

# Bachelor's Thesis

**Name:** Yannic Leon Bode

**Student number:** s1343998

## **Thesis Title:**

Discussing the Dublin IV Regulation's potential effects on compliance behavior in Greece

## **Research Question:**

*"To what extent can the proposal for a Dublin IV Regulation succeed at reducing non-compliance on the part of the Greek state?"*

## **Summary:**

The main research question to be answered in this thesis is: *"To what extent can the proposal for a Dublin IV Regulation succeed at reducing non-compliance on the part of the Greek state?"* In order to answer this question, data will be drawn on from various sources. Among the most prominent reports by NGOs and EU institutions, as well academic work surrounding non-compliance by Member States, and Dublin III and IV. Reports, mostly focusing on the C.E.A.S. and the Dublin III Regulation, shall provide useful insights about, for instance, the implementation of these policies, and related failures. Accessing reports from both NGOs and EU institutions will diversify the perspectives, helping this thesis to provide a more objective stance. The academic work will further help understanding the causes of non-compliance, and allow for a more general background on this topic that can help predict how the changes in Dublin IV will affect non-compliance.

The study's purpose is to contribute to a growing pool of academic knowledge that can aid policy makers in constructing new policies that help deal with the massive recent and future influx of asylum seekers. Additionally, once the development of non-compliance among Member States under Dublin IV can be observed, it will show which of theories of non-compliance used in this thesis were applicable to this situation. Thereby, academic knowledge in this field will be extended by practical testing, allowing policy makers to see what are useful predictors of non-compliance in EU asylum policy, and to construct more effective measures to prevent it.

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## Terminology

- **Member States:** The use of this term, unless specified otherwise, refers to the states that have agreed to operate under the Dublin III regulation. These states are the EU's 28 member states, as well as Norway, Iceland, Switzerland, and Liechtenstein.
- **Dublin Area:** This is the territory covered by the Dublin Member States.
- **Dublin III Regulation:** Also termed 'Dublin III'.
- **Dublin IV proposal:** Also termed 'Dublin IV'.
- **Asylum applicant:** This term refers to individuals that enter a Member State to apply for asylum, or *international protection*.
- **Non-compliance:** Non-compliance is interpreted in a broad sense in this paper, including not only legal non-compliance, as in, a state simply refusing to comply with the Dublin III Regulation, but also other forms, such as extreme delays, or legislation that rhetorically does comply with Dublin III, but that doesn't have any practical effect. Here, the term is limited to non-compliance by states, not by asylum seekers.
- **State of entry:** The state Member State through which an asylum seeker entered the Dublin Area.

## Introduction

The final goal of this study is to discuss the extent to which the Dublin IV Regulation, as currently proposed by the commission (EU, 2016d), might succeed at improving Greece's non-compliance, as observed under the Dublin III Regulation. Therefore, it will examine the ways in which Greece does not comply with Dublin III, the reasons behind this behavior, and ways in which the amendments proposed for Dublin IV may influence it. Throughout the thesis, both academic work on non-compliance and Dublin III, as well as practical experience made with the Dublin Regulation thus far, will be drawn upon.

The Dublin Regulation mainly aimed at determining which of the Dublin Member States is responsible for handling an asylum application. Generally, this is the first Member State through which the applicant has entered the Dublin Area, and is a rule that has been highly criticized for burdening border states in a disproportionate manner. (Maiani, 2016) Some criteria that override this are the presence of family members in another Member State, or the possession of residence documents for another Member State. (Art. 9, 10, 12 Dublin III) The Dublin III Regulation has improved its clarity on these issues, and introduced a monitoring system designed to predict impending crises before they fully develop. (Wikström) In addition, the Dublin III Regulation relies on a number of directives which aim at ensuring proper treatment of asylum seekers, as well lay out procedures on how to process applications. These directives are of great importance to this thesis, because without these elements, compliance with Dublin III has little social value.

There is no shortage of literature on these topics: reports and papers by EU institutions, such as the European Commission (Commission, 2015), the European Parliament (Guild, Costello, Garlick, Moreno-Lax, & Carrera, 2015), or by NGOs like Amnesty International (Amestie, 2015), are readily available. In these papers, a lot of the reasons for Dublin III's weak implementation have been well established, and the situation of non-compliance has been examined from legal and humanitarian perspectives. Much of this work is also academic, such as certain studies motivated by the LIBE committee. (Guild et al., 2015; Guild et al., 2014; Maiani, 2016) Furthermore, theory on state non-compliance has drawn the attention of many in the past decades. Many authors have contributed to a rich pool of academic knowledge that seeks to explain the various factors that can lead to a state to not comply with EU law. For example, it has been argued that non-compliance is more likely to occur if the EU does not impose sufficient sanctions and/or incentives. (Leventon, 2015; Maniokas, 2009; Underdal, 1998) Authors have also put forward that policies designed in a way that doesn't fit certain states due to structural differences from the domestic policies, can motivate a state to disobey. (Borzel, 2000; Knill & Lehmkuhl, 2002; Leventon, 2015) Another prominent theory that seeks to explain what leads to non-compliance is

cost/benefit analysis theory. (Falkner & Treib, 2008; Underdal, 1998) During the analysis, these theories will play an important role in identifying and explaining factors contributing to Greece's non-compliance with Dublin III and IV, as well as discussing Dublin IV's potential effectiveness in this field.

### Academic State of the Art

Much research has been done on the failings of Dublin III, as well as general theories that can help understand state non-compliance in the EU. In this section, an overview of the academic state of the art will be given, shortly introducing the existing academic knowledge that is relevant to the topic of Dublin III and state non-compliance.

### State of the Art on Non-compliance

Theory of state non-compliance in the EU has a rich history. Over the past decades, much academic work has been published, with the objective of explaining why EU member states may not comply with EU law in general, or with specific policies and policy areas. The EU has been very active in important legislative fields, creating not only a big practical field for researchers to work with, but also significant social need for research in this field. For policies that are not implemented by all states lose some effectiveness, and understanding the reasons for this behavior means being able to create more effective policies, which can benefit society more. In the following, the three theories that this thesis draws on shall be introduced.

### Misfit

Perhaps the most prominent theory used to explain why states may not comply with EU policy is the Misfit theory, which argues that non-compliance is more probable in a state for which the policy's design makes implementation very problematic. (Borzel, 2000; Falkner & Treib, 2008; Knill & Lehmkuhl, 2002; Kotzebue, Bressers, & Yousif, 2010; Leventon, 2015)

Borzel (2000), for instance, argues that a policy is a misfit when its structure differs significantly from that of the corresponding national policy, or imposes disproportionate costs on a country. While she deems misfit a necessary factor for non-compliance, she also argues that compliance with a misfit policy may occur where domestic actors, like NGOs or business entities, pressure the government into complying despite high administrative or financial costs. In addition, she contends that EU infringement proceedings may further improve the chances that a misfit policy is complied with, emphasizing that domestic actors are most influential if they can "link up" with the EU to initiate such proceedings. (Borzel, 2000, p. 148)

### Sanctions/Incentives

Another frequent argument made is the fact that compliance is less daunting, and more compelling, when there are prospects of sanctions and incentives. By imposing significant sanctions on EU Member States that do not comply with an EU law, the resulting presence of a credible threat helps deter states from non-compliance. Conversely, if the EU grants high rewards for complying with a policy, it can incentivize compliance. (Maniokas, 2009; Underdal, 1998)

Maniokas (2009), for instance, describes how the credible threat of sanctions can be a powerful deterrent, compelling a state to bear the costs of compliance for fear of the costs that non-compliance would bring due to the anticipated sanctions.

For the implementation of the Dublin regulation, incentives could mean full compensation of asylum-related costs. (Maiani, 2016, p. 23) Such an incentive would decrease the costs of compliance. Also, current non-compliance is possibly facilitated by the fact that the EU institutions have not firmly reacted to any non-compliance with Dublin III (Maiani, 2016, p. 54), implying that non-compliance is not punished in any significant manner.

### *Cost/Benefit Analysis*

The last theory of state non-compliance to be covered in this thesis is the cost/benefit analysis. According to this theory, states may become more likely to not comply with EU legislation if a cost/benefit analysis produces a net outcome favoring non-compliance over compliance. (Falkner & Treib, 2008; Underdal, 1998)

Underdal (1998), for instance, explains that states will take all anticipated costs and benefits into account. Examples of costs are reputational loss, economic loss, or punishment, like sanctions. Benefits may be an improved reputation, economic gains, or rewards, like incentives.

These theories are discussed in more detail in the analysis.

### *State of the Art on the Dublin III Regulation*

The Dublin Regulations is considered an essential aspect of EU asylum policy and, as such, has attracted great attention among scholars. As a result, the main failings of Dublin III are well established. Maiani argued that, firstly, it does not let applicants choose their destination, hence incentivizing non-compliance among applicants. Secondly, the lack of an effective solidarity scheme hinders cooperation among member states. And thirdly, the elaborately bureaucratic approach is highly inefficient. (Maiani, 2016, p. 6) As this thesis shall focus on non-compliance on behalf of the Greek state, the first point plays a very marginal role. While it is important to consider how the disobedient behavior of asylum seekers may affect the government's willingness to comply, the thesis will pay most attention to another point Maiani mentions, which is the unjust distribution of responsibility among Member States. Rooted also in the principle that applications must be lodged in the first state of entry, i.e., the state through which the applicant entered the Dublin Area (Art. 13(1) Dublin III), Maiani Describes it as detrimental to the Southern and Eastern states with external borders. (Maiani, 2016, p. 24 f.) As Greece is among these, it makes sense to consider this provision to be of paramount importance when discussing the state's compliance.

< of costs. As a result, Member States are trying to minimize their own costs. This means "minimizing incoming transfers and maximizing outgoing transfers". (Maiani, 2016, p. 23) If this is true, it must be traceable in the form of member states taking measures to achieve this goal. And this appears to be the case: since the member states' interpretation of what information is sufficient for family reunion (see Dublin III, Articles 9-11) may differ, there have been challenges to implement such reunions. For instance, some Member States do not react when asked for information. (Jurado et al., 2016, p. 31) As a result, a Member State may successfully reduce the number of incoming transfers, by not providing information about family members residing within its borders. Another, less direct example of non-compliance are interviews in Germany. Prescribed by the Dublin III Regulation, these are meant to ensure that an asylum applicant has the chance to properly make his case. (Parliament, 2013b, Article 5) However, in Germany, such interviews last only 15-20 minutes, including the time needed for interpretation. Hence, the applicant is put under a lot of pressure, knowing his fate depends on this short interview. (Jurado et al., 2016, p. 15) Since this is not the purpose of the interview, the Germany state is not properly obeying the Dublin III Regulation.

The third point, inefficient bureaucracy, is especially notable given the fact that the Dublin III Regulation is primarily a means to establish responsibility. For to achieve this relatively simple end, an elaborate bureaucratic procedure must be run through, and it transfers the choice of destination completely, from the applicant to the officials that determine where his or her application shall be processed. As a result, application procedures are delayed, exhausting the national asylum systems, and in turn, incentivizing member states to disobey. (Commission, 2015, p. 25 f)

But while it is fairly well established why the Dublin Regulation fails, there is a lack of attempts to examine failures through the lens of state non-compliance theory. Therefore, this thesis will contribute to the understanding of Dublin III's failure by applying such theories, adding to the pool of knowledge of the

causes of these failures. It will also apply the theories to the proposed Dublin IV Regulation. Together with the prior experience, it should allow for a close prediction of how well Dublin IV will be at inciting obedience in Member States.

## Research Question

***In how far can Dublin IV succeed at increasing compliance in Greece?*** This is the principle research question. It will be answered in a discussion about whether the changes made in Dublin IV can increase compliance with the regulation in Greece. This discussion will draw on experience made with Dublin III, since it is the current form of the regulation, to be succeeded by Dublin IV. Additionally, Dublin III is in place under circumstances that probably closely resemble the ones under which Dublin IV would be put in place. Throughout this thesis, existing theories will contribute valuable insights, and lend credibility to the explanations proposed by the author.

Sub-question 1 shall revolve around generating a basic understanding of what current theories commonly propose as explanation for compliance behaviors. These results will be taken into account when answering the other sub-questions and the principle research question. Then, sub-question 2 will examine the experiences made with Dublin III, allowing for the identification of changes proposed by Dublin IV may be relevant to compliance behavior in sub-question 3. Once the plausibly important changes have been identified, both through experience with Dublin III and through existing theories, the principle research question can be discussed. Without the sub-questions, the principle research question cannot be answered. And separating them in this way allows for them to be answered more thoroughly than if they were simply integrated into one question, while also improving the structure of the paper. This adds much to the quality of the thesis.

1. *What are the most common theories that explain compliance behavior?* This research question requires a literature review in which the main theoretical contributions shall be laid out. Successively, the main arguments will be distilled, in order to provide a more tangible structure that can be used to provide insights for the rest of the thesis, and to support its propositions.
2. *What was the situation of non-compliance in Greece under Dublin III thus far?* This research questions will address various cases of non-compliance towards Dublin III, in order to assess which structural elements of the regulation may have contributed to non-compliance. Uncovering these elements is essential to sub-question 3, and can be done best by taking into account the existing theories while examining the cases of non-compliance.
3. *Which structural similarities and differences between the Dublin III regulation and the Dublin IV proposal may be relevant to compliance behavior in Greece?* This question is asking the same about Dublin IV as sub-question 2 asks about Dublin III. The important difference is the time setting. Sub-question 2 is looking at the past and present, and so, it is possible to observe real cases that pertain directly to Dublin III. Since Dublin IV is only a proposition, its actual implications can only be theorized, and not observed. In order to answer this question, the elements in Dublin III that were found to be relevant to compliance behavior in to sub-question 2 must be examined. If any of these have changed in Dublin IV, then these are to be considered changes relevant to compliance behavior. Furthermore, like in sub-question 2, theory should be taken into account when assessing whether and how a change might affect compliance behavior. But in addition, theory can also be used to examine changes to components that, in Dublin III, were considered neutral in their effect on compliance behavior. Arguably, a component that presumably had no effect on compliance behavior under Dublin III may be amended in Dublin IV in a way that changes

this. In this case, the component may affect compliance behavior in Dublin IV but not in Dublin III. This requires looking beyond Dublin III, at existing theory that can help assess the amended element's effect. The same applies for elements of Dublin IV that did not exist in Dublin III, and it reemphasizes the importance of sub-question 1.

Figure 1 below demonstrates how the three sub-questions are interlinked. The pyramid form emphasizes the way they build up on each other, starting with the theory, the concern of sub-question one (SQ 1). Arrows and texts explain the relationship between the questions. In the end, the results of the pyramid will form the basis for the discussion of the principle research question.

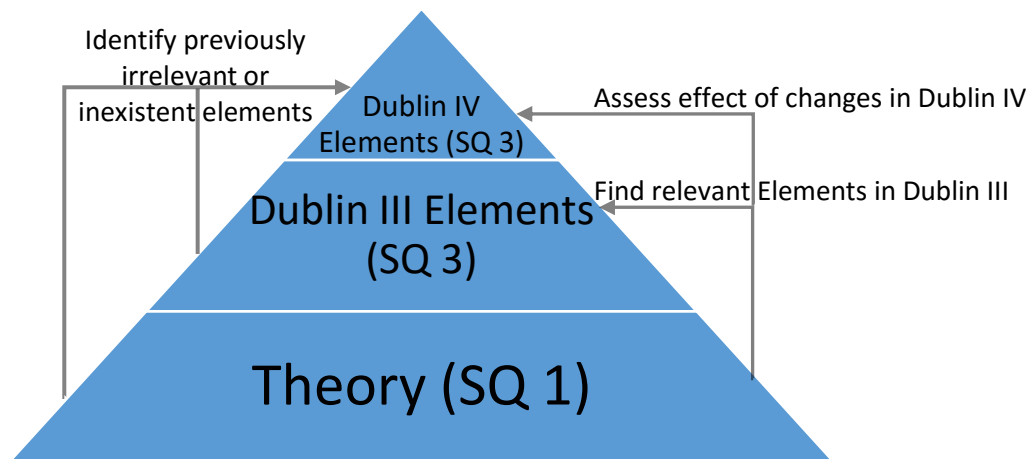


Figure 4

## Methodology

The methodology of choice for answering the research questions discussed above is a legal context analysis. First, a literature review will be conducted, scanning the academic work that has been done so far on non-compliance. This will enable the establishment of a theoretical framework, necessary for properly analyzing the observed reality, which is the second step. During this step, a number of provisions of Dublin III and the directives it invokes will be selected on the basis of three criteria: their being subject to non-compliance, the humanitarian impact of this non-compliance, and their impact on non-compliance, in Greece. Then, these provisions will be discussed in the context of the theoretical framework, creating a hybrid model of the theories selected that is suited for this task. Thereby, it will become clearer what the key causes of Greece's non-compliance are, and what are the most urgent, relevant issues of its non-compliance. Based on this, the key similarities and differences between Dublin III and Dublin IV will be discerned and discussed, enabling the final step, in which Greece's compliance behavior under Dublin IV will be elaborated on in an ex-ante discussion.

