




Implementation leeway in the Dublin system: evidence from Switzerland

Théoda Woeffray

To cite this article: Théoda Woeffray (2023): Implementation leeway in the Dublin system: evidence from Switzerland, Journal of European Public Policy, DOI: [10.1080/13501763.2023.2215274](https://doi.org/10.1080/13501763.2023.2215274)

To link to this article: <https://doi.org/10.1080/13501763.2023.2215274>

 [View supplementary material](#) 

 [Published online: 25 May 2023.](#)

 [Submit your article to this journal](#) 

 [Article views: 78](#)

 [View related articles](#) 

 [View Crossmark data](#) 



Implementation leeway in the Dublin system: evidence from Switzerland

Théoda Woeffray 

Institute of Political Science, University of Bern, Bern, Switzerland

ABSTRACT


(Non-)implementation of rules is a key issue in the EU literature. During the European ‘migration crisis’ in 2015/16, several member states openly deviated from the clear rules the legal framework of Schengen and Dublin established. Although these controversies have attracted much attention, member states’ authorities can also deviate from European rules in everyday decision making. Little is known about this leeway. For example, the Dublin system allows countries to send asylum seekers in an ‘outgoing procedure’ when they conclude that another Dublin state is responsible for the asylum application. This paper develops the argument that efficiency considerations lead national authorities to specialise in asylum seekers from countries from which they already have many residents. Asylum seekers from these countries are less likely to be sent in an outgoing procedure. The Dublin system does not intend this type of selection based on nationality. Using unique, high-quality register panel data from Switzerland, the statistical analysis of multilevel models shows that an outgoing procedure is indeed more likely for applicants from countries with a comparatively small number of residents. The findings of this analysis have broader implications for the Common European Asylum System.


ARTICLE HISTORY Received 14 June 2022; Accepted 14 May 2023

KEYWORDS Dublin system; implementation leeway; EU migration policy; administrative efficiency

Introduction

‘Our Common European Asylum System can only function if everyone plays by the rules’ (European Commission, 2015a). This quote by the European Commissioner Frans Timmermans emphasises the importance of consistent implementation of EU rules. Yet, not all EU member states always strictly follow them. The question of whether and, if not, why EU member states do not implement or follow community law is, therefore, a key question in the EU literature (for an overview, see Pülzl and Treib (2007, 97ff.)). In the

CONTACT Théoda Woeffray  theoda.woeffray@unibe.ch  Institute of Political Science, University of Bern, Fabrikstrasse 8, Bern 3012, Switzerland

 Supplemental data for this article can be accessed online at <http://dx.doi.org/10.1080/13501763.2023.2215274>.

field of migration policy, the examples of deviations from the legal framework of Schengen and Dublin during the European 'migration crisis'¹ are numerous (Slominski & Trauner, 2018). In this regard, the cases of Hungary, Poland and Czechia have prominently been discussed particularly in relation to the relocation scheme. Also, Greece's decision to reject the available financial resources to fix the reception conditions in its asylum system has triggered political debates, as transfers of asylum seekers under the Dublin III Regulation have been halted due to a risk of 'inhuman and degrading treatment' of asylum seekers (Slominski & Trauner, 2018, p. 112). Hungary, in turn, refused to take back asylum seekers from Austria, arguing that they should be sent back to Greece or Bulgaria (Slominski & Trauner, 2018, p. 113). Finally, several states have 'waved through' asylum seekers without registering them to avoid the responsibility of examining their asylum application (Lutz et al., 2020, p. 757).

In contrast to these open deviations, national administrations also use implementation leeway in everyday decision making, which has been less in the focus of interest. Yet, national administrations play an important role, as they continuously shape the outcomes of policies in the implementation stage which directly influences the lives of the people subjected to those decisions. Implications on the systemic level are also possible and deviations from the legal framework can, in extreme cases, lead to an undermining of 'the normative authority of the EU's legal order' (Sciicluna, 2021, p. 655). Therefore, the question of how member states' authorities implement EU policies is important and deserves attention, not least because everyday decision making is an understudied topic, in contrast to the politically highly discussed deviations mentioned above (Dörrenbächer, 2018).

To shed light on this question, I study everyday decisions by Swiss national authorities in the context of the Dublin system,² which is the EU policy determining which country is responsible for examining an asylum application. Countries can send asylum seekers in an 'outgoing procedure'³ when they conclude that another Dublin country⁴ is responsible for processing the asylum claim. To this end, the Dublin III Regulation contains a list of hierarchical criteria, according to which the responsible state is determined. Applying these criteria leads to an uneven distribution of asylum seekers because the responsibility is primarily with the country of first entry or first application. Due to these redistributive implications (Zaun, 2022), the Dublin system provides incentives to 'avoid or shift costs [of examining asylum applications and hosting asylum seekers during that process] unilaterally' (Maiani, 2016, p. 24). The implementation of the Dublin system is particularly interesting, as national authorities have to follow the clear binding rules, while they also have an incentive to deviate from a strict application of the Dublin system. National administrations may thus make use of the leeway they have when deciding in which cases a Dublin outgoing procedure is introduced.

For this type of implementation leeway, countries with a geographically more favourable position in the Dublin system are of particular interest. The Dublin criteria systematically disadvantage several countries, as the criteria of first entry or first application are strongly linked to their geographical location (den Heijer et al., 2016, p. 613). Countries such as Hungary, Italy, and Greece are among the best known examples thereof and, at the same time, are also among the countries that do not strictly implement EU law. Other countries benefit from the Dublin criteria, as they have few asylum applications and are able to send asylum seekers back to other countries based on the Dublin system. This analysis focuses on the decision making of these net-beneficiary countries.⁵ More precisely, I investigate the implementation leeway of the Swiss national administration because Switzerland is a typical net-beneficiary country of the Dublin system. I develop the argument that net-beneficiary countries specialise in asylum seekers from countries of which they already contain a large share of residents because of efficiency considerations. Consequently, asylum seekers from countries with a large share of residents are less likely to be sent in an outgoing procedure. Switzerland is in a comparable situation to other countries that can also leverage leeway in the implementation of the Dublin system, such as Belgium, Germany, France, and the Netherlands.

