CHARLES UNIVERSITY

FACULTY OF SOCIAL SCIENCES

Institute of Political Studies

Department of International Relations

Master's Thesis

2018 **Felina Katharina Wittke**

CHARLES UNIVERSITY

FACULTY OF SOCIAL SCIENCES

Institute of Political Studies

Department of Political Science

Implementation of the Dublin Regime

Master's thesis

Author:	Felina Katharina Wittke
Study Programme:	International Relations
Supervisor:	Doc. PhDr. Jan Karlas, M.A., Ph.D.
Year of Defence:	2018

Declaration of Authorship

1. I hereby declare that I have compiled this thesis using the listed literature and resources only.

2. I hereby declare that my thesis has not been used to gain any other academic title.

3. I fully agree to my work being used for study and scientific purposes.

Prague, 27th July 2018 Felina Katharina Wittke

References

WITTKE, Felina Katharina. *Implementation of the Dublin Regime.* Praha, 2018. 97 pages. Master's thesis (Mgr.). Charles University, Faculty of Social Sciences, Institute of Political Studies. Department of International Relations. Supervisor Doc. PhDr. Jan Karlas, M.A., Ph.D.

Length of the thesis: 149.482

Abstract

The 2015 refugee crisis clearly highlighted that the European asylum system is flawed and triggered a heated discussion on the functioning and appropriateness of the Dublin Regulation. The present research tries to account for differences in the implementation of the Dublin regime from its coming into force in 1997 until today, by testing the three possibly influencing factors 'misfit', administrative capacity and overall situation for Germany, Hungary and Italy. The comparative case study first ascertains that Germany implements the obligations to a medium to high degree, while Hungary presents a low and Italy a medium-low implementation record. The analysis of the single variables shows that the higher the compatibility between the national and the European asylum system at the moment of adhering to the Dublin system, the more diligently a country implements it. While no clear claims can be made if and how the administrative capacity of a state affects implementation, the economic situation does have an impact in the sense that a stronger overall state of the economy appears to have positive effects on implementation. The research is part of the general research framework of Europeanization and contributes to the scholarship on implementation. By shedding light on the factors leading to violations of the Dublin regime, it offers the possibility to eliminating them and thereby enhancing implementation of current Dublin III Regulation and finally European integration as a whole.

Keywords

Implementation; Implementation research; Europeanization; Dublin regime; Dublin Regulation; CEAS

Acknowledgments

Every day one crosses paths with people who irretrievably affect one's life. So was the conduct of this thesis influenced by those that surrounded me in the last months.

I want to express my gratitude towards Professor Jan Karlas, who has been an extraordinary supervisor. Furthermore, towards the German Academic Exchange Service, whose financial support allowed me to focus on my studies, and towards my family for being as they are.

There are several people who have made the last two years as good as they were, and I hope to be able to show them every day how much I appreciate that.

Last but not least Luigi, who always believed in me no matter what.

Master Thesis Proposal

Faculty of Social Sciences
Charles University in Prague

Date: 22nd September 2017

Author:	**Felina Katharina Wittke**	Supervisor:	Doc. PhDr. Jan Karlas, M.A., Ph.D.
E-mail:	91728904@fsv.cuni.cz	E-mail:	jk.kurzy@seznam.cz
		Defense Planned:	July 2018

Proposed Topic:

Implementation of the Dublin Regime:
A Comparative Case Study of Italy, Germany and Hungary

Registered in SIS: Yes **Date of registration: 26.06.2017**

Topic / Line of argument:

Migration and asylum policy is one of the many policy areas affected by the advancing European integration and is partly regulated by the institutions of the European Union, yet to a much lesser degree than other policy fields such as environment or monetary policy, in which EU member states gave up large parts of their sovereignty for the benefit of the European Union. The Dublin Regime, originally established in 1950 and modified multiple times until today, constitutes the core of the European migration and asylum policy, by determining which EU member state is responsible for examining an asylum application. However, the high influx of immigrants the EU witnessed during spring and summer of 2015, commonly referred to as the '2015 refugee crisis', has been a tough test for the solidness of the current version of the Dublin Regulation: EU 'frontline' states began to ignore the 'first-country-of-entry' principle and allowed migrants to make their asylum application in the country of their preference, Germany suspended the Dublin rules for Syrian refugees (Trauner 2016), and the suspension of transfers to Greece, decided upon in 2011 following two judgments by the European Court of Human Rights (ECHR) and the Court of Justice of the European Union (CJEU), continued to remain valid (Ardittis 2016). The crisis has made highly visible that there are significant differences among EU member states regarding their implementation of the Dublin regime. What determines these differences or, in other words, which factors explain that some countries implement the EU provisions, while others act against it? What are the reasons for the obvious gap between the EU asylum laws and the practices of member states?

The objective of this thesis is to contribute to the existing debate on Europeanization in general, and implementation in particular, by trying to improve the understanding of implementation and its determining factors in asylum and migration policy through the analysis of the implementation of the Dublin regime in Italy, Germany and Hungary. It

will be tried to assess if, and possibly to what extent, the disparity in implementation of the Dublin regime, starting from its establishment in 1950 until today, is accounted for by certain domestic factors, namely the 'fit' or rather 'misfit' between national and EU legislation, the administrative capacity and external economic pressure.

Theoretical framework:

The theoretical framework on which the research is based, draws on the literature on Europeanization. The term 'Europeanization' lacks a uniform definition and has taken on different meanings. Yet, in order to make the concept of Europeanization amendable to empirical analysis and to connect it to explanation, it has to be clearly defined. Consequently, for the purpose of this analysis and as a base for a purely empirical case study, in this research 'Europeanization' refers to the process of "national adaptation to the pressures emanating directly or indirectly from EU membership" (Featherstone 2003: 7).

The research aims at answering the question which factors at the national level determine differences in the implementation of the Dublin regime among EU member states. The vast literature on Europeanization offers different answers to the general question which factors have an impact on implementation, and a number of factors have been suggested in order to account for the mixed empirical evidence of implementation. The most frequently tested among these factors is the 'goodness of fit' or, inversely, 'misfit' hypothesis (Schmidt 2002, Duina 1997 and 1999, Knill and Lenschow 1998, Green Cowles *et al*. 2001, Héritier *et al*. 2001, Börzel and Risse 2003, Börzel 2003, Mastenbroek 2003, Falkner *et al*. 2005, Mastenbroek and Van Keulen 2005). Other factors, identified partly due to the fact that this hypothesis has not been confirmed by empirical evidence (Mastenbroek and Kaeding 2006), include the existence of veto points (Green Cowles *et al*. 2001, Börzel and Risse 2003, Dimitrova and Steunenberg 2000, Haverland 2000, Giuliani 2003, Steunenberg 2004), external pressure for adaption (Schmidt 2002, Börzel 2003, Knill and Lenschow 1998), political institutional capacity (Schmidt 2002, Demmke 2001, Dimitrakopolous 2001, Mbaye 2001, Bursens 2002, Bughdahn 2005, Falkner at al. 2005), policy salience (Knill and Lenschow 1998), discourses that influence policy references by changing perceptions of economic vulnerabilities and policies and thereby enhance capacity (Schmidt 2002), the nature of EU policies (Héritier *et al*. 2001 and Falkner *et al*. 2005), and the degree of domestic support (Knill and Lenschow 1998, Mbaye 2001). Nevertheless, we still have limited knowledge about the causes and conditions of implementation.

In order to gain useful insights and to draw precise conclusions out of the research, the scope of the analysis has to be limited. The factors outlined above have been identified with regard to implementation in general, or to specific policy fields such as environment, health care or monetary policy, and some are less relevant than others in the policy field of asylum and migration. The explanatory factors assumed to be most relevant with regard to the implementation of the Dublin regime and thereby analyzed are the 'goodness of fit' hypothesis, administrative capacity and external economic pressure: The 'goodness of fit' hypothesis has been extensively discussed, but not sufficiently tested in the specific field of asylum and migration policy. The same applies

to the political and institutional capacity, a factor that is of particular interest when considering that the EU countries of first entry were not prepared to deal with the high number of migrants arriving in 2015. The factor of external economic pressure is chosen in particular because the 2008 economic and financial crisis not only had direct impacts on the way states dealt with refugees (Trauner 2016), but also significantly changed relationships of dependence between member states. Furthermore, states are generally more vulnerable to external pressure when facing an economic crisis (Schmidt 2002). Before being systematically tested, these factors will be made amendable for empirical analysis by means of a short literature review.

An underlying hypothesis of the Europeanization theory, which constitutes the logical and conceptual foundation of the present research, is therefore that *domestic responses to European challenges are strongly influenced by factors laying within the EU member states*. The working hypotheses are the following:

H1: The higher the 'misfit' between national migration policy and the provisions of the Dublin regime, the poorer the implementation of the Dublin regime.

H2: The lower the administrative capacity, the poorer the implementation of the Dublin regime.

H3: The higher the external economic pressure, the more diligent the implementation of the Dublin regime.

Challenging the general expectation of cross-national policy convergence, the research takes a clearly articulated new institutionalist point of view, focusing on important differences on the domestic level and analysing diverging implementation 'degrees' across countries.

Case selection:

A comparative analysis of a limited number of states allows for an in-depth reconstruction of individual implementation of the Dublin regime. The cases are selected based on two criteria: They are comparable and vary on the dependent variable. With regard to the first criteria, Germany, Italy and Hungary are all part of the Schengen agreement, and they were, and are, subject to a considerable influx of migrants and were strongly affected by the 2015 refugee crisis. Moreover, the time span considered is the same for all of the three cases, starting from the year of the establishment of the Dublin regime until today. To be able to examine the effect of the different independent variables, those countries are selected that complied with the Dublin Regulation to a different degree and whose reactions to the refugee crises varied strongly among each other, hence, they vary on the dependent variable. Consequently, the cases analysed are Germany, Italy and Hungary.

Operationalization and the data:

The dependent variable is the implementation of the Dublin regime. The nation-specific implementation of the Dublin regime will be considered in terms of 'degrees'. In order to assess how and to what extent Germany, Italy and Hungary differ on the dependent variable, the magnitude and direction of implementation will be measured by means of the taxonomy proposed by Radaelli (2003) that aims at offering a way to measure Europeanization in terms of policy change. Drawing upon Börzel (1999), Cowles et al. (2001), Héritier (2001), and Héritier and Knill (2001), Radaelli identifies four possible outcomes, namely retrenchment, inertia, absorption and transformation. Inertia is a general lack of change that can take different forms, ranging from lags and delays in transposition of directives to direct resistance. The term 'absorption', instead, conceptualizes change as adaption, whereby certain non-fundamental changes are being made, while the national 'core' structures remain untouched. It is precisely this 'core' that changes when the outcome is that of 'transformation', and the "fundamental logic of political behaviour changes" (Radaelli 2003: 38). Retrenchment, on the other hand, is an outcome that goes in the opposite direction, in that it implies not only that national policy resists adaption, but even that it moves away from the standards agreed upon the European level.

These four outcomes will be measured by using both qualitative and quantitative data. The fundamental principle of the Dublin regime is, and has always been since its establishment and throughout the various modifications, the first-country-of-entrance principle. Thereby, in order to measure to which degree the selected countries implemented the Dublin regulations, it has to be measured if, and to what extent, Germany, Italy and Hungary complied with this specific principle. The take charge and take back requests will serve as an indicator of compliance with this principle, and will be operationalised as follows: From a quantitative point of view, the take charge and take back request will be analysed with regard to:

- The number of take charge and take back requests made
- The number of take charge and take back requests accepted and rejected
- The frequency with which the member states in question failed to make the take charge and take back requests within stipulated timelines

This information will be taken from official documents and statistical overviews released by EU institutions, especially the Commission, and other reliable sources through document analysis and the evaluation of statistical data. This quantitative assessment will be complemented by a qualitative analysis of secondary sources and informed news regarding member states implementation of the Dublin regulations. Finally, by means of the systematic analysis of the take charge and take back requests, combined with the qualitative interpretative assessment, an index of national implementation of the Dublin regulations will be calculated based upon the four possible outcomes of retrenchment, inertia, absorption and transformation identified by Radaelli (2003). The focus is laid on implementation in reaction to the 2015 refugee crisis, but given that 'Europeanization' is considered here as a process, the research framework of analysis has to be sensitive to change over the medium to long term and

will therefore cover the time span starting from the establishment of the Dublin regime in 1950 until today. As a logical consequence, the Dublin regime is here understood as comprising the Dublin Convention (1997-2003), the Dublin II Regulation (2003-2013) and the Dublin III Regulation (2013-present), but the focus lays on the Dublin III Regulation which was effective during the 2015 refugee crisis.

Selected factors, that literature on Europeanization suggests as having an impact on implementation and that are considered as being most relevant with regard to asylum and migration policy, serve as independent variables:

a) The 'goodness of fit' hypothesis

b) Administrative capacity

c) External economic pressure

In order to be operationalized, the three concepts have to be clearly defined first. The 'goodness of fit' hypothesis will be used in its original version. Thus, it will be tested if implementation of the Dublin regime "depends on the degree to which [the Dublin regulation] fit existing national policies and institutions" (Mastenbroek and Kaeding 2006), ignoring the various auxiliary variables identified by researchers when the hypothesis was not supported by empirical proof. Determining a 'fit' or rather 'misfit' between the Dublin regulations and national legislation requires a detailed comparison between the former and domestic asylum and migration legislation in Germany, Italy and Hungary for the considered time period, which will be done through document analysis of the original tests of the Dublin regulations and national legislations.

Administrative capacity is here understood as being different from state capacity, as the definition of the latter often includes also military power and the quality and coherence of political institutions (Hendrix 2010). Given the research question, administrative and bureaucratic capacity will be analysed and measured in regard to the specific policy field of asylum and migration. To be able to compare administrative capacity among Germany, Italy and Hungary, three "model" indicators will be used, namely (financial) resources, organization/structure, and processes. Official documents, both from EU institutions as well as national agencies, are suitable sources to assess the administrative capacity of the three EU member states in question by means of the above stated indicators.

The indicator that reveals the level of external economic pressure is the financial support each of the three member states received and receives from the EU, both in the time period between 1950 and 2007 and during the financial crisis starting in 2008. Data regarding financial assistance to member states will be taken from official EU documents, especially by the European Commission, and put into context by considering both the financial assistance itself and the correspondent general economic situation in the specific country.

Method:

Conceptualized as a process of national adaption to the structures, policies, formal rules and practices that have been consolidated at the EU level, 'Europeanization' offers itself very well for a comparative case study (March and Olsen 1995). Moreover, the European member states share certain characteristics such as belonging to the same geographical area and the fact that they offer the possibility of using standard figures, which make them an ideal research field for the comparative method (Giuliani 2003). The research, therefore, assumes the form of a comparative case study, that tries to assess if, and possibly to what extent, differences in the domestic systems are responsible for the way in which Germany, Italy and Hungary implement the Dublin regime.

The three independent variables will be tested by using John Stuart Mill's "Method of Agreement" (Mill 1843), generally referred to as the 'most different systems design'. Using Mill's terms, the phenomenon under investigation are the differences in implementation of the Dublin regime among member states. The instances taken into consideration are Germany, Italy and Hungary, while the circumstances tested are the three explanatory variables. Those circumstances that are present in all three cases can be considered as being a necessary condition for variations in implementation. Once the variables have been tested, it will be possible to assess the validity of the three hypotheses.

Outline table of contents:

References / Bibliography

Ardittis, S. (2016). 'Should Greece be Reinstated in the Dublin System?', *Global Policy Journal*, http://www.globalpolicyjournal.com/blog/14/09/2016/should-greece-be-reinstated-dublin-system (accessed September 19, 2017)

Bjerre L., Helbling M., Römer F., Zobel M. (2015). Conceptualizing and measuring immigration policies: A comparative perspective. *International Migration Review*, 49, 555-839

Blatter, J., Blume, T. (2008). In Search of Co-variance, Causal Mechanisms or Congruence? Towards a Plural Understanding of Case Studies, *Swiss Political Science Review* 14(2): 315–56

Bonjour, S., Ripoll Servent, A. and Thielemann, E. (2017): Beyond venue shopping and liberal constraint: a new research agenda for EU migration policies and politics, *Journal of European Public Policy*

Börzel, T. A., Risse, T. (2003). 'Conceptualizing the Impact of Europe', in K. Featherstone and C. M. Radaelli (eds) *The Politics of Europeanization* (New York: Oxford University Press)

Börzel, T.A. (2003). *Environmental Leaders and Laggards in Europe: Why There is (not) a 'Southern Problem* (Aldershot: Ashgate)

Bugdahn, S. (2005). 'Of Europeanization and domestication: the implementation of the Environmental Information Directive in Ireland, Great Britain and Germany', *Journal of European Public Policy* 12(1): 177–99

Bursens, P. (2002) 'Why Denmark and Belgium have different implementation records: on transposition laggards and leaders in the EU', Scandinavion Political Studies 25(2): 173–95

Carr, F., Massey, A. (1999): Public Policy in the New Europe: Eurogovernance in Theory and Practice, *Edward Elgar Publishing*

Demmke, C. (2001). 'Towards effective environmental regulation: innovative approaches in implementing and enforcing European environmental law and policy', Harvard Jean Monnet Working Paper 5/01 (Cambridge, MA: Harvard Law School)

Dimitrakopoulis, D.G. (2001a). 'Learning and steering: changing implementation patterns and the Greek central government', Journal of European Public Policy 8(4): 604–22

Dimitrakopoulos, D.G. (2001b). 'The transposition of EU law: "post-decisional politics" and institutional economy', *European Law Journal* 7(4): 442–58

Dimitrova, A. and Steunenberg, B. (2000). 'The search for convergence of national policies in the European Union: an impossible quest?', *European Union Politics* 1: 201–26

Duina, F. (1997). 'Explaining Legal Implementation in the European Union', *International Journal of the Sociology of Law*, 25, 155–179

Duina, F. (1999). *Harmonizing Europe: Nation-States Within the Common Market* (Albany: State University of New York Press)
ICF International (2016). 'Evaluation of the Implementation of the Dublin III Regulation', *European Commission DG Migration and Home Affairs*

Falkner, G., Treib, O., Hartlapp. M. and Leiber, S. (2005). *Complying with Europe? The Impact of EU Minimum Harmonisation and Soft Law in the Member States* (Cambridge: Cambridge University Press)

Featherstone, K. (2003). 'Introduction: In the Name of Europe', in K. Featherstone and C. M. Radaelli (eds) *The Politics of Europeanization* (New York: Oxford University Press)

Featherstone, K. and Radaelli, C. (eds) (2003). *The Politics of Europeanization* (Oxford University Press)

Graziano, P. and Vink, M. (2008). *Europeanization: A new Research Agenda* (Palgrave Macmillan)

Green Cowles, M. *et al*. (eds) (2001). *Transforming Europe: Europeanization and Domestic Change* (Cornell University Press)

Guild, E. (2006). 'The Europeanisation of Europe's Asylum Policy', *International Journal of Refugee Law*, Volume 18, Issue 3-4, pp. 630–651

Guiliani, M. (2003). 'Europeanization in Comparative Perspective: Institutional Fit and National Adaption', in K. Featherstone and C. M. Radaelli (eds) *The Politics of Europeanization* (New York: Oxford University Press)

Haverland, M. (2000). 'National adaptation to European integration: the importance of institutional veto points', *Journal of Public Policy* 20(1): 83–103

Helbling, M., Michalowski, I. (2017). 'A New Agenda for Immigration and Citizenship Policy Research', *Comparative Political Studies*, Vol. 50(1) 3–13

Hendrix, C.S. (2010). 'Measuring state capacity: Theoretical and empirical implications for the study of civil conflict', *Journal of Peace Research* 47(3) 273–285

Héritier, A. (2001). 'Differential Europe: Administrative Responses to Community Policy', in Green Cowles *et al*. (eds), *Transforming Europe: Europeanization and Domestic Change* (Ithaca and London: Cornell University Press)

Héritier, A. *et al*. (2001*). Differential Europe: The European Union Impact on National Policymaking* (Rowman & Littlefield Publishers, Inc.)

Knill, C. and Lenschow, A. (1998). 'Change as 'Appropriate Adaptation': Administrative Adjustment to European Environmental Policy in Britain and Germany', *European Integration Online Papers* (EIoP), Vol. 2, No. 1

Knill, C. and Lenschow, A. (1998). 'Coping with Europe: the impact of British and German administrations on the implementation of EU environmental policy', *Journal of European Public Policy*, 5:4, 595-614

Knill, C. and Lenschow, A. (1999). 'Neue Konzepte – alte Probleme? Die institutionellen Grenzen effektiver Implementation', *Politische Vierteljahresschrift*, Vol. 40, No. 4, pp. 591-617

Lahav, G. (2004). *Immigration and Politics in the New Europe: Reinventing Borders* (Cambridge University Press)

Lavenex, S. (2001). 'The Europeanization of Refugee Policies: Normative Challenges and Institutional *Legacies'*, *Journal of Common Market Studies*, Vol. 39 No.5 pp. 851-74

March, J.G., and Olsen, J.P. (1995). *Democratic governance* (Free Press)

Mastenbroek, E. (2003). ‘Surviving the deadline: the transposition of EU directives in the Netherlands’, *European Union Politics* 4: 371–96

Mastenbroek, E. and Kaeding, M. (2006). 'Europeanization Beyond the Goodness of Fit: Domestic Politics in the Forefront', *Comparative European Politics*, 4, (331–354), Palgrave Macmillan Ltd 1472-4790/06

Mastenbroek, E. and Van Keulen, M. (2005). ‘Beyond the goodness of fit. A preference-based account of Europeanization’, in M. Haverland and R. Holzhacker (eds), *European Research Reloaded: Cooperation and Integration among Europeanized States* (Kluwer: Deventer)

Mbaye, A.D. (2001). ‘Why national states comply with supranational law’, *European Union Politics 2(3): 259–81*

Mill, J.S. (1843). A System of Logic, Ratiocinative and Inductive: Being a Connected View of the Principles of Evidence and the Methods of Scientific Investigation, Band 1 (John W. Parker)

Radaelli, C.M. (2003). 'The Europeanization of Public Policy', in K. Featherstone and C. M. Radaelli (eds) *The Politics of Europeanization* (New York: Oxford University Press)

Ripoll Servent, A. and Trauner, F. (2014). ‘Do supranational institutions make a difference? EU asylum law before and after ‘communitarization’’, *Journal of European Public Policy*, 21:8, 1142-1162

Schmidt, V.A. (2002). ‘Europeanization and the mechanics of economic policy adjustment’, *Journal of European Public Policy*, 9:6, 894-912

Scipioni, M. (2017). ‘Failing forward in EU migration policy? EU integration after the 2015 asylum crisis’, *Journal of European Public Policy*

Steunenberg, B. (2004). ‘EU policy, domestic interests, and the transposition of directives’ (Leiden: mimeo)

Toshkov, D. and De Haan, L. (2013). ‘The Europeanization of asylum policy: an assessment of the EU impact on asylum applications and recognitions rates’, *Journal of European Public Policy*, 20:5, 661-683

Trauner, F. (2016). ‘Asylum policy: the EU’s ‘crises’ and the looming policy regime Failure’, *Journal of European Integration*, 38:3, 311-325

Table of contents

List of tables

List of figures

PART I

1. Introduction

Immigration to Europe has increased steadily since the late 20th century. However, the unprecedented number of 1.322.825 asylum applications that were lodged in the European Union (EU) in 2015 represented such a sudden increase, that the period starting in the summer of 2015 is now being called 'European migrant crisis' or 'European refugee crisis'. The term 'crisis' was given not because of the reasons that forced so many people flee their homes, but because of the impact it had on the EU as a whole and its member states in particular, who were caught completely unprepared to the sudden high influx of migrants. Problems surfaced not only within the single countries, especially within those that are burdened with a higher number of arrivals due to their geographical position on the Southern borders of the EU, but also on the European level, because the European system that is meant to regulate asylum policy revealed itself inadequate to deal with such a high influx of migrants. Based on the logic that only one single EU member state is competent to examine an asylum application, the Dublin system assigns this responsibility based on fixed criteria, first of all the so-called 'first-entry-principle', according to which the country that had the first contact with the asylum seeker is responsible for handling his or her application. Logically, this leads to a very unequal distribution of asylum seekers among the member states, with countries laying on the external borders and especially those facing the Mediterranean Sea bearing the largest share. The inherent flaws of the system became visible in spring/summer 2015, when several European states began to unilaterally suspend its application: EU 'frontline' states began to ignore the 'first-country-of-entry' principle and allowed migrants to make their asylum application in the country of their preference, Germany suspended the Dublin rules for Syrian refugees (Trauner 2016), and the suspension of transfers to Greece, decided upon in 2011 following two judgments by the European Court of Human Rights (ECHR) and the Court of Justice of the European Union (CJEU), continued to remain valid (Ardittis 2016).