There are two main threats to this approach: firstly, the theoretical framework may be biased towards the most common theories. As a result, a theory with little explanatory power in the context of non-compliance may be exalted as a formidable one, simply because it has much explanatory power in many fields and cases. In order to prevent this, it is important to maintain a critical view of the theory, and to be wary of the possibility that wide-spread theories may not apply in this specific case.

The second threat are potentially over-confident and over-cautious conclusions. In practice, this means that the conclusions drawn, especially about Greece's future compliance behavior under Dublin IV, can easily overstep the fine border between a speculations and predictions. While the former may run

the risk of being too vague, depriving them of any value, the latter are generally too concrete for such a broad, complex topic, as there are many factors that cannot be known, making predictions impossible and equally worthless. In order to minimize these risks, due deliberation, considering as many relevant facts as possible, is important, in order to come to conclusions that are as concrete as possible, but as vague as necessary.

## The Dublin III Regulation

The essential purpose of the Dublin III Regulation has been paraphrased concisely in the Official Journal of the European Union as the establishment of “criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person”. (Parliament & Council, 2013b)

The basic principle for determining this responsibility is the Member State of entry: the asylum seeker must apply for asylum in the first Dublin Member State he set foot in. (Parliament, 2013b, Article 13) “Setting foot in” is to be taken in its literal sense, as entering air space of a country does not mean that this is the country the individual must apply in: if the application is then lodged in the transfer area of the destination airport, this country is responsible for processing the application, even if it has no external borders. (Parliament, 2013b, Article 15) Hence, through air travel, it is theoretically possible to apply in a member state without an external border. The practicability of this alternative will be discussed later.

There are exceptions to this rule that extend beyond the entrance of a Member State by plane. Hierarchically, ordered by declining importance, circumstances under which an applicant isn’t confined to the state of entry are:

- Unaccompanied minors (Parliament, 2013b, Article 8)
- Applicants with family members in another Member State (Parliament, 2013b, Articles 9-11)
- Applicants with valid or recently expired documents of residence or visas; if recently expired, the applicant must have remained within the territory of the Member States (Parliament, 2013b, Article 12)
- Applicants who lived at least five months in another Member State (Parliament, 2013b, Article 13)
- Applicants who can enter another Member State without Visa (Parliament, 2013b, Article 14)
- Applicants who are dependent on a relative legally residing in Member State (Parliament, 2013b, Article 16)

For this article, it is important to note that the Dublin III Regulation refers to other EU legislation. For instance, directive 2013/33/EU, which defines the conditions that asylum applicants should be subjected to, is mentioned on various occasions. Section 11 of the introduction of the Dublin III Regulation, for instance, states that directive 2013/33/EU should be applied to the applicants. Hence, if this directive is breached, it will be treated as non-compliance with the Dublin III Regulation, as it specifically requires that this directive be implemented. Such legislation will be discussed in more detail during the analysis.

## Scientific and Social Relevance

Given the fact that the refugee crisis is a topic that is hotly debated in current times on all levels, be it the European Parliament, the Bundestag in Berlin, or the family dinner table, it seems that this topic has a high relevance at this very moment. Since many Member States are feeling mistreated, chronic non-compliance is inevitable. (Spijkerboer, den Heijer, & Rijpma, 2016) By assessing the potential causes of



non-compliance, this thesis makes it easier for policy makers to reason which policies are needed to better protect societies from exhausted asylum systems, supporting the claim to social relevance. And by predicting Dublin IV's success at inciting obedience, the thesis will demonstrate to policy makers which predictors of state non-compliance are the strongest, once the consequences of Dublin IV become observable. For then, the predictions of this thesis can be compared to the outcome, demonstrating to what extent they were accurate.

In addition, the academic contribution of this work is threefold: it will provide a possible framework of the theoretical causes of state disobedience, as well as an explanatory and a predictive application of this theory to a practical case. The framework can serve as a source for researchers in this field, and the explanatory and predictive application will contribute to a growing pool of practical applications of the proposed theories, thereby forming part of a bigger, clearer picture of their accuracy. Of great importance is the fact that this is a relatively unexplored part of the field, since research has often concentrated on environmental policy, and since only in most recent years the pressure on EU asylum policy has been under the intense pressure of the refugee crisis.

It is important to acknowledge the fact that, like any phenomenon in the realm of social sciences, state compliance is highly complex. A range of different mechanisms, rational and irrational, of greater and lesser impact, are sure to contribute to the outcome. Their origins are varied, and often overlapping, such as political, economic, social, legal, or geographic. As such, both a mathematical explanation of Dublin III, as well as an accurate prediction of Dublin IV compliance, are not possible outside a utopian ideal. But while in no way certain, the effectiveness of these application can indicate in how far the theoretical explanations are reliable as indicators, and can serve as guide lines for policy makers, to be tested and assessed further by future research.

## Analysis

### Theory of Non-compliance

Borzel (2000), for instance, describes a misfit as a policy that challenges the corresponding national policy, and that would cause significant costs upon implementation. She identifies two main causes of misfit, which she terms *genetic* and *systemic causes*. Genetic causes are rooted in an EU policy's structure, while systemic ones pertain to domestic factors, such as a country's institutional structure, government agenda, or budget. (Borzel, 2000, p. 144-146) Rather than distinguishing between these two types of causes of misfit, this paper shall instead label two different types of misfit, called structural and economic misfit. Structural misfit is one where the structure of the EU policy differs strongly from the national one, while economic misfit is given where the costs that a policy entails are problematic in light of the country's economic situation. This distinction is more useful for this thesis because, as will be shown later, structural misfit is not the issue, but economic misfit is. By adjusting the distinction in this manner, the model shows more clearly what is not and what is of importance to Greece's compliance behavior.

Borzel (2000) argues that a policy misfit is the necessary cause of non-compliance. However, her model also proposes that it does not have to lead to non-compliance. Potentially, domestic pressures from below, as well as EU procedures from above, may lead to compliance despite the misfit. Domestic pressures may include NGOs, the opposition, and influential business entities, and their success may be influenced by media coverage. And the EU may increase the chance of compliance through infringement proceedings. Borzel also emphasizes that domestic actors may be able to trigger the infringement proceedings by the EU, increasing their chances of success. (Borzel, p. 148) She hypothesizes that

*"The higher the pressure for adaptation and the lower the level of domestic mobilization, the more likely it is that non-compliance will occur."*

This hypothesis establishes two relationships: firstly, higher pressure for adaptation, i.e., more structural misfit of the policy, makes non-compliance more likely. And secondly, low levels of domestic mobilization further increase this probability. Figure 1 visualizes the Misfit theory with a model designed by Borzel (2000), which also reflects this hypothesis.

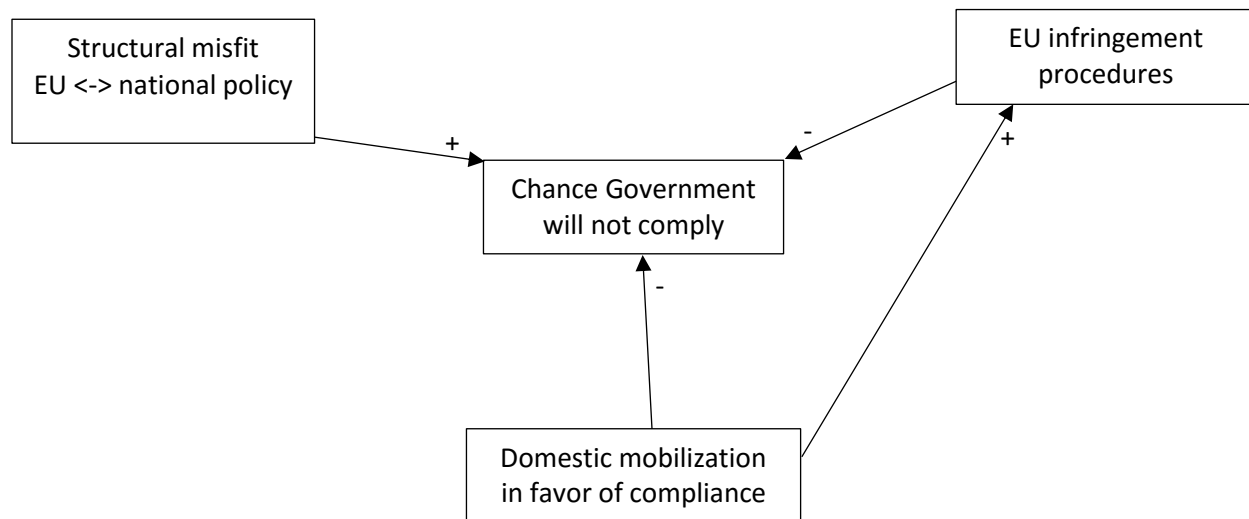


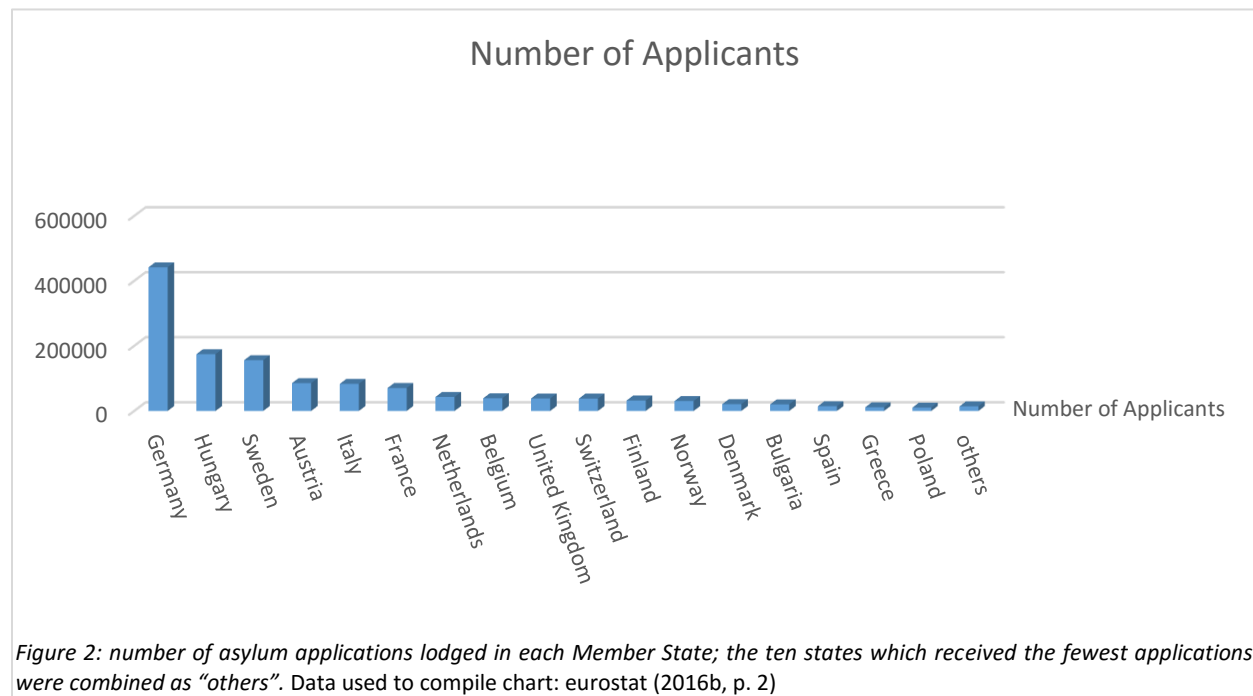
Figure 1: "The higher the pressure for adaptation and the lower the level of domestic mobilization, the more likely it is that non-compliance will occur." (Börzel, 2000, p. 148 f)

In her article, Borzel (2000) conducts a case study of 5 environmental policies, in which she compares compliance with these in Germany and Spain, and uses her model to explain the outcome. In order to measure policy misfit, Borzel examines the compatibility of the individual EU policies with the respective state's problem-solving approaches, policy instruments and policy standards. If one or more are challenged, she argues, compliance will be costly, giving reason for non-compliance. (Borzel, 2000, p. 148)

Borzel's (2000) model and measurement approach may prove very useful to this thesis. Of course, it is important to consider that the relevant factors, as well as their roles, may differ substantially. Borzel (2000) focuses on environmental policy. Assuming that e.g. public opinion can be neglected in asylum policy the way it was in her article, without verifying its low impact, would be a careless. Nonetheless, the model provides useful indication about potentially influential factors, and her measurement approach may very well be useful in determining in how far Dublin III and IV fit the countries that should implement them.

An example for how this theory may be applied to explain non-compliance with the Dublin Regulation are the high implementation costs resulting for certain member due to their geographical location: while countries that are surrounded by other Member States shouldn't get too many asylum applications, those with external borders, especially facing towards the regions where many asylum seekers originate, should be burdened with far higher costs. This is because the Dublin regulation prescribes that applications be issued in the country of entrance, i.e. the first Member State that the applicant enters. (Parliament, 2013b, Section 13) Pertaining to the theory of misfit, countries receiving disproportionately large amounts of applications would be more inclined towards non-compliance, since the policy design results in a hugely increased burden due to their geographical location. Hence, the policy design does not fit these states, affecting them more stressfully than more central states. In a sense, this may relate to the cost/benefit analysis theory, since the high number of applications some countries receive may make it more beneficial to not comply. Indeed, figure 2 indicates that the Misfit theory may be very relevant: Germany, a centrally located state with an external border only towards the North Sea,

has by far the highest number of applications. Italy and, especially, Greece, only receive a fraction of the number of applications lodged in Germany. This indicates significant breaches of the Dublin III Regulation,



which may be routed in the high costs of implementation for certain countries. By not complying and letting migrants pass through that entered the Dublin Area through their borders, countries like Italy and Greece would have much lower costs through lower numbers of applications.

The above data suggests that especially Greece is not fulfilling its responsibility according to Dublin III, as its geographical location would mean it ought to receive far more applications. This logical argument finds statistical support, for instance, in Frontex's data: the organization concludes that roughly 885,000 migrants arrived in illegally Greece in 2015 (Frontex, 2016) – the year in which, according to the data used in the table above, not even 12,000 applications were lodged in Greece.

### Sanctions/Incentives Theory

Notably, the theories that consider sanctions and incentives to be significant factors in explaining non-compliance can be reconciled with the Misfit theory. In part, these theories are already incorporated in Borzel's (2000) model. She explained how pressure from the EU can sway its Member States to comply with misfit policy despite the costs. However, her model omits incentives that may positively encourage compliance, rather than deterring from non-compliance. Arguably, this aspect is just as important, as significant financial incentive reduces the cost, and hence, the misfit, of a policy, thereby reducing the likelihood of non-compliance. Figure 3 shows how the sanctions and incentives theories can effortlessly be reconciled with the Misfit theory.

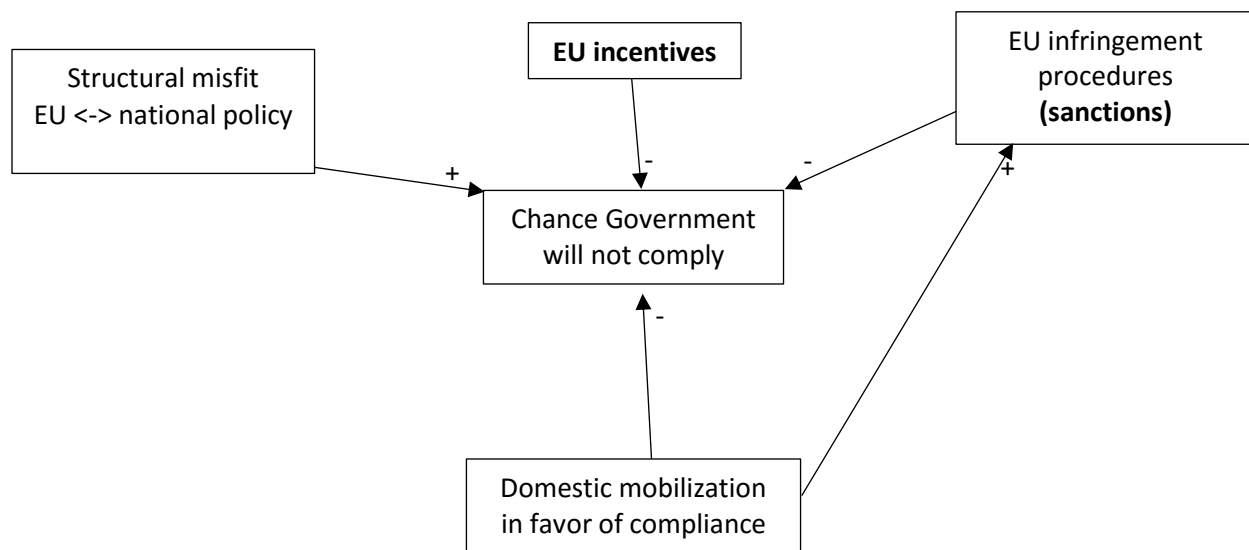


Figure 3: The misfit model as proposed by Borzel (2000) is easily reconciled with the deterrents and sanctions model.