The empirical analysis calculates the probability of an outgoing procedure with a multilevel model, using unique, high-quality register panel data. Aside from socio-demographic information on the asylum seeker and a variable indicating whether an outgoing procedure was introduced, this data also contains information on whether the Dublin procedure was initiated based on some indication that another country is responsible (e.g., Eurodac hit or other indication). This variable serves as a strong control in the model, allowing for the investigation of what other factors explain the decision to send an asylum seeker to another country. The results show that despite the Dublin system's clear rules, the size of the national community of the asylum seeker influences the authorities' decision. Asylum seekers with large national communities are less likely to be involved in a Dublin procedure than asylum seekers with small national communities. This effect is also robust in models accounting for national authorities' political intentions. These findings are not only relevant for asylum seekers, who are among the most vulnerable people in our societies. They also have broader policy implications for the Common European Asylum System, and potential reform attempts, which are discussed in the conclusion.

The analysis of this article contributes and speaks to three strands of the literature: (a) policy implementation, (b) public administration, and (c) the study of migration and asylum politics. First, a major topic in Europeanisation research is the investigation of differentiation in policy implementation across member states (Thomann, 2019; Zhelyazkova, 2022). The key research

questions in this scholarship are how policies are implemented and, more specifically, the question of the ‘implementation gap’, defined as the difference ‘between [the] formulation of a European Union (EU) policy and its actual implementation’ (Milio, 2010, p. 3). Scholars have advanced various explanations, such as the ‘goodness of fit’ hypothesis (Cowles et al., 2001), EU-level factors (Milio, 2010, p. 11), and domestic constraints linked to member states’ willingness to implement policies (Falkner et al., 2005). Within this literature, the present article contributes to the study of ‘effective implementation’ by focusing on the Dublin III Regulation, which, as binding legislation, does not need legal transposition into national law (Milio, 2010, p. 5).

Second, the developed argument on efficiency considerations speaks to the literature on public administration. This scholarship addresses different issues public administrations encounter when carrying out their work, such as pressures induced by a lack of time and resources, and highlights different strategies, like the enhancement of efficiency. An example of such a strategy is ‘cost shuffling’ or ‘passing the buck’, a process in which one unit ‘exports’ their problems to other units (Hood, 1976, pp. 18 sq.). A branch of this literature makes the link to the general implementation literature, as it focuses on street-level bureaucrats and identifies ‘resource constraints as a key influence on the extent and direction of front-line discretion’ (Meyers & Nielsen, 2012, p. 308). Based on studies of administrative behaviour, this article focuses on the state apparatus and efficiency considerations by elaborating a distinct argument on decision-making leeway and bias.

Finally, the analysis is situated in the field of asylum and migration studies. This literature has so far focused mainly on political factors instead of bureaucratic determinants of decision making within the field of migration policy (Holzer et al., 2000a; Vink & Meijerink, 2003). This article adds to the growing emphasis on the state apparatus and its capacity in asylum decision making (Hamlin, 2014; Van Wolleghem & Sicakkan, 2022). The theoretical argument thus builds on and extends research on policy implementation and public administration with an application in the study of migration politics, where this analytical perspective is yet underdeveloped.

2. Implementation leeway in the Dublin system

Since the Treaty of Amsterdam, the EU has taken an increasingly important role in asylum and migration policy (Niemann, 2012). As is typical for many EU policies, Brussels strongly relies on national authorities for their implementation (Dörrenbächer, 2018, p. 455). Actors in charge of implementation have some discretion (Czaika & De Haas, 2013, p. 496). Most studies looking at implementation have focused on EU directives. The reason for this is that

the discretion (or ‘room for manoeuvre’) is ‘clearest in the case of directives’ (Zbiral et al., 2023, p. 103). The transposition phase of directives (into national law) provides authorities with the opportunity to adapt the policy, so that it produces the desired outcome within the various national and regional contexts (Zhelyazkova & Thomann, 2020, p. 4). In contrast, EU regulations are directly applicable and leave no leeway to national authorities to adapt the legislation. Yet, some regulations might still necessitate implementing measures (Princen, 2022) or need to be further interpreted so that individual cases fit the general rule (Jordan et al., 2003, p. 211), opening up some implementation leeway.

Even though the scholarly focus has largely been on EU directives, some qualitative studies have analysed the implementation of regulations, such as the Dublin III Regulation, and have revealed divergences from its rules (Eule et al., 2019). The Dublin III Regulation, on paper, leaves little leeway for implementation: the clearly defined rules for the determination of which Dublin country is responsible for examining an asylum application are directly applicable, and the decision making follows formalised standard procedures in an ‘attempt to depersonalise and depoliticise the working relations between public authorities’ (Lahusen & Wacker, 2019, p. 158). Further, the responsibility to examine the asylum application is assigned based on a list of hierarchical criteria, which have been described as objective and fair (Kasperek, 2016, p. 62).

These criteria include the respect of family unity and, in the absence thereof, follow the *principle of causation* (Kasperek, 2016, p. 62). The first set of criteria is related to family ties, checking whether the applicant has a family member in one of the Dublin countries. The other criteria focus on where an applicant entered the EU (country of first entry) or where the first asylum application was made (country of first application). The country responsible for examining an asylum application is the one fulfilling the primary criterion in the hierarchy. In contrast to the examination of the asylum application, the criteria of the Dublin system are not linked to the asylum seeker’s socio-demographic characteristics, nationality, country of origin, or reasons for seeking international protection. Whereas the asylum seeker’s situation in their country of origin is an important factor in the asylum procedure, the country of origin should play no role in the Dublin procedure. Rather, the procedure should exclusively focus on the relationship between the Dublin country and the asylum seeker (besides family ties) (Zaun, 2022, p. 200).

In everyday decision making, national authorities must evaluate for each asylum claim whether their country fulfils the outlined criteria. This assessment of a Dublin case is based on a personal interview and the evaluation of proof or indications of another country’s responsibility, and is, therefore, also subject to individual interpretation. Based on the information from the

interview and eventual proof, national authorities decide whether a Dublin procedure is introduced or whether the asylum seeker remains in the country and enters the national asylum procedure. In the case of an outgoing procedure, national authorities have to provide all the available proof and circumstantial evidence showing that the other country is responsible for examining the application.

