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Security versus Human Rights

Analysis of the Common European Asylum System

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Abstract

The aim of this thesis is to investigate the ways the Common European Asylum System is portrayed from security and human rights perspectives. In order to do this the author conducts a case study of two main legislative acts in the area of asylum in the EU – the Dublin II Regulation and the Eurodac Regulation and proceeds with a discourse analysis of texts taken from different sources – European Commission and Member States, NGOs and UNHCR and media. The framework for the analysis is the Copenhagen School of Security Studies with its concepts of securitization and de-securitization. The main finding is that the human rights perspective is a dominant view on the CEAS enforced by NGOs, UNHCR and media. The security view is partly present in the European Commission and governmental portrayal of the issue.

Key words: Common European Asylum System, Copenhagen School, discourse analysis, asylum, securitization

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List of abbreviations

AFSJ	Area of Freedom, Security and Justice
AI	Amnesty International
BBC	British Broadcasting Corporation
CDA	Critical Discourse Analysis
CEAS	Common European Asylum System
CEE	Central and Eastern Europe
COI	Country of Origin Information
EC	European Commission
ECHR	European Convention on Human Rights
ECRE	European Council on Refugees and Exiles
EU	European Union
GCR	Greek Council for Refugees
JHA	Justice and Home Affairs
NGO	Non-Governmental Organization
OSCE	Organization for Security and Cooperation in Europe
TEC	Treaty establishing the European Community
TEU	Treaty on European Union
UK	United Kingdom
UN	United Nations
UNHCR	United Nations High Commissioner for Refugees
US	United States

1. Introduction

1.1. The subject of the study

The abolition of internal borders in the EU meant freedom of movement inside the Union and at the same time strengthening the external borders. The security aspect of providing protection of the external borders had to be counterweighed with the humanitarian aspect of complying with the 1951 Geneva Convention and other human rights instruments and providing access to asylum for those who need it (Ferguson Sidorenko 2007). Asylum and migration issues have always been at the core of state sovereignty. They were placed in the third intergovernmental pillar by the Treaty of Maastricht and deriving from the name of the pillar – JHA they were the domain of the corresponding Ministries. The situation has changed with the Treaty of Amsterdam coming into force in 1999. It introduced the new concept of an Area of Freedom, Security and Justice where free movement of persons is ensured “in conjunction with appropriate measures with respect to external border controls, asylum, immigration and the prevention and combating of crime” (Article 2 TEU). The Treaty of Amsterdam transferred asylum matters together with visas, immigration and judicial cooperation in civil matters from the third to the first pillar making them the domain of Community authority. They came into the Treaty under the new Title IV. The communitarisation of asylum policy was seen by some Member States as further extension of supranational powers of Brussels and partial loss of sovereignty. The United Kingdom, Ireland and Denmark opted out from the Title IV TEC.

With asylum matters becoming the Community responsibility the need for legislative measures ensuring the uniformity of protection across the Union came to the foreground. European Council in Tampere in 1999 agreed upon the main aims and principles of a common asylum policy. Tampere Conclusions became the guidelines and all the further developments were evaluated against the goals set in Tampere. The CEAS was mentioned for the first time in Tampere and its

establishment had to proceed with the full and inclusive application of the 1951 Geneva Convention and respect of the principle of non-refoulement, i.e. nobody being sent back to persecution (Ferguson Sidorenko 2007).

It was decided that CEAS will be established in stages and the schedule was adopted for the first phase encompassing 5 years. Tampere Conclusions stated that the Community rules should in the long term “lead to the common asylum procedure and a uniform status for those who are granted asylum valid throughout the Union” (*ibid.*).

The foundations of the CEAS were set during the first phase through the adoption of four cornerstone legislative acts:

- The Dublin Regulation on the determination of the Member State responsible for examination of asylum application and thus preventing multiple demands;
- The Reception Conditions Directive which sets minimum standards for the reception of asylum-seekers, including healthcare, education and housing;
- The Qualification Directive which sets the criteria for qualifying for either asylum or subsidiary protection and distinguishes the rights attached to both statuses;
- The Asylum Procedures Directive which sets the minimum standards for asylum procedures in all Member States. The adoption of this Directive was postponed to the second phase and it was adopted in 2005.

The second stage of CEAS was launched in 2004 when the Hague Programme in JHA was adopted for the period of 2005-10. The establishment of CEAS was one of the priorities set in the Programme. The Hague Programme states that the further development of CEAS should be based on solidarity and sharing of responsibilities, including financial implications and closer cooperation among the Member States as well as further harmonization of legislation (Ferguson Sidorenko 2007). The end of 2010 is set as a deadline for evaluation of the first phase with a view of adoption of the second phase legislation. Still there is no clarity whether the second stage will be the last one as there might be a need for further actions to establish the CEAS.

1.2. Statement of purpose

The aim of my thesis is to address the fledgling CEAS and to see whether asylum in the EU is perceived as a security or a human rights issue. Internal security measures have increased worldwide after terrorist attacks of 9/11. Control of external borders is an important element of providing internal security. At the same time the right to asylum is a principle of international law safeguarded by 1951 Geneva Convention to which all EU Member States are signatories. The decision to create a Community level asylum system is not only an important step in further harmonization and communitarisation. It is also a necessity for providing protection to thousands of people in need who flee to Europe in a search of refuge. Compliance with the human rights obligations in building the CEAS and implementing its rules is a test for the EU that claims to be a Community of values. Balancing of internal security against human rights is inevitable in case of asylum but it is important not to take one side at the expense of another. In my thesis I will try to answer the following research question:

How is the CEAS portrayed in the security versus human rights debate?

I am interested in exploring which actors favor securitization or de-securitization of asylum policy and how do they argue for their positions.

1.3. Outline of the study

Thesis is divided into 7 chapters. Introductory part provides a short background of the CEAS which is the subject of the study and states research problem. Chapter 2 provides an overview of existing research in the area. Chapter 3 introduces theoretical background for the thesis followed by a part on methodology. Chapters 5 and 6 are empirical where case studies provide a context for the following discourse analysis. In the last chapter I sum up conclusions of my research.

2. Previous research

Cooperation in the area of asylum at the EU level is quite a new phenomenon and it didn't get enough attention from the researchers so far. Asylum is a very sensitive issue as it has its roots in the humanitarian law and at the same time it has always fallen under the jurisdiction of the states and been treated as an important issue of domestic affairs. Most of the researchers and policy-makers treat asylum policy as part of the migration policy. I must say that although the movement of the asylum-seekers is similar to that of the irregular migrants their legal status and mechanisms of treatment are very different. I conduct my research in the area of asylum in the EU seen through the lens of security versus human rights debate.

2.1. Security versus human rights debate

There is a considerable amount of literature on the securitization of migration. I especially want to emphasize the work of *Jef Huysmans*. It is a seminal book on securitization of migration and asylum in the context of the European Union. The whole book is centered on the notion of security framing. The author chose social constructivist and post-structural framework for exploring the securitization process. He uses and at the same time criticizes Copenhagen School approach. According to him one of the key concepts of this approach – the securitization through the speech acts can not be fully applied in the case of the EU as migration and asylum were rather defined as security issues through posting them under JHA domain in the Treaties. Huysmans uses rather Foucauldian approach by which securitization is defined as a set of discourses together with the bureaucratic and technical practices (Huysmans 2006). The author follows the assumption that securitization is a political choice rather than reaction to the events or perceptions. Therefore security framing is a technique of government. The relations between security and freedom are also being analyzed and the main

argument is that security framing is a method of realizing freedom by governing its dangerous excess.

Another prominent researcher exploring migration-security nexus is *Elspeth Guild*. She moves away from state-centric approach to an approach which focuses on the individual. She opposes collective security of the state which represents its citizens to individual security of a foreigner (Guild 2009). Elspeth Guild chose the framework of international political sociology which focuses on the relationship of the individual with power and authority. One of the ideas expressed in her book is that NGOs, UN agencies and European Court of Human Rights contributed to appearance of an individual in the migration studies due to strengthening its positions against the state. At the same time only one chapter of the book is dedicated to forced migration and there is no connection to CEAS. The author is highlighting the friction between the border sovereignty and states' international obligations arising from signing Geneva Convention and its protocol. It's one of the key issues of critical migration studies – the right of the individual to rely on the rights granted by an authority beyond the state. Elspeth Guild points out at the necessity of revisiting the sovereignty of states in border controls in the light of the individual rights protection.

In one of her other books written in cooperation with *Didier Bigo* she is exploring control of borders in the EU and the freedom of movement. The idea of policing at distance through identification, databases, remote control in the name of freedom of movement is the main area of research. The book tries to establish the link between securitization, the decrease of welfare, the spreading of discourses about freedom of movement and the development of a new form of policing – policing at a distance. The rhetoric of freedom of movement is studied in order to establish its role in framing the migration in media, in political discourse and administrative practices of law enforcement agencies. The theoretical background is Michel Foucault's and Zygmunt Bauman's approaches. Foucault is criticized for underestimating the transnational developments and the role of intelligence. Bauman's main point of departure is the dividing criterion between those who can live globally and those who are embedded in their own localities (Bigo – Guild 2005). In order to specify the effects of Europeanization the situation inside Europe is compared to the situation between Europe and the

US. Different angles are taken, among them construction of an enemy: Us vs Them and creation of the categories of people under control as potential threats.

One of the chapters is dedicated to the social construction of a migrant as a threat. *Anastassia Tsoukala* argues that the social problem of immigration is a political issue constructed to serve the ideological interests. The perception of immigrants is articulated around three principles: socio-economic, security and identity (Tsoukala 2005). The pattern of the social construction of a threat is discussed which according to the author consists of three stages: official discourses, scientific analyses and media discourses. The case studies of Greece and Italy are carried out to investigate the social construction of immigrants as a threat. This process leads to restrictive immigration and asylum policies and impedes the social cohesion of the countries.

The fight against terrorism boosted the securitization of migration. Following the terrorist attacks of 9/11 the study has commenced on exploring the impact of anti-terrorist measures on asylum and migration policy of the EU. Both EU level and Member States legislation and policies were analyzed. The field of research was composed of measures regarding admission, asylum, control of the population on the territory, detention, expulsion and extradition (Brouwer 2003). The political and media debates were taken into account together with NGOs opinions. The researcher comes to a conclusion that fight against terrorism leads to linking asylum and immigration policy to internal security. In order to safeguard the latter, governments enforce measures on controlling the movements of migrants and asylum-seekers. There is a need of finding a balance between anti-terrorist measures and securing the rights of the refugees, asylum-seekers and migrants.

Another study which contributes to the security versus human rights debate in the area of asylum and migration was conducted by a group of Canadian scholars. They take Canada as a case study therefore it is not always possible to refer it to the EU. The conclusion is that preventive measures especially enforced after 9/11 events further strengthen the security paradigm. There is a dichotomy between state's desire to protect its internal security and its international and domestic obligations to human rights protection. The civil society and judiciary are the ones who enhance right-oriented approach to foreigners. (Crépeau *et al* 2007).

Monica den Boer contributes to the studies of securitization of migration introducing the notion of Anxiety Society which perceives the world through the lens of insecurity and mistrust. The actions are negative and defensive that is directed on preventing the worst instead of gaining the best (den Boer 2008). De-securitization of migration depends mostly on politicians as political and media discourses are crucial in defining migration as a threat.

Another aspect of irregular migration studied by *Aninia Nadig* is human smuggling to the EU. The researcher argues that restrictive border control measures are not effective and they just infringe the right of seeking asylum. Her paper aims to take irregular migration off the security agenda. The author studies the effects of security approach to irregular migration on the state and society on one hand and refugees on the other hand. She is also trying to find the alternative approaches which could benefit all. The securitization of migration is studied through the lens of three theoretical approaches: realism, critical security studies and pluralism. The analysis is conducted on three levels: society, state and supra-national level. Realism perceives irregular migration as a threat to its national security and justifies the natural desire of the state to protect its sovereignty. But this theory is centered on the notion of the state and doesn't explain much on the perception of migration in the society. Both critical security studies and pluralism recognize security as a social construct and therefore are more powerful in explaining securitization (Nadig 2002).

All the abovementioned researchers contributed to the security versus human rights debate in the area of migration and asylum. They explain securitization as a social construct and highlight the importance of political and media discourses in framing the issue. At the same time the main focus was on migration and asylum was treated as a complementary issue or sometimes it wasn't even differentiated from migration issue. Below I will introduce a scholar whose area of research is the closest to mine.