### Cost/Benefit Theory

In the case of the Dublin III Regulation, non-compliance may lead to other states to be less trusting when negotiating deals with the state in question, an example potential reputation loss. Financial losses may occur because non-compliance can mean taking costly measures, such as increased border controls. Sanctions do not seem much of a threat when disobeying the Dublin III Regulation, so penalizing non-compliance more severely may increase the costs of disobeying it. But non-compliance may also lead to a reputation of being tough, which certain governments may consider desirable. And avoiding asylum-related responsibility could also save a great deal of money in terms of processing applications, providing housing, medical care, etc. If one imagines a cost/benefit analysis of compliance with Dublin III, benefiting from an improved reputation can be anticipated: a state that complies with the Dublin III Regulation also in difficult times will be seen as a more reliable negotiation partner. Financial gains could be hoped for by taking measure that enable the employment of asylum seekers, creating the opportunity to generate workforce that can be taxed. Incentives could be given if the EU promised a large compensation, or even a reward, for fulfilling ones responsibilities under the Dublin III Regulation. But compliance may also result in the undesirable reputation of being a push-over, and the financial costs of handling asylum-related responsibilities.

These, and perhaps other theories of state compliance, are to be applied properly to the Dublin Regulation, in order to allow this thesis to discuss the effects of Dublin IV on compliance behavior. Thereby, it will contribute to the academic state of the art by providing further practical knowledge about when certain theories can explain observed reality. In addition, the knowledge gap about how academic theories can explain non-compliance of the Dublin III Regulation, since much of the academic literature has focused on explaining why asylum seekers disobey, while paying far less attention to the Member States.

### Dublin III

This section seeks to analyze the extent of Greece's non-compliance with the Dublin III regulation, and put it into its social context. Hence, not only the form of non-compliance will be described, but also

its consequences for those affected. This will highlight the social relevance of the issue, demonstrating that non-compliance can lead not only to legal, but also to social and humanitarian problems.

#### *Determining Non-compliance with Dublin III*

In order to analyze the extent of Greece's non-compliance with the Dublin III Regulation, it is important to first explain how non-compliance shall be determined. Therefore, the following paragraphs shall elaborate on the requirements that Dublin III imposes on its Member States which are found to be breached relatively often. Where it is appropriate, criteria will be established for recognizing where non-compliance is taking place.

As stated earlier, the Dublin III Regulation refers to other EU legislation. It is therefore useful to begin with outlining the main requirements relevant to this thesis, including those that are drawn from other legislation. Perhaps the most prominent external legal source included in Dublin III is the Charter of Fundamental Rights of the European Union (hereinafter: Charter). Specifically, it requires the fulfillment of Articles 1, 4, 7, 18, 24 and 47 of the Charter. (Parliament & Council, 2013b, Section 39)

Furthermore, the Dublin III Regulation requires the fulfillment of

- Directive 2011/95/EU (Recital 10 Dublin III) (Hereafter: Qualification Directive)
- Directive 2013/32/EU (Recital 12 Dublin III) (Hereafter: Common Procedures Directive)
- Directive 2013/33/EU (Recital 11 Dublin III) (Hereafter: Reception Conditions Directive)
- Directive 95/46/EC (Recital 26 Dublin III) (Hereafter: Data Privacy Directive)

**Article 1** of the Charter requires that human dignity be respected, but without providing any guidelines or definitions for how this is to be understood. There is also no consensus on a legally workable definition of dignity, which would allow for a concrete analysis in this thesis. However, certain key concepts of dignity, such as prohibition of torture (McCrudden, 2008, p. 686 ff.) or the protection of privacy and family life (McCrudden, 2008, p. 701), are provided by Articles 4 and 7, respectively. Since these are also required by the Dublin III Regulation, Article 1 shall not be separately analyzed in this paper.

**Article 4** of the Charter prohibits "torture and inhuman or degrading treatment or punishment." This can be viewed as the simplified equivalent of the **Reception Conditions Directive**. (Parliament & Council, 2013a) One important aspect to this directive is the scope of its application, which is not limited to the territory of a Member State, but extends to borders, transit zones, and territorial waters. (Article 3 (1) 2013a) An important provision of the Reception Conditions Directive is the requirement that families should remain united where possible, if they are provided with housing. (Article 12) Furthermore, adequate standard of living for all applicants is prescribed. (Article 17 (2) 2013a) This term is described in the following section. Additionally, much attention is paid to the special treatment of unaccompanied minors. For instance, the directive urges to avoid their detention where possible (Article 11 (3)), prescribes appropriate education (Article 14), and requires that special attention be paid to the special needs of unaccompanied minors. (Article 24) The Reception Conditions Directive, as well as Article 4 of the Charter and, by extension, Dublin III, are not being complied with if asylum applicants are deliberately subjected to inhuman or degrading treatment or punishment, and if any other provisions of the Reception Conditions Directive are not complied with. Such is the case if:

- **Food and water** are provided in amounts or qualities that are likely to damage the applicants' health. This means spoiled food and water, or unhealthily scarce amounts of either. Food and water form part of the lower basic needs according to Maslow's hierarchy of needs, termed *physiological needs*. (McLeod, 2007) Furthermore, they are commonly understood as essential for physical health, as prescribed by the Reception Conditions Directive, Article 17 (2). For water, the UNHCR's SPHERE emergency standards for designing settlements prescribe that 20 liters should

be available daily, per person. In addition, at least one water tap stand should be available per 80 people, and no one should have to walk more than 10 minutes to reach the nearest one. (UNHCR, 2.2, Table 3) If taps or water distribution is insufficient, with too few liters or access points per person, the situation shall be considered as non-compliant with the Dublin III regulation.

- **Warmth and rest** are not possible in a reasonable fashion. Generally, this means applicants do not have access to adequate housing, which protects them from the cold, and grants them a possibility of retreat for sufficient rest. Together with food and water, they form the *physiological needs* mentioned above, constituting the most essential needs in Maslow's hierarchy. (McLeod, 2007) They are also necessary for the fulfillment of Article 17 (2) of the Reception Conditions Directive, as they are necessary for maintaining both physical and mental health. Depriving applicants of these is arguably inhuman, degrading treatment. As a minimum guideline for emergency housing, the UNHCR's SPHERE standards may be consulted again. Said guidelines require that 3.5m<sup>2</sup> should be provided per person. (UNHCR, 2.2, Table 1) This seems challenging, as even a rather small bed would take up roughly 1.5m<sup>2</sup> (TMASC), leaving a mere 2m<sup>2</sup> per person. Of course, this is challenging, especially for the many who endured the hardship of travelling large distances under harsh conditions. Therefore, to save space, bunk beds, with one additional bed on each bed on the ground, are a logical option. Thereby, two beds would still take 1.5m<sup>2</sup>, adding .75m<sup>2</sup> per person. This increase of 20% per person may make a useful difference, but still, the space seems barely reasonable. Anything below would clearly not respect In addition, the SPHERE requires to limit the number of occupants per room to 6 people. (UNHCR, 2.2, Table 2) Hence, this paper will conclude that Dublin III is not being complied with in cases where more than 6 people share a room, or individuals are granted less than 2m<sup>2</sup> of personal space, aside their bed.
- **Families** cannot remain united in shared, adequate housing. This means that Dublin III is not being complied with when family members are sent to different parts of applicant housing areas, or even to completely different housing areas, against their will. Such is also the case if their interests were not properly considered.
- **Family unity** is not ensured with sufficient efforts. This is the case where family unity requests are ignored, which is also in contradiction with Articles 9 and 10 of the Dublin III Regulation. (see below: **Articles 9 & 10**)
- Applicants are treated with **unjustifiable violence**. Violence is considered justifiable when used to protect others from violent acts intended by asylum applicants. Since many modern democracies vocally oppose violence even as a punishment, it would seem reasonable to classify it as inhuman, and even more so if violence is used for no reason at all. Violent treatment is also in obvious contrast with Article 17 (2) of the Reception Conditions Directive. Of course, not all violence against applicants can be seen as non-compliance with Dublin III. Therefore, it will only be considered as such if it has been recognized in relevant sources as a failure by the state.
- Adequate **sanitation** is not given. Sanitation is not only essential to most modern humans' way of life, but indeed a key contributor to their health. Therefore, it shall be considered as inhuman and degrading treatment, if applicants do not have access to at least basic sanitation. Such a situation shall, because of the heightened risk of diseases it brings, be seen as damaging to the health, thereby breaching Article 17 (2) of the Reception Conditions Directive. Once more, the UNHCR's SPHERE standards provide a tangible basis to determine minimum guidelines. Firstly, latrines are to be available at a distance between 6 and 50 meters from every individual, with each latrine being used by no more than 20 people. And secondly, one showers should be available, with one being used by no more than 50 people. (UNHCR, 2.2, Table 3) If there are not enough showers or latrines, or these are hard to reach, the situation shall be considered non-compliant with the Dublin III regulation. Notably, the presence of showers does not contribute to the level of compliance if the prescribed 20 liters of water per person per day fall short by 10 liters or more.

**Article 7** of the Charter calls for “respect for private and family life”. In order to warrant this kind of privacy, adequate housing must be provided. Aside fulfilling both of the aforementioned requirements of providing warmth and rest, it must also allow for a certain level of privacy. Families must have a place where they can interact privately, as laid out by the Reception Conditions Directive, Article 11 (4), while individuals should be able to retreat for peace and quiet. Naturally, this does not mean every individual must be granted an isolated room, but the accommodations must be limited in their occupation. While still quite critical, the SPHERE guidelines explained above seem only just acceptable, limiting occupation of each unit to 6 people. (UNHCR, 2.2, Table 2) An accommodation that falls below the SPHERE standards of space or exceeds the maximum occupation will be considered non-compliant with the Dublin III regulation. Furthermore, it is important to observe the privacy rights laid out in the Data Privacy Directive. These include, among others, the legitimate justification of the data processed (Article 7), freedom of expression (Article 9), and access rights (Article 12). Rather than obtaining comprehensive, raw data and evaluating it, this thesis will rely on sources like previous legal cases and academic work, and assess these for the purpose of determining non-compliance with Dublin III.

**Article 18** of the Charter requires that asylum be granted to anyone who is a refugee according to the Geneva Convention of 1951 and the Protocol of 31 January 1967. Who qualifies as a refugee, and is thereby also qualified to receive the benefits of international protection, is also laid out in the Qualification Directive. (Parliament, 2011) This directive also lays out, amongst others how, how the applicant’s circumstances are to be assessed (Article 4), and who qualifies as a refugee. (Chapter III) If the Qualification Directive is not applied properly in certain cases, these cases will be considered as non-compliant with Dublin III. Here, the analyses of other academics will be used as evidence, as those specialized in the topic of legal refugee status can provide high quality information.

**Article 47** of the Charter grants everyone the right to a fair trial and effective remedy. This is further elaborated on in Article 46 Common Procedures Directive (2013a) . Here, more emphasis is put on the special case of asylum seekers. Amongst others, Article 46 of this directive specifies that an asylum applicant is to be given sufficient time and legal aid to make his or her case. Hence, insufficient or even entirely omitted trials shall be considered non-compliant with Dublin III. Again, specialized sources are the best type of information to assess the situation in this area.

The **Dublin III Regulation** itself is, as mentioned previously, focused on the clear allocation of responsibility for processing individual asylum applications. The underlying mechanism for this allocation is the first state of entry: the first Dublin Member State the territory of which an asylum seeker enters is the one responsible for processing his or her application for international protection. (Art. 3(2) Dublin III) However, the first state of entry principle is only applicable if none of the other criteria listed previously, such as family or visa circumstances, allocate responsibility to another Member State. Hence, non-compliance pertaining to allocation of responsibility will be identified as cases where the Dublin criteria have not been applied properly. The most important cases of non-compliance in this context are:

- **Article 8:** Unaccompanied Minors that are not transferred to a member state where family members are legally present. Cases where insufficient efforts are made to determine the existence of such family members are equally non-compliant.
- **Articles 9 & 10:** If a written request by an asylum seeker to be united with a family member who is an applicant or beneficiary in another Member State is ignored. Dublin III prescribes that such requests lead to the asylum application being processed by the Member State where the family member is a beneficiary or applicant. If this is not implemented, it shall be considered non-compliant with Dublin III.

- **Article 12:** If valid or recently expired visa or residence documents are ignored. This article prescribes that visas and residence documents that are still valid or expired recently determine the state that is responsible for processing the application. Recent expiry is defined as within the last 6 months for visas, and within the last 2 years for residence permits. If these criteria are ignored, the case will be considered non-compliant with Dublin III.

This is not an encompassing enumeration of the aspects of the Dublin III Regulation, the Qualification

Directive, the Common Procedures Directive, the Reception Conditions Directive, and the Data Privacy Directive. Rather, it constitutes a selection of the articles that seem most importance in terms of two features: the frequency at which they are subject to non-compliance in Greece, as well as the impact that this non-compliance has on the state, people and applicants. This selective manner allows for a more parsimonious picture, without sacrificing key aspects of it.

#### *The Situation of Non-compliance in Greece*

The following table summarizes the key provisions of the Dublin III Regulation and the incorporated laws that will be examined for non-compliance. The table provides a lens through which situations and cases will be assessed for compliance and non-compliance.

| Provisions  | Key Aspects  |
|---|--|
| Charter, Article 4<br><br>Reception Conditions Directive, Articles 12, 14 & 17<br><br>Qualification Directive (Art. 23) | <ul style="list-style-type: none"> <li>- No torture, no inhuman or degrading treatment or punishment are allowed. (Article 4 Charter; Reception Conditions Directive)</li> <li>- Maintaining family unity in shared housing. (Art. 12 Reception Conditions Directive; Art. 23 Qualification Directive)</li> <li>- Provision of education comparable to national standard. (Art. 14 Reception Conditions Directive)</li> <li>- Health care and adequate material reception conditions, such as housing, must be provided for. (Art. 17 Reception Conditions Directive)</li> </ul> |
| Charter, Article 7<br><br>Reception Conditions Directive, Article 11(4)<br><br>Privacy Directive                        | <ul style="list-style-type: none"> <li>- Family and private life must be respected. (Art. 7 Charter)</li> <li>- Families must have shared housing with adequate privacy, even when detained. (Art 11(4) Reception Conditions Directive)</li> <li>- Legitimate justification of data processing (Art. 7 Privacy Directive)</li> <li>- Freedom of expression (Art. 9 Privacy Directive)</li> <li>- Access to information surrounding him, how it is processed, and who can access it. (Art. 12 Privacy Directive)</li> </ul>   |
| Charter, Article 18<br><br>Qualification Directive, Article 4 & Chapter III   | <ul style="list-style-type: none"> <li>- Right to asylum for refugees. (Art. 18 Charter)</li> <li>- Assessment of facts and circumstances relevant to refugee status (Art. 4 Qualification Directive)</li> <li>- Qualification for being a refugee (Ch. III Qualification Directive)</li> </ul>  |



|  |  |
|--|--|
| Charter, Article 47<br><br>Common Procedures Directive, Article 46 | <ul style="list-style-type: none"> <li>- Right to effective remedy and fair trial if rights are violated, or an application is rejected. (Art. 47 Charter; Art. 46 Common Procedures Directive)</li> </ul>   |
| Common Procedures Directive  | <ul style="list-style-type: none"> <li>- Effective opportunity for lodging application (Art. 6)</li> <li>- Information on application possibilities (Art. 8)</li> <li>- Right to remain in Member State during examination of application (Art. 9)</li> <li>- Right to a personal interview on the application (Art. 14)</li> <li>- Examination procedure to be completed within 9 months (Art. 31)</li> </ul>     |
| Dublin III Regulation  | <ul style="list-style-type: none"> <li>- Minors shall be united with family members in a Member State, if given and desired; State is responsible for application (Art. 8-10)</li> <li>- Valid visa or residence documents determine issuing Member State as responsible for application (Art. 12)</li> <li>- If no other criteria apply, state of first entry is responsible for application (Art. 13)</li> </ul> |

Table 1: Key provisions used to assess non-compliance

#### Observation 1: M.S.S.

The *MSS v Belgium and Greece* case concluded with a landmark judgement passed by the European Court of Human Rights (hereafter: ECtHR). It is the key topic of the award-winning thesis “After M.S.S.: the contemporary asylum and migration situation in Greece”, written by Nynke Staal in 2014. As the title suggests, it examines the impact that this judgement had on the asylum situation in Greece. While the judgement still took place under Dublin II, it makes sense to address it here, as it was a major initiator of the Dublin III reform. Also, it demonstrates that the reforms made by the Greek government did improve the situation, but still leave much to be desired. (Staal, 2014) It therefore is still suitable for giving insight into Greece’s non-compliance behavior under Dublin III. Moreover, it illustrates the problems that Dublin III tried and failed to tackle, and which Dublin IV is yet to attempt to solve.