The most important proof that an asylum seeker has been in another Dublin country are Eurodac hits, which is the successful comparison of an asylum seeker's fingerprints with previously stored fingerprints. Based on the Eurodac hit, the national authorities can claim and prove that another country is responsible for examining the asylum application based on the criteria of country of first entry or application. Entries in the European Visa Information System (VIS) play a similar role. Along with Eurodac hits and entries in the VIS, it is also conceivable that national authorities introduce an outgoing procedure based on weaker proof, such as hotel bills or a verifiable statement by the applicant. These forms of proof remain underused because the other Dublin country rarely accepts them (Eule et al., 2019, p. 50).

This paper focuses on the possibility of national officials relying on implementation leeway in the decision of whether a Dublin procedure is initiated or not. According to the system's formal rules, the decision should be based only on the criteria of the Dublin III Regulation. However, a national administration can also decide not to introduce a Dublin procedure even though the criteria are met or some proof indicates that another country is responsible for the application. In this case, national officials decide to assume the responsibility for the examination of the asylum application anyhow. Apart from that, national administrations can also introduce a procedure based on other criteria or without proof at hand. This scenario is not intended by the system. Yet, it is possible due to the lack of EU enforcement in implementation (Lahusen & Wacker, 2019, p. 157). Even though the European Commission can introduce an infringement procedure in cases of non-implementation (Zhelyazkova et al., 2016, p. 830), this happens only rarely and in severe cases of non-implementation, and not in instances, where national administrations maximise their leeway (Schmälter, 2018, p. 1347). An additional reason for the reluctance to start an infringement procedure in the field of asylum is the topic's highly politicised nature (Schmälter, 2018, p. 1340).

To summarise, the Dublin system is a particularly interesting case to study implementation leeway. It represents a hard test of the use of leeway by national authorities as, in comparison to EU directives, discretion in the implementation is not intended, and therefore also no deviations from the policy. Aiming at a uniform application throughout the Dublin area, the Dublin III Regulation defines a clear set of rules and criteria. Furthermore, Eurodac hits, entries in the VIS, other documents or statement are indications

that an asylum seeker has previously been to another country. In the presence of such an indication, an outgoing procedure should be introduced according to the system's formal rules. Socio-demographic characteristics, nationality, and country of origin, however, are not part of the Dublin criteria. Therefore, biases in the application of the Dublin system in terms of such socio-demographic characteristics or the country of origin should not be observable. Yet, I develop in the following an argument explaining why national authorities nonetheless may use implementation leeway based on the country of origin of asylum seekers.

3. Selectivity based on national communities

National administrations in Dublin net-beneficiary countries may specialise in asylum seekers from specific countries of origin. This selection may be based on the number of people from that country already living in the net-beneficiary country (in the following, referred to as the *national community*). According to this logic, Dublin countries are not picking asylum seekers based on their nationality from the start. Other reasons may explain why these national communities are in the net-beneficiary country in the first place. Once they are there, the communities exert a pull effect on the incoming migrants (Neumayer, 2005b), which contributes to an increase of the said community. The main argument of this paper is that national authorities further accentuate this tendency by retaining asylum seekers from countries with large national communities. This is because national authorities have gained experience handling applications and dealing with administrative requests associated with these countries. Consequently, the necessary resources, such as translators and country experts, are available. Such accumulated resources and efficiency considerations in the context of the Dublin procedure have the following effect on decisions: asylum seekers from countries with large national communities have an advantage, as the authorities already have the necessary capacity and experience to handle their application, while those coming from countries with small existing national communities have a disadvantage. By retaining the asylum applications for which the resources are available and sending the ones out for which they would have to acquire additional resources, national officials make use of the leeway.

This implementation mechanism may be more likely in a highly politicised policy field (Poertner, 2017, p. 19). A heated political climate might enhance national authorities' incentive to operate efficiently when processing asylum applications. Efficiency in this context means that asylum decisions should be reached quickly with as few resources as necessary and as diligently as possible to avoid later potential appeals.⁶ The focus in this context lies on making decisions with as few resources as possible (Poertner, 2017, p. 15). Lengthy

asylum procedures render enforcing negative asylum decisions more difficult and generate higher costs (Schindler, 2017, pp. 196–197). Asylum systems that generate high costs and are considered inefficient can intensify an already heated political debate. Considering this, the specialisation in asylum seekers from specific countries of origin is a by-product of the tendency to render asylum systems more efficient.

Very practically speaking, the evaluation of an asylum application is more complex than the straightforward Dublin criteria may suggest. Investigating the facts related to an asylum application requires extensive knowledge about the circumstances in the asylum seeker's country of origin. The asylum seeker's statement is also impacting the asylum claim's credibility (Schittenhelm & Schneider, 2017, p. 1703). Being able to rely on practical knowledge, such as information about the country of origin, increases caseworkers' self-affirmation (Schittenhelm & Schneider, 2017, p. 1704) and decreases subjectivity in the decisions (Mitsch, 2020, p. 98). In other words, specialisation in specific countries leads to more reliable information on the asylum seeker's country of origin (Martin & Schoenholtz, 2000, p. 594; Schittenhelm & Schneider, 2017, p. 1703). Having only little or unreliable information, in contrast, limits the knowledge on which caseworkers can base their decisions (Schittenhelm & Schneider, 2017, p. 1708). Translators and interpreters also play a key role (Schittenhelm & Schneider, 2017, p. 1702; Dahlvik, 2018, pp. 102–3; Doornbos, 2005, p. 117). They link the caseworker to the asylum seeker. Translators also function as country experts and provide relevant background information on the country of origin. Consequently, having an experienced interpreter from the same country of origin is highly beneficial.

As discussed before, the Dublin system defines clear rules determining whether outgoing procedures have to be initiated. Yet, the implementation leeway of national authorities can lead to a bias towards asylum seekers from certain countries of origin because of efficiency considerations. The authorities' specialisation in countries of origin with already large national communities in the Dublin country has consequences for the outgoing procedures. The efficiency argument developed above submits that *asylum seekers from countries of origin with small national communities are more likely to be involved in a Dublin outgoing procedure than asylum seekers from countries of origin with large national communities*. [Figure 1](#) graphically illustrates the theoretical mechanism explaining how the size of national communities explains the use of implementation leeway in Dublin procedures.