The 'Dublin system' or 'Dublin regime' is here understood as comprising the original Dublin Convention that came into force in 1997 and the subsequent Dublin II Regulation (in force since 2003) and Dublin III Regulation (in force since 2013). All countries that are part of the system and thus bound to its provisions, namely all EU

member states except Denmark plus the non-EU countries Norway, Iceland, Switzerland and Liechtenstein, are referred to as the 'Dublin countries'. The Dublin system represents the cornerstone of the European Common Asylum System (CEAS) and is thus part of the attempt to harmonize asylum policy within the EU. Despite this goal, the Dublin countries implement the provisions to very different degree. This did not only become strongly visible during the 2015 refugee crisis, but deviations from the agreed rules were even aggravated by and during the crisis. What determines these differences, or in other words, which factors explain that some countries implement the EU provisions more diligently than others? What are the reasons for the obvious gap between the EU asylum laws and the practices of member states? The goal of the present research is to answers these questions and thus to find the reasons behind variations in the implementation of the Dublin system.

Those reasons are expected to lay on the domestic level, which is why the present work falls into the research agenda of Europeanization. The Europeanization concept goes further than any other theory on regional integration by taking into account the domestic level, and more specific the effects of (European) integration on the single country. Thereby it allows to take into account domestic factors when analyzing European phenomena, such as the implementation of European legislation. Scholarship on implementation has consequently identified various domestic factors that might have an impact on implementation and tested in various policy fields. However, little academic attention in this regard was given to asylum policy in general, and the Dublin system in particular. This research aims at filling this gap by attempting to answer the following research question *"Which factors on the domestic level impact the implementation of the Dublin system?*" by analyzing three factors that are expected to be relevant with regard to the specific problem, namely the degree of 'fit', or rather 'misfit' between the national and the European asylum system in terms of the amount and depth of change that is required in order to comply with the Dublin regime, the administrative capacity of a country and its economic situation. These factors will be tested for the three EU member states Germany, Hungary and Italy.

The research proceeds as follows: First, a short yet complete overview of the Dublin system, its origin, functioning and development will be given (Chapter 2). Chapter three serves to establish the theoretical and methodological framework. To make the concept of Europeanization amenable for empirical research, it will be clearly defined first and linked to the specific research question. The three possibly influencing

factors will then be dealt with more in detail by giving a short literature review and turning each of them into a concrete hypothesis, that can be empirically tested. Part II proceeds with the actual analysis of the three cases. Chapters four to six first examine the degree of compliance of the respective country of the Dublin regime from 1997 (2004 in the case of Hungary) until today and then proceed to the testing of each hypothesis. Each chapter concludes with a short country-specific discussion on the findings. Based on the analysis of the three cases, the final chapter will try to answer whether and how a possible misfit between the asylum systems of the two levels, the administrative capacity and economic strength of a country influence the degree to which it implements the Dublin system, and thereby reconnecting the work to the wider framework of Europeanization.

2. The Dublin system: Origin, functioning and development

The Dublin system is the cornerstone of the Common European Asylum System (CEAS) and pursues two main goals. First, it aims at guaranteeing that third-country nationals and stateless persons have effective access to the procedures for granting international protection and that applications are processed rapidly. Second, the system is meant to avoid 'asylum shopping', which stands for the practice used by asylum seekers that consists in lodging applications in several states or to transit through several EU countries and apply to their state of preference. Incentives for asylum shopping are created by very different refugee recognition rates and reception conditions among the EU member states. For example, over 80% of Iraqi asylum claims are being accepted at first instance in some member states, while almost none succeed in others. Regarding the reception conditions, governments, the European Parliament, and various NGOs "have raised serious concerns at inadequate or even inhumane treatment of asylum seekers in several member states" (McDonough *et al*., 2008: 5). Differences in reception conditions are possible in the first place by the discretionary nature of the EU provisions and the lack of full implementation within the member states, even if the very idea behind the creation of a common system was the realization of a a fair and open asylum mechanism in which asylum seekers would be treated equally (European Commission, 2016). The Dublin system avoids asylum shopping by prohibiting simultaneous applications in more than one member state, and de novo applications in another member state after the first application has been already decided upon by one of the Dublin countries. The Dublin system consists of the Dublin III Regulation and the European Dactyloscopy (EURODAC). The former lays down the criteria and mechanisms for determining the member state responsible for examining an application. The main criterion is the so-called 'first-entry-principle', which determines that the state with whom the asylum seeker had the first contact is responsible for examining the application. The EURODAC, active since 2003, serves as a tool to implement these criteria and thus the Dublin Regulation as a whole. It is the fingerprint database of the EU for identifying asylum seekers and irregular border-crosses. By imposing all member states to register these two categories of people, it allows to compare fingerprints and thereby to assess easily if the person had previously been registered in a different member state, and thus it serves to fulfill the first-entry-principle. Nevertheless, this baseline principle is subordinated to other two criteria. In

this hierarchical criteria system, the first-entry-principle does not apply if the asylum seeker already possesses a valid or recently expired residence document or visa in another member state. Both criteria can lose their validity if there is the chance to reunite family members and on the basis of considerations regarding the welfare for unaccompanied children.

Table 1: Hierarchical criteria system of the Dublin III Regulation

First Criteria	Family unity and welfare for unaccompanied minors
Second Criteria	Valid or recently expired residence document or visa
Third Criteria	First-entry-principle

There are, however, important exceptions to these criteria. A different procedure is being applied in two cases. First, when no member state can be found to be responsible according to the criteria. Second, "when systemic flaws in asylum procedures of reception conditions in the responsible member state result in inhuman or degrading treatment that could violate […] [the] Charter of Fundamental Rights of the EU" (ECRE, 2008). Two clauses take effect in these specific circumstances. The 'sovereignty clause' allows a member state that receives an application to assume responsibility, even if it is not considered responsible according to the criteria of the regulation. The 'humanitarian' or 'compassionate' clause allows to derogate from the basic principle in order to unite families in certain circumstances. This is especially important in the case of unaccompanied minors (ECRE, 2008).

The Dublin regime was first established by the Dublin Convention that was signed in 1970 and came into force on September 1, 1997. It represented the first step in harmonizing the asylum policy in the European Community. The Tampere Conclusions in 1999 were a further attempt to get closer to a common asylum policy. The member states agreed to transform and harmonize several aspects of asylum policies in the EU under the CEAS (Velluti, 2014). A fair and effective asylum system should be guaranteed through the creation of a single asylum space in which procedures are harmonized and the rights of asylum seekers guaranteed. In light of these conclusions, in 2003 the Dublin II Regulation replaced the Dublin Convention in all EU member states, except Denmark who decided to opt-out, but joined in 2006. Its main innovation was an emphasis on human rights that consisted in new provisions on the rights of minor asylum seekers (EUR-LEX, 2003). In 2008 The European

Commission proposed amendments to the Dublin II Regulation. This impetus led to another reform of the regulation in 2013, which applies to all members states and those non-member states that participated in Dublin II, except Denmark. The previously separated regulation on EURODAC is now included in the Dublin Regulation. Other innovations include the strengthening of the ruling on border control and of asylum seekers' rights with references to the European Convention of Human Rights and the Charter of fundamental rights of the EU. This means in concrete that the Dublin countries are obliged to provide the asylum seekers information about their rights and the process, before any formal interview by border control or police is being conducted. Moreover, the asylum seekers can appeal their case to a court or tribunal (EUR-LEX, 2013).

The first-entry-principle, which remained the core of the regime, assigns the responsibility for the vast majority of asylum claims on a small number of member states, more precisely on those on the Southern external borders facing the Mediterranean Sea like Italy and Greece, because they are the easiest to reach for migrants coming from North Africa and the Middle East. The system has not been designed to ensure a sustainable sharing of responsibilities for asylum applicants across the EU, but only to govern and assign responsibilities as such. From the very beginning, NGOs, national governments and stakeholders have criticized the system as being degrading for asylum seekers, expensive and ineffective (McDonough *et al*., 2008; UNHCR, 2009). In 2008, the European Council on Refugees and Exiles and the UNHCR called for a suspension of Dublin transfers to Greece on humanitarian grounds. Several countries, such as Finland and Norway, followed the call and halted migrant transfers back to Greece thereupon (Phillips, 2008). The high influx of migrants during the 2015 refugee crisis highlighted even more that the very logic of the system is its main shortcoming. The few countries on the EU external borders that have to bear the high number of applications do not have the capacities to do so, which led several member states to partially suspend the regulation. In June 2015, Hungary stopped receiving back its applicants, arguing that most of them first entered Greece, which did not comply with the regulation in the first place by not registering incoming migrants (Robert, 2015). In Italy, the obliged fingerprinting of asylum seekers has been carried out only in some instances. This infringement of EURODAC led to "unauthorized secondary and subsequent movements an irregular stay within the EU" (European Commission, 2018). In September 2015, the Czech Republic announced

that Syrian refugees, who have already lodged their asylum application in another Dublin country and who reach the country, could have either their application examined in the Czech Republic or transit to another member state (Prague Post, 2015). The events of this summer brought Germany to the decision to make use of the 'sovereignty clause' for Syrian asylum seekers, assuming the responsibility that would otherwise lie with the first country of entry. Technically, this is not a suspension, but the very fact that the regulation has weakened in a period in which a higher number of asylum seekers arrive in the EU highlights that in a state of emergency the system does not work (Dernbach, 2015). Despite the obvious inefficiency of the system and its partial suspension, the European Court of Justice declared in July 2017 that the Dublin Regulation is still valid and in force, and consequently that EU member states can deport migrants to their first country of entrance (Huggler, 2017).

Besides the suspension of the Regulation by various Dublin countries, the ineffectiveness of the system is also visible when comparing the numbers of effective transfers and total number of transfer requests. While serving as a useful indicator of the functioning of the Dublin system, it has to be kept in mind that there are data gaps, despite the obligations for member states to provide complete information on requests and transfers every year. On the basis of available information, the outgoing requests for transfers and the effective transfers under the Dublin system in 2016 are outlined in table 2.

Table 2: Outgoing requests and transfers under the Dublin system 2016

Country	Request	Transfers	Rate %
Austria		2582	
Bulgaria	134	16	12
Croatia		12	
Cyprus	157	62	40
Germany	55690	3968	7
Greece	4886	946	19
Hungary	5619	213	4
Italy	14229	61	0,4
Poland	180	82	46
Spain	10	2	20

Sweden	12118	5244	43
Switzerland	15203	3750	25

(Source: AIDA, 2016)

Transfer requests are lodged by Dublin countries after assessing that they are not responsible for examining an asylum application and directed to the appropriate country instead. Consequently, the number of requests gives information about irregular movements within the EU. The great discrepancy between the number of requests and the number of effective transfers allows us to draw conclusions on the functioning of the Dublin system. Even though the Regulation clearly assigns responsibilities, a large share of the total number of asylum applications is not handled by the country that according to Dublin III, is in charge of examining them. Assigning responsibility leads apparently in no tangible results. According to the transfer rates, this is even more true for the countries on the EU external borders, such as Greece, Hungary and Italy, which are faced with a higher influx of asylum seekers compared to the other Dublin countries. Responsibilities are assigned but are not being respected and illegal secondary movements not only persist but even grew in this costly and highly bureaucratic system. The ill-functioning of the system has been revealed by the suggestion of the European Commission itself, that in certain circumstances the member states could annul the exchange of asylum seekers, and thus implicitly stating that the suspension of the Regulation improves the efficiency of the European asylum system (McDonough, 2008).

When the flaws of the current Dublin III Regulation became evident during the 2015 refugee crisis, the European Commission began to discuss a reform of the system, addressing its “inherent weaknesses” (European Commission, 2016b: 5), which resulted in May 2016 in the Dublin IV proposal. The reformed system would be based on a “reference key”, which calculates the “fair” share of migrants in each Dublin country based on population size and GDP. According to this key, a country has taken its fair share if the key is 100%. When it reaches 150%, a “collective allocation mechanism” would automatically be triggered, requiring other member states to receive the excess amount of asylum seekers. If they refuse to do so, they would be burdened with a fine. The current criteria for the allocation of responsibility would thus remain the same. In case of emergency, namely when a state faces a disproportionate number of asylum seekers, this additional structural mechanism would take effect. In

addition, the Commission is discussing “firmer rules on secondary movements”, which would consist in rejecting an application altogether or annulling the time the applicant has already been waiting to apply for the long-term resident status (European Commission, 2016d). With the goal of making the system more effective, the reform proposal intends furthermore several changes within EURODAC, including the introduction of biometric identities, amendments regarding the access and sharing of information, and lowering the age to 6 years old (European Commission, 2016c). In the long-run, the proposal advocates the transfer of responsibilities for the examination of asylum claims from national to EU level. These proposed changes would alter the regulation significantly, but do not satisfy the European Parliament, which retains that “by retaining the Dublin philosophy and betting on more coercion, Dublin IV is unlikely to achieve its objectives while raising human rights concerns” (European Parliament, 2016: Abstract). In fact, the European Parliament proposes to move away from the baseline principle of first entry, towards a new system based on real burden sharing (European Parliament, 2017).

3. Theoretical and methodological framework

To properly understand the concept, theory and research agenda of 'Europeanization', one has to look at why and how it emerged. The end of the Second World War led to a proliferation of international organizations in Europe or with European participation. Some of them, namely the European Coal and Steel Community (ECSC) and the European Economic Community (EEC) were unprecedented in terms of their autonomy and sovereignty. This attracted the attention of scholars, who started looking for explanations for this new kind of international organization. In Ernst Haas' 1958's 'The Uniting of Europe', the Neo-functionalist approach was first mentioned. It tried to account for the shift of authority to supranational institutions and the logic and functioning of sectoral integration. The principles established seemed to explain the increasing sectoral integration, but when this process experienced slowdowns and set-backs, represented most famously by the so-called 'empty chair crisis', the theory did not hold anymore. A second approach tried to fill these gaps, and thereby became a competing theory (Bulmer, 1983). Contrary to Neo-functionalism, Intergovernmentalism considers the state the central element in the process of regional integration, in that national governments remain the core of a new international regime, forming preferences at the domestic level and negotiating them on the regional (e.g. European level) with the goal of obtaining the preferred political outcomes (Graziano, 2013). Even though competing, both approaches have a common dependent variable, namely the processes and outcome of European integration itself. Together with various additional debates that can be allocated somewhere in between those two theories, Neo-functionalism and Intergovernmentalism offered important insights to regional integration in general, and the European integration process in particular.

Nevertheless, soon the unprecedented degree of institutional and policy development revealed that the EU itself had a strong impact on the member states. The two approaches, both focusing on European level developments and trying to explain "the emergence of this unprecedented level of supranational governance" (Ladrech, 2010:1), could not account for the changes happening on the national level, which paved the way for a new approach (Bulmer, 1983). The attention switched from the description, analysis and explanation of the European integration process, towards the member states themselves. A Europeanization research agenda was born, that ended the exhausted and almost four decade-long debate between Neofunctionalists

and Intergovernmentalists, by adding previously not considered topics to the research agenda of EU studies, namely the impact of EU institutions and policies on national political systems, and more precisely the process of adaption resulting from EU membership. This 'Europeanization turn' in EU studies enabled to examine the ongoing reflexive and interactive relationship between European and domestic political institutions, that considers on the one hand all the different ways of how national preferences influence the integration process (and the actors involved), and on the other hand the effects of this ever-evolving process on the member states themselves. In other words, the focus moved away from a unilateral perspective to a dynamic one, adding a 'top-down' perspective to a previously merely 'bottom-up' one. The combination of these two perspectives aims at enhancing explanatory power (Graziano, 2013; Ladrech, 2010). Europeanization is thus inspired by the two competing approaches but goes beyond their focus on the European level by adding the analysis of the domestic level.

Consequently, the research agenda of Europeanization is very broad, varying from policy change to implementation. Within the spectrum of EU impacts on member states (or, in other words, domestic adaption to EU membership), one has to distinguish between 'downloading', that is the transposition to national law of EU legislative output in order to enable implementation on the one hand, and the effects on domestic policies from the implementation of such policies on the other. The present work is part of the former line of research, in that focusing on the downloading process allows to analyze rates of compliance and variations among member states. This is why the attempt of explaining national differences in the implementation of the original Dublin Convention and of the subsequent second and third Regulation is located in, and based on, the broader framework of Europeanization literature. By considering the domestic level, the Europeanization approach enables to use additional tools of analysis, such as a comparison and case studies.

Although the term 'Europeanization' is now well established in literature, it lacks a universal definition. Instead of the emergence of a unified approach, the mid-1990s saw a number of comparative politics analyses that used the EU as an independent variable to explain changes on the national level (Ladrech, 2010). Being more of a concept than a theory, it is vulnerable to "concept stretching" (Radaelli, 2000). However, to make the concept and its simplifying assumptions amendable to empirical analysis, it has to be clearly defined first. To fully understand what it is, it is wise to first

differentiate the concept from others and underline what it is *not*. In line with Radaelli (2003), Europeanization must not be mistaken with the concepts 'convergence', 'harmonization', or 'political integration'. *Convergence* might or might not be the result of Europeanization. The same EU policy can produce striking differences in member states. *Harmonization* is often the goal of an integration process, as it is the case with the CEAS, but it is not necessarily reached. Policies aiming at harmonization sometimes even increase differences. *Political integration* stands for a sovereignty transfer from national to supranational level, and thereby happens before Europeanization. Put differently, Europeanization is the consequence of political integration.

However, distinguishing the concept from others does not answer the question of how Europeanization can be defined. Different scholars have offered different answers to this question, attributing different meanings to the concept. Some, such as Hix and Goetz (2000: 26) focus on the "process of change" on the domestic level that is triggered by European integration and concentrate on analyzing policy change. The same can be said about the early delimitation of the concept offered by Ladrech (1994: 69): "An incremental process reorientating the direction and shape of politics to the degree that EC political and economic dynamics become part of the organizational logic of national politics and policy-making". According to Börzel (1999: 574), Europeanization is "a process by which domestic policy areas become increasingly subject to European policy making". This definition is broad enough to allow for a vast range of empirical testing, and thereby too loosely defined for the scope of the present research. More limited, but still not suitable for the research question addressed here, is the definition proposed by Risse, Green Cowles and Caporaso (2001), who frame Europeanization in terms of a process of constructing authoritative European-level structures of governance. While all of these definitions implicitly recognize that Europeanization effects do not necessarily lead to the harmonization, convergence or homogenization between member states, and that this 'differential impact' depends on domestic factors, they focus on other aspects. The choice of definition depends on the particular research question. Therefore, the definition adopted here is the one offered by Featherstone (2003: 7), who considers Europeanization a process of "national adaption to the pressure emanating directly or indirectly from EU membership". This particular definition is a suitable starting point when analyzing implementation and the reasons behind variations in compliance among member states.

Scholars examining implementation and compliance rates identified various domestic factors as having an impact. The most famous and tested among these is the 'goodness of fit', or 'misfit' hypothesis (Schmidt, 2002; Duina, 1997 and 1999; Knill and Lenschow, 1998; Green Cowles *et al*., 2001; Héritier *et al*., 2001; Börzel and Risse 2003; Börzel, 2003; Mastenbroek, 2003; Falkner *et al*., 2005; Mastenbroek and Van Keulen, 2005). Being this hypothesis not being sufficiently supported by empirical evidence (Mastenbroek and Kaeding, 2006), other factors have been tested, sometimes added to the misfit hypothesis as 'intervening factors', sometimes as variables on their own. These factors include the existence of veto points (Green Cowles *et al*., 2001; Börzel and Risse, 2003; Dimitrova and Steunenberg, 2000; Haverland, 2000; Giuliani, 2003; Steunenberg, 2004), external pressure for adaption (Schmidt, 2002; Börzel, 2003; Knill and Lenschow 1998a), political institutional capacity (Schmidt, 2002; Demmke, 2001; Dimitrakopolous, 2001a; Mbaye, 2001; Bursens, 2002; Bughdahn, 2005; Falkner *et al*., 2005), policy salience (Knill and Lenschow, 1998b), discourses that influence policy references by changing perceptions of economic vulnerabilities and policies and thereby enhance capacity (Schmidt, 2002), the nature of EU policies (Héritier *et al*., 2001 and Falkner *et al*., 2005), and the degree of domestic support (Knill and Lenschow, 1998; Mbaye 2001).

In order to gain useful insights and to draw precise conclusions out of the research, the scope of the analysis has to be limited. The factors outlined above have been identified with regard to implementation in general, or to specific policy fields such as environment, health care or monetary policy, and some are less relevant than others in the policy field of asylum and migration. The explanatory factors assumed to be most relevant with regard to the implementation of the Dublin regime and thereby analyzed are the 'goodness of fit' or 'misfit' hypothesis, administrative capacity and economic situation/strength: The 'goodness of fit' hypothesis has been extensively discussed, but not sufficiently tested in the specific field of asylum and migration policy. The same applies to administrative capacity, a factor that is of particular interest when considering that the EU countries of first entry were not prepared to deal with the high number of migrants arriving in 2015 (Ghimis, 2015). The factor of economic strength is chosen in particular because the 2008 economic and financial crisis had direct impacts on the way states dealt with refugees (Trauner 2016). To avoid an overlapping of concepts and performing a tautological analysis, explanations on how the three possibly intervening factors are defined here, and how they will be operationalized, will be given

first. Clear delimitations of the concepts allow for the generation of hypotheses, which can be empirically tested.

In literature on Europeanization and implementation, the 'goodness of fit' hypothesis comes in two forms. First, it is often considered in terms of "adaptational pressure". Pressure on the member state to adapt to the institutional setting, rules and practices of the EU is generated by, and depends on, the degree of 'fit', or rather 'misfit' between the European institutions and the domestic structures. Domestic change is expected "particularly in those cases where the 'misfit' is high and the adaptational pressures are therefore strong" (Graziano, 2013: 12). Logically, the more legally binding the EU policy outcome, the higher the adaptational pressure in case of misfit. The weak empirical proof of this hypothesis led to the addition of several 'intermediating factors'. Risse et al. (2001) for example tested the impact of multiple veto points, mediating formal institutions, political and organizational cultures, and differential empowerment of actors and learning on the pressure to adapt to the European standards and resulting implementation record. The 'fit' or 'misfit' argument can, however, also be framed in a different and even opposite way, building on the work of Héritier (1993), who affirmed that member states upload their policies to the EU level to lay them down in binding legislation and thereby minimize the costs of adaptation. Extending this logic to EU adaption, one expects implementation to be more diligent, the closer the domestic structures are to their European counterparts, as less change (and thereby less resources, time and overcoming of obstacles) is needed for successful and timely implementation. If, conversely, an EU policy outcome requires profound changes in the domestic system, implementation "will be time-consuming and initially incorrect" (Mastenbroek and Kaeding, 2006: 333, Duina, 1997 and 1999, Knill and Lenschow, 1998). Also in this case, the impact of this dynamic depends on the degree of coercion of the policy, as a not binding EU policy demand can simply be ignored by the member state in case of a significant misfit, without facing major repercussions. The present research uses the misfit argument in its first form. The first hypothesis being tested with regard to the implementation of the Dublin regime is therefore:

H1: The lower the 'misfit' between national migration policy and the provisions of the Dublin regime, the better the implementation of the latter.