MSS is an Afghani citizen who, after entering the Dublin Area via Greece, where his fingerprints were taken, applied for asylum in Belgium. There, it was discovered that he had entered via Greece, which resulted in Belgium deciding to transfer him back there. He appealed against this decision both to Belgium and to the ECtHR. But his appeal to Belgium was rejected without detailed examination. The ECtHR rejected his appeal, too, but informed the Greek government that this was based on their assumption that the Dublin II Regulation would be upheld. After a long period that included extensive periods of time where MSS was homeless, as well as short windows where he was subject to degrading treatment, he complained to the ECtHR once more, with more effect: they ruled that both Greece and Belgium had violated Articles 3 and 13 of the European Convention on Human Rights (hereafter: ECHR). (Staal, 2014, p. 21 f.)

To understand the relevance of the ECHR Articles to this paper, it is important to understand their content. While the Dublin III Regulation puts no emphasis on these articles, their content is similar or even identical to other legislation that is explicitly mentioned. Article 3 of the ECHR reads

***“Prohibition of torture***

*No one shall be subjected to torture or to inhuman or degrading treatment or punishment.”*

- Art. 3 ECHR

It bears a striking resemblance to Article 4 of the Charter, which reads

***“Prohibition of torture and inhuman or degrading treatment or punishment***

*No one shall be subjected to torture or to inhuman or degrading treatment or punishment.”*

- Art. 4 Charter

Since both articles are identical in content, the ruling of the ECtHR that Article 3 of the ECHR was breached states that Greece did also not comply with Article 4 of the Charter. Therefore, this is a case of non-compliance with Dublin.

In supplement to ECHR Article 3, the ECtHR also ruled that the Greek government had not complied with the Reception Conditions Directive, which prescribes that applicants should be provided with accommodation and decent material conditions. This strengthened the impact of the Directive, as it essentially made Article 3 of the ECHR more tangible. (Staal, 2014, p. 24 ff.)

The social context reveals a problematic humanitarian impact of this non-compliance with Article 4 of the Charter, and with the Reception Conditions Directive. MSS was homeless for in a park in Athens, deprived of food, sanitation and accommodation, and under constant fear of being attacked or robbed. According to the court, such circumstances put in jeopardy the mental and physical health of MSS. And in a city where at the time, the number of applicants outnumbered the number of accommodation places significantly, one can assume that a vast number of people was in a comparably desperate situation. (Staal, 2014, p. 24 ff.) Hence, the humanitarian situation was crisis-like, demonstrating how devastating the impact of such non-compliance with Article 4 of the Charter, and with the Reception Conditions Directive, is.

Next to Article 3 of the ECHR, Greece was found to be non-compliant with Article 13 before the ECtHR. It grants everyone whose rights have been violated the right to effective remedy. While this article, too, is not cited in the Dublin III Regulation, the right to an effective remedy is underpinned twofold: in Article 47 of the Charter, and in Article 46 of the Common Procedures Directive. Staal (2014) summarizes the remedy-related shortcomings identified by the court, such as:

- The difficult access to the asylum procedure, resulting from the mere three-day time limit of application submission;
- The shortage of interpreters;
- The lack of training of relevant officials;
- The lack of legal aid;
- The long delays in receiving the decision. (p. 27)

Undoubtedly, these findings by the ECtHR demonstrate significant non-compliance with the ECHR. And the provisions that were not complied with are found present in the Dublin III Regulation, or the Directives it entails. Most importantly, the above-mentioned Common Procedures Directive: While Staal (2014) does not quote the Court as referring explicitly to this Directive, and rather relating its conclusions to Article 3 of the ECHR, the conclusions very much parallel the Directive's provisions. And although it was only put into its current form after the judgement, it is worthwhile to examine the ECtHR's ruling on certain aspects, as it provides insight into what the ECtHR might deem as non-compliant with

the Dublin III Regulation. This is especially true for the lamentations that are particularly dealt with in Dublin III and the Common Procedures Directive.

Firstly, the time-frame of three days granted to lodge an application was deemed insufficient by the ECtHR, and is thereby non-compliant with the provision that applicants should have sufficient time to lodge their application. (Art. 12(a) Common Procedures Directive)

Second, the shortage of interpreters stands in conflict with Article 12(b) of the Common Procedures Directive, which declares that interpreters for application procedures before the authorities should be available whenever necessary. As the court identified a shortage of interpreters, this Article was clearly not complied with.

Next, the lack of training of relevant officials is non-compliant with Article 4 of the Common Procedures Directive. Said article requires the exact opposite, namely sufficient numbers of relevant officials should be adequately trained. (Art. 4 Common Procedures Directive)

The lack of legal aid that the ECtHR also criticized is also not in compliance with the Common Procedures Directive, specifically with Articles 19 and 20. The former requires that applicants be provided with legal information for free. The latter allows for Article 19 to be circumvented, if legal assistance and representation are provided for free. Since the ECtHR held that legal aid was lacking, this would be considered non-compliant with these articles.

The excessive delay of the decision was also criticized. While the current Common Procedures Directive allows for 6 months, with a maximum delay of an additional 9 months (Art. 31(3)), a decision had still not been made after this time. (Staal, 2014, p. 21 f.) Hence, this already flexible provision would be stretched beyond breaking point, and the delay would equal non-compliance with the Common Procedures Directive.

In a social context this meant that MSS, and thousands of other asylum seekers alongside him, have not been able to a fair, effective asylum procedure. Acceptance rates have been devastatingly low, with Staal (2014) quoting the UNHCR stating that, of 12,095 appeals lodged against unfavorable decisions, a mere 36 were successful. (p. 27) Such circumstances constitute a massive risk of 'refoulement', which means asylum applicants being arbitrarily sent back to a country of origin where they face persecution, torture, or even death. And the risk seems significant when one considers that reaching Greece often involves a dangerous and costly journey. Paired with the fact that the poor reception conditions in Greece are no secret, it seems unlikely that the people truly trying to escape a precarious situation would constitute such a small percentage, while so many would accept the costs and risks for minor reasons. So it is logical to assume that a large percentage of the unfavorable decisions were taken against people who, given due consideration, should have been granted asylum. Instead, many seem to have been condemned to refoulement.

#### Observation 2: M.S.S. – implications

By far the most striking result of the ECtHR's judgement in this case was the suspension of transfers to Greece. Until this day, most Member States have refrained from transferring asylum applicants back to Greece based on the state of first entry principle. (Staal, 2014, p. 2) Clearly, Greece had proven itself unable to comply with the Dublin II, and later, Dublin III, after the installment of which the transfers remained suspended. What is truly remarkable here is the evident extent on non-compliance, which manifests itself in a systematic non-application of the most basic principle of the Dublin III Regulation. Such an extreme consequence resulted from an extremely misfit policy design, as shall be elaborated in a later chapter.

An additional consequence, caused at least partially by the MSS case, is the Greek Action Plan on

Migration Management. Drafted in 2010, most of its actual implementation did not take place until 2013. Most importantly, this is when the new system for asylum applications entered into force, under which the examination of asylum applications does not fall primarily into the jurisdiction of the police, but of civil servants trained for this task. This can be considered the most striking change, though it is important to acknowledge that efforts were made to improve reception conditions with more spacious reception centers. The so-called First Reception Service grants each occupant at least 5m<sup>2</sup>, provides separate accommodation for men, women and families, and provides medical and physiological support, as well as legal information. As a result, the SPHERE requirements regarding space, food, water and privacy, as described earlier, would largely be met. Additionally, applicants are meant to be screened, in order to determine their identity and nationality. Finally, they are referred to reception centers for asylum seeker or facilities for vulnerable groups, or are returned to their countries of origin. The latter may be interrupted by a stay at detention centers. (Staal, 2014, p. 34 ff.) Hence, superficial legal efforts were made to comply with the Dublin III Regulation by transposing important elements of it into Greek national law. Whether these efforts were effective, shall be further examined in the upcoming paragraphs.

### Observation 3: Detention & Living Conditions

According to Staal (2014), the detention conditions have not significantly improved. Asylum applicants continue to be detained systematically, rather than giving their circumstances and merits due consideration. (p. 52) Clearly, this constitutes a breach with Article 4 of the Qualification Directive, which states that applications must be assessed on an individual basis. Staal also adds that “[in] practice, the authorities consider that being in an irregular situation automatically constitutes sufficient basis for detention.” (Staal, 2014, p. 52)

Greece is not only non-compliant with Article 4 of the Qualification Directive for the above reasons. Detaining applicants simply because they are applicants stands in plain, obvious conflict with Article 8(1) of the Reception Conditions Directive. Said directive states that “Member States shall not hold a person in detention for the sole reason that he or she is an applicant”, thereby prohibiting the exact practice of the Greek authorities. While this is not an encompassing picture of the situation, it does indicate that the measures taking fall short from truly solving the problems they are officially meant to target. In fact, there still seem to be significant shortcomings, wide-spread throughout the Greek asylum system. (As Staal (2014) phrased it: “Detention is applied systematically”.)

NGO’s underline the above paragraph: Médecins Sans Frontières (hereafter: MSF), for instance, lamented the systematic detention of applicants for 18 month periods, strengthening Staal’s (2014) claims that systematic detention is taking place. MSF described that many detained also did not have access to open air for up to 17 months, and added that the detention conditions had “devastating consequences on [the applicants’] health and human dignity”. (MSF, 2014) This is non-compliant with the Reception Conditions Directive, which prescribes in Article 10(2) that “Detained applicants must have access to open-air spaces.” In addition, the threats to health and human dignity are non-compliant with Article 4 of the Charter, and with Article 17 of the Reception Conditions Directive, both of which do not allow such treatment. In order to solidify these allegations further, another, supplementary source shall be presented: the Asylum Information Database (hereafter: AIDA) also concludes that the new Asylum laws, in practice, lead to the systematic detention of irregular migrants, though AIDA does state that this was not observed beyond the Greek mainland. (AIDA, 2017d) Furthermore, this database also identifies practice in Greece that is not in compliance with the Dublin III Regulation’s explicit content: Article 28(2) states that detention is only acceptable if “other less coercive alternative measure cannot be applied effectively.” However, there is no systemic application of such alternatives, and Greek authorities see the application of such measures after the order for detention has been made as sufficient. (AIDA, 2017a) Therefore, it seems that detention is not the last resort, but the norm, opposite to what Article 28(2) of

Dublin III would require. Furthermore, AIDA notes that vulnerable groups, such as victims of torture and unaccompanied minors, are also detained systematically, under the same detrimental conditions as other asylum seekers. (AIDA, 2017c) This is another practice that is in non-compliance with Dublin III: Article 11 of the Reception Conditions Directive surrounds the issues of vulnerable persons in detention, providing that their physical and mental health is to be “of primary concern to national authorities.” The article continues to elaborate that vulnerable detainees should be kept separate from regular ones if possible, provided with necessary support, and that especially unaccompanied minors should be detained only under “exceptional circumstances”, as a last resort. This emphasizes that for minors especially, systematic detention is unacceptable, yet it seems to be common practice.

#### Observation 4: State of First Entry Principle

This sub-section surrounds the implementation of the State of First Entry Principle. Described in Article 13(1) of the Dublin III Regulation, it allocates responsibility to the first Member State that the applicant sets foot in. While this is almost the last criterion for establishing responsibility, it is, next to Article 12 of Dublin III, the most commonly used determinant for doing so. (Commission, 2016b, p. 9) As elaborated previously, it is especially this element of the Dublin III Regulation that leads to an extremely unbalanced distribution of responsibility, unfavorable towards states with external borders, such as Greece. Since the state was vastly over-challenged by the sudden influx of asylum seekers, most Member States decided to halt returns of asylum seekers to Greece. Despite this exemption, the sub-sections above demonstrate that Greece has been far from capable of implementing the Dublin III requirements. In addition to this, the European Commission announced that the return of asylum seekers to Greece following Article 13(1) of Dublin III may be progressively, starting March 15, 2017. (Commission, 2016a) It seems likely that this step would compound the problems identified in the previous sub-sections. But it is a clear fact that this exemption, which has been in place for the past 6 years now, is hardly compliant with the Dublin III Regulation. After all, it would not allow for such a measure, since it stands in conflict with Article 13(1). Therefore, the exemption, and the resulting interruption of most returns of migrants to Greece according to Article 13(1), produce a significant issue of non-compliance with the Dublin III Regulation.

Again, it is important to put this non-compliance issue into a social context. For while, for example, the abysmal conditions that MSS was subjected to due to non-compliance on behalf of the Greek state may be hard to defend, the effects of not sending refugees back to Greece cannot simply be reduced to morally condemnable ones.

On the one hand, it is indeed important to consider possible problematic implications of the measure. If Dublin III was complied with in full, it would provide legal certainty, allowing for asylum seekers to know how the need to plan their journeys, depending on where they wish to apply. If, for instance, a person wishes to apply for asylum in Germany, but absolutely not in Greece, Hungary, or another state with external borders, the options would be clear under these circumstances: either the person could fly to Germany and apply for asylum there, or, if this turned out to be impossible, he or she would know that there is no point in trying to get there. The only result of such an attempt would be applying for asylum in a different country, which is reachable by land or sea.

However, since returns to Greece have been halted, people may decide to take a risk. They may try to pass through Greece and other countries unchallenged, perhaps with the help of smugglers or on foot. However, this decision entails two significant risks: firstly, travelling to the Dublin Area is often a very dangerous endeavor, depending on both the origin of the individual and the selected route. For instance, in 2015, almost 850,000 people attempted to reach Greece by crossing the Aegean Sea, of which 806 died. (Dearden, Black, & Singleton, 2016, p. 2) And this is only an isolated risk that asylum seekers face, on what may be only a fragment of the whole journey for many. Secondly, there is also a risk of not actually

reaching the desired destination. For instance, if an Afghani family wanted to travel to Germany to avoid the harsh living conditions for refugees they have heard of in Greece, they may never reach their destination. They might be expelled, and perhaps after a detention period of almost two years. The consequences that this can have for mental and physical health have been explained previously.

If, on the other hand, the Member States were fully complying with Dublin III, many people may be disincentivized, avoiding the risky journey, as well as the risk of never reaching their intended destination. However, this argument is dampened by the fact that it is only a part of the picture: if the Member States don't ensure that all or almost all irregular entrées are registered, there is still a prospect of passing through Greece without being sent back. Hence, the full application of Article 13(1) would reduce, and not remove, the incentive to take the risks explained above.

Against this argument that the halted return of refugees to Greece is harmful to asylum seekers stands a significant argument pertaining to the asylum seekers' wellbeing. For as elaborated in the above observations, living conditions in Greece are insufferable for many asylum seekers. By systematically not complying with Article 13(1), many asylum seekers were able to avoid these conditions, and instead apply in countries like Germany or Sweden. Based on the statistics given earlier, Germany received almost 40 times as many applications as Greece, and Sweden received about 14 times as many. While such secondary movement is very difficult to track, these numbers allow for some level of induction. Greece is considered a key point of entry to the Dublin Area, while Germany and Sweden are far less likely. (Frontex, 2016) However, the distribution of applications is opposite from what one would expect based on these geographical facts, making it seem likely that asylum seekers passed through Greece and headed for other countries, like Germany and Sweden, where they lodged an application for asylum. As a result, these asylum seekers are subjected to far less dire circumstances. For instance, while there appear to be certain, not unimportant issues of overcrowding, the housing situation in Germany is much less dire. While, as described previously, Greek asylum reception centers are frequently overcrowded beyond the breaking point, the criticism to the German ones is more benign. For instance, the absence of rooms with a single bed was criticized. (AIDA, 2017b)

Hence, it can be assumed that, through the redistribution of migrants from Greece to other countries with better reception conditions, the overall wellbeing of asylum seekers was improved. And this redistribution was increased by not returning asylum seekers to Greece under Article 13(1) of the Dublin III Regulation. Therefore, one can argue that non-compliance in this case has had a positive humanitarian impact.