Yet, there might be other reasons for the use of implementation leeway in the Dublin system. As argued above, the politicisation of migration speaks for efficiency considerations. However, national authorities might possibly also want to diversify in terms of the composition of the immigrant population,

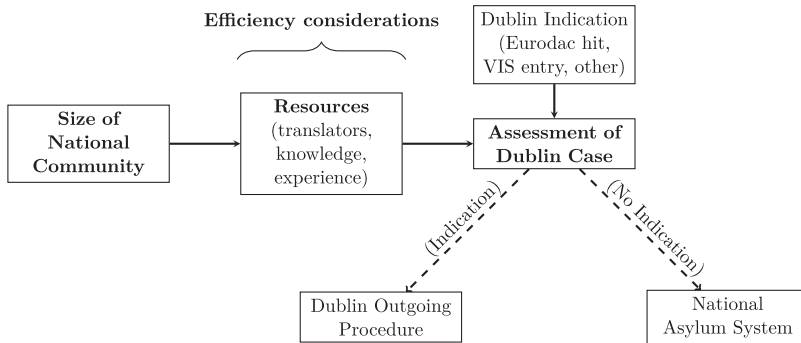


Figure 1. How the size of national communities is related to the use of implementation leeway in Dublin procedures.

to avoid so-called ‘ethnic enclaves’. The main argument in the literature in this regard is that such ‘ethnic enclaves’ impede immigrants’ integration into the host society. Previous research has, among others, studied the effect of ‘ethnic enclaves’ on immigrants’ cultural integration in terms of contact to the native population (Danzer & Yaman, 2013), on immigrant voter turnout (Andersson et al., 2022) or on economic integration (Martén et al., 2019). Considering that immigrant integration is hindered by ‘ethnic enclaves’, national authorities might want to implement the Dublin system so that large national communities do not further grow. Therefore, the expectation would be that asylum seekers from countries of origin with large national communities are more likely to be in a Dublin outgoing procedure than asylum seekers from countries of origin with small national communities. This would then eventually lead to increased diversity.

4. Net-beneficiaries of the Dublin system: the case of Switzerland

Switzerland⁷ is representative for a set of countries that might use the implementation leeway as hypothesised in the previous section. As a landlocked country, Switzerland benefits from the Dublin system: due to restrictive visa policies, most asylum seekers cannot take an airplane (Czaika & de Haas, 2014) and have to travel through at least one other country before reaching Switzerland. According to the Dublin rules, this allows Switzerland to introduce more outgoing procedures than it receives incomings. Although this is not a hard rule, a certain pattern linked to a country’s geographical location can be observed, as Figure 2 shows.⁸

When considering the ratio, calculated as the total number of outgoing procedures over the total number of incoming procedures, the following EU countries (in green shades) can be considered as net-beneficiaries of

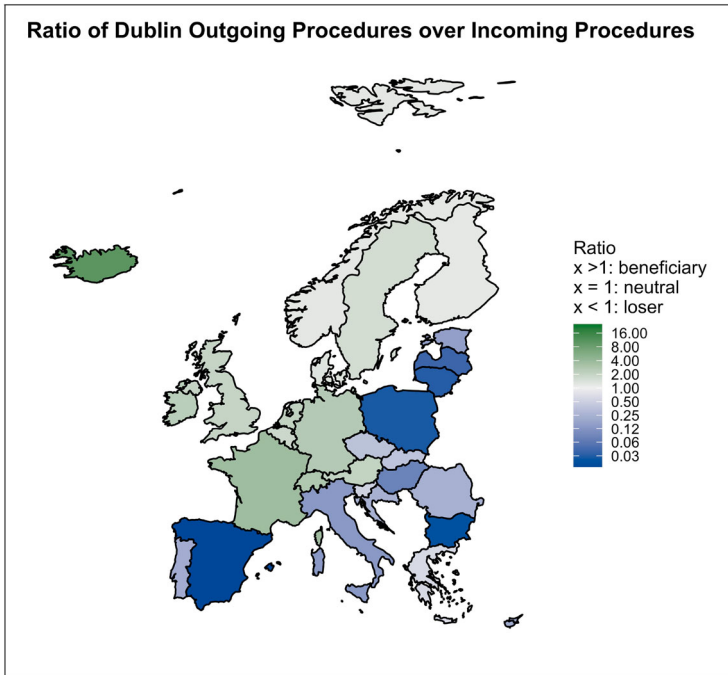


Figure 2. Net-beneficiary countries of the Dublin system (gradual). Ratio of Dublin outgoing procedures over Dublin incoming procedures from the period from 2008–2019. Data: Eurostat (2021a) and Eurostat (2021b).

the system: Belgium, Germany, France, the Netherlands, Iceland, Liechtenstein, Luxembourg, Austria, the United Kingdom, Ireland, Norway, Sweden, Denmark, and Switzerland. They all have a value higher than 1, indicating that they made more outgoing procedures than they received incoming procedures over the period from 2008 to 2019. Switzerland, for example, has a ratio of 2.78, which indicates that Switzerland made almost 3 times as many outgoing procedures than it received incoming procedures over this period. In contrast, values below 1 (in blue shades) indicate that the country received more incoming procedures than it made outgoing procedures.

Net-beneficiary countries, like Switzerland, are less likely to openly deviate from the rules, as this would challenge the system from which they tend to benefit. Yet, the incentive to further shift the ‘costs [of examining asylum applications] from one national system to another’ persists (Maiani, 2016, p. 22). Therefore, net-beneficiary countries have the incentive to rely on the leeway they have in the implementation of the Dublin system. Studying one of the net-beneficiary countries is interesting, as it further allows for the investigation of whether biases exist in

administrative decisions, even in countries that overall benefit from the Dublin system.