Sandra Lavenex explores the normative and institutional challenges of the Europeanization of the refugee policy. She is one of the scholars who take a human rights perspective on the asylum policy in the EU. Refugee policy is strictly normative in its character and the protection of refugees is embedded in the domestic constitutional principles as well as in the international normative

context. The establishment of CEAS rests on those principles combined with the vertical organization of governance. The success of CEAS depends not only on institutional reforms but also on creation of the “Community of values”, that is adherence to the common principles, which are coded for instance in the Charter of Fundamental Rights (Lavenex 2001). Lavenex also engages into discussion of the refugee policy framing as a security or a human rights issue. She claims that in the past refugee issue was treated as a side issue of the single market project and received attention only in connection with the internal security. The parallels between the emerging Area of Freedom, Security and Justice and the Single Market are drawn (Lavenex – Wagner 2007). The argument is that as in case of the Single Market the market-creating measures prevailed over the market-correcting, in case of the AFSJ security prevails over freedom. Europeanization has led to further securitization of JHA as the shift towards transgovernmental cooperation gives an opportunity to circumvent domestic constraints put by national constitutional norms.

In one of her articles Lavenex also turns to the issue of codification of the rights of the aliens in the EU. She argues that the success of this process depends on the linkage of individual rights with the norms embedded in the European integration process. The constitutionalization of the rights of the aliens in the EU will make asylum and migration policy more a matter of European integration than internal security. Lavenex introduces ideational variables necessary for this shift: salience and norm legitimacy, which are complemented with an organizational variable – the degree of pluralism of the decisional arena (2006). She applies this theoretical framework on 7 case studies which include both successful and unsuccessful cases of constitutionalization of the rights of aliens in the EU.

Lavenex also studies the policy transfer in the area of asylum to the then candidate CEE countries (2002). The implementation of the EU asylum acquis and the role of EU institutions and individual Member States in this regard are under focus. This article deals with the conditionality and its effects on the reforms in the CEE countries but the area taken is of interest to my own research.

2.2. Empirical literature on the CEAS

Upon the presentation of research made in the area of migration and asylum through the lens of security versus human rights debate I would like to turn to the literature on CEAS. Most of it is written by lawyers and is intended to analyze the legislation on asylum and policy developments. The theoretical background is usually quite weak or sometimes completely absent. At the same time these books give a descriptive overview of existing EU legislation in the sphere of asylum. The main problem is that CEAS is a moving target as it is constantly developing. The books on legislation cannot present the current situation as they are already outdated but they can be used for giving a historical background of Common European Asylum policy and legislation. Let me mention some of them.

Hailbronner's book is very detailed but it was written in 2000 and it doesn't take into account the post-Tampere period. He discusses the role of UNHCR, Council of Europe and OSCE in the development of European asylum policy. He mentions the problem of conformity of Eurodac with human rights principles. The main drawback is the time limit.

The book by *Rosemary Byrne, Gregor Noll and Jens Vedsted-Hansen* analyzes the transformation of asylum systems of Central-European countries in the context of enlargement. The tension between migration control and protection needs is explored as one of the factors influencing the transformation process. Three levels are studied: the domestic level, the sub-regional level and the regional level. The authors focus on 3 sub-regions: the Central link (Germany, Poland and the Czech Republic), the Southern link (Austria and Hungary), and the Northern link (Nordic and Baltic countries). The sub-regional level is studied for identifying the ways neighboring countries impact each other in the shaping of asylum law and policy. This study also pays attention to the concept of burden-sharing as the way of distribution of protection obligation among the Member States. The authors give an overview of protection problems in the Central Eastern Europe as seen from the UNHCR prospective. The book is already outdated as it was written before the EU Eastern enlargement and analyzes EU asylum law and policy as of 2001. Most of attention is paid to the sub-regional level and there is only minor discussion of EU level asylum policy.

The most monumental book on CEAS I found is the one written by *Olga Ferguson-Sidorenko*. It gives a broad overview of EU asylum law and policy including the background and the development of CEAS. EU legislation on asylum is analyzed together with the policy developments. Slovakia is chosen as a case-study for EU asylum law implementation. The book also addresses major issues confronting asylum systems of the Member States. It is a good source for CEAS developments and legislation but the time span encompasses 1980's – 2005. The post-Hague period is not covered. The book is very informative but it doesn't have a theoretical framework.

2.2.1. Dublin and Eurodac Regulations

The last group of research relating to my thesis is the studies of specific legislative acts, in particular Dublin II and Eurodac Regulations. *Jonathan P. Aus* in his PhD dissertation is looking at the logic of decision-making in the Justice and Home Affairs Council from both Rationalist and Institutionalist perspectives in order to investigate whether the logic of appropriateness or the logic of consequences lies behind the adoption of main legislative acts (2007). He conducts a theory-driven comparative case study research. For his PhD work he chose four case studies: the Dublin II Regulation, the Eurodac Regulation, the Biometric Passports Regulation and the Facilitators Package. He comes to a conclusion that both logics are invoked in the JHA Council and none of the legislative acts adoption can be explained exclusively by one of the logics. The scope of conditions for the use of logic of appropriateness were defined as follows: internal security crises, tight deadlines, accumulated experience and competency traps, inadequate resources, contradictory rules and institutional collisions, institutionalized consensus norms and horizontal coordination (Aus 2007). Logic of consequences is followed under conditions of redistributive problems, coordination problems, membership incentives and conditionality, relative bargaining power.

The case of Dublin II Regulation is named a Rationalist puzzle by Jonathan P. Aus as in the case of states pursuing their national interests the negotiations should have ended up in a deadlock because of the redistributive problems involved. Nevertheless the Regulation was adopted. The possible explanations

come from the Institutionalist perspective and they are embedded in the Council informal rules and procedures, namely the consensus culture, the reluctance of veto use and the issue-linkage (Aus 2006a). The author traces the process of Dublin II Regulation negotiations by using Council official records and semi-structured interviews with the officials involved in the process. In his other paper which constitutes his PhD research Jonathan Aus gives an overview of the emergence of Eurodac Regulation as the first application of biometric database within the supranational political entity (Aus 2006b).

Hemme Battjes goes through the articles of the Dublin II Regulation and compares it to its predecessor – the Dublin Convention. He gives a thorough legal analysis of the act, paying attention to the existing flaws (2002).

Another interesting article analyzes application of Dublin II Regulation by Greek authorities (Papadimitriou 2005). Greece adopted a practice of interrupting the asylum procedure of the Dublin II returnees on the claims that they have abandoned their place of residence. With these actions Greece undermines the spirit of European cooperation in the sphere of asylum. This case reveals the flaws of national asylum legislation in the newly emerging CEAS and shows the results of Dublin II Regulation application when border countries become incapable of handling increasing amounts of asylum-seekers.

2.3. Conclusion

There is a considerable amount of research on securitization of migration. Many scholars contributed to security versus human rights debate in the area of migration and asylum. At the same time there are a very limited number of scholars using this approach to the study of CEAS. Common EU asylum policy and legislation is mostly analyzed from purely legal perspective and is lacking attention of political science scholars. Constantly evolving CEAS is an interesting area for research. I will build my thesis on existing literature some of which is analyzed above. At the same time I will try to apply theoretical approach to the study of legislation. In this way I will combine rich theoretical basis with the empirical study of the main cornerstones of CEAS.

3. Theory – Copenhagen School of Security Studies

I chose Copenhagen School theory for my analysis of the ways asylum in the EU is portrayed. Copenhagen School with its concept of securitization and broad sectoral approach is helpful for understanding how an issue such as asylum is manipulated and in what way. Copenhagen School is a rather new approach in security studies which emerged as an answer to the changing world order and inability of old approaches to address those changes. In the last decades the need for redefinition of the concept of security became clear as never before. Traditional realist view which dominated security studies until the end of the Cold War was based on a state-centric and militarist security concept. Such a narrow approach appeared to be incapable of addressing current changes. More and more issues started to be treated as security concerns: the economic growth, energy, environment, terrorism, migration, culture and identity. At the same time security is no longer only the state domain. Other actors and referent objects such as nations, individuals and organizations like the EU came to the foreground. The “widening”, i.e. encompassing increasing number of sectors, and “deepening”, i.e. including more actors, of the security concept became the main ideas of some new security approaches.

The most prominent school of security studies became known as the Copenhagen School. This term was coined by McSweeney to address the works of scholars – Ole Wæver, Barry Buzan, Pierre Lemaitre, Morten Kelstrup and Jaap de Wilde – working together since 1988 at the Copenhagen Peace Research Institute (COPRI). Copenhagen School brought new framework to the analysis of security and introduced the concept of securitization which is broadly used nowadays. Below I will introduce the main concepts developed by the School and mention some limitations of the approach pointed out by the critics.

3.1. Main concepts

Copenhagen School adopted social constructivist framework for the study of security. According to it, security is not given, it is constructed. The issue is framed in a specific way so that it becomes a security concern. This concept of securitization became the biggest contribution of the School to security studies. Wæver (1996) defines it as framing an issue in a way that it becomes an absolute priority. “Something is presented as an existential threat: if we do not tackle this, everything else will be irrelevant (because we will not be here, or not be free to deal with future challenges in our own way)” (Wæver 1996: 106). The securitization of an issue justifies extraordinary measures and gives a right to break the rules of the game. Through securitization the issue leaves the political domain and enters the domain of insecurity and emergency.

Security is not objective. It is impossible to measure the realness of a threat as there is no scale for that. Instead of concentrating on a security itself the analysts have to study the process of constructing a security threat. One of the main standpoints of the Copenhagen School is that security framing is always a choice and the responsibility for it is taken by the securitizing actors. Traditionally securitizing actors are from the realm of politics but there might be others such as for instance religious leaders in case of societal security. Media plays the role of functional actors by taking part in a discourse but playing a supplementary role.

Securitization is performed through the speech act. The concept of a speech act was developed from the concept of “performative utterances” by John L. Austin (Stritzel 2007). By uttering the word “security” the action is performed – not only the issue is described but the new reality is formed. The speech act has an internal power which can lead to the justification of means otherwise not acceptable by publics. There is a strong link between the speech act, the securitizing actor and the audience. The successfully performed speech act can empower the securitizing actor.

At the same time the success depends on the acceptance by the audience. Three types of facilitating conditions were defined by the Copenhagen School:

- 1) the internal structure of a speech act – linguistic-grammatical rules and conventional procedures;

- 2) the social conditions – the authority of the securitizing actor and its connections with the audience;
- 3) features of the threats which either facilitate or hinder securitization (Buzan *et al* 1998)

The second and third conditions are contextual or external while the first one is internal, discursive. These conditions define how and who can securitize and what can be successfully securitized. When the audience doesn't accept securitization it becomes nothing more than a securitizing move.

Copenhagen School belongs to the camp of “wideners” of security. It has defined five sectors of security: military, political, economic, environmental and societal (Wæver 1999). Each of these sectors has its own referent object which is threatened and needs protection by any means. Traditionally the referent object has been a state. It still remains its positions but with widening of security the new referent objects came into foreground. They might be above the state, for instance set of rules, regimes and institutions safeguarding the liberal economic order for the economic sector or the global climate system for the environmental sector (Buzan 1997). Some of the referent objects exist along the state but function independently from it – nations and religions, which are referent objects for the societal security. There is another referent object which exists below the state and is considered to be an ultimate one by some of security scholars – the individual.

Copenhagen School has concentrated mostly on the middle level – the level of a state as a referent object, complemented with nations and religions. This level is most prone for securitization, as it is easy to legitimize the actions and at the same time to construct the threat coming from the others and to create a we-feeling of the audience (Buzan – Wæver 2009). At the global level the difficulty is in the absence of others. At the individual level it is hard for a limited number of individuals to find a support for securitization. What at first seems to be about individual security in fact is referring to the universalist principles, such as human rights. Copenhagen School scholars support reference to collectivities rather than to individuals.

Every referent object has a value necessary for its survival. Securitization theory deals with the existential threats i.e. the intensified ones, in case of which there might be a point of no return. For the state the main value is sovereignty and

the existential threat lies in losing the sovereignty which leads to seizing to exist. In case of controversial societal security (the term was introduced by the Copenhagen School) the survival of a nation or religion is in keeping its identity. As the concept of identity itself is disputable it is hard to define the identity and to draw the line between the constant evolution of identity under the influence of external factors and the existential threat of its losing. Copenhagen School gives an answer that collective identity is actually defined in a moment when it is securitized. The securitizing actor draws the borders of exclusion and makes the identity non-flexible (Williams 2003). When it comes to the European context the Copenhagen School points out at the complexity of a situation with a number of overlapping units. Europe itself is a referent object with a value of integration needed for its survival. Any issue can be securitized if it threatens integration and can lead to fragmentation.

The concepts of existential threat and survival have its roots in realist tradition. Copenhagen School has built its theory combining social constructivism with some ideas derived from the traditional approach to security. The influence of postmodern-poststructuralist scholars such as Derrida and Butler can be felt in the concept of a speech act which has an internal power of its own (Stritzel 2007). Still social constructivism remains the main framework for the Copenhagen School theory.