The ‘misfit’ hypothesis is thus considered in its original and narrow meaning, without taking into account the various ‘mediating factors’ identified by scholars, which are here being taken as factors on their own. This allows for the testing of ‘administrative capacity’ separately from the misfit argument. Two indicators will serve to assess the fit, or rather misfit between the domestic asylum systems and the provisions of the Dublin regime. First, it will be considered if a country already had an established and well-functioning asylum system before adhering to the Dublin regime. If so, the country in question already possessed the necessary structures (such as legislation, regulatory bodies, specific bodies, personnel, resources) to fulfill the demands resulting from the Dublin Convention, and consequently both time and costs to comply are reduced. This assumption is in line with the historical and sociological institutional writings, according to which institutionally grown structures and ways of doing things do not automatically adapt to exogenous pressure but are resistant to change despite a changing environment (Krasner, 1988; March and Olsen, 1998; Immergut, 1998). Information about the domestic asylum systems will be taken from official legal documents and secondary sources on the manner. The second indicator is based on one of the baseline principles of the Dublin regime, namely the respect of human rights. From its beginning, not only the text of the Convention explicitly related to the Charter of Fundamental Rights of the EU, but also many of the exceptions to the first-entry principle are based on humanitarian grounds. Moreover, the changes made to the original Convention in 2003 and 2013 further enhanced the human rights aspect, which underlines the level of importance that is given to it. A country, who has a good record in respecting human rights, is considered to be more compatible with the intentions and goals of the regime and is therefore expected to comply with it more likely than a country who presents a history of breaching human rights. To assess a country’s record of respecting human rights, it will be taken into consideration when the country adhered to the1951 Refugee Convention and the 1967 Protocol. Given that the ratification of a treaty does not imply compliance, further indicators are necessary. A useful first indicator is provided by the human rights protection scores assigned yearly to every country from 1949 by “Our World in Data”. These scores will be completed with information provided by various NGOs specified in the field. If a country already had a well-established asylum system before becoming part of the Dublin regime, and if it is diligently respecting human rights, the Dublin regime corresponds to national (administrative and legal) patterns of behavior tradition, and one can speak

of a ‘fit’. Conversely, if a country does not present a history of processing asylum claims and respecting human rights, there is a ‘misfit’ between the arrangements of the two levels. Based on the analysis of the various sources, it will be assessed if the misfit between the provisions of the Dublin regime and the respective national asylum systems of Germany, Hungary and Italy has been ‘high’, ‘medium-high’, ‘medium’, ‘medium-low’ or ‘low’. This exclusively discursive and qualitative assessment of the degree of compatibility between the two levels has the disadvantage of not being perfectly transparent and thus diminishing the scientific value of the result. However, while applying a scale, numerical value or similar to the degree of fit or misfit rendered the analysis more scientific and transparent, it would not enhance the explanatory value because of the very nature of the factor. Using a scale requires the factor to be perfectly comparable, which is not the case when measuring the misfit through the two indicators chosen here. Examining the development of the establishment of the legislation on asylum and the human rights situation in each of three considered countries in a discursive manner is considered to be sufficient, and even more suitable to make valid claims of a possible fit or misfit, than assessing it by means of an ex-ante established measurement.

The concept of administrative capacity is considered and tested as an intervening factor in a variety of political science literature, such as state building and political economic development, public management, governance and policy change. It is invoked for different purposes and assumes different unit of analysis, but in all these different research fields it shares a common core that can be taken as a general definition. Administrative capacity always stands for “the abilities that the public bureaucracy does or should possess” (Addison, 2009: 10). In public administration literature, these abilities of the public bureaucracy are considered as an intervening factor in the process from policy decision to policy outcome. In early implementation literature, administrative capacity was treated as a source of veto points and thus as an obstacle to positive policy outcomes (O’Toole and Montjoy, 1984). Later, the conceptualization moved away from its impeding nature towards a more positive one, considering administrative (or institutional) capacity simply as an intervening factor in the process policy implementation, that can have an impact on both directions. If a state possesses high capacity, it facilitates the putting in place of a policy. Conversely, certain characteristics of the administrative system of a state can also have the opposite effect, impeding correct implementation. More recent literature concentrated

on the impact of this variable with regard to the implementation of EU policy demands. Falkner *et al.* (2004) came to the conclusion that insufficient financial and personnel resources, and thus low administrative capacity, have more explanatory power regarding non-compliance with EU law than political opposition during the policy creation process does. Similarly, Hille and Knill (2006) consider the administrative capacity of candidate countries as being more important than the nature of political systems in explaining domestic implementation. In implementation literature with regard to the EU, administrative capacity is thus considered as an intervening factor in the process from ratifying the Dublin regulation (policy decision) to its compliance and implementation (policy outcome). Building on this research, the second hypothesis tested is:

H2: The higher the administrative capacity, the better the implementation of the Dublin regime.

The analytical framework and indicator system to assess the degree of administrative capacity of Germany, Hungary and Italy is being provided by 'The Governance Report 2014' published by the Hertie School of Governance. In line with Skrondal and Rabe-Hesketh (2004), who state that conceived as a theoretical construct, administrative capacity cannot be directly observed and that its presence can be assessed only through other observable factors, the Governance Report divides the concept into the four sub-categories delivery capacity, regulatory capacity, coordination capacity and analytical capacity, that are being analyzed for each country. By subdividing these categories into even more indicators, the report allows for a highly nuanced look. This dashboard developed by the Hertie School of Governance uses data from multiple organizations and data providers and is the most comprehensive snapshot of administrative capacities available. Based on the analysis of the available data, a numerical number is assigned to each country for each of the four sub-categories that constitute administrative capacity. Given that the two extremes of the numeric scale that assesses the capacity vary between the sub-categories and thus no aggregate number can be established without converting the scales, every capacity will first be assessed as being 'high', 'medium-high', 'medium', 'medium-low' or 'low' and only afterwards the overall administrative capacity will be discussed.

In order to give meaning to the numbers, the four sub-categories have to be shortly defined and connected to the field of asylum and migration. Put simple, delivery capacity is the "capability to 'make things happen'" (Lodge and Wegrich, 2014: 11) and is mostly related to resources. Delivery capacity varies depending on the internal organization of a state (especially in terms of the relation between the private and the public sector), the state of technology and the increasing internationalization pf policy agendas. When it comes to national asylum systems, delivery capacity is thus linked to the availability of resources to meet the demands that result both from the international agreements (the Dublin Regulation) and the domestic legislation. Those resources consist in having a dedicated budget, a welfare system for applicants, properly trained staff and administrative structures. Regulatory capacity "refers to the way the powers of the state are used to constrain economic and social activities, and entails the presence of regimes that combine standard-setting with an apparatus that detects and enforces compliance" (Hertie School of Governance: 2014). This capacity to control depends on the complexity of a regulatory process and becomes more difficult when more actors are involved. Given the high number of actors involved and the inherently complex and layered system that involves different ministries, border control, police, lawyers, and many more, governance reaches a high level of difficulty in the field of asylum and requires higher regulatory capacity. This is directly linked to coordination capacity, which is necessary to bring together the many actors and levels among which state power is dispersed. Capacity here stands for facilitating in a non-hierarchical way, rather than imposing coordination and communication in a top-down manner. Wherever collaboration takes place, coordination capacity is needed (Lodge and Wegrich, 2014). In the field of asylum, and especially with regard to the implementation of the Dublin Regulation, collaboration is not only required but even indispensable for the system to function. On the national level, collaboration happens between the different units and actors involved, and on the international one between the different EU member states. The last element that together with the others constitutes administrative capacity, is "the way in which executive governments are informed about future projections and current developments" (Lodge and Wegrich, 2014: 14). Regarding the governance problem of immigration, this involves forecasting future developments of migration flows in terms of numbers and routes, as well as challenges and changes arising from specific policies and the general situation in other countries.

When in 2015 the high influx of refugees exposed the deficiencies of the EU asylum policy, the effects of the global financial and economic crisis that broke out in 2008 with the collapse of the investment bank Lehman Brothers, were still visible in Europe and especially in the countries majorly affected by it. Logically, a country that faces a recession and who's overall economic situation worsens, has less resources at hand for any policy field. Trauner (2016) mentions how the global economic crisis and its impacts on the countries has altered the degree of compliance with the EU asylum policy and the way EU member states dealt with refugees and asylum seekers. It follows, that the overall economic situation of a country might influence the implementation of the Dublin Regulation. It is assumed here that the worse off a country is economically, the less resources it has at hand to allocate for the successful implementation of the Dublin Regulation. Conversely, a country whose economy is growing, or generally strong, possesses sufficient resources to undergo the necessary domestic changes in order to adhere to the EU policy demands and to uphold the structures necessary to do so. Consequently, the third hypothesis to be tested is:

H3: The better the overall economic situation of a country, the better the implementation of the Dublin regime.

In order to analyze the economic situation of Germany, Hungary and Italy in the time span from 1990 to 2017, the following key macroeconomic indicators will be used:

- Gross Domestic Product (GDP) in $ per capita
- GDP per capita annual growth (%)
- Unemployment rate
- Inflation rate

The information and necessary data will be taken from the World Bank and the Organization for Economic Co-ordination and Development (OECD), that offer detailed statistical information for all three countries. Secondary sources will complement the statistical data. A high GDP and low unemployment rates indicate a good state of economy, while an inflation rate that is both too high or too low usually has negative influence on the economic stability. In recent years most countries attempt to sustain an inflation rate of 2-3%, and in general an annual inflation rate of 1-4% is considered to be ideal. By considering the three indicators, focusing on their change over time,

and comparing them between the three countries as well as with the EU average, the strength of the economy will be rated as 'high', 'medium-high', 'medium', 'medium-low', or 'low'.

Applying the theoretical concept of Europeanization opens up new research tools, such as the comparative method. The three hypotheses outlined above (independent variables) are being tested for the three EU member states Germany, Hungary and Italy, with the goal of drawing conclusions on the varying degree of implementation of the Dublin regime (dependent variable). Testing only three possibly intervening factors for as little as three European countries is a clearly limited research but taking more factors and countries into account would exceed the space of this thesis. The selected countries are considered to be informative in terms of the research question because they all differ on the dependent variable and are all strongly affected by a constant influx of asylum seekers.

To test the hypotheses, the dependent variable must be first assessed for each member state. After having established to what degree Germany, Hungary and Italy implemented (or failed to implement) the original Dublin Convention, the Dublin II and the Dublin III Regulations, this 'degree of implementation' will be confronted with the country-specific findings of each of the three tested factors. Acknowledging that this approach does not consider all the possible variables influencing compliance and implementation, no quantitative final conclusion can be drawn. The question which factors on the domestic level determine the implementation of the Dublin regime will be tried to be answered qualitatively by contrasting the findings on the dependent and independent variable and comparing the three cases.

Implementation is here understood as the transposition, enforcement and application of EU regulations. That means that implementation is perfect and successful if a given EU regulation has been properly 'translated' into the national legal system, it's application is being made sure by adequate structures and procedures and is universal and non-discriminatory. The other side of the extreme would consist of non-existing transposition of the regulation into the national system, and consequently no enforcement and application. Considered as a continuum with perfect implementation and no implementation as the two extremes, there are various 'degrees' of implementation, that will here be measured with regard to the Dublin regime through an informal qualitative analysis which will consider various measures, behaviors and omissions of each of the tested countries that reveal something about

their implementation and compliance of the Dublin regime. The necessary information for this operation will be taken from primary and secondary sources and informed news. On the basis of this formal and informal analysis, the implementation record of each country will be considered as ‘high’, ‘medium-high’, ‘medium’, ‘medium-low’ or ‘low.

The research proceeds as follows: Before drawing a conclusion on which of the tested factors influence (and possibly to what extent) the degree of implementation of the Dublin regime of Germany, Hungary and Italy, the three countries will be analyzed separately (Chapter 4 to 6). First, their degree of implementation will be assessed with regard to the time span from the coming into force of the first Dublin Convention in 1997 until today, thus the entire period of existence of the Dublin regime. It will not be mentioned when implementation is diligent and correct, as it is assumed that having ratified the Convention and the subsequent regulations, correct implementation is the normal state. Instead, deviations from the agreed standards will be outlined. These deviations can consist on one extreme in clear violations of the provisions resulting from the Convention and subsequent regulations, and on the other of measures that are not explicitly requested by the Regulation but facilitate implementation and cooperation. However, we also find countries’ behavior and measures that cannot be defined in such clear terms, because many of the articles of the Regulation allow for interpretation. Provisions such as ‘reasonable amount of time’ are open for interpretation. The lack of definition leads to a strong variation between member states. It can be discussed if these country-specific interpretations are in fact ‘reasonable’, and if they are in line with the purpose of the regime. After assessing the degree of implementation of the three considered countries, each of the possibly intervening factors will be considered separately. Each chapter ends with putting into relation the implementation record and the findings on the independent variables and a short country-specific conclusion. A final discussion will conclude this thesis, by comparing the three cases and reconnecting the findings to the broader framework of Europeanization and implementation.

PART II

4. Germany

4.1 Implementation of the Dublin Regime

Organizational structure and resources of competent authorities dealing with Dublin

Two separate unites have been established to handle the procedures: One for those who enter the country irregularly, and another for dealing with the asylum procedure in the case that there are indications that responsibility lies with another state. These specific units do not carry out the complete Dublin procedure and rely on the involvement of other authorities through informal coordination mechanisms. Within the Dublin units, specific training on Dublin in general, and additional training for case workers on broader topics relevant to the procedure (such as how to best interview children and vulnerable persons), is provided, though not requested by the Regulation (European Commission, 2016e).

Procedural guarantees and safeguards for applicants for international protection

Information regarding the procedure is provided before lodging the application in the language of the applicant, but legal representatives in Germany state that this information is insufficient, which would consist in a violation of article 4 (Right to information), that lays out in detail which information should be given to the applicant. The personal interview (Article 5) is omitted only in cases of exceptions allowed by the Regulation, but since the rise in number of applicants starting in 2014, these interviews are conducted with severe delays. Sometimes the personal interview takes place several months after the applicant has arrived in Germany. Moreover, the interview lasts only for 15 to 20 minutes, including interpretation and the provision of information (European Commission, 2016e). The interview is often focused on the travel routes of the applicant, rather than on the core issues requested by the Regulation. Interviews are always conducted, but the quality is low, which leads to a severe limit in its usefulness and possibly violations in the asylum seeker's right to information (AIDA, 2017).

One of the main changes introduced by the Dublin III Regulation with respect to the previous version is the focus on the unaccompanied minors, whose safeguard and protection "shall be a primary consideration for Member States". In Germany, lawyers

and legal representatives note that the procedure to trace family members is too long to be considered “the best interest of the child”, as demanded by Article 6 (4) (EUR-LEX, 2013:38) (European Commission, 2016e). Given the lack of a precise definition of a reasonable time span to trace family members, a lengthy process cannot be called a clear violation of the Regulation. Being the best interest of the child (BIC) one of the baseline principles of the entire Regulation, however, implementation is flawed when this process does not run smoothly.

Criteria/Procedures for determining the responsible Member State

In autumn 2015, Germany temporarily suspended Dublin for Syrian applicants as a reaction to Hungary’s declaration to take back no more than 12 applicants per day. The tremendous backlog of transfers created thereby led the German authorities to the decision to suspend the individual check of Dublin criteria with the aim of expediting the process, as backlogs meant that few applicants would have been transferred even if Hungary resulted as being responsible (European Commission, 2016e). This decision has been motivated by humanitarian motives and of efficiency, and is thereby in line with Article 17, which allows for deviations of the procedure in these circumstances. Assuming responsibility even if another member state is responsible under the Dublin criteria is a sign of solidarity with the other member states. Deviations like this “demonstrate a solidarity-driven approach in the application of the Dublin Regulation” and consequently have the same overall goal of the Regulation and the European asylum policy in general (AIDA, 2015: 84).

The length of the procedure of tracing family members is also critical with regard to determining the responsible member state, as this is subjected to the goal of family unity.

Implementation of transfers

Written information about transfer decisions are provided in German and only partially in a language the applicant understands (European Commission, 2016e). This might result in some cases in a clear violation of the applicant’s right to information (Article 4).

According to Article 28, only an applicant that presents a “significant risk of absconding” can be held in detention (EUR-LEX, 2013: 46). In Germany, objective criteria defining this “risk” are established and consist in claims to have friends or family in other

member states, evidence of previous absconding from other member states, previous disappearance and EURODAC hit. It results that the mere claim to have friends or family in another member states can result in placing an applicant in detention. This claim can hardly be considered as a “significant risk”, and detaining an applicant based on this criterion could lead to a violation of Article 28. The several objective criteria are concerning, giving the “risk of absconding” such a far-reaching scope that it can be misused for purposes not intended by, and even against the aim of the Dublin Regulation. However, detention rarely occurs in Germany. When an applicant is detained though, access of family members and NGOs to the detention center is limited (European Commission, 2016e). This breaches Article 10 of the Dublin III Regulation, which explicitly states that representatives of UNHCR, family members, legal advisors and counsellors and relevant NGOs shall be able to visit applicants in detention.

Appeal

As ruled by Article 27, applicants have the right to appeal any transfer decision before an administrative Court. In Germany, the criteria and practices applied by the judicial body are not uniform across the country, which leads to uncertainty of law. According to the Regulation, the time limit for the applicant to exercise his or her right to effective remedy should be “reasonable”, without a further specification. In Germany, applicants can request a judicial review within 7 days (less when the applicant is in detention) from the decision. This time frame is too short to be considered an effective remedy and therefore is not “reasonable”, because the application for suspensive effect has to be fully substantiated. Not only does the preparation of such an application require extensive knowledge of the state of law, but moreover it is often not possible to make an appointment with a lawyer in such a short period of time (AIDA, 2017). Stakeholders notice that in many cases the notification does not even reach the applicant, who is consequently being transferred without having the possibility to exercise his or her right to effective remedy at all (European Commission, 2016e).

All member states are required to guarantee that applicants have access to legal assistance (Article 27 (5)). In Germany, free state-funded legal assistance is only available in second instance legal procedures. In the first instance, asylum seekers can only rely on the limited resources of NGOs, but their legal aid is based on a ‘merits test’, and only provided to asylum seekers when chances of success of the case are high. As a consequence, legal aid is granted rarely, with the exception of cases

concerning countries such as Italy, Hungary and Bulgaria, where chances of successful appeal are higher (European Commission, 2016e). The limited access to free legal aid means that asylum seekers that do not possess the necessary financial resources are deprived from their right to legal assistance. This consists in a violation of Article 27 (5) of the Dublin III Regulation.

Administrative cooperation

Article 36 allows member states to conclude bilateral agreements to simplify and shorten procedures or to exchange liaison officers. Germany has exchanged liaison officers with Belgium, Greece, France, Hungary, Italy, the Netherlands, Poland, Sweden and the United Kingdom. Liaison officers facilitate cooperation and make procedures more efficient, which is why this large number of officers exchanged with several other member states can be considered as a commitment to implement the provisions of the Regulation.

Overall implementation score

The flaws in the implementation of the Dublin Regulation can be considered as minor. They consist mostly of procedural problems, such as the quality of interviews, too lengthy procedures and insufficient assistance. While these are definitely problems that have to be addressed and must be seen as violations of the Regulation, they do not consist in gross violations of human rights and cannot be treated as voluntary attempts to shirk responsibility or to undermine the Regulation. One exception are the problems faced by an applicant when exercising his or her right to effective remedy. The very short time period in which a request for judicial review can be lodged, and the limitations to legal assistance, basically completely deprive the asylum seeker of his or right to appeal.

On the other hand, Germany presents elements that go beyond what is directly requested by the Dublin Regulation. The best example of this is the large-scale assumption of responsibility in autumn 2015.

Concluding, Germany does not perfectly comply with the Dublin Regulation, but violations are minor and “outbalanced” by attempts to facilitate and foster cooperation with other member states. These additional actions, not imposed by the Regulation do not free Germany from having to eliminate the violations, and neither justify them, but signal that the flaws are due to certain circumstances, and not driven by a voluntary

choice to escape responsibility. This is why I consider implementation in Germany as medium to high, despite its clear flaws.

4.2 Misfit

In order to assess if Germany already had a functioning asylum system in place when the Dublin Convention came into force in 1997, and thereby to assess the degree of fit, or misfit, between the two levels of legislation, a short historical overview of the development of the asylum system until 1997 in Germany will be given.

The right to asylum has been guaranteed by the German constitution since 1948. Article 16 (2) explicitly stated that: “Persons persecuted for political reasons enjoy the right of asylum” (Bosswick, 2000:44). The law, that entitled to travel outside the host state and for family reunion, was created during a massive post-war refugee migration into Germany and prepared the ground for a three decades lasting liberal asylum practice. The first asylum decree that was enacted in 1951, however, did not refer to Article 16 (2) but only to the Geneva Convention, that Germany had signed during the same year, and which allowed for a more limited interpretation of asylum. Only the first Aliens Act (Ausländergesetz) explicitly referred to the Constitution as the basis for asylum. Nevertheless, legal practice interpreted Article 16 (2) in a way that allowed for it to be limited by the Geneva’s exclusion of refugees “who on serious grounds must be considered a threat to the country’s security”, until the Federal Administrative Court rejected this interpretation in 1983 (Nicolaus, 1990: 55). Until 1977, the granting of asylum was decided upon by an independent jury composed of one chairman qualified in law and two further jury members after a hearing. Appeals were judged by a committee of three adjudicators at the Federal Office for the Recognition of Foreign Refugees. Further legal actions could be taken until they reached the Federal Constitutional Court (Nicolaus, 1990).

In the 1970s, two events led to the change from a liberal post-war asylum policy to a more restrictive one: First the oil crisis of 1973 that resulted in an economic recession in Germany, and second a major increase in asylum applications in 1977, that peaked after the military coup d’état in Turkey in 1980. Within a few years several new laws were introduced that accelerated the asylum procedure, restricted possibilities to appeal, replaced the recognition juries by single adjudicates, restricted the mobility of rejected asylum seekers to one federal state and limited asylums

seekers' rights to work (Bosswick, 2000). The first 30 years of asylum policy in Germany were thus characterized by a growing application of the concept of asylum and its implications as formulated in Article 16 (2) of the Constitution, combined with a certain reluctance of application by governmental authorities and bureaucracy and restrictive measures in reaction to the first major increase of asylum applications and a growing number of applicants coming from non-European countries.

In order to reduce applications by means of deterrence, the 1965 Aliens Act was replaced in 1982 by a new Asylum Procedure Code (Asvlverfahrensgesetz) which further restricted appeals, facilitated expulsions and reduced welfare allowances. The trend towards more restrictive measures was accelerated by a shift in government from a coalition of Social Democrats and Liberals to a conservative-liberal one in 1983. That meant in concrete a 5-year work ban for asylum seekers, carriers liabilities and a new and even more restrictive Aliens Act in 1991. In 1993, and amendment of Article 16 (2) introduced the concept of 'safe country'. Those coming from a state which provides protection according to the Geneva Convention and the European Human Rights Convention regulations, as well as from a list of 'non-persecuting states', were deprived of their right to asylum in Germany. This resulted in a sharp decrease in applications and increase in expulsions. In the same year, a new asylum procedure code introduced a special procedure at the airports. Applicants without valid travel documents would be detained in so-called 'international zones', as if they had not entered Germany. Like this they could be expelled easier and faster, but in 1996 this practice has been declared partly unconstitutional by the Federal Constitutional Court. Further restrictive measures, especially regarding welfare, have been introduced until the Dublin Convention came into force in 1997.