This chapter has dealt with four key issues of non-compliance:

- The non-compliant behavior of Greece in the *MSS v Belgium and Greece* case before the ECtHR;
- The non-compliant legal and practical consequences of that case for the Greek asylum system;
- The non-compliant living conditions of asylum seekers in Greece, also in detention;
- And the systematically enforced non-compliance of most Member States with regard to returning asylum seekers to Greece, if it was their first point of entry to the Dublin Area.

As of now, it seems clear that the Greek asylum system shows significant practical flaws, especially with regard to detention conditions, as well as the proper examination of applications. The above paragraphs demonstrate evident non-compliance with:

- Article 4 of the Charter: Prohibition of inhuman or degrading treatment or punishment.
- Article 4 of the Qualifications directive: Regarding the proper examination of applications.
- Article 8(1) of the Reception Conditions Directive: Prohibition of detention of applicants due to their status as applicants.
- Article 10(2) of the Reception Conditions Directive: Access to open air space for detainees.

- Article 11 of the Reception Conditions Directive: Regarding the health precautions for vulnerable people, and the need for exceptional circumstances when detaining minors.
- Article 17 of the Reception Conditions Directive: Regarding adequate living conditions.
- Article 13 of the Dublin III Regulation: Return of asylum seekers to the state of entry.
- Article 28(2) of the Dublin III Regulation: Alternative measures should be chosen over detention.

Significant issues of non-compliance have been identified, which are confirmed as such by relevant authorities, including the UNHCR, the ECtHR, and NGOs. As it stands, these issues mostly have a damaging effect on the refugees' physical and mental health, and may even stand in conflict with human rights. However, the notable exception is the systematic exemption of Greece from Article 13(1) of the Dublin III Regulation. Aside from being the only official measure that was internationally agreed upon among those discussed, it is also the only case of non-compliance that is considered to have potentially effects for the asylum seekers. Therefore, it will play an important role when discussing remedies to increase compliance in Greece. It is important to note that this is not an encompassing list of all provisions that were breached. Rather, it is a selection of the most significant ones, sufficient for the purpose of this thesis, but not excessive to the point of incomprehensibility.

### *Explaining non-compliance in Greece*

This section will be dedicated to an examination of possible approaches for explaining the significant issues of non-compliance with Dublin III in Greece. It shall draw on existing literature dealing with non-compliance theories in general, but will also incorporate literature on Dublin III compliance as such. As stated earlier, the three main general theories regarding non-compliance to be used in this thesis are the Misfit theory, the Sanctions/Incentives theory, and the Cost/Benefit theory. They will be applied to the Directives prescribed by the Dublin III Regulation, and Dublin III itself.

### Qualification Directive

Regarding the Qualification Directive, Greece's most recent legal measure aimed at transposing it into Greek legislation was Presidential Decree No. 141/2013. (Greece, 2013b) It bears striking resemblance with its predecessor, Presidential Decree No. 96/2008. (Greece) Key aspects of the directive discussed in this paper are largely identical or very similar, such as the assessment procedure, or Article 23 on maintaining family unity. As these articles are also in compliance with the Qualification Directive, the policy misfit was very low for the most part, making legal transposition a feasible task. This also the only Directive among the ones examined here for the transposition of which Greece did not receive a Letter of Formal Notice from the European Commission in September 2015. (EU, 2015)

However, as asserted earlier, the practical implementation of the Qualification Directive is far from adequate, with significant shortcomings in the assessment procedure. For instance, the law dictates that many different aspects must be taken into account (Art. 4(3) Presidential Decree no. 141/2013). Formally, this is in compliance with the Qualification Directive. In reality, as noted earlier, applications are not being given due consideration, amounting to non-compliance in practice, which may at least in part be explained by the existing theories.

Borzel's (2000) Misfit theory offers some explanatory power here. Her concept of structural misfit, i.e., the incompatibility of the EU policy with the national one, seems to be unsuitable: the previous paragraph explains that the legal transposition was unproblematic. As for the practical implementation problems, Borzel's assumption that EU infringement procedures will reduce the chance of non-compliance is reversely confirmed: the EU has not created any credible threats and pressures that would deter Greece from practical non-compliance. Figure 5 shows how Borzel's model contributes to explaining non-compliance with the Qualification Directive:

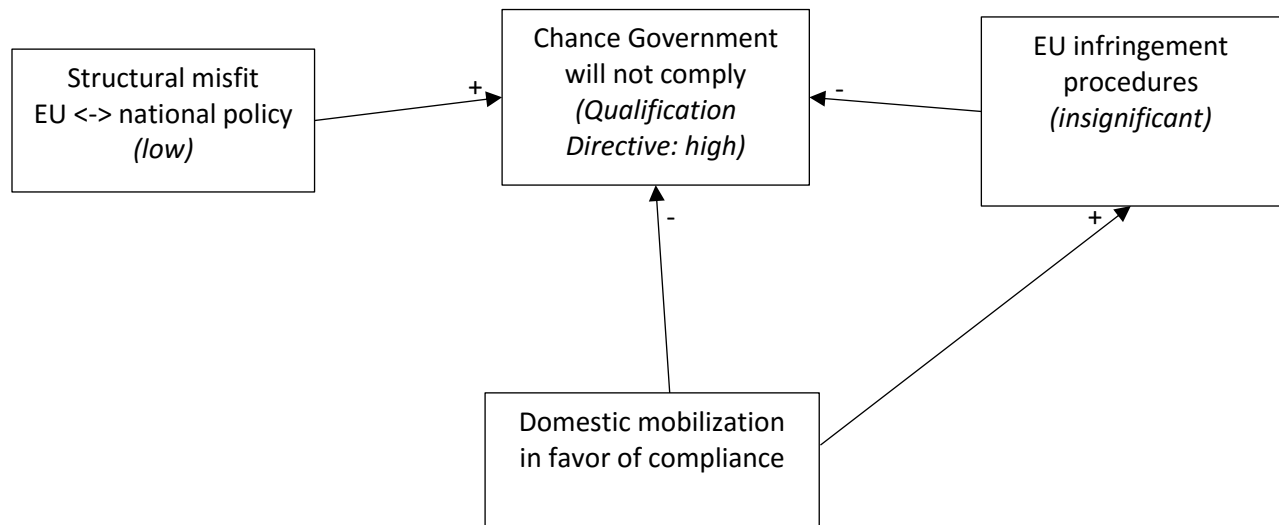


Figure 5: The misfit model as proposed by Borzel (2000), with the added concept of “economic misfit”. It allows for the inclusion of the Sanctions/Incentives theory.

But this alone cannot explain Greece’s non-compliance, since not all EU law’s practical implementation depends on credible sanctions. Therefore, the Sanctions/Incentives theory, which slightly overlaps with the Misfit theory, should be considered. While also considering the threat of being detected when not complying, Underdal (1998) also incorporates the importance of incentives for compliance. As Underdal put it: “The weaker the causal link between each party’s own compliance and that actor’s own benefits from the project, the weaker are its incentives to comply.” (p. 10)

This begs the question: What are the benefits Greece can hope for if it complies? Between 2014 and 2020, the country is meant to receive €475 million from community funds. By comparison, the European Parliament stated that the refugee crisis cost Greece €300-350 million in 2015 alone. Hence, Greece has been granted, over a period of seven years, a sum amounting to 136-158% of what the crisis cost them in just one year. (EU, 2016c) It hence seems likely that Greece will still suffer a significant net loss every year, if funding is not dramatically increased. In addition, the estimated costs amounted despite the significant non-compliances with Dublin III, which clearly were less costly than compliant practices would have been. It is also important to consider that Greece is struggling with a financial crisis, enduring for instance the biggest government deficit in the EU in 2015 (-7.5%). (eurostat, 2016a) For a country which is greatly challenged economically, incentives would be even more import to provide, as the costs are even more painful to bear. Therefore, the lack of sanctions and incentives seems to play a passive role in Greece’s non-compliance. While their lacking is not directly a cause of non-compliance, their stronger presence would increase the chance of compliance.



In order to create a more integrated model, the Sanctions/Incentives theory can be incorporated into the Misfit theory, as shown in Figure 5:

For the integration of the Sanctions/Incentives theory into the Misfit model, it is necessary to introduce the new term “economic misfit”. While Borzel’s (2000) concept of misfit focuses on structural issues, and is therefore termed “structural misfit”, an economic misfit is the net gain or loss that an EU policy imposes on a country. It reflects the reality that a policy which is extremely costly for a country without justification, will often be perceived as a misfit by the government and the people. But EU can use incentive tools, which improve the net outcome, thereby reducing the economic misfit and the chance that non-compliance will occur. In the case of Greece, it seems a clear economic misfit is given: the country is, as previously established, burdened more than other Member States, without any reason why it should be. And this injustice is compounded by its weak economy, justifying the description of the Dublin III Regulation as an economic misfit for Greece. And this economic misfit is resulting in increased non-compliance with, amongst others, the Qualifications Directive, in order to reduce government expenditure.

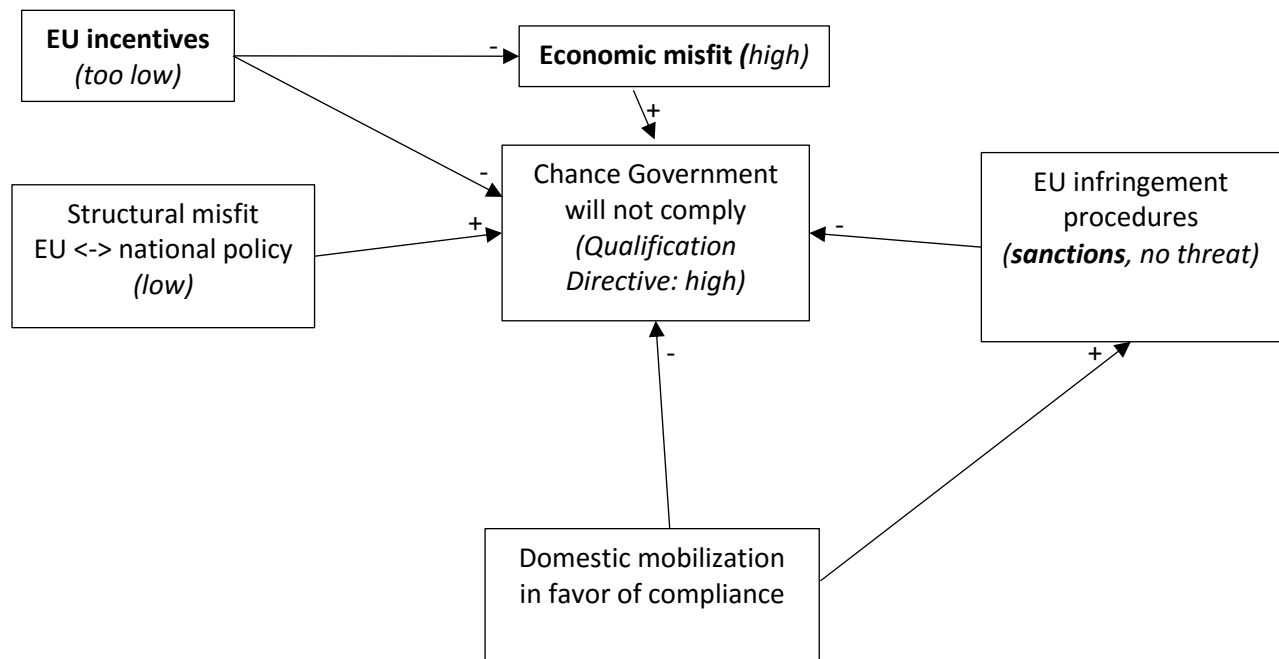


Figure 6: The misfit model as proposed by Borzel (2000), with the added concept of “economic misfit”. It allows for the inclusion of the Sanctions/Incentives theory.

But economic misfits are not caused by the lack of incentives. Rather, incentives have the potential to reduce economic misfit. Economic misfit, like structural misfit, is a result of the policy design. Closely related is the Cost/Benefit theory, according to which the decision on whether or not to comply with a policy is taken based on a calculation of the costs versus the benefits. (Underdal, 1998) Examples of costs in the context of implementing Dublin III and the Qualification Directive may be simple financial costs, costs in public support, and costs in reputation. In contrast, financial and reputational gains are also possible when complying. While financial costs have been well explained, the other four aspects deserve some elaboration.

Financial gains might be made through new labor force, since compliance would mean assessing applications properly. (Art. 4 Qualification Directive) This would increase the number of beneficiaries, who are meant to have access to employment, making them potential tax payers. (Art. 26 Qualification

Directive) However, these potential gains seem marginal compared to the financial costs, especially since the language barrier would be a significant obstacle for refugees seeking employment.

Public opinion in Greece is unfavorable towards migrants from poor countries, according to a poll where Greek citizens expressed the second-lowest desire to receive such immigrants. (Hatton, 2016) As refugees clearly fall into this group, the public would not be supportive of government measures that seem generous in any way towards the refugees. The proper examination of every application, which would result in more people entitled to benefits, is costly. Especially during economically trying times, it would reduce public support for the government, making it less inclined to comply.

As for Greece's reputation, the country has been receiving many demands from the EU for several years. (Stamouli, 2016) Their Prime Minister, who tends to build on his reputation as a protector from these demands, may require non-compliance with the Qualification Directive in order to maintain his image as a tough negotiator, who will not simply give in to the demands made by the EU. (Bensasson, 2017) On the other hand, Greece might be able to build a more reliable reputation by complying, because of the high cost of doing so. Regarding reputational costs, compliance seems fairly balanced, depending on the reputation that the government wishes to pursue.

According to this short cost/benefit analysis, the respective theory would conclude that the overall costliness of compliance makes non-compliance the more likely choice. It is also the absence of sanctions and incentives that contributes here, as sanctions could make compliance relatively less costly, and incentives could make it less costly or even beneficial. Figure 7 reconciles the three theories, depicting their effects on non-compliance on the Qualification directive.

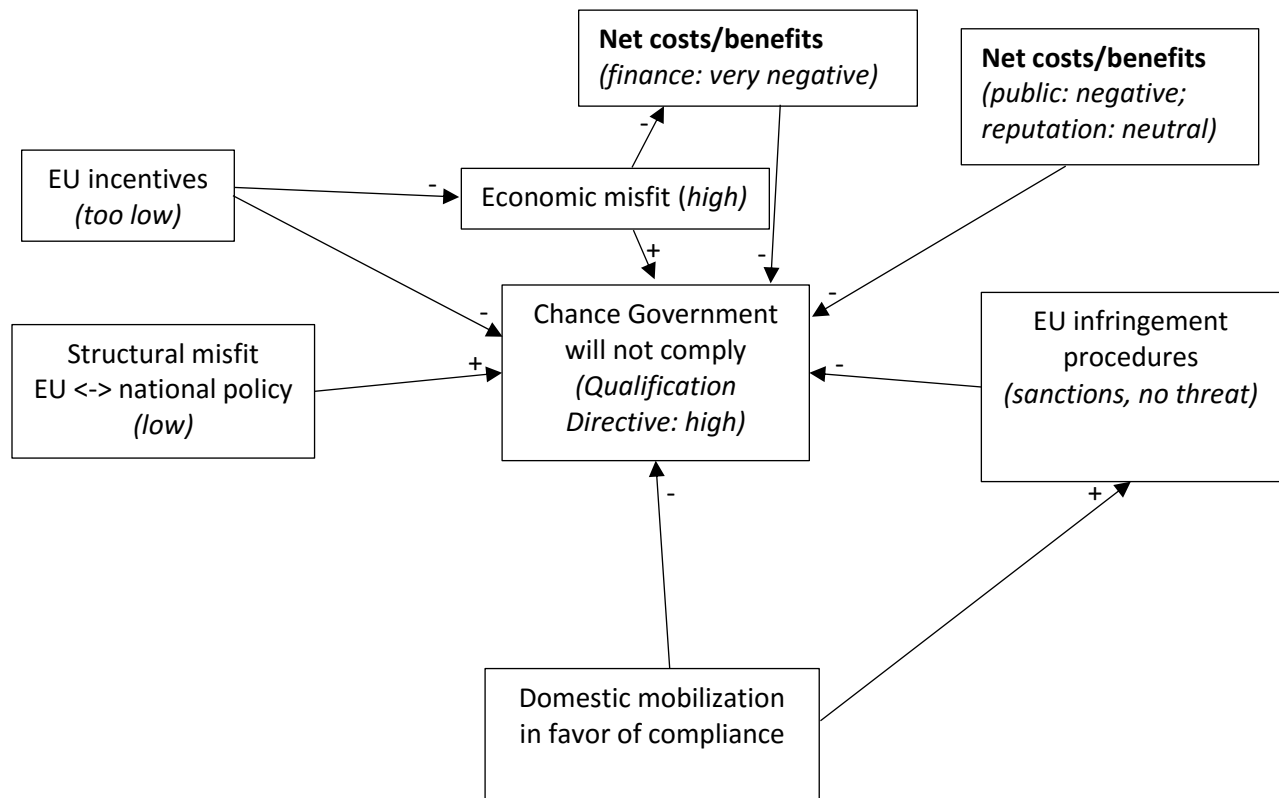


Figure 7: The misfit model as proposed by Borzel (2000), with the added concept of "Economic misfit", as well as the net costs/benefits of compliance. These have a negative effect on the chance of non-compliance, since a high outcome would be beneficial, reducing this chance. The relationship of incentives and economic misfit with financial costs illustrates the relatedness of the Sanctions/Incentives theory with the Cost/Benefit theory. This model illustrates all three theories of non-compliance.