At first glance the introduction of concepts of securitization and sectoral security made it possible to declare any issue a security concern and make a security agenda limitless. In fact not every securitizing move is successful. Wæver claims that securitizations are somewhat predictable because they depend on the effective claims, conventional forms, certain referent objects and the social positions from which they can be effectively spoken – all of which are discursively, institutionally and culturally “sedimented” (2000). Securitization of an issue leads to the adoption of extraordinary measures which would not be accepted otherwise. Securitized issue leaves the domain of normal politics and public debate. Copenhagen School considers securitization to be a rather negative process as it can lead to militarization of a wide range of sectors. Although security is better than insecurity still the conflicts continue to exist albeit the counter-measures are taken. The better aim is de-securitization – that is returning

of an issue into the realm of politics and out of the emergency mode. De-securitization is conducted in the same manner and the same actors are being involved as in the process of securitization. Copenhagen School scholars reiterate their preference for de-securitization over securitization.

Finally, the Copenhagen School has a distinct standpoint on the role of analysts which differs from the one taken by other security scholars. As the theory of securitization is not normative the role of analysts is limited to exploring the process of securitization and not judging whether the threat is real or not. Security is always a political construction and it is not up to the analyst to evaluate the threat.

3.2. Limitations and criticism

The main limitation of the Copenhagen School securitization theory is its preoccupation with the semantic side of the speech act at the expense of the social factors. The role of visual images is ignored by the theory while their impact is very strong in the society. The images brought by the media can influence the perception of an issue as a security concern. According to the securitization theory unless they are articulated there is no place for non-verbal acts in the process of securitization.

Another drawback is the underdeveloped concept of the de-securitization process. It is not clear how the issue can be taken back into the political realm. In case of a change of political rhetoric the discourse in the society might be sedimented and hard to change especially if other actors such as media or religious leaders continue following the securitization path (Williams 2003).

Some scholars condemn the Copenhagen School for avoiding normative assessment. In that way any inhuman measures can be justified by the securitization. The parallels between Schmittian realm of the political and the theory of securitization are drawn (*ibid.*). The way Schmitt was used by the Nazi ideology, the securitization theory can be used to justify similar regimes. The possibility of existence and respect for rules and norms which define the security policy is not covered by the Copenhagen School theory (Sjursen 2004).

4. Methodology

4.1. Research design

The right choice of methods for answering the research question is a crucial part of any study. Methods are tools of a researcher for linking theory to the empirical material. Detailed description of the methods provides reliability of the study as other researchers in that case can trace the research course and reproduce it.

My thesis will be based on a qualitative approach. In order to answer my research question I will apply case study method complemented with discourse analysis. Qualitative research is a way to study complex issues in their entirety in the everyday context without reducing them to single variables in the artificial laboratory conditions (Flick 2009). The variety of methods is one of the features of qualitative research and the choice is driven by the study object. Another distinctive feature is the reflexivity of the researcher and the research (*ibid.*). The researcher's reflections become part of the knowledge and it is important not to be too subjective and to keep distance from the analysis at the same time constantly reflecting on it.

4.2. Case study

In my paper I will use case study method which allows an in-depth investigation of a limited number of units of analysis. I chose two legislative acts for my research – Dublin II Regulation and Eurodac Regulation. Both cases are cornerstone legislation in the emerging CEAS and the Area of Freedom, Security and Justice. Both acts received much attention in the media and civil society due to the problems of implementation and the controversy around them. Due to their political importance and contesting nature both acts are interesting cases for investigation. I will introduce the main provisions, the implementation and the problems connected with these acts in the light of security versus human rights

debates. For this purpose I will use primary sources – EU legislation in the area of asylum, statistical data from Eurostat and UNHCR, as well as secondary literature on these legislative acts. The aim of my case study is not generalization but rather exploration of these particular acts and introduction of the context for the following critical discourse analysis

4.3. Discourse analysis

The choice of Copenhagen School as the theoretical framework for my study predefined the method. Discourse analysis is the obvious tool for analyzing the framing of an issue. Securitization or de-securitization processes are performed through speech-acts. Both Copenhagen School theory and discourse analysis are based on the social constructivist view of reality therefore the epistemological basis of the discourse analysis distinguishes it from the other methods.

Discourse analysis is sometimes considered to be both a theory and a method. It has many varieties – at least 57 according to Rosalind Gill (2000). I faced the difficulty of finding empirical literature on discourse which could define the stages of analysis and provide vivid illustrations. Most of the literature is pre-occupied with theoretical side of discourse and different standpoints on that issue. Discourse analysis is a wide and vague notion and almost any kind of text or conversation analysis can be labeled with it. The lack of guidance in the conduct of analysis can be interpreted also in a positive way as an open floor for creativity. The aim of each method is to give an answer to the research question and discourse analysis with its flexibility can be tailored to match the needs of the analysis.

Discourse is language in use and it has to be interpreted in the context (Gill 2000). Texts need the background and I will provide it in my case studies by introducing the main legislative acts, their implementation and main provisions. Another feature of discourse which is shared by the Copenhagen School in its notion of a speech act is that by saying the action is performed. People use words to do things and every discourse is a social practice (*ibid.*). Discourse is also organized rhetorically – that is it is competing with other discourses in attempts to

establish its own version of the world (Gill 2000). Therefore discourse often has a persuasive nature.

Critical discourse analysis (CDA) is an approach which can be suitable for answering my research question. It “studies the way social power abuse, dominance, and inequality are enacted, reproduced and resisted by text and talk in the social and political context.”(Alba-Juez 2009: 237) CDA focuses on social problems and takes the perspective of the oppressed therefore it is sometimes accused of being biased. But that is one of the reasons for my choice of this particular approach. As Copenhagen School scholars express preference for de-securitization they are somehow also taking a side of the dominated, in my case the asylum-seekers. CDA as one of the critical theories aims not just to describe and explain but also to create awareness about a certain kind of delusion. CDA focuses not only on texts but also on the social structures and processes that give rise to the production of texts (Wodak – Meyer 2001). The combination of text and context is important for understanding the power relations and struggle and conflict in the discourse. CDA analyzes both the pressure from above and the ways to resist it from below. Many discourse strands exist simultaneously and they are struggling for dominance. In my study I will try to analyze competing discourses surrounding the EU asylum policy.

4.3.1. Selection of data

In order to analyze discourse on the EU asylum policy from different angles I chose three types of sources. One of them is documents representing official discourse – European Commission and governmental positions on CEAS. Another one is NGOs and UNHCR press-releases and standpoints on the issue. The last group of sources includes media. The variety of sources will enrich my analysis and will help to distinguish between competing discourses on asylum in the EU. Time frame is not the main criterion as the texts encompass a period from 2004 to 2009. My aim is not to trace the changes in discourse but to reveal the different ways of portraying asylum as a security or a human rights issue by different actors.

Texts for analysis represent different genres: reports, press-releases, official documents, positions, newspaper articles. Each genre has its own patterns of communication (Flick 2009). The method of genre analysis is too limited to answer my research question and the genres will play a secondary role in the discourse analysis where the main focus will be on discursive strategies.

For representing official political discourse I chose two governmental policy documents besides the EC reports – German delegation policy document concerning access to Eurodac by Member States’ police and law enforcement authorities and Hellenic Republic Ministry of the Interior Green paper on the future CEAS. The former is an important and controversial step for securitization of CEAS. The latter was chosen because of the centrality of Greece in the asylum related debate. The case of Greek abuse of Dublin system received much attention in the official and media discourse. I included texts on Greece in all sources – official policy document, report by the Greek Refugee Council, as well as newspaper articles by BBC and EUobserver. The debate around asylum-seekers in Greece was one of the climaxes of security versus human rights framing of the asylum in the EU and the analysis of this case can contribute to revealing competing discourses. I assume that NGOs represent human rights side of the issue and I am including some of the most active in the asylum field organizations to my analysis. European Council on Refugees and Exiles (ECRE) is the most notable of them as it unites 69 European NGOs. Amnesty International has asylum-seekers on the list of its agenda too. Of course I couldn’t exclude from my analysis opinion of UNHCR on CEAS. Due to its commitment to refugee rights protection I grouped UNHCR together with NGOs although the nature of this organization is different. Finally I expended the spectrum of discourse analysis by adding media sources such as BBC News, Deutsche Welle, EUobserver and European Voice. I chose reputable agencies covering the sphere of CEAS.

My research will be based on the analysis of 16 texts from the abovementioned sources. This quantity will be enough to cover the views of main actors in the asylum policy field as well as the media portrayal of CEAS. Due to the limited space and timeframe of a Master’s thesis the analysis can’t be extended to a bigger number of texts. The stages and technique of method used in my thesis is discussed in the next few paragraphs.

4.3.2. Stages and technique of analysis

Every researcher has his own way of conducting discourse analysis and it is modified according to the subject investigated. There are no schemes or clichés that can be used in all cases. The only rule is to be flexible and reflexive throughout the analysis. I will partly base my research on the stages developed by Ruth Wodak but at the same time it's not possible to adhere to someone's research scheme as it was constructed for analyzing different subjects. Ruth Wodak developed it for studying the discrimination practices, among them racist attitude towards immigrants and asylum-seekers. The subject of my research is similar but the angle taken is different. I will focus on securitization and de-securitization of the asylum instead. I will start my analysis from careful reading of the texts and proceed with coding. It is a flexible process as the categories change throughout the analysis. It is important to be as inclusive as possible in the initial stages in order to count in all the varieties (Gill). I will investigate five discursive strategies (Wodak – Meyer):

- Referential strategy or strategy of nomination – the way the asylum-seekers are referred to, including metaphors and metonymies
- Strategies of predication – the attribution of negative or positive traits and characteristics to them
- Strategies of argumentation – the ways arguments for treating the asylum-seekers as either security or human rights issue are presented. These strategies will be analyzed through the use of certain topoi, which justify the appeals – e.g. danger and threat, justice, burdening, numbers, humanitarianism, law and order, abuse etc.
- Strategies of perspectivation, framing or discourse representation – the way the speaker positions himself, his involvement in the issue. These strategies express the perspective or point of view taken by the speaker or author of the text towards the subject
- Strategies of intensification and mitigation – the way the illocutionary force of the utterances is enforced or mitigated

These discursive strategies will be the basis of my discourse analysis. I will analyze the texts searching for a pattern at the same time respecting the variety. As the aim of my study is to analyze how CEAS is portrayed in security versus human rights debate I will also analyze interdiscursivity and compare the dominant and resistant strands of discourse.

5. Case studies

5.1. Dublin II Regulation

The opening of internal borders made it possible to freely move inside the EU but at the same time it raised a number of issues to be dealt with. The need for communitarisation of asylum policy is one of them. In the EU without borders Member States are interdependent and each of them is responsible for the whole space when it comes to the issues like migration and asylum. Sometimes asylum-seekers upon entering the EU try to pick up the country with the most favorable asylum legislation in order to lodge their application there. This phenomenon is known as “asylum-shopping” or secondary movements. It is considered to be an abuse of the system of asylum. Sometimes asylum-seekers apply for protection in several states either to prolong their stay in the EU or to seek more favorable conditions. It increases the burden on the Member States which have to deal with multiple applications. The other side of the issue is the existence of the “refugees in orbit” when none of the States takes responsibility for considering their claims. In order to address both phenomena and to increase the efficiency of protection the EU-level system of determination of a Member State responsible for examining asylum application had to be established.

In 1990 the Dublin Convention was signed which entered into force in 1997. The Dublin Convention was an instrument of public international law and with the signing of Amsterdam Treaty and a decision to establish CEAS at Tampere Council in 1999 the need for the Community legal instrument became obvious. In 2003 the Dublin Regulation known also as Dublin II replaced the Dublin Convention. Regulation is binding in its entirety and directly applicable in all Member States. Unlike the directive it sets clear rules and doesn't allow divergence. The Community instrument on asylum has the set-up and the main objectives of the Convention which it replaced but at the same time amendments

where made in order to increase the efficiency and address the defects of the previous system.

The Dublin II Regulation was signed on 18 February 2003 and became applicable in all Member States starting from September 2003. Upon the enlargement of 2004 Dublin II Regulation became part of *acquis* integrated in the systems of new Member States. Denmark has an opt-out from the Title IV of the EC Treaty and doesn't take part in immigration and asylum matters. Therefore it didn't take part in the adoption of the Regulation and was not bound by it. In 2006 the agreement between the European Communities and the Kingdom of Denmark was concluded which extended the applicability of both Dublin II Regulation and Eurodac Regulation to this Member State. Both Norway and Iceland joined the Dublin system in 2006. Swiss citizens approved participation in a referendum held in 2005 and since 2008 Switzerland is a subject to both regulations.