Asylum policy in Germany has been strongly influenced by the historical baggage of the country. This means first of all that the German authorities adopted a liberal post-war asylum policy. Second, the historical legacy served as a constraint to the introduction of more restrictive regulations on the matter; in fact, it took a "violent campaign to amend the asylum article (Article 16 (2)) that had been considered a cornerstone of the liberal republic" (Schuster, 2000: 119). Naturally, Germany has been a target for immigrants since then and asylum has constantly been on the political agenda. After the massive post-war influx of refugees in 1948/49, the number of applicants was relatively low during the 1950s and 1960s and was composed mostly of asylum seekers coming from Central and East European countries that were ruled

by communist governments. In 1977, the number of applicants that were now also coming from outside Europe rose to approximately 14000 annually. Only one year later the number had doubled. In 1980 asylum applications reached a peak after the military coup d'état in Turkey but dropped immediately in reaction to the restrictive measures implemented by the German authorities. Six years later the number rose again to 99.650 applications. The next massive immigration influx that the country experienced was composed of ethnic Germans from Central Europe and of former East Germany after the fall of the Iron Curtain in late 1989. In the early 1990s, when the Dublin Convention was signed, Germany was the top immigration country. In 1992 it reached the peak of 438,91 application, explainable with the immigration of ethnic Germans, the war in former Yugoslavia and easier access from Central Europe (Bosswick, 2000).

Table 3: Annual number of asylum applications in Germany (in thousands)

Year	Number of applications	Year	Number of applications
1988	103.1	1993	322.6
1989	121.3	1994	127.2
1990	193.1	1995	167.0
1991	256.1	1996	149.2
1992	438.2	1997	151.7

(Source: Schuster, 2000)

Being a country of immigration for over 50 years when the Dublin Convention had been signed, it is just logical that Germany had an established, sophisticated and well-functioning asylum system when the Convention came into force in 1997. That means in concrete that the notion of asylum and all its implications on rights and processes were known and internalized, and that procedures to assess the validity of an application and to expel applicants, and to appeal the decision, existed (with all the therefore necessary facilities, staff, resources, legal provisions). Moreover, the 1987 regulation that prevented the recognition of an asylum seeker that had previously stayed in a 'safe country' for at least 3 months, introduced the notion of 'safe state', that we also see being applied on the European level within the Dublin system. Within the German asylum system, applicants have always been registered through fingerprinting, a procedure that is at the very base of the functioning of the Dublin

regulation. Consequently, the procedures that were being applied with regard to asylum in Germany did not require much change to be adapted to the Dublin Convention.

The second parameter that serves as an indicator for the degree of fit, or rather misfit between the German asylum system and the Dublin system, is the record of respecting human rights. Among the three countries here considered, Germany was the first one to adhere both the 1951 Refugee Convention (Germany adhered in 1953), and the Protocol in 1969. When it comes to the scores on human rights protection, assigned yearly by Our World in Data for every country, that measure protection from political repression and violations of physical integrity rights, it has to be considered that separate scores have been assigned to East and West Germany before the reunification in 1990. However, the years that have explanatory value with regard to the state of human rights when the Dublin regime came into force are those shortly before that event, which is why it is sufficient to consider the scores assigned to Germany from 1990 onwards. In the seven years before the coming into force of the Dublin Convention, Germany presents medium to low human rights scores compared to the other EU member states of the time. Human rights violations were observed and made public by several sources: In 1995, Amnesty International published the report "Germany: Failed by the system", that was updated by another report in 1996. Both documents point out cases of torture and ill-treatment, especially relating to detention. The 1997 study "The Police and Foreigners", commissioned by the ministers of internal affairs of the 16 German Federal states, came to similar results, underlining the widespread police abuse of foreign nationals. In November of the same year, the UN Human Rights Committee expressed "concerns about police ill-treatment" and criticized "lack of independent mechanisms for investigating [such] complaints" (Amnesty International, 1997: 159-160). These unanimous evaluations of the human rights situation in Germany are in accordance with the scores assigned to the country by Our World in Data. Even if not as widespread as in the other two countries considered here, violations of human rights were severe and frequent, especially relating to foreigners and detention, and protection mechanisms were insufficient, lengthy and not impartial.

Figure 1: Human rights protection Germany 1990-2014

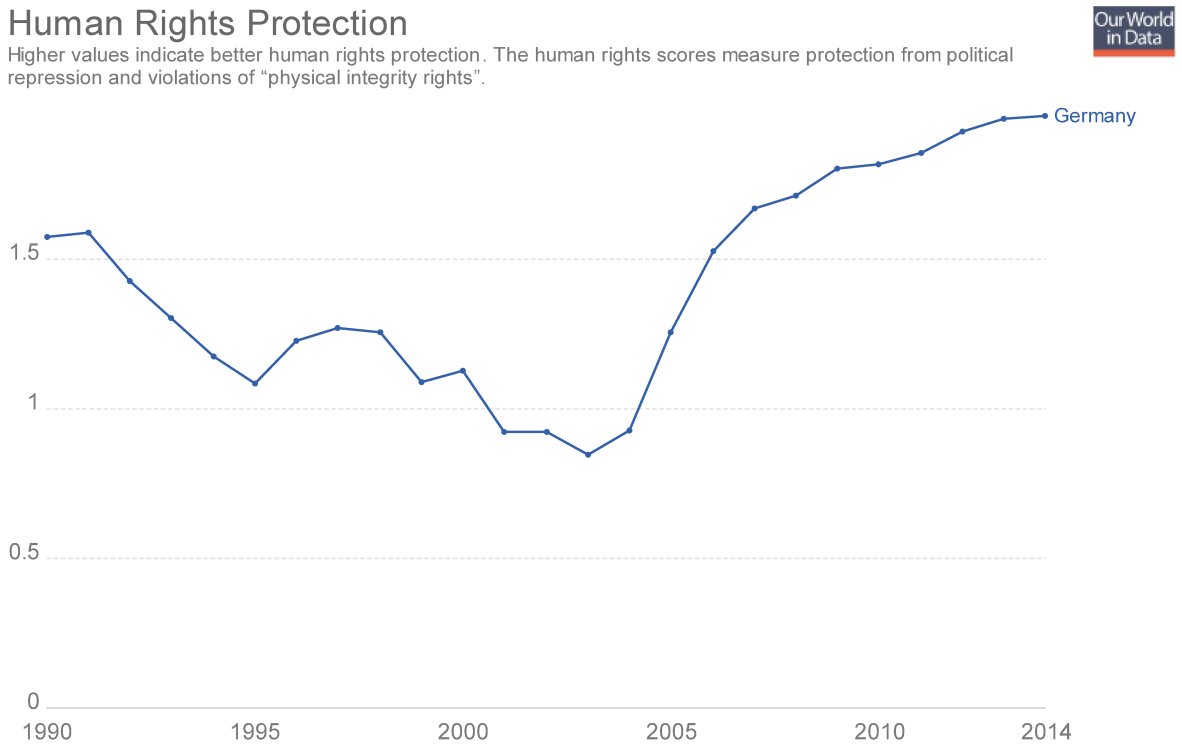
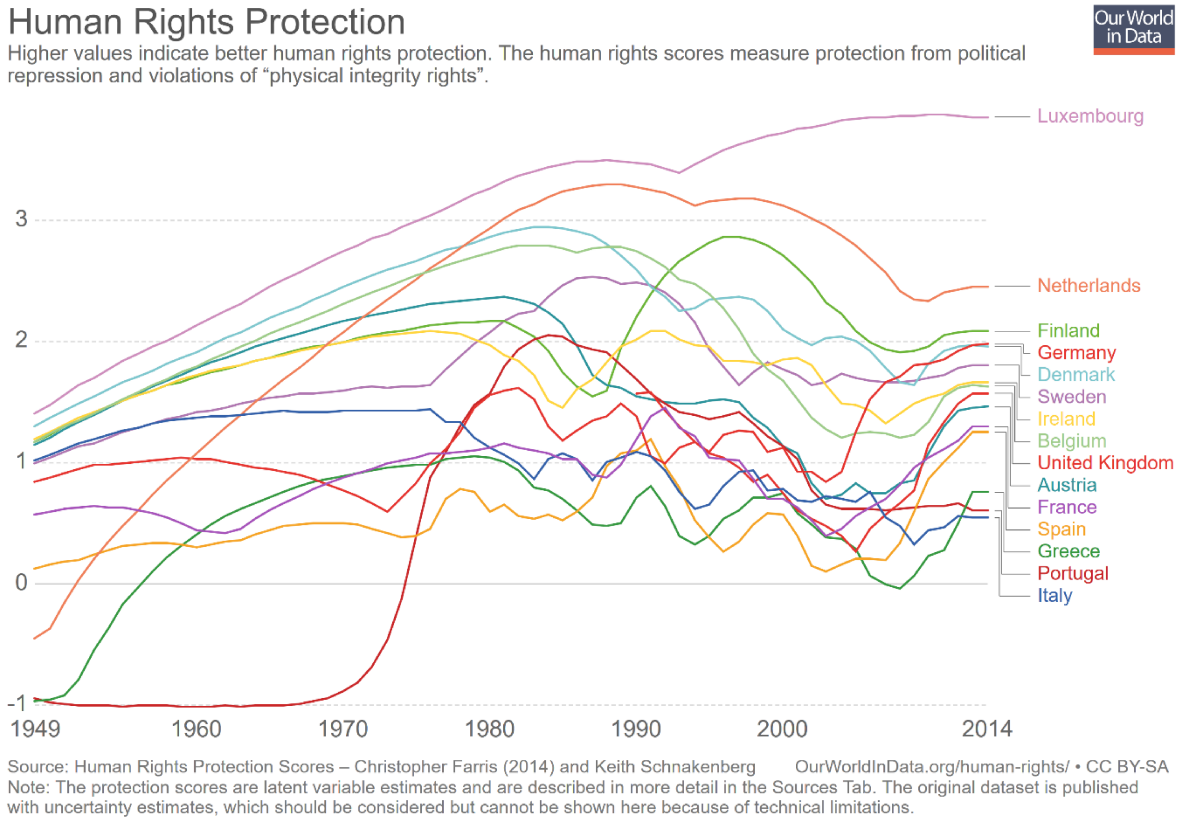


Figure 2: Human rights protection in the EU15 member states in comparison



Given that one of the baseline principles of the Dublin Convention is the respect for human rights, it is assumed here that a country, that generally presents high human rights scores and is therefore diligent in respecting and protecting human rights, is more likely to implement the provisions of the Dublin Convention and the following regulations. With regard to assessing the degree of fir or misfit, the medium to low scores assigned by Our World in Data to Germany since 1990, are compensated by the results of the analysis of the country's asylum system prior to the coming into force of the Dublin Convention. Germany had a sophisticated asylum system that had developed over time and presented many structures and elements similar to the ones required by the Dublin system. While the asylum systems of the two levels were very compatible and required little change in Germany, the level of human rights protection in the considered years stand in contrast with the baseline principles of the Dublin regime. Thus, the misfit between the European and the German asylum system has been **medium to low**.

4.3 Administrative capacity

Based on the extensive analysis carried out by the Hertie School of Governance (2014), Germany reaches the following scores in each of the four capacities that together compose overall administrative capacity:

Table 4: Capacity Indicators Germany

Delivery capacity	Regulatory capacity	Coordination capacity	Analytical capacity
1.48	0.88	1.04	2.58

(Source: Hertie School of Governance (2014))

To make the scores assigned by the Hertie School of Governance to the four categories for each country amendable for comparison and give the explanatory value regarding implementation, the same scale ranging from 'low' to 'high' will be used. The two extremes of the scale used by the Hertie School of Governance represent 'low' and 'high' capacities respectively, and the scores 'medium-low', 'medium' and

'medium-high' are allocated in between, based on the mean value of the two extremes. For each of the four capacities it is highlighted how Germany scored.

Table 5: Capacity indicators scores converted Germany

	Low	Medium-low	Medium	Medium-high	High
Delivery capacity	-1	-0.25	0.5	1.25	2
Regulatory capacity	-1	-0.5	0	0.5	1
Coordination capacity	-2	-1	0	1	2
Analytical capacity	-2	-0.75	0.5	1.75	3

Breaking down the scores into a universal medium to high scale, it results that Germany disposes of medium to high delivery and coordination capacity and high capacity when it comes to control and analysis.

4.4 Economic situation

The four indicators GDP ($/capita), GDP annual growth, unemployment rate and inflation rate, show that the state of the economy in Germany from it's reunification in 1990 until now has been quite stable (see annex 1 for a detailed breakdown of the data per year), with the exception of a light recession in 1993 and again in 2002/2003, and a strong downfall in reaction to the outbreak of the global economic crisis, that however did not last long. From it's unification until 2008, even if not expanding every year, Germany's GDP has always been high compared to the other EU member states (see figure 3). The development of the unemployment rate is less constant. In the first seven years after the reunification, Germany experienced a rise of unemployment. After reaching a high of 9.8% of the total labor force in 1997, the number declined and remained close to the average EU rate until 2001. Unemployment rose again until it reached a new peak in 2005, which was relatively high compared to the other EU member states in that year.

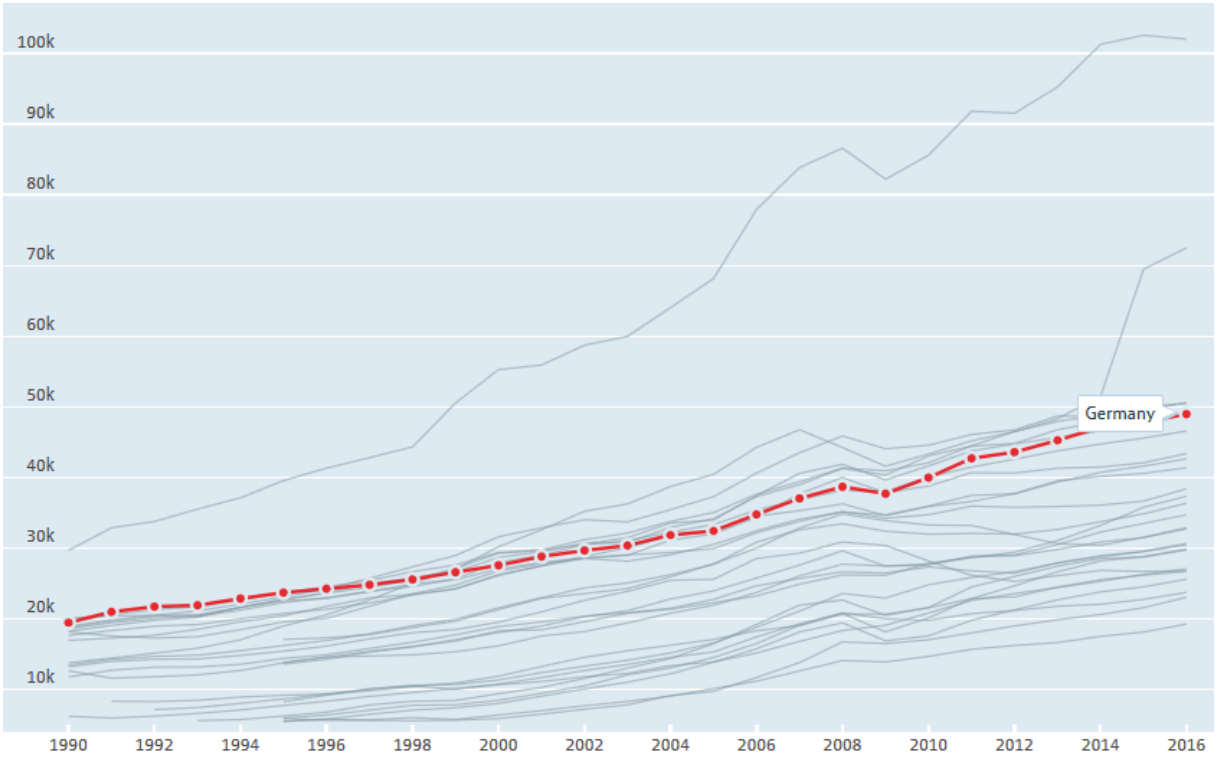
The inflation rate has been relatively stable over time, with variations within an acceptable range in terms of its possible impact on the stability of the economy (see figure 6)

Even if not pivotal regarding the specific hypothesis tested here, it is important to note that while the overall state of economy in Germany has been stable and strong from

1990 until today, there have been strong differences within the country. While the East suffered a slow economic development and recession in the first half of the 1990s, the West and South experienced a small boom. The economy of Western Germany was strong enough to compensate the high unemployment rate and slow economic development of the East. The four indicators speak for themselves: The economy of Germany has been among the strongest in the Eurozone throughout the entire period considered here. The central pillars of the economic growth in Germany were (and are) net exports and private consumption. Private consumption is directly connected to the labor market development, with lower unemployment rates favoring consumption (Junker and Wittenberg, 2015).

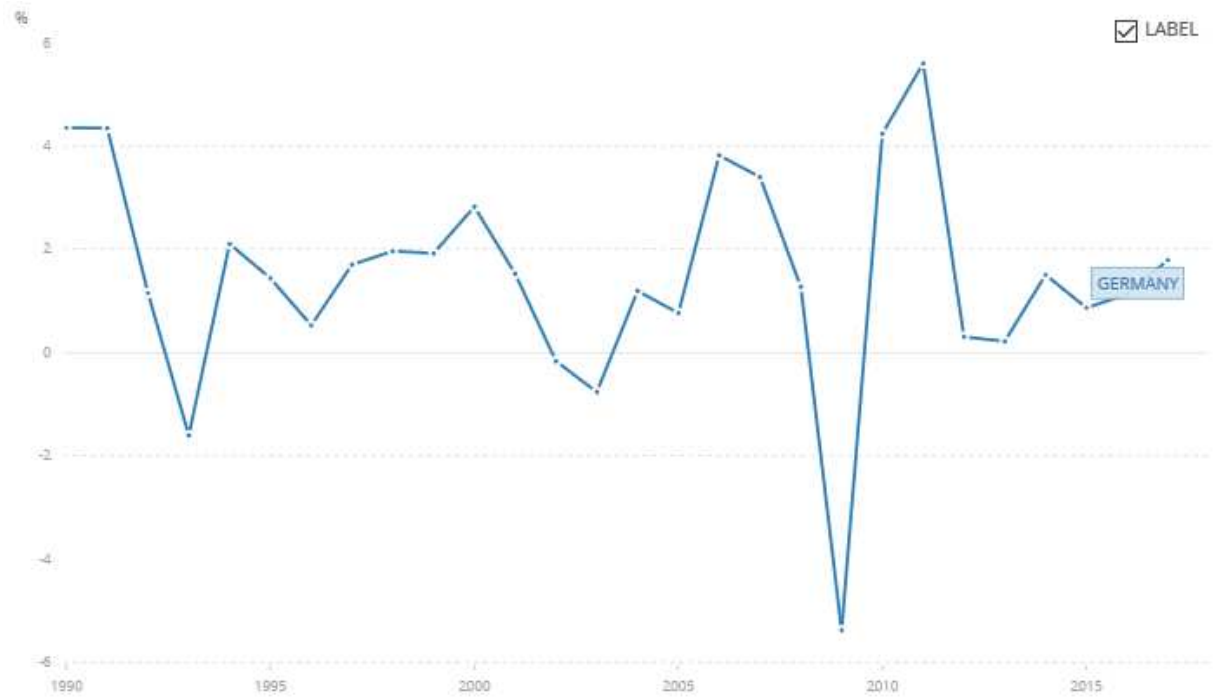
Mostly because of these two factors (export-dependency and private consumption), Germany was among the EU economies hit hardest by the 2008 global economic crisis. Whereas in general the German economy is considered relatively immune to crises in individual markets, where declines in sales in one geographical area can be compensated by an increase in sales elsewhere, the particular structure of the 2008 crisis created a vicious cycle: The restricted lending by banks limited consumers' access to capital. The drop in consumption forced companies to cut jobs, which led to a further decline in consumption. Throughout the course of 2008 the unemployment rose and the official GDP had declined by 5% in 2009 (see figures 4 and 5). However, unlike almost all other countries, the German economy recovered rapidly, and the country emerged from the crisis with an increase in exports, low borrowing costs, a large external surplus, a balanced budget and an inflow of investors' cash. Already in the first quarter of 2011, the GDP had reached pre-crisis levels. (Storm and Naastepad, 2014). At the same time the unemployment declined steadily and reached the record-low of 3.7% in 2017, while the Eurozone's rate rose to 9.04% (OECD, 2018). Despite economic and political tensions that characterized the EU in the considered time period, Germany generally presents a **high** economic strength, with minor tendencies towards medium-high in the first half of the 2000s, due to the rising unemployment rate.

Figure 3: Gross Domestic Product (GDP) in Germany, Total, US dollars/capita, 1990-2016



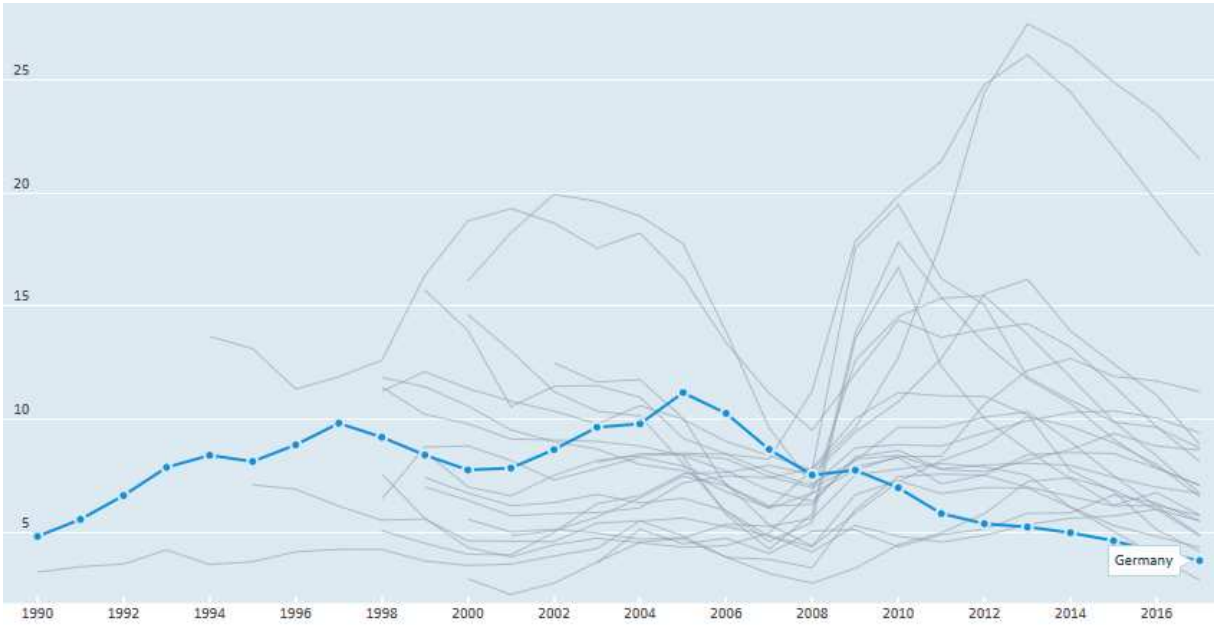
(Source: OECD (2018). Gross domestic product (GDP) (indicator))

Figure 4: GDP per capita growth (annual %) in Germany, 1990-2017



(Source: World Bank (2018), GDP per capita growth (annual %))

Figure 5: Unemployment rate in Germany, Total, % of labor force, 1990-2017



(Source: OECD (2018). Unemployment rate (indicator))

Figure 6: Inflation (CPI) in Germany, Total, Annual growth rate (%), 2012-2017

(Source: OECD (2018). Inflation (CPI) (indicator))

4.5 Discussion

After having analyzed the degree of misfit between the German asylum system and the European one, the country's administrative capacity and its economic strength, we can now confront the degree of implementation that we would expect based on the

respective hypothesis with the country's actual implementation of the Dublin regime (see table 6). However, the testing will be completed only in the final chapter after having analyzed all three countries and comparing their respective expected implementation scores with the ones assigned to them based on their actual behavior.