5. Data and methods

For the empirical analysis, I rely on unique, high-quality register panel data from the centralised Swiss migration authority, the State Secretariat for Migration (SEM). With this data, the present study contributes to a micro-level focus on decision making regarding asylum requests, which assists authorities in ‘establishing fair asylum decision-procedures’ (Schneider et al., 2020, p. 577). The data set contains 186,076 observations, each of which represents an asylum application lodged in Switzerland between December 2008 and August 2020. The data covers the period from the introduction of the Dublin system in Switzerland to the summer of 2020. For each asylum application, the data includes information about a potential Dublin procedure, and the applicant’s personal characteristics (i.e., nationality, gender).⁹ Moreover, the available data contains information on whether the Dublin procedure was introduced based on proof or an indication (e.g., Eurodac Hit, entry into the VIS, or other forms of proof). This information is crucial for the analysis of the bias in national authorities’ everyday decision making, as it allows for the distinction between cases in which the Dublin outgoing procedure was introduced based on an indication or on other considerations. I complement this register panel data with data on the number of foreigners permanently residing in Switzerland. The 186,076 asylum seekers registered in the data set cover 135 different nationalities.¹⁰

The dependent variable *Dublin outgoing procedure* indicates whether a Dublin procedure was initiated. An initiated Dublin procedure means that the SEM tried to send an asylum seeker back to another Dublin country. The variable takes the value of 1 if a Dublin procedure was enacted and 0 if there was no such procedure. The main independent variable is the *size of the national community* of an asylum seeker in Switzerland. This data is provided by the Swiss Federal Statistical Office (2020) and contains the size of the overall foreign population living in Switzerland per country of origin. The variable is lagged by one year, as it is coded for the end of each year.¹¹ I apply the logarithmic function because the distribution is highly skewed (see Figure A1 in the appendix).

The key control variable indicates whether the Dublin procedure has been introduced based on any type of proof that another country is responsible for examining the asylum application. Every Dublin country that asks another country to take an asylum seeker back needs to provide all the available proof of this responsibility. As described in Section 2, Eurodac hits, entries into the VIS, and other documents such as hotel bills, entry cards for public and private institutions or statements by the asylum seeker, can be

considered as proof. These different options for proof are indications for a Dublin case, based on which the authorities should systematically make decisions.¹² The binary variable *Dublin indication* codes whether a Dublin procedure has been introduced based on some form of proof (1) or introduced without any proof (0). The use of the *Dublin indication* variable as a control is crucial for the analysis, as it also allows for the investigation of Dublin procedures without any indication. However, as the variable describes whether a Dublin procedure has been introduced based on an indication, but does not indicate whether a Dublin indication was present or not, the cases in which a Dublin indication did not lead to a Dublin procedure cannot be analysed.

I introduce further controls, which could also influence the likelihood of an outgoing procedure. First, the Dublin system, and more specifically the rule of first entry, does not apply strictly to *unaccompanied minor asylum seekers (UMAs)*. In case UMAs have family or relatives in another Dublin country, they are reunified with them. Second, research shows that an applicant's *gender* can affect the outcome of the asylum decision (Holzer et al., 2000a) and that stereotyping based on gender influences asylum decisions (Mascini & Van Bochove, 2009). Authorities might doubt claims from men, for example, about their migration route more than women's. Also, authorities might be more reluctant to send women, often considered to be more vulnerable, back to another country. The variable takes the value 1 for male asylum seekers and the value 0 for women.

Third, Mascini (2009) shows that working under pressure contributes to unequal treatment, as decisions might be made more frequently based on incomplete or client-dependent information. To account for the level of pressure, I include a *caseload* variable. It is measured by the average of the monthly total of asylum applications made in Switzerland in the 12 months previous. Fourth, a specialisation in asylum seekers from specific countries of origin might also occur due to national authorities' political intentions based on the perceived deservingness of international protection. The protection rate for asylum seekers from a certain country of origin can somewhat inform national authorities about an asylum claim's legitimacy or the asylum seeker's need for international protection.¹³ To control for this political intention, I use the numeric coding of the protection rate, ranging from 0 to 1, with a mean of 0.39 (or 39%). For each nationality, I include the protection rate in the year previous to the asylum application.¹⁴

As the asylum seekers are clustered in countries of origin, I investigate a multilevel logistic regression model with random intercepts. The subscript i indicates that a variable varies between individuals, and the subscript j that a variable varies between countries of origin. To explain the probability of a *Dublin outgoing procedure* (Dub_i), Model 1 includes the main independent variable *size of national community* ($NatCom_j$), the main control variable

Dublin indication ($DublInd_i$) and *unaccompanied minor* (UMA_i) as well as *gender* ($Gender_i$).

$$Dub_i = \beta_0 + \beta_1 NatCom_j + \beta_2 DublInd_i + \beta_3 UMA_i + \beta_4 Gender_i + \mu_j + \epsilon_{ij} \quad (1)$$

Model 2 also accounts for the variation in pressure due to asylum applications with the variable *caseload* ($Caseload_j$).

$$Dub_i = \beta_0 + \beta_1 NatCom_j + \beta_3 Caseload_j + \beta_2 DublInd_i + \beta_4 UMA_i + \beta_5 Gender_i + \mu_j + \epsilon_{ij} \quad (2)$$

Model 3 further adds the variable *protection rate* ($ProtRate_j$) to control for the national authorities' political intentions.

$$Dub_i = \beta_0 + \beta_1 NatCom_j + \beta_3 Caseload_j + \beta_4 ProtRate_j + \beta_2 DublInd_i + \beta_5 UMA_i + \beta_6 Gender_i + \mu_j + \epsilon_{ij} \quad (3)$$

This additional variable in the model serves as a further strong control but also induces the problem of multicollinearity due to the correlation (0.45) with the main independent variable *size of national community*.¹⁵

6. Results

Before I analyse the regression results, a closer look at the dependent variable is informative. In total, Switzerland has had more asylum applications in which no Dublin procedure was initiated (103,993) than asylum applications in which a Dublin procedure was initiated (82,083). The large majority of these outgoing procedures were introduced based on some form of Dublin indication, such as a Eurodac hit or an entry into the VIS (81,357 cases, which makes approximately 99% of the cases).¹⁶ This highlights the importance of introducing the *Dublin indication* variable as a control. As the models control for cases in which such indications were present, the use of implementation leeway is most relevant for the 726 outgoing procedures that were introduced without indication.¹⁷

As first evidence, the intra-class correlation (ICC) points in the direction of the main hypothesis. The adjusted ICC of the null-model is 22.5%, indicating that the variation between the asylum seekers' nationalities is important. More important, however, are the findings from Models 1 to 3 in [Table 1](#), which show that asylum seekers from countries with large national communities in Switzerland are less likely to be involved in a Dublin outgoing procedure than asylum seekers from countries with small national communities.¹⁸ This finding supports the hypothesis that national authorities specialise in asylum seekers from countries of origin with large national communities. Model 1 includes the main independent variable *size of national community* as well as *Dublin indication*, *UMA*, and *gender*, and it groups the

Table 1. MLM regression output on Dublin procedure.