Dublin II Regulation sets a number of criteria for allocating responsibility. They have a hierarchical order in which they shall be applied. The main idea behind the Regulation is that the state which facilitated the entry of an asylum-seeker into the EU is the one responsible for the examination of his/her asylum claim. There can be exceptions to this rule in order to preserve family unity or in case of unaccompanied minors. If there is a family member who is already a recognized refugee or in the procedure in one of the Member States then this State is responsible for the examination of asylum-seeker's application. In case of unaccompanied minor the family member has to stay legally on the territory of the Member State which takes the responsibility but only if it is in the best interests of a minor. If several applications are being lodged by the family members on the close dates then they are examined together. The criteria based on family unity are at the top of hierarchy. They are followed by a set of criteria grounded on the issuance of residence permits and visas. Article 10 assigns the responsibility in case of irregular entry to the Member State where the irregular border crossing took place "on the basis of proof or circumstantial evidence". The responsibility ceases 12 months after the event. The articles at the bottom of the hierarchical list refer to criteria based on the legal entry without visa being needed and on the application being lodged in the international transit area at the airport.

An important feature is the “sovereignty clause” – Article 3 (2) which allows deriving from the criteria and taking responsibility for examining application by a Member State which is not responsible. The Regulation also contains “humanitarian clause” - Article 15 (1) that says:

Any Member State, even where it is not responsible under the criteria set out in this Regulation, may bring together family members, as well as other dependent relatives, on humanitarian grounds based in particular on family or cultural considerations. In this case that Member State shall, at the request of another Member State, examine the application for asylum of the person concerned. The persons concerned must consent.

The Regulation sets out the procedure for taking back and taking charge of an applicant. The former is applied when the application is examined and either rejected or accepted. The latter procedure triggers when the application has not yet been or is being examined. Asylum-seeker has a right for an appeal but it does not have a suspensive effect regarding the transfer. The main difference from the Dublin Convention is the shorter time limits for increasing the efficiency.

The main concern with the Dublin II Regulation among the Member States was the fear of increasing burdening on the Border States. Asylum-seekers mostly enter the territory of the EU irregularly either through Mediterranean or through Eastern routes. Therefore the states on the periphery of the EU are expected to be responsible for examining a large number of applications in line with the Dublin II Regulation due to their location. These states have weak asylum systems and are not ready to accept the potentially increasing numbers of asylum-seekers. European Commission in its report on evaluation of the Dublin II Regulation included statistics on the impact of the Regulation on asylum applications pattern in all Member States. Appendices 1 and 2 illustrate the incoming and outgoing transfers in real numbers, as a ratio and as a percentage of a number of all asylum applications. As we can see the Border States belong to the group which takes charge or takes back the Dublin returnees. Greece has a highest ratio of incoming versus outgoing transfers, followed by Malta, Hungary, Slovenia, Slovakia and Latvia. Germany and the Netherlands have an equalized situation while the UK, Ireland and Iceland send back much more than receive. When we have a look at the real numbers, we can see that Germany and the UK are responsible for more than a half of all outgoing transfers for which the data are available. Germany, Poland, the Netherlands and Austria are receiving the biggest number of Dublin

returnees. Appendix 2 illustrates the level of pressure on asylum systems resulting from the Dublin II Regulation by providing the percentage of Dublin transfers in the total number of asylum application. Poland is in a deviant position with almost 20% share of Dublin returnees in a total sum. Slovakia, Lithuania and Latvia have over 10% share. These numbers altogether support the argument that the Dublin II Regulation increases the burden on the Border States. The allocation of responsibility based on the criteria doesn't take into account the capacity of a Member State to receive a certain number of asylum-seekers. It can lead to a burdening of fragile and fledgling asylum systems of Eastern and Southern Member States.

UNHCR and ECRE repeatedly expressed their concerns regarding the principles and implementation of the Dublin II Regulation. The main assumption behind the Regulation is that the level of protection throughout the EU is the same. In fact it differs a lot as national asylum law is different in every Member State and the recognition rates are vastly varying – from 0.2% in Greece to 65.3% in Poland as of 2008 (App. 3). The transfer of asylum-seeker might affect his/her chances for fair procedure and protection. Besides refugees are more likely to smoothly integrate in a country which they choose themselves. Effective implementation and cooperation among the Member States including the exchange of information is crucial as legislation in force is dependent on these factors.

The provisions of Dublin II Regulation which were most often criticized by UNHCR and NGOs include long time limits for transfer procedure (while still shorter than in Dublin Convention), no suspensive effect of appeals and quite a narrow definition of what constitutes a family. Member States were also criticized for being reluctant to use the “sovereignty clause” and take responsibility in cases when it is not allocated to them. ECRE in its reports and press-releases reiterated the call for the replacement of the Dublin system as its flaws can't be mended.

On 3 December 2008 the European Commission adopted a Proposal amending the Dublin II Regulation. The drawbacks of the Dublin system were taken into account and addressed in order to increase the efficiency and to provide better protection to the asylum seekers. Shorter time limits were proposed combined with clarification of the provisions on the ceasing of responsibility and increased

information-sharing. These amendments aim at better efficiency and faster procedures. The human rights dimension is specified in the amendments regarding broader scope of family unity provisions by, *inter alia*, making compulsory the reunification of dependent relatives. The use of detention is limited to specific grounds and the principle that the asylum-seeker can not be detained on the sole ground of seeking protection is included. The right to appeal against transfers is complemented with the possibility of suspensive effect as decided by the authorities and the right to stay on the territory of the Member State until a decision is made. The right to legal and linguistic assistance is specified in order to facilitate the access to effective remedies. The problem of burdening on the Border States is also addressed in the Proposal. A new procedure of suspending transfers to the Member State under particular pressure is included. It is also triggered in case when the Member State cannot provide an adequate level of protection to the Dublin returnees. The Proposal is a subject to a co-decision procedure according to the new rules. In case the European Parliament jointly with the Council adopts the new Regulation the Dublin system will be added a more human dimension and efficiency. The Dublin III is on its way.

5.1.1. Dublin system and Greece

The flaws of the Dublin system revealed themselves in Greece – a country which had to face the burdening consequences of the allocation of responsibility. Greece has a relatively short tradition of asylum as its legislation in the field came into force only in 1970s (Papadimitriou 2005). It is the last EU country in which all the competencies in the area of asylum belong to the Ministry of Interior (former Ministry for Public Order) and the procedure is totally in the hands of police authorities. No independent institution or state body has a right to intervene into decision-making on granting the asylum (*ibid.*). Greece had relatively small amount of asylum-seekers until the 1990s. It has always been a transit country for irregular migrants on their way to wealthier European countries. As Greece is situated on one of the major routes of irregular migration into the EU it has always been a point of entry but rarely a final destination. With the economical

growth in the country the situation has changed and Greece became more appealing both to irregular migrants and to asylum-seekers.

The introduction of the Dublin system of allocating the responsibility had strong repercussions on Greece. Due to its geographical location at the periphery of the EU and on one of the major migration routes Greece became a net-recipient of Dublin returnees. At the beginning it was taking responsibility only for those asylum-seekers who entered the EU with Greek visa or residence permit and applied for asylum in another Member State (Papadimitriou 2005). When Eurodac database started to operate it became possible to track the first point of entry to the EU and irregular border-crossers who were fingerprinted in Greece and later applied for asylum in another Member State fell under responsibility of Greek authorities. The number of Dublin returnees increased. In 2004 the ratio between incoming and outgoing requests reached astonishing 75:1 point with 1351 incoming requests (App. 4). The same year Greece started to practice the interruption of asylum procedure for the Dublin returnees which made this country central to the discussions on the efficiency of the Dublin system and human rights dimension of asylum policies.

The interruption of the examination of asylum claim is justified by Greek domestic asylum law in case if the applicant arbitrarily abandoned his place of residence. The examination can be restarted if the asylum-seeker reappears within 3 months and proves that his actions were caused by force majeure events (*ibid.*). Until 2004 it was never used towards the Dublin returnees but with increasing numbers of asylum claims Greek authorities started to invoke these provisions. It is obvious that asylum-seekers don't inform Greek authorities that they are going to leave the country irregularly in order to apply for asylum elsewhere. It is almost impossible to revoke the interruption decision as the only way to do it is to prove that force majeure events took place. As the decision is sent personally to the asylum-seeker and is not made public it is hard to operate the exact numbers. This abusive practice came to the surface only when asylum-seekers started to turn to NGOs telling the same stories (*ibid.*).

The interruption of the procedure contradicts the main principle of the Dublin system that the asylum claim is examined in the EU only once. It results into a situation when the claim is not examined at all and the protection needs are not

evaluated. It leads to indirect refoulement and puts the life of the asylum-seeker in danger. In most of the cases Greek authorities accept the Dublin returnees and take the responsibility from the sending Member State in this way assuring that the claim will be examined. Upon the arrival of the Dublin returnee to Greece he/she is informed about the interruption decision which leads to losing the status and becoming an irregular resident who can be deported.

The abusive practice by Greek authorities was condemned by UNHCR and NGOs and received much attention in media. Other criticized aspects include the automatic use of detention, the lack of interpretation and legal services, the scarcity of information provided to the asylum-seeker. The recognition rate is extremely low in Greece compared to the other Member States. In 2007 Greece registered 25 113 asylum claims out of which only 8 were granted refugee status, corresponding to a recognition rate of 0.04% at first instance. In 138 cases the refugee status was granted on appeal, corresponding to a recognition rate of 2.05% (UNHCR 2008). The close to zero probability to receive a status at first instance combined with a right to appeal leads to the overburdening of the Appeals Board and a backlog of pending cases. The delays sometimes might exceed three years (Papadimitriou 2005).

The situation in Greece became a subject of numerous reports by human rights organizations. In 2008 UNHCR stated its position on the return of asylum-seekers to Greece and advised the Member States to refrain from the transfers of Dublin returnees to Greece by invoking the “sovereignty clause” until further notice based on positive changes in Greece. Norway and Finland suspended transfers of asylum-seekers to Greece upon UNHCR criticism. Germany and Sweden narrowed down the application of sovereignty clause to unaccompanied minors. These moves revealed the break of trust among the Member States and de-facto challenged the fact of Greece being a safe country.

The situation around Greece threatened to undermine the foundation of the Dublin system. It made it clear that the protection standards are not the same in all Member States and that the overlapping national and communitarian law can lead to legal pitfalls and violations of the right to asylum. It also demonstrated that the burdening on the asylum systems of some Member States forces them to look for

the remedies which close the doors before the potential refugees without considering their rights.

5.2. Eurodac Regulation

The application of the Dublin II Regulation and its predecessor – the Dublin Convention depended on the high level of cooperation and information-sharing among Member States. The crucial practical issue was to establish a person's identity and its travel route (Hailbronner 2000). Many asylum-seekers travel with fake documents or without any and most of them cross the border irregularly. In order to allocate the responsibility of examining the application on asylum to only one of the Member States it is necessary to know the point of first entry into the Dublin zone. Some asylum-seekers are lodging applications in several Member States. This problem can be dealt with only on the supranational level with the central database in place.

Eurodac Regulation was adopted on 11 December 2000 and it became a tool for the implementation of the Dublin Convention at that time and the Dublin II Regulation since 2003. Eurodac stands for the European dactylographic system and the Regulation establishes a database of fingerprints of asylum-seekers and irregular border-crossers. It is “the first application of biometric identification technology within a supranational political entity” (Aus 2006). It is also a first legislative proposal by the European Commission to the Council in the area of asylum and migration policies since the entering into force of the Amsterdam Treaty and extension of the competencies of the Community into this field (Hailbronner 2000). Eurodac Regulation is applicable to the area covered by the Dublin II Regulation and together they are referred to as the Dublin system.

The purpose of the establishment of the database is stated in the Regulation and is to assist the effective implementation of the Dublin Convention (later the Dublin II Regulation). The fingerprint data can be processed in Eurodac only for this purpose “without prejudice to the use of data intended for Eurodac by the Member State of origin in databases set up under the latter's national law” (Article 1). Any other purposes are excluded and the list of authorities having access to Eurodac is submitted by the Member States to the Commission. The

Eurodac operates through the Central Unit established within the Commission equipped with the automatic fingerprint recognition system. The Member States are taking the fingerprints and sending them to the Central Unit where they are compared with the data stored in the database.

The Member States are obliged to take fingerprints of every asylum-seeker above 14 years of age who is applying for an asylum. Article 5 gives the exhaustive list of data which can be recorded into the central database: Member State of origin, place and date of the application for asylum, fingerprint data, sex, reference number used by the Member State of origin, date on which the fingerprints were taken and dates on which the data were transmitted to the Central Unit and entered in the central database and finally, the details in the respect of the recipient of the data and the date of transmission. These data are stored in the Central database for a period of 10 years. It is assumed that this period of time is reasonable as most of the asylum-seekers acquire settled status or even a citizenship within this timeframe. The data can be erased earlier as soon as the asylum-seeker acquires a citizenship of the Member State. Data on asylum applicants help to avoid the multiple applications by one asylum-seeker in several Member States.