From the analysis of Germany's asylum system before the coming into force of the Dublin Convention and its compliance to the universally agreed upon human rights, it results that the degree of misfit between the national asylum system and the European one is medium to low. Based on hypothesis number one (*The lower the 'misfit' between national migration policy and the provisions of the Dublin regime, the better the implementation of the latter)*, it is thus expected that Germany's implementation score is medium to high. The case of Germany thus confirms the first hypothesis. The overall medium-high to high administrative capacity provides Germany with the means to implement the Dublin regime to an equally high level, and if hypothesis number two (*The higher the administrative capacity, the better the implementation of the Dublin regime*) is correct, Germany is expected to present a good implementation of the Dublin Regulation, or medium-high to high levels in terms of the applied scale. Potential violations are expected to regard only details of the provisions, being not widespread, non-permanent and to not consist in breaches of the baseline principle, namely the safeguard of human rights. The medium to high implementation score reached by Germany confirms also the second hypothesis. Resulting from the analysis of its economic situation, during the entire period from coming into force of the original convention in 1997, until the Dublin III Regulation that is in force nowadays, Germany disposed over the necessary financial resources to implement the European provisions and obligations. If hypothesis number three (*The better the overall economic situation of a country, the better the implementation of the Dublin regime*) was true, Germany should present a constantly diligent, or rather high implementation record of the Dublin regime, especially compared to other EU member states. The medium to high implementation score reached confirms also the third hypothesis so far.

Table 6: Comparison implementation scores expected, and real ones based on H1-H3 Germany

		Implementation score	
	Score	**Expected**	**Reality**
Misfit	Medium to low	Medium to high	Medium to high
Administrative capacity	Medium-high to high	Medium-high to high	Medium to high
Economic strength	high	High	Medium to high

5. Hungary

5.1 Implementation of Dublin Regime

Organizational structure and resources of competent authorities dealing with Dublin

In Hungary, a specialized unit has been established, but not the entire Dublin procedure is carried out by it. Certain steps of the procedure involve other authorities, based on informal coordination. The Dublin Coordination Unit has 18 staff members, which is low given the high influx of asylum seekers. It is very unlikely that 18 specialized staff members can deal with the high number of take back and take charge requests resulting from Hungary's geographical position along the main routes taken by the majority of migrants coming to Europe. Understaffing is expected to lead to severe delays in evaluating asylum requests and flaws in the procedure. The case officers within the specialized union are provided with specific training on the Dublin procedure (European Commission, 2016e).

Procedural guarantees and safeguards for applicants for international protection

All information regarding the Dublin procedure is given during the first (and only) interview with the Immigration and Asylum Office, which takes place after the application has been lodged. The information provided is usually limited to the way of traveling and family members. The absence of a special interview conducted in the Dublin procedure, and the restricted information provided, constitute a breach of article 4 (right to information) and article 5 (personal interview) (AIDA, 2017a). Moreover, information is available only in 5 languages, which may result in asylum seekers receiving information they do not understand (European Commission, 2016e).

There is no specific procedure to involve other member states in assessing the best interest of the child. Given that finding relatives in other countries and evaluating their situation requires cooperation with other member states, the lack of a specific procedure may lead to breach of the regulation, in which guarantees for minors are of the utmost importance. According to article 6, member states must furthermore guarantee that a representative represents and assists an unaccompanied minor during the entire procedure. In Hungary, this does often not happen due to a lack of capacity. If appointed, it happens with severe delays, even after the adoption of a new law in September 2015, which obliges authorities to assign a representative within 8

days of the application. The efficiency of these representatives is heavily limited due to the fact that they are unable to access the content of relevant documents in the applicants file including the specific leaflet for unaccompanied minors. This results in a clear violation of Article 6 (2) (European Commission, 2016e).

Criteria/Procedures for determining the responsible member state

Hungary's declaration in autumn 2015 to take back maximal 12 applicants each day is problematic. If, following the criteria of the Dublin Regulation, Hungary appears to be the country responsible for evaluating an applicant's application, the significant backlog created by limiting the take backs to 12 per day leads to other member states assuming responsibility for humanitarian grounds (in this case Germany) and thereby to Hungary evading its responsibility. Since the Dublin Regulation is a legally binding document whose main purpose is to determine responsibility, this indirect evading strategy applied by Hungary can be seen as a breach.

During the high influx of asylum seekers in 2015 and 2016, Hungary deviated from the standards agreed on in the Dublin Regulation and did not systematically store the fingerprints under the category 'asylum seeker' (Category 1) in EURODAC, but under the category of 'irregular migrants' (Category 2). According to statements of asylum seekers in 2015, in several occasions they were being forced to give their fingerprints and denied water if they refused to do so (AIDA, 2017a). Torture, and the threat thereof, is absolutely not in line with the Dublin Regulation, which in several sections underlines the respect of human rights and the various charters on the topic.

Both procedures within Hungary's asylum system and reception conditions are characterized by such flaws that several countries (Austria, Luxembourg, Slovenia and Switzerland) temporarily suspended transfers (European Commission, 2016e). These deficiencies were openly addressed in March 2017 in a legal note on asylum in Hungary by the European Council on Refugees and Exiles (ECRE), which had previously called on states to suspend transfers to Hungary, because of the (retroactive) automatic application of the 'safe third country concept' with regard to Serbia. The application of this concept completely deprives those asylum seekers, that they were apprehended within 8km of the border fence with Serbia, of the right to apply for asylum by automatically returning them (AIDA, 2017a). Another call for suspension of transfers was published by UNHCR in April 2017, recalling on the unlawful detention,

the expulsion of irregularly entering asylum seekers and the ill-treatment and violence by state agents (Pouilly, 2017).

Hungarian authorities explicitly and openly refuse to apply article 19 (2) with regard to Bulgaria, according to which Bulgaria's responsibility ceases in cases of asylum seekers which have waited more than 3 months in Serbia before being admitted to the transit zone. Hungary argues that applicants cannot rely on this, as long as Bulgaria does not explicitly invoke the expiration of responsibility. In fact, the Bulgarian authorities usually do not respond to Dublin requests and thereby responsibility is automatically assumed, or they do not invoke article 19 (2) (AIDA, 2017a). If this practice is to be considered a violation of the regulation depends on the interpretation of article 19 (2), but it is, again, an attempt to evade responsibility.

Also in the case of unaccompanied minors Hungary tries to be held responsible in fewest cases as possible. Therefore, when a family member of an unaccompanied minor in another member state is assumed to reside in Hungary, it requests a written documentation of the relationship. This practice is not required by the Dublin Regulation, and might stand in contrast with its aim, due to its possible hindering and even prevention of family reunification. On the other hand, when the unaccompanied minor is in Hungary, the procedure of tracing family members is very lengthy, which is equally problematic considering that the protection of minors is of the utmost importance according to the Dublin Regulation (European Commission, 2016e).

Procedures for submitting take charge/take back requests

Hungary presents severe delays in all the procedures regarding take charge and take back requests (both in submitting and replying) which in most cases results in Hungary becoming the responsible country (European Commission, 2016e).

Implementation of transfers

When Hungary is found to be responsible to process an application according to the Dublin criteria, it is de facto impossible to transfer the applicant in question to the country, because the airport is available only one or two days a month and the specific dates are communicated only three days in advance (Camera dei deputati, 2016). This is an active practice applied by the Hungarian authorities to prevent transfers.

In January 2014, UNHCR recommended to temporarily suspend transfers to Bulgaria due to a severe risk of inhuman and degrading treatment of asylum seekers

and systematic flaws in reception conditions and asylum procedures. The Hungarian authorities ignored the call and continued to execute transfers, thereby possibly exposing asylum seekers to inhuman treatment (UNHCR, 2016).

With the exception of unaccompanied minors, Hungary automatically detains all asylum applicants that are subject to a transfer decision. This directly violates Article 28, which states that only an applicant that presents a "significant risk of absconding" shall be detained, and furthermore that an applicant cannot be detained "for the sole reason that he or she is subject" to a Dublin procedure (EUR-Lex, 2013: 46). An automatic and periodic judicial review of lawfulness of detention is existent but considered ineffective by stakeholders. The same applies to the free legal assistance that in theory is available for this process. When in detention, applicants have limited access to any kind of assistance by NGOs, which violates Article 10 of the Dublin Regulation (European Commission, 2016e). Precarious is not only the detention itself, but also the detention conditions. Especially in the case of border detention, asylum seekers are being kept in overcrowded police premises "with no access to drinking water for up to 36 hours" (AIDA, 2017a: 88). These inadequate and insalubrious conditions violate not only the Dublin Convention but also any other provision regarding human rights.

Appeal

In Hungary, the time frame for applicants to exercise their right to effective remedy (Article 27) is even shorter than in Germany. Asylum seekers have only three days to request a judicial review of the decision before a competent court. Not only can three days not be considered "reasonable", as required by the Dublin Regulation, for the same reasons brought forward in the case of Germany, but stakeholders also note that in Hungary asylum seekers are sometimes not even informed about the 3-day deadline (AIDA, 2017a). When an appeal is being placed in time, the responsible court does not accept any evidence that has not been already submitted to the Immigration and Asylum Office, which makes any legal representation superfluous. Moreover, any personal hearing is legally excluded, which is particularly problematic because the applicant is usually not asked during the personal interview about the reasons he or she left his or her country of origin. In any case, the responsible courts often do not consider the reception conditions in the receiving country, nor the individual situation of the applicant. This may lead to a significant lesion of the applicant's rights and

safeguards. Free legal assistance for those that cannot afford the costs involved is limited to the judicial stage of the procedure. When accessible, it is often characterized by language and capacity issues. Any appeal against a Dublin decision does not have suspensive effect of the transfer (European Commission, 2016e).

Administrative cooperation

In line with Article 36 which allows for and encourages bilateral agreements with other member states, Hungary exchanged liaison officers with Austria and Germany and established bilateral agreements with Austria, Bulgaria, Romania and Slovenia. The agreements with Bulgaria and Slovenia consist in the creation of dedicated border points for transfers (European Commission, 2016e). As shown by the dispute with Bulgaria over assuming responsibility, the mere existence of a bilateral agreement does not necessarily improve the procedure and the implementation of the Dublin Regulation.

Overall implementation score

Hungary is formally part of the Dublin regime and legally bound to its provisions, but based on the analysis, it is not exaggerated to affirm that its general behavior of dealing with asylum seekers serves the purpose of evading any responsibility resulting from the Dublin Regulation. Given that the lack of precise definitions of many articles allows for interpretation, not all of these behaviors can be considered direct violations, but even where this is not the case and the provisions prescribe or outlaw certain behaviors or practices, Hungary does not cringe to openly breach the Regulation. This is underlined by the calls to refrain from transfers to Hungary by the UNHCR and the ECRE, and the consequent reaction by other member states of assuming responsibility that would usually lay with Hungary. Where the Hungarian authorities established mechanisms facilitating cooperation with other member states in the field of asylum, they serve mostly the purpose of transferring asylum seekers faster and more easily to other member states or simply outside the country. The personal situation of the asylum seeker and the conditions in the receiving country is not being taken into consideration, which can lead to severe breaches of human rights. A direct example of this is the non-suspension of transfers to Bulgaria. The breach of the Dublin Regulation is thus directly connected, in the case of Hungary, to the violation of other international legally binding requirements and therefore aggravated. We do not only see a risk of

violating human rights in Hungary transferring asylum seekers to other countries, but also during the procedure within the country itself. The precarious detention conditions, torture and the threat thereof, are very alarming and stand in absolute contrast to the aim of the Dublin Regulation. All this is worsened by the fact that the right to appeal and effective remedy is basically non-existent. Not only do asylum seekers in Hungary see their rights violated, but they are denied the opportunity to remedy the situation. Without the right to appeal, there are no safeguards for the asylum seekers to rely on, which equals a complete arbitrariness of the law. Concluding, Hungary presents a **low** degree of implementation of the Dublin Regulation.

5.2 Misfit

Hungary joined the EU only in 2004 in the course of the eastward enlargement. Consequently, the country has not been part of the original Dublin Convention, but only of Dublin II which came into force in 2003 and Dublin III since 2013. Hence, to be able to draw conclusions on the 'fit', or 'misfit' of the asylum systems between the two levels, in the case of Hungary, the development of the asylum policy and its state at the moment of becoming part of the Dublin regime, has to be evaluated until 2004. In the socialist constitution which was in place until 1989, asylum was ruled by paragraph 67 that stated "Asylum can be given to those persecuted for their democratic behavior, for their activities to promote social progress, the liberation of peoples and the defense of peace". Thus, the notion of asylum existed already under the socialist regime, but it was limited to communists and socialists. In the 1980s, the country experienced an influx of Romanians that fled the Ceausescu repression requested Hungarian citizenship. The number rose steadily, from 866 requests in 1980, to a total of 36.000 in 1989. At the same time also illegal crossing of border became widespread. Not having a history of immigration and lacking mechanisms and structures to deal with refugees, the one-party Hungarian People's Republic was unable to absorb this flow and to deal with the implications, such as decision mechanisms and structures on granting asylum or questions related to integration. The need for regulation on the matter led to the decision to accede the 1951 Geneva Convention relating to the status of refugees in March 1989. On this basis, first pieces of legislation concerning the recognition of persons as refugees and the status of refugees were issued, and an 'Office for Refugee Affairs" was set up. However, these provisions were not detailed

and elaborated enough to actually regulate refugee issues, which became problematic when a high number of East Germans crossed Hungary to get to West Germany. To resolve the legal dilemma, in September 1989, the “Law No. XXIX of 1989 on Emigration and Immigration” was enacted with the aim of harmonizing national legislation with the international obligations, especially with regard to the Geneva Convention (Szoke, 1992). This explicit recognition of the fact that national legislation was not in accordance with the international one, is of great significance when analyzing the degree of misfit. Until 1989, misfit between the Hungarian and the European asylum and migration policy, has been high.

After the downfall of the Iron Curtain in 1989, the Hungarian authorities expressed the intention to harmonize the country’s migration and asylum policy with those of the other European countries (Szoke, 1992). The new constitution allowed asylum also for racist, religious, national, linguistic and political reasons. Asylum thus changed from being limited to kindred spirited to assuming the meaning common in the constitutions of the west European countries (Küpper, 1998). The new government, elected during the first democratic elections in March 1990, worked out a “Program for National Renewal” that set several goals among which the optimization of the process of reception for foreign citizens seeking asylum as refugees, the organization of material support for refugees, the coordination of state-run and integration mechanisms. The program had no legal implications but served together with the amended notion of asylum in the new constitution, as a basis for future legislation on migration. The years 1987 to 1991 marked a historic turning point, when 54.000 people applied for asylum in Hungary and thereby turned the country “from a potential source of emigration into a typical ‘first asylum’ and ‘transit’ country” (Szoke, 1992: 312). At this point the Hungarian authorities began to engage in international cooperation in the field of migration, preceded by the establishing of an office of the UN High Commissioner for Refugees in Budapest in autumn in 1990. In the following years Hungary actively engaged in the working group on migration of the Pentagonale group of Central European Countries, in the International Organization for Migration, in the activities of the Committee on Migration of the Council of Europe and in the Vienna ministerial conference on migration held under the auspices of the Council of Europe (Szoke, 1992). The engagement in international and European cooperation in the field of migration indicates a general willingness to adhere to standards agreed upon on

international level but is not necessarily an indicator for the adaption of national legislation to the international obligations.

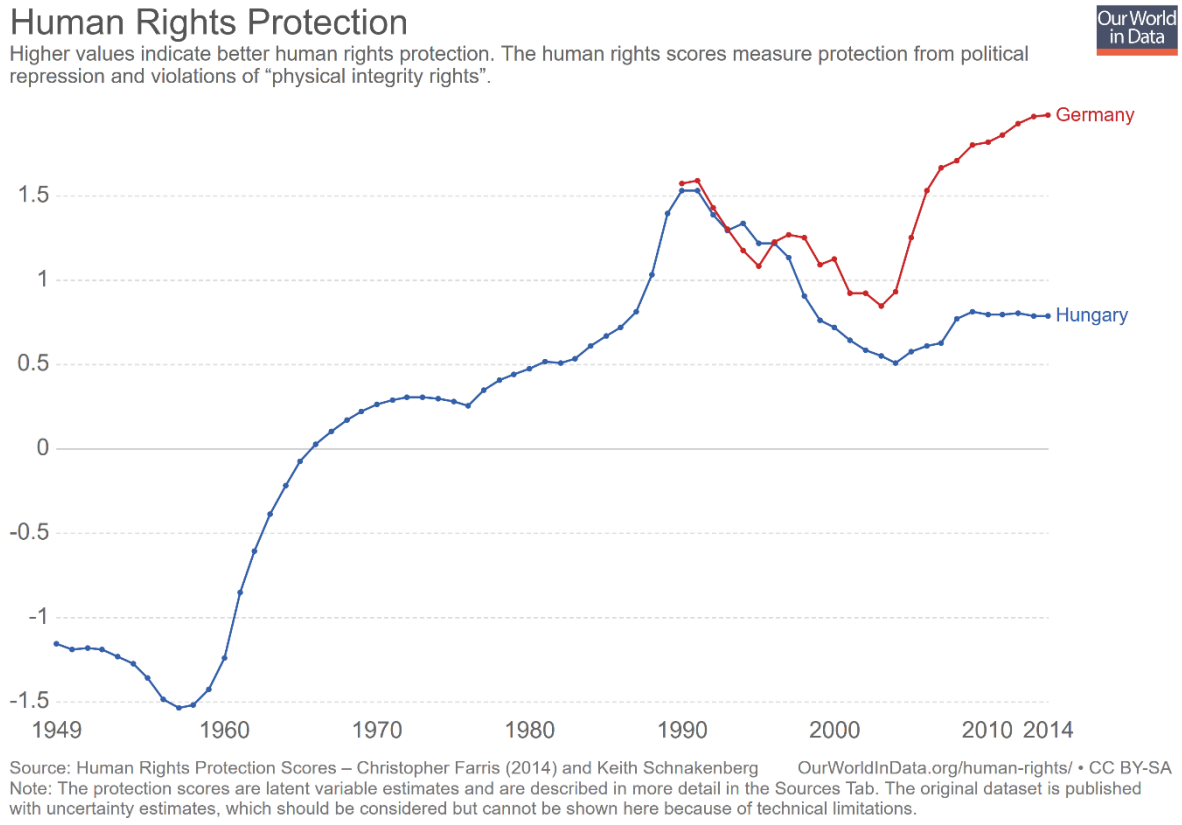
In reaction to the peak of asylum seekers in the summer of 1991, the Minister of Interior proposed the imposition of strict border controls, regular controls of immigrants already residing in the country and to automatize the transfer of rejected applicants out of Hungary within a short period of time. The following discussion resulted in new rules for stricter border controls in October 1991.

When Hungary joined the EU and became part of the Dublin system, the concept and notion of asylum was known, the country had experienced immigration flows and was used to cooperate with other European countries in the field. However, it would be premature to conclude a low misfit at this point. The concept of asylum assumed the meaning that is common in Western democracies relatively late. Cooperation alone does not necessarily lead to the harmonization of policies. The immigration influx that Hungary had experienced happened relatively late in time and consisted mostly of ethnic Hungarians. Moreover, even with Hungary becoming a country of immigration, laws and regulations on the matter remained insufficient. A relatively short history of being a target country for immigrants, combined with a very rudimentary regulatory system on that regard, resulted in inadequate or lacking procedures, structures and mechanism to deal with asylum applications.

Also the state of protection of human rights in Hungary at the time of becoming member of the Dublin system does not suggest that the country was respecting international obligations. The country had adhered to the 1951 Refugee Convention and its additional Protocol only in 1989, which shows a general resilience to be bound to and respect the international standards in the field, and an unwillingness to collaborate. Moreover, it generally indicates a possibly much lower standards of human rights protection in Hungary. In 1996 the Hungarian authorities undertook attempts to improve the protection of minorities. More precisely, the parliament amended “the criminal code to allow more effective prosecution of those who commit crimes against individuals because of their national, ethnic or religious affiliation” (Human Rights Watch, 1997) and an agreement with Romania and Slovakia with the same goal was reached. Nevertheless, these were only much needed yet insufficient efforts to address the precarious situation. Human rights violations were significant and widespread, and remedies neither effective nor reliable. Apart from the widespread discrimination of minorities, especially Roma, of major concerns were mistreatment and inhuman and

degrading conditions in some jails, police brutalities and the support and passive tolerance of private acts of violence by the police and criminal investigators (Human Rights Watch, 1997). The scores assigned to the country by Our World in Data reflect the situation: While in 1994-95 the score assigned to Hungary was even slightly higher than the one given to Germany, it dropped significantly in the following years to reach a low point of 0.51 in 2004. Since then, the score has remained on a relatively low level with only minor fluctuations (see figure 6). The respect of human rights, however, is the baseline principle of the Dublin regime. Especially in Dublin II and III, with the amendments regarding minors and families, a stronger focus was laid on this aspect. Hence, Hungary became part of a system that was not only based on but had just emphasized the utmost importance to the respect of human rights, at a moment in which the human rights situation in the country was precarious and remained critical until today. If violations of human rights in Hungary are widespread, then this consists automatically in a violation of the Dublin Regulation.

Figure 7: Human Rights Protection in Germany and Hungary 1949-2014



Considering the flaws in the asylum system and migration policy, together with the state of affairs of the protection of human rights, it can be concluded that there was a **high** misfit between the national asylum system and the Dublin II Regulation, when Hungary joined the EU in 2004.

5.3 Administrative Capacity

The administrative capacity of the Hungarian authorities is assessed in the same way as in Germany. The delivery capacity index is calculated based on the average of the sub-indicators effectiveness, delivery outcomes and legitimacy. Given the lack of data on legitimacy, the Hertie School of Governance does not provide an aggregate value for delivery capacity in the case of Hungary. Nevertheless, the values for the other two sub-indicators are available, and taking their average still gives some information about the delivery capacity of the country. The resulting number, that is written in grey to highlight its inherent flaw and incorrectness, thus serves as an indicator but with fewer explanatory value.

