientifically rigorous analysis using the research methods applied in the science of criminal investigation. Examples include voice identification or digital data within the field of criminalistics technique, the tactics of coercive measures in criminalistics tactics, and the lack of investigative analysis regarding numerous crimes that determine the personal sense of security within criminalistics methodology. Drawing openly upon the Fenyvesi-type pyramid model and contributing to it, this study aims to contribute to the science of criminalistics by identifying another „blank spot": the criminalistics of migration. Indeed, theoretical, criminalistic tactical, technical, and methodological knowledge related to law enforcement associated with human migration has not yet received heightened scientific research attention. This is despite the fact that the expansion of illegal migration, the fight against the organized crime networks built upon it, and, last but not least, the need for effective authority response against crimes directly linkable to the unlawful migration or domestic stay of individuals are emerging as increasingly definitive requirements in the 21st century. For all these reasons – beyond rendering the expansion of the aforementioned pyramid model justified – it has become well-founded for the criminalistics of migration to fall within the scope of interest of criminal and law enforcement sciences.

The Theory of the Criminalistics of Migration

The first step in articulating the scientific topic outlined above is to specifically identify the areas that are directly linked to both human migration and law enforcement. Before interpreting these, however, it is useful to state that the criminalistics of migration is not identical to migrational criminalistics. While the latter uses migration as an adjective for criminalistics, the focus of this study places migration (as human migration) in a possessive structure with criminalistics (as the science of criminal investigation). In other words, the criminalistics of migration refers to the investigation (detection and inquiry) of crimes associated with human migration. Migrational criminalistics, on the other hand, is a compound word that arises in a different sense. It may refer to methods of criminalistics through which the investigative authority conducts the criminal investigation at a different or separate location by means of a type of migration, but it can also be interpreted as tools and methods that have been integrated (migrated) into the science of criminalistics from other disciplines. Consequently, the criminalistics of migration is deliberately not to be identified with migrational criminalistics; the elaboration of this latter term – should it be of interest to the theory of criminalistics – must take place within a different conceptual framework. The essence of the criminalistics of migration can, however, be defined in two ways: on the one hand, in a positive manner, by answering questions within the scope of the detection and investigation of crimes related to human migration; on the other hand, in a negative manner, by excluding penally relevant phenomena that are only ostensibly linked to migration.

Identifying the Areas Belonging to the Criminalistics of Migration

The identification of unlawful conducts related to human migration can be approached from a criminological or a substantive criminal law perspective. In the case of the former, to put it more simply, one can speak of migration-related crime, whereas regarding the latter, it is more appropriate to speak of migration-related offenses. While migration-related offenses represent the normative prohibition by the legislator of conducts directly related specifically to the undesirable phenomena of human migration, migration-related crime may also include those offenses that are not intended to protect the social interest attached to the lawful crossing of the state border – meaning the lawful entry or exit of persons, or their stay within the country – but were created for the sake of other legal interests (for instance, maintaining public trust, guaranteeing safe transport, or the integrity and impartiality of proceedings by public officials), yet their commission is, in certain cases, closely linked to migration. Based on all this, forgery of public documents, endangering road safety, or bribery committed by a public official are not considered classic migration-related offenses; nevertheless, these unlawful conducts become part of migration-related crime if they are committed in order to violate the rules of human migration or stay. Furthermore, migration-related crime also encompasses acts that occur through the criminal conduct of persons involved in unlawful migration. Linked to the latter is the observation by Andrea Tünde Barabás, according to which the criminological consequences of migration can be approached, on the one hand, through the examination of the assumed increase in crime caused by the immigration wave and the victimization of immigrants as well as local residents, and, on the other hand, from the perspective of the fear of crime, whether perceived or detectably real, generated among the population by migration (Barabás, 2016). Examples of the undesirable phenomena of human migration can frequently be found in substantive criminal law as well. For instance, Act C of 2012 on the Criminal Code of Hungary (CC) contains several specific statutory definitions that penalize certain cases of unlawful entry into the country or illegal stay within the territory of the country. These include the illegal crossing of the border barrier (CC Section 352/A), human smuggling (CC Section 353), facilitating or supporting illegal immigration (CC Section 353/A), facilitating illegal stay (CC Section 354), abuse of establishing family relationships (CC Section 355), or the unlawful employment of a third-country national (CC Section 356). These statutory definitions explicitly, *ex lege*, fall into the category of migration-related offenses, but in the Criminal Code they are taxonomically located not in an independent chapter, but in Chapter XXXIV on offenses against the order of public administration. From a substantive criminal law perspective, it may also be worth discussing the question of whether the social demands of our time justify migration-related offenses forming an independent chapter in the future. The inventory of migration-related offenses nevertheless delineates those delicts whose criminal detection and investigation (criminalistics) can be synthesized in a *sui generis* manner. Consequently, the criminalistics of migration extends to the detection and investigation of any act that is:

- penalized as a migration-related offense representing the realization of unlawful human migration (entry and/or stay), or

- committed for the purpose of facilitating or realizing unlawful human migration (entry and/or stay), but not as a *sui generis* migration-related offense.

In summary: in a narrower sense, the criminalistics of migration means the application of criminal investigative methods and tools used during the detection and investigation of offenses related to unlawful human migration, the unlawful crossing of the state border (occurring without permission or in an unauthorized manner), and unauthorized stay within the country.

Determining the Areas Not Belonging to the Criminalistics of Migration

The investigation of crimes committed by foreign nationals can be conceived as an area that can be separated from the criminalistics of migration, although it may, in certain cases, be closely linked to it. In this instance, the distinction is not necessarily to be found in the subject (i.e., the perpetrator) of the crime, since the subject of migration-related crime can equally be a foreign natural person, but rather in the motive or purpose of committing the crime. While migration-related crime is unambiguously directed towards the unlawful realization of human migration, crime committed by foreign nationals is far broader than this and can essentially relate to any crime – excluding delicts that require becoming a specific subject tied to citizenship of the place of residence (such as high treason, disloyalty, etc.). (Regarding the investigation of crimes committed by foreign nationals, see Hautzinger, 2017). From this sphere, therefore, only those crimes that can also be committed by foreign nationals belong to the criminalistics of migration which specifically contribute to the unlawful entry or stay of foreign nationals. It should be noted, however, that the recognition of foreign criminal circles and the conduct of investigative actions for this purpose cannot, in certain cases, dispense with knowledge of the cultural characteristics, customs, and basic social interactions tied to a specific foreign nationality, national or ethnic category, or to a distinct, well-definable continent, country, or religious denomination. Accepting this, it can be stated that the criminalistics of migration can be well adapted when conducting investigative actions against foreign perpetrators, particularly when taking interrogations. Similarly, crimes that can be committed only ostensibly in connection with human migration, or more narrowly put, rather in connection with the crossing of the state border, cannot be identified with the criminalistics of migration. In everyday parlance, these are the so-called smuggling or smuggling-type unlawful acts, which become consummated if a well-definable item is transported without authorization into or out of the territory of the country. It may perhaps also seem interesting that while the Hungarian criminal code currently in force defines exclusively human smuggling – which, as mentioned above, qualifies as a migration-related offense – using the term smuggling, the previous Act IV of 1978 on the Criminal Code recognized delicts such as smuggling and customs fraud (Section 312) or arms smuggling (Section 263/B). Nowadays, smuggling as a conduct of commission does not appear *expressis verbis* in the text of the law; we must generally look for import, export, or possibly supply-abroad activities, or even supply into the territory of the European Union, under statutory definitions of an abusive nature committable against various items or living beings subject to authorization.[1] From an operational perspective, these unlawful acts can be detected through official inspections such as customs controls or the so-called law enforcement deep-tier control (Erdős, 2026). In summary: the fact that certain elements of the statutory definition of a given crime (the foreign status of the perpetrator, a border crossing point as the place of commission, etc.) can be interpreted as close to human migration does not, in itself, necessarily establish a direct migrational link to the incriminated act, and consequently, the connection of the detection or investigation of these delicts to migrational criminalistics.