The Member States are also obliged to take fingerprints of irregular border-crossers. This kind of data has a limited application as it can be compared only with the data of asylum applicants and can not be compared with the data of other irregular border-crossers sent by other Member States. The information is stored for the period of 2 years and is automatically erased if the person is issued a residence permit, leaves the territory of the Member States or acquires a citizenship in one of the Member States. The data on the irregular border-crossers help to track the first point of entry which is one of the criteria for allocating the responsibility.

Member States can also send to the Central Unit the fingerprints of the “aliens found illegally present” on their territory. It is not an obligation and depends on the choice of authorities. The fingerprints are compared with the data in the central database in order to check whether the person has applied for asylum in any of the Member States. The data are not stored in the central database.

The Central Unit acts as a processor of data while the liability for the correctness and damage rests on the Member States acting as controllers (Hailbronner 2000). The Central Unit compares the fingerprints sent by the Member State and in case of finding the matches sends back the answer “hit” with the details of found matches.

Eurodac database is quite a controversial issue from the human rights perspective. In some societies biometric databases are still assimilated with the criminal procedure (*ibid.*). The storing of the data about individuals is sometimes considered to interfere with the right for private life enshrined in the ECHR. The security of data and the access of asylum-seekers to their data is another important aspect. The Eurodac Regulation is referring to the Directive 95/46/EC on the protection of individuals with regard to the processing of personal data and on the free movement of such data. A supervisory body is established for monitoring the legality of all processing operations carried out within Eurodac. A sensitive issue is the fingerprinting of the minors as they enjoy the higher level of protection of their privacy in accordance with the UN Convention on the Rights of the Child (*ibid.*). All these issues have existed from the very moment of the establishment of the Eurodac database but didn't receive enough attention except from the practitioners in the field (*ibid.*). The situation has changed when the database came to the foreground of security versus human rights debate in the area of asylum.

The Commission on the request of Member States led by Germany proposed to open Eurodac to law enforcement agencies including Europol. The legislative measures were published on 8 July 2009. They include an amendment to Eurodac Regulation setting a fight against crime as a priority and a Draft Decision regulating the access to Eurodac by law enforcement agencies (European Commission 2009). This decision caused unease among some Member States, such as Sweden and opposition from human rights organizations and activists. The database was created with a different purpose and its securitization violates the principles under which it was set. The biggest concern is with Europol access as this organization exchanges information with the third countries and it can lead to the data on asylum-seekers reaching their persecutors.

6. Analysis

6.1. Referential strategy

In this part of analysis I will focus on the ways asylum-seekers and refugees are referred to in the texts. By using different nominations or by grouping them with other entities the authors make emphasis on specific traits and portray them in a particular light. In some cases it is possible to trace the pattern in the use of certain words by certain actors. The most vivid illustration is the substitution of the word “illegal” by the less negatively connoted word “irregular” in the practice of UNHCR and NGOs. In the documents of European Commission and Member States the word “illegal” is still used when addressing migration issues. Media use both words interchangeably depending on which source they base their message. By using the word “illegal” the emphasis is put on the breach of law and the criminality of an action or a person. The meaning of the word “irregular” is based on the non-conformity and the special nature of a phenomenon.

An example of grouping can be found in the Eurodac Regulation which establishes fingerprinting of asylum seekers, irregular border-crossers and illegal residents. All three categories of persons are therefore linked together and the notions are treated as overlapping. In that case the traits of one group can be projected on the other groups. In the German proposal on Eurodac the database is supposed to contain information helpful to identify persons “suspected to have committed a crime or an act of terrorism” (2006 p.1). The linkage of asylum to crime leads to the strengthening of the security side of the issue. By pronouncing the word “terrorism” in the post 9/11 world any counter-measures might be justified.

One of the important issues is the definition of a “refugee” and the differences in its interpretation. 1951 Geneva Convention defines a refugee as “A person who is outside his/her country of nationality or habitual residence; has a well-founded fear of persecution because of his/her race, religion, nationality, membership in a

particular social group or political opinion; and is unable or unwilling to avail himself/herself of the protection of that country, or to return there, for fear of persecution.” All the EU Member States are signatories to the Convention and it has a binding power of international law. Still there are alarming signs of a wish to narrow down the definition. In the paper by Greek police authorities the term of “persons who flee persecution of their political beliefs” is used (2007 p.3). It automatically excludes all the other reasons for persecution mentioned in the Convention. This group of people according to the Greek police authorities has to be clearly distinguished from the “persons who flee natural disasters” (*ibid.*). On the other side of the spectrum we can find UNHCR who supports the broad definition by referring to refugees and persons “in need of other forms of international protection”, be it survivors of war, flooding, famine or any other disasters not connected with persecution (2004). Those people can be granted subsidiary protection and they are included into a group of “people in need”.

The legal nature of asylum is displayed through the reference to the asylum seekers as the “applicants” or “asylum-claimants”. They are also called “third country nationals” or “a particular category of third country nationals” in the documents of European Commission and Member States. The reasoning behind it is that all EU Member States are proclaimed to be safe countries of origin and no claims for asylum from the EU citizens can be satisfied. Therefore all asylum-seekers come from the countries outside the EU.

The human rights dimension of asylum is displayed through referring to asylum-seekers and refugees as “people in need”, “persons eligible for protection”, “those in need”, “people, who seek, and deserve, international protection”, “vulnerable groups”. Those referential strategies shift the focus on the plight, the plea for help and the necessity of being taken care of. In its press-release UNHCR uses the word “sanctuary” for asylum which has a strong connotation with the sacred place, something that is immune from any intrusion (2004). It has its roots back in history when fugitives could find shelter inside the cathedrals and monasteries where the secular power had no say. By using this word in the modern context UNHCR draws attention to the absolute nature of the right to asylum and the safety guarantees from the country providing the asylum. Human rights approach is especially vivid in the texts by Amnesty International,

where asylum-seekers and refugees are referred to as “human beings” and “those whose fundamental rights have been violated” (2008). The former is a way of constructing inclusion by breaking down the barrier between Us and Them and pointing out that first and foremost we are all humans. The latter portrays asylum-seekers and refugees as the victims of human rights violations.

Asylum seekers are often mentioned in a conjunction with migrants, especially irregular migrants. It is another example of grouping which I have discussed above. Only UNHCR clearly distinguishes them by saying “refugees – as opposed to other migrants” (2004). These groups have similar features and they move in a similar way but the mechanism of treatment is very different. One of the media sources – Deutsche Welle – refers to them as “boat people” or “people who arrive on boats” when quoting the words of Security and Justice Commissioner Jacques Barrot. It clearly confines it geographically to Mediterranean migration route and to the maritime means of transportation by making no distinction between the passengers. Using these words in the press can evoke the images of conquerors who in the past times were arriving by sea and therefore provoke the feeling of insecurity among the audience.

6.2. Discursive strategies

In this part I will discuss three main topics included in the discourse on asylum in the EU. As the discursive strategies are interconnected and mixed in the texts I find it useful to analyze them together in order for analysis to be coherent. Therefore I will investigate the ways the strategies of predication, argumentation and intensification or mitigation were applied by the actors.

The strategy of argumentation is analyzed through the use of different topoi. Ruth Wodak developed a list of topoi for her analysis of discourse on racism and nationalism. I modify this list in order for it to correspond to my own analysis through omitting or adding some topoi. Topoi are presented by Wodak as content-related warrants which connect the arguments with the conclusion (2001). Before presenting my findings I will introduce topoi used for structuring the analysis.

Topos of danger and threat bears the meaning that if an action or a decision has dangerous or threatening consequences it should not be performed or taken.

Another interpretation is that if there is a danger or threat one should do something against it. Topos of humanitarianism is based on the conditional that the action should not be performed if it violates human rights or doesn't comply with humanitarian values. The topos of definition means that if a certain person or an action is named in a specific way than it carries the attributes assigned to the literal meaning of the definition. The topos of justice is based on the claim of equal treatment for all. The topos of responsibility stipulates that if a person or an institution is responsible for a specific problem it has to deal with it. The topos of burdening is based on a conditional that if a country or an institution is burdened by a problem it should act in order to diminish it. The topos of reality can be summarized as follows: because the reality is as it is, certain actions should be performed. The topos of law and right is based on the conformity with laws, treaties or any other codified norms. The topos of finances is based on the conditional that if an action or a situation is too costly actions should be performed in order to reduce the costs. The topos of numbers is based on using numbers to proof the argument, while the topos of reference is based on referring to the authoritative body to support the claims. Finally, the topos of abuse stipulates that if an abuse takes place the measures against it have to be taken.

6.2.1. Dublin system

European Commission

The Commission in its report on the evaluation of the Dublin system characterizes it as “functioning *generally* well”, “applied in a *generally satisfactory* way”, claiming that “*overall*, the objectives of the Dublin system have, *to a large extent*, been achieved” (2007). The words which I put in italics mitigate the strength and positiveness of a message and leave some room for exceptions and criticism. The objectives set out in the Hague Programme are named “ambitious”. The meaning of this trait is two-fold. Positively connoted it points at high standards and fast pace but negatively interpreted it justifies lower outcomes through the impracticability of intentions.

The Commission refers to the abuse of the system by asylum-seekers who “continue trying to obtain a favorable decision for their case by lodging more than

one asylum application” and presents the Dublin system as a way to prevent this phenomenon, arguing that harmonization will reduce the motivation for secondary movements (*ibid.*). The topos of humanitarianism is a typical pattern of argumentation and is intensified in the phrases like “*overarching* objectives are to uphold and reinforce the Union’s humanitarian and protection tradition” and “upholding *universal values* such as protection of refugees, respect for human dignity and tolerance” (2007; 2008). The words “overarching” and “universal” point at superiority and centrality combined with the generally recognized character in the latter case. Other manifestations of this topos can be traced in the “exceptions designed to protect family unity”, “the extension of the scope of the Dublin Regulation to include subsidiary protection” and amendments to “increase the possibility of family members to be reunited” (2007).

UNHCR and NGOs

UNHCR in its report points to “the absence of comprehensive public data on the operation of Dublin II system” which is a trait that does not comply with EU principles of transparency and accountability (2006 p.1). Dublin “does not contain any mechanism to ensure that responsibilities are shared in a balanced or equitable manner” (*ibid.*). This trait is further reiterated in the discussion of burdening on the EU Border States with “fragile and under-resourced asylum systems” (UNHCR 2004). The topos of burdening is combined with the topos of finance in reference to the “time-consuming and expensive duplication of procedures” (*ibid.*). UNHCR argues for the burden-sharing and further pooling of responsibilities to the EU level. The typical pattern of argumentation is based on a topos of humanitarianism intensified through the use of eloquent language and emotionally loaded words:

Protection should be available where and when they most need it – generally *at the earliest stage possible* - so that fewer of these *very vulnerable people* feel the need to *entrust their fate to unscrupulous gangs* of human smugglers (UNHCR 2004; my italics).

Topos of law and right can be also traced through references to the “full and inclusive application” of the Geneva Convention “both in letter and spirit”

(UNHCR 2006 p.3). The latter phrase intensifies the superiority of international law and the broad interpretation of the principles enshrined in it.

Amnesty International takes a human right perspective clearly traced throughout the texts. It criticizes EU Member States for burden-sharing not working in practice – “Europe saw Member States *bluntly* refusing to show solidarity and *reproaching* Southern Member States to be at least partly responsible for the current crisis” (AI 2006). The strategy of intensification is actively applied through the use of idiomatic expressions, emotionally loaded words, rhetorical questions etc. The topos of humanitarianism is therefore intensified by phrases such as “closing eyes to human rights”, “to keep sight of human beings behind abstract concepts like asylum-seeker, refugee or migrant” (AI 2006; AI 2008).

ECRE characterizes Dublin system as an “obstacle to future European asylum system” with “inherent limitations and injustices” (2008). The argumentation strategies are based on the topos of law and right – non-compliance with the legislative acts, the topos of finance – “the system costs millions of Euros to operate”, the topos of reality – “most agreed transfers are never carried out” (*ibid.*). The topoi of humanitarianism, finance and uselessness are intertwined in the statement that “the Dublin system is inhumane, expensive, and does nothing to advance the harmonization of EU asylum practices” (*ibid.*). The abuse by asylum-seekers is provoked by the system itself which is “creating incentives” for them to avoid the system which “is *fundamentally flawed* because it assumes that every EU state provides an equivalent level of protection, *which is far from reality*” (*ibid.*). The intensifying words in italics strengthen the power of the utterance and lead to the final conclusion of a need “for *an immediate* improvement” because “as long as the Dublin system continues its operation, Europe *can never* build a true Common Asylum System” (*ibid.*).

