Abstract

This Master thesis investigates the recent implementations of the legislations on intimidating (utryghedsskabende) begging and camps. In recent years, Denmark and in particular the capital of Copenhagen has experienced an increasing influx of homeless migrants. The expansion of the European Union in 2004 and 2007 has enhanced the economic disparity within the union, which has given rise to a large number of migrants within the EU exploiting the open borders in search for work and better living standards. The number of homeless migrants residing and establishing camps in Copenhagen has led to complaints from housed citizens about intimidating behavior and unsanitary conditions. The migrants engage in activities such as bottle collecting, begging and petty crime and are criticized for disturbing the public order. To counter and remedy these issues, the Danish government has implemented different regulatory policies to restrict the migrants’ activities in the city. The legislations have been met with different opinions on the way they have been discussed in the parliament and the following implementation.

The empirical data in this thesis is based on a thorough review of the media coverage and political debate concerning the legislations on intimidating camps and begging. The data consist of newspaper articles, radio- and television programs, and live-streaming from the parliament, and are included to examine how homeless migrants have been problematized. Furthermore, to examine the situation of homeless migrants in Copenhagen in relation to the implementation of the legislations, the thesis leans on aspects from ethnographic research by conducting interviews with organizations who have first-hand experience in this field. Moreover, the thesis draws on reports published by these organizations and additional research on migrants in Europe.

First, the thesis addresses how the political debate about homeless migrants has been marked by a negative rhetoric and stereotyped statements. It is argued that the migrants are ascribed with negative characteristics such as criminal, intimidating and suspicious, and are categorized as unwanted within the mobility regime. It further finds how the discourse leads to a demonization of Roma migrants in particular by describing them as parasites and a plague to the Danish society.

Second, the findings illustrate that the legislations have been legitimized by misleading arguments. In fact, intimidating begging is determined on geographical locations and not related to behavior. It further finds that the definition of intimidating camps is ambiguous, and for this reason, individuals have been arrested for establishing camps. The thesis touches upon how the visibility of homeless migrants is considered as a disruptive element to the social homogeneity of the city. The legislations, even though not discriminative in their articulation, are in fact discriminative in
practice as it is primarily migrants who are targeted. Hence, it is argued that there is a racial component attached to the legislations since the aim is to regulate and restrict the public space for homeless migrants with the purpose of pressing them to leave the country.

Finally, the thesis addresses mobility in the form of confinement and forced movement within the context of the city. The legislations confine the migrants as they are restricted in their access to maintain a life on the streets. Moreover, the migrants are subjected to forced movement, as they are forced to be constantly on the move to avoid the police. The thesis stresses that forced movement takes place at different levels and in the most extreme cases it can lead to the expulsion from Denmark. The Roma migrants are particularly disadvantaged by the way the legislations are exercised in forms of confinement and forced movement as they are not only unwanted in Denmark but marginalized throughout all of the EU.

Based on these findings, the thesis contributes with an extended perspective on mobility within the public space. As the legislations have just recently been passed, limited research have been conducted on how they are implemented. Therefore, based on the empirical findings, the thesis provides research on how the legislations have been exercised and the following effects.
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1. Introduction

This thesis examines how the legislations regarding utryghedsskabende lejre (intimidating camps) and utryghedsskabende tiggeri (intimidating begging) are implemented to limit the influx of homeless migrants into Denmark. Mobility theory is introduced in order to address how homeless migrants are controlled by a mobility regime characterized by unequal access to movement across and within borders (Liempt, 2007; Glick-Schiller & Salazar, 2013; Shamir, 2005) and how their status as ‘unwanted’ follows the migrants into the public space. Furthermore, the thesis addresses how the legislations are justified by constructing stereotypes of the migrants, especially the Roma, as criminals, parasites and a plague, who are a threat to the social order in Danish society. The thesis complements mobility theory by not only considering transnational movement but also including an analysis of mobility in the city. By doing this, the thesis argues that status and rights in the public space influence mobility and can lead to confinement or forced movement for homeless migrants.

Due to the short implementation period of the legislations on intimidating camps and begging, limited research is available on how the legislations have been exercised in the public space. Therefore, besides contributing to mobility studies, this thesis seeks to nuance the image of homeless migrants conveyed by the political debate, and share knowledge about how the legislations have been exercised on a practical level in the public space.

“We need to go directly to the limit to get the Roma out of here” (Dreyer, 2017a, own translation).

This statement by the Minister of Justice, Søren Pape Poulsen, is just one among many from Danish politicians in the political debate in the spring 2017 regarding the new legislation about intimidating begging. The legislation has tightened the penal code §197 making it possible to sentence beggars unconditionally for two weeks and serves as an extension to the former amendment of the proclamation about intimidating camps from 1st of April 2017 (Retsinformation, LBK nr 977 af 09/08/2017, 2017; Retsinformation, BEK nr 511 af 20/06/2005, 2017). Both regulations stem from repeated discussions about the influx of migrants coming from Eastern Europe to Denmark exploiting the open borders and the freedom of movement within the EU to seek out opportunities

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1 The word utryghedsskabende can be directly translated into ‘making someone insecure’, but, for the readability of the thesis, in the following it will be translated as ‘intimidating’. 
for making an income. Foreigners living as homeless people in camps on the streets of Copenhagen have been problematized (Folketingstidende, 2017a; Folketingstidende, 2017b). In recent years, the police have received an increasing number of complaints from residents and neighbors living next to these camps complaining about noise, trash and unsanitary conditions. Due to these issues, in 2016 the Copenhagen Chief Burgomaster called for specific regulations to avoid the escalation of established camps, often referred to as ‘Roma-camps’ (Eising, 2016).

Our interest in the topic arose from the debate regarding the new legislations about intimidating camps and begging and the following implementation. In general, three things caught our attention. First, the regulations were rooted in a debate about how free movement within the EU have resulted in a tendency of migrants entering Denmark to live in and of the streets. Differing from other debates about migrants from outside the EU borders, these people are in fact EU citizens and cannot be denied access at the national borders. In any case, it has put the free movement directive on the political agenda, and opened for discussions about whether or not free movement is supposed to count for everyone, including ‘economic migrants’ within the EU (Husted & Jørgensen, 2017; Folketingstidende, 2017a; Folketingstidende, 2017b). But how did a discussion about free movement within the EU result in regulations of beggars in Denmark?

Second, we found it interesting to examine the term ‘intimidating’, which was applied to the legislations and mentioned persistently in the political debate. Even though the headline of the new regulation on begging involves the word intimidating, it is nowhere to be seen in the actual articulation of the law. Likewise, the definition of intimidating in relation to the camp legislation is ambiguous. So, what does it indicate when politicians regularly use the term intimidating in the political debate, and what kind of practice does it entail?

Third, politicians have been very blunt about how the new regulations were meant to target homeless migrants. Although the legislations in reality apply equally to both Danish and foreign beggars, the debate has continuously connected intimidating begging and camps with Eastern European beggars, especially Roma migrants. For this reason, the legislations have been criticized for contributing to an already-present aversion and negative discourse against the Roma (Amnesty International, 2017; Dahlin, 2017a; Husted & Jørgensen, 2017). The Roma have been framed as a plague and as criminals and thus unwanted in the streets of Copenhagen (Knuth, 2017). Moreover, it seems like the Roma have become objectified as equal to ‘intimidating behavior’. But why did the Roma migrants suddenly become the scapegoats in this specific case and what does it mean in practice when a law has a potential discriminative accentuation?
Research question

Based on the different themes presented in the introduction, we pose the following research question:

*How is the influx of homeless migrants in Denmark problematized in relation to the legislations on intimidating camps and begging, and how are these legislations exercised in the public space?*

Structure of the thesis

The following is an explanation of the structure of the thesis. Chapter one consisted of the introduction and further posed the research question. In chapter two, the method is presented with a description of the qualitative research conducted in the thesis. A description of the theoretical framework of the thesis is followed in chapter three. Chapter four provides the contextual setting for the thesis. Chapter five entails the analysis, which is divided into three parts. Each part has an introduction and a summary to sum up important findings. In the first part of the analysis, the thesis uncovers the political debate about homeless migrants in Denmark and how they have been problematized. In the second part, the implementation of the legislation is examined by applying examples from the conducted interviews and verdicts from the Copenhagen City Court. The third part of the analysis examines the findings by applying a mobility perspective to the public space and, thus, expands on mobility theories. Finally, chapter six provides the conclusion to the thesis, where the research question is answered.
2. Method

The aim of this thesis is to examine how the legislations about intimidating camps and begging have been debated in the media and by politicians and how the legislations have been effectuated in the public space of Copenhagen. In order to answer the research question and to nuance the debate about the legislations, we have collected data from diverse sources with different arguments and perspectives on the topic. We have conducted interviews with relevant people in the field, and supplied with contemporary research and reports on the topic. In the following chapter, we describe our data collecting process as well as our approach to the interviews and introduce the secondary empirical data.

Data collecting

In order to gain information on the political debate regarding the legislations and how they have been implemented, we have collected data from newspaper articles, tv debates and radio programs. For the more legislative information, we have contacted the Danish Parliament's Information Centre (Folketingets Oplysning) and the Copenhagen City Court. Moreover, we have studied the laws and their considerations on Retsinformation and searched the Danish Parliament's website for published reports of the meetings in the parliamentary hall. Since the legislations have been widely discussed, it was easy to find material that gave us insight into the scope of the debate.

In order to understand why the homeless migrants were problematized in the debate, we collected information about homelessness of migrants in Denmark, including reports from leading organizations on the field, such as Kirkens Korshær and Projekt Udenfor. Following the political debate, we found that the Roma migrants in particular were problematized in light of the legislations. Thus, to gain more knowledge about the Roma, our collected data included reports and literature about their historical and contemporary situation in the EU. Additionally, we had a correspondence with the EU Information Centre (EU Oplysningen), who supplied us with information about relevant strategies in the EU concerning the Roma and about EU legislations in general, including the free movement directive.

Moreover, to examine the implementation of the legislations regarding intimidating camps and begging, we received several verdicts of people convicted for intimidating begging. These verdicts were passed to us from Maja Løvbjerg Hansen, Gadejuristen, who similarly gave us insight in two
pending verdicts on intimidating camps. Three of these verdicts from the Copenhagen City Court can be found in the appendices 7-10.

We found that our collected data mostly included research and media coverage about homeless migrants in Copenhagen. Similarly, the interviewees had their experience and knowledge from Copenhagen, and, finally, the verdicts on intimidating begging and camps were gathered from the Copenhagen City Court. For these reasons, we chose to demarcate our thesis to address the homeless migrants in the city of Copenhagen and how they are affected by the legislations.

**Selecting informants**

By reading newspaper articles, listening to radio programs, watching television debates and live streaming from the parliament, we noticed that a lot of the same people and organizations were presented in the debates. Thus, one criteria for selecting interviewees were based on visibility and engagement in the public discussions about the legislations. A second criteria for selecting interviewees, were their knowledge, experience and expertise within the area of homeless migrants in Copenhagen. Finally, we found it important that the selected interviewees represented various disciplinary backgrounds and approaches to practice in order to get the most nuanced picture of the situation of the homeless migrants and the implementation of the legislations.

**Interviews**

Our research question was approached through qualitative research, in the form of semistructured interviews. We conducted interviews with organizations, who have firsthand knowledge with the groups of homeless migrants residing in the streets of Copenhagen. Drawing on ideas from the ethnographic interview, our aim was to conduct interviews designed as a friendly conversation more than a formal interrogation (Spradley, 1979). But, in line with the ethnographic interview, we were aware that the conversations needed direction, and we had a main purpose leading the interviews which was to gain knowledge on how the legislations regarding intimidating camps and begging have been implemented (Spradley, 1979). This purpose was made clear for all of the
interviewees; hence, the interviews became more formal than just a conversation as we took control of the talking.

As we have interviewed people representing different organizations and therefore with different kinds of knowledge on the topic, we tried to modify each interview to the specific backgrounds of the interviewee. Thus, the questions varied from interview to interview although some of the questions recurred and covered the same themes. We conducted three interviews in person. To each specific interview we constructed semi-structured interview guides, which meant that we prepared some questions but were also open towards letting the interviews take us in different directions depending on the answers of the interviewees (Bryman, 2012).

As our aim was to let the informant answer on their own terms and not guide them to think in a specific way, our primary approach to the interview was to formulate open questions (Bryman, 2012). As we were interested in gaining knowledge about the experiences of homeless migrants, we posed some descriptive questions on the interviewee’s work with this target group (Spradley, 1979, p. 60). For example, we asked: *How are the legislations implemented in practice and how do the migrants experience the laws?* (Appendix 1, 2 & 3). This been said, we are aware that our preconceptions did influence our questions so some of the questions were more closed and leading. For example, we asked: *“What are the dilemmas with the legislations?”* (Appendix 1, 2 & 3).

Our aim was to conduct six interviews face to face, but due to different circumstances some of our intended interviewees did not have the opportunity to participate in personal interviews. Instead they answered via email. We refer to these communications as email correspondences, even though in most cases we only received one email answer, which we tried to follow up on without further response. Regarding the email correspondences, there were some disadvantages connected to this. For instance, we were not able to follow up on the interviewees’ answers to the questions, why interesting information were probably lost. Likewise, the correspondent could easier choose to avoid answering a question than if the question was asked face to face. On the other hand, we had to be very specific about what kind of knowledge we needed as we did not have the opportunity to engage in a more fluent conversation. Moreover, by answering in writing, the correspondents had the opportunity to be very short and precise with their meaning.

Due to the deadline of our thesis, we had to limit the number of interviews and carefully select what kind of interviewees would be most relevant for our purpose. Based on these considerations, we
decided not to conduct interviews with any homeless migrants although this could have been relevant to our topic. We found that a much longer period of fieldwork would be necessary to find and gain the trust of the migrants in an ethical and effective way, and to not intrude on the privacy of an already vulnerable group (Bryman 2012). Instead, we chose to get our knowledge about this group from people and organizations, who have first-hand insight to the lives of homeless migrants in Copenhagen. Despite our few interviews, we found that we had sufficient data to examine our research question due to the fact that it was further supplemented with contemporary research on the topic.

Although, we tried to conduct interviews with people with opposite points of view, we only succeeded to get interviews with organizations, who were critical towards the legislations, and how it was implemented. We tried to set up interviews with politicians and the police to get a more diverse interview group, but this resulted only in the aforementioned email correspondences. For this reason, we had to rely on the media coverage and the political debates to apply the positions of people who were more supportive of the legislations.

**Interviewees**

In the following section, we include a short description of the interviewees and the organizations they represent, whom we have found of relevance for our thesis. The interviews and interview guides to each interviewee can be found in the appendices 1- 6.

**Gadejuristen** is a private organization based in Copenhagen providing outgoing legal assistance to disadvantaged people on the street. Their main target group is people with drug experience, but they also apply their services to sexworkers, people with mental illness and homeless people (Gadejuristen, 2009). Primarily represented by street lawyer Maja Løvbjerg Hansen, Gadejuristen has been very visible in the debate. She has been one of the critical voices regarding the legislations about intimidating camps and begging and has commented in several newspaper articles about the negative effects for both homeless Danes and migrants (Ingvorsen, 2017; Hecklen, 2017).

**Kompasset**, a subsection of Kirkens Korshær, offers assistance to homeless migrants, who are primarily EU citizens, who search for employment in Denmark. Kompasset provides services such as showers, lockers, and a place to relax during the daytime. Moreso, they help migrants with job
applications and drafting of CV’s and they give advice about their legal status in Denmark. Furthermore, they provide research on the situation of homeless migrants in Denmark (Kirkens Korshær, n.d.). and in the public debate, the Manager of Kompasset, Susannah Sønderlund has shared knowledge on homeless migrants in regard to the legislations (Ingvorsen, 2017; Deadline, 2017). For our interview, we contacted the project officer of Kompasset Maj Kastanje, who has participated in the recent report from Kompasset regarding homeless migrants in Copenhagen.

**Projekt Udenfor** is a private organization that helps the most disadvantaged citizens on the street. They offer services where the public safety net is no longer sufficient and divide their services into two areas. On the one hand, they have projects that assist homeless people at a practical level, such as providing meals, locker rooms and counselling on street level. Furthermore, they have a transit program, in cooperation with, among others, Hjemløseheden², where they are supporting homeless migrants with basic needs and try to help them back to their country of origin. On the other hand, they contribute with knowledge gathering by conducting research about homeless groups living on the streets in Denmark. They have published different reports on the topic and they have also been one of the critical voices regarding the legislations on intimidating camps and begging (Dreyer & Justice, 2017; Projekt Udenfor, 2017). The interviewee Per Glad Fuglsbjerg, is a streetworker in the project “Den gode hjemrejse”, which is a separate part of the transit program, managed by Projekt Udenfor.

**Email correspondences**

The following includes a description of the people, who participated in email correspondences instead of the intended interviews. Even though we were not able to gather much information from the correspondences, their contribution is supplemented with statements from the same people gathered from media and reports. The answers from each of the email correspondences can be found in the appendices 10-12.

**Camilla Ida Ravnbøl** is a PhD-student at Copenhagen University Institute of Anthropology. Her field of research is focusing on homeless Roma migrants and their meeting with policies and restrictions in Denmark. Her research is based on 14 months of fieldwork with Romanian Roma,

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² Section in the municipality of Copenhagen, which is specialized in services to homeless people
who live and work on the streets of Copenhagen. Camilla has written several articles on the topic and has expressed herself in the media in relating to the legislations on begging and camps (Ingvorsen, 2017). Due to her current writings on her PhD, unfortunately, she could not share much of her information, which has yet to be published. However, she participated in the email correspondence and some of her research is included in the thesis.

Marcus Knuth, spokesman of foreign affairs for the party Venstre, has been very visible in the discussion about the legislations on intimidating begging and camps. He has been one of the prime movers behind the legislations, and has contributed with many personal opinions on the subject in the media coverage. The email correspondence has not been with Marcus Knuth in person, but with his political employee who commented on his behalf.

The Police of Copenhagen are responsible for implementing the legislations on the practical level and have also contributed with statements in the media coverage both before and after the legislations. As the Police have firsthand knowledge on the implementation process and because they have been subjected to some critique, we found their opinion very relevant for the thesis. The representative for our correspondence with the police, was the Deputy Commissioner, Jesper Lauenborg Bangsgaard.

Data processing

All of the interviews were conducted with the participation of both researchers of this thesis. We found this necessary, firstly, due to our choice of conducting semi-structured interviews. In this way, one of us could easier withdraw from the planned questions and follow up on important statements made by the interviewee. Secondly, we did not record the interviews because we wanted to make the interview as informal as possible (Bryman, 2012). Thus, being two people made it easier to write down notes during the interviews, and capture some of the direct quotes on paper. Directly after each interview, our notes were combined by talking through the interview and helping each other to remember the conversation. We tried to process the data in an honest way and to be loyal towards the interviewees’ statement, by not interpreting our data when writing them down. If direct quoting had not been possible, we wrote it as paraphrasing to make sure that the opinion of the interviewee was not manipulated. Thus, the data entailed a combination of
paraphrasing and direct quotes, which have been translated from Danish to English. Our approach with semi-structured interviews generated a wide collection of data. These data were reduced to themes, which became the foundation for our analysis.

Secondary empirical data

In order to examine and answer the research question, the thesis additionally draws on secondary empirical data. The data are based on qualitative and quantitative academic studies, reports, television debates and newspaper articles. As we have not done prolonged fieldwork, it was particularly necessary to draw on secondary data from the research of others (Bryman, 2012). However, there are some limitations related to the use of secondary empirical data in contrast to our own data. As an example, we have a lack of familiarity with the data, meaning that we have to consider that the data is produced with a specific agenda in mind. Thus, the purpose of the reports is not necessarily completely applicable to the purpose of our paper (Bryman, 2012). The data and reports we apply to the thesis are collected by organizations and people in the field, who have first hand knowledge and experience at the practical level with homeless migrants in Copenhagen.