The model presented in Figure 7 illustrates all three theories:

- The Misfit theory by Borzel (2000), with structural misfit and EU infringement procedures
- The Sanctions/Incentives theory derived from Underdal (1998), with EU sanctions and incentives. Sanctions are integrated in Borzel's misfit model, while "economic misfit" allows to express the Sanctions/Incentives theory in the terms of the Misfit theory.
- The Cost/Benefit theory derived from (Underdal, 1998), with several cost and benefit factors of compliance. "Economic misfit" allows to connect the Cost/Benefit theory with the Misfit theory.

It follows from this model that the aspects it includes probably played a big role in causing practical non-compliance, while the formal, legal requirements are met. In the following paragraphs, the model will be applied to the remaining directives and the Dublin III Regulation itself.

#### Common Procedures Directive

First off, it is important to note that the European Commission sent a Letter of Formal Notice regarding the transposition of this Directive. Hence, there seems to be a significant gap between Greece's current asylum procedure and the directive, in the view of the Commission. It describes the issues as "structural flaws in the functioning of the guardianship system or legal representation of all unaccompanied minors during the asylum procedure." (EU, 2015) In previous sections, it has been well established that Greece does not comply with this directive on several issues, such as the proper assessment of applications.

However, here too, the legal content is largely transposed: Presidential Decree No. 113/2013 lays out comparable procedural provisions as the corresponding EU directive. (Greece, 2013a) Therefore, it seems that the European Commission is criticizing the practical application of the law, without an apparent reason as to why it has not done so with the Qualification Directive.

As for the theoretical explanations for this non-compliance, the high costs are most likely a key factor. Implementing requirements such the presence of sufficient interpreters, or legal representation (Art. 7(3) and 10 Presidential Decree No. 113/2013) is costly. And committing to such expenses would have the consequences discussed for the Qualification Directive, leading to the same conclusions for the model as shown in Figure 8:

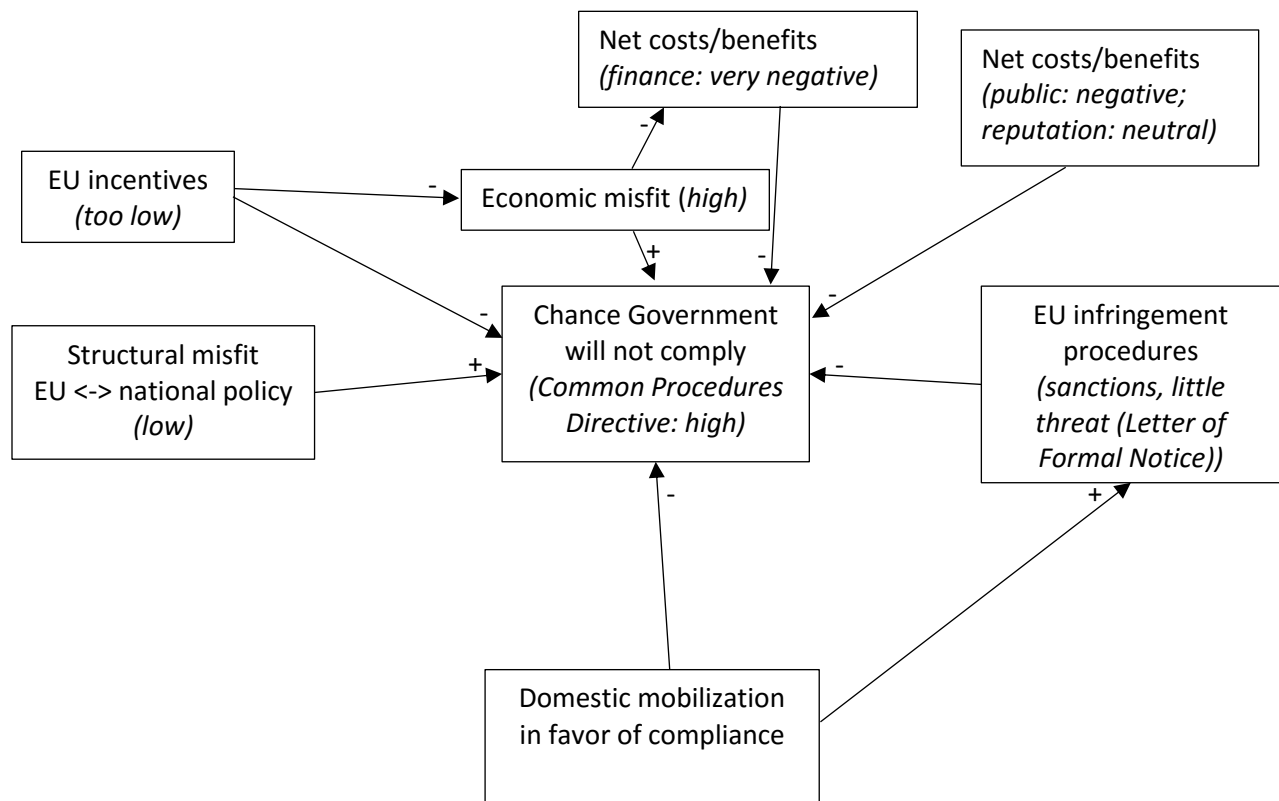


Figure 8: the complete model as derived from the application of theory to the Qualification directive (see Figure 7), applied to the Common Procedures Directive.

#### Reception Conditions Directive

This Directive has also been transposed into Greek law quite accurately: although almost a decade old, Presidential Decree No. 220/2007 reflects the requirements of the directive satisfactorily. (Greece, 2007) However, as examined earlier, also this directive was found to have substantial practical shortcomings, especially regarding material reception conditions. And these are a key reason for why the European Commission sent a Letter of Formal Notification to Greece. (EU, 2015) The contrast between compliance on paper and non-compliance in practice, which again seems routed in the costs, compounded by the economic crisis. Hence, Figure 9, which depicts the model from Figure 7 applied to the Reception Conditions Directive, yields the same result as Figure 8.

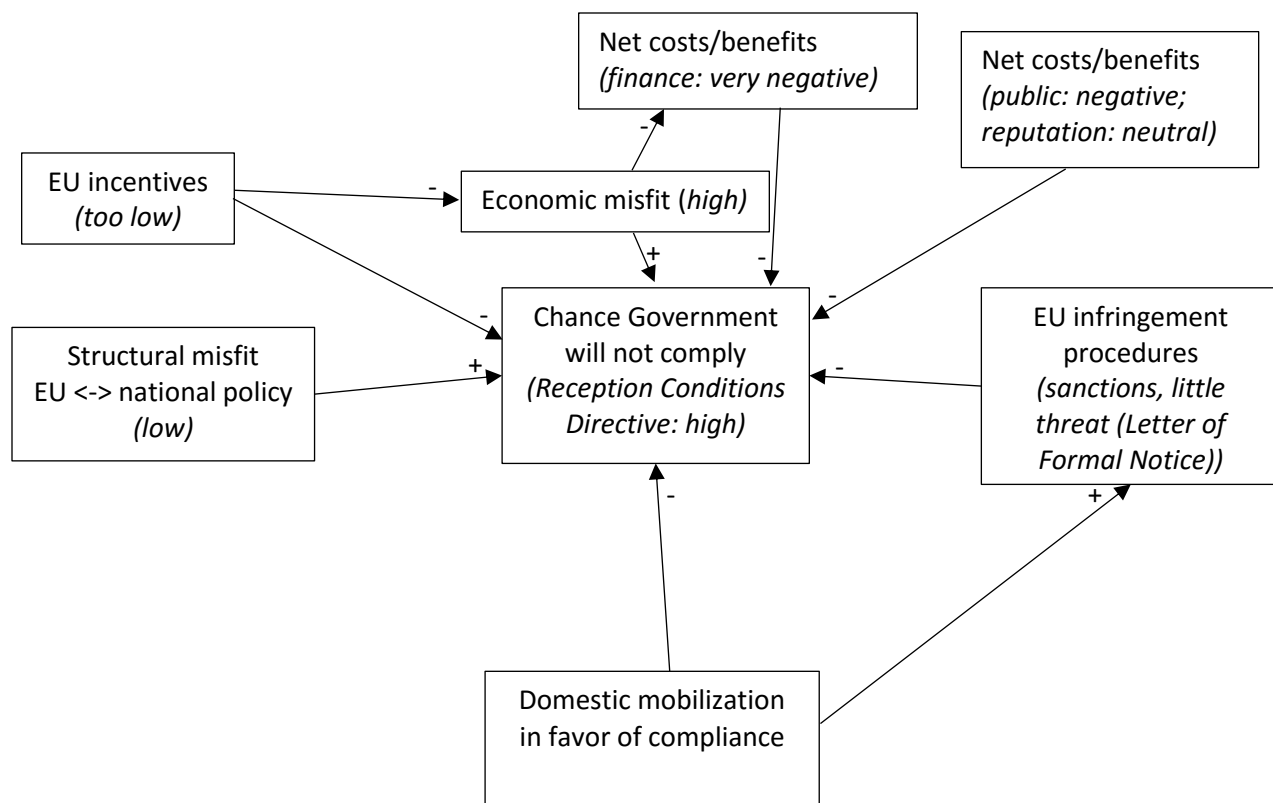


Figure 9: the complete model as derived from the application of theory to the Qualification directive (see Figure 7), applied to the Reception Conditions Directive.

### Dublin III Regulation

Lastly, the picture for the Dublin III Regulation itself does not diverge from the directives. Of course, legal transposition is not an issue here, as it is not a directive, but a regulation. But reality seems to follow a similar logic in non-compliance. Like for the directives, implementing Dublin III properly would be costly. As established earlier, Greece is a key entry point to the Dublin Area. Therefore, avoiding the breach with Article 13(1) would mean handling a lot more applicants, which, in turn, would mean much higher costs – especially if the directives are to be applied properly. And of course, the manner in which Article 28 is breached is efficient, though humanitarily disconcerting: the systematic detention of refugees under abysmal circumstances, as described previously, is a lot more cost effective than applying detention as a last resort, and with much more humane circumstances, as Article 28 prescribes. So again, the combination of high costs with the economic crisis, as well as a lack of sanctions and incentives from the EU, seem to be the issue here. And notably, for Article 13(1), the EU has not sanctioned Greece, but has ratified an exemption, making non-compliance the only possible outcome as long as the exemption holds.

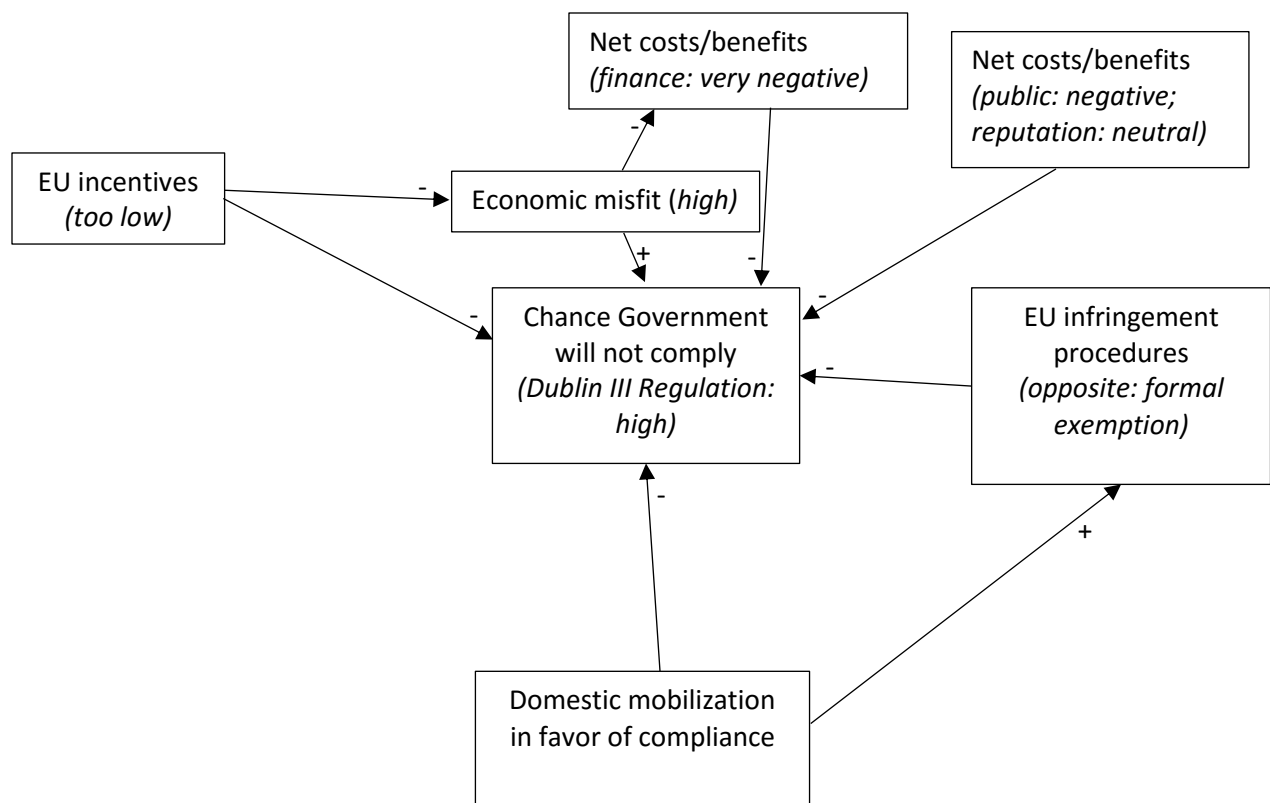


Figure 9: the complete model as derived from the application of theory to the Qualification directive (see Figure 7), applied to the Reception Conditions Directive.

In conclusion, Greece's significant non-compliance can largely be explained by the three theories. And although Borzel's (2000) Misfit theory has little explanatory capacity on its own in this particular case, its framework provides a valuable basis for integrating the other two theories. Notably, the Cost/Benefit theory has proven to be the most applicable one in this context. This is due to the fact that compliance is exceptionally costly due to the large influx of refugees in Greece. This effect is compounded by the economic crisis the nation is currently grappling with, since spending money on the well-being of asylum seekers is hard to justify at such a time. In the next chapter, the nexus created between the observable reality and the three theories will be used to discuss the potential compliance situation in Greece under a Dublin IV Regulation.

## Dublin IV

### Comparing Dublin IV to Dublin III

This section will list and examine the key similarities and differences between the Dublin III Regulation and the proposal made by the commission for a recast. Here termed Dublin IV proposal, or Dublin IV, this specifically refers to the proposal as laid out in COM(2016), 270 final. (EU, 2016d) Important similarities will be articles identified as problematic for compliance under Dublin III that have not changed significantly. Also, differences likely to impact compliance behavior will be described, focusing on articles that alleviate or increase pressure on the Greek asylum system. This may incur either if the Dublin IV proposal means that processing applications becomes more or less costly, or if it means Greece will need to process more or less applications.

#### Similarity 1: Article 13 Dublin III/Article 15 Dublin IV

Identified in this thesis as one of the key causes of non-compliance, it is follows that Article 13 should be examined for any changes. While it would seem intuitive that this key contributor to Greece's overload would be addressed in the Dublin IV proposal, the reality surprises: The only change to this article, aside its renaming as Article 15, is that the cessation of the Member State's responsibility for examining the application 12 months after the irregular entry was abolished. Therefore, responsibility to examine an application of an irregular migrant still lies with the state through which the Dublin Area was entered. But in addition, this no longer changes after a certain period of time, and remains indefinite instead.