Media

Media mostly refer to NGOs and UNHCR in their coverage of EU asylum policy which automatically defines their position in the discourse. The eloquence of the genre gives plenty of room for the intensification. The general evaluation is quite critical which can be derived from the headline of an article by Deutsche Welle –

“EU *inches ahead* with common asylum policy” (Potts, 2009). It points at a slow pace and inefficiency. The trait of a system is that it “bounces vulnerable refugees around Europe like ping pong balls” (Goldirova, 2008). The comparison of human beings with inanimate objects contributes to the argument of human rights being a secondary concern for the authorities. The topos of justice is invoked regularly in the criticism of the system which fails “to guarantee a just examination of claims” and that “even after asylum status has been granted, the refugees often receive different treatment” (Potts, 2009). The topos of danger and threat is used two-dimensionally. On one side the system has “*devastating* consequences” for the asylum-seekers and refugees who are “unlucky enough to land in countries which lack proper asylum systems” (Goldirova, 2008). On the other side media mention the fear of the Southern states that “improvements to current standards would attract more migrants arriving in increasing numbers to their shores” (Potts, 2009).

6.2.2. The case of Greece

Governmental source – Hellenic Republic Ministry of the Interior

Greek authorities portray the situation as an “uncontrolled flow of asylum-seekers to Greece” (2007 p.3). The typical pattern of argumentation is the use of the topos of burdening, intensified through the use of emotionally loaded words – “given the number of applications and the *pressure*”, “pin-pointing needs is a demanding and *painstaking* process”, “countries under *severe pressure*, such as Greece” (2007 p.2). Throughout the document attention is drawn to the asylum-seekers abusing the system – “fails to provide satisfactory information to the authorities or else has other intentions (secondary movements within the EU)”, “will continue to oppose all the attempts of the Member States in the area of burden sharing, etc, in order to secure the best conditions for themselves and their families” (2007 p.2; p.3). The topos of abuse contributes to the construction of a negative image and prepares a ground for the justification of the counter-measures. The topoi of burdening, finance and uselessness are interwoven in the discussion on access to the labor market. Greek authorities are cautious about the opening of the labor market for the asylum-seekers and refugees and try to confine this process through

imposition of two sets of criteria – for evaluation of the market condition and qualifications for the job applicants. The access to the market is to be based on the facts “such as unemployment rates in particular sectors and the needs of the domestic economy in terms of workers” (2007 p.3). The conditionality of access is a restrictive practice and it is supported through the reference to the rise in unemployment overtly connected with asylum-seekers in the text.

One of the main Greek arguments for rectifying the situation is burden-sharing realized through training of staff “in appropriate structures, ideally at EU level”, systematically sharing information on COI, using the funding from the EU and “supporting third countries to strengthen protection” (2007 p.1; p.5). The latter is intensified through the mentioning of EU as “*a global player* in refugee matters” and use of the phrase “This is its [EU] main aim” (2007 p.6). The topos of responsibility is invoked towards the EU, as Greek authorities mention the problem of the lack of housing as “*an immediate EU priority*” in this way transferring the responsibility on Brussels (2007 p.2).

At the same time the topos of law and right combined with the topos of justice can be traced in the arguments about “creating a system of guarantees within the asylum system”, “the same level of service” in the reception centers, observing “better protection practices, in accordance with the international legal standards” (2007 p.1; p.2; p.4). The topos of humanitarianism is almost absent in the text. The only time when it is mentioned is about “the common aim, which is to support the human rights” (2007 p.1).

The strategy of intensification is used throughout the whole text by stressing the issues as being “of vital importance”, “of paramount importance”, “of the utmost importance”, “extremely important”, “of great significance”. It creates the feeling of a strong message and a need for actions. The trait of the Dublin system that the transfers “are not equally balanced compared to non-border Member States” is intensified through underlining (2007 p.5). In that way Greek authorities draw attention to that being their main concern.

NGO – Greek Council for Refugees

GCR uses a definition of “burden shifting” instead of “burden-sharing” in the headline as a trait of the Dublin system. The substitution of the term implies that

the responsibility is being shifted instead of being shared. It has a negative connotation of avoiding the responsibility. The situation is presented as “problematic”, with “severe shortcomings” where “improvements remain to be seen” (2009 p.2; p.3; p.2).

The typical pattern of argumentation is based on topos of abuse but this time by Greek authorities against asylum-seekers and the topos of humanitarianism. Below is an abstract from the report with the intensifying words in italics:

Reports from *all* Dublin returnees indicate that the interview is carried out without the presence of an interpreter. The “*interview*” usually lasts *5 minutes* and, in most cases, *the only* question asked – *in English* – is why the applicant came to Greece. *No explanation* is given to the asylum seekers regarding the procedure of their rights / obligations and *the only* information provided is *a single page* listing names and addresses of NGOs and the address of the Asylum Division where they should go to declare their address. (2009 p.1; my italics)

The topos of abuse by the Greek authorities is present throughout the whole text in the discussion of housing situation, access to the asylum procedure and the service of appeals. In some cases it is combined with the topos of danger and threat for the asylum-seekers – “put them at risk of non-compliance with the requirements”, “legal pitfalls and failure to adhere to proper procedure can result in asylum-seekers losing their status” (2009 p.2; p.3). Greece practices “initial detention” of asylum-seekers and the definition itself already comes from the security domain.

Media

The media refer to Greece as “not a safe place for those in need of protection” and the asylum-seekers being “poorly treated by the Greek authorities” (Goldirova, 2008; Phillips 2008). At the same time the case of Greece is connected to the evaluation of the CEAS as a whole as “only a symptom of fundamental and far-reaching flaws inherent in the Dublin system” (Goldirova, 2008).

Media are using references to UNHCR, ECRE and Greek authorities to support their arguments. The topos of numbers is present in most of the texts to illustrate the low rate of positive decisions on refugee status in Greece. The topos of abuse by the Greek authorities combined with the topos of humanitarianism is a typical pattern of argumentation - “responsibility is assigned but not carried out”, “the

unacceptable conditions for asylum-claimants in Greece, the *obstacles* to accessing a fair determination procedure and *the risk of other serious human rights violations*” (Goldirova, 2008). In media Greek authorities accept the supremacy of human rights by saying that “*our first and only* concern is respect for the human rights of all who arrive in Greece” (BBC 2008). The use of the topos of humanitarianism in addressing the publics can be interpreted as a rhetorical strategy for gaining the support by following the norms of behavior. There are some arguments by Greek authorities quoted in the media which are ambiguous and open for interpretation such as the police and port authorities doing “more than their duties dictate” (Phillips 2008). The use of security terminology such as a group of migrants being “detained in a series of operations in Turkey” can be included in the topos of definition and contributes to the securitization of the issue (BBC 2008). The strategy of intensification is actively used in the texts due to the peculiarity of the genre. The idioms like “Greece under fire” or “calling for the red light” intensify the seriousness of the situation (Goldirova 2008).

6.2.3. Eurodac

Governmental sources – European Commission and German delegation

Eurodac database is characterized as “a technical tool” in the document by the European Commission and the information it contains “can be important in preventing and combating terrorism” as stated in the proposal by German delegation (Europa 2007; German delegation 2006 p.1). The former trait bears the impersonal character and shifts the focus from the content to the frame. The latter links the issue of asylum to the domain of security.

German delegation proposes opening of Eurodac database to police and law enforcement authorities. The argumentative strategies invoked are based on the topos of danger and threat – “for the purpose of preventing, detecting or investigating criminal offences, in particular terrorist offences”, “combating terrorism and crime” (German delegation 2006 p.1). The reference to the threat of terrorism triggers the mechanism of extraordinary measures that can be justified for the sake of survival. The linkage to security is explicit in the text. The topos of

reference is used by mentioning the statement by European Commission on the lack of access to Eurodac by police “as a shortcoming” (*ibid.*). It is a strategy of strengthening the arguments by referring to the similar position of the higher authorities. The topos of reality is traced in the argument that “the information available in Eurodac may be *the only* information available” to help in investigation (*ibid.*). The topos of law and right is overt in referring to the data protection legislation and providing “a purpose limitation” (German delegation 2006 p.3). At the same time it is mitigated through the ambiguity of the term “reasonable grounds” and its openness for interpretation (German delegation 2006 p.2). The role of a contact point between the Eurodac Central Unit and the law enforcement agencies of the Member States is mitigated through the use of phrases such as “for technical reasons”, “only as a technical transition point” and “would not affect the search system”(*ibid.*).

NGO and media

The opening of Eurodac to law enforcement agencies was criticized by NGOs. An article in the “European voice” reflects the opinions of UNHCR, ECRE and the Meijers Committee, a group of Dutch experts on refugee law. The topos of abuse by authorities contains the main message of the article highlighted in the text: “This is a real case of mission creep, where they built a database for one purpose and now want to use it for a different purpose” (Crosbie 2009). The definition of “mission creep” belongs to the military domain and intensifies the security rationale behind the decision. The typical argumentation pattern is based on the topos of danger and threat for the asylum-seekers. The opening of the database will “increase the risk of *stigmatization* of asylum-seekers and raise concerns about discrimination”, “it risks *endangering the lives* of asylum-seekers and the families they leave behind” if information is shared with the third countries (Crosbie 2009; AI 2008). The intensification is reached through referring to the life danger and using the term of “stigmatization” which is emotionally heavily loaded. Amnesty International points to the “automatic link” between asylum-seekers and terrorism and crimes which results from the proposal (AI 2008). The topos of law and right is invoked in the arguments that the opening of Eurodac “contradicts the basic principle of data protection” and that “the relevant treaty

articles on which Eurodac is based do not allow for an extension of its use for security purposes” (AI 2008; Crosbie 2009). The last words explicitly point at the main aim behind the proposal.

6.3. Strategy of discourse representation

In this part of analysis I will focus on the way the actors’ involvement is manifested and on the power relations existing among them. The strategy of perspectivation, framing or discourse representation introduced by Ruth Wodak is therefore adjusted to serve the aims of my analysis. In my interpretation it rather reminds actors’ analysis.

The European Commission has an active role in the field of asylum with a significant degree of power. It is manifested in the texts through its legislative and initiative powers – the Commission “adopted”, “launches” etc. The Member States are in subordinated position with limited power capacities as they “have an obligation”, “are responsible” etc.

UNHCR is considered to be an expert authority with a rather high degree of influence. NGOs and media refer to the numbers and reports by UNHCR to support their own arguments. At the same time the power is limited to proposals and warnings. The expertise is revealed through the UNHCR “proposes remedies”, “presented a detailed set of ideas”, “elaborated set of proposals”. The fact that some Member States halted the transfers of asylum-seekers to Greece after the UNHCR criticized a situation is a sign of authority based on the expertise.

NGOs are actively involved and have clearly defined positions. Amnesty International overtly takes a stand by stating its “human rights perspective”. It has a rather monitoring role with no direct leverages of influence but a strong personal involvement – “AI is deeply concerned”, “AI shared its observations”, “from AI’s point of view”, “AI has serious problems with...” ECRE position is clear-cut, defined and structured. It is strongly expressed through the use of imperative mood. The position is quite radical as ECRE calls for the abolishment of the Dublin system and its replacement “by a more humane and equitable system”. The Greek Council for Refugees mentions the necessity “for NGOs to intervene”

on the side of asylum-seekers. It is a sign of a direct involvement and taking a side.

Media most often refer to NGOs and UNHCR and therefore take their position in the discourse. At the same time the Commission and governmental officials also have a say. Media have a power of addressing the broad audience and they make the positions of politicians and activists being heard. Media can be a playground for clashing of different discourse strands and their struggle for dominance.

7. Conclusions

Asylum is a sensitive issue which is close to the heart of states sovereignty and at the same time is regulated by the international legal standards such as 1951 Geneva Convention. Asylum-seekers and refugees enjoy different treatment than the migrants and the right to asylum is a universally recognized right. The gradual establishment of the CEAS is a positive change aimed at the same level of protection throughout the Union. At the same time the Dublin system as an important part of the CEAS received criticism from the NGOs, UNHCR and Member States for its inefficiency and numerous flaws.

In my thesis I was exploring security and human rights perspectives on the CEAS through conducting discourse analysis and using the framework of the Copenhagen School. The concepts of securitization and de-securitization can be projected on the portrayal of the CEAS by the European Commission and governmental actors, NGOs and UNHCR and media. The most obvious securitizing move is the decision to open the Eurodac database to law enforcement agencies. In its proposal the German delegation connects the issue of asylum to the danger of terrorist threat and other serious crimes. The issue is framed in a way that it becomes a security issue and the extraordinary measure of opening the database in spite of asylum-seekers data protection and initial prohibition of data sharing is justified.