The thesis takes a point of departure in the political debate about the legislations of intimidating begging and camps and their implementation. It applies several newspaper articles during the years 2016 and 2017, where the debate and media coverage about homeless migrants have been most dominant. This data has been supplemented with expert knowledge from several reports and research regarding homeless migrants in Denmark and Europe. Among others, research has been included from Kirkens Korshær, Projekt Udøenfor, FAFO & Rockwool Fonden and Camilla Ida Ravnbøl. Furthermore, the thesis includes opinions from organizations such as Institut for Menneskerettigheder and Amnesty International in their submissions (høringssvar) to the parliament regarding the legislations on intimidating camps and begging. Moreover, in order to nuance the representation of the Roma the thesis draws on several reports from the European Union to describe the contemporary situation of the Roma in Europe.
Concluding remarks on methodology

To sum up, the data applied in this thesis consist of interviews, newspaper articles, live streaming from the parliament, radio-television programs, reports and legislative statutes. The methodological approach is a combination of interviews and secondary data which provide us with a broad understanding of the homeless migrants in Copenhagen and how they have been debated in relation to the legislations regarding intimidating begging and camps. Due to the contemporaneity of the topic, we have been able to follow the debate very closely during the process of writing the thesis. This has provided us with a constant flow of information and probably helped us in the process of finding relevant informants because the different organizations have had an engagement in the debate and an interest in providing insight to the topic. On the other hand, the recent implementation of the legislations gives us some disadvantages, due to the fact that there is limited research available on the effects of the legislations.

Even though there are some limitations to the paper, such as the absence of interviews with homeless migrants and an overrepresentation of critical opinions towards the legislations among our interviewees, we find that the thesis contributes with a nuanced representation of the debate and the implementation of the legislations.
3. Theoretical framework

In order to answer the research question, the thesis draws on different bodies of literature. Scholars within mobility studies (Liempt, 2007; Glick-Schiller and Salazar 2013; Shamir 2005) are included to analyze how the legislations regarding intimidating camps and begging can be understood in terms of power structures that regulate the mobility of homeless migrants both across and within borders. Furthermore, the concept of ‘irregularization’ is applied (van Baar, 2011; 2015) to supplement mobility theory as this concept allows us to examine how the rhetoric and representations of Roma migrants as irregular contribute to the justification of national legislations constraining their mobility.

The thesis aims at contributing to mobility theory by drawing the aspects of power structures and mobility regulations into a context of the city. It is examined how mobility is not only regulated in relation to the crossing of transnational borders, but is similarly regulated in the public space. Moreover, the thesis draws on scholars from spatial theories in order to examine how the legislations have been exercised in practice. By including concepts from spatial theory about homelessness in the city (Randall, 2005; Mitchell, 2003) it is examined how the legislations serve as regulations that limit the rights of homeless migrants and contribute to their exclusion from the public space.

Mobility theories

The debate about the legislations on intimidating camps and begging has evolved around discussions about the migration of homeless foreigners. In the thesis three different scholars from mobility studies are included as these scholars, namely Liempt (2007) Glick-Schiller and Salazar (2013) and Shamir (2005) are both supplementing and challenging each other.

First and foremost, their common argument is that within mobility studies there is a need to pay attention to the prevention of movement. The globalization has meant that some people experience that movement across national borders have become more assessible, while for others movement is continuously impeded by restrictions and border control. Different power structures influence mobility, which leads to unequal access to movement where specific groups end up in categories of wanted or unwanted migrants (Liempt, 2007; Glick-Schiller and Salazar 2013; Shamir, 2005). With this in mind the political debate and the effectuated legislations are analyzed from a mobility
perspective, as it allows for an understanding of how movement is not equal to everyone, and how some groups are considered as undesired visitors.

The scholars also differentiate themselves from each other and are applied to cast light on the arguments from different angles throughout the thesis. For instance, Liempt (2007) addresses how mobility relates to globalization and introduces the ‘Janus face of globalization’ (Liempt, 2007, p. 20). Mobility of people is both characterized by a growing interconnectedness across national borders, meanwhile it has led to more regulations of mobility. Especially, the European Union represents a place where borders and restrictions of movement have almost disappeared and that the prevention of movement primarily means blocking the access for non-EU citizens (Liempt, 2007). The growing interconnection across borders explains how homeless migrants from Eastern European countries have gained some rights due to their EU membership which allows for movement across borders with fewer restrictions.

Shamir (2005) also discusses wanted and unwanted migration and agrees that globalization has led to restrictions on mobility for some people and refers to the mobility regime as based on a ‘paradigm of suspicion’. Opposed to Liempt (2007), who recognizes two faces of globalization, Shamir puts forth a more pessimistic view, and primarily “theorize globalization in terms of processes of closure, entrapment and containment” (Shamir, 2005, p. 199). Processes of bio-social profiling entail risk assessments on wanted and unwanted migration by categorizing different groups of migrants by their nationality and ethnicity. In the paradigm of suspicion, threats of crimes are connected to mobility and thus mobility becomes criminalized (Shamir 2005). These arguments are included to analyze how the homeless migrants are problematized in the debate in order to legitimize the legislations regarding intimidating camps and begging. Hence, some countries and nationalities end up in the bottom of the hierarchy of movement entitlement. The thesis includes the notion on bio-social profiling to analyze how there is a racial component attached to the legislations and their implementation.

Glick-Schiller and Salazar (2013) further illuminate the unequal access to mobility by applying their concept ‘regime of mobility’:

“[T]he mobility regime is constructed to maintain high levels of inequality in a relatively normatively homogenized world. In practice, this means that local, national, and regional boundaries are now being rebuilt and consolidated under the increased normative pressure of, and as a counterbalance to, the universal human rights regime... [P]rocesses of globalization are also
concerned with the prevention of movement and the blocking of access” (Glick-Schiller and Salazar, 2013 p. 189).

This illustrates what Glick-Schiller and Salazar (2013) explain as a drawback to methodological nationalism where the nation states are increasingly concerned with national security and the fact that the homogenous society becomes the norm. The mobility of certain specific groups is considered a suspicious activity making it easier to categorize migrants into wanted or unwanted. They argue, that the universal human rights and methodological nationalism cannot go hand in hand. This argument is applied in the thesis to examine how the rights to free movement do not fit together with the desire of the sovereign states to distinguish between EU-migrants. The homeless migrants have rights to cross national borders but only to be met with more confinement once in the designated countries.

By including the above-mentioned scholars, the analytical lens of mobility allows us to examine how the Danish government tries to restrict access of some EU citizens by implementing confining legislation despite of the rights to free movement within the EU and furthermore, it is assessed how an unequal distribution of mobility manifests itself in legislations and contemporary politics in Denmark. The concepts Janus face of globalization, the paradigm of suspicion and the mobility regime allow for an extensive analysis of the mobility of the homeless migrants across and within borders while at the same time focusing on how rights and justice are connected to mobility. In the thesis, the term ‘mobility regime’ is applied as a reference to the inequality and confinement of movement.

The thesis expands on mobility theory by examining prevention of movement within the city contrary to transnational border crossing. The concept of paradigm of suspicion, touches upon how some agents of mobility and their “license to move” (Shamir 2005, p. 201) are judged by being represented as potential threats, not only when crossing transnational borders but also within borders in the public space. Likewise, Glick- Schiller and Salazar (2013) address the presence of mobility within borders and argue how mobility might lead to confinements in the destination countries or in their temporary residence after migration. However, this thesis finds that their contribution to explore how mobility is present in the public space lack clarification. As an example, they only touch upon power structures regulating cross-border movement but not on how
power is exercised within national borders and cities. Therefore, this thesis aims at analyzing mobility not only as a transnational activity, but moreso as something that occurs within the public space.

**Irregularization**

In this thesis, the concept of irregularization (van Baar, 2011; 2015) is employed to analyze how migration for some members of the EU is constructed as more irregular than others and thus their rights to free movement within the EU are impeded. Irregularization is mostly debated in relation to the securitization of border policies at the external borders of Europe to protect the member states from what is considered as unwanted migrants from outside of the EU. Van Baar builds on this debate by applying irregularization to the practices of population management and exclusionary national policies in an intra-EU context. The border regime decides what is regular and irregular migration, and describes migrants from the latter category in terms of problematization and criminalization which further justify regulatory policies (van Baar 2015). Thus, irregularization is a discursive practice which is often posed on specific groups due to their race or ethnicity (van Baar, 2011). Similar to Shamir (2005), Van Baar (2011), considers how movement is criminalized for certain groups, but further expands on this notion by applying the concept of irregularization specific to the Roma migrants. The Roma migrants are particularly framed as irregular, and even as non-European despite their European citizenship (van Baar 2011). Therefore, the concept of irregularization is included to examine how migrants within the EU are restricted in their mobility, contrary to the arguments of Liempt (2007), who considers this form of regulation as being a policy mostly towards non-EU citizens. Van Baar (2011; 2015) problematizes the stereotyped representation of the Roma as nomads and criminals in the EU, which leads to exclusionary practices in several member states.

Van Baar (2015) also introduces the concept of forced mobility in relation to the Roma, arguing that they are forced to be constantly on the move throughout Europe due to their marginalized situation. In this thesis, the concept of forced mobility serves as a supplement to the mobility theory where movement is discussed as something that can lead to confinement (Liempt, 2007; Glick-Schiller and Salazar, 2013; Shamir, 2005). The concept of forced mobility is applied to analyze how the legislations regulate the public space within the city, at a regional and transnational level.
Even though the focal point for the arguments of van Baar (2011; 2015) relates to Roma citizens in their country of nationality, this thesis finds it applicable to the examination of Roma migrants outside their country of origin.

**Spatial theories**

To analyze how the legislations are implemented in the city of Copenhagen, this thesis examines how regulations of the public space, involving rough-sleeping and begging affect homeless migrants for whom the public space is essential for their subsistence. In order to illustrate how space is not a neutral grid but infused by power structures and unequal relationships, the thesis draws on two major scholars within spatial theories, namely Amster (2005) and Mitchell (2003).

Amster (2008) presents space as both the product of social relations and the producer of social relations. He argues how the public place, which in principle is defined as common property with legal access for everyone, in reality consist of places of exclusion where some are desired and some are not (Amster, 2008). Drawing on a line of recent studies on urban development, Amster (2008) examines how the public spaces in cities are shrinking due to privatization and gentrification limits the rights to access for homeless people. This form of regulation and spatial control leads to exclusion from the public space and social stigma for the homeless (Amster 2008).

Amster applies the concept of ‘disneyfication’ to address the processes of privatization that are transforming the city into socially sanitized and homogenized so it suits the wealthy middle-class, meanwhile excluding the deviant groups of society (Amster, 2008, p. 47).

Explaining why homeless people qualify for such exclusionary practices, he argues that homeless people are demonized as a threat to society, which can be traced back historically to archetypes about the stranger, the vagabond and the transient. The vagabond’s way of living is indeterminate and temporary, which is not easily identifiable with the modern society, characterized by a more place-bound identity, stability and established order. Why homeless people can be considered a threat to society, rely on the way they are depicted as dangerous and deviant, which further constructs them as inferior and inhuman creatures (Amster, 2008).

Mitchell (2003) similarly considers the public space as increasingly excluding the undesirables due to processes of environmental change, behavior modification and stringent policing. The public space has gradually been transformed in the name of security and fear of people who is considered
as inappropriate for the public, namely homeless people, drug dealers and loiters. Introducing the notion of the ‘right to the city’, Mitchell (2003) analyzes how the right to the city is determined by policies, but also challenged by the people on the streets. He further considers who and what defines the public space and how it represents connections between social rights, exclusion and justice (Mitchell 2003, p. 5).

Amster (2008) and Mitchell (2003) introduce the ‘broken window’ theory and explain how it is applied in many American cities to justify restrictions of homeless people's access to the city (Amster, 2008, p. 101; Mitchell, 2003 p. 199). The broken window represents disorder, which is connected to crime. Therefore, the window needs to be fixed in order to avoid escalating public disorder. Applying the analogy of the broken window to homeless people illustrates how their presence is considered a threat to the social order. If the homeless people are not regulated, they attract criminal behavior and the safety in the neighborhoods will deteriorate (Amster, 2008; Mitchell, 2003). In this thesis, the metaphor of the broken window is applied to analyze how homeless migrants in particular are considered to represent disorder within the city.

In their arguments, Amster (2008) and Mitchell (2003) do not differentiate between various groups of homeless people. This thesis argues that homelessness cannot be look upon as something fixed, as it consists of hierarchies, asymmetries and variations between different groups. However, by including analytical concepts from spatial theory the mobility theory is augmented by examining unequal power structures in the public space. Coupling these concepts to the mobility theory supports the analysis of how the legislations on begging and camps can be seen as regulations of the public space, which in turn influences the mobility of the homeless migrants.
4. Context setting

The following chapter provides explanations on specific topics touched upon in the thesis. First, the legislations regarding intimidating camps and begging are described, as these legislations provide the overall context of the analysis. Secondly, the context setting contains information of the free movement directive, as the directive is what enables mobility for EU citizens. This description includes some of the rights that EU citizens are entitled to in Denmark. Finally, Copenhagen has been the center of attention in the political debate as the city experience most of the problems with homeless migrants residing and begging in the streets. Therefore, the last part outlines more specifically the group of homeless migrants in Copenhagen. One of the groups of homeless migrants that has been criticized the most in the debate is the Roma. It appears that ‘Roma’ has been widely (mis)used as a term in the political debate, without consideration to the Roma ethnicity and their European history. Hence, a description of the Roma is presented briefly in a subsection to homeless migrants in Copenhagen.

The legislations regarding intimidating camps and begging

During 2017, the government implemented different regulations to comply with complaints about homeless migrants residing in green areas and streets in Copenhagen (Eising, 2016; Ritzau, 2016). The regulations in this thesis are referred to as the legislation on intimidating camps including the zone ban (zoneforbud), and the legislation on intimidating begging (European Commission, 2017). The legislation on intimidating camps was implemented on the 1st of April 2017, as an amendment of the Proclamation on the Police’s Protection of the Public Order3. The amendment includes a prohibition against the establishment of camps that create insecurity in neighboring areas; a violation of this regulation causes a fine. A further regulation implemented on the 1st of July 2017 gives the police measures to issue a zone ban of 400 meters from the former location of the camp to people who are expected to repeat the offence by going about or resettling in the same area. This ban is extended to 800 meters if the person has already violated the prohibition (Retsinformation, BEK nr 511 af 20/06/2005, 2017).

3 Our translation of the Danish Proclamation: Bekendtgørelse om ændring af bekendtgørelse om politiets sikring af den offentlige orden og beskyttelse af enkeltpersoners og den offentlige sikkerhed mv., samt politiets adgang til at iværksætte midlertidige foranstaltninger
As a further step to avoid homeless migrants in the streets of Copenhagen, a tightening of the Criminal Code (Straffeloven) §197 was passed on the 14th of June 2017. Previously, the legislation solely entailed a warning from the police, and if the beggar, having received this warning, was found guilty of begging, they could be punished with jail for up to seven days, although this was often conditional. Under mitigating circumstances, the penalty could lapse. With the new tightening, the requirement for warning is no longer applicable when the begging activity is committed in pedestrian streets, at stations, on public transport, and in or around supermarkets. Furthermore, the penalty for this type of begging, namely intimidating begging, is made unconditional, which means that the beggar is sentenced for 14 days the first time they are convicted (Retsinformation, LBK nr 977 af 09/08/2017, 2017).

**EU rights and barriers for migrants**

The enlargement of the EU has been considered as a reason for the increased migration of European migrants from economically disadvantaged countries to the wealthier member states. In 2004, the EU was expanded with ten countries from Central and Eastern Europe, and thereafter Romania and Bulgaria joined in 2007. EU membership entails several privileges, which are referred to as the four freedoms, namely the free movement of goods, services, capital and persons (European Union, 2017). The right to free movement is considered a fundamental part of the EU and the right that people associate most closely with EU citizenship. Despite this, new member countries do not necessarily get to join this part of the cooperation. When Romania and Bulgaria entered the EU, they were imposed with a transitional control for seven years by nine member states. This meant that Romanian and Bulgarian citizens were limited in their right to work, reside and move freely within the EU. In order to work in any of the nine countries, they needed a work permit. In fact, the reason for the transitional control was the fear of mass migration from the two poorest countries in the European Union. The restrictions on the free movement for workers from Romania and Bulgaria were lifted on the 1st of January 2014 (European Commission, 2017; European Union, 2017). With the rights to movement of workers within the EU follows the movement of poor and disadvantaged people, who seek better ways to earn an income outside their countries of origin. According to Kirken Korshær, the reason for the increase in the migration of homeless migrants to Denmark relates back to the expansion of the EU, which means that more Eastern European citizens
apply their right to free movement (Graversen, 2017; Retsinformation, BEK nr 474 af 12/05/2011, 2011).

The free movement directive

This section gives a description of the Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004, or in short, the free movement directive (European Union, 2017). The free movement within Europe plays a central role for the purpose of this thesis, as the directive serve as the foundation for the migrants’ mobility within the EU.

The free movement directive states the rights for European citizens and their family members to move and reside freely within the territory of the member states. European migrants are free to unconditionally reside in any EU country for three months. If they are seeking employment they can stay for six months. Furthermore, they are entitled to stay even longer if they are able to document that they are job-seeking and expecting employment (Retsinformation, BEK nr 474 af 12/05/2011, 2011). The directive is more or less clear, but also raises some dilemmas. For instance, who decides what is valid documentation for seeking employment, and moreover who decides whether or not a person has real options for employment? (Kastanje & Hoff, 2017).

In some cases, EU citizens are entitled to enjoy some of the same rights as Danish citizens, for instance when it comes to the Danish Social Services Acts (Serviceloven). One of the rights relevant to homeless migrants is the access to public shelters. However, there has been a tendency from shelters to deny access to migrants on the grounds that they do not have a Danish security card (Sundhedskort) (Kastanje & Hoff, 2017; Rådet For Socialt Udsatte, 2017).

For many migrants, the purpose of migrating is the possibility of finding employment in the destination country, which due to the free movement directive can be applied on equal terms with national citizens. However, homeless migrants experience both structural and personal barriers when trying to access the labor market in Denmark. Personal barriers entail lack of language skills and low or irrelevant education. A more structural barrier is the formalized way the Danish job market is structured, where documentation of skills and education in particular is required. Moreover, many employers are not fully aware of the EU rights, and are skeptical towards employing unregistered migrants without a civil registration number (CPR-nummer) and a Danish
social security card. This puts homeless migrants in a vicious circle where they need to register (and receive a social security card) to get a job, but to be able to register they are required to have a job. The lack of a social security card is also a hindrance for homeless migrants to receive help in job searching from Danish Job Centers. The migrants are often rejected from this service even though they are entitled to this right (Kastanje & Hoff, 2017).

**Homeless migrants in Copenhagen**

In the following, a short description of the migrants in Copenhagen is presented, followed by a demarcation of the group of homeless migrants, with whom this thesis is concerned.

According to recent research, 64% of homeless migrants in Copenhagen are EU citizens. Another 23% are what is called ‘third country citizens’ (Africa, Asia, America) with double citizenship or residence in another EU country. Moreover, 13% of homeless migrants have unknown citizenship without residence rights in another EU country. Among homeless European migrants, there is a high tendency in migration from Romania to Denmark, with an estimate of 52% with Romanian nationality. Other nationalities that constitute a larger part of homeless migrants are Spaniards 12%, Poles 9%, and Bulgarians 5% (Kastanje & Hoff, 2017).

Hence, the groups of homeless migrants altogether represent diverse nationalities and situations, but Romanian migrants constitute a relatively high number. The number of Romanian migrants can be explained by Romania being one of the poorest countries in Europe. Research emphasizes that in some extremely poor neighborhoods of Romania, migration to the Scandinavian countries is perceived as the only remaining option for making an income (Djuve et al., 2015).

Migrants are often described in terms as unregistered, irregular or illegal migrants. The term illegal is especially misleading, because it is associated with crime, and as the previous section has explained, the migrants from EU countries are generally legal migrants (Institut for menneskerettigheder, 2016; Rådet For Socialt Udsatte, 2017).

Homeless migrants in Copenhagen represent a fairly diverse group, including disadvantaged people with psychological problems or abuse and migrants seeking employment and several other categories (Djuve et al. 2015). The migration of EU citizens is generally different from what is considered traditional migration, where people migrate to another country to settle more
permanently. Even though this might be a wishful situation for most of homeless migrants, the reality is a form of circular migration, which continues for several years as a permanent condition for maintaining a life in their home countries (Kastanje & Hoff, 2017). Meanwhile, most of the migrants concerned in this thesis are not homeless in their countries of origin, but in Denmark they live in a temporary status of homelessness. Ravnbøl (2015) has carried out research with homeless Romanian Roma living in the streets of Copenhagen. They are often migrating back and forth to Scandinavian countries from their countries of origin, in which they have a more established home. Even though they do have a home, most Roma migrants are living in extreme poverty to such a degree where they cannot afford everyday meals, clothes and education for their children (Ravnbøl, 2015).

This thesis is primarily concerned with homeless migrants from member states within the EU, as the legislations regarding intimidating camps and begging are targeting this group. Thus, by applying the umbrella term 'homeless migrants', this thesis refers primarily to homeless migrants from the EU.

Who are the Roma?