#### Similarity 2: Article 28 Dublin III/Article 29 Dublin IV

Article 28 of the Dublin III regulation requires that asylum seekers don't be detained for transfer without good reason, and only if less harsh methods cannot be usefully applied. This paper addressed the established practices of systematic detention employed by the Greek authorities, and the fact that applications are not examined in a proper manner. Yet, change in this Article is limited to deadlines: if a Member State requests that another one should take charge of or take back an application, the requested Member State must now respond within one week instead of two. If the deadline is not met, the request will be considered accepted, and the applicant is to be transferred back to the respective Member State. In addition, the state must make a transfer request in two weeks instead of one month, and must carry out a confirmed transfer within six weeks instead of two months. Should one of these deadlines not be met, the person may no longer be detained. (Art. 29 Dublin IV proposal)

#### Difference 1:

Easily the key difference, the Dublin IV proposal contains the novel *corrective application mechanism*. Laid out in Chapter VII of the proposal, it contains an automatic mechanism aimed at balancing the distribution of responsibility. In principle, it provides that once a Member State is faced with a disproportionately large number of applications, new ones are allocated to less challenged Member States (hereafter: state of allocation), reducing the first Member State (hereafter: benefitting state). (Ch. VII Dublin IV)

In order to do so, it relies on the so-called *reference key*, which determines the maximum percentage of applications for which a Member State may be responsible. The exact value of this key is determined by the Member State's share in the population and the GDP of the EU25, the EU Members without Bulgaria, Croatia and Romania. Both values are weighted equally, resulting in the following formula:

$$0.5 * \frac{Population(Member\ State)}{Population(EU25)} + 0.5 * \frac{GDP(Member\ State)}{GDP(EU25)} \\ = \% \text{ of applications the state must process (quota)}$$

(Annex I Dublin IV)

Should then a Member State receives applications amounting to more than 150% of its quota, new applications are transferred to allocating member states that are below their respective quotas. Once the automated system notifies both of the relevant states, the benefitting state has one week time to decide whether to transfer the applicant, or to refrain from doing so based on the Dublin IV allocation criteria, such as maintaining family unity. (Art. 38(a) Dublin IV) A lump sum of 500€ is then paid to the benefitting state to compensate for transfer costs.

However, the mechanism does not lead to whole process of an application being allocated beyond the responsibility of the benefitting member state. It is still responsible for initial screening, where it determines the admissibility of the application. Detention and deportation of inadmissible applications

are still the responsibility of the benefitting state. Furthermore, the benefitting state must still carry out accelerated application procedures when these are appropriate. (Art. 36(3) Dublin IV)

Another important aspect of the mechanism is that Member States can opt out of it, under the condition that they pay a solidarity fee. Every 12 months, Member States may take this decision, which results in them not becoming allocated states. In return, they must pay €250,000 for every application that would normally be allocated to them through the mechanism. (Art. 37 Dublin IV)

It would seem that the two articles identified as problematic have undergone little change. The same goes for the costly but humanitarily vital directives, which are still referred to in the Dublin IV proposal. (See, for instance: recitals 11, 13, 14, 25, Art. 2(d), (e), 3(3b), 8(2), 20 Dublin IV proposal) The same goes for most other articles which don't seem to have not been significantly altered in ways that would impact Greece's compliance behavior.

However, a significant change in form of a new, supplementary measure has been introduced, namely the *corrective allocation mechanism*. (Chapter VII Dublin IV) It aims at fair burden sharing, despite the exceptions described above. (EU, 2016d, p. 4)

### *Discussing Compliance under Dublin IV*

The discussion will draw on both the theoretical model developed, as well as the experience made in the past. First, the Articles that had been identified as key elements of non-compliance will be discussed, followed by the corrective allocation mechanism. In this section, the principle research question will be answered:

'To what extent can the proposal for a Dublin IV Regulation succeed at reducing non-compliance on the part of the Greek state?' Article 15 Dublin IV

Firstly, the minor changes made to Article 13 of Dublin III seems unlikely to improve Greece's compliance behavior. Despite the fact that it was determined here as the main driver of non-compliance, the only change made to it is the cessation of the state of first entry's responsibility, which is now no longer possible. (Art. 15 Dublin IV) Rather than reducing non-compliance in Greece, it seems more realistic that this incentivizes non-compliance. For once the transfers to Greece under this article resume on March 15, the state will no longer have the option to lighten its burden by letting registered irregular migrants pass through, as they would be returned. Instead, the most likely outcome is that Greece will respond to the increased burden with even less accurate examinations of applications, constituting an even lower degree of compliance, specifically with Article 4 of the Qualification Directive. Against this stands the Backlog Appeal Committee, which examines against first-instance decisions to reject applications. It has overturned most of the rejections that were appealed against, this signaling an important step toward compliance with the Directive, as it prevents the deportation and preceding detention of asylum seekers without considering their merits. (EU, 2016a, p. 4) However, this is not an effect of the Dublin IV proposal, which can hence not be accredited for the impact it has on non-compliance. Therefore, the change proposed in Article 15 of Dublin IV is considered to be increasing non-compliance on the part of the Greek State. This assumption is further supported by the theoretical model: the increased burden through the abolished cessation policy amounts to increased financial costs, resulting in a cost/benefit analysis outcome that promotes non-compliance even more.

### Article 29 Dublin IV

Secondly, Article 29 of Dublin IV, a small change of Article 28 of Dublin III, seems unlikely to improve Greece's compliance behavior. As it sets stricter deadlines for requesting the transfer of a detained, and for carrying out said transfer, it would seem that Greece will be even less likely to comply, since compliance would require a faster, more effective asylum system. But Greece has, as was



established, struggled greatly with asylum processes, and will even more so once transfers to Greece are resumed on May 15. (Commission, 2016a) Hence, it seems that tighter deadlines will only increase Greece's non-compliance, since these would be even harder to comply with. This, too, contributes to a cost/benefit analysis outcome unfavorable of compliance, as making the deadlines would require investing more resources in the asylum system. The reasons why the Greek state is not inclined to do so have been discussed in the previous sub-chapter.

#### Chapter VII Dublin IV

As of now, the changes – especially the lack thereof – that were discussed, indicate that non-compliance is more likely to increase, rather than reduce. A possible reversal of this effect may be achieved by the last element of the Dublin IV proposal that shall be discussed: if the corrective allocation mechanism could reduce Greece's applications to a point at which it is capable of processing them properly, an increase in compliance might become possible.

A first step towards gauging this possibility is calculating the real effect that the corrective allocation mechanism would have had for Greece in the past. In order to simulate this scenario, the formula used for calculating the quota that a state must reach until the mechanism is triggered and lightens the burden should be recalled:

$$0.5 * \frac{\text{Population(Member State)}}{\text{Population(EU25)}} + 0.5 * \frac{\text{GDP(Member State)}}{\text{GDP(EU25)}} \\ = \% \text{ of applications the state must process (quota)}$$

It makes sense to fill this formula with recent data, as this most accurately reflects Greece's current capacities for processing applications. Since data of Greece's 2016 GDP are not yet available, and the key requires values of a twelve month period (Art. 34(3) Dublin IV), data from 2015 are used:

- Population(Greece) ≈ 10.8 million
- Population(EU25) ≈ 478 million
- GDP(Greece) ≈ \$0.195 billion
- GDP(EU25) ≈ \$16.0 trillion

(World Development Indicators, 2017)

As a result, the share of applications that Greece was meant to process in 2015 calculates as follows:

$$0.5 * \frac{10.8}{478} + 0.5 * \frac{0.195}{16} = 1.74\% \text{ of total applications may be processed by Greece}$$

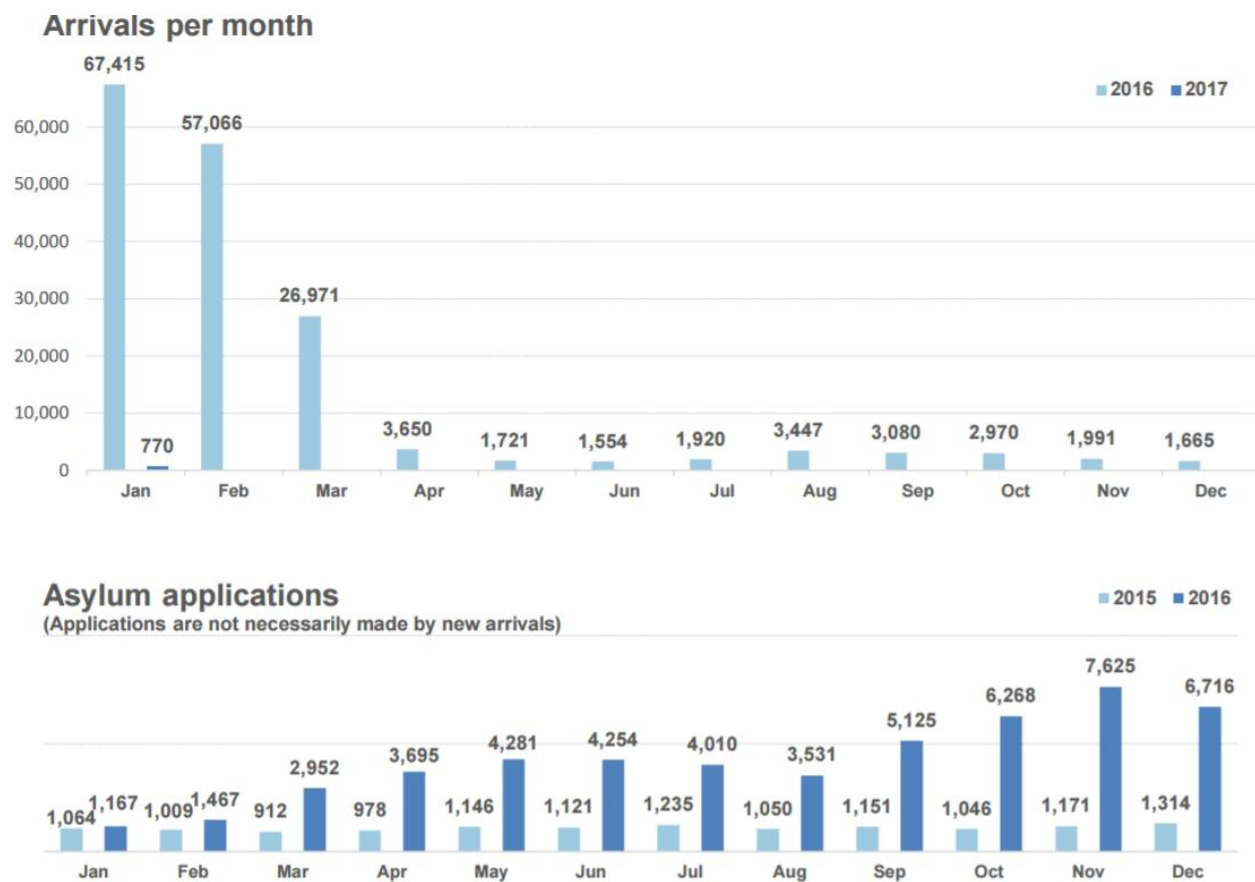
The threshold for activating the corrective allocation mechanism would have been reached if Greece was faced with 150% of this value, so 2.61%. With 1.3 million applications lodged in that 2015, this would mean that Greece would not have been responsible for more than 44,000 applications. However, due to the precarious asylum conditions in Greece discussed in this paper, the state only receive 13,200 applications, remaining far from the threshold established. (Eurostat, 2017) Therefore, Greece would have remained non-compliant, as its burden would not have been affected by the key contribution of the Dublin IV proposal, the corrective allocation mechanism. Of course, this is hardly surprising, as Article 13(1) of Dublin III did not apply for Greece in 2015, preventing a presumably large number of applicants from being returned to Greece. However, the Commission has announced the end of this measure for March 15, so

presumably, Dublin transfers according to Article 13(1) will be taking place once Dublin IV may be installed. (Commission, 2016a)

This allows for a cautious prediction: if returns are reinstated, this may result in much higher numbers of applications in Greece. The reason for this is that applicants would be aware of the fact that they can only apply there, and will be returned if they try to apply elsewhere after entering through Greece. As a result, the collective allocation mechanism would possibly be triggered, and Greece could benefit from the allocation of a part of the applications to other Member States. As a result, Greece would be more compliant with Dublin IV than it would have been under Dublin III, *after* the reinstatement of the returns under Article 13(1) of Dublin III. It is logical to compare the situation as it might be with and active Article 13(1) of Dublin III, to the situation as it might be under Dublin IV: the active Article 13(1) is a requirement for the full compliance with Dublin III, and later of Dublin IV.

However, in crisis-ridden years like 2015, this would still amount to a huge number of applications that Greece is responsible for, making compliance difficult. In addition, significant responsibilities would remain with Greece, especially the initial screening to determine admissibility, the resulting detention and deportation of inadmissible applicants, and the handling of accelerated procedure. (Art. 36(3) Dublin IV) These responsibilities would significantly dampen the alleviating effect that the corrective allocation mechanism is intended to have.

But it is also important to acknowledge the fact that, in recent months, the Greek government has received an increased number of monthly applications, despite the significantly declining trend of new arrivals:



Source: UNHCR (2017)

These graphics show that, since April 2016, Greece has begun to receive more applications than arrivals, indicating a trend toward more compliance regarding the state's responsibility for processing applications. At the same time, it seems that reception conditions are slowly improving. Although, as discussed earlier, they are still very problematic, there is reason to believe that the current trends, if continued, could lead to more improvements. For if the number of new arrivals in Greece stay at the monthly 2400 average – true for the past 9 months of 2016 (UNHCR, 2017) –, pressure on Greece may reduce significantly these arrival numbers, a fraction of the previous months, could pave the road to success for the country's plan to process 12,000-13,000 applications monthly. (EU, 2016a, p. 5) And since this may enable Greece to reduce its backlog of applications, alongside with the number of applicants it should provide for, costs would reduce, making better conditions for the remaining asylum seekers possible. In addition, the much lower arrival numbers make the resumption of returns to Greece as the state of first entry, as announced for March 15, much less daunting. For migrants are only to be returned if they entered Greece after this date, meaning the number of new applicants is limited by the (currently declining) number of arrivals in Greece. (Commission, 2016a)

And the reduced number of arrivals, paired with a more effective asylum system, could mean a significant reduction in costs, the most influential factor in the non-compliance model proposed previously. Less costs would make compliance with the Dublin IV Regulation far more affordable for the crisis-ridden state. In addition, the smaller expense would be more easily justifiable towards the public, making more compliance regarding the Reception Conditions Directive more likely. However, due to the aforementioned negative stance that the Greek population takes towards migrants from poor countries, the government may still opt to not treat asylum seekers fully in compliance with Dublin IV, in order to maintain public support.

Surely, it is not hard to see that reduced arrival number would increase the likelihood that Greece complies with Dublin IV and its directives, also in ways beyond what the above paragraphs discuss. This idea is also supported by the non-compliance model proposed here: the number of arrivals is an important determinant of the costs, due to the fact that applications must be lodged in the state of first entry. Therefore, significantly lower arrivals mean significantly lower costs. This, in turn, both the model and previous experience would support as factor reducing non-compliance.

However, not only are these assumptions speculative to a significant degree, due to the fact that the numbers may rise again if new routes that enter through Greece are established. But also, these improvements are not at all related to the structure proposed for Dublin IV. And this is problematic, for crises are not always avoidable. For instance, a collapse of the EU-Turkey statement could lead to a renewed, massive influx of asylum seekers in Greece. Turkey currently hosts 3 million refugees, and the statement has hugely reduced the influx to the EU. But tensions between the EU and Turkey have arisen in recent months, significantly compounded by the Turkish government's disproportionate reaction to an attempted coup on July 15, 2016. Since much of the reaction has been and is in conflict with European values, the EU Parliament is calling for a pause of the accession talk, to which the Turkish prime minister responded by threatening to let large numbers of Asylum seekers pass through to Europe. (EU, 2016b)

If this scenario were to become reality – and, given the circumstances, this hardly seems far-fetched –, the changes proposed by Dublin IV hardly seem like they would result in a more compliant behavior by the Greek government. For if the situation were to return to the status quo before the EU-Turkey statement, the corrective allocation mechanism, Dublin IV's key contribution, would not have any effect, as the calculations from before show. Hence, Greece would face the same costs as before, or worse, since the halted returns of applicants to Greece under Article 13(1) of Dublin III are soon to be resumed. (Commission, 2016a) Possibly, the exemption would be reinstated if the crisis were to worsen again. But as this thesis has repeatedly emphasized, Greece was non-compliant with Dublin III despite this exemption, which indeed itself is a form of non-compliance.