In the analysis two discourse strands were competing for the dominance – “asylum as security issue” and “asylum as a human rights issue”. The latter is a dominant strand as the topos of humanitarianism was the most often invoked. NGOs and UNHCR take clearly human rights perspective and therefore act as de-securitizing actors. The role of the media as functional actors is important too as they bring the message to the audience. In the analysis they were also taking human rights perspective and engaging in spreading the dominant discourse. Only the German proposal on Eurodac is a clear example of a discourse on “asylum as

security issue”. In the rest of governmental and EC sources both discourse strands are present.

Securitizing moves were mostly based on the topoi of danger and threat and burdening, combined with the abuse of the system by asylum-seekers. De-securitizing actors based their arguments on the topoi of humanitarianism, justice, law and order, as well as abuse from the side of officials towards the asylum-seekers.

My humble contribution to the studies of asylum and migration issues through security versus human rights lens is in taking the CEAS as a subject of study. I treat asylum separately from the migration issues as the nature of this concept is different. The emerging CEAS hasn't received much attention so far and it is an area where both security and human rights concerns come to the foreground.

Executive summary

The aim of my thesis is to address the fledgling CEAS and to see whether asylum in the EU is perceived as a security or a human rights issue. The establishment of the Common European Asylum System was set as a goal at Tampere European Council in 1999. The necessity for the Community-level standards in the area of asylum was dictated by different procedures and recognition rates in different Member States. The first stage of the CEAS resulted in adoption of the cornerstone legislation mostly in the forms of directives setting the minimum standards. The second stage is still in progress and it is planned to be fulfilled by the end of 2010. Freedom of movement inside the Union goes along with the strengthening of external borders control. Asylum is often viewed as part of migration issue but its nature is very different. Although the movement of asylum-seekers is similar to that of irregular migrants the treatment of this special group of people is very different. The internal security measures have increased worldwide after terrorist attacks of 9/11. Control of external borders is an important element of providing internal security. At the same time the right to asylum is a principle of international law safeguarded by 1951 Geneva Convention to which all EU Member States are signatories. Balancing of internal security against human rights is inevitable in case of asylum but it is important not to take one side at the expense of another. In my thesis I tried to answer the following research question:

How is the CEAS portrayed in the security versus human rights debate?

I also investigated which actors favor securitization and which call for de-securitization of asylum policy and how do they argue for their positions.

I used Copenhagen School theoretical approach as a framework for my analysis. This School of security studies belongs to the camp of wideners of security through including issues other than military on the security agenda. Copenhagen School adopted social constructivist framework for the study of security. According to it, security is not given, it is constructed. The issue is

framed in a specific way so that it becomes a security concern. The securitization of an issue justifies extraordinary measures and gives a right to break the rules of the game. The securitization is performed through the speech act and it is always a political choice. The analysts using Copenhagen School approach do not evaluate the realness of a threat but rather investigate the ways a threat is constructed by actors.

Copenhagen School considers securitization to be a rather negative process as it can lead to militarization of a wide range of sectors. The better aim is de-securitization – that is returning of an issue into the realm of politics and out of the emergency mode. De-securitization is conducted in the same manner and the same actors are being involved as in the process of securitization. In my thesis securitization is performed by actors taking the security perspective while de-securitization corresponds to actors taking the human rights perspective.

My thesis is based on a qualitative approach. In order to answer my research question I apply case study method complemented with discourse analysis. I chose two legislative acts for my research – Dublin II Regulation and Eurodac Regulation. Both cases are cornerstone legislation in the emerging CEAS and the Area of Freedom, Security and Justice. Both acts received much attention in the media and civil society due to the problems of implementation and the controversy around them. Due to their political importance and contesting nature both acts are interesting cases for investigation. I introduce the main provisions, the implementation and the problems connected with these acts in the light of security versus human rights debates. The aim of my case study is not generalization but rather exploration of these particular acts and introduction of the context for the following critical discourse analysis

The choice of Copenhagen School as the theoretical framework for my study predefined the method as both Copenhagen School theory and discourse analysis are based on the social constructivist view of reality. Discourse analysis is the obvious tool for analyzing the framing of an issue. In order to analyze discourse on the EU asylum policy from different angles I chose three types of sources. One of them is documents representing official discourse – European Commission and governmental positions on CEAS. Another one is NGOs and UNHCR press-releases and standpoints on the issue. The last group of sources includes media.

I partly base my research on the stages developed by Ruth Wodak but at the same time it's not possible to adhere to someone's research scheme as it was constructed for analyzing different subjects. I investigate five discursive strategies (Wodak – Meyer):

- Referential strategy or strategy of nomination – the way the asylum-seekers are referred to
- Strategies of predication – the attribution of negative or positive traits and characteristics to them
- Strategies of argumentation – the ways arguments for treating the asylum-seekers as either security or human rights issue are presented. These strategies are analyzed through the use of certain topoi, which justify the appeals – e.g. danger and threat, justice, burdening, numbers, humanitarianism, law and order, abuse etc.
- Strategies of perspectivation, framing or discourse representation – the way the speaker positions himself, his involvement in the issue
- Strategies of intensification and mitigation – the way the illocutionary force of the utterances is enforced or mitigated

The concepts of securitization and de-securitization can be projected on the portrayal of the CEAS by the European Commission and governmental actors, NGOs and UNHCR and media. The most obvious securitizing move is the decision to open the Eurodac database to law enforcement agencies. In its proposal the German delegation connects the issue of asylum to the danger of terrorist threat and other serious crimes.

In the analysis two discourse strands were competing for the dominance – “asylum as security issue” and “asylum as a human rights issue”. The latter is a dominant strand as the topos of humanitarianism was the most often invoked. NGOs and UNHCR take clearly human rights perspective and therefore act as de-securitizing actors. The role of the media as functional actors is important too as they bring the message to the audience. In the analysis they were also taking human rights perspective and engaging in spreading the dominant discourse. Only the German proposal on Eurodac is a clear example of a discourse on “asylum as

security issue”. In the rest of governmental and EC sources both discourse strands are present.

Securitizing moves were mostly based on the topoi of danger and threat and burdening, combined with the abuse of the system by asylum-seekers. De-securitizing actors based their arguments on the topoi of humanitarianism, justice, law and order, as well as abuse from the side of officials towards the asylum-seekers.

My humble contribution to the studies of asylum and migration issues through security versus human rights lens is in taking the CEAS as a subject of study. Most of the previous research in the field was about migration and asylum studied together. I treat asylum separately from the migration issues as the nature of this concept is different. I also study the EU level and take specific legislative acts for my analysis. The emerging CEAS hasn't received much attention so far and it is an area where both security and human rights concerns come to the foreground.

8. References

Secondary sources

Alba-Juez, Laura, 2009. *Perspectives on discourse analysis: theory and practice*. Newcastle upon Tyne: Cambridge Scholarly Press

Aus, Jonathan P., 2006a. “Logics of decision-making on Community asylum policy. A case study of the evolution of the Dublin II Regulation”, *ARENA: Centre for European Studies: University of Oslo*, working paper no. 3

Aus, Jonathan P., 2006b. “Eurodac: A Solution Looking for a Problem?” *European Integration online Papers (EIoP)* vol. 10, no. 6

Aus, Jonathan P., 2007. “EU Governance in an Area of Freedom, Security and Justice. Logics of Decision-making in the Justice and Home Affairs Council”, *ARENA: Centre for European Studies: University of Oslo*, working paper no. 15

Buzan, Barry, 1997. “Rethinking security after the Cold war”, *Cooperation and conflict*, vol. 32, no. 1, pp. 5 – 28

Buzan, Barry – Wæver Ole – de Wilde, Jaap, 1998. *Security: a new framework for analysis*. London: Lynne Rienner

Buzan, Barry - Wæver, Ole, 2009. “Macrosecuritization and security constellations: reconsidering scale in securitization theory”, *Review of International Studies*, vol. 35, pp. 253 – 276

Battjes, Hemme, 2002. "A Balance between Fairness and Efficiency? The Directive on International Protection and the Dublin Regulation", *European Journal of Migration and Law*, vol. 4, pp.159–192

Bigo, Didier – Guild, Elspeth (eds.), 2005. *Controlling frontiers : free movement into and within Europe*. Aldershot : Ashgate

Brouwer, Evelien, 2003. "Immigration, Asylum and Terrorism: A Changing Dynamic Legal and Practical Developments in the EU in Response to the Terrorist Attacks of 11.09", *European Journal of Migration and Law*, vol. 4, pp. 399–424

Byrne, Rosemary – Noll, Gregor – Vedsted-Hansen, Jens (eds.) 2002. *New asylum countries? : migration control and refugee protection in an enlarged European Union*. The Hague : Kluwer

Crépeau, François – Nakache, Delphine – Atak, Idil, 2007. "International Migration: Security Concerns and Human Rights Standards", *Transcultural Psychiatry*, vol. 44, no. 3, pp. 311 – 337

Den Boer, Monica, 2008. "Immigration and its effect on the security discourse in Europe: time for demystification", *Amsterdam Law Forum*, vol. 1, no. 1

Flick, Uwe, 2009. *An introduction to qualitative research*. 4th ed. London: SAGE

Gill, Rosalind, 2000. "Discourse analysis" in Bauer, Martin W. – Gaskell, George (eds.) *Qualitative researching with text, image and sound. A practical handbook*. London: SAGE, pp. 172 – 190

Guild, Elspeth, 2009. *Security and migration in the 21st century*. Cambridge, UK ; Malden, MA : Polity

Hailbronner, Kay, 2000. *Immigration and asylum law and policy of the European Union*. The Hague : Kluwer

Huysmans, Jef, 2006. *The politics of insecurity : fear, migration and asylum in the EU*. Milton Park, Abingdon, Oxon ; New York : Routledge

Lavenex, Sandra, 2001. “The Europeanization of refugee policies: normative challenges and institutional legacies”, *Journal of Common Market Studies*, vol.39, no 5, pp. 851-74

Lavenex, Sandra, 2002. “EU enlargement and the challenge of policy transfer: the case of refugee policy”, *Journal of Ethnic and Migration Studies*, vol. 28, no. 4, pp.701 – 721

Lavenex, Sandra, 2006. “Towards the constitutionalization of aliens’ rights in the European Union?” *Journal of European Public Policy*, vol. 13, no. 8, pp. 1284–1301

Lavenex, Sandra – Wagner, Wolfgang, 2007. “Which European Public Order? Sources of Imbalance in the European Area of Freedom, Security and Justice”, *European Security*, vol. 16, no. 3, pp.225 — 243

Nadig, Aninia, 2002. “Human smuggling, national security, and refugee protection”, *Journal of Refugee Studies*, vol. 15, no. 1, pp. 1 – 25

Papadimitriou, Panayiotis N., 2005. “The New ‘Dubliners’: Implementation of European Council Regulation 343/2003 (Dublin-II) by the Greek Authorities”, *Journal of Refugee Studies*, vol. 18, no. 3, pp.299 – 318

Sidorenko, Olga Ferguson, 2007. *The Common European asylum system : background, current state of affairs, future direction*. The Hague : TMC Asser

Sjursen, Helene, 2004. "Changes to European security in a communicative perspective", *ARENA: Centre for European Studies: University of Oslo*, working paper no. 1

Stritzel, Holger, 2007. "Towards a theory of securitization: Copenhagen and beyond", *European Journal of International Relations*, vol. 13, no. 3, pp. 357 – 383

Tsoukala, Anastassia, 2005. "Looking at migrants as enemies" in Bigo, Didier – Guild, Elspeth (eds.). *Controlling frontiers : free movement into and within Europe*. Aldershot : Ashgate, pp. 161 – 192

Wæver, Ole, 1996. "European security identities", *Journal of Common Market Studies*, vol. 34, no. 1, pp. 103 – 132

Wæver, Ole, 1998. "Insecurity, security and asecuritization in the West European non-war community" in Adler, E. – Barnett, M. (eds.) *Security Communities*, Cambridge: Cambridge University Press, pp. 69 – 118

Wæver, Ole, 1999. "Securitizing sectors?: Reply to Eriksson". *Cooperation and conflict*, vol. 34, no. 3, pp. 334 – 340

Wæver, Ole, 2000. "The EU as a security actor: reflections from a pessimistic constructivist on post-sovereign security orders" in Kelstrup, M. – Williams, M. C. (eds.) *International Relations theory and the politics of European integration*, London: Routledge, pp. 250 – 294

Williams, Michael C., 2003. "Words, images, enemies: securitization and international politics", *International Studies Quarterly*, vol. 47, pp. 511 – 531

Wodak, Ruth – Meyer, Michael, 2001. *Methods of Critical Discourse Analysis*. London: SAGE

Primary sources

Consolidated version of the Treaty establishing the European Community, Official Journal C325/33 of 24/12/2002

Consolidated version of the Treaty on European Union, Official Journal C325/5 of 24/12/2002

Convention relating to the Status of Refugees of 28 July 1951, available at: <http://www.unhcr.org/protect/PROTECTION/3b66c2aa10.pdf> [accessed 10 March 2010]