In the following, the thesis will briefly present the diversity of the Roma population in order to nuance the representation of the Roma in the media and political debate. As illustrated above, a larger part of the European homeless migrants is from Romania, but neither Kirkens Korshær or Projekt Udenfor mentioned people with Roma background in their reports, as their statistics about homeless migrants are based on nationality and not ethnicity. The police have confirmed to us that in general in Denmark people are solely registered by their citizenship (Appendix 10). Despite this, we do know that Roma migrants are a part of the picture on the streets in Copenhagen. For instance, according to research most of the people migrating from Romania to the Scandinavian countries identify themselves as Roma (Djuve et al., 2015). Furthermore, Ravnbøl (2015), as previously mentioned, has done a research study based on ten months of ethnographic fieldwork with Roma people from Romania who live and work in the streets of Copenhagen and Malmö. Therefore, the Roma migrants are for sure a part of the homeless environment in Copenhagen, but as well as they are not all from Romania, those from Romania do not all necessarily identify themselves as Roma.
Despite the fact that the homeless migrants are a diverse group, the Roma in particular have been widely discussed in the political debate. Furthermore, it appears, that the term Roma has been misused in the public and political debate.

There is considered to be around ten million Roma, and other related minorities, in Europe, thus they are the largest ethnic minority in Europe (Commissioner for Human Rights, 2012). The European Roma are a very heterogeneous group, differing in language, religion and cultures. The Roma are more often associated with the term Gypsies. Presumably this word derives from the Greek word ‘athinganos’, which means untouchable, pariah or pagan which shows how this group from the beginning has been categorized by the majority as unwanted or inferior to rest of the society. Most Roma dissociate themselves from this term and instead refer themselves as Roma, which can be translated to ‘human’ or ‘man’ in the Romani language (Fenger-Grøndahl & Fenger-Grøndahl, 2006). Other common descriptions used by the Roma themselves are ‘Sinti’ (Germany), ‘gitanos’ (Spain), ‘travelers’ (GB and Ireland), ‘Gens du Voyage’ (France) and ‘resande’ (Sweden). Here, historic backgrounds and languages differ in some degree, and several minority groups dissociate themselves from the term Roma (Fenger-Grøndahl & Fenger-Grøndahl, 2006). This illustrates how the Roma cannot be defined as a homogenous group. The Roma identity has transformed itself in various ways and is differentiated from group to group because old traditions and cultures have been influenced by the culture of the majority societies where they have settled (Fenger-Grøndahl & Fenger-Grøndahl, 2006).

The history of the Roma within Europe, presents a somewhat gloomy past when looking back at the approximately 1000 years since the Roma entered Europe in the years 1200-1400. For 500 years (until 1864) the Roma were held as slaves primarily in Romania, but also in Great Britain, Spain and Russia. During WWII, the Roma were, like Jews, persecuted, killed and captured in concentration camps. An official recognition by the German government of the Roma victims of the Nazi regime did not happen until 1982, 33 years after the recognition of the Jewish genocide (Fenger-Grøndahl & Fenger-Grøndahl, 2006; Commissioner for Human Rights, 2012). From the 1970s until 1990, around 90.000 Roma women were forcibly sterilized with the support of policy makers and social workers in Czechoslovakia. Furthermore, many Roma children were removed from their families to institutions on the grounds that the Roma families were not suitable to raise their own children (Commissioner for Human Rights, 2012).
Discrimination and *othering* of the Roma continues today. Some member countries of the European Union still practice segregation of Roma children in schools and some Roma people are denied access to rental housing and to formal employment. Thus, many Roma families live in inadequate housing, without employment or proper education and are marginalized from the dominant society (Commissioner for Human Rights, 2012).

Acknowledging the history of the Roma and the fact that any term cannot cover all of the aforementioned subgroups and minorities, this thesis chooses to apply the umbrella term Roma, as it is believed to be the most common self-description for Roma people and for the purpose of not having to repeatedly type a long listing of subgroups throughout the paper.
5. Analysis

The analysis is structured around three parts that answer the research question. In the first part of the analysis it is examined how the homeless migrants are problematized in the political and public debate, in relation to the legislations on intimidating camps and begging. By including live streaming from meetings in the parliament, newspaper articles, and debates from radio and television programs the scope of the debate is analyzed. Through this process, the most recurring topics have been selected and combined in three themes, namely *no homeless migrants in my country*, *the legislations are equal to all but...*, and *the ‘Roma problem’*. Part two provides an analysis of how the legislations have been exercised in the public space of Copenhagen. This analysis is split up into two topics, *intimidating begging or intimidating places* and *intimidating camps or intimidating tramps*. By including verdicts from the Copenhagen City Court and other examples from pratice we investigate how the legislations have been implemented at street level and how they affect the homeless migrants residing in the streets of Copenhagen. The third part entails a more theoretical discussion that investigates how the implementation of the legislations can be examined from a mobility perspective. Furthermore, we pose the question *and what about the Roma?* The Roma in particular are problematized in the debate, hence it is examined whether or not the legislations have targeted the homeless Roma migrants more specifically. Each part of the analysis has an introduction where the theoretical framework and the main arguments are presented. Similarly, each part ends with a short summary where the findings are outlined. This leads to the final conclusion, where the research question is answered coherently.
Part one: Problematizing the homeless migrants

This first part of the analysis examines how homeless migrants have been problematized in the political and public debate. The debate is split up into three sections, where each section investigates various arguments to justify the legislations. Different positions in the political debate are presented to illustrate both the arguments to legitimize the legislations and the critical voices opposing them. Problematizing homeless migrants raises several dilemmas that are outlined in the end of each section in order to nuance the debate.

The first section, namely *No homeless migrants in this country*, is centered around the free movement of migrants and the inequality of the EU member states. It is argued that despite the free movement and the rights which are applied to the homeless migrants as EU citizens, the legislations aim at restricting their mobility. The homeless migrants are categorized as unwanted migrants as they do not fit into the category of tourists or other privileged travelers.

The second section, *The legislations are equal for all, but...,* illuminates how the legislations are legitimized by distinguishing between the behavior of homeless Danes and migrants. The migrants are ascribed with a specific intimidating behavior, meanwhile the behavior of homeless Danes is romanticized. It is argued that the characterization of the migrants as intimidating is connected with the fact that they are agents of mobility and thus they can be looked upon as someone dangerous and as threats to Danish society. Furthermore, it is argued that the migrants come to represent ‘the broken window’, which legitimizes the regulation of the migrants in the public space.

The third section, the ‘*Roma problem*’, examines how the Roma in particular are problematized as a threat to Danish society. It illustrates how the rhetoric and representations of the Roma as irregular contribute to the justification of implementing national legislations in order to constrain their mobility. Dominant stereotypes of the Roma have led to their demonization in the public debate and positions them at the very bottom of the list of desired migrants to Denmark. Thus, the Roma become the representation of all criminal homeless migrants residing in the streets in Copenhagen.

The analysis takes its point of departure in the first and second readings of the intimidating begging law. Due to the fact that the legislation about intimidating camps is an amendment, the regulation of this law has not been presented in the parliament, although much of the debate from the readings on the legislation on begging refers back to the legislation of camps. Thus, we find that the topics discussed in these hearings are applicable for both legislations.
No homeless migrants in this country

In recent years, Copenhagen has experienced an increasing influx of migrants residing in the streets and engaging in bottle collecting, begging and petty crime. Some of these migrants establish camps in the public space where they do everyday activities such as eating, sleeping and defecating, which are considered as disturbing the public order. For this reason, the police intensified their efforts against this issue. In 2015, 187 persons were charged for illegal rough-sleeping or begging, whereas 194 persons were charged in the first half of 2016 (Eising, 2016). However, previous legislations were not found adequate to comply with the problem satisfactorily, as the migrants continued to establish camps after they were cleared. The problem led to many complaints to the police and politicians from frustrated residents and neighbors living next to or close by these camps. The citizens complained about noisy, messy and unhygienic circumstances in the camps and that some of the migrants were behaving intimidating and aggressively towards the residents (Attardo, 2016; Brandsen, 2017a; Ritzau, 2016).

The extent of the problem of homeless migrants has been stressed in the public and political debate. Based on this, the legislations regarding camps and begging have been legitimized as a means to make it less attractive for homeless migrants to come to Denmark to try to make a living. This purpose is presented in the introduction to the first reading of the intimidating begging law, which states that the aim of the legislation is to avoid groups of foreign travelers who come to Denmark and camp in public places. As most of these homeless people live in and of the streets, earning their money by begging, there is a need to tighten the law in relation to this action (Retsinformation, LBK nr 977 af 09/08/2017, 2017).

It has been emphasized by several parties that criminal homeless foreigners create insecurity in the streets and that these migrants do not contribute to the Danish economy contrary to other migrants who, for example, are working in the agriculture industry on Lolland Falster. Also, it is specified that people without a more permanent residence should not be allowed to reside legally in Denmark (Folketingstidende, 2017a). In line with this, the free movement directive is problematized and several politicians argue that the European legislation is a hindrance for Denmark to avoid the influx of homeless migrants (Folketingstidende, 2017a; Folketingstidende, 2017b). For instance, the Chief Burgomaster of Copenhagen, Frank Jensen, expresses that:
“The free movement directive should not be used as a basis for maintaining a life where you sleep on the streets in another EU country and for instance make a living by collecting bottles” (Ritzau, 2017a, own translation).

Likewise, it has been claimed “that the purpose of the free movement within the EU has never been to export beggars and other sad fates” (Folketingstidende, 2017a, p. 2, own translation).

These arguments are just a few of many examples in the debate that problematize EU policies as a hindrance to avoid groups of undesired migrants that come to Denmark without a permanent place to stay. In general, the politicians agree on a desire to regulate the free movement directive so that it primarily applies for tourists and workers (Folketingstidende, 2017a; Folketingstidende, 2017b). Another position in the debate supports the fact that homeless migrants do not belong in the streets of Copenhagen, but nevertheless they are not in favor of the legislations. They argue that the problems regarding homeless migrants are the result of inequality within Europe and should be looked upon in an EU context. The homeless migrants are referred to as poverty migrants and it is implied that conditions of discrimination and marginalization in other member states create movement of homelessness (Folketingstidende, 2017a; Folketingstidende, 2017b). Therefore, the legislations are criticized by some of these parties for not considering the poor living conditions for many of the migrants in their countries of origin.

Free movement or inequality of movement

The debate illuminates how groups of homeless migrants, or poverty migrants, are problematized as not contributing to the Danish economy, and are not seen as desired visitors. The free movement should not be applicable for all EU migrants and is considered a hindrance to keep homeless migrants away from Danish borders. According to Liempt (2007) wanted migrants are students, business people and tourists, as they are considered a contribution to society, while unwanted migrants are asylum seekers, refugees and less educated people: “less educated immigrants are undesired because the demand for workers is always linked to the higher end of the labor market” (Liempt, 2007, p. 20). Furthermore, migration of EU citizens is considered as wanted and migrants from outside of the EU as unwanted. The border control for EU citizens has almost disappeared and people can move unrestrained between member states. At the same time more control and restrictions have been put in place for non-EU citizens (Liempt, 2007). The free movement
directive allows unrestricted migration of members within the EU, which means that homeless migrants can cross the Danish borders due to their rights as EU citizens. Despite these rights, the political debate portrays a tendency from the Danish government and supporting parties to impose restrictions on migrants within the EU by implementing national legislations. The homeless migrants are considered as unwanted as they do not fit into the category of contributors to Danish society, hence the legislations on intimidating camps and begging are applied to restrain their mobility.

The debate illustrates how conditions of discrimination and marginalization in some EU member states create movement of homelessness (Folketingstidende, 2017a; Folketingstidende, 2017b). The migration from Eastern European countries, mostly Romania, is especially problematized. Both homeless Roma and Romanians are repeatedly mentioned in the political debate as specific groups who constitute a problem in relation to intimidating camps and begging. Thus, it becomes an argument for legitimizing the legislations that Denmark needs to restrict the access for these groups to avoid becoming a shelter for all of Europe (Folketingstidende, 2017a; Folketingstidende, 2017b).

A major aspect of the mobility regime is the division between the privileged countries in the world and the unprivileged countries, which are portrayed as suspect countries due to their high concentration of dispossessed groups (Shamir, 2005). Considering that Romanians and especially the Roma are some of the most disadvantaged groups in Europe (Djuve et al., 2015), these legislations restrict the mobility for people who do not have many other options for making an income. Thus, if the aim of the legislations is to restrict the access of homeless migrants, especially from Romania, then they serve as a part of a greater global mobility regime where “traveling for profit is encouraged; traveling for survival is condemned” (Shamir, 2005, p. 208).

This thesis argues that the way the legislations are legitimized as a tool to limit the influx of homeless migrants raises two dilemmas. Firstly, the debate illustrates that some politicians would prefer legislations that were more directly aimed at impeding the access of homeless migrants crossing the Danish borders. But as these migrants are EU citizens, for lack of better options, the legislations on camps and begging were presented to get around EU policies. Because it is easier to make national regulations instead of trying to start the process of changing the free movement directive, the legislations on camps and begging have been implemented in order to make sure that homeless migrants find it less attractive to cross the borders of Denmark (Folketingstidende, 2017a;
Folketingstidende, 2017b). This is what Maj Kastanje from Kompasset refers to as “the race towards the bottom”, which means that the different European countries are in a competition-like situation to offer ever worse conditions for homeless migrants in the hope that they will move on to another country with better conditions (Appendix 5).

Secondly, the political debate presents the homeless migrants in a monotonous way, namely as an economic burden for Denmark, and they are not considered as people who can contribute to the labor market. However, research reveals that many migrate with the purpose and desire to search for employment in order to move out of the marginalized situation they live in and earn an income so they can support themselves and their families (Ravnbol, 2015). But it is very difficult for the migrants to enter the formal labor market due to bureaucratic structures in Denmark, hence, many give up and instead end up on the streets and earn a living by finding more informal employment or engaging in petty crime (Kastanje & Hoff, 2017). Therefore, considering these migrants as unwanted, we might dismiss the fact that some of them can be, and wish to be, ordinary workers in Danish society, but the restricted access to employment might push the migrants towards the irregular job market or to criminal activities (Djuve et al., 2015).

The legislations are equal for all, but...

In the political debate, a major issue appeared to be how the politicians could avoid that the legislations would also target homeless Danes. For instance, it has been suggested that the legislations should be demarcated only for foreigners: “We want to punish foreigners harder than Danes” (Ritzau, 2017e, own translation).

Additionally, it has continuously been stressed how the legislations are meant as a strengthening action towards foreigners and that it is not the salesman of Hus Forbi (magazine made and sold by homeless people) or the old vagabond that the legislation is aimed at. This point has been underlined by arguing that the homeless Danes are not the problem because they are not begging, but either selling newspapers or offering to do small jobs such as fixing a door or sharpening a knife (Folketingstidende, 2017a). However, the wish from some politicians to distinguish between homeless Danes and migrants is challenged by the commitment to follow international conventions. The Minister of Justice Søren Pape Poulsen has argued that the legislation cannot be demarcated to apply only for foreigners (Ritzau, 2017e). Hence, in order to work around this legislative issue, the problem with homeless migrants was articulated as being about behavior - not nationality.
The aim of the legislations was presented as combatting intimidating behavior, which creates insecurity in the public space. However, it is quite clear that this behavior is ascribed mostly to homeless migrants. As an example, it is exemplified that homeless migrants are residing in the major pedestrian streets of Copenhagen to a degree where housed citizens can no longer recognize their city. Thus, the homeless foreigners represent a problem for the public order. Conversely, it is argued that the Danish beggars, who are more passive in their behavior, will not be affected. However, most politicians agree that if homeless Danes engaged in the same behavior they would be affected by the law, but that this is not the case (Folketingstidende, 2017a; Folketingstidende, 2017b).

The debate illustrates how some politicians try to make a distinction between the behavior of homeless Danes and the behavior of homeless migrants, and thus depict the migrants as the ones to be regulated. In the debate, several politicians refer to homeless migrants as having a specific, negative behavior, and they are continuously referred to as criminals, illegal and intimidating to their surroundings – something that does not belong in Danish society (Folketingstidende, 2017a; Folketingstidende, 2017b).

The homeless migrants and the paradigm of suspicion

Referring to specific groups as criminals and people that create insecurity can be referred to as a paradigm of suspicion “that constructs individuals and often whole social groups as having suspect identities related to the risks of immigration and crime” (Shamir, 2005, p. 214).

From this perspective, unwanted migrants are often described with negative characteristics in order to justify the distinction between privileged travelers and undesired visitors. Threats of crime and undesired immigration are connected to mobility and in some cases, transform movement into a criminal, suspicious activity, especially when it relates to those without property (Shamir, 2005).

In the debate, homeless migrants are described with negative characteristics and portrayed as a threat to Danish society. The political debate illustrates how the articulation of homeless migrants as particularly intimidating relates to the fact that they are agents of mobility. In order to legitimize the legislations regarding camps and begging, it has been necessary for politicians to clarify how the legislation would not target Danish homeless people. Thus, the behavior of homeless Danes has been romanticized and distinguished from the intimidating behavior of migrants.
Amster (2005) explains how homelessness is problematized as a deviation from what is believed to be an orderly and structured society. The homeless vagabond represents the out-of-place, the chaos, the unbounded and temporary, who does not rely on fixed social or spatial settings, which for the majority of society is considered as necessary conditions for their identity. The traveling and temporary lifestyle of the vagabond has been considered as deviant to the established order and as someone who should be shunned or stigmatized from society or even killed (Amster 2008). This gives the impression that mobility, in this case in relation to vagabondage, is indeed a threat to society. With the paradigm of suspicion in mind, it appear that it is the migrants’ way of living, e.g. temporary travelling, that deviates from the normal and is not the behavior of the homeless citizens. Amster (2008) considers homeless people as one homogenous group, but arguably the debate illustrates that there is a hierarchy of homelessness in the streets of Copenhagen and that it is the homeless migrants who are determined as being disorderly and threatening.

**Broken windows - broken people**

The legislations are legitimized by representing the homeless migrants as especially disorderly for society, as opposed to the homeless Danes. The broken window theory is applied in many American cities to justify regulatory policies against homeless people. The theory goes: “if a window in a building is broken and left unrepaird, all the rest of the windows will soon be broken” (Amster 2008, p. 102).

The broken window represents disorder, which is perceived to be inextricably linked with crime. Applying the image of a broken window to homeless people signals how their presence entails disorder and the deterioration of a community. If not regulated, the whole area risks becoming a neighborhood of crime so in order to secure flourishing neighborhoods, the broken windows should be fixed (Mitchell, 2003). With this reasoning, regulations which can be considered as being unjust for homeless people who have not harmed anyone directly, can be justified as necessary to avoid more serious crime and threats to society. Thus, if homeless migrants establish intimidating camps and engage in intimidating begging or even just bottle collecting, the broken window theory implies that this behavior easily leads to even more hardcore criminality. Therefore, in order to maintain order and security in society, the behavior of the homeless migrants should be regulated.

Mitchell (2003) problematizes the broken windows theory for legitimizing the lawful regulation of innocent people because of the potential that their presence will turn into a situation where others
will commit crimes. A similar point can be posed on the desired regulation of the migrants, whose presence is perceived to involve a certain risk of crime. For the purpose of removing the rotten apples who are creating insecurity in the streets, all of the homeless migrants are suspected and thus unwanted. By applying the broken window theory to the legislations on begging and camps, the expected behavior of homeless migrants legitimizes the purpose of the legislations, namely that they should be removed from Danish society.

This thesis argues that the way the legislations are legitimized by ascribing homeless migrants with negative characteristics raises two dilemmas. Firstly, the homeless migrants are articulated as criminals, without distinction between disadvantaged migrants with social problems, poverty migrants, bottle collectors, beggars and hardcore criminals. Although some problems relate to homeless migrants residing on the streets of Copenhagen, they cannot all be generalized in relation to criminal behavior that should all be treated equally. Arguably, bottle collecting as a way to overcome poverty is not similar to engaging in more hardcore criminality. Hence, social problems and criminality should be separated, and likewise the interventions addressing these issues should be distinguished. Secondly, by romanticizing the homeless Danes, it takes away the focus from their harsh conditions on the street, which is indeed no easy life. Similarly, the notion of the vagabond doing small-scale jobs is a very standard, and maybe even outdated, generalization. Arguably, no Dane should have to live as homeless on the streets, as the welfare system should be geared to address this problem (Appendix 5 & 6). Moreover, by dismissing the possibility that the legislations could aggravate the situation of the homeless Danes, they shed their responsibility to protect some of their most marginalized citizens.