	Being in a Dublin procedure		
	(1)	(2)	(3)
	<i>Contextual variation</i>		
Size National Community (1 year lag, log)	−0.267*** (0.052)	−0.283*** (0.057)	−0.252*** (0.058)
Caseload (in thousands)		−0.261*** (0.064)	−0.248*** (0.064)
Protection Rate (1 year lag)			−0.934*** (0.321)
	<i>Individual variation</i>		
Dublin Indication	38.224*** (4.296)	38.597*** (8.589)	37.269 (24.740)
UMA	−14.443*** (3.050)	−14.977 (10.498)	−12.967 (15.283)
Male	0.227** (0.107)	0.262** (0.110)	0.253** (0.110)
Constant	−3.137*** (0.416)	−2.489*** (0.466)	−2.483*** (0.466)
National Communities	135	134	112
Months	130	130	130
Observations	183,760	174,042	173,717
Adjusted ICC	0.165	0.171	0.145
Conditional ICC	0.002	0.002	0.002
Log Likelihood	−3,959.167	−3,771.439	−3,759.915
AIC	7,930.335	7,556.878	7,535.829
BIC	7,991.063	7,627.348	7,616.351

Notes: ***Significant at the 1 percent level. **Significant at the 5 percent level. *Significant at the 10 percent level.

individuals into 135 nationalities. The effect of the national community's size is negative and significant at the 1 percent level.

The probability of being in a Dublin procedure is mostly driven by the *Dublin indication* variable. However, also the size of the national community is associated with a substantial change of the probability of a Dublin procedure when it is not based on an indication. To illustrate the size of the effect, I compare the predicted probabilities of a Dublin outgoing procedure for an asylum seeker from a country with a small national community and for an asylum seeker from a country with a large national community (measured at the first and third quartiles). Nigeria lies on the first quartile on the distribution with a relatively small national community of 2759 people living in Switzerland, and Syria stands for a country with a relatively large community of 16,938 people (third quartile). Comparing the predicted probabilities of the two, an applicant from Nigeria is 1.6 times more likely to end up in an outgoing procedure compared to an applicant from Syria. The effect increases if we move to countries with even smaller communities than Nigeria, which already has a considerable community size. Kyrgyzstan, for example, only has a community of 251 people. An applicant of Kyrgyzstan is three times more likely to end up in an outgoing procedure compared to an applicant from Syria.

As expected, the key control variable *Dublin indication* is significant at the 1 percent level. With the inclusion of this strong control variable, the remaining negative and significant effect of the national community's size suggests that efficiency considerations contributed to the decision in the cases in which a Dublin procedure was initiated without any indication. As far as the other controls are concerned, being an UMA decreases the likelihood of a Dublin procedure, compared to adults or children accompanied by at least one adult family member. Finally, being a man also increases the likelihood of being involved in a Dublin procedure, compared to being a woman. This finding is in line with previous research (Holzer et al., 2000a).

The effect of the national community's size remains negative and significant at the 1 percent level when the model is extended with the measure of the caseload (Model 2). By introducing the caseload, I account for the pressure national authorities face over time due to fluctuations in the number of asylum applications. Introducing this variable also leads to a loss of 9718 observations.¹⁹ The coefficient shows that the more cases the national authorities have to deal with, the less likely are Dublin procedures. A possible explanation for this effect is the relatively strict administrative deadlines that apply in the Dublin system. Most important for the argument of this analysis is that the nationality bias persists even when I account for this factor. Compared to Model 1, being an UMA no longer has a statistically significant effect. The gender effect, however, remains stable. Even though socio-demographic characteristics should not have an observable effect on the decision making, the finding that gender also affects the likelihood to be in a Dublin procedure is in line with the general argument that national authorities use leeway. Whereas the specialisation in asylum seekers from countries of origin with large national communities might be driven by efficiency considerations, the specialisation in women might have other, more political, reasons. One possible political reason could be that national authorities have the tendency to send male asylum seekers in a Dublin procedure because of stereotypes regarding the vulnerability and credibility of claims made by men.

Turning to the national authorities' potential political intentions, the regression results from Model 3 suggest that the effect of the national community's size decreases in size but persists even when I control for the protection rate in the previous year. Some political intention remains, as the national authorities tend to introduce Dublin procedures more often when someone comes from a country of origin with a low protection rate. All else equal, national authorities also prioritise asylum seekers with nationalities that they consider more deserving. Returning to the main argument and findings from the analysis, the efficiency considerations that lead to a specialisation in asylum seekers from specific countries might also be embedded in a general preference for asylum seekers from countries with

a large national community. This general preference includes post-asylum-procedure costs, and speaks against the rival explanation of diversification of the composition of the immigrant population in a country. Considering that asylum seekers and refugees face economic marginalisation (Bansak et al., 2018, p. 325), national authorities may be eager to curb the costs asylum seekers generate in the social welfare system. Next to active labour market policies, national communities may also facilitate the integration process, as they form social networks (Habyarimana et al., 2007). Martén et al. (2019), for example, show that refugees who live in locations with many co-nationals are more likely to find employment. This finding counters the widely shared belief that living close to many co-nationals hinders immigrants' economic or social integration, as they might live in a parallel society (Martén et al., 2019, p. 16280).