Table 7: Capacity Indicators Hungary

Delivery capacity	Regulatory capacity	Coordination capacity	Analytical capacity
0.27	0.33	0.76	0.54

(Source: Hertie School of Governance (2014))

Applying the low-to-high scale, Hungary reaches the following scores:

Table 8: Capacity indicators scores converted Hungary

	Low	Medium-low	Medium	Medium-high	High
Delivery capacity	-1	-0.25	0.5	1.25	2
Regulatory capacity	-1	-0.5	0	0.5	1
Coordination capacity	-2	-1	0	1	2
Analytical capacity	-2	-0.75	0.5	1.75	3

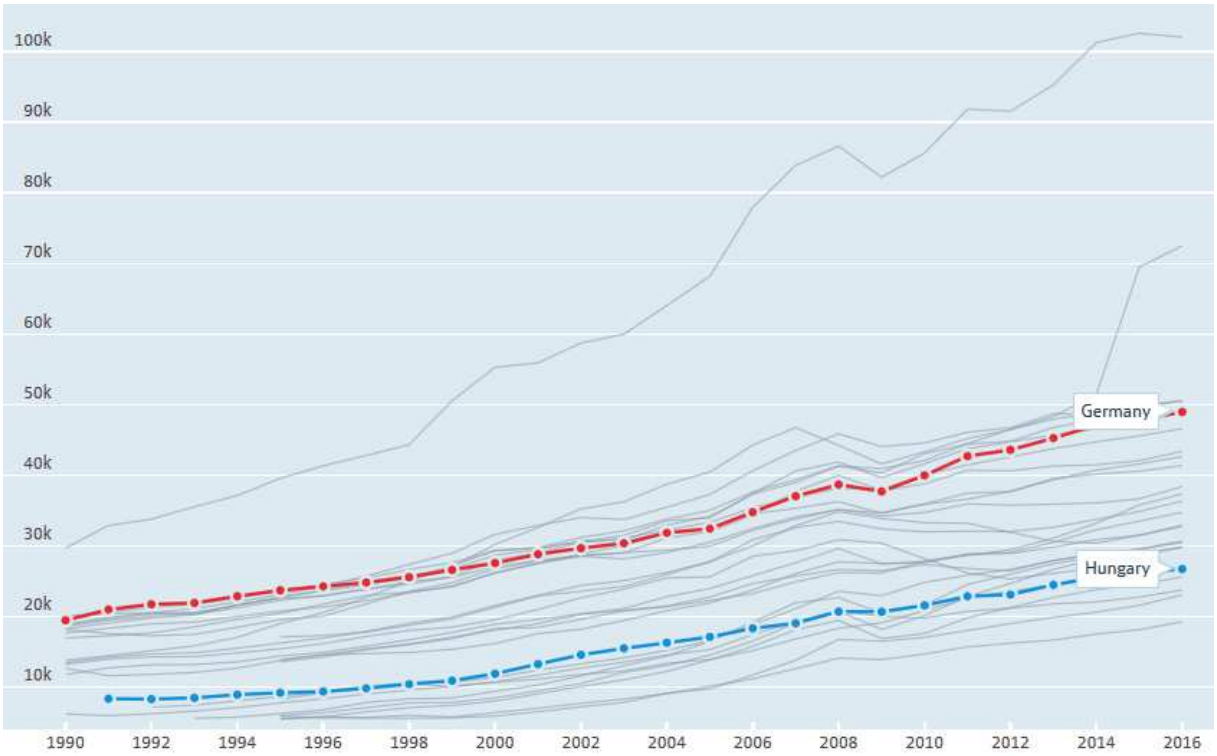
The Hungarian authorities dispose over a medium to high capacity to control the activities in the state, and to organize collaboration in a facilitating role. The analytical capacity, however, is only at a medium level. Decision-makers might not be able to gather the right information regarding the future development of migration flaws, regarding decisions made by policy makers in other countries that affect Hungary's asylum policy, and/or regarding policy developments and general changes in other states that have an impact on the situation of migrants in Hungary. Based on the incomplete information available, delivery capacity is medium. The calculated average of effectiveness and delivery outcome indicates a possible lack of resources to ensure the implementation of policies. Overall, Hungary's administrative capacity is thus **medium** to **medium-high**.

5.4 Economic situation

After the fall of communism in 1990, Hungary had to transform its economic system from a being centrally planned to a market-driven economy. The immediate drop in exports and the lacking financial assistance from the Soviet Union were quite quickly absorbed by a series of economic reforms such as the privatization of state-owned enterprises and the reduction of social spending programs. These measures favored growth, attracted investment and reduced the debt burden and fiscal deficits. During the first years of the transition the inflation rate and unemployment increased, but conditions improved over the course of the 1990s (see figures 10 and 11). Hungary's GDP is composed majorly of private consumption, followed by capital formation and government expenditure. Although it is constantly expanding, it is low compared to the EU average (see figure 8). As the indicators regarding the GDP and unemployment clearly show, Hungary was hit hard by the global economic crisis of 2008. The heavily export-oriented economy experienced a decrease in export demands and private consumption, an increase in unemployment and fixed asset accumulation. The severe recession of -6.4% forced the country to rely on an IMF/EU financial rescue package of US$25 billion to restore financial stability and investors' confidence (Connolly and Traynor, 2008). Since 2010 the government implements measures to raise revenues and decrease public deficit, and thus to maintain the access to EU development funds. Thanks to the financial assistance by the EU, along with a rise in demand for Hungarian export and in private consumption, the country managed to keep its GDP growth robust

(Central Intelligence Agency, 2018). Since 2011 also the unemployment rate is decreasing steadily and presents a record-low in the recent years. In 2012 Hungary was hit by a mild recession, which picked up again in 2014 and was accompanied by a deflation. This very short overview perfectly represents the general development of the state of the economy in Hungary, which is characterized by instability and strong fluctuations. Given the heavy emphasis on foreign trade, it is highly vulnerable to foreign shocks. Stability and normalization is created mostly thanks to EU financial help and temporary solutions. Given its vulnerability, dependence on EU assistance and strong fluctuations, the strength of the Hungarian economy from the years prior to its EU accession in 2004 until today is assessed as **medium-low**.

Figure 8: Gross Domestic Product (GDP) in Germany and Hungary, Total, US dollars/capita, 1990-2016

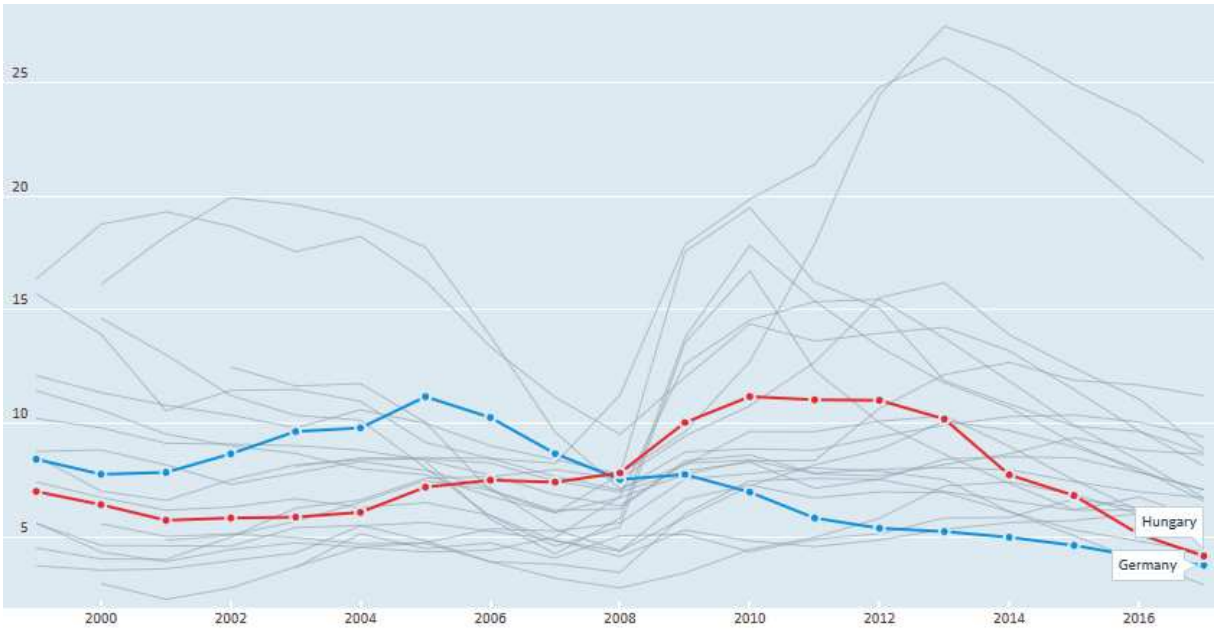


(Source: OECD (2018). Gross domestic product (GDP) (indicator))

Figure 9: GDP per capita growth (annual %) in Hungary, 1992-2017

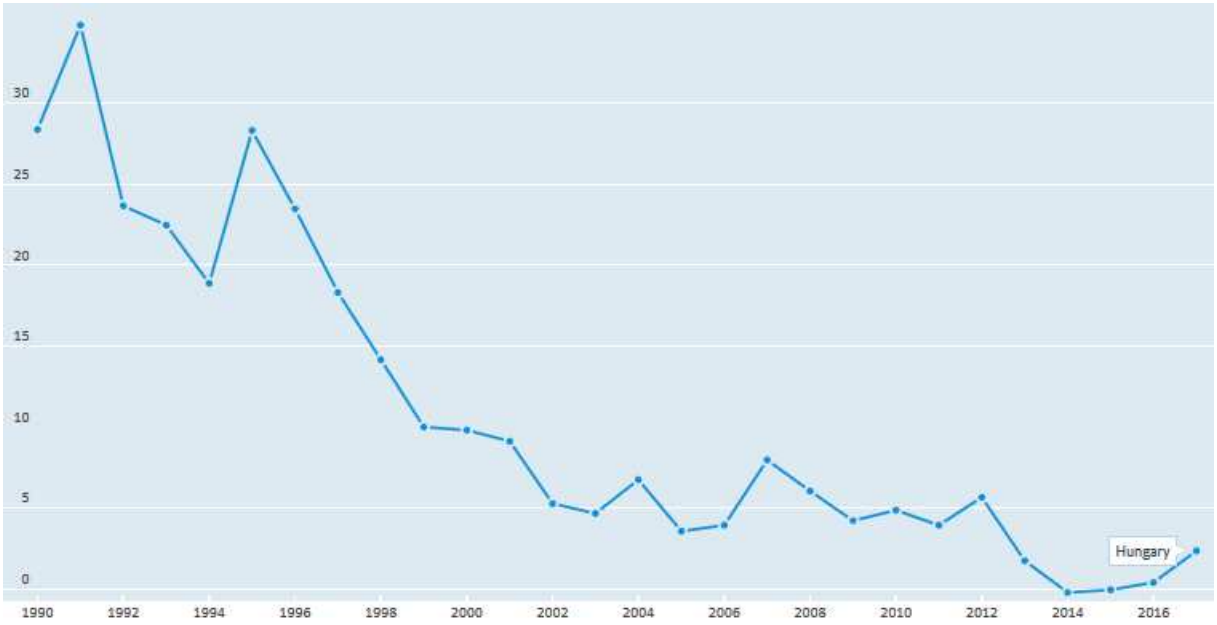
(Source: World Bank (2018), GDP per capita growth (annual %))

Figure 10: Unemployment rate in Germany and Hungary, Total, % of labor force, 1999-2017



(Source: OECD (2018). Unemployment rate (indicator))

Figure 11: Inflation (CPI) in Hungary, Total, Annual growth rate (%), 1990-2017



(Source: OECD (2018). Inflation (CPI) (indicator))

5.5 Discussion

The analysis of the Hungarian asylum system prior to its accession to the EU in 2004 and of its record of protecting human rights reveals a high misfit with regard to the European one, which requires many and profound changes in order to adhere to the European standards. These changes do not only consist in legal or administrative adaptions, but in the very conception of internalization of the concepts of asylum and human rights. Consequently, based on hypothesis 1 (*The lower the 'misfit' between national migration policy and the provisions of the Dublin regime, the better the implementation of the latter)*, we expect that Hungary presents a low implementation score. The precarious human rights situation in the country represents a violation of the baseline principle of the Dublin III Regulation di per se and indicates a general unwillingness to adhere to international standards. The results of the analysis of Hungary's compliance with the provisions of the Dublin II and III Regulations, perfectly confirm these expectations. The widespread, frequent and constant violations of the obligations, that consist in procedural shortcomings, a general attitude of avoid responsibility, and severe breaches of human rights, thus confirm hypothesis number one. In a reversed logic, the misfit between the two systems might (partly) explain the low level of compliance.

As shown by analyzing Hungary's administrative capacity, the flawed implementation is not caused or explainable by lacking delivery or analytical capacity, and even less by its regulatory and coordination capacity. The overall medium to medium high capacity contradicts the second hypothesis (*The higher the administrative capacity, the better the implementation of the Dublin regime*) in its reversed logic (*the higher the administrative capacity the better the implementation of the Dublin regime*).

If the third hypothesis (*The better the overall economic situation of a country, the better the implementation of the Dublin regime*) is true, Hungary should present a medium-low implementation record of the Dublin regime in general. More precisely, we would expect to see frequent violations of various provisions, especially in the years 2008/09 when it suffered a historic economic contraction, as well as frequent fluctuations in its implementation record. The increased EU funding, low unemployment and normalized inflation rates of the recent years should result in a more diligent implementation. The actual flaws and violations that the implementation analysis revealed confirm this hypothesis to a certain extent: the understaffing of the Dublin unit dealing with the applications, as well as insufficient procedures regarding the finding of family members, the lacking legal assistance and the absence of representatives of minors during the procedure, can be explained a shortage of financial resources due to the overall bad economic situation. Other violations, however, such as deliberately limiting access to NGOs or inhuman treatment in detention or when taking fingerprints, cannot be explained by economic reasons, and can only be traced to an unwillingness to collaborate with the other Dublin countries and to assume responsibility. The same applies to the declaration expressed by the Hungarian authorities in 2015 to take back maximum 12 applicants by day, which coincided with an improvement of the economic situation. The expected more diligent implementation when the economy is better off is not being confirmed in the case of Hungary.

Table 9: Comparison implementation scores expected, and real ones based on H1-H3 Hungary

		Implementation score	
	Score	**Expected**	**Reality**
Misfit	High	Low	Low
Administrative capacity	Medium to medium-high	Medium to medium-high	Low
Economic strength	Medium-low	Medium-low	Low

6. Italy

6.1 Implementation of the Dublin Regime

Organizational structure and resources of competent authorities dealing with Dublin

As in the case of Germany and Hungary, Italy has established a specialized unit for the Dublin process. This unit does not lie within the Ministry of Interior, which is the determining authority in the field of asylum and relies on the involvement of other authorities. Coordination between the various units happens through informal mechanisms. Currently, the number of specialized case officers dedicated to Dublin amounts to 11 – 20. Given that Italy is the country with the single most asylum requests, it is very unlikely that this number is sufficient to cope with the resulting workload. Specific training on Dublin is provided to competent authorities (European Commission, 2016e).

Procedural guarantees and safeguards for applicants for international protection

In theory, information regarding the procedure and the rights is provided to the asylum seeker in the moment of lodging the application in 10 different languages. Italian NGOs note, however, that in reality information is rarely provided at all, and if provided, it is often outdated and insufficient, which violates article 4 (Right to information).

Also the following article of the Regulation regarding the personal interview is being violated by Italy. The only planned interview takes place at the moment of lodging the application. Often, these first and only interviews do not take place at all. If they are being conducted, several practical obstacles limit their efficiency and quality, such as language problems (lack of availability of interpreters) or the lack of skills in dealing with applicants by interviewers. In Italy, the competent authority to conduct the personal interview is the police, which also fails in collecting enough information on the situation of the applicant's family (European Commission, 2016e).

The safeguarding of minors, especially when it comes to reuniting family members, is critical. Due to the insufficiently collected information on the family on the one hand, and a very narrow definition of family members, members are rarely found. Moreover, no specific procedure to involve other member states in assessing the best interest of the child exists.

Criteria/Procedures for determining the responsible member state

Italy systematically fails to register fingerprints, which becomes evident from the discrepancy between the numbers of migrants that arrived by boat (communicated by the Italian Interior Ministry), and the number of fingerprints shared by Italy with the EU. These numbers cannot be equal, as accompanied minors should not be fingerprinted, but the number of those children is estimated to be much lower than the difference between the numbers of arrived migrants on the one hand and those fingerprinted on the other (Lorenz, 2015). Fingerprinting is, however, the main tool in the Dublin regime to assess which member state is responsible for processing an application. When a migrant who has not been fingerprinted travels to another country, it is often difficult to prove that he or she first entered the EU through Italy, and thereby responsibility cannot be assigned to Italy. It is then necessarily the subsequent country the asylum seeker entered to handle the asylum application. It cannot be said if the omission of fingerprints happens voluntarily by the Italian authorities to avoid responsibility, or if it is the migrants themselves that escape from being fingerprinted in order to see their application being evaluated in another country. The Dublin Regulation serves the purpose of assigning responsibility, which is made possible through the taking of fingerprints and registering them in the EURODAC system. Not properly exercising fingerprinting results therefore in a significant implementation flaw, may it be voluntarily or not.

Any additional information that is relevant to correctly determine the responsible member state must be provided in persona at the *questura*. It is not sufficient to send this additional information in written form. At the *questura*, the additional material and information is often not processed. This practice is a clear violation of the Dublin Regulation, as well as of the case law of the Court of Justice of the European Union (CJEU) (European Commission, 2016e).

Even when Italy was found responsible following the Dublin criteria, Switzerland and Slovenia briefly suspended transfers to Italy due to systemic flaws in Italy's asylum system and its reception conditions. According to a sentence by the European Court of Human Rights in 2014, the transfer (in the specific case the court decided upon) to Italy violated article 3 of the European Convention on Human Rights which prohibits inhuman treatment (Lorenz, 2015). Several member states mentioned difficulties in obtaining individual guarantees for applicants who were to be transferred to Italy. The Netherlands categorically do not transfer minors to Italy without such an individual guarantee (European Commission, 2016e). The Federal Constitutional Court in Germany followed this example and ruled in a sentence in 2014, that the competent authorities shall restrain from expulsion if it cannot be excluded that a transfer to Italy could lead to a risk of health of the transferred person (BVerfG, 2014a and 2014b).

The narrow definition of 'family member' discussed in the previous section, is also problematic when it comes to determining the responsible member state. Several lawyers and NGOs find that limiting the concept of 'family' to the nuclear family is too strict, and furthermore affirm that the entire procedure of evaluation family connections is not effective (European Commission, 2016e).

Implementation of transfers

The way the information about transfer is provided is problematic. When written, it is available only in Italian, French and Italian, which leads to a high number of individual cases in which the relevant person does not understand the information and does not know what will happen to him or her next. When this information is provided orally, in most cases no interpreter is present, which makes it even more probable that the asylum seeker will not understand what has been decided.

Even if Italy has not recorded any case of detention, asylum seekers have been detained in several cases. When detention takes place, there is a risk of violating article 28 of the Dublin Regulation that sets a "significant risk of absconding" as a condition for detention. Italy has not defined any objective criteria determining this risk, which could lead to the detention of persons in cases not allowed for by the Regulation. Asylum seekers are rarely detained in specialized facilities, and lawyers, the UNHCR, NGOs and family members have only limited access to the detention centers, which results in a clear breach of article 10 (European Commission, 2016e).

Appeal

Even if in Italy the time period during which the applicant can exercise his or her right to effective remedy can be considered as “reasonable” (60 days until the end of 2015, since then 30 days), the right to appeal established by article 27 is severely compromised by the practice followed by the competent authorities. The *Questure* often do not consider the transfer suspended until the applicant receives an answer from the court and organize transfers before the deadline for appeals has been reached (AIDA, 2017b).

When the right to effective remedy is exercised by an applicant while being in detention, he or she remains detained. This is problematic given the procedural difficulties resulting from detention, which the low rate of recognition of appeals made while in detention makes visible (AIDA, 2015).

Moreover, the applicant has to find a lawyer or an NGO for assistance and advice by him- or herself. This practice has been criticized by stakeholders, underlining that it is difficult for applicants to identify a qualified lawyer. Consequently, applicants are often assisted by not specialized personnel (European Commission, 2016e).

Administrative cooperation

Italy has established bilateral agreements with Austria, France and Switzerland and exchanged liaison officers with eight other Dublin countries. This can be considered an attempt to facilitate cooperation regarding the implementation of the Dublin Regulation, as encouraged by article 36.

Overall implementation score

While Italy generally tries to comply with the Dublin regime, the analysis shows that flaws in doing so appear especially with regard to the two main principles of the Dublin Regime, namely the safeguard of minors (the principle that became of the utmost importance with the introduction of the Dublin III Regulation) and the assigning of responsibilities based on clearly defined criteria. Minors are put at risk especially because of the narrow definition of ‘family’, and the lack of providing individual guarantees given by Italy. This is directly connected to Italy’s precarious reception conditions, which made other members states restrain from transferring asylum seekers back to the country, especially vulnerable categories. The Danish Refugee Council Report of 2017 summarizes the situation well by underlining the risk of violation of human rights, due to the arbitrary way in which the Italian authorities receive the

reception needs of people who are transferred to Italy under the Dublin III Regulation (Danish Refugee Council, 2017).

However, we do not see as many and as obvious violations of human rights as in Hungary. In Italy, violations of human rights happen mostly as a consequence of specific conditions, not voluntarily and directly inflicted on applicants. An exception is the practice of carrying out transfers before the end of the time period in which the applicant can exercise his or her right to appeal the transfer decision. This can be considered an obvious strategy applied to reduce the number of people whose applications should be handled by Italy according to the Regulation. Another way by which the country most probably seeks to shirk responsibility, is the insufficient fingerprinting of asylum seekers. Due to a lack of information and data, it cannot be said, however, to which degree this failure of registering the fingerprints in the EURODAC system is caused by the asylum seekers themselves, or voluntarily provoked by the competent authorities. Attempts to shirk responsibility remain, nevertheless, less articulated and on a smaller scale compared to Hungary. Based on the analysis, Italy's implementation record is **medium-low**.

6.2 Misfit

In Italy, the concept of asylum was introduced with the new post-war constitution that came into force January 1, 1948. It provided that 'any alien, who in his own country is not allowed to exercise the democratic liberties granted by the Italian Constitution, shall have the right of asylum within the territory of the Republic, according to the conditions established by law' (Article 10, Paragraph 3). However, there was no parliamentary law that gave effect to this provision, which means that it could not be enforced and was hence not interpreted by the courts as being compulsory. Only in 1997 the Supreme Court changed this situation with a ruling (Vincenzi, 2000). Thus, the very concept of asylum, which stands at the heart of the Dublin regime, became a generally enforceable right only in the same year in which the original Convention came into force. Until the 1990s, Italy basically had no legislation on refugees. Until 1990, the only law on refugees in Italy was the 1951 Geneva Convention that the country adhered to in 1954 by parliamentary law. Refugee status was granted by a commission consisting of representatives of some of the Italian Ministries and UNHCR representatives, but with limited application. Only applicants from European countries

were eligible for refugee status and the fear of persecution had to be well-founded. In 1990, the Martelli Law annulled the geographical restriction and introduced for the first-time regulations on the granting of refugee status that went beyond the mere application of the Geneva Convention. The law established one single procedure for recognizing refugee status (no fast-track procedures or other exceptions), introduced the concept of manifestly unfounded applicants and prescribed the provision of specific training for the members of the commission who evaluated the asylum applications. Given its limited scope and content, the law was more of a regularization program and lacked depth to fully enforce article 10 of the Constitution (Vincenzi, 2000). After the mass influx of displaced people from Eastern countries and the Middle East, preceded by Albanians in 1990 and followed by former Yugoslavs, Kurds and Kosovans, throughout the decade, migration policy became a central topic in the political agenda and it became evident that the existing procedures were inadequate to deal with a large amount of asylum requests, or in other words, in cases of general rather than individual persecution. In order to cope with the burden of requests the government decided to deviate from the ordinary procedure. Italy became a country of immigration, rather than emigration, in such a short period of time that when the mass influx of people happened in 1990, the country basically had no regulation on the matter. From its unification in 1861 to the 1960s, the combination of being a country of immigration and the lack of strong bonds with its former colonies made immigration irrelevant from a numeric point of view (Schuster, 2000).