The ‘Roma problem’

As the previous section illustrated, homeless migrants have been problematized in the political debate as a way to legitimize the legislations on begging and camps. The debate further displays how a number of Danish politicians blame the Roma in particular for creating fear in society, either by begging or establishing camps (Folketingstidende, 2017a). As an example, the Prime Minister, Lars Løkke Rasmussen, presented the law proposal on intimidating begging as follows: “We will not accept intimidating Roma” (Ritzau, 2017c, own translation). Likewise, the politician Trine
Bramsen, has stated on Twitter that: “It is not them (the homeless Danes) we want to affect, it is the Roma” (Rehling, 2017, own translation).

Furthermore, under the headline “An encounter with the Roma is inevitable” (Et Romaopgør er uundgåeligt), the politician Marcus Knuth accused the Roma for stealing, exploiting and being parasites, uncivilized and a plague on Danish society (Knuth, 2017). Moreover, he has referred to the Roma as a term that represents criminal homeless people from Romania (Deadline, 2017a). These statements and many more illustrate a tendency within the debate to refer to all of the homeless migrants residing on the streets of Copenhagen as Roma. In general, the debate seems to muddle up definitions like Roma, Eastern Europeans, criminals, bottle-collectors, beggars and illegal migrants (Folketingstidende, 2017a; Folketingstidende, 2017b). which has caused a general understanding that the Roma are all criminals and illegal migrants. Due to the very persistent accentuation of the Roma migrants as a problem in relation to intimidating camps and begging, it has been problematized how the legislations have come to resonate as specific Roma legislations (Rehling, 2017).

Why the Roma in particular have become the scapegoat in the political debate can be explained through several decades of problematizing the Roma throughout Europe. The dominant stereotyped discourse of the Roma as a ‘European problem’ has led to their irregularization and the stigmatization of the Roma has been a persistent component of modern European societies by characterizing them as criminals, nomads and undeserving citizens (van Baar, 2011). Thus, the Roma are being framed as irregular rather than regular migrants in order to treat them differently from other European citizens and for legitimizing certain policies to keep them away from national territories. Furthermore, prevalent stereotypes continue to dominate national policies in relation to migration (van Baar 2011). Thus, applying his notion on irregularization and stereotyped representations to the Danish political debate explains why the Roma tend to become equated with someone criminal and further depicted as the scapegoat for the problems with homeless migrants in general.

According to Glick-Schiller and Salazar:

“Legal status, as well as global racializing categories, can make a world of difference in terms of the ease of travel, the repercussions of trying to move, and whether or not the traveler gains or loses status from being from elsewhere” (Glick-Schiller and Salazar, 2013 p.188).
Even though the European Roma migrants have legal status, they are represented in global racialized categories such as irregular, criminal and undeserving, which explains the aversion towards them. Thus, the movement of the Roma is not welcomed in Denmark, and according to van Baar (2011), neither in other EU member states. This illustrates a tendency where nation states are increasingly concerned with national security and turn in on their own homogenous societies. Therefore, in relation to mobility it is necessary to consider the significance of governmental powers, which determine who are wanted in the territory despite EU rights. Hence it appears that EU policies and national legislations does not necessarily go hand in hand (Glick-Schiller & Salazar, 2013).

The demonization of the Roma

Ascribing intimidating behavior to the Roma has similarly been present in the debate about intimidating camps, by mainly referring to these camps as ‘Roma-camps’ (Folketingstidende, 2017a; Bjørnholdt, 2017). As an example, it has been argued that the legislation on intimidating camps was aimed directly at the conditions with Roma-camps (Dahlin, 2016a). Considering the fact that the police do not register by ethnicity in Denmark (Appendix 10), the assumption that mostly Roma migrants are residing in the intimidating camps is more likely based on stereotyped notions of the Roma, rather than on actual facts. In the email correspondence with Camilla Ida Ravnbøl she writes that Danish politicians and the media have a very stereotyped view on what the Roma look like. Based on her research, she states that many of the homeless migrants who reside in camps in Denmark are Romanians, Bulgarians and Hungarians, but not necessarily Roma. Likewise, many Roma migrants are assumed not to be Roma (Appendix 11). For the same reason, the Deputy Commissioner of Copenhagen Police, Jesper Lauenborg Bangsgaard explains by email that the police have changed their practice and no longer refer to the camps as Roma-camps, as they are aware that the camps are not only inhabited by the Roma (Appendix 10).

Despite this, the term Roma-camps is continually used in the media and by politicians and gives the impression that the Roma indeed are more intimidating than others. In relation to the camps, the Roma have been associated several times with unsanitary behavior and having no respect for public order (Brandsen, 2017b; Færch, 2017; Karkov, 2017; Melander, 2017). A central argument to the
The legislation of camps has been that employees from the Trinitatis Church needed vaccines for hepatitis because they were forced to clean up feces, from, who was referred to as, Roma living in camps (Karkov, 2017). Similarly, several pictures of Roma-camps have been portrayed in the media to depict their unsanitary conditions, floating with trash and human feces (Attardo, 2016; Dvinge, 2017).

The previous sections have touched upon how the homeless migrants are characterized with a specific negative behavior, but when it comes to the Roma, it seems that the rhetoric in the political debate becomes increasingly negative. It leaps to the eye when politicians describe an ethnic minority group, namely the Roma, as a plague, and as parasites. The stereotypes that are given to the Roma migrants are not solely combining them with intimidating, disorderly and criminal behavior, as is the case with the homeless migrants. The way they are depicted in the debate is in dehumanized terms, e.g. parasites and as a plague, and moreover they are portrayed in pictures of decay and feces, showing signs of what can be considered as demonization (Amster, 2005). Demonization is explained as a way to justify the exclusion of specific groups by applying terms and images to their character, so they are perceived as a threat to the social order. What is perceived as a threat to society is not necessarily an actual threat, but is constructed as such from the dominant society in the response to what is the deviant, and often powerless, elements of society (Amster, 2008). Thus, the demonization of the Roma makes it easier for dominant voices to argue for the removal of this perceived threat in the name of the safety and health of the community.

This thesis argues that the way the legislations are legitimized by demonizing the Roma raises one dilemma in particular. It appears troublesome when dominant politicians and the media contribute to a negative and stereotyped representation of the Roma. This concern was similarly raised in the parliament. The political rhetoric towards the Roma was criticized as not being able to pass the ‘Jew test’ (Folketingstidende, 2017a; Folketingstidende, 2017b), meaning that this rhetoric would not have been accepted if it was directed at Jews instead of the Roma. Likewise, the characterization of all Roma people as criminals has been condemned and it has been problematized that the historical discrimination and persecution of the Roma is not considered in the debate (Skipper, 2017). According to major human rights organizations, the discursive representation of the Roma is indeed troubling and contributes to dehumanizing the Roma (Amnesty International, 2017; Institut for Menneskerettigheder, 2017). The Roma migrants, as the center of attention, are affected directly by
facing the aversion towards them, meanwhile the policies affect their migration strategies. But at
the same time, the entire Roma population in Denmark and elsewhere is connected to this negative
rhetoric. The stereotyped representations of the Roma are in fact presented as a significant
hindrance towards the inclusion of the Roma by the European Commissioner for Human Rights,
stating that there is a continuous problem with hate-speech and racist rhetoric towards the Roma,
even from leading political positions in many member states. It is not uncommon in the EU that the
majority population poses specific stereotypes and prejudices, along with negative behavior towards
the Roma (Commissioner for Human Rights, 2012). Thus, the Commissioner proclaims that:

“without changes in attitudes within the majority population, all programs aimed at improving the
situation of the Roma people are bound to fail” (Commissioner for Human Rights, 2012, p. 40).

With this in mind, the political rhetoric towards the Roma is contributing to a global, or at least
European, witch-hunt against the Roma population. This practice is not contributing to improve the
conditions of the Roma people and their inclusion in their countries of origin, which maintains their
reasons for migrating in the first place.

Summary

This analysis finds that homeless migrants have been problematized in different ways. Firstly, the
problems with homeless migrants residing in the streets of Copenhagen have resulted in a wish
from several political parties to impede their migration to Denmark by implementing the
legislations on intimidating camps and begging. The legislations serve as power structures that
create an unequal access to movement between privileged groups and marginalized groups, despite
the fact that all EU citizens are entitled to apply the right to free movement. Thus, the Danish
commitment to the free movement directive appears to apply only for privileged travelers who are
either tourists or linked to the higher end of the labor market. The homeless migrants are
categorized as unwanted and non-contributors to Danish society, without considering that a reason
for migration could be to engage in regular employment. Therefore, the thesis finds that traveling
for survival is condemned while travelling for profit is encouraged. Furthermore, it raises the
dilemma that the legislations become a part of a wider European competition to continuously
worsen the conditions for the homeless migrants, which can be considered as a race towards the bottom.

The second section illustrates how homeless migrants are problematized by ascribing them with a specific intimidating behavior that creates a division between homeless Danes and homeless migrants, where the lives on the street for homeless Danes is partly romanticized. Hence, the politicians dismiss the possibility that homeless Danes will be affected by the legislations. Moreover, this section finds that the legislations are legitimized by categorizing the migrants as intimidating, illegal and criminal. The migrants come to represent agents of mobility that are dangerous for Danish society. This categorization is similarly examined in the public space, where the homeless migrants come to represent broken windows that need to be fixed or even excluded from society. The legislations are justified in consideration of the public order, which is disturbed by the homeless migrants who are expected to engage in more serious crime.

The last section of the analysis illuminates how the political debate has been marked by an extremely harsh tone, by portraying the Roma with stereotyped characteristics such as parasites and a plague on society. This is argued as a demonization of the Roma, depicting them as someone the rest of society should distance themselves from. The Roma especially are categorized as the undesirables, the unwanted, who should not cross the borders of Denmark, and for that reason their mobility should be restrained. Hence, the Roma are continually reinforced in an image of illegality and not regarded as equal members of either the states they belong to, or as true European citizens.
Part two: The implementation of the legislations

The second part of the analysis is divided into two sections that analyze how the legislations regarding intimidating camps and begging are exercised in the public space of Copenhagen. The first section, *Intimidating begging or intimidating places*, includes verdicts on the legislation on begging from the Copenhagen City Court. It examines how this legislation does not necessarily target a specific intimidating behavior, as previously discussed, but instead is geographically determined. Hence, the definition of intimidating begging has been presented as something which was not the case, and thus the arguments for legitimizing the legislation have been misleading. It further argues that the legislation regulates the public space, in order to avoid the visibility of foreign beggars in specific locations.

The second section, *Intimidating camps or intimidating tramps*, includes practical examples from the interviews and newspaper articles on the implementation of the legislation on intimidating camps. It illuminates how the legislation serves as a form of shadow privatization that regulates the homeless migrants in the public space. It further argues that the legislation criminalizes everyday activities for the homeless migrants, which are crucial for their survival on the streets. Based on examples from the implementation of the legislations of intimidating camps and begging, the thesis concludes that both legislations entail a racial component which leads to a discriminative practice.

**Intimidating begging or intimidating places**

Since the implementation of the legislation on begging, there has been 18 verdicts from the Copenhagen City Court in the period between the 18th of June and the 4th of September 2017 (Nielsen, 2017). These verdicts present some general tendencies which will be exemplified in the following examples.

Danciu was sitting cross legged at Amagertorv with his dog and bag in front of him. He protruded into the walking area, meaning that passers-by had to step aside to pass him. Furthermore, he had a wooden box next to him, with a few coins in it. To appeal for money, Danciu tried to make eye contact with people walking in his direction. Unconcerned with the fact that he did not in an active
way try to address people, the court took into account that Danciu had a box in front of him with coins in, people had to step to the side in order to pass him, the area he was sitting in was a pedestrian street and that he asked for money by trying to make eye contact (Appendix 7, own translation).

Filip was sitting at a train station in Hundige in front of the entrance. He had a cup next to him and the witness (a police officer in civilian dress) noticed that passers-by were putting money in the cup. Filip was nodding back as a thank you. The witness did not hear the man communicate with the people around him and he was completely passive except for the nodding. The court took into account that Filip was sitting at the train station with the cup next to him, which encouraged people to support him economically (Appendix 8, own translation).

Mladen was sitting at Dybbølsbro train station. He had a cup in front of him with some coins in and passers-by could not avoid seeing him. A witness (a police officer in civilian dress) explained that Mladen received money while he was observing him. He did not verbally contact anyone but he was seeking attention by trying to make eye contact with the people passing by. Based on the fact that Mladen was sitting in front of the entrance to the train station with a cup full of Danish coins, the court found him guilty of intimidating begging (Appendix 9, own translation).

The three beggars were all sentenced under the Penal Code §197, section 2. In these examples, the court based their verdict on three different conditions. First, passers-by had to relate to the presence of the beggars in the public space. Second, the beggars were situated in central places in Copenhagen and third, the court found that they were actively begging even though they might not have directly approached the passers-by. It was plentiful that the beggars received money or had a form of container in front of them with money in (Appendix, 7, 8 & 9).

In relation to the findings from the previous analysis, relating the legislation to intimidating behavior, it leaps to the eye that the behavior of the beggar is not taken into account by the court. In the above examples, the beggars sit passively and do not interact verbally with their surroundings. They are not behaving aggressively or approaching people in an intimidating way. In fact, the court writes in the verdicts that they leave it out of consideration that the beggar is not addressing people in an active way. Instead the judgments of the court are primarily based on the geographic location
where the beggars were situated. Thus, the verdicts indicate that the arguments in the debate about the legislation targeting intimidating behavior have been misleading.

According to Professor in Law Sten Schaumburg-Müller, the articulation of the law is clear. It is “aggravating circumstances” (skærpende omstændigheder) if a beggar is situated at public transport stations, in public transport, in or around supermarkets or on pedestrian streets (Vestergaard, 2017). However, the fact that peaceful beggars are convicted, instead of beggars displaying intimidating behavior, as was presented in the political debate, has been criticized by several political parties. For instance, it has been argued that the population has been deceived to believe that the purpose of the legislation was different than the actual case (Folketinget, 2017; Ritzau, 2017f). Many politicians have presented the law as an extension of the camp legislation, stating that it is the same form of intimidating behavior that is at play in relation to intimidating begging. This appeared to be incorrect, when the Minister of Justice, Søren Pape Poulsen, was called into a consultation to give an account of the results of the legislations up to this time. Here, he accounted for the term intimidating as relating to specific geographic locations regardless of whether or not the begging in the particular situation has been intimidating. He further stated: “Begging in these places is per definition intimidating” (Folketinget, 2017).

Disneyfication and making the homeless migrants invisible

The above verdicts indicate that a great consideration for the court is whether the beggars cause inconvenience for passers-by. It is mentioned how the passers-by had to step to the side to pass them and that people in general could not avoid noticing the beggars’ presence, based on their spot in the public space (Appendix 7, 8 & 9). Thus, the examples indicate that the visibility of the beggar is of importance in the legislation on begging.

Amster (2008) introduces the notion of ‘disneyfication’ to explain how the city has become increasingly privatized and how the wealthy middle class do not wish to be exposed to homelessness and begging in the public place. The visibility of homeless people generates a sense of discomfort among the citizens by disrupting the public order and reminding the dominant society of their own vulnerability. The increased disneyfication of cities gives dominant voices the prerogative to control who is admitted access to the public space and what kind of behavior that is legitimate and what is not (Amster, 2008).
Arguably, the visibility of homelessness in the four mentioned locations, which are central locations in the city, is specifically considered as a disruptive element that creates a sense of discomfort for the many people who pass by these places. The presence of poor and shabby beggars in the streets remind people that poverty does exist in Denmark. Hence, the beggars need to be removed, to reestablish order in the public space. Maj Kastanje explains that she often hears the argument that we cannot have people who beg in our society, to which she answers, why not? In general, she thinks that the visibility of beggars wakes up an anxiety in the majority population as it reminds them that there is not far to the abyss (Appendix 5, own translation).

Amster (2008) explains how visibility and class differences are considerable components in the exclusion of homeless people from the public space. However, this reasoning seems not to be sufficient to explain why the legislation on begging suddenly needed to be tightened. Begging has been illegal for many decades and suggestions to make begging legal have actually been brought up several times (Retsinformation, LBK nr 977 af 09/08/2017, 2017).

For this reason, the problem is not the visibility of poor and homeless beggars in general. Rather it occurs that a racial component is in play, since it is the visibility of homeless migrants that is considered as a disruptive element in the streets of Copenhagen. This has been illustrated in the previous analysis of the romanticization of the Danish beggars in the political debate, where their behavior is distinguished from the behavior of the homeless migrants. Considering that the prohibition against begging in the years from 2008-2012 led to five convictions (Attardo & Larsen, 2017), it appears that begging previously has not been regarded as a particular disturbance of the public order, even if it happened at supermarkets, stations or on the pedestrian streets. Supporting this argument, Preben Brandt, the founder of Projekt Udenfor, mentions how the specific aversion against foreign beggars is an expression of the desire for neatness (pænhedstrang) from society. People find the appearance of the homeless migrants offensive because they want the public space to be clean and orderly, but poverty is no such thing (Søndergård, 2017).

A similar point is made by Maj Kastanje, who criticizes how homelessness in relation to the legislations is considered a problem of order, instead of a social problem (Appendix 5). Instead of finding solutions to enhance the poor situation of the homeless migrants, the legislations are implemented to exclude them from the public space. This can, in the words of Mitchell, be considered as the “politics of aesthetics over politics of survival” (Mitchell 2003, p. 189).
Excluding the homeless migrants

A homeless man is sitting 15 meters from the main pedestrian street in Copenhagen. He sits on the street with a cup in front of him and explains that people who pass his way voluntarily can put some money in the cup (radio24syv, 2017). This example of begging is quite similar to the aforementioned verdicts. In those cases, the beggars were also sitting passively without approaching the passers-by. However, they were sentenced due to their presence in a specific geographic location, and the fact that the surroundings could not avoid relating to them in the public space. According to this homeless man, who is a Danish citizen, the police let him stay there despite the fact that a group of homeless Roma have been removed just 15 meters away. This is not an isolated example, since Danish beggars express that they in general are not affected by the legislation on intimidating begging. Despite of this, the police argue that they do not distinguish between Danish and migrant beggars and that they manage the law equal to everyone (radio24syv, 2017).

Leading back to the prior analysis of the discriminatory insinuations in the legislation, the implementation of the legislation similarly indicates a discriminatory and thus excluding practice towards the homeless migrants. The notion of disneyfication further describes how cities are transformed into “socially sanitized, homogenized spaces, legally capable of excluding socially stigmatized and disruptive elements” (Amster, 2008 p. 46). Thus, a discriminatory implementation of the legislations can be explained as a way to exclude the homeless migrants from the public space, so the homogenous and socially sanitized public space can be maintained.

Street lawyer Maja Løvbjerg Hansen explains that there are three reasons why she believes that the legislations on intimidating camps and begging discriminate in practice. First, the aim of the law has a clear focus on migrants. Second, the task force that is enforcing the laws is maintained by the section of Immigration Inspection (Udlændingekontrol sektionen), which is a special subsection of the police, whose primary effort is centered towards illegal immigrants. Third, as touched upon, mostly foreigners have been sentenced and convicted since the law was implemented (Appendix 4).

In fact, out of the 18 beggars convicted for intimidating begging, only one is a Danish citizen. The conviction of one Danish beggar could be explained as a coincidence, as defended by the police (Vilsbøll, 2017a), but the way the debate once again flared up after the conviction of the Dane suggests otherwise. Again, several politicians claimed that the legislation was intended for migrants and that Danish beggars should preferably be let off. For instance, the politician Preben Bang
Henriksen stated that “we can just as well be honest, it was the Roma and so on we wanted to target by the legislation” (Nielsen, 2017, own translation).

In line with this, the Minister of Justice highlights that if the legislation could have been implemented in a way so it only targeted homeless foreigners he would have done that, but this has not been possible as it would have been to discriminate based on nationality. He stressed that he is pleased that primarily homeless migrants have been sentenced, but he has no answer for why Danish beggars in general go free. He further assures that the police have not received any instructions to only arrest homeless migrants (Nielsen, 2017).

By including some examples from the implementation of the legislation on begging, this section has illuminated that much of the argumentation for legitimizing the legislation has been misleading. Firstly, it is illustrated that before the adoption of the law, the politicians that voted for the bill emphasized very specifically that it was the behavior of the beggar the legislation aimed to target. But the articulation of the law does not take behavior into consideration, only geographic locations. Secondly, it appears that there are some double standards in the argumentation about the legislation. The politicians continuously say that the law is applicable to everyone, meanwhile they stress that they primarily want to target homeless migrants. The above analysis illustrates that the legislation does primarily target homeless migrants, more than Danes, hence there are clear indications that the legislation does discriminate in practice. The visibility of the homeless migrants is considered as disrupting the social order in the disneyfication of the public space. Hence, the legislations represent a desire to make the homeless migrants invisible for the more privileged people so they can move around in the public space without having to “rub shoulders with the ‘dangerous classes’” (Amster, 2008, p. 46).