7. Conclusion

This paper studies everyday decision making by investigating whether and how national authorities in net-beneficiary countries of the Dublin system use implementation leeway when making the administrative decision of whether to initiate an outgoing procedure. The Dublin system establishes a strict set of rules. Apart from these Dublin criteria, national authorities specialise in asylum seekers from countries of origin with large national communities. The rationale behind this is that national officials have accumulated experience with other individuals from these countries, making the examination of the asylum applications more efficient. Empirically, I evaluated this argument by calculating the probability of a Dublin procedure with multilevel models, using unique, high-quality register panel data from Switzerland. This data not only allows for an analysis at the individual level, but also contains information on whether outgoing procedures were initiated based on a Dublin indication. The findings show that not all outgoing procedures are introduced based on a Dublin indication, suggesting that national authorities indeed use leeway in their decisions. A systematic element of that leeway is that asylum seekers from countries with large national communities are less likely to be involved in a Dublin procedure.

This study focused on efficiency considerations based on the presence of resources to examine asylum applications. This form of bias could be remedied by an increase of resources, especially in the wealthy Northwestern European countries. This would be particularly important given that individuals subject to these biases are already among the most vulnerable in our societies. Due to the variation in protection rates for asylum seekers across Europe (Toshkov & de Haan, 2013), biases regarding the decisions about outgoing procedures can determine whether asylum seekers will receive a positive or negative asylum decision. Moreover, being involved in such a

procedure exposes asylum seekers to additional insecurities and potentially longer waiting periods.

The specialisation in asylum seekers from specific countries of origin also poses challenges to the framework of Schengen and Dublin. If the incentives to deviate from the Schengen and Dublin rules are already high and widespread, this tendency to maximise leeway contributes to a political climate in which mutual trust among Dublin countries is further undermined. Lacking trust in other Dublin countries and their correct implementation of policies also renders attempts to reform the dysfunctional system increasingly challenging. Ultimately, showing that not only the more exposed Dublin countries maximise their leeway within the system is central. Increasing the understanding of the different actors within that system is a small step towards an environment in which a serious and transparent attempt to reform the Dublin system – which is so urgently needed – can be undertaken.

Notes

1. This terminology is debated, and some authors prefer using terms such as ‘crisis of the CEAS’, emphasising that ‘systemic factors rather than the increased inflow of asylum-seekers caused the crisis’ (Niemann & Zaun, 2018, p. 3). Other frequently used terms are the European ‘refugee crisis’, and ‘migrant crisis’.
2. The Dublin system consists of two directly binding regulations, the Dublin III Regulation (604/2013/EU) and the Eurodac Regulation (603/2013/EU). The Dublin III Regulation determines which Dublin country is responsible for examining an asylum application. The Eurodac Regulation plays an essential role in the determination of the responsibility to examine an asylum application.
3. I use ‘Dublin outgoing procedure’, ‘Dublin procedure’ and ‘outgoing procedure’ interchangeably throughout this paper.
4. A Dublin country is a country that is part of the Dublin system. This includes all EU member states plus the four associated countries, Norway, Island, Liechtenstein, and Switzerland. Henceforth, I use ‘Dublin country’ and ‘country’ interchangeably throughout this paper.
5. Lavenex (2006, 238) referred to Switzerland as a ‘net-beneficiary of the system of responsibility allocation’ in the context of negotiations around Switzerland’s accession to the system. In this context, Switzerland would benefit from the accession, as due to the combination of its geographical location and the criteria of first entry, and the large numbers of asylum seekers, Switzerland would be able to transfer more asylum seekers to other countries, than other countries could transfer to Switzerland.
6. It refers to a technical efficiency rather than a substantive efficiency, as described by Rutgers and van der Meer (2010). ‘Efficiency’ in this sense has to be understood as an input-output ratio or a relationship between resources and results.
7. Even though Switzerland is not an EU member state, it has been associated with the Dublin system and implemented its rules since December 2008. Lavenex and Uçarer (2004, p. 430) highlight that the Swiss migration regime ‘does not

show more differences with the EU *acquis* than the average degree of divergence between the member states' and therefore can be considered highly similar to an EU member state regarding migration policy. Switzerland agreed to 'accept, implement and apply the entire legal framework forming the Schengen *acquis* and to transpose further developments in this area' (Hanke et al., 2019, p. 1365).

8. Two notes on [Figure 2](#): first, Dublin transfers have been suspended from 2011 until 2017 because of the risk of 'inhuman and degrading treatment' in Greece. Due to this, there were almost no incoming procedures in Greece, but they continued to make outgoing procedures. This, explains the very light blue shade of Greece on the map. Second, the Eurostat (2021a) and Eurostat (2021b) data is not complete for each year. In order to not include outgoing procedures in one year, when the number of incoming procedures were missing (or vice-versa), there is no data for the following year-country combinations: Bulgaria (2016), Czechia (2012, 2018, 2019), Denmark (2013), Greece (2008), Spain (2014, 2015), Croatia (2008, 2009, 2010, 2011, 2012, 2016), Cyprus (2014, 2015, 2016, 2019), Lithuania (2014, 2015), Hungary (2015, 2016), the Netherlands (2013, 2014), Poland (2008), Portugal (2014, 2016), Finland (2014), Iceland (2016, 2019), Liechtenstein (2008, 2009, 2010, 2018), and the UK (2011).
9. I provide a more extensive description of the register panel data and data set in the [Appendix A.2.1](#).
10. [A.2.2](#) lists all nationalities and [A.2.4](#) gives an overview of the descriptive statistics of all variables.
11. Due to missing data on the foreign populations of Serbia, Montenegro and Kosovo from 2007 to 2009, and of South Sudan from 2007 to 2011, 2666 missing values are generated. For this reason, I do not include asylum applications from persons from these countries between 2008 and 2010 and 2008 and 2012, respectively, in the analysis.
12. Originally, the variable can take four different values: 'No indication', 'Eurodac Hit', 'CIS-VIS' (Customs Information System, and Visa Information System), or 'other indication'. The three indication values are taken together to indicate whether there was any form of proof. A distinction between forms of proof would make more sense in analysing the decision regarding a Dublin request a country has received from another. In these cases, some forms of proof, such as Eurodac hits or entries into the CIS-VIS, might be considered more objective.
13. One example in which authorities used the recognition rate, which is even stricter than the protection rate, in their policy decision, was the determination of which refugees should be eligible for the EU relocation scheme planned in 2015. The EU considered refugees from countries of origin with high recognition rates to be 'in clear need of international protection' (European Commission, 2015b). The logic remains the same even if the protection rate is used as a regulatory tool: the authorities could also use a low protection rate as a deterrence measure for specific countries of origin (Holzer et al., 2000b; Neumayer, 2005a).
14. Due to missing data, asylum seekers from 65 nationalities cannot be attributed to a protection rate each year. List [A.2.3](#) in the appendix shows all nationalities that at least in one year had no previous protection rate. This data generates a total of 404 observations with a missing value for the protection rate.
15. This correlation is as expected because a high protection rate means that the share of people who can stay in the country is high and that the national community's size increases in the next year.