Table 10: Annual number of asylum applications in Italy (in thousands)

Year	Number of applications	Year	Number of applications
1988	1.3	1993	1.6
1989	2.3	1994	1.8
1990	4.8	1995	1.7
1991	26.5	1996	0.7
1992	6.0	1997	1.9

(Source: Schuster, 2000)

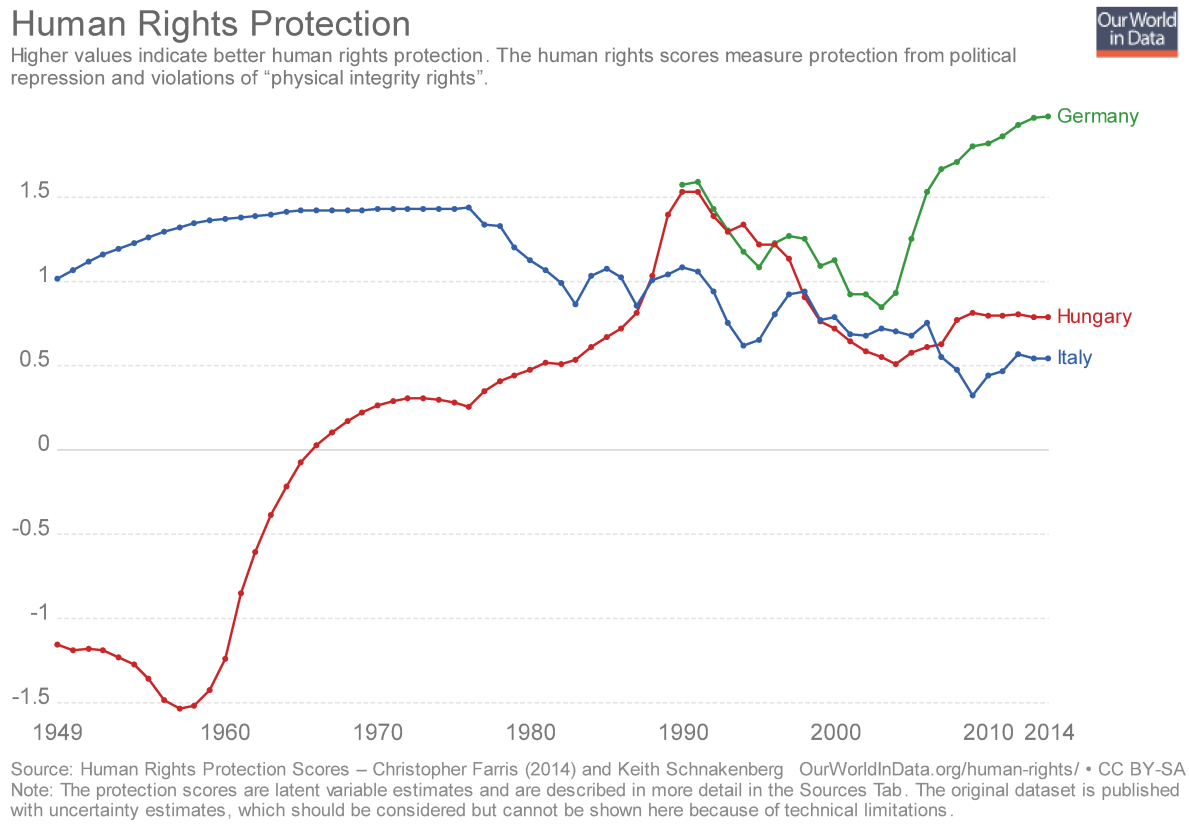
Although Italy had signed all the most important international conventions concerning the international protection of persons in need thereof, “neither the public and local bodies nor the population as a whole committed themselves to reach a deep understanding of the problem” (Vincenzi, 2000: 94). The Italian authorities reacted to the high number of requests with a series of emergency laws that provided assistance and temporary protection. Only in 1998 the first general law on immigration was passed.

By the time Italy adhered to the European standards, it was a destination for asylum seekers, but unlike Germany for a very short time and at faster growing rates. It is only naturally, that the new countries of immigration (such as Italy and Greece) lag far behind the traditional European immigration countries (such as France, Germany, the Netherlands) in terms of asylum policy and legislation. When the Dublin Convention was signed in 1990, the concept of asylum was just recognized as being a compulsory rule, but basically no legislation to enforce this right existed. At the time of coming into force, the only migration policy that existed consisted in emergency laws passed as an immediate reaction to the mass influxes of displaced people escaping from wars or violence in their home countries. Logically, structures, procedures and legal provisions were temporary, not well established and not well functioning. The thereof resulting gap between the European and the national asylum system, was strengthened by the way in which European policies are usually created, with the more powerful states having a major influence on the output and the less powerful ones receiving the European policies (Schuster, 2000). If the less powerful states, such as Italy, have less influence on the legislation agreed upon on EU level, it is more likely that their legal systems and policies differ more from the standards agreed upon.

The high misfit between the two levels in terms of legislation is not compensated for by the situation of human rights protection in Italy during the years preceding the coming into force of the Dublin Convention. From 1988 until 1997, the human rights situation was the most precarious among the three countries considered (see figure 9). According to Amnesty International, numerous prison officers were involved in criminal investigations relating to alleged torture and ill-treatment of detainees in 1997 and previous years. Those proceedings were not conducted impartially and were furthermore opened for many years. When reaching the stage of trial, legal representation was missing or insufficient, thus resulting in unfair trials (Amnesty International, 1997).

The late development of legislation regarding migrants and refugees, that resulted in a rudimentary and malfunctioning asylum system when the Dublin regime came into force, in combination with severe and widespread violations of human rights, result in a **high** legal misfit between the EU and the national level.

Figure 12: Human Rights protection in Germany, Hungary and Italy 1949 - 2014



6.3 Administrative Capacity

According to the analysis carried out by the Hertie School of Governance, Italy disposes over the following capacity levels:

Table 11: Capacity Indicators Italy

Delivery capacity	Regulatory capacity	Coordination capacity	Analytical capacity

0.54	0.41	0.4	1.34

(Source: Hertie School of Governance (2014))

Applying the low-to-high scale, Italy reaches the following scores in the four different capacities that are required for effective governance and expected to positively impact implementation in general, and compliance with the Dublin Regulation in particular:

Table 12: Capacity indicators scores converted Italy

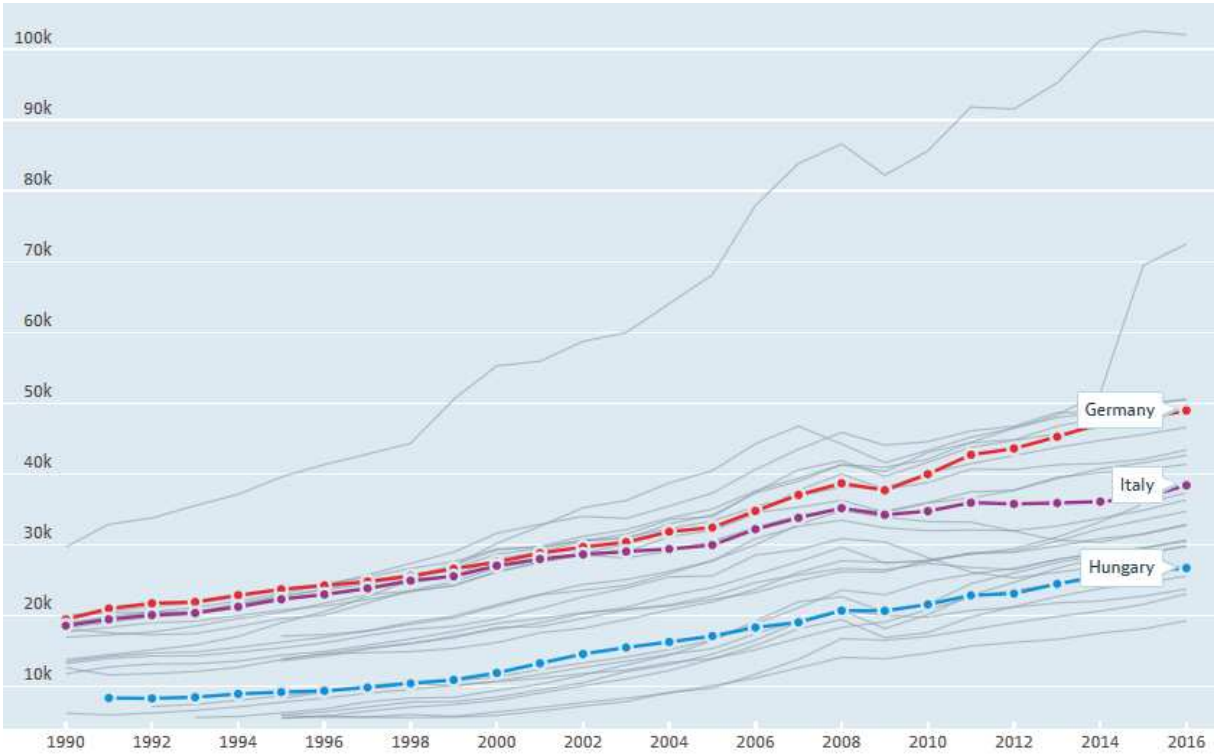
	Low	Medium-low	Medium	Medium-high	High
Delivery capacity	-1	-0.25	0.5	1.25	2
Regulatory capacity	-1	-0.5	0	0.5	1
Coordination capacity	-2	-1	0	1	2
Analytical capacity	-2	-0.75	0.5	1.75	3

Among the four capacities that together indicate the overall administrative capacity of a country, Italy features medium to high regulatory and analytical capacities, while its capacities to deliver and coordinate are lower and reach only medium levels. More precisely, Italy presents a medium capability to meet the demands that result from policy decisions or agreements. With regard to the Dublin Regulation, that could indicate a simple lack of resources to fulfill the obligations from the provisions, especially given that Italy is the European country with the highest number of asylum applications and thus logically needs more resources to uphold the asylum system and carry out the procedures. The equally medium coordination capacity could result on the one hand in communication problems between the multiple actors and units involved within Italy's layered asylum system, and on the other hand in failures to properly communicate with the other EU member states and collaborate in the area of take back and take charge requests. This lack is, however, partly compensated by a higher level of capacity to regulate and thus to control the actors and activities within the country. The medium to high analytical capacity indicates that the government disposes over different sources of expertise that delivery information about current and future developments.

6.4 Economic situation

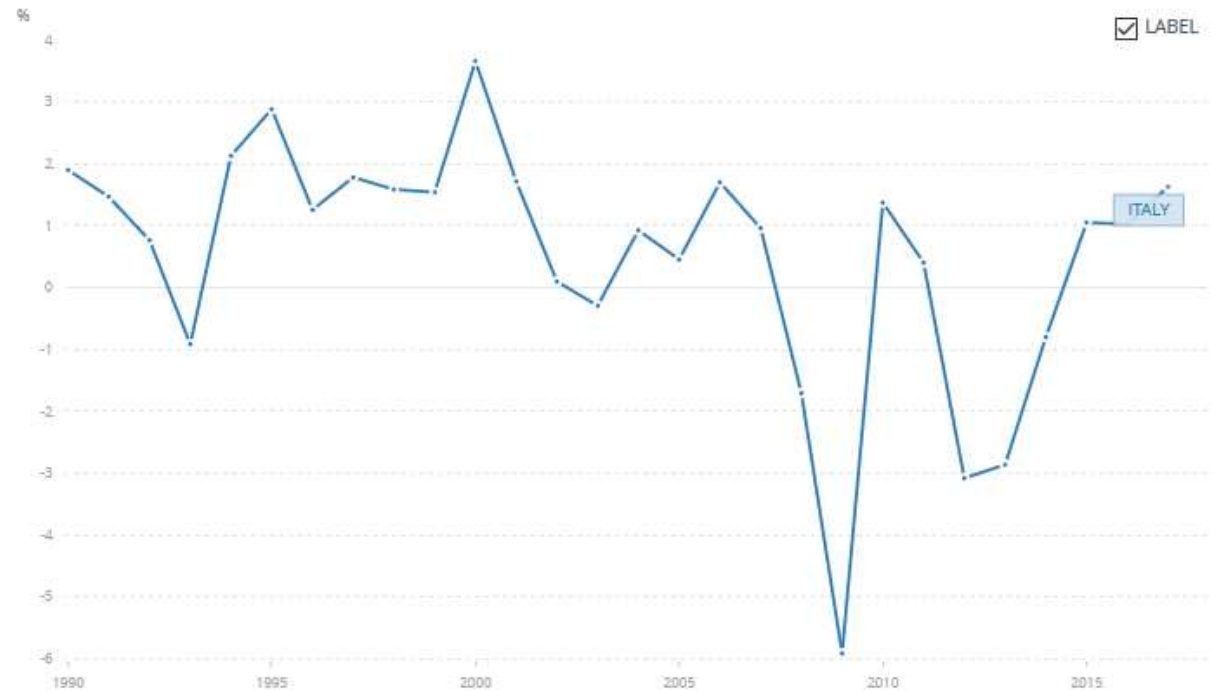
During the successful post-war transformation from an agricultural to an industrial economy, Italy presented such a strong GDP growth, to become a major advanced economy. The overall numbers should, however, not belie the strong north-south division with a developed and industrial north where all the major industries are located, and a less-developed, welfare-dependent and agricultural south that presents a high unemployment rate. Despite impressive facts such as it being the third-largest national economy in the Eurozone and the eighth largest exporter in the world, today Italy's economy suffers from numerous problems, both structural and non-structural. From the late 1990s onwards, the GDP growth experienced a downturn, resulting behind the Eurozone average in most of the years (see Table 15) Add GDP growth rate in annex?). In 2005, the economic statistics of Italy were the worst compared to all other Eurozone countries (Lin et al., 2014). Moreover, the country was hit particularly hard by the Great Depression of 2008 and the subsequent European debt crisis. All four indicators show that very clearly: As results from figures 15, 16 and 17, the GDP growth declined, while the unemployment and inflation rates rose starting from 2008. In 2009, the inflation dropped drastically, most likely as the result of the financial stimulus plan adopted by the country. Yet, it rose again in 2010. In recent years, Italy's GDP per capita growth slowly caught-up with the Eurozone average. Since 2014 the economy is growing thanks to a reform of the banking system and a rise in exports. Unemployment on the other hand rose further and remained on very high levels. However, the numbers concerning unemployment in Italy are often disputed, as the number of informal jobs is estimated to be high. The Dublin Convention came into force contemporarily with the end of the post-war economic growth. Since the very beginning of the functioning of the Dublin regime, Italy's is economic stability and strengths is **medium-low**.

Figure 13: Gross Domestic Product (GDP) in Germany, Hungary and Italy, Total, US dollars/capita, 1990-2016



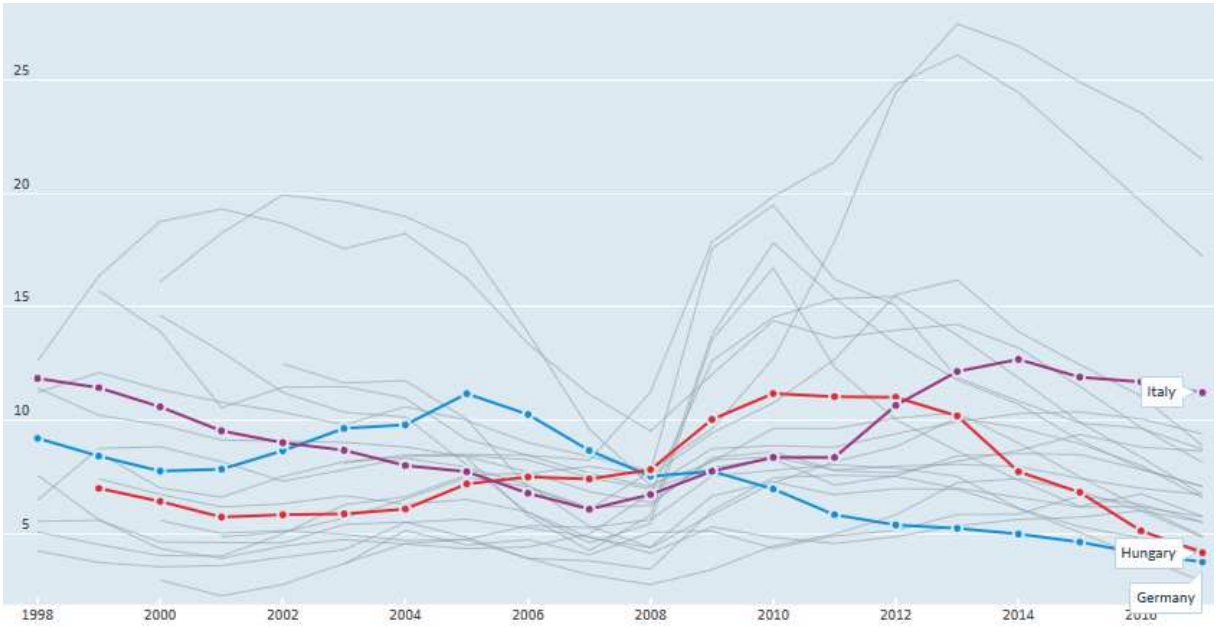
(Source: OECD (2018). Gross domestic product (GDP) (indicator))

Figure 14: GDP per capita growth (annual %) in Italy, 1990-2017



(Source: World Bank (2018), GDP per capita growth (annual %))

Figure 15: Unemployment rate in Germany, Hungary and Italy, Total, % of labor force, 1998-2017



(Source: OECD (2018). Unemployment rate (indicator))

Figure 16: Inflation (CPI) in Italy, Total, Annual growth rate (%), 1990-2017

(Source: OECD (2018). Inflation (CPI) (indicator))

6.5 Discussion

In order to draw a conclusion, in the case of Italy the findings of the analysis of the factors possibly impacting the implementation of the Dublin regime must be put into relation with the high number of asylum applications that the country was facing in the

last two decades and especially since the 2015 refugee crisis, because the higher the number, the more resources are required, and the more likely administrative structures and procedures are insufficient.

The high misfit that results from the analysis of the development of Italy's asylum system and its record of protecting human rights explains the non-adequate and malfunctioning procedures, especially when considering the speed with which Italy became a country of immigration. Being caught unprepared by the sudden high influx of migrants, the country lacked the resources, structures and procedures to be able to comply with the obligations resulting from the Dublin Convention and the subsequent Regulation II and III. The high misfit and the medium-low implementation score that we observe in Italy thus confirm hypothesis number one (*The lower the 'misfit' between national migration policy and the provisions of the Dublin regime, the better the implementation of the latter)*.

With regard to the second hypothesis (*The higher the administrative capacity, the better the implementation of the Dublin regime*), given that a higher number of asylum seekers requires higher capacities to avoid a backlog of applications, the overall medium to medium-high administrative capacity that Italy disposes of, does not necessarily lead to an equally medium-high implementation score. Thus, the hypothesis would still be confirmed if the implementation was a little less diligent as we would expect based on the country's administrative capacity. Given these scores and based on hypothesis number two, Italy's implementation record of the Dublin regime is thus expected to be mixed. The combination of facing a high number of asylum requests on the one hand, and having only limited capacities to fulfill the obligations due to resources constraints and coordination problems on the other, is expected to lead to violations of various provisions of the Dublin Regulation, such as flaws in administration (fingerprinting, sufficient staffing, take back and take charge requests) and violations of human rights (protection of minors, legal support). Italy's medium to medium-high overall administrative capacity neither confirms hypothesis two, nor does it completely contradict it. The medium cooperation capacity explains the insufficient procedures involving other member states in identifying family members. The medium-high administrative capacity indicates further that the fingerprinting is deliberately insufficient in order to avoid responsibility.

According to hypothesis number three (*The better the overall economic situation of a country, the better the implementation of the Dublin regime*), the medium-low level

of strength and stability that characterized Italy's economy since the Dublin Convention came into force should result in a flawed and faulty implementation of the obligations resulting from the convention and the subsequent second and third regulation. With the worsening of the economic situation, considered as low economic strength in terms of the here applied scale, following the global economic crisis, the implementation record is expected to be even less diligent, resulting in frequent and widespread violations, including breaches of the baseline principles such as the protection and safeguard of human rights and especially of minors. The recovery of Italy's economy coincided with the 2015 refugee crisis. Based on the hypothesis that a country's economic situation affects the implementation of the Dublin regime in terms of resources and given that Italy is the EU member state with the highest number of asylum applications, the two contemporary developments annul each other. A major influx of asylum seekers requires more resources, which is why an improved state of the economy in those years in Italy is not expected to result in a better compliance with the Dublin Regulation. The actual compliance problems and the country's economic problems thus confirm hypothesis number three. The little resources available can account for the insufficient staffing, which leads to lengthy procedures and a consequent backlog of applications, for the lack of interpreters which results in a violation of the right to information and for the precarious reception conditions. The fact that in Italy violations of human rights appear to happen mostly as a consequence of specific conditions and are not voluntarily and directly inflicted on applications, indicates that they are at least partly due to a severe lack of resources.

Table 13: Comparison implementation scores expected, and real ones based on H1-H3 Italy

		Implementation score	
	Score	**Expected**	**Reality**
Misfit	High	Low	Medium-low
Administrative capacity	Medium to medium-high	medium-low to medium-high	Medium-low
Economic strength	Medium-low	Medium-low	Medium-low

7. Conclusion

Focusing on the domestic level of the European integration process and thus applying the Europeanization concept, the present work tried to find out if, and to what extent the 'fit' or rather 'misfit' in terms of required change between the European asylum system and the national one, the administrative capacity of a country, and its overall economic situation have an impact on the implementation of the Dublin system, by analyzing the three cases Germany, Hungary and Italy. It was assumed beforehand that the higher the compatibility between the two systems (low misfit), the administrative capacity and the economic strength of a country, the more diligently it is in implementing the provisions of the Dublin system (and vice versa). The three hypotheses created on the basis of this assumption have been tested separately by first assessing the country's degree of implementation and then each of the three factors by means of a 'low to high' scale and finally confronting the findings of each tested variable with the implementation degree of the respective country.

As emphasized by table 14, the first hypothesis (*The lower the 'misfit' between national migration policy and the provisions of the Dublin regime, the better the implementation of the latter)* is confirmed by all three cases. Among the three countries considered here, Germany is the only one that presents a diligent implementation of the Dublin system, and also the only one that had a sophisticated and well-functioning asylum system in place when the original Dublin Convention came into force in 1997. In order to comply with the obligations resulting from the European harmonization attempt, Germany did not have to make major changes in its own system and thus did not require a lot of resources or time. The opposite can be said about Hungary and Italy. Both countries became countries of immigration relatively late and consequently developed legislation on the matter equally late. When they became part of the Dublin system (Italy in 1997, Hungary in 2004), legislation on migration and asylum was rudimentary and procedures and administrative structures not adequate to implement the provisions of the Dublin regime. A certain degree of compatibility, or rather a low misfit between the national and the European asylum system, thus appears to result in a diligent implementation of the Dublin rules.

Table 14: Comparative overview test hypothesis 1 (Misfit)

		Implementation		Hypothesis
	Misfit	**Expected**	**Reality**	**confirmed**
Germany	Medium-low	Medium-high	Medium-high	Yes
Hungary	High	Low	Low	Yes
Italy	High	Low	Medium-low	Yes

Hypothesis number two (*The higher the administrative capacity, the better the implementation of the Dublin regime*) can neither be confirmed, nor refused. Among the three countries considered, Germany presents the highest administrative capacities. Hungary and Italy possess fewer administrative capacity, but if the second hypothesis was true, violations of the Dublin system should not be as frequent, severe and widespread as they are in both countries. We see medium-high and high administrative capacity both when implementation is high and when it is low, but we cannot say if the absence or a low level of administrative capacities leads to violations, because none of the analyzed cases presents low capabilities (see table 15). In order to make verifiable claims on the coherence of the hypothesis, more cases have to be tested. Based only on the limited analysis of the three cases, we must thereby come to the conclusion that administrative capacity has no explanatory value regarding the implementation of the Dublin system.

Table 15: Comparative overview test hypothesis 2 (Administrative capacity)

	Administrative	**Implementation**		**Hypothesis**
	capacity	**Expected**	**Reality**	**confirmed**
Germany	Medium-high to high	Medium-high to high	Medium-high	Yes
Hungary	Medium to medium-high	Medium to medium-high	Low	No
Italy	Medium to medium-high	Medium to medium-high	Medium-low	---

Confronting the states of the economy of Germany, Hungary and Italy with their respective implementation record, indicates that a good economic situation measured by the macroeconomic factors overall GDP, its growth rate, the unemployment and the inflation rate leads to a diligent implementation of the Dublin system, while an unstable economy and recessions lead to violations of the provisions (see table 16). These findings confirm hypothesis number three (*The better the overall economic situation of a country, the better the implementation of the Dublin regime*). An overall good economic situation in terms of high GDP per capita and its positive growth and low unemployment and inflation rates of a country thus appears to result in a diligent implementation of the Dublin system.