The political debate illustrates that the homelessness of Danes is not considered as a problem to the public order, hence, the goal is to remove the foreign beggars from the specific locations mentioned in the law. Therefore, this thesis argues that there is also a racial component to the legislations that regulate the homeless migrants’ access to the public space.

**Intimidating camps or intimidating tramps**

Since the implementation of the law on intimidating camps, the police have received 313 reports of intimidating camps; 58 camps have been cleared and 25 zone bans have been issued (Appendix 10).
Two examples from the implementation of the camp legislation leap to the eye in particular and have been criticized by people in the field. During our interview with Maja Løvbjerg Hansen, she explained how the definition of intimidating camps is vaguely described and, thus, the interpretation of the legislation means that individuals have been charged under the camp legislation. She showed us two pictures of the alleged camps. In the first picture, a homeless man is sleeping on the sidewalk on a mattress with his sleeping bag. Because the man is situated between an electricity box and an automatic ticket machine, the argument was that it would be intimidating for people to buy a ticket, when the homeless man was just besides it. In the other picture, a man was sleeping under a table tennis table in Folkets Park with nothing other than a sleeping bag and a piece of cardboard to sleep on (Appendix 4). In the light of the political discussions of intimidating behavior, it is difficult to understand how this man in particular can be considered as intimidating and posing a threat to society.

The political debate about intimidating camps evolved around how they were intimidating due to their size and that they create insecurity for the surroundings. How a camp is assessed intimidating is defined in a supplement to the law, explaining that it relies on an assessment of the number of people in the camp and their behavior, the location of the camp and whether the camp is causing inconvenience in the local area. An intimidating camp is further defined as: “a certain degree of establishment of a sleeping accommodation which shows signs of a more permanent character” (Retsinformation SKR nr 9603 af 30/06/17, 2017, own translation). Setting up a tarpaulin or a tent are given as examples of something permanent, and it is further mentioned that a single mattress or sleeping bag generally is not sufficient to make up a camp. Similarly, it is clarified that rough-sleeping in the public space is not illegal, only the establishment of intimidating camps. These circumstances seem to have been left out of consideration when arresting the homeless men sleeping individually. Hence, these examples show some similarities to the verdicts where the behavior of the beggars were not accentuated in the passing of the sentence, but instead this relied on their geographical location.

Once more it appears that it is the presence and the visibility of the homeless migrants sleeping in the public space that is the main reason for their conviction. In both examples, the homeless men were not charged due to aggressive or intimidating behavior, but for residing in the public place. Although it is mentioned that one of the homeless men sleeps in a location that could be
intimidating for passers-by, it is still a case of an individual with neither a tent nor tarpaulin to constitute a camp. Once again, there seems to be a racial component in play when it comes to how the legislation on camps has been exercised in the public space. For instance, the two people sentenced for sleeping individually were both foreigners. Moreover, the police have stated that they, despite one pending case, have only issued zone bans to homeless migrants sleeping in the public space (Vilsbøll, 2017c). Furthermore, Maja Løvbjerg Hansen has recently explained that she is in contact with homeless Danes who experience that the police are not interested in their presence (Vilsbøll, 2017a). Taking these things into account, it indicates that the visibility of people sleeping rough in general does not necessarily pose a problem, but solely the rough-sleeping of homeless migrants.

Returning to the two examples of the men sleeping individually, both cases have been brought to the Supreme Court, which accentuate that these cases do not fit under the definition of an intimidating camp (Appendix 4).

**Shadow privatization**

The impression that a camp cannot just include a single person has been supported by the Minister of Justice, stating in a response to the Danish Parliament that a single mattress and sleeping back is not enough to constitute a camp and further clarifies that, for this reason, the new legislation is not a criminalization of homelessness (Dahlin, 2017b). However, Kirkens Korshær has described how the use of cardboard or a mattress to isolate from the cold during rough sleeping has been sufficient for the police to consider it a camp and make arrests (Kirkens Korshær 2017). Thus, there are indications that the law is interpreted and implemented differently than it was intended. When the definition of an intimidating camp is ambiguous, and thus makes room for interpretation, it arguably impedes the conduct of the homeless people, who are forced to navigate within an ambiguous scope of what is actually legal and illegal. Similarly, the police seemingly lack guidelines in their management and interpretation of the law.

As previously examined, processes of privatization and gentrification are changing the environment of the public space, which excludes homeless groups from the city (Amster 2008). Moreover, less distinct initiatives, which is referred to as ‘shadow privatization’ entails efforts to shed diviants from the public space by making it ‘homeless-proof’. An example of shadow privatization is to establish benches with minimal surfaces or planters with spikes, which make sitting or laying
impossible or at least utterly uncomfortable. Another example is when sidewalks, considered to be collective property, are transformed into private property, and thus it is up to the owners, which is often supermarkets or cafes, to decide who is wanted and unwanted to reside in front of their property (Amster, 2008). Similar initiatives have been made in the public space of Copenhagen, where benches and gratings to cellars have been designed in a way to make rough-sleeping these places impossible (Deadline, 2017b). Moreover, a private businessman has demarcated an area of the pavement with a red line, to avoid that Roma migrants reside in front of his café (Attardo & Larsen, 2017). In this thesis, it is argued that despite the fact that the public space has not changed physically, the vague guidelines of the legislation regarding intimidating camps serve as a form of shadow privatization.

Both Per Glad Fuglsbjerg and Maj Kastanje problematize the unclear definition of intimidating camps and explain how the homeless people fear that they will be fined or arrested if they sleep on the streets in groups. Thus, they have no other choice than to sleep individually, which puts them in a vulnerable situation as possible victims for assault and robbery (Appendix 4 & 6). Per Glad Fuglsbjerg further describes how homeless people, especially the migrants, seek out mustier places to sleep or choose to spend the night in areas outside of the municipal area (Appendix 6). Since individuals have also been affected by the law, the street workers have experienced how people try to sleep standing up or sitting on benches to avoid breaking the camp prohibition (Appendix 5). Applying the notion of shadow privatization to the legislation on camps, the examples illustrate how the possibilities to sleep in the public space are regulated, not by changing the environment physically, but by implementing a policy that criminalizes some forms of rough-sleeping, but without clear definitions of what is in fact illegal. These examples from the implementation above illustrate how the possibility of rough-sleeping in the public space has been restrained by the legislation.

The criminalization of homelessness

Another element from the legislation entails further restrictions to the access to the public space, namely the zone ban, which can be issued to people who have been fined for violating the camp prohibition. This ban restricts access to the specific location where the camp has been situated. Actually, the authority to issue a zone ban has been included in the amendment on the public order
since 2009, but at that time in relation to problems with so-called guards of gangs (bandevagter), who acted intimidating towards random citizens and created insecurity in the neighborhoods. Thus, the actual purpose of the zone ban was intended for behavior from gangs or other criminals who were harassing or assaulting people in the city (Retsinformation, VEJ nr 9312 af 18/06/2009, 2009).

In relation to the legislation on camps, the zone ban is not necessarily issued due to intimidating behavior, but is connected to the assessment of an intimidating camp. For this reason, the zone ban is criticized by Maj Kastanje, who argues that it has major consequences for the homeless people if they have received a zone ban nearby a night-shelter or some of the shelters that provide free food and accommodation during the daytime (Appendix 5). Thus, the zone ban not only restricts the homeless people’s access to a specific area, it additionally restricts their possibilities to fulfill basic needs. Migrants in particular are impeded in their access to basic necessities, such as a decent bed, bathroom and free food. This is due to a tendency from public shelters to deny access to homeless migrants, who instead are referred to reside in temporary shelters (nødherberg). These shelters, which receive limited financial priority from the politicians, have limited capacity and are only open for the winter months (Kastanje & Hoff, 2017; Rådet For Socialt Udsatte, 2017). This is probably based on the understanding from politicians, as touched upon earlier, that improving the conditions of homeless migrants causes an increased influx of unwanted migrants. Thus, the homeless migrants are especially restrained in their ability to sleep, a fundamental basic right and necessity, that for them is not possible anywhere besides in public. Furthermore, they have limited access to accommodation and free food in shelters, partly due to their denied access to public shelters and moreso if they have received a zone ban for the area where the shelters are situated.

The limited access to basic needs severely impedes the homeless migrants from the possibility to uphold a life on the street. When the homeless migrants have restricted access to shelters, what options do they have other than to sleep and defecate in the public space? Thus, the legislation on intimidating camps entails a major regulation on the public space, which mainly affect homeless migrants. The homeless migrants are restricted in their options to reside in the public space and are punished for behavior which is crucial for their survival (procuring food, sleeping, begging, going to the bathroom) because there are no alternative services available for them.

According to Amster (2008), homeless people are residents of the public space, having no private place to withdraw to and therefore they are restrained to live and sleep in public. For this reason,
homeless people are the first to feel the harmful effects of the regulations of the public space due to privatization, regulation, and policing. Moreover, the criminalization of a behavior, which is specific to a certain group, is a way of disguising that the law in reality is targeting a specific status (in this case homelessness).

“If you want to eliminate a particular social class or subculture or deviant group, locate some behavior that is largely unique to that group and make it illegal. Or, pass laws under the guise of universal applicability that plainly impact only the target community: “The law in its majestic equality forbids the rich as well as the poor to sleep under the bridges” (Amster, 2008, p. 88).

The law is equal to everyone, but for the housed people it is not a basic necessity to eat, sleep, defecate or even beg in public; for the homeless people, it is their only option. Thus, criminalizing these options for the homeless people is the same as criminalizing homelessness (Amster, 2008). Even though the Prime Minister has stated that the legislation on intimidating camps does not criminalize homelessness, the implementation shows a different picture. Homelessness may not be a crime in itself, but if the legislation on camps entails criminalization of rough sleeping more generally, then it criminalizes a very dominant feature of homelessness. Even more, it seems that the legislations are aimed at criminalizing the homelessness of migrants. Based on the findings above, it is the behavior of the homeless migrants which is both problematized and cracked down on in practice.

According to Mitchell (2003), laws against begging and rough sleeping are not about criminalizing assault or threatening behavior, where in both cases laws already exist. Instead it is regulations which are put in place based on feelings of discomfort from the citizens. Even though feelings of discomfort might well be comprehensible, “‘discomfort’, however, is a far cry from either ‘wrong’ or ‘dangerous’” (Mitchell 2003, p. 188).

Following this reasoning, the criminalization of a specific behavior and a specific group is based on what the dominant society regards as uncomfortable and improper. By resembling something dangerous, or at least intimidating, they are considered as unwanted in the public space.
Summary

The findings in this analysis illustrate that the specific intimidating behavior presented in the debate is not consistent with how the legislations have been exercised in the public space. In the case of the legislation on begging, the articulation in the law is unmistakable, but the political debate has posed misleading arguments on how it would be practiced. It is argued that the visibility of the homeless beggars is considered as disrupting the public order, as the dominant society does not wish to deal with sights of misery and poverty. Besides being a matter of status and class differences, a racial component is included in the legislation, as mostly foreigners are targeted. This creates a hierarchy of homelessness where the homeless migrants are regulated in the public space more than homeless Danes.

Moreover, this analysis finds that the legislation on camps is ambiguous both in its definition and in its interpretation, which has led to an indefinite practice with considerable consequences for homeless people. These vague guidelines, which can be considered as a form of shadow privatization, blurs what is legal and illegal and thus restrains the homeless people’s possibilities to sleep in public. It is argued that this legislation also comprises a racial component due to similar indications of a discriminatory practice towards the homeless migrants. This means that the homeless migrants in particular are regulated in their access to basic necessities, which is essential for their survival. Based on these findings, the thesis argues that the legislation on camps, together with the legislation on begging, in many ways are criminalizing the homelessness of foreigners. Hence, the public space is controlled by unequal power structures that consider the rights of the more privileged citizens as superior to the basic rights of the homeless migrants.
Part three: The right to the city in a mobility perspective

“The homeless are forced into constant motion not because they are going somewhere, but because they have nowhere to go. Going nowhere is simultaneously being nowhere, homelessness is not only being without home, but more generally without place” (Amster, 2008, p. 42).

With this citation in mind, the following analysis addresses the question: who has the right to the city? Considering the legislative regulation of the public space, this section examines the right to movement of the homeless migrants from a mobility perspective. The analysis is divided into two sections. The first section, confined movement and forced mobility, change the perspective of the mobility theory from a transnational level to to the city by examining the regulations of the public space in Copenhagen. The migrants’ right to movement on a European level is restricted on the local level, where their mobility is regulated by the legislations on intimidating camps and begging. Therefore, it finds that the homeless migrants are both confined in their mobility as well as coerced to forced movement in the public space.

Furthermore, the thesis poses the question and what about the Roma? to examine how the implementation of the legislations affect the Roma migrants and their right to the public space. Here it is argued that the Roma are in an extremely vulnerable situation; they are not only unwanted in the city, but in the entire EU.

Confined movement and forced mobility

The legislations regarding intimidating camps and begging make a clear distinction between who has the right to the city. The homeless people are not considered as legitimate citizens and even though the homeless people are nearly always in public, they are rarely counted as part of the public (Mitchell, 2003, p. 135). Mitchell poses the questions, how is the right to the city determined? and how is it “policed, legitimized, or undermined?” (Mitchell, 2003, p. 4).

With these questions, it is accentuated how the power structures define who has the right to the city and it is contested how the democratic and collective right to the public space is undermined by the increased regulations and controlling of homeless people. This illustrates how the right to the city, is connected to status and that there is a division in the rights between the housed people and the homeless people. But as previously mentioned, this thesis argues that the power structures in the form of the legislations create a hierarchy between the desired (housed people), the tolerated
(homeless Danes) and the undesired (homeless migrants). The arguments about rights, hierarchy, and desired/undesired plays well with mobility theory as it similarly considers how power structures and inequality are major components that regulate migrants in the mobility regime (Liempt, 2007; Glick-Schiller and Salazar, 2013 Shamir, 2005).

Mobility is most often recognized in relation to transnational movement, and only limited attention is paid to mobility at a local level. Glick-Schiller and Salazar (2013) and Shamir (2005) briefly touch upon how the unequal access to mobility can also be present within borders and after the migration from one's country of origin to the destination country. Moreover, Glick-Schiller and Salazar (2013) argue that mobility should not merely be examined in the context of freedom of movement, as movement can also lead to confinement:

“Refugees and asylum-seekers are forced to flee and yet, when granted some form of legal status, may find themselves restricted to settling in specific cities, towns or rural areas (...) Meanwhile ‘illegals’, who live or work without documents, may have to move from residence to residence, their mobility compelled by their need to avoid surveillance” (Glick-Schiller & Salazar, 2013, p. 190).

Even though the group of homeless migrants are neither refugees, nor necessarily illegals, due to their rights as EU citizens, their migrant status has arguably led to confinement within the public space. The regulation of the public space, which has been discussed in the previous analysis, means that the migrants cannot freely move around the city as desired. For instance, the homeless migrants are confined in their access to public shelters, and moreover risk severe punishment if they engage in rough-sleeping or begging in specific geographical locations. Thus, they are confined in their options to maintain a life on the street.

The extended effort from the police towards begging and camps, mostly in Copenhagen, indicates a desire to make the life on the street as uncomfortable as possible for the homeless migrants, so that they decide to leave. The politicians argue that the legislations are having the desired effect as there is a decline in the number of Roma camps in the city of Copenhagen (Vilsbøll, 2017b; Richardt, 2017). However, this fact is contested by several experts in the field, who instead argue that the problem has just moved out of the city. The association for homeless people, Hjemløseorganisationen Sand, reports that homeless Romanians have not returned to their country of origin, but instead are hiding their camps even more (Ritzau, 2017b). Similarly, a street worker from Projekt Udenfor argues that the reason why the Roma are less visible in the public space is
because they have moved outside of the city to avoid the interventions from the police (Dreyer & Justice, 2017). Moreover, Kompasset states that some of the migrants choose to wander about during the night to avoid being fined for camp-like conditions (Vilsbøll, 2017a).

According to these organizations, the effort from the police has not solved the problem, but instead they have put an extra pressure on the migrants, who feel they are being hunted by the police (Ritzau, 2017b; Dreyer, 2017b). In fact, considering the economic reasons for the migrants to leave their home countries in the first place, supposedly the migrants might prolong their residence in Denmark due to the deterioration of their economic situation, which means that they need to earn more money before returning. In any case, statistics from Kompasset indicate that the number of advice seeking migrants has not decreased after the implementations of the legislations. Instead, an estimated number of 60 to 100 migrants continue to use the services of Kompasset every day (Vilsbøll 2017b). The migrants are compelled to be continuously mobile to avoid the police and find more hidden places, which for this thesis is considered not only as a mode of confinement, but also as a form of forced movement. Van Baar (2015) introduces forced movement in relation to Roma nationalities subjected to exclusionary practices within their own EU member states and poses examples of evictions of houses, limited access to public services, removal from public spaces and expulsion from EU countries (van Baar, 2015). In relation to the legislations on intimidating camps and begging, similar exclusionary practices are enforced on the movement of homeless migrants within the city of Copenhagen. The homeless migrants experience forced mobility in the form of evictions from temporary camps, restrictions in the access to the public space and public services in Denmark, as earlier examined. These regulations have forced the migrants to be constantly mobile, and to find places to reside beyond the reach of the police which, as the examples illustrate, involves moving out of the town center.

To extend even further on the legislation on camps, a new proposal has been brought forward which entails elements of both confinement and forced mobility. The Prime Minister has announced a new bill, which proposes increased rights to the Commissioner of police under “certain circumstances” (særlige omstændigheder) to apply an extended zone ban, which denies access to the entire municipality from the first offence of violating the camp prohibition. Despite the fact that the bill has received considerable critique, the regulation is expected to take effect in March 2018 (Justitsministeriet, 2017; Richardt & Ingvorsen, 2017). The considerations to the bill call attention to the fact that this tightening, as has been seen with the legislations in general, is aimed at foreign
migrants. The bill states how “certain circumstances” particularly refers to foreign visitors in established camps (Justitsministeriet, 2017). This law proposal entails an even more restrictive regulation of the public space, where the establishment of camps is considered sufficiently threatening to legitimize shunning the migrants from an entire municipality. The extended zoneban would force the migrants to move to the periphery of the city and thus, confine the homeless migrants from the city center, where they have the best options for begging and receiving the offers from provided shelters.

The homeless migrants are not just facing forced movement from the borders of the municipality, the legislations further enlarge on the possibilities to carry out expulsions from Denmark. The political debate emphasizes a genuine interest from several parties to extend the possibilities for expulsion of homeless migrants, which has been proved difficult when it comes to EU citizens (Folketingstidende, 2017a; Folketingstidende, 2017b). According to the free movement directive, the expulsion of EU citizens is only possible in accordance to the principle of proportionality, meaning that the behavior of the person poses a real immediate and sufficient grave threat, which affects a fundamental public matter (Retsinformation, BEK nr 474 af 12/05/2011, 2011). Therefore, only under considerations to the public order, security and health can the expelling of EU citizens be justified.

A 63-year-old woman from Romania was considered as such a threat to society due to her begging in front of the train station at Nørrebro. The woman was not addressing or harassing people on the streets, but were merely sitting with a cup, trying to make eye contact with passers-by. According to the court, this behavior was sufficient to count as disturbing the public, because passers-by could not avoid relating to the woman. The woman told the court that she regularly migrates to Denmark for some months in order to provide for her seven kids back in Romania, who she explains: “eat from the trash” (Arnfred, 2017, own translation). However, these circumstances were not taken into consideration, and due to two prior conditional sentences for begging, the woman was expelled with a prohibition against entering Denmark for the next six years (Arnfred, 2017).

The legislations have given the authorities extended power to expel people who are considered as unwanted within the borders of Denmark. In the political debate, the free movement directive has been criticized as a hindrance for Denmark to expel the people they want, but by criminalizing the behavior of the homeless migrants, the grounds for expulsions are more easily legitimized.
These findings illuminate how the legislations regulate the mobility of homeless migrants on different levels. First and foremost, the migrants need to be in constant motion within the city to avoid being fined or arrested by the police. If the extended zoneban becomes a reality, the migrants are additionally forced outside of the municipality. Even more, as illustrated above, in the most extreme circumstances the migrants can be forced to leave Denmark altogether. Hence, the restrictions on the mobility of migrants in the public space can lead to prevention of movement across borders, because an expulsion most often entails a prohibition against entering Denmark for a specific period. Therefore, the legislations come to serve as a form of border control, which contradicts the argument from Liempt (2007) about the growing interconnectedness within the EU.