16. Figure A2 in the appendix shows the Dublin procedures based on the indication type by which they were introduced.
17. Section A.3.2 in the appendix contains several descriptions of the 726 cases of Dublin procedure without a Dublin indication, including Figure A3 which gives an overview of the nationality of the asylum seekers. Figure A4 shows the distribution of the 726 cases by gender, age and year of the asylum application. Additionally, Section A.3.3 descriptively shows which articles from the Dublin III Regulation the Dublin procedures are invoked along with the Dublin procedure.
18. Appendix A.4 contains additional analyses with alternative measures for the size of the national community and unaccompanied minor asylum seeker (UMA). The main effects remain similar.
19. The samples used for the three models vary due to missing data after the introduction of new variables. The reason for the loss of observations from Model 1 to Model 2 is that I could not calculate the first 12 months based on previous observations. Furthermore, Qatar only appears in 2008. Due to the different sample sizes, the goodness-of-fit statistics (Log Likelihood, AIC and BIC) should also be considered with care.

Acknowledgments

Earlier versions of this paper have been presented at the Annual Meetings of APSA, EPSA, and ECPR and at conferences organised at the Central European University and the University of Bern. I would like to thank all participants for their helpful comments and, in particular, Giorgia Dimari, Nicolò Fraccaroli, Philipp Lutz, Moritz Marbach, Steffen Wamsler, and Fabio Wasserfallen for their very helpful suggestions. Also, I thank the two anonymous reviewers for their feedback and Simon Sieber from the SEM for continuous help in putting together the data. All errors remain my own.

Data availability statement

The use of the ZEMIS data is governed by a data use agreement with the SEM and did not require informed consent and institutional review board approval, given the nature of the data. I was granted permission to analyse the data and freely publish the results, but am not allowed to share the data with third parties. Researchers who want to access the data need to request it from the SEM.

Disclosure statement

No potential conflict of interest was reported by the author(s).

Notes on contributor

Théoda Woefray is a PhD candidate at the Institute of Political Science at the University of Bern, Switzerland. Her research interests lie in the fields of migration politics and European studies, with a particular emphasis on public opinion on immigration (policy) and the preferences of different political actors within the Schengen and Dublin framework.

ORCID

Théoda Woeffray  <http://orcid.org/0000-0003-0219-5588>

References

- Andersson, H., Lajevardi, N., Lindgren, K.-O., & Oskarsson, S. (2022). Effects of settlement into ethnic enclaves on immigrant voter turnout. *The Journal of Politics*, 84(1), 578–584. <https://doi.org/10.1086/715160>
- Bansak, K., Ferwerda, J., Hainmueller, J., Dillon, A., Hangartner, D., Lawrence, D., & Weinstein, J. (2018). Improving refugee integration through data-driven algorithmic assignment. *Science*, 359(6373), 325–329. <https://doi.org/10.1126/science.aao4408>
- Cowles, M. G., Caporaso, J. A., & Risse, T. (2001). *Transforming Europe: Europeanization and domestic change*. Cornell University Press.
- Czaika, M., & De Haas, H. (2013). The effectiveness of immigration policies. *Population and Development Review*, 39(3), 487–508. <https://doi.org/10.1111/padr.2013.39.issue-3>
- Czaika, M., & de Haas, H. (2014). *The effect of visa policy on international migration dynamics*. (Working Paper No. 89). International Migration Institute.
- Dahlvik, J. (2018). *Inside asylum bureaucracy: Organizing refugee status determination in Austria*. Springer Nature.
- Danzer, A. M., & Yaman, F. (2013). Do ethnic enclaves impede immigrants' integration? Evidence from a quasi-experimental social-interaction approach. *Review of International Economics*, 21(2), 311–325. <https://doi.org/10.1111/roie.2013.21.issue-2>
- den Heijer, M., Rijpma, J., & Spijkerboer, T. (2016). Coercion, prohibition, and great expectations: The continuing failure of the common European asylum system. *Common Market Law Review*, 53(3), 607–642. <https://doi.org/10.54648/cola2016059>
- Doornbos, N. (2005). On being heard in asylum cases: Evidentiary assessment through asylum interviews. In G. Noll (Ed.), *Proof: Evidentiary assessment and credibility in asylum procedures* (pp. 103–122). Martinus Nijhoff Publishers.
- Dörrenbächer, N. (2018). Frontline uses of European Union (EU) law: A parallel legal order? How structural discretion conditions uses of EU law in Dutch and German migration offices. *Journal of Public Policy*, 38(4), 455–479. <https://doi.org/10.1017/S0143814X17000095>
- Eule, T. G., Borrelli, L. M., Lindberg, A., & Wyss, A. (2019). *Migrants before the law: Contested migration control in Europe*. Springer.
- European Commission (2015a). More responsibility in managing the refugee crisis: European Commission adopts 40 infringement decisions to make European Asylum System work. Retrieved from https://ec.europa.eu/commission/presscorner/detail/en/IP_15_5699.
- European Commission (2015b). Refugee crisis: European Commission takes decisive action. Retrieved from https://ec.europa.eu/commission/presscorner/detail/en/IP_15_5596.
- Eurostat (2021a). Incoming 'Dublin' requests by submitting country (partner), type of request and legal provision, migr_dubri. Data retrieved from Eurostat, https://ec.europa.eu/eurostat/databrowser/view/MIGR_DUBRI/default/table?lang=en&category=migr.migr_asy.migr_dub.migr_dubreq.
- Eurostat (2021b). Outgoing 'Dublin' requests