Council Regulation (EC) No 2725/2000 of 11 December 2000 concerning the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of the Dublin Convention, Official Journal L 316 of 15/12/2000

Council Regulation (EC) No 343/2003 of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national, Official Journal L 50 of 25/2/2003

ECRE *Report on the application of the Dublin II Regulation in Europe* March 2006

Available at: www.opu.cz/index.php?option=com_docman&task=doc...gid=117 [accessed 21 April 2010]

European Commission, *Commission Staff Working Document: Accompanying document to the Report from the Commission to the European Parliament and the Council on the evaluation of the Dublin system*, 6 June 2007, SEC(2007) 742, available at: <http://www.unhcr.org/refworld/docid/47dfb080.html> [accessed 24 April 2010]

European Commission press release 26 July 2009

Available at: [www.ecre.org/files/ECRE Weekly Bulletin 03 July 2009.pdf](http://www.ecre.org/files/ECRE_Weekly_Bulletin_03_July_2009.pdf)
[accessed 25 April 2010]

Eurostat 92/2009, Population and social conditions,
Available at http://epp.eurostat.ec.europa.eu/cache/ITY_OFFPUB/KS-SF-09-092/EN/KS-SF-09-092-EN.PDF [accessed 26 April 2010]

UNHCR, *UNHCR position on the return of asylum-seekers to Greece under the “Dublin Regulation”* 15 April 2008 Available at:
http://www.unhcr.se/Pdf/Position_countryinfo_2008/Greece_return_as_UNHCR_position.pdf
[accessed 27 April 2010]

Analyzed texts

Amnesty International, *Closing eyes to human rights leaves asylum seekers and migrants at risk*, 5 October 2006
<http://www.libertysecurity.org/article1127.html>

Amnesty International, *The EU’s asylum policy in a securitized world* by Irene Khan, 15 April 2008
<http://www.amnestyinternational.be/doc/article12732.html>

BBC News, *Greece challenges asylum critics*, 22 April 2008
<http://news.bbc.co.uk/2/hi/7358443.stm>

Crosbie, Judith, *Commission wants to open up Eurodac database to police*, 02 July 2009
<http://www.europeanvoice.com/article/imported/commission-wants-to-open-up-eurodac-database-to-police/65366.aspx>

ECRE, *Determining responsibility (Dublin)*
http://www.ecre.org/topics/asylum_in_EU/determining_responsibility

ECRE, Press release, *Dublin mechanism: obstacle to future European asylum system*, 31 March 2008

http://www.ecre.org/resources/Press_releases/1059

Europa, Press release, *Report on the evaluation of the Dublin system*, 6 June 2007

<http://europa.eu/rapid/pressReleasesAction.do?reference=MEMO/07/227>

European Commission, Press release, *Taking forward the common immigration and asylum policy for Europe*, 17 June 2008

<http://europa.eu/rapid/pressReleasesAction.do?reference=IP/08/948&format=HTML&aged=0&language=>

German delegation to the Council of the European Union, *Policy document concerning access to Eurodac by Member States' police and law enforcement authorities*, 20 December 2006

http://www.libertysecurity.org/IMG/pdf_POLICY_DOCUMENT.pdf

Greek Council for Refugees, *The Dublin dilemma – “burden-sharing” and putting asylum seekers at risk*, 15 February 2009

http://www.proasyl.de/fileadmin/proasyl/fm_redakteure/STARTSEITE/Griechenland/Greek_Refugee_Council_DublinSituationNote.pdf

Goldirova, Renata, *Greece under fire over refugee treatment*, 03 April 2008

<http://euobserver.com/9/25910>

Hellenic Republic Ministry of the Interior, *Green paper on the future Common European Asylum System*, 27 September 2007

http://ec.europa.eu/justice_home/news/consulting_public/gp_asylum_system/contributions/member_states/greece_en.pdf

Phillips, Leigh, *Finland halts migrant transfer to Greece after UN criticism*, 21 April 2008

<http://euobserver.com/9/26016>

Potts, Nina-Maria, *EU inches ahead with common asylum policy*, 21 October 2009

<http://www.dw-world.de/dw/article/0,,4814081,00.html>

UNHCR, Executive summary from *The Dublin II Regulation. A UNHCR discussion paper*, 2006

<http://www.unhcr.org/refworld/pdfid/4445fe344.pdf>

UNHCR, Press release, *UNHCR warns EU of looming asylum problem, proposes remedies*, 22 January 2004

<http://unhcr.no/SE/News/pdf/22janeup.pdf>

Appendix 1

Incoming and outgoing transfers within the Dublin zone in 2005 (absolute numbers and ratio)						
		incoming transfers	outgoing transfers			Ratio between incoming and outgoing transfers
1.	Germany	2716	2748	1.	Greece	58-1
2.	Poland	1196	148	2.	Malta	39-1
3.	Netherlands	862	982	3.	Hungary	26,6-1
4.	Slovakia	453	32	4.	Slovenia	17,4-1
5.	Italy	419	47	5.	Slovakia	14-1
6.	UK	366	1824	6.	Latvia	10-0
7.	Greece	350	6	7.	Italy	8,9-1
8.	Spain	315	52	8.	Poland	8-1
9.	Austria	805	589	9.	Spain	6-1
10.	Hungary	160	6	10.	Lithuania	3,7-1
11.	Czech Rep.	114	359	11.	Portugal	3,2-1
12.	Slovenia	87	5	12.	Cyprus	2-0
13.	Luxembourg	72	257	13.	Austria	1,3-1
14.	Ireland	45	262	14.	Estonia	1-1
15.	Malta	39	1	15.	Germany	1-1
16.	Portugal	16	5	16.	Netherlands	1-1,1
17.	Lithuania	15	4	17.	Czech Rep.	1-3,2
18.	Latvia	2	0	18.	Luxembourg	1-3,5
19.	Cyprus	2	0	19.	UK	1--5
20.	Estonia	1	1	20.	Ireland	1-5,8
21.	Iceland	1	19	21.	Iceland	1-19
22.	Belgium	180	N/A	22.	Belgium	N/A
23.	Finland	N/A	735	23.	Finland	N/A
24.	Sweden	N/A	N/A	24.	Sweden	N/A
25.	Norway	N/A	848	25.	Norway	N/A
26.	France	N/A	N/A	26.	France	N/A

Source: European Commission, *Commission Staff Working Document: Accompanying document to the Report from the Commission to the European Parliament and the Council on the evaluation of the Dublin system*, 6 June 2007, p.50

Appendix 2

Dublin transfers vs. asylum applications in 2005 (real terms)								
ABSOLUTE NUMBERS				RELATIVE NUMBERS				
		net Dublin transfers (incoming - outgoing transfers)		Asylum applications (n°)		net Dublin transfers/ asylum applications (%)		
1.	Poland	1048	1.	France	42572	1.	Poland	19,28
2.	Slovakia	421	2.	UK	30460	2.	Slovakia	12,06
3.	Italy	372	3.	Germany	29915	3.	Lithuania	11
4.	Greece	344	4.	Austria	22460	4.	Latvia	10
5.	Spain	263	5.	Sweden	17570	5.	Hungary	9,56
6.	Austria	216	6.	Belgium	15360	6.	Portugal	9,56
7.	Hungary	154	7.	Netherlands	12320	7.	Slovenia	5,29
8.	Slovenia	82	8.	Italy	9346	8.	Spain	5,2
9.	Malta	38	9.	Greece	8285	9.	Greece	4,15
10.	Portugal	11	10.	Cyprus	7715	10.	Italy	4,13
11.	Lithuania	11	11.	Poland	5435	11.	Malta	3,67
12.	Latvia	2	12.	Norway	5400	12.	Austria	0,96
13.	Cyprus	2	13.	Spain	5050	13.	Cyprus	0,02
14.	Estonia	0	14.	Ireland	4320	14.	Estonia	0
15.	Iceland	-18	15.	Finland	3595	15.	Germany	-0,1
16.	Germany	-32	16.	Czech Rep.	3590	16.	Netherlands	-0,97
17.	Netherlands	-120	17.	Slovakia	3490	17.	UK	-4,78
18.	Luxembourg	-185	18.	Hungary	1610	18.	Ireland	-5,02
19.	Ireland	-217	19.	Slovenia	1550	19.	Czech Rep.	-6,82
20.	Czech Rep.	-245	20.	Malta	1035	20.	Iceland	-20
21.	UK	-1458	21.	Luxembourg	800	21.	Luxembourg	-23,1
22.	Belgium	N/A	22.	Portugal	115	22.	Belgium	N/A
23.	Finland	N/A	23.	Lithuania	100	23.	Finland	N/A
24.	Sweden	N/A	24.	Iceland	87	24.	Sweden	N/A
25.	Norway	N/A	25.	Latvia	20	25.	Norway	N/A
26.	France	N/A	26.	Estonia	10	26.	France	N/A

Source: European Commission, *Commission Staff Working Document: Accompanying document to the Report from the Commission to the European Parliament and the Council on the evaluation of the Dublin system*, 6 June 2007, p.52

Appendix 3

Table 3: Rates of recognition¹⁾ of asylum applicants by stage of the procedure, 2008 (in %)

	Total positive decisions		Refugee status		Subsidiary protection		Humanitarian reasons	
	First instance	Final decisions on appeal	First instance	Final decisions on appeal	First instance	Final decisions on appeal	First instance	Final decisions on appeal
EU-27 ²⁾	28.3	23.7	13.0	17.8	10.4	5.1	4.9	0.8
Belgium	25.7	7.6	22.3	6.0	3.4	1.6	-	-
Bulgaria	43.8	33.3	4.0	3.7	39.8	29.6	-	-
Czech Republic	15.5	3.1	8.7	0.7	6.0	2.4	1.8	0.0
Denmark	59.3	34.3	16.0	23.2	25.4	10.5	18.9	0.6
Germany	40.7	25.1	37.8	14.7	2.9	10.4	0.0	0.0
Estonia	33.3	0.0	33.3	0.0	0.0	0.0	0.0	0.0
Ireland	30.6	11.9	6.2	11.9	0.1	0.0	24.3	0.0
Greece	0.2	26.8	0.0	25.7	0.1	0.0	0.1	1.1
Spain	5.4	1.1	2.9	0.7	2.1	0.4	0.3	0.0
France	18.2	25.9	14.1	21.3	2.1	4.6	-	-
Italy	49.2	0.0	8.9	0.0	31.2	0.0	8.0	-
Cyprus	:	1.3	:	0.4	:	0.1	:	0.7
Latvia	25.0	0.0	16.7	0.0	8.3	0.0	0.0	0.0
Lithuania	64.1	2.8	13.6	0.0	50.5	2.8	-	-
Luxembourg	38.4	11.5	9.9	11.5	0.0	0.0	29.5	0.0
Hungary	43.7	1.8	18.9	1.8	7.3	0.0	17.5	0.0
Malta	52.4	0.4	0.8	0.0	51.7	0.4	0.0	0.0
Netherlands	52.0	51.6	4.7	9.4	14.7	20.5	32.5	21.7
Austria	61.6	26.1	37.3	19.9	19.9	6.2	4.3	0.0
Poland	65.3	15.8	4.4	3.8	25.4	1.6	35.5	10.4
Portugal	64.2	0.0	8.5	0.0	56.7	0.0	-	-
Romania	16.0	:	12.6	:	1.3	:	2.1	0.0
Slovenia	2.5	0.0	1.2	0.0	1.2	0.0	0.0	0.0
Slovakia	24.0	12.5	5.7	0.0	17.0	12.5	1.3	0.0
Finland	39.1	87.2	5.3	1.1	25.8	60.6	8.1	25.5
Sweden	28.6	49.0	5.7	12.4	16.3	23.3	4.5	13.3
United Kingdom	29.9	31.6	20.1	30.1	9.3	0.9	0.6	0.6
Iceland	17.0	10.0	7.5	0.0	9.4	10.0	0.0	0.0
Norway	33.9	:	11.9	:	13.0	:	8.9	:
Switzerland	64.0	14.3	27.7	2.7	36.3	11.6	-	-
Liechtenstein	:	:	:	:	:	:	-	:

1) Rate of recognition calculated as a share of positive decisions (by status) in the total number of decisions (positive + rejections)

2) Based on the available data

⋮ not applicable

⋮ not available

Source: Eurostat 2009, p.5

Appendix 4

Statistical Data on the Application of the Dublin II Regulation in Greece Time Period: 2004

2004	Total Outgoing Requests	Total Incoming Requests
Requests presented	18	1351
% of requests in total number of applications	0.4%	30.02%
Requests accepted	10	1112
% of requests accepted in requests presented	55.6%	82.3%
Total number of persons transferred	5	404

Source: ECRE *Report on the application of the Dublin II Regulation in Europe* March 2006, p.183