**Biosocial profiling**

The paradigm of suspicion entails biosocial (or ethnic) profiling, which plays a major role in the mobility regime and in the implementation of regulations towards certain groups (Shamir, 2005). Biosocial profiling consists of factors such as place of origin, ethnicity and even religious affiliation, which determine your possibilities for crossing borders in the first place. By applying tactics of risk management, the profiling is not linked to actual offenders, but to people who are expected to engage in crime. Mobility per se is considered as a suspect practice, where the perceived threats of certain people is rated and corresponded with certain rights to movement. The profiling serves to predict a certain behavior to people, who are then situated in collective categories of risks and suspicion. Thus, “profiling represents a distinct modality of power, in this case the power to immobilize, to create social distances, and in general to police and regulate spatial behavior” (Shamir, 2005, p. 213).

Applying the notion of biosocial profiling to mobility in the city, this thesis argues that homeless migrants are profiled in collective categories of risk and suspicion due to their nationality (Eastern European) but also status (homeless) and even ethnicity (Roma). These processes of suspicion of the entire group of homeless migrants tend to categorize all of them as criminals and illegals, neither taking into account their legal status nor their actual ways of earning an income, e.g. bottle collecting or regular employment.
The migrants are not considered as legitimate citizens in the public space, which is mainly for the housed people and to some extent also for homeless Danes. The migrants’ right to the city and their right to uphold a life on the streets is in many ways undermined by the implementation of policies which are in general aimed at them specifically. Not only do the legislations confine the mobility of the migrants, they further force the migrants to move, either outside of the municipal borders, or even outside of the country. Moreover, their appearance and expected behavior are sufficient to consider them as a threat to the public order. In relation to ethnic profiling, the legislations represent the power to make distinctions between the rights of migrants and citizens to the public space and thus regulate spatial behavior. Hence, the legislations create a hierarchy of rights to access the public space and further define who has the right to be, or not to be, mobile.

…and what about the Roma?

As touched upon, the political and public debate has randomly distinguished between foreign, Romanian and Roma migrants, mixing the different categories together. The debate has a tendency to accentuate ethnic categories (the Roma) and to a lesser degree national categories (Romanians, Bulgarians etc.). Thus, this thesis has argued that the Roma have come to represent all migrants that pose a threat to Danish society.

We do not know whether or not the Roma migrants have been fined or convicted more often compared to other groups of migrants in the aftermath of the implementation of the legislations, as the police do not register by ethnicity (Appendix 10). What we do know is that previous research has been carried out to portray the specific challenges of Roma migrants in the Scandinavian capitals. According to Ravnbøl (2015), Roma migrants in Copenhagen experience that they are unwanted by the police. She poses examples of how the Roma have been either arrested or asked to move when sleeping in the streets, parks or even in their cars, because they have been considered to disturb the public order. Roma migrants’ experience of discrimination, poverty and their restricted rights are central elements both in their lives as homeless migrants in Copenhagen and in their lives in their home countries (Ravnbøl, 2015). Moreover, research finds that the Roma are less educated and have less work experience than other migrants, which makes their search for employment in Denmark difficult (Djuve et al. 2015).
It appears that the Roma migrants, even before the implementation of the legislations regarding camps and begging, have been in an extremely vulnerable situation on the streets. This relates to their ethnicity as Roma, their status as homeless and their marginalized situation in both Denmark and their countries of origins. Therefore, in many ways, the Roma end up at the bottom of the hierarchy of the street. The tightening in the legislations on camp and begging presumably pose further restrictions and practices of discrimination on the Roma migrants. As the findings from the first analysis present, the Roma have been explicitly problematized as causing insecurity in relation to begging and camps. Supported by the arguments from experts (Løvbjerg, Kastanje etc.), stating that the police have concentrated their efforts towards homeless migrants, it is not unlikely that this effort especially is aimed at migrants who are perceived to be Roma. In fact, the Minister of Justice has indicated how the Roma are the focus of attention from the police by stating that: “The police pressure the Roma constantly” (Ritzau, 2017d).

Furthermore, the expression ‘Roma camps’ certainly indicates that the police as well as the politicians have a specific stereotyped conception of how the Roma look and further what kind of behavior they have. Arguably, the Roma are profiled as suspicious due to their perceived irregularity and criminal behavior. Hence, if the interventions towards intimidating begging and camps are aimed at appearance, as well as behavior, then supposedly the Roma will be increasingly stressed and hunted by the police. The restrictions of the public space in the form of fines, zone ban and sentencing beggars are in fact just punishing the poor and socially disadvantaged people. As Maja Løvbjerg Hansen has argued, the legislations solely “move people between places. First, they are moved between different parks, then between different municipalities, and in the end between different member states” (Vilsbøll, 2017b, own translation).

The reasoning of moving the problem instead of fixing it is also problematized in relation to the broken window theory. Amster (2008) argues that there is something peculiar in the process of fixing a broken window (or what can be considered as broken people) by removing it instead of considering the structural factors that caused the window to break in the first place. There is no room for ‘broken people’ in the present sanitized and homogenous society and thus the homeless people, in this case the Roma, become the undesirables that need to be removed from the public space and preferably from Denmark altogether.

The legislations on intimidating camps and begging and the political debate indicate how Danish politicians are willing to take great measures to prevent homeless migrants with Roma background
from travelling to Denmark. Thus, the national exclusionary policies push the problem forward, but as long as poverty and inequality exist in the EU, then the migrants are compelled to move to other countries to make a better living. Therefore, the legislations, especially for the Roma, lead to forced mobility both within the public space but also in the form of circular migration, as temporary migration is their only option in order to provide for their home in their countries of origin. If the Roma are experiencing impeded movement within the public space in Denmark, they will be forced to travel somewhere else. But as previously examined the rhetorical representation of the Roma as a problem and as criminals in the EU is not solely a Danish matter, but is practiced in several member states.

The Roma history of discrimination and exclusion seems to continue by implying restrictions on their mobility despite their EU membership. Thus, the rights of the Roma are especially restricted since they are not only considered as unwanted migrants in Denmark, but even as non-European citizens. Even though the legislations are aimed at all homeless migrants in Denmark, arguably the Roma in particular feel the negative effects as they are extremely marginalized wherever they go in Europe. This is not necessarily the same for other homeless migrants residing in the Danish streets.

What’s next?

The homeless migrants who have been convicted under the new legislations have not engaged in hardcore criminality, gang affiliations or selling drugs, they have merely been sleeping or begging in a way that is considered intimidating. Applying a prohibition to an entire municipality indeed seem like a disproportional punishment for the establishment of a camp. Likewise, the enhanced punishment for intimidating begging is now equal to the act of hitting someone in the head (Folketingstidende, 2017b). Actually, research finds that prohibition of begging just forces migrants into other sorts of crime, because they do not have many other options to survive (Djuve et al., 2017). This fact is supported by Hjemløseorganisationen Sand, which stresses that there are indications that the intensified effort against begging means that the homeless people are engaging in other criminal activities, as the penalty is more or less the same for stealing as it is for begging (Ritzau, 2017b). If this is true, the legislations actually increase criminal behavior rather than make the citizens more secure. With the legislations, the public space has been regulated, although not with ‘homeless-proof’ benches, but with restrictions to a certain behavior, which indeed approaches
criminalization of (foreign) homelessness. In fact, the migrants were not criminal before the legislations, but the legislations have made them criminal.

This poses the question of how far the Danish government is willing to go to make the conditions for homeless migrants uncomfortable in the earlier mentioned race towards the bottom (Appendix 5). What comes next, one might wonder? Both politicians and experts have drawn parallels between the Danish legislations and Hungarian standards, where for example the Hungarian government in 2013 prohibited rough-sleeping (Vilsbøll, 2017a). There are indeed indications that further tightenings in the regulation of unwanted migrants are expected in Denmark. As an example, the Chief Burgomaster has come up with a proposal, which he believes makes Denmark less attractive to homeless migrants. He suggests that the Danish recycling system is modified into a moneyless system, where the deposit (pant) on bottles would not be exchangeable for money, but would merely make it possible to buy groceries for the amount of the bottle deposit (Dreyer, 2017b).

It is hard to imagine that the current legislations as well as further regulations will make the daily lives and survival strategies less difficult for homeless Danes and migrants. In fact, the legislations in general, and especially with the extended zone ban, can be considered as a violation of the rights of the homeless people, who do not have many other options than to live their lives in public, entailing rough sleeping and begging. Even though it is not yet completely forbidden to be homeless in Denmark, the legislations are indeed restricting the possibilities for residing in the public space for homeless migrants in particular.

Summary

The findings in this analysis illustrate that there is a clear hierarchy in who has the right to the city, which is determined by political power structures, in form of the legislations. This is analyzed from a mobility perspective where the regulations of the homeless migrants lead to confinement and forced movement. The homeless migrants are confined in their movement, as they are restricted in doing everyday activities that are crucial for their survival. Moreover, the migrants are forced to be constantly on the move in the city, to avoid the police. If the government succeeds in implementing the extended zone ban, which can expel homeless people from the municipality of Copenhagen, the forced movement will also take place at a more regional level. An extended zone ban represents an invisible border that can force the migrants out of the city and not allow them back in.
In the most extreme cases, the legislations can lead to forced movement out of the entire country, as the migrants can be expelled if they are a threat to the public order. The migrants can be assessed as a threat if they are repeatedly convicted after the legislations. Therefore, the legislations impact the homeless migrant at different scales within the mobility regime, scaling from the city, to the regional level and finally to the transnational level. Confinement or forced mobility at the different levels is connected to a form of biosocial profiling that is exercised in the public space and aims to discriminate between homeless Danes and homeless migrants. Arguable, the government has succeeded in finding a way to circumvent EU policies, because by criminalizing the behaviour of the homeless migrants they can now be expelled.

Of all of the homeless migrants residing in the streets of Copenhagen, this thesis argues that the Roma are affected the most by the legislations. Their mobility is already regulated all over Europe, and when Denmark now engages in the same ethnic profiling practice as other European countries, the rights of the Roma are not only threatened here, but they are forced to be on the move in a Europe where they are marginalized and discriminated against in most countries. The Roma has no place anywhere; hence they are forced to be constantly on the move throughout the entirety of Europe.

The increasing regulations of homelessness in the public space raise a concern regarding future trends and what the next policies might bring. Parallels have already been drawn to states like Hungaria where policies and rhetorics towards disadvantaged citizens have been criticized for not complying with EU policies and human rights.
6. Conclusion

In the beginning of the thesis we posed the research question:

*How is the influx of homeless migrants in Denmark problematized in relation to the legislations on intimidating camps and begging and how are these legislations exercised in the public space?*

The findings from this thesis illustrate how the legislations on camps and begging have been implemented with the purpose to limit the number of homeless migrants entering Danish borders. The homeless migrants have been problematized in relation to the free movement directive as they, despite their EU citizenship, are considered as unwanted. The commitment to the EU framework and international conventions impedes the possibilities to legislate against a particular group of migrants, which is why alternative national policies were needed. A major argument in the legitimization of the legislations have been that they will not affect homeless Danes, but only the homeless migrants. As we have seen in the analysis, in order to justify this argument, there has been a differentiation between the behavior of homeless Danes and homeless migrants, where the first have been romanticized while the latter have been ascribed with negative characteristics such as criminal and intimidating. The homeless migrants are considered as threats to Danish society and are categorized without distinction between the beggar, the bottle-collector, the criminal or the job-seeker. In fact, this reasoning could be considered as a self-fulfilling prophecy, as research shows that many migrants who seek employment in Denmark rarely succeed, and thus presumably end up as beggars and bottle collectors or engage in criminal activities on the streets.

Furthermore, the thesis concludes that namely the Roma, are problematized in the political debate by referring to them as parasites and a plague to society. This rhetorical discourse lead to their demonization, and it is argued that they become the scapegoats for the ills of all homeless migrants. Moreover, consistent historical stereotypes regarding this group support the image of them as criminals and worse, which justifies the need for these tightened regulations.

The findings in this thesis illustrate how the homeless migrants are ascribed with a specific intimidating behavior in the political debate, but the verdicts and other examples included in this thesis portray that intimidating behavior is of little importance, as most of the migrants have been convicted due to their geographical location in the public space. For instance, the verdicts on intimidating begging illuminate how the beggars are sitting passively and not approaching passers-
by. Instead, they are judged on their visibility while begging in locations such as stations, supermarkets and pedestrian streets. Therefore, this thesis argues that the debate about intimidating behavior has been misleading, when in fact the articulation of the legislation on intimidating begging describes intimidating as geographically determined. Misleading arguments are also seen in relation to the legislation on intimidating camps. An intimidating camp is defined, partly, by the number of people residing in it and by the permanent character of the establishment. Despite of this, the examples from practice illustrate that individual persons have been fined for establishing camps, solely entailing a mattress and a sleeping bag. Thus, it is argued that the legislations are aimed at the exclusion of homeless migrants due to their presence and visibility in the public space. This thesis concludes that the ambiguous definitions of the legislations have impacted on the conditions for a life on the street for homeless people in Copenhagen, and for the migrants in particular. The concern for the public order has outweighed the right to maintain basic needs for the homeless people, such as sleeping, begging and relieving oneself. By applying policies that are aimed at a certain behavior of the homeless migrants, the legislations are in fact criminalizing this particular group.

However, it is argued that the disturbance of the public order is not solely related to class, status or behavior, but further entails a racial component. For instance, it is mainly homeless foreigners that have been convicted or fined for intimidating begging and camps. Moreover, the debate that followed after the arrest of a Danish beggar illuminated how it was not desirable for the politicians that homeless Danes were affected by the legislations. Therefore, there are clear indications that the legislations are discriminatory in practice.

The contribution of this thesis is to complement the mobility theory with an analysis of power structures and unequal access to mobility within the public space. In general mobility studies are concerned with transnational movement, and thus rarely regard mobility within borders and even less within cities. However, this thesis argues that the legislations serve as political power structures aimed at impeding the influx of migrants by restricting their possibilities to reside in the city. The homeless migrants are categorized as unwanted due to their status and ethnicity and for that reason have no right to the city. The legislations determine an unequal access to the public space in the form of confinement and forced mobility. The homeless migrants are restricted in their possibilities to beg and sleep rough in certain locations or under certain circumstances, which have confined them from accessing specific areas of the city. Moreover, the increased interventions against
intimidating camps and begging stress the migrants and enforces them to be constantly on the move. This forced movement within the city can, with the suggestion of the new zone ban, lead to the expulsion of the municipality of Copenhagen. This means that the migrants are forced out of the city if they are fined or convicted in regard to the legislation on intimidating camps. In the most extreme cases the legislations have increased the possibilities for expulsion of migrants from Denmark, despite their EU citizenship, as was highlighted above with the example of the 63-year-old Romanian woman. This illustrates how mobility can contribute with an analysis of power structures both at a transnational level but also at a regional level and within the city.

Finally, the thesis follows up on the Roma, and argue that they are mostly affected by the legislations considering how they have been severely criticized in the debate. Thus, the Roma, who are to a great extent marginalized all over the EU, end up as ranking the lowest in the hierarchy on the streets in Denmark as well as in the hierarchy of unwanted migrants all together. For this reason, the legislations create an unequal access to mobility in the public space, where only the privileged have the rights to move freely. The political debate illustrates a slip in the rhetoric and attitude towards homeless migrants, and in particular the Roma, which has legitimized regulations of the public space and the behavior of migrants, who for most, are compelled to a life of circular migration. This indicates that social problems such as poverty and homelessness become criminalized which lead to the exclusion of groups, who are already marginalized from the society. Arguable, these legislative regulations positions Denmark among countries that we normally do not like to compare ourselves with. One might ask the question: are we leaning towards policies like Hungary, where homelessness is forbidden and Roma lives are considered as inferior to the privileged citizens? Or even towards former Soviet policies, where unemployment was criminalized and people without a job considered as parasites for the society?
http://www.ft.dk/samling/20161/lovforslag/L215/bilag/7/1767884.pdf


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https://www.retsinformation.dk/Forms/R0710.aspx?id=125764


8. Appendices

Appendix 1: Interviewguide 1

Gadejurist, Maja Løvbjerg Hansen

- Hvad er dit kendskab til udenlandske hjemløse (og mere præcist romaer) på gaden i København?
- Hvilke dilemmaer er der ved lovene omhandlende utryghedsskabende lejre og tiggeri? (diskrimination/børn kommer i klemme/fri bevægelighed/udvisning)
- Hvad betyder lovene for de hjemløses brug af det offentlige rum?
- Hvilke dilemmaer er der ved praksis (hvad oplever danske/udenlandske hjemløse i mødet med politiet)?
- De udvisningssager der er på baggrund af utryghedsskabende lejre og tiggeri er de retmæssigt begrundet? (til fare for statens sikkerhed eller alvorlig trussel mod den offentlige orden, sikkerhed eller sundhed)
- Artikel fra juni på gadejuristens hjemmeside beskriver Hastebehandling som lovsjusk - kan du uddybe?
- Skelnes der mellem østeuropæere og romaer på gaden i København - er det tydeligt hvem der er hvad og er det vigtigt (hvorfor kaldes det romalejre)?
  - hvordan forholder i jer til brugen af ordet roma?
- Hvorfor er der så stort fokus på netop romaer som værende et problem?
- Hvordan må vi bruge de dokumenter hun har medsendt - Hvordan skal de refereres til i opgaven?
Appendix 2: Interviewguide 2

Medarbejder fra Kompasset, Maj Kastanje

- Hvad laver du som medarbejder i kompasset?
- Hvad er praksis omkring EU borgeres brug af danske herberger?
- Hvilken betydning har lovene omkring utryghedsskabende lejre og tiggeri for danske og udenlandske hjemløs?
- Hvordan ser du at lovene er blevet effektueret i praksis og hvordan oplever brugerne de nye love?
- Hvorfor tror du at der er så stort fokus på at romaerne er et problem i den offentlige debat (ved vi overhovedet hvem der er romaer og hvem der er østeuropæere)?
- Er der sket en ændring af de hjemløses brug af det offentlige rum?
Appendix 3: Interview guide 3

Medarbejder fra Projekt Udenfor, Per Glad Fuglsbjerg

- Hvad laver du i Projekt Udenfor?
- Hvad har lovgivningerne omkring utryghedsskabende lejre og tiggeri betydet for hjemløse på gaden i København?
- Efter lovene er trådt i kraft har du da set en ændring af de hjemløses brug af det offentlige rum?
- Hvordan ser du at lovene er blevet effektueret i praksis og hvordan oplever de hjemløse på gaden de nye love?
- Hvorfor tror du at der er så stort fokus på at romaerne er et problem i den offentlige debat (ved vi overhovedet hvem der er romare og hvem der er østeuropæere)?
- EU borgere har visse rettigheder som migranter i EU/Danmark (ophold i op til 3 måneder, akut sundhedshjælp, herbergspladser), men hvilke barrierer møder de i praxis?
- I har et Transitprogram, hvordan virker det, hvem møder I her, er der mange som gerne vil hjem, men som ikke kan?
- Hvordan kan vi bedst muligt hjælpe hjemløse migranter i Danmark?
Appendix 4: Interview Gadejuristen

Gadejurist Maja Løvbjerg Hansen onsdag d. 11. oktober 2017

Maja har ikke været inde over tiggeri sager, men gadejuristen som organisation bliver ofte spurgt af medier og andre om deres holdning til love og andet der påvirker socialt udsatte grupper. Maja har sat sig meget ind i lovgivningerne omkring utryghedsskabende lejre og tiggeri og har blandt andet indsamlet alle de domme der er afsagt i retten (og videresendt disse til os). Hun er pt involveret i 2 sager omkring utryghedsskabende lejre hvor de dømte personer har klaget. De ligger pt og afventer afgørelse i højesteret.

Romaer

Svært at snakke om romaer når man ikke ved hvem der er det, folk spørger Maja om hun ikke kan se at det er romaer hvortil hun svarer nej. Vi registrerer i Danmark ikke folk på etnicitet men statsborgerskab. Hvis Maja bliver spurgt ind til debatten om roma/ikke-roma går hun ikke ind i det, da det ikke er det hun vil bruge sin taletid på (når man i en debat måske har 4 minutters taletid).


Men hvorfor er det vigtigt?

Markus Knuth i Deadline: “Sproget udvikler sig, nu bruger man ordet roma om kriminelle østeuropæere”

I Danmark har vi ikke en gennemarbejdet roma politik i forhold til f.eks sverige. Der fokuseres blandt andet ikke på hjemløse - EU inklusions mål omkring romaer

Hastebehandling af ‘tiggerilov’

Området er meget kompleks og normalt nedsætter man et udvalg og spørger de berørte - dette er ikke sket med denne lov.