And both theory and experience point to two major influencers of non-compliance that were not

addressed in the Dublin IV proposal: first and foremost, the high economic costs are only addressed through the corrective allocation mechanism, which, due to its limitations in Article 36(3), and according to the above calculations, will have little to no effect on Greece. And in the absence of significant financial incentives, this means that the high implementation costs will remain a key driver of Greece's non-compliance. In addition, the absence of credible sanctions continues to give the Greek government no reason to burden itself with these costs, other than humanitarian ones, which have proven fatally useless in the past. Therefore, it seems that non-compliance on behalf of Greece will continue to be a problem under Dublin IV, if the issues named here are not addressed.

## Conclusion

This thesis has dealt with key issues surrounding the Greek state's compliance with the Dublin III and Dublin IV Regulations, as well as their most important directives. Chronologically, it has answered its three sub-questions, which led to the answer of its principle research question:

- *What are the most common theories that explain compliance behavior?*
- *What was the situation of non-compliance in Greece under Dublin III thus far?*
- *Which structural similarities and differences between the Dublin III regulation and the Dublin IV proposal may be relevant to compliance behavior in Greece?*
- ***To what extent can the proposal for a Dublin IV Regulation succeed at reducing non-compliance on the part of the Greek state?***

## Key findings:

- The answer to the first sub-question showed the crystallization of three common theories: the Misfit theory, the Sanctions/Incentives theory, and the Cost/Benefit Theory. These theories were then used to help answer the second sub-question, where they played an important role in analyzing the situation of non-compliance in Greece. During this process, the three theories were developed into a single hybrid model, making them compatible with each other, and enabling a more holistic lens for explaining non-compliance. Consequently, the key similarities and differences between the Dublin III regulation and the Dublin IV proposal were determined, answering the third sub-question. Here, too, the theoretical model created in the first sub-question proved useful, as it supported assumptions on what the relevant similarities and differences between Dublin III and IV were, improving credibility.
- The answer to the second sub-question showed that, while legally compliant, Greece has indeed demonstrated significant practice that is non-compliant with Dublin III. The conclusions drawn proved useful in determining what elements of Dublin IV are important influencers of compliance behavior, as well as in discussing how likely the Dublin IV proposal is to reduce non-compliance. But beyond these practical uses, the answer to the second sub-section also showed the devastating humanitarian impact that non-compliance with Dublin III has, underlining the social importance of this theory, as well as the need for a fairer, more functional asylum system in Europe.
- Sub-question three demonstrated that the reforms proposed in Dublin IV are very limited. Indeed, they appear to be an attempt to make feasible what has already been proven unfeasible, relying more on a supplementary mechanism, rather than promoting actual change. This sub-question's findings formed the basis on which the principle research question was answered.

- The answer to the principle research question turned out to be a worrisome one: rather than offering a fairer, more functional asylum system in Europe, with which Greece could hope to comply, the Dublin IV proposal relies on the same ideas that made Dublin III so problematic. This goes especially for the allocation of responsibility through to the first state of entry, an arbitrary rule that places disproportionate responsibility on states with external borders. The only change promising some improvement is the corrective allocation mechanism. But due to the responsibility that it still leaves with the benefiting states, as well as the apparently high threshold that would only marginally benefit Greece, its effects are likely to be very limited. And the continued absence of credible sanctions and significant incentives gives Greece no reason to comply in spite of the high costs this would entail.

In conclusion, the European Commission seems to be trying to maintain the pre-given structure, as set out by the Dublin III Regulation, as much as possible. Instead of proposing a thorough reform, it has opted for a supplementary mechanism. Ideally, this would enable minimal legislative changes, while bringing about a strong balancing effect, resulting in more compliance. But due to the design of the mechanism, it leaves too much responsibility with the Border States, and has too little effect on Greece's burden. The main improvements to Greece's situation seem to be coming from factors outside Dublin IV, like the EU-Turkey statement, or the Backlog Appeal Committee. But since these cannot be accredited to Dublin IV, it seems unlikely that the proposal for a Dublin IV Regulation can succeed at reducing non-compliance on the part of the Greek state to any significant extent.

- AIDA. (2017a). ALTERNATIVES TO DETENTION. Retrieved from <http://www.asylumineurope.org/reports/country/greece/detention-asylum-seekers/legal-framework-detention/alternatives-detention>
- AIDA. (2017b). CONDITIONS IN RECEPTION FACILITIES Germany. Retrieved from <http://www.asylumineurope.org/reports/country/germany/reception-conditions/access-forms-reception-conditions/conditions-reception>
- AIDA. (2017c). DETENTION OF VULNERABLE APPLICANTS. Retrieved from <http://www.asylumineurope.org/reports/country/greece/detention-asylum-seekers/legal-framework-detention/detention-vulnerable>
- AIDA. (2017d). GROUNDS FOR DETENTION. Retrieved from <http://www.asylumineurope.org/reports/country/greece/detention-asylum-seekers/legal-framework-detention/grounds-detention>
- Amestie. (2015). Establishing a Common European Asylum System: still a long way to go [Press release]. Retrieved from [http://www.amnesty.eu/content/assets/Doc2013/Joint\\_NGO\\_Statement\\_Asylum\\_Package\\_10\\_June\\_2013.pdf](http://www.amnesty.eu/content/assets/Doc2013/Joint_NGO_Statement_Asylum_Package_10_June_2013.pdf)
- Bensasson, M. (2017). Greece's Tsipras Insists on 'Not One Euro More' of Austerity. Retrieved from <https://www.bloomberg.com/news/articles/2017-01-25/greek-prime-minister-insists-on-not-one-euro-more-of-austerity>
- Borzel, T. A. (2000). Why there is no 'southern problem'. On environmental leaders and laggards in the European Union. *Journal of European Public Policy*, 7(1), 141-162. doi:10.1080/135017600343313
- Commission. (2015). *Evaluation of the Dublin III Regulation*. Retrieved from [http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/asylum/examination-of-applicants/docs/evaluation\\_of\\_the\\_dublin\\_iii\\_regulation\\_en.pdf](http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/asylum/examination-of-applicants/docs/evaluation_of_the_dublin_iii_regulation_en.pdf).
- Commission. (2016a). Commission reports on progress made under the European Agenda on Migration [Press release]. Retrieved from [http://europa.eu/rapid/press-release\\_IP-16-4281\\_en.htm](http://europa.eu/rapid/press-release_IP-16-4281_en.htm)
- Commission. (2016b). *Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL*. [www.eur-lex.europa.eu](http://eur-lex.europa.eu): European Parliament Retrieved from <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52016PC0270&from=EN>.
- Dearden, K., Black, J., & Singleton, A. (2016). Dangerous journeys – International migration increasingly unsafe in 2016. *Data Briefing Series*(4).
- EU. (2015). More Responsibility in managing the refugee crisis: European Commission adopts 40 infringement decisions to make European Asylum System work [Press release]. Retrieved from [http://europa.eu/rapid/press-release\\_IP-15-5699\\_en.htm](http://europa.eu/rapid/press-release_IP-15-5699_en.htm)
- EU. (2016a). *Communication from the Commission to the European Parliament, the European Council and the Council. Second Report on the progress made in the implementation of the EU-Turkey Statement*. [www.ec.europa.eu](http://www.ec.europa.eu): European Commission Retrieved from <https://ec.europa.eu/transparency/regdoc/rep/1/2016/EN/1-2016-349-EN-F1-1.PDF>.
- EU. (2016b, 29.11.2016). EU-Turkey relations: "We are entering a new phase". *European Parliament News*. Retrieved from <http://www.europarl.europa.eu/news/en/news-room/20161128STO53408/eu-turkey-relations-%E2%80%9Cwe-are-entering-a-new-phase%E2%80%9D>
- EU. (2016c). Immediate availability of funds to Greece for the refugee question. Retrieved from <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+WQ+E-2016-001222+0+DOC+XML+V0//EN>
- EU. (2016d). Proposal for a regulation of the European Parliament and of the Council establishing the criteria and mechanisms for determining the Member State responsible for examining an

- application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast) *COM(2016) 270 final*: European Commission.
- eurostat. (2016a). *Government deficit/surplus, debt and associated data*. Retrieved from: <http://appsso.eurostat.ec.europa.eu/nui/submitViewTableAction.do>
- eurostat. (2016b). *Record number of over 1.2 million first time asylum seekers registered in 2015*. Retrieved from <http://ec.europa.eu/eurostat/documents/2995521/7203832/3-04032016-AP-EN.pdf/>.
- Eurostat. (2017). *Asylum and first time asylum applicants by citizenship, age and sex Annual aggregated data (rounded)*. Retrieved from: [http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr\\_asyappctza&lang=en](http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr_asyappctza&lang=en)
- Falkner, G., & Treib, O. (2008). Three Worlds of Compliance or Four? The EU-15 Compared to New Member States. *Journal of Common Market Studies*, 46(2), 293–313. doi:10.1111/j.1468-5965.2007.00777.x
- Frontex. (2016). *EASTERN MEDITERRANEAN ROUTE*. Retrieved from <http://frontex.europa.eu/trends-and-routes/eastern-mediterranean-route/>
- Greece. (2007). Presidential Decree No. 220 of 2007 on the transposition into the Greek legislation of Council Directive 2003/9/EC from January 27, 2003 laying down minimum standards for the reception of asylum seekers. Retrieved from <http://www.refworld.org/docid/49676abb2.html>
- Greece. (2008). Presidential Decree No. 96, Harmonisation of Greek legislation to the provisions of the Council Directive 2004/83/EC of 29 April 2004 (L 304) on minimum standards for the qualification and status of third country nationals and state-less persons as refugees or as persons who otherwise need international protection and the content of the protection granted. Retrieved from <http://www.refworld.org/docid/4c5272fc2.html>
- Greece. (2013a). Presidential Decree No. 113, Establishment of a single procedure for granting the status of refugee or of subsidiary protection beneficiary to aliens or to stateless individuals in conformity with Council Directive 2005/85/EC “on minimum standards on procedures in Member States for granting and withdrawing refugee status” (L 326/13.12.2005) and other provisions. Retrieved from <http://www.refworld.org/docid/525e84ae4.html>
- Greece. (2013b). Presidential Decree No. 141, G.G. A' 226, on the transposition into the Greek legislation of Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 (L 337) on minimum standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection and for the content of the protection granted (recast). Retrieved from <http://www.refworld.org/docid/54eb4e774.html>
- Guild, E., Costello, C., Garlick, M., Moreno-Lax, V., & Carrera, S. (2015). *ENHANCING THE COMMON EUROPEAN ASYLUM SYSTEM AND ALTERNATIVES TO DUBLIN*. <http://www.europarl.europa.eu/>: European Parliament Retrieved from [http://www.epgencms.europarl.europa.eu/cmsdata/upload/983a50a5-69d6-48b1-a0bd-2b34cced9e36/Sessions\\_1\\_and\\_2\\_-\\_Study\\_European\\_Asymum\\_System\\_and\\_Alternatives\\_to\\_Dublin.pdf](http://www.epgencms.europarl.europa.eu/cmsdata/upload/983a50a5-69d6-48b1-a0bd-2b34cced9e36/Sessions_1_and_2_-_Study_European_Asymum_System_and_Alternatives_to_Dublin.pdf).
- Guild, E., Costello, C., Garlick, M., Moreno-Lax, V., Mouzourakis, M., & Carrera, S. (2014). *New Approaches, Alternative Avenues and Means of Access to Asylum Procedures for Persons Seeking International Protection*. <http://www.europarl.europa.eu/>: European Parliament Retrieved from [http://www.europarl.europa.eu/RegData/etudes/STUD/2014/509989/IPOL\\_STU\(2014\)509989\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2014/509989/IPOL_STU(2014)509989_EN.pdf).
- Hatton, T. J. (2016). Migration and public opinion. *Economic Policy*, 207-246.
- Jurado, E., Beirens, H., Maas, S., Labayle, M., Ungureanu, D., Fratzke, S., . . . Sienkiewicz, J. (2016). *Evaluation of the Implementation of the Dublin III Regulation* ec.europa.eu: European Commission



- Retrieved from [http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/asylum/examination-of-applicants/docs/evaluation\\_of\\_the\\_implementation\\_of\\_the\\_dublin\\_iii\\_regulation\\_en.pdf](http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/asylum/examination-of-applicants/docs/evaluation_of_the_implementation_of_the_dublin_iii_regulation_en.pdf).
- Knill, C., & Lehmkuhl, D. (2002). The national impact of European Union regulatory policy: Three Europeanization mechanisms. *European Journal of Political Research*, 41, 255 - 280.
- Kotzebue, J. R., Bressers, H. T. A., & Yousif, C. (2010). Spatial misfits in a multi-level renewable energy policy implementation process on the Small Island State of Malta. *Energy Policy*, 38(10), 5967–5976. doi:<http://dx.doi.org/10.1016/j.enpol.2010.05.052>
- Leventon, J. (2015). Explaining implementation deficits through multilevel governance in the EU's new member states: EU limits for arsenic in drinking water in Hungary. *Journal of Environmental Planning and Management*, 58(7), 1137-1153. doi:10.1080/09640568.2014.916611
- Maiani, F. (2016). *The Reform of the Dublin III Regulation*. [www.europarl.europa.eu](http://www.europarl.europa.eu): European Parliament Retrieved from [http://www.europarl.europa.eu/RegData/etudes/STUD/2016/571360/IPOL\\_STU\(2016\)571360\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2016/571360/IPOL_STU(2016)571360_EN.pdf).
- Maniokas, K. (2009). Conditionality and compliance in Lithuania: the case of the best performer. *European Integration online Papers (EIoP)*, 13(2). doi:10.1695/2009020
- McCrudden, C. (2008). Human Dignity and Judicial Interpretation of Human Rights *The European Journal of International Law*, 19(4), 655-724. doi:10.1093/ejil/chn043
- McLeod, S. (2007). Maslow's Hierarchy of Needs. Retrieved from <http://www.simplypsychology.org/maslow.html>
- MSF. (2014). Greece must end systematic and prolonged detention of migrants, says MSF. Retrieved from <http://www.msf.org/en/article/greece-must-end-systematic-and-prolonged-detention-migrants-says-msf>
- DIRECTIVE 2011/95/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL, (2011).
- DIRECTIVE 2013/32/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL, (2013a).
- Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013, (2013b).
- DIRECTIVE 2013/33/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL, (2013a).
- Regulation (EU) No 604/2013 of the European Parliament and of the Council, 604/2013 C.F.R. (2013b).
- Spijkerboer, T., den Heijer, M., & Rijpma, J. (2016). COERCION, PROHIBITION, AND GREAT EXPECTATIONS
- The continuing failure of the Common European Asylum System. Retrieved from <http://thomasspijkerboer.eu/wp-content/uploads/2016/03/den-heijer-rijpma-spijkerboer-CMLR-def.pdf>
- Staal, N. (2014). *After M.S.S.: the contemporary asylum and migration situation in Greece*. (International and European Law), University of Groningen, <http://steenbergenscriptieprijs.nl/>. Retrieved from <http://steenbergenscriptieprijs.nl/wp-content/uploads/2011/10/After-M-S-S-the-contemporary-asylum-situation-in-Greece-2.pdf>
- Stamouli, N. (2016). Greek Parliament Approves Fresh Austerity Measures to Secure Bailout Cash. Retrieved from <http://www.wsj.com/articles/greece-set-for-austerity-vote-to-secure-bailout-cash-1463917533>
- TMASC. Mattress Size Chart. Retrieved from <http://www.tmask.ca/mattress-sizes.html#european-sizes>
- Underdal, A. (1998). Explaining Compliance and Defection:: Three Models. *European Journal of International Relations* 1998; 4; 5, 4(5), 5-30. doi:10.1177/1354066198004001001
- UNHCR. Camp planning standards (planned settlements). *EMERGENCY HANDBOOK*. Retrieved from <https://emergency.unhcr.org/entry/45582/camp-planning-standards-planned-settlements>
- UNHCR. (2017). *Greece data snapshot - 26 Jan 2017*. Retrieved from UNHCR Data Portal:



Wikström, C. The Dublin III Regulation. Retrieved from <http://ceciliawikstrom.eu/en/politics/migration-and-asylum/the-dublin-iii-regulation/>

*World Development Indicators.* (2017). Retrieved from: <http://databank.worldbank.org/data/reports.aspx?source=2&country=EUU,GRC,ROU,BGR,HRV>