Crimmigration

Crimmigration can be considered a research area linkable to criminal detection associated with human migration, but increasingly *sui generis* in nature. According to Juliet Stumpf, the pioneer of this concept, crimmigration is mostly manifested in the criminal law treatment of immigration law. Her view is that parallel systems of law enforcement have thereby emerged in which immigration law enforcement and criminal law enforcement are separated only nominally at best, thus rendering the foreigner as a migrant (alien, migrant) a synonym for the criminal (Stumpf, 2006). The literature on crimmigration or crimmigration law has expanded significantly over the past two decades. In parallel, the substance of these terms has also acquired a broader interpretation. César Cuauhtémoc García Hernández, for instance, no longer speaks merely of crimmigration or crimmigration law, but rather of a crimmigration doctrine. The

1 Such statutory definitions in the criminal code currently in force, which may also be linked to the crossing of the state border but are not of a migrational nature, include: abuse associated with the trade of companion animals (CC Section 244/A), abuse of ozone-depleting substances (CC Section 249), abuse of radioactive materials (CC Section 250), abuse of explosives or destructive devices (CC Section 324), abuse of firearms or ammunition (CC Section 325), abuse of weapons prohibited by international treaty (CC Section 326), abuse of military technology or services (CC Section 329), abuse of dual-use items (CC Section 330), abuse of protected cultural property (CC Section 358), and abuse of cash-substitute payment instruments (CC Section 393).

essence of this is that immigration law is now criminal in nature; furthermore, in several states, numerous immigration-related violations are declared criminal offenses, and specific methods not applied to other offenders are employed for crimes associated with illegal migration (Hernandez, 2018). The interpretation of crimmigration – excluding the previously published publications on the subject by the author of this study – is not unusual in Hungarian literature either. Put simply, Klára Kerezsi defines the term crimmigration as the criminalization of migration (Kerezsi, 2020), while Miklós Lévay – reflecting specifically on the aforementioned concept by Stumpf, but utilizing further examples of crimmigration literature from some European Union countries – presents the possible forms of the criminalization of immigration in the Netherlands and Spain (Lévay, 2017). The emergence of crimmigration as a criminal-political phenomenon nevertheless demonstrates a legislative intent through which the violation of rules regarding the entry and stay of foreign nationals is classified as a criminal offense (criminalized), and foreign nationals who violate entry and residence rules – regardless of the criminal law classification of the acts they committed – are treated as persons with a legal status similar to suspected offenders. From a criminalistics perspective, both of the above approaches can be interpreted. On the one hand, the criminalization of migration-related violations increases the number of delicts against which investigative authorities must proceed according to the rules of criminal procedural law; on the other hand, regarding the suspected perpetrators of the unlawful acts, they must execute certain procedural actions in order to clarify the act and liability (guilt). In the following, also with regard to the definition of the criminalistics of migration provided above, it is advisable to devote greater attention to the characteristics related to the detection of crimes directly linked to migration. However, the examination of questions arising from the parallelism of criminal proceedings and alien policing procedures is not part of this topic, which – although it can equally be part of the criminalistics of migration – deserves independent study-like analysis (Herke, 2023).

Criminalistic Characteristics of Migration-Related Crimes

One of the guiding principles for classifying crimes related to human migration is the specific unlawful conduct through which the migration itself is realized. This conduct (act or omission) – proceeding from the definition of the criminalistics of migration provided above – can be directed towards the unlawful crossing of the state border or unauthorized (unlawful) stay within the country. Put more briefly: within migration-related crimes, one can distinguish offenses related to the unlawful crossing of the state border or the facilitation thereof (such as the illegal crossing of the state border or border barrier, or human smuggling), and delicts associated with the unlawful stay or facilitation of a foreign national (such as facilitating illegal domestic stay or the unlawful employment of a third-country national). In the case of the former, an indispensable condition for detecting the crime is to prove that the state border was crossed or attempted to be crossed in an unlawful manner, whereas in the case of the latter, the focus of proving the crime lies on the unlawful (so-called undocumented) stay of the foreign national within the country. Naturally, further delicts can be associated with human migration, ranging from traffic offenses to crimes violating or endangering human life, dignity, or physical integrity; in most of these cases, due to the injury occurred, the migrational link becomes less relevant. The felony of human trafficking (CC Section 192) is no exception to this assessment either, since in this instance, the migrational content – or more precisely, the legal or illegal migration of the passive subject of the crime – may at most be of interest if the victim of human trafficking is involved in the criminal proceedings, but regarding the injury committed, it falls short of the exploitation that stands at the focus of this delict. The latter typically constitutes the exploitation of humans, forced prostitution, or forced labour. Regarding human smuggling, from a criminalistics methodology perspective, one can also consider the recognition and recording of specific perpetrator methods. Call logs and cell-site location data from mobile phones seized during the proceedings can not only reveal the network of connections of the person under investigation but can also link the user of the mobile device to the place of commission of the crime. It is also a characteristic feature derived from official experience that human smugglers place the vehicles required for specific transport operations in public areas (in the parking lots of shopping centers), for the detection of which specific reconnaissance methods had to be developed.

The Criminalistics of On-Scene Migration-Related Crimes

From a criminalistics perspective, however, it is perhaps more interesting to focus on certain statutory elements of the realization of migration-related crimes. We can think, for instance, of on-scene crimes, where familiarity with the scene is not only indispensable for detecting the penally relevant facts (Gárdonyi, 2023), but primary investigative actions must also begin here (Fenyvesi, 2025). Concerning the official action conducted at the scene of a crime, Géza Katona opines that the outcome of the crime scene investigation decisively influences the effectiveness of proof and criminal proceedings, as it not only enables the searching and recording of traces and other material evidence but also serves as a starting point for uncovering witness testimonies as personal evidence and determining the direction of the investigation or administrative proceedings (Katona, 2012). From the perspective of the criminalistics of migration, the scene can be particularly relevant regarding the determination of the specific location of the unlawful crossing of the state border, through which both the unauthorized crossing of the state border and the human smuggling activity supporting it become realizable or, in more fortunate cases, provable. While in earlier periods of criminal investigation, the search for and recording of certain traces of a crime relied on classic methods such as the recording of footwear and tire impressions or on-scene photography, today greater emphasis is placed on the use of technical devices applicable as results of modern criminalistics. Regarding these devices, carbon dioxide detectors or human heartbeat monitors that support screening for persons hiding in vehicles, thermal imaging cameras, or industrial endoscopes and cavity inspection devices that aid visual search have become near indispensable at border crossing points, alongside X-ray portals capable of scanning and inspecting the entire vehicle. This category further includes items that can be mentioned as objects of commission of various delicts, such as sniffer dogs trained to find narcotics or explosives, and handheld or industrial equipment detecting radioactive radiation. Among such technology-supported inspections are, in particular, non-intrusive (non-invasive or passive) inspection technologies, which enable the visual inspection of the contents of closed systems primarily through the use of X-rays or gamma rays. The application of these non-intrusive technologies plays a role not only in guaranteeing transport safety and screening out the illegal trafficking of goods, but also in detecting illegal migration (Balla & Erdős, 2025). The scene-tied application of technical devices can support the exposure of acts facilitating migration, as well as the screening out of other delicts not necessarily related to unlawful human migration. The control of border traffic is thus expanded with criminalistic support, which can equally increase the crimmigration effect, since it involves the conduct of an administrative procedure augmented with elements of a criminal nature. Within the European Union, border control and criminal detection are particularly significant for those countries that regularly perform border policing tasks at the external borders of the Union. The issue of border control or bordering (Wonders, 2017) thus arises in such a way that it should simultaneously be an on-scene investigation for the heightened disclosure of migration-related acts. While the mentioned technical devices primarily serve the disclosure of unlawful acts, specific criminalistics methodology methods can be suitable for securing the evidence necessary for the unlawful crossing of the state border. In this regard, site plans or sketches found with the perpetrator, or interrogations and crime scene investigations that can be conducted on-scene, can be of significance. It is worth noting, however, that according to police practice, proving such acts is considered effective mainly in cases of *in flagrante delicto* apprehension, which is why the application of technical devices detecting the movement of persons (video cameras, drones, thermal imaging cameras) can be particularly definable. The movement of persons crossing the state border unlawfully and their facilitators can, of course, also be detected through traditional criminalistic methods based on footwear or vehicle impressions, and the on-scene recording of these traces can also take place (Éberhardt, 2026). Nevertheless, this classic tracking or recording of traces has by now been sidelined, precisely due to the prominence gained by the aforementioned technical devices and, last but not least, by the observation or examination of communication devices ensuring contact between persons executing the illegal border crossing and the human smugglers assisting them (Rádi, 2016).

The Criminalistics of Document-Based Migration-Related Crimes

The conducts of committing illegal migration that are not tied to a specific scene are manifested in acts aimed at manipulating documents necessary for crossing the state border or establishing residency. Forgery of public documents thus emerges within migration-related crime as a type of necessary instrumental offense for concealing illegal migration. Since this crime can be committed in numerous ways, including, among others, the production of a false public document, the alteration of an authentic public document, the use of an authentic public document by another person, or even the inclusion of false data into an authentic public document, every country affected by migration must devote heightened attention to ensuring the authenticity of the public documents they accept for entry, exit, or domestic stay. This must be paired with criminalistic technical tools and methods that serve to recognize the unlawful use of public documents.According to research by József Balla, the more secure a document is – meaning the more difficult it is to forge realistically – the more likely it is, and the more one must prepare for the fact, that the abuse will occur via the so-called impersonation method, i.e., by someone other than the original owner of the public document. The recognition of this depends exclusively on the preparedness of the inspecting person: on the one hand, their identification skills, and on the other hand, the extent to which their work is supported by technical devices developed for biometric data verification (Balla, 2019). The primacy of criminalistics technique can also be established in the case of the unlawful alteration of public authentic documents relating to human migration and residency; however, even in this case, the enforcement potential of the natural person making the decision as a result of the inspection (passport control officer or other official person) cannot be sidelined, as they still hold significance both in detecting the forgery of public documents and in securing the evidence generated during this process.

Identification and Interrogation of Foreign Nationals

The first stage of tactical actions related to foreign nationals is the concrete personal identification of the individual subject to the proceedings. In the case of unlawful acts committed for migrational purposes – including the forgery of public documents committed by using a false, altered, or authentic document issued to another person – the determination of the perpetrator's identity, and in several cases their age, by the authority cannot be ruled out. The application of biometric identification provides conclusive assistance in establishing identity (Angyal & Mészáros, 2016), but besides this, familiarity with the symbols or emblems represented by specific cultures can also be important, which may instead lead closer to understanding the background or character of the person subject to the proceedings. Obtaining penally relevant evidence, thus taking the statement of the foreign national, remains an indispensable part of the investigation. It can be of definitive significance whether the person involved in the procedural action can communicate in the language of the proceedings. Differentiating foreign status from a practical perspective therefore depends on the extent to which direct communication with the foreign national is ensured or can be ensured. Ensuring the right to use one's mother tongue, and thereby the issue of professional, reliable interpretation and translation, can continuously be essential as a factor influencing the preparedness of the member of the authority. The intervention of an interpreter – particularly in the case of non-European languages – can run into unexpected difficulties from the outset, not to mention all the logistical (especially the additional costs deriving from interpretation and translation) and human factors that may impact the fulfillment of procedural conditions. The participation of an interpreter can entail a serious disadvantage in terms of time (the protraction of a given investigative action, the preliminary logistical organization of the action, etc.) and may require additional institutional tasks (transportation). From a criminalistic tactical perspective, it can also render the member of the proceeding authority dependent on the availability of the interpreter. The timely, tactically optimal execution of certain investigative actions (interrogation, on-scene interrogation, confrontation, etc.) may fail to occur or suffer delays if appropriate linguistic cooperation is unavailable. The question of the reliability of the interpreter is also important. In the case of certain, mostly rarely mediated languages, it can be realistic for a person to cooperate as an *ad hoc* interpreter who has had no prior similar experience, or whose good faith the authority cannot be conclusively convinced of. There may also be instances where, in the initial phase of the investigation, an acquaintance or relative of the person subject to the proceedings assists in communication. These problems – especially given the potential expansion of the origin locations of foreign perpetrator circles – cannot be ruled out in the future; nevertheless, efforts must be made to ensure that authorities possess a database (accessible potentially to all organizations) through which the difficulties arising from the availability of proceeding interpreters can be effectively reduced.

Summary

Human migration, particularly its social impacts, is one of the social phenomena of our time that generates broad public interest. State responses that stand in direct, close connection with migration-related crime can be considered explicitly sharp. One trend in this regard is crimmigration, which simultaneously demonstrates the direction of law enforcement concerning illegal types of human migration and examines the situation of migration-related crime. At the same time, crimmigration research has yet to include within its scope of interest the criminalistic recommendations synthesizing the investigation of migration-related crimes. In other words, crimmigration does not encompass the criminalistics of migration. This study attempts to lay down the theoretical foundations for the investigation of crimes associated with human migration in a pioneering manner, and to issue proposals and recommendations regarding certain characteristic features that can be classified here. It is hoped that the criminalistics of migration will soon become part of the pyramid model developed by Fenyvesi.

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