Flere love hastebehandles i folketinget hvilket Institut for menneskerettigheder har kritiseret, da lovene så ikke gennemarbejdes grundigt.
Tydeligt i samrådet i retsudvalget fra d. 28. september at loven ikke er helt klar, der er ikke taget
stilling til hvad betyder det ene eller det andet - måske fordi den skulle behandles så hurtigt (ex.
kommunalvalg hvor Marcus Knuth stiller op, symbolpolitik)
Det er ikke et nyt problem at der hvert år kommer mange udlændinge og tigger på gaden i
Danmark, hvordan kan det komme bag på politikerne så de bliver nødt til at hastebehandle en lov -
Når problematikken er så kompleks burde det tage længere tid
En anden problematik - legalisering af cannabis hvor undersøgelser og eksperter mm. er inddraget.
Meget kort høringsfrist! Svært for organisationer at nå at svare.

Lovsjusk
Når loven hastebehandles og der ikke tages stilling til hvad det ene og det andet betyder, skubbes
byrden hen på dem som arbejder med loven i praksis. F. eks når Søren Pape siger at loven jo ikke
diskriminerer og han har tillid til politiet så tager han ansvaret væk fra sig selv og flytter det hen på
de offentlige ansatte. Det bliver dem som skal forvalte en lov som ikke er ordentlig udført og
gennemtænkt. Maja mener at hvis demokratiet vil diskriminere så burde politikerne i det mindste
stå ved det. Men ved ikke at gøre det så kan det blive politichefen som mister jobbet i stedet for at
det bliver politikerne der skal stå til ansvar for en diskriminerende lov.

Implementering af loven
Maja siger at der er indikationer for at loven diskriminerer.
I praksis ligger opgaven med utryghedsskabende lejre og tiggeri i udlændinge- og kontrolgruppen -
hvorfor ikke bare en gadebetjent i stedet for en specialenhed.
Faktum er at fokus er på udlændinge hvilket tydeliggøres ved 1) indsats i udlændinge og
kontrolgruppen 2) kun udlændinge er sigtet og dømt (bortset fra en dansker, Ali) 3) åbenlyst formål
med lovgivningen
→ De facto diskrimination i praksis (står ikke i loven men sker i praksis)
Retskildeværdi - loven træder altid først - Loven kan af domstolene i nogle tilfælde fortolkes ud fra
forarbejdet/formålet

“Utryghedsskabende”
Utryghedsskabende er det nye sort - Overordnet må man ikke lave lovgivning der diskriminerer på
etnicitet, derfor endt med denne lovtekst
Dog er politikerne meget åbne om at det er hensigten bag lovændringen at den skal ramme udlændinge
Uttryghedsskabende er geografisk bestemt, har ikke noget med adfærd at gøre - tryghedsundersøgelse 2017, Københavns kommune, borgere føler sig trygge er ikke bange for tiggere/lejre osv, men kan være irriterende
Martin Henriksen udtalt (hvor?) at det er det aktive tiggeri der skal straffes!

Uttryghedsskabende Lejre
Pt 2 sager ved højesteret hvor enkeltpersoner sigtes for at have opslået utryghedsskabende lejre. En hjemløs sov på gaden på sin madras og sovepose med et stykke pap op af muren mellem en elboks og en billetautomat. Argumentet var at det kunne være utryghedsskabende for folk at skulle gå hen til automaten når den hjemløse sov lige der. I den anden sag lå en afrikansk mand og sov i folkets park under et bordtennisbord (henvis til sete sager ved Gadejuristen).

Betydning for brug af offentlig rum
IMR: Kalder det Kriminalisering af hverdagsaktiviteter!
Hjemløse i folkets park prøver at stå eller sidde op og sove for ikke at gå under lejr bestemmelsen.
Generelt oplever østeuropæere at der er en meget lav tærskel over for dem (ift politi eller/og offentlighed?)

Udeblivelsessager
Udlandske hjemløse har ikke ressourcer til at møde op. Rejser ofte hjem efter afsoning og forstår måske ikke helt hvad de er dømt for og hvad det har af betydning.
Fordi de ikke møder op til retssagen bliver deres personlige forhold ikke taget i betragtning (Formildende omstændigheder)
Det er en nem gruppe at gå efter fordi de ikke har mange ressourcer = klager ikke = dårlig retssikkerhed
Generelt er det svært for denne gruppe at navigere i det danske (meget regulerede) system også i forhold til arbejdssøgning

Forskel på udlandske og danske hjemløse
Ifølge Maja foregår der en romantisering af danske hjemløse - ingen danskere burde sidde på gaden og tigge for det har vi instanser til at afhjælpe. Det er ikke et godt liv. Det er bedre ikke at kriminalisere hjemløse/tiggeri ift. at nå målgruppen og hjælpe/oplyse dem. I stedet er det et fattigdomsproblem der skal håndteres.

De ressourcer der bliver brugt på dom og strafudmåling af danske hjemløse kunne man bruge på social hjælp og støtte til personen til at komme ud af hjemløshed.

En afrikansk hjemløs havde sagt: Hvis du først begynder at tigge, så er du færdig! (ex. hårdt for ben, underlivsbetændelse, social deroute)

Radio 24/7: interview med danske hjemløse: de bliver IKKE anholdt

**Børn og tiggeri**

Der er ikke mange børn der tigger på gaden i København.

Når børn tages i at tigge eller andet kriminalitet ringes der til døgnvagten. Der er dog ingen faste procedure for hvordan man hjælper børnene. Der kan komme en hvilken som helst voksen og hente dem, man tjekker ikke hvilken tilknytning de voksne har til børnene.

Indenfor andre områder har man fast-track ordninger - f.eks hvis sexarbejdere ringer og siger at de har været udsat for menneskehandel, så kan de lynhurtigt få hjælp til at komme hjem.

Maja mener at der burde være et centralt EU nummer som kunne hjælpe med de her børnesager og og være med til at sikre at de kom hjem, så kommunerne i hjemlandet kan tage sig af det.

Center mod menneskehandel og døgnvagten har nu indgået et samarbejde - men fokus igen er på menneskehandel - det er ikke alle de her børn der har været udsat for menneskehandel, men børn som er rejst herop med forældre eller familie. Der burde være større fokus på at gadearbejde er farligt for børn og hvis et barn bliver taget burde man undersøge barnets tarv og forhold som er normal procedure ved andre børn.

Maja mener at der generelt (også på EU niveau) er en misforstået kulturforståelse/etnisk tolerance i forhold til romabørn - flere ting er accepteret med romabørn fordi de jo har en bestemt kultur. Men det drejer sig jo reelt om børnearbejde. Og derfor kan det ikke fortolkes udfra af børnekonventionen.
Appendix 5: Interview Kompasset

Maj Kastanje, onsdag d. 18. oktober 2017

Maj Kastanje er medarbejder ved kompasset en underafdeling ved Kirkens korshær som rådgiver og vejleder hjemløse migranter. Hun har arbejdet 9 år ved Kirkens Korshær

Kirkens korshær arbejder ud fra to diagonale spor

1. Rettighedsbaseret arbejde (pas, opholdstiladelse mm)
2. Kristne sociale arbejde (alle er lige gode og skal behandles med værdighed)

Maj kalder gruppen af nye hjemløse fattigdomsflygtninge i stedet for bekvemmelighedsflygtninge (som nogen kalder dem) da der ikke er noget bekvemmeligt ved det liv de lever.

EU borgeres brug af herberg


Kirkens Korshær informerer ministeriet om at lovgivningen bliver fortolket forkert og at EU borger har rettigheder efter serviceloven.

Halvandet år efter er der stadig ikke sket noget (sagen bliver syltet) og Kirkens korshær vælger derfor at klage til de kommunale tilsyn.

sept. 2014: Ny vejledning fra ministeriet om at EU borgeres godt må bruge herberger, men skal høre under målgruppen, dvs. have sociale problemer uduover hjemløshed.

Hjemløse migranter benytter sig derfor pt af natherberger, ofte Hillerødgade, men sjældent herbergpladser, da de koster 3000 kr. pr måned.


Loven generelt

Maj mener at det er en politisk problematik som håndteres på gadeplan. Det er et problem at nogle love der gælder på EU plan ikke hænger sammen med en social indsats på nationalt plan. Derfor får de offentlige ansatte (ex. politi, gadeplansmedarbejdere m.fl) på gadeplan ‘aben’ og skal håndhæve
disse problematikker. Det drejer sig generelt om et “race to the bottom” på EU plan hvor alle lande konkurrerer om at gøre deres forhold så dårlige som muligt for denne gruppe.

Maj oplever at det ikke bliver set som et socialt problem men et ordens problem og derfor kriminaliseres fattigdom. Og det interessante er at med de nye love gøres hjemløse faktisk mere og mere kriminelle - da de nu ikke må sove på gaden og kommer direkte i fængsel for tiggere

Maj siger at hun ofte møder argumentet “jamen folk kan jo ikke tigge og være på gaden” hvortil hun svarer hvorfor egentlig ikke? Maj tror at det handler meget om at triste menneskeskæbner vækker en angst eller for at bruge et andet populær ord utryghed i nogle mennesker da det kan minde dem om at der ikke er langt til afgrunden. De tænker: kan det her virkelig eksistere i vores samfund, så kan det jo også ske for mig”.

Utryghedsskabende lejre og zoneforbud


Maj fortæller at en bruger viste hende en bøde på 1000 kr og et kort han havde fået af politiet hvor det var tegnet ind hvor han ikke måtte opholde sig. Zoneforbudene kan have store konsekvenser da de kan betyde at hjemløse ikke kan benytte sig af herbergerne, samt natcafeerne og varmestuerne fordi de har fået zoneforbud til dette område.

Effekt af lovene
Maj fortæller at det er hendes indtryk at det er håbet der bærer disse mennesker frem. Deres liv på
gaden er jo ikke bedre end deres liv derhjemme, men de har håbet om at det vil blive bedre.
Mange bruger argumentet at hvis vi tilbyder dem noget så fastlåses de i deres tilstand (kommer i
overflod). Det er dog ikke deres opfattelse i Kirkens Korshær. Men det er netop når man ikke får
dækket sine helt basale behov at man fastlåses for så kan man ikke koncentrere sig om andet. Hvis
man får hjælp så er det måske nemmere at indse at man hellere vil hjem. (referer til modtagecenter i
rapport)

**Brugernes syn på lovene**

Maj fortæller at brugerne er stresset
grundet de nye love og at de føler en stor afmagt. De kan ikke
forstå hvorfor de er lagt for had, når de bare passer deres arbejde og egentlig hjælper med at rydde
op i byen. De forstår ikke hvorfor de bliver behandlet som kriminelle. Derudover er det utrygt at de
ikke må sove sammen da det øger risikoen for overfald. De tør ikke sove alene for så blir de rullet,
men de kan heller ikke sove sammen for så bliver de arresteret for at lave en lejr. Disse mennesker
har ingen tillid til retsvæsenet og politiet. Det er jo ikke dem der arrangerer demonstrationer foran
Christiansborg. Det bliver udnyttet.

**Roma-problematikken**

Kirkens korshær skelner ikke mellem hvem der er romaer og ikke er, det er ligemeget for deres
arbejde og den service de yder. Man skal bare være menneske. Maj siger at der nogle gange er
nogle karakteristika der knytter sig til romaer som gør at f. eks deres romanske medarbejdere kan
genkende dem f. ek tojet
Hun tænker dog at hele debatten handler om at man har brug for at lægge sin afmagt over på nogen.
Omtalen af Romaer minder hende meget om den måde man omtalte hjemløse som parasitter i
straffeloven i Sovjetunionen (Parasitisme)
Hun stiller også spørgsmålstegn ved om ordbugen kan bestå jødetesten.
Sprogbrug er en måde at umenneskeliggøre på.
Appendix 6: Interview Projekt Udenfor

Per Glad Fuglsbjerg, torsdag d. 19. oktober 2017

Projekt Udenfor er en privat organisation startet af Preben Brandt, som er psykiater. I hans arbejde i Psykiatrien på Amager oplevede han en gruppe af særligt sårbare mennesker som opholdt sig på gaden og ikke fik tilstrækkelig hjælp af systemet. Der fra udsprang det sociale gadeplansarbejde i form af Projekt Udenfor, hvor borgere bliver opsøgt på gaden og får rådgivning og hjælp til deres allermest basale behov.

**Migranter**

Per forklarer at i takt med at verden/Europa er blevet mindre og der derfor er blevet “kortere” i mellem Danmark og ex. Rumænien, så har det også været en læringsprocess for Projekt udenfor at navigere i de migranter der kommer og hvem der har behovet for deres hjælp.

Per forklarer at Projekt Udenfor opererer i praksis med to kategorier af migranter: Arbejdsmigranter og særligt sårbare.

Arbejdsmigranterne er forholdsvis ressourcestærke i forhold til de særligt sårbare.

Arbejdsmigranterne har taget et aktivt valg om at rejse til f. eks Danmark. Disse kommer ofte i grupper og med formålet at de skal tjene penge. Denne gruppe holder sig mere for sig selv.

Per fortæller at hjemløse miljøet i København påvirkes af migrationen som stiger i foråret. Gaden er hierarkisk anlagt. Der er hierarki mellem de hjemløse og det kan skabe turbulens at der er flere om tilbuddene. Per mener dog at det altid har været sådan. Der er altid brug for nogle andre at pege fingre af. Før romaerne, var den udskældte gruppe grønlænderne og før det udenbysborgere.

I forhold til gruppen af særligt sårbare så er deres problematikker ofte psykisk sygdom, misbrug af alkohol (ikke så meget hårde stoffer, da denne gruppe er i Istedgade). Det er primært dem som er Projekt Udenfors målgruppe. Per siger at de særligt sårbare kommer fra alle lande også Bulgarien og Rumænien.

Per understreger at livet på gaden ikke er fedt for nogen heller ikke arbejdsmigranterne.

**Lovene generelt**

Lovene har betydet større usikkerhed for den enkelte hjemløse. Normalt er det et godt tegn når folk ligger i grupper og sover. De er meget mere sårbare når de sover alene.

Migranterne oplever at blive stoppet mange gange og skal fremvise ID, hvilket ikke er særligt behageligt.
Per tænker at der er en tendens til at danske hjemløse ikke bliver ramt af lovgivningen, da den er formidlet til at skulle ramme udlændinge. Konsekvens af lovgivningen er at de hjemløse er opmærksomme på ikke at sove i grupper og leder efter mere hengemte steder. Derudover oplever gadeplansmedarbejderne at flere rykker uden for kommunegrænser for at overnatte - dette er nok især migranterne. Konsekvensen er samtidig at det bliver mere kriminelt at være hjemløs. Konsekvensen ved at gøre tiggeri ulovligt er at folk kan blive nødt til at stjæle i stedet for.

I projekt udenfor ser de det fra de hjemløses perspektiv. Det er en lovgivning som rammer folk der har det rigtig svært i forvejen. Når man bruger alt sit overskud på at tage hånd om sine basale behov, (skaffe penge, overnatning, mad) så tager man ikke de gode langsigtede beslutninger. Derfor er der behov for at man har mulighed for at stabilisere folk (ex. gennem behandling, relations arbejde) så er der større chance for at folk kan tage de større beslutninger, eksempelvis om det ville være bedre at rejse hjem.

Per påpeger at et andet stort problem er at det ikke defineres hvad en lejr er og at det derfor er op til politiet at fortolke det.

**Den gode hjemrejse og transit programmet**


**Roma-problematikken**
Per mener at romaer er forfulgt da de er mørke i huden og har en anden måde at agere på i det offentlige rum hvilket provokerer danskere. Deres kultur er anderledes så når man kommer ud af en søskendeflok på 12 og skal kæmpe for alt livet igennem så bliver man måske også lidt mere frembrusende og højtråbende. Mennesker indretter sig i de rammer der er til rådighed. Per oplever dog ikke at denne gruppe er aggressive eller har en utryg adfærd, han siger at de fleste er rigtig søde.

Per siger at ved at omtale dem som kriminelle tyveknægte og andet så taler man til folks frygt og skaber fordomme der hænger sammen med dengang man omtalte romaer som sigøjnere. Sigøjnere er altid blevet omtalt som banditter og røvere. Så folk føler at romaer er nogen man godt bare kan svine til. De bliver på en måde umenneskeliggjort.

Adspurt om Projekt udenfor ved hvem der er romaer svarer han nej, de ved de ikke

**Løsningsforslag**

Den bedste måde at hjælpe dem på er at hjælpe dem. Ikke straffe dem.

Per fortæller at de prøver at præge politikere på både dansk og EU niveau. De har en ide om at lave en slags EU fond. Ligesom ved udenbys borgere i København, så får man refusion fra hjemkommunen. Her skal man så kunne få refusion fra fonden. Derudover skal der være en form for stationer i de forskellige lande som skal gøre samarbejdet nemmere.

Per mener heller ikke at det kan passe at de åbne grænser kun skal være for astrofysikere og fodboldspillere. Når der er højkonjunktur vil man gerne have arbejdere fra Polen, men ikke når der så kommer lavkonjunktur.

Man bliver nødt til at vedkende sig at alle ikke er mønsterborgere, der er også nogen der har det skidt og at Eu borgere lever under forskellige levestandarder.

Ifølge spørgsmål om at nogle har behov for at tigge: Folk tror at velfærdssystemet er så fintmasket at man ikke kan falde igennem, men det er der altså mange mennesker der gør.
Københavns Byret

Udskrift af dombogen

DOM

afsat den 30. august 2017 i sag

SS 4-20526/2017
Anklagemyndigheden
mod
Danciu Carolea
cpr-nummer 110390.

Sagens baggrund og parternes påstande

Der har medvirket domsmænd ved behandlingen af denne sag.


Sagen er fremmet i medfør af retsplejelovens § 855, stk. 3, nr. 4.

Danciu Carolea er tiltalt for

Betleri efter straffelovens § 197, stk. 3 og 2, if. stk. 1,
ved den 03. juli 2017 i tidsrummet fra kl. 14.20 til kl. 14.27 overfor H&M ved, Amagertorv 21, 1160 København K at have betlet, idet han sad i skødderstilling på en taske med sin hund liggende langs kroppen fra fortovet op over brydet og en trækasse foran sig, således han ragede ud på gængsædelet, så tilfældige forbi passerende blev nødt til at træde et skridt til side ved forbi passage, hvorved de var tungen til at tage stilling til ham.

Anklagemyndigheden har nedlagt påstand om fængselsstraf.

Den besikkkede forsvarende er på vegne af tiltalte har nedlagt påstand om frifindelse, subsidiert om rettens mildeste dom.

Forklaringer

Der er afgivet forklaring af vidnet Anders Pelle Hansen Sabinsky.

Vidnet Politiarrestsident Anders Pelle Hansen Sabinsky har til retsbogen afgivet følgende forklaring:

Foreholdt rapport, bilag 2, fotos forklarede vidnet, at det er ham og hans kollega, som har taget billederne.

Foreholdt samme rapport, side 1 af 8, nederste billede forklarede vidnet, at det var sådan taltalet sad, da de så ham første gang.

Foreholdt samme rapport, side 4, øverst forklarede vidnet, at det var den episode, hvor en forbiøverende gav taltalet en cigaret.

Foreholdt samme rapport, side 8, nederste billede forklarede vidnet, at billedet viser, at taltalet tager sit sælger-id frem. Et sælger-id er et, man bruger, når man er godkendt til at sælge nogle bestemte slags blade.

Foreholdt silag 3, forklarede vidnet, at da han og hans kollega anholdt taltalet, havde han de pågældende blade på sig. Vidnet så ikke, at taltalet solgte nogle blade i observationsperioden.

På spørgsmål fra forsvareten forklarede vidnet, at det er korrekt, at taltalet ikke gestikulerede mod de forbiøverende, og vidnet så ikke, at taltalet modtog nogle penge.

Foreholdt silag 2, rapport fortsat forklarede vidnet, at vejret den pågældende dag var fint, men det havde regnet omkring en halv time forinden vidnets observation mod taltalet. Vidnet kan ikke huske, om der lå andre hjemløse på Strøget den dag. Vidnet har set andre hjemløse på Strøget førhen. Det er meget normalt, at hjemløse ligger på Strøget med deres hunde, men ikke med en trækasse foran sig. De hjemløse plejer at have "Hus forbi" liggende. Vidnet kan ikke huske, hvilken stand de blade, som taltalet havde på sig, var i.

Foreholdt samme rapport side 5, øverste bilde forklarede vidnet, at det er det billede, hvor tiltalte strækker sin hals og kigger til venstre efter vidnets kollega...