Table 16: Comparative overview test hypothesis 3 (Economic situation)

	Economic situation	**Implementation**		**Hypothesis confirmed**
		Expected	**Reality**	
Germany	High	High	Medium-high	Yes
Hungary	Medium-low	Medium-low	Low	Yes
Italy	Medium-low	Medium-low	Medium-low	Yes

Independent from those findings, the present research presents clear limitations. The limited number of tested factors and the equally limited number of cases reduces the explanatory value of the results. Moreover, the specific operationalization of the factors determines the outcome of the analysis. If they had been operationalized differently, for example by applying a different scale or by using different indicators, different results could have been the outcome. Especially with regard to the first and third factor tested (misfit and economic situation), the assignment of the value (low to high) lacks transparency. I tried to limit the thereof resulting lacking scientific value by rendering the qualitative analysis resulting in the assignment of the specific value as plausible and verifiable as possible. Moreover, the framework of the analysis allows only to confirm or reject the hypothesis. It is not possible to deduce how a certain variable leads to a specific violation of the provisions; We know *that*, but not *how*. The connection made between the interfering factors and the violations of the Dublin regime is thus very loose. However, these are inherent flaws of a comparative

case study with only limited capacities in terms of time and resources. The research gives interesting insights on the mechanisms of the implementation of the Dublin system, and the factors that influence compliance. This is of particular interest in recent years, since the 2015 refugee crisis made the shortcomings of the European asylum system highly visible and lead to heated discussion about the Dublin Regulation. The migration crisis turned out to be one of the biggest humanitarian crises in recent times, not only in terms of the number of deaths occurred in the Mediterranean Sea, but also when considering the general disregard of human rights, the poor cooperation and collaboration between the European countries and a general reluctance by the various EU member states to put their national interests aside and let humanitarian motives guide their actions. Implementation research in general is not purely concerned with the production of knowledge, but especially with the use of it in order to reach improvement of any kind within the specific research field. The present research contributes to the scholarship on implementation in general, which has paid little attention to the particular field of asylum policy so far, and more specifically to the factors affecting implementation. The compatibility factor, as it is conceptualized here (considering a possible fit or misfit at the moment of becoming part of the Dublin system) is a variable that lies in the past and does not change anymore. For the three tested countries the findings thus have no implications in terms of using the achieved knowledge for future improvement, but they are anyways important in relation to future EU enlargement. Knowing that the specific legislation on migration and asylum of a country, especially in terms of extent and depths, has an impact on how and to what degree a country fulfills the obligations resulting from the Dublin Regulation, is useful to prevent or at least limit violations before they even happen. The economic factor, instead, is subject to constant change and is thus important also for Germany, Hungary and Italy if the ultimate goal is to enhance implementation of the European asylum policy. As results from the analysis, a country that is economically well off is more likely to implement the provisions more diligently than a country that faces a recession or features a general weak economy. The implications are twofold: First, if this factor varies, we have to expect a variation in the implementation as well. A country that experiences a decisive and long-term economic growth is expected to improve its implementation record (and vice versa). However, claims like this have to made with caution, since there is a large array of contextual factors that influence implementation,

which interact with each other. Every factors is thus dependent also on the other ones, and solid predictions of future developments cannot be made with certainty.

Any attempt to harmonize policies among the EU member states only makes sense if the countries subject to those attempts adhere to, and comply with the agreed standards and adopted legislation, instead of finding loopholes such as taking advantage of loose formulations that allow for different interpretation or even openly violate these obligations. Instead of forcing countries to comply by means of diplomacy (such as sanctions), the reason for the deficient implementation should be identified and then eliminated. Long-lasting and satisfactory results in this regard can only be reached by taking the problem at its root, rather than by just treating the symptoms. If the goal is to increase the level of compliance within the EU, further research in implementation and on the influencing variables and factors is vital. Especially in the specific policy field of asylum, implementation research has been very limited, but might be an important contribution to increase the implementation of agreements of any kind on the matter and thereby to emphasize harmonization and strengthen the European integration process as a whole. Expanding the use of well-designed implementation research should contribute to a more harmonized European asylum policy and thus deeper integration.

8. Appendices

Annex 1: Economic situation Germany, 1990-2017

	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003
GDP ($/capita)	19450[e]	20963	21711	21893	22852	23687	24237	24792	25559	26580	27547	28791	29654	30350
GDP per capita growth (%)	4.352	4.345	1.152	-1.605	2.103	1.631	0.526	1.7	1.964	1.921	2.823	1.252	-0.168	-0.765
Unemployment (% of total)	4.8[e]	5.6	6.6	7.9	8.4	8.1	8.9	9.8	9.2	8.4	7.8	7.8	8.7	9.6
Inflation (annual growth in %)	2.7	4.0	5.1	4.5	2.7	1.7	1.4	1.9	0.9	0.6	1.4	2.0	1.4	1.0

	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
GDP ($/capita)	31831	32414	34754	37018	38663	37684	39955	42693	43564	45232	47092	47881	48943	
GDP per capita growth (%)	1.192	0.764	3.817	3.399	1.275	-5.379	4.24	5.599	0.304	0.216	1.509	0.866	1.124	1.795
Unemployment (% of total)	9.8	11.2	10.3	8.7	7.5	7.7	7.0	5.8	5.4	5.2	5.0	4.6	4.1	3.7
Inflation (annual growth in %)	1.7	1.5	1.6	2.3	2.6	0.3	1.1	2.1	2.0	1.5	0.91	0.23	0.48	1.74

Sources: OECD (2018), World Bank (2017)

Annex 2: Economic situation Hungary, 1990-2017

	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003
GDP ($/capita)		8333[e]	8280[e]	8452[e]	8915[e]	9176	9339	9818	10403	10895	11876	13242	14550	15467
GDP per capita growth (%)			-3.026	-0.463	3.088	1.631	0.186	3.599	4.479	3.48	4.48	4.079	4.826	4.147
Unemployment (% of total)		9.77	9.94	12.1	10.85	10.17	10.02	8.99	8.93	7.0	6.4	5.7	5.8	5.9
Inflation (annual growth in %)	28.4	34.8	23.7	22.5	18.9	28.3	23.5	18.3	14.2	10.0	9.8	9.1	5.3	4.7

	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
GDP ($/capita)	16251	17082	18300	19027	20679	20648	21556	22841	23094	24463	25525	26148	26701	
Unemployment (% of total)	5.238	4.596	4.013	0.59	1.032	-6.455	0.91	1.95	-1.135	2.378	4.509	3.613	2.515	4.338
Unemployment (% of total)	6.1	7.2	7.5	7.4	7.8	10.0	11.2	11.0	11.0	10.2	7.7	6.8	5.1	4.2
Inflation (annual growth in %)	6.7	3.6	3.9	8.0	6.0	4.2	4.9	3.9	5.7	1.7	-0.23	-0.06	0.39	2.35

(Sources: OECD (2018), World Bank (2017))

Annex 3: Economic situation Italy, 1990-2017

	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003
GDP ($/capita)	18557[e]	19450[e]	20052[e]	20342[e]	21217[e]	22285	22963	23808	24927	25532	27023	27953	28621	29029
GDP per capita growth (%)	1.9	1.468	1.152	-0.913	2.13	2.885	1.258	1.781	1.587	1.543	3.663	1.715	0.099	-0.293
Unemployment (% of total)		10.1	9.33	10.24	11.09	11.67	11.87	12.0	11.8	11.4	10.6	9.5	9.0	8.7
Inflation (annual growth in %)	6.5	6.3	5.3	4.6	4.1	5.2	4.0	2.0	2.0	1.7	2.5	2.8	2.5	2.7

	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
GDP ($/capita)	29337	29983	32179	33789	35155	34228	34719	35935	35757	35885	36071	36640	38380	
GDP per capita growth (%)	0.927	0.455	1.7	0.963	-1.704	-5.912	1.374	0.404	-3.081	-2.816	-0.801	1.049	1.03	1.63
Unemployment (% of total)	8.0	7.7	6.8	6.1	6.7	7.7	8.4	8.4	10.7	12.1	12.7	11.9	11.7	11.2
Inflation (annual growth in %)	2.2	2.0	2.1	1.8	3.3	0.8	1.5	2.8	3.0	1.2	0.24	0.04	-0.09	1.23

(Sources: OECD (2018), World Bank (2017))

Bibliography

Addison, H (2009). Is Administrative Capacity a Useful Concept? Review of the Application, Meaning and Observation of Administrative Capacity in Political Science Literature*, LSE Research Paper*, available at: https://pdfs.semanticscholar.org/0e51/29c3808d09e40d1933d74b9d58cccbde9016.pdf

AIDA (2017). Country Report: Germany, available at: http://www.asylumineurope.org/reports/country/germany

AIDA (2017a). Country Report: Hungary, available at: http://www.asylumineurope.org/reports/country/hungary

AIDA (2017b). Country Report: Italy, available at: http://www.asylumineurope.org/reports/country/italy

AIDA (2015). Annual Report 2014/2015. Common asylum system at a turning point: Refugees caught in Europe's solidarity crisis, available at: http://www.asylumineurope.org/annual-report-20142015

Amnesty International (1997). Annual Report 1997, available at: https://www.amnesty.org/download/Documents/POL1000011997ENGLISH.PDF

Börzel, T A (2003). *Environmental Leaders and Laggards in Europe: Why There is (not) a 'Southern Problem* (Aldershot: Ashgate)

Börzel, T (1999). Towards Convergence in Europe? Institutional Adaptation to Europeanization in Germany and Spain, *Journal of Common Market Studies*, 37:4

Börzel, T A and Risse, T (2003). 'Conceptualizing the Impact of Europe', in K. Featherstone and C. M. Radaelli (eds) *The Politics of Europeanization* (New York: Oxford University Press)

Bosswick, W (2000). Development of Asylum Policy in Germany, *Journal of Refugee Studies* Vol. 13, No. 1, 43-60

Bugdahn, S (2005). 'Of Europeanization and domestication: the implementation of the Environmental Information Directive in Ireland, Great Britain and Germany', *Journal of European Public Policy* 12(1): 177–99

Bundesverfassungsgericht (BVerfG) (2014a). Beschluss vom 17.09.2014. Az 2 BvR 939/14, http://www.asyl.net/fileadmin/user_upload/dokumente/22250.pdf

Bundesverfassungsgericht (BVerfG) (2014b). Beschluss vom 17.09.2014 Az 2 BvR 1795 /14, http://www.asyl.net/fileadmin/user_upload/dokumente/22248.pdf

Bulmer, S (1983). Domestic Politics and European Community Policy-Making, *Journal of Common Market Studies Volume XXI*

Bursens, P (2002) 'Why Denmark and Belgium have different implementation records: on transposition laggards and leaders in the EU', Scandinavion Political Studies 25(2): 173–95

Camera dei deputati (2016). Commissione parlamentare di inchiesta sul sistema di accoglienza, di identificazione ed espulsione, nonché sulle condizioni di trattenimento dei migranti e sulle risorse pubbliche impegnate, Resoconto stenografico, http://documenti.camera.it/leg17/resoconti/commissioni/stenografici/html/69/audiz2/audizione/2016/07/05/indice_stenografico.0054.html (accessed: 5th May 2018)

Caporaso, A; Green Cowles, M; Risse-Kappen, T (ed.) (2001). *Transforming Europe: Europeanization and Domestic Change* (Cornell University Press)

Central Intelligence Agency (2018). The World Factbook – Hungary, https://www.cia.gov/library/publications/the-world-factbook/geos/hu.html (accessed 1st July 2018)

Connolly, K and Traynor, I (2008). *Hungary receives rescue package, with strings attached*, the Guardian, https://www.theguardian.com/business/2008/oct/29/hungary-economy-imf-eu-world-bank (accessed 5th 2018)

Danish Refugee Council (2017). Is Mutual Trust Enough? The situation of persons with special reception needs upon return to Italy, available at: http://www.refworld.org/docid/58a1a9a94.html

Demmke, D (2001). 'Towards effective environmental regulation: innovative approaches in implementing and enforcing European environmental law and policy', Harvard Jean Monnet Working Paper 5/01 (Cambridge, MA: Harvard Law School)

Dernbach, A (2015). Germany suspends Dublin agreement for Syrian refugees, *euractiv*, https://www.euractiv.com/section/global-europe/news/germany-suspends-dublin-agreement-for-syrian-refugees/ (accessed: 27th February 2018)

Dimitrakopoulis, D G (2001a). 'Learning and steering: changing implementation patterns and the Greek central government', Journal of European Public Policy 8(4): 604–22

Dimitrakopoulos, D G (2001b). 'The transposition of EU law: "post-decisional politics" and institutional economy', *European Law Journal* 7(4): 442–58

Dimitrova, A and Steunenberg, B (2000). 'The search for convergence of national policies in the European Union: an impossible quest?', *European Union Politics* 1: 201–26

Duina, F (1999). *Harmonizing Europe: Nation-States Within the Common Market* (Albany: State University of New York Press)

Duina, F (1997). 'Explaining Legal Implementation in the European Union', *International Journal of the Sociology of Law*, 25, 155–179

EUR-LEX (2003). Council Regulation (EC) No 343/2003, European Union, available at: http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32003R0343

EUR-LEX (2013). Regulation (EU) No 604/2013, European Union, available at: http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:32013R0604

European Commission (2018). Identification of applicants (EURODAC), https://ec.europa.eu/home-affairs/what-we-do/policies/asylum/identification-of-applicants_en (accessed 28th February 2018)

European Commission (2016). The Dublin System, available at: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/background-information/docs/20160406/factsheet_-_the_dublin_system_en.pdf

European Commission (2016b). Communication from the commission to the European Parliament and the Council towards a reform of the Common European Asylum System and enhancing legal avenues to Europe, available at: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/proposal-implementation-package/docs/20160406/towards_a_reform_of_the_common_european_asylum_system_and_enhancing_legal_avenues_to_europe_-_20160406_en.pdf

European Commission (2016c). Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of [Regulation (EU) No 604/2013 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] , for identifying an illegally staying third-country national or stateless person and on requests for the comparison with Eurodac data by Member States' law enforcement authorities and Europol for law enforcement purposes (recast), available at: http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52016PC0270(01)

European Commission (2016d). Completing the reform of the Common European Asylum System: towards an efficient, fair and humane asylum policy. Press Release IP/16/2433, http://europa.eu/rapid/press-release_IP-16-2433_en.htm (accessed: 7th March 2018)

European Commission (2016e). Evaluation of the implementation of the Dublin III Regulation. Final Report, available at: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/asylum/examination-of-applicants/docs/evaluation_of_the_implementation_of_the_dublin_iii_regulation_en.pdf

European Parliament (2017). Reform of the Dublin System, available at: http://www.europarl.europa.eu/RegData/etudes/BRIE/2016/586639/EPRS_BRI%282016%29586639_EN.pdf

European Parliament (2016). The Reform of the Dublin III Regulation, available at: http://www.europarl.europa.eu/RegData/etudes/STUD/2016/571360/IPOL_STU%282016%29571360_EN.pdf

Falkner, G; Treib, O; Hartlapp, M and Leiber, S (2005). *Complying with Europe? The Impact of EU Minimum Harmonisation and Soft Law in the Member States* (Cambridge: Cambridge University Press)

Falkner, G *et al*. (2004). Non-Compliance with EU Directives in the Member States: Opposition through the Backdoor?, *West European Politics* 27 (3):452-73

Featherstone, K; Radaelli, C (2003). *The Politics of Europeanization*, Oxford University Press

Ghimis, A (2015). Why was the EU not prepared for the refugee crisis and what to expect next?, European Policy Center

Graziano, P (2013). *Europeanization and Domestic Policy Change: The case of Italy* (New York: Routledge)

Green Cowles, M *et al*. (eds) (2001). *Transforming Europe: Europeanization and Domestic Change* (Cornell University Press)

Hertie School of Governance (2014). *The Governance Report 2014: Administrative Capacities Indicators* (Berlin: Hertie School of Governance)

Héritier, A. *et al*. (2001*). Differential Europe: The European Union Impact on National Policymaking* (Rowman & Littlefield Publishers, Inc.)

Hille, P and Knill, C (2006). 'It's the Bureaucracy, Stupid': The Implementation of the Acquis Communautaire in the EU Candidate Countries, 1999-2003. *European Union Politics* 7 (4):531-52

Hix, S; Goetz, K H (2000). Introduction: European integration and national political systems, *West European Politics*, 23:4, 1-26

Huggler, J (2017). EU court rejects 'open-door' policy and upholds right of member states to deport refugees, The Telegraph, https://www.telegraph.co.uk/news/2017/07/26/eu-court-rejects-open-door-policy-upholds-right-member-states/ (accessed 28th February 2018)

Human Rights Watch (1997). Report Hungary, https://www.hrw.org/reports/1997/WR97/HELSINKI-08.htm#P382_123454 (accessed 15th June 2018)

Immergut, E (1998). The Institutional Core of the New Institutionalism, *Politics & Society*, 26:1, 5-34

Junker, S and Wittenberg, E (2015). *Germany economy growing at slightly above-average rate: Eight questions to Simon Junker*, DIW Economic Bulletin, ISSN

2192-7219, Deutsches Institut für Wirtschaftsforschung (DIW), Berlin, 5:50/51, pp. 666

Knill, C and Lenschow, A (1998a). 'Change as 'Appropriate Adaptation': Administrative Adjustment to European Environmental Policy in Britain and Germany', *European Integration Online Papers* (EIoP), Vol. 2, No. 1

Knill, C and Lenschow, A (1998b). 'Coping with Europe: the impact of British and German administrations on the implementation of EU environmental policy', *Journal of European Public Policy*, 5:4, 595-614

Krasner, s (1988). Sovereignty: An Institutional Perspective, *Comparative Political Studies,* 21:1, 66-94

Küpper, H (1998). Völkerrecht, Verfassung und Außenpolitik in Ungarn, *Max-Planck-Institut für ausländisches öffentliches Recht und Völkerrecht*, 239-289

Ladrech, R (2010). Europeanization and National Politics (Macmillan Education UK)

Ladrech, R (1994). Europeanization of Domestic Politics and Institutions: The case of France, *Journal of Common Market Studies*, 32 (1): 69-88

Lin C.YY., Edvinsson L., Chen J., Beding T. (2014). *Impact of the 2008 Global Financial Crisis.* In: National Intellectual Capital and the Financial Crisis in Denmark, Finland, Iceland, Norway, and Sweden. Springer Briefs in Economics. Springer, New York, NY

Lodge, M. and Wegrich, K. (ed) (2014) *The Problem-Solving Capacity in the Modern State: Governance Challenges and Administrative Capacities*, Oxford University Press

Lorenz, D (2015). ‚Von Dublin-Domino bis Kirchenasyl: Kämpfe um Dublin III, *movements. Journal für kritische Migrations- und Grenzregimeforschung* (1)

March, J and Olsen, J (1998). Rediscovering Institutions, New York

Mastenbroek, E (2003). 'Surviving the deadline: the transposition of EU directives in the Netherlands', *European Union Politics* 4: 371–96

Mastenbroek, E and Van Keulen, M (2005). 'Beyond the goodness of fit. A preference-based account of Europeanization', in M. Haverland and R. Holzhacker (eds), *European Research Reloaded: Cooperation and Integration among Europeanized States* (Kluwer: Deventer)

Mbaye, A D (2001). 'Why national states comply with supranational law', *European Union Politics 2(3): 259–81*

McDonough, P., Kmak, M. and van Selm, J. (2008). Sharing Responsibility for Refugee Protection in Europe: Dublin Reconsidered, *European Council on Refugees and Exiles*, available at: http://www.refworld.org/docid/47f1edc92.html

Nicolaus, P (1990) 'Artikel 1 der Genfer Flüchtlingskonvention—eine vergessene Begriffsbestimmung des Flüchtlings?' in Otto Benecke Stiftung e.V. (ed.), *Vierzig Jahre Asylgrundrecht. Verhältnis zur Genfer Flüchtlingskonvention.* Baden-Baden: Nomos

OECD (2018). Gross domestic product (GDP) (indicator). doi: 10.1787/dc2f7aec-en (accessed on 7th July 2018)

OECD (2018). Inflation (CPI) (indicator). doi: 10.1787/eee82e6e-en (accessed 7th July 2018)

OECD (2018). Unemployment rate (indicator). doi: 10.1787/997c8750-en (accessed on 07th July 2018)

O'Toole, L J, Montjoy, R and Jr (1984). Interorganizational Policy Implementation: A Theoretical Perspective. *Public Administration Review* 44 (6):491-503

Phillips, L (2009) Finland halts migrant transfer to Greece after UN criticism, *euobserver*, https://euobserver.com/justice/26016 (accessed: 27th February 2018)

Poptcheva, E (2015). EU legal framework on asylum and irregular immigration 'on arrival' State of play, *EPRS*, European Union

Pouilly, C (2017). UNHCR urges suspension of transfers of asylum-seekers to Hungary under Dublin, UNHCR, http://www.unhcr.org/news/press/2017/4/58eb7e454/unhcr-urges-suspension-transfers-asylum-seekers-hungary-under-dublin.html (accessed 14th May 2018)

Prague Post (2015). Change in Czech refugee policy, https://www.praguepost.com/eu-news/49584-change-in-czech-refugee-policy (accessed: 27th February 2018)

Radaelli, C (2000). Whither Europeanization? Concept Stretching and Substantive Change, *European Integration online Papers (EIoP), Vol. 4, No. 8*

Robert, A (2015). Council lessens Hungary and Bulgaria's migrant obligations, *euractiv*, https://www.euractiv.com/section/justice-home-affairs/news/council-lessens-hungary-and-bulgaria-s-migrant-obligations/ (accessed 27th February 2018)

Schmidt, V A (2002). 'Europeanization and the mechanics of economic policy adjustment', *Journal of European Public Policy*, 9:6, 894-912

Schuster, L (2000). A Comparative Analysis of the Asylum Policy of Seven European Governments, *Journal of Refugee Studies*, 3:1, 118-132

Skrondal, A and Rabe-Hesketh, S (2004). *Generalized Latent Variable Modeling: Multilevel, Longitudinal, and Structural Equation Models,* Boca Raton: Chapman & Hall/CRC

Storm, S. and Naastepad, C.W.M (2014). *Crisis and Recovery in the German Economy: The Real Lessons*, Delft University of Technology, Institute for New

Economic Thinking, Working Group on the Political Economy of Distribution, Working Paper No. 2

Szoke, L (1992). Hungarian Perspectives on Emigration and Immigration in the New European Architecture, *The International Migration Review*, 26:2, 305-323

Trauner, F (2016). 'Asylum policy: the EU's 'crises' and the looming policy regime Failure', *Journal of European Integration*, 38:3, 311-325

UNHCR (2016). Hungary as a country of asylum: Observations on restrictive legal measures and subsequent practice implemented between July 2015 and March 2016, available at: http://www.refworld.org/docid/57319d514.html

UNHCR (2009). UNHCR comments on the European Commission's Proposal for a recast of the 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 ("Dublin II") (COM(2008) 820, 3 December 2008) and the European Commission's Proposal for a recast of the Regulation of the European Parliament and of the Council concerning the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of [the Dublin II Regulation] (COM(2008) 825, 3 December 2008), available at: http://www.refworld.org/pdfid/49c0ca922.pdf

Velluti, S (2014). *Reforming the Common European Asylum System — Legislative developments and judicial activism of the European Courts* (Heidelberg: Springer-Verlag)

Vincenzi, S (2000). Italy: A Newcomer with positive attitude?, *Journal of Refugee Studies*, 13:1, 91-104

World Bank (2017). Unemployment, total (% of total labor force) (modeled ILO estimate), https://data.worldbank.org/indicator/SL.UEM.TOTL.ZS?locations=DE-HU-IT (accessed 7th July 2018)