Personlige oplysninger

Tiltalte er ikke tidligere straffet.

Rettens begrundelse og afgørelse

Efter vidnets forklaring, sammenholdt med de fremlagte fotos, finder retten det bevis, at tiltalte har siddet som beskrevet i anklageskriftet på det pågældende tidspunkt.

Uanset at tiltalte ikke aktivt har rettet henvendelse til forbi passerende, finder retten på baggrund af en samlet vurdering af omstændighederne, herunder det forhold, at tiltalte havde en trækasse med menter stående foran sig, tiltaltes placering på gangarealet, og det forhold, at han søgte at få øjenkontakt med forbi passerende, at der var tale om betleri i straffelovens forstand.

At tiltalte efterfølgende tog nogle blade, som han havde tilladelse til at sælge, frem, kan ikke føre til andet resultat.

Retten bemærker, at det sted, hvor tiltalte sad placeret, ubestridt må karakteriseres som "gågade", jf. straffelovens § 197, stk. 2.

På den baggrund finder retten det bevis, at tiltalte er skyldig i overensstemmelse med tiltalen.

Straffen fastsættes til fængsel i 14 dage, jf. straffelovens § 197, stk. 3 og 2 jf. stk. 1.

Retten har ved straffudmålingen lagt vægt på det, der er anført i forarbejderne til lov nr. 753/2017.

Thi kendes for ret:

Tiltalte Danciu Carolea straffes med fængsel i 14 dage.

Tiltalte skal betale sagens omkostninger, herunder 3.400 kr. + moms i salær til den besikkede forsvarer, advokat Søren Mellison Eriksen.
Marianne Nørregaard
Udskriftenes rigtighed bekræftes.
Københavns Eyret, den 13. september 2017

Helle Bjørn Sørensen
kontorfuldmægtig
Appendix 8: Verdict Copenhagen City Court, Filip

Spild af politi tid: 
Utrygheds skub under?
Kommer danskeren?
Kongelige Teater - klaeden fra Notre Dame

Udskrift af dombogen

DOM

af sagt den 28. juli 2017

Rettens nr. 9-3820/2017
Politiets nr. 1200-71411-00002-17

Anklagemyndigheden
mod
Filip Mihaylov cpr-nummer
190459-AASM

Der har medvirket domsmænd ved behandlingen af denne sag.


Sagen er fremmet i medfør af retsplejelovens § 855 stk. 3 nr. 4.

Filip Mihaylov, ukendt adresse er tiltalte for

betleri efter straffelovens § 197, stk. 2 og 3 ved den 20. juli 2017 ca. kl.
13.00 ved indgangen til S-togstationen, Hundige Stationsvej 2 i Greve, at
have gjort sig skyldig i betleri under skærpende omstændigheder, idet
tiltalte sad ved indgangen til stationen og iggede ved at have placeret et
papkrus ved sin venstre side, som forbi passerende lagde penge i.

Påstande

Anklagemyndigheden har nedlagt påstand om fængselsstraf.

Anklagemyndigheden har endvidere nedlagt påstand om konfiskation af 18
danske kr. og 5 svenske kroner i medfør af straffelovens § 75, stk. 2.

Tiltalte har ved den besikkede forsvarer nægtet sig skyldig.

Sagens oplysninger

Der er under hovedforhandlingen i sagen afgivet vidnefortælling af
politiassistent Kasper Nielsen.

Kasper Nielsen har forklaret, at han den 20. juli 2017 var på cykelpatrulje i
området ved Hundige S-togsstation. Der er nogle trapper op til stationen.


Der har været fremlagt et foto jf. bilag 3.

Tiltalte er ikke tidligere straffet.

Rettens begrundelse og afgørelse

Efter vidnets forklaring må det lægges til grund, at tiltalte sad som vist på foto jf. bilag 3. I følge vidnet lagde en forbi passerende person penge i koppen, og hvor tiltalte nikkede som tak. Vidnet konstaterede efterfølgende, at tiltalte i sin taske havde en harmonika, men denne var i følge vidnet ikke fremme og i brug i forbindelse med, at tiltalte modtog penge fra den forbi passerende. Tiltalte findes under de omstændigheder at have synligt opfordret til økonomisk hjælp, og forholdet er omfattet af straffelovens § 197.

Tiltalte er derfor skyldig i tiltalen.

Straffen fastsættes til fængsel i 14 dage, jf. straffelovens § 197, stk. 2 og 3.

Retten tager påstanden om konfiskation til følge, jf. straffelovens § 75, stk. 2.

Thi kendes for ret:

Tiltalte Filip Mihaylov straffes med fængsel i 14 dage.

Hos tiltalte konfiskeres 18 danske kr. og 5 svenske kroner.

Tiltalte betaler sagens omkostninger.
Annette Hagdrup

Udskriftenes rigtighed bekraftes.
RETTEN I ROSKILDE, den 10. august 2017

Annie Torgersen
kontorfuldmægtig
Appendix 9: Verdict Copenhagen City Court, Mladen

Københavns Øyret

Udskrift af domhogen

Adv. DB 0100-71411-00036-17

DOM

afsgat den 25. juli 2017 i sag

SS 4-17400/2017
Anklagemyndigheden
mod
Mladen Hristov
cpr-nummer 250486-

Sagens baggrund og parternes påstande

Der har medvirket domsmænd ved behandlingen af denne sag.


Sagen er fremmet i medfør af retsplejelovens § 855, stk. 3, nr. 4.

Mladen Hristov er tiltalt for

1. betleri efter straffelovens § 197, stk. 1, jf. stk. 2, og stk. 3, ved den 18. juli 2017 kl. 16.40, ved indgangen til Dybbølsbro S-togsstation i København, at have betlet penge fra tilfældige forbiøverende, idet han sad på sin rygsæk på fortopet over for nedgangen til S-togsstationen og med et papkrus indeholdende mønter stående foran sig, hvorved forbiøverende grundet stedets udformning ikke kunne undgå at tage stilling til pågældende og dennes betleri.

Anklagemyndigheden har nedlagt påstand om fængselsstraf.

Den besikkede forsvarer har på vegne af tiltalte påstået frifindelse, subsidiært om rettens mildeste dom.

Forklaringer

Der er afgivet forklaring af vidnet politiassistent Martin Hansen.

Vidnet politiassistent Martin Hansen har til retsbogen afgivet følgende forklaring:
... 

Vidnet forklarede, at han er ansvart i Politiets Udlændingekontrolsektion. Han deltog i anholdelsen af tiltalte den pågældende dag. Han observerede tiltalte sidde på fortovet ved trapperne ned til perronen til Dybbølsbro S-togsstation.

Foreholdt billede nr. 1, bilag 3, forklarede vidnet, at man på billedet kan se tiltalte sidde med en kop foran sig. På billedet ses også S-togsskillet og trappnedgangen til perronen.


Udspurgt af forsvareren forklarede vidnet, at tiltalte ikke henvendte sig ver på de forbi passerende, men han søgte deres opmærksomhed ved at kigge op på dem. Vidnet så, at mindst en person gav tiltalte penge.

..." 

Oplysningerne i sagen

Der er dokumenteret billeder, hvoraf det fremgår, at tiltalte sidder over for nedgangen til S-togsstationen ved Dybbølsbro med er kop foran sig, hvori der er danske manter.

Retgrundlaget

Ved lov nr. 753 af 19. juni 2017 fik straffelovens § 197 følgende ordlyd.

"Den, der imod politiets advarsel gør sig skyldig i betleri, eller som tillader, at nogen under 18 år, der hører til hans husstand, betler, straffes med fængsel i 6 måneder. Under formildende omstændigheder kan straffen bortfalden. Advarsel efter denne bestemmelse har gyldighed i 5 år.

Stk. 2. Kravet om advarsel gælder ikke, når forholdet er begået i gågade, ved stationer eller i offentlige transportmidler.

Stk. 3. Ved fastsættelse af straffen skal det indgå som en skærpende omstændighed, at forholdet er begået et af de steder, der er nævnt i stk. 2."

Det fremgår af de almindelige bemærkninger til Forslag til lov om ændring af straffeloven (Skærpelse af straffen for utryghedsskabende tiggeri), som blev fremsat den 2. juni 2017:

"... Det foreslås, at kravet om forudgående advarsel fra politiet som betingelse for straf afskaffes i disse tilfælde. Det foreslås endvidere, at det ved fastsættelse af straffen kommer til at indgå som en skærpende omstændighed, at tiggeriet er begået de nævnte steder. Det forudsættes i den forbindelse, at
straffet for sådant tiggeri fremover fordobles og gøres ubetinget, hvilket betyder, at udgangspunktet vil blive 14 dages ubetinget fængsel i førstegangstilfælde...

2.1.2. Regeringens overvejelser og den foreslåede ordning

Der er behov for yderligere at styrke indsatsen mod udenlandske tilrejende, som slår lejr på offentlige steder og skaber utryghed.

Der er i den forbindelse også behov for at sætte ind over for utryghedsskabelende tiggeri (betleri). Det gælder tiggeri i gågader, ved stationer og i offentlige transportmidler, da det her i almindelighed må anes for særligt generede for andre personer at blive udsat for tiggeri, og da der på sådanne steder i dag ofte forekommer tiggeri.

En afskaffelse af kravet om forudgående advarsel fra politiet i disse tilfælde vil give politiet bedre muligheder for en effektiv indsats mod tiggeri i medfør af straffelovens § 197, idet straff efter bestemmelsen ikke længere vil være betinget af, at politiet først har udstedt og registreret en advarsel og hefter har konstateret et nyt tilfælde af tiggeri.

Det foreslås derfor at afskaffe kravet om forudgående advarsel fra politiet, når tiggeriet er begået i gågade, ved stationer eller i offentlige transportmidler.

Det foreslås endvidere, at det ved fastsættelse af straffen skal indgå som en skarpende omstændighed, at tiggeriet begås et af de nævnte steder. Der er herved lagt op til, at straffen i førstegangstilfælde som udgangspunkt fastsættes til fængsel i 14 dage.

Ud over fravigelsen af kravet om en forudgående advarsel ved tiggeri, der er begået i gågade, ved stationer eller i offentlige transportmidler, er der ikke med foreslaget lagt op til ændringer af det strafbare område for tiggeri.”

Af bemærkningerne til lovforslagets enkelte bestemmelser fremgår:

“... Efter straffelovens § 197 straffes den, der imod politiets advarsel gør sig skyldig i betleri, eller som tillader, at nogen under 18 år, der rører til hans husstard, betler, med fængsel indtil 6 måneder. Under formidlende omstændigheder kan straffen bortfalde.

Det foreslås at ændre straffelovens § 197, således at kravet om forudgående advarsel som betingelse for straf udgår, når tiggeri (betleri) begås i gågade, ved stationer eller i offentlige transportmidler, jf. det foreslåede stk. 2.

Ved gågade forstås en butiksgade, der primært er indrettet til gående, idet biltrafik som udgangspunkt er forbudt, i det mindste i butikkernes åbningstid.
Udtrykket omfatter ikke butiksgader i overdækkede butikcentre.

Ved stationer forstås togstationer, herunder stationer til lebaner (metro m.v.), og rutebilstationer. En rutebilstation er det samme som en busterminal, dvs. et trafikalt knudepunkt med anløg til at betjene forskellige buslinjer. Udtrykket omfatter ikke busstoppesteder, der ikke ligger i tilknytning til en togstation eller en rutebilstation. Forslaget rammer tiggeri, der foregår "ved stationer". Forslaget omfatter således både tiggeri, der foregår på perroner, i stationsbygninger, ventesale, læskure m.v., og tiggeri, der foregår på steder, der naturligt hører til stationen, herunder forpladser, busholdepladser og parkeringsarealer i tilknytning til stationen.

Ved offentlige transportmidler forstås transportmidler, der benyttes til offentlig personbefordring, herunder tog, lebaner, busser og færger. Forslaget rammer tiggeri, der foregår "i offentlige transportmidler". Tiggeri foregår "i" et offentligt transportmiddel, når blot enten gerningsmanden eller en forurettet (en person, gerningsmanden henvender sig til) befinder sig inde i transportmidlet. Forslaget omfatter således også tilfælde, hvor en gerningsmand, der befinder sig uden for transportmidlet (f.eks. en bus), henvender sig til en person, som befinder sig inde i transportmidlet. Forslaget omfatter derimod ikke tilfælde, hvor både gerningsmanden og forurettede befinder sig uden for transportmidlet, medmindre forholdet falder under et af de øvrige led i den foreslåede bestemmelse ("i gågader" eller "ved stationer").

Tiggeri kan efter forslaget straffes uden forudgående adværsel, når det foregår et af de nævnte steder. Dette gælder, uanset om tiggeriet i det konkrete tilfælde har skabt utryghed.

Det foreslås endvidere i et nyt stk. 3, at det ved straffens fastsættelse skal indgå som en skæpende omstændighed, at tiggeri begår et af de steder, der er nævnt i det foreslåede stk. 2. Dette gælder, både når gerningsmanden er ansvarlig efter bestemmelsens 1. led (fremover stk. 1, 1. pkt., 1. led, jf. stk. 2), og når gerningsmanden tillader, at nogen under 18 år, der hører til den pågældendes husstand, tigger et af de steder, der er nævnt i det foreslåede stk. 2.

Der er herved lagt op til, at straffen i førstegangstilfælde som udgangspunkt fastsættes til ubetinget fængsel i 14 dage, når tiggeri begår et af de nævnte steder.

Straffområdelsen vil fortsat bero på domstolens konkrete vurdering i det enkelte tilfælde af samtlige omstændigheder i sagen, og det angivne straffniveau vil derfor kunne fraviges i op- eller nedadgående retning, hvis der i den konkrete sag foreligger skæpende eller formildende omstændigheder, jf. herved de almindelige regler om straffens fastsættelse i straffelovens kapitel 10.

Er lovgivningen således af organiseret karakter, herunder begødt af flere
i forening eller som led i omfattende kriminalitet, vil det - ligesom i dag - kunne indgå som en (yderligere) skærpende omstændighed ved straffens fastsættelse, jf. straffelovens § 81, nr. 2 og 3. Det gælder efter omstændighederne også, hvis der er tale om personer, der kommer til Danmark med det formål at tigge de steder, der er nævnt i det foreslåede stk. 2.

Under formildende omstændigheder kan straffen omvendt udmåles lavere, og der er også mulighed for at lade straffen bortfalde, jf. bestemmelsens 2. pkt. (fremover stk. 1, 2. pkt.) (som ikke foreslås ændret) og straffelovens § 83, 2. pkt., samt § 82.

**Rettens begrændelse og afgørelse**

På baggrund af vidnet politiassistent Martin Kirkmose Holms troværdige forklaring om, at tiltalte sad ved nedgangen til S-togstationen ved Dybbølsbro med en kop foran sig, og at tiltalte kiggede op på de forbi passerende, samt de dokumenterede billeder, hvoraf det fremgår, at tiltalte sad lige over for nedgangen til S-togstationen med en kop fuld af danske mønter, finder retten det bevis, at tiltalte er skyldig indenfor de foreskrevne steder.

Straffen fastsættes til fængsel i 14 dage, jf. straffelovens § 197, stk. 1, jf. stk. 2 og 3.

Retten har ved strafudmålingen lagt vægt på, at tiltalte beteleved ved nedgangen til Dybbølsbro Station. Denne placering er omfattet af ordløden "ved station" i straffelovens § 197, stk. 2, og efter bestemmelsens stk. 3 indgår dette som en skærpende omstændighed ved straffens fastsættelse. Efter lovens forarbejder straffes en overtrædelse heraf som udgangspunkt med fængsel i 14 dage i førstegradstilfælde, medmindre der foreligger formildende omstændigheder. Retten har i denne sag ikke fundet grundlag for at antage, at der foreligger sådanne formildende omstændigheder.

**Thi kendes for ret:**

Tiltalte Mladen Hristov straffes med fængsel i 14 dage.

Tiltalte skal betale sagens omkostninger, herunder 3.380 kr. med tillæg af moms i salær til den beskikkede forsvarer, advokat Lene Sejersen.

Marie Rose Kortzau
Udskriftens rigtighed bekreftes.
Københavns Byret, den 28 juli 2017
Fra: Maiken Them Simonsen
Til: Lene Boe Kjeldsen
Emne: Vedr. utryghedsskabende lejre og tiggeri

Kære Maiken

Jeg kan besvare en del af dine spørgsmål.

Københavns Politi svarede den 3. oktober 2017 Rigspolitiet i forbindelse med en opdatering af ministeriet

1) Der er i perioden fra den 1. april 2017 til i dag den 3. oktober 2017 blevet afholdt 27 aktioner af Udlæningekontrolsektionen i Københavns Politi.

2) Udlæningekontrolsektionen har i perioden fra den 1. april 2017 til i dag ryddet 56 utryghedsskabende lejre (dvs. under anvendelse af bestemmelsen i ordensbekendtgørelsens § 3, stk. 4).

3) I perioden fra den 1. april 2017 til i dag har Udlæningestyrelsen foretaget 25 administrative udvisninger i forbindelse med ophold i utryghedsskabende lejre.

Tiggersagerne har jeg ikke præcise tal på pt. men seneste optælling jeg har hørt om var 22 sager mod tiggeri.

Jeg har ingen tal på antal udviste.

I politiet bruger vi nu termen ”utryghedsskabende lejre” og ikke Romalejre. Nogle af de utryghedsskabende lejre bebos af andre end Romaer.

Generelt måler vi kun på statsborgerskab.

Københavns Politi har desværre ikke mulighed for at deltage i et interview på nuværende tidspunkt.

Med venlig hilsen

Jesper Lauenborg Bangsgaard
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Appendix 10: Email from Copenhagen police
Kære Maiken og Lene,
Det lyder meget spændende og jeg vil meget gerne læse og referere til jeres speciale i min afhandling til sin tid! Ift. de spørgsmål som I stiller, så er de meget relevante.

Jeg sender her et par korte nummererede svar:


2) Det skal I spørge ovenstående om (politikerne osv.). Så får I nogle interessante svar J og igen, forstå disse i et historisk perspektiv!

3) Det beskriver jeg selv i min afhandling og kan derfor ikke komme ind på det nu.

4) Læs Don Mitchell ”right to the city”, den beskriver meget fint en række problematikker og kan med rette også læses ind i en dansk kontekst.

5) Dette spørgsmål ligger i forlængelse af spørgsmål 4. Jeg synes at spørgsmålet lægger en smule op til min personlige holdning og denne synes jeg er bedst at nedtone. Fremhæv i stedet relevante argumenter fra e.g. Don Mitchell’s bog - en anden relevant kilde som har meget samme holdning men går mere i dybden på nogle punkter er Randall Amster ”lost in space”.

Jeg er ked af at min afhandling ikke når at blive klar før I skal aflevere fordi jeg har netop to kapitler som tager fat på alle de spørgsmål som I sender. Derfor kan jeg kun svare mere bredt og referere til litteratur som ikke er min egen. Jeg sender jer min nyeste artikel så snart den er klar hos Harvard’s copy editor. Den burde være klar indenfor en uges tid eller to. Så kan I referere til denne som ”forthcoming december 2017.”
Kh Camilla
Appendix 12: Email from Marcus Knuth

Kære Maiken og Lene

Jeg skriver på vegne af Marcus Knuth.

Svar på spg 1+2
Utryghedsskabende lejre og tiggeri kom højt på dagsordenen i dansk politik, grundet det store problem vi så med disse lejre i sommerperioden. Lejrene voksede sig meget store, da især romaerne tog rejsen herop i de varme måneder og slog sig ned i de allerede eksisterende lejre. Det skabte utryghed rundt omkring i København, da deres opførsel var larmende og generende, især for de mennesker der bogstavelig talt skulle gøre rent og rydde op efter dem hver morgen.

Spg. 3+4+5
Her henviser jeg til lovforslaget.

Spg. 6
Betegnelsen "romalejr" er lige som "burkaforbud" ikke i sin bogstavelige forstand retvisende, men en betegnelse som især medierne har brugt meget da det gør det lettere at debattere problematikken.

Spg. 7 + 8
Da langt størstedelen af de mennesker som blev anholdt i forbindelse med disse lejre var/er Romaer, blev fokus naturligt rettet mod denne gruppe.

Spg. 9
Kendskabet til Romaerne stammer både fra politi, men også i høj grad fra egne erfaringer. Dem har Marcus gjort sig på sine løbeture rundt i København, hvor han i den forbindelse politianmeldte romalejren ved Trinitatis kirken.

Jeg håber at svarene var fyldestgørende og kunne bruges.

Med venlig hilsen

Josefine Præstbo Vilholm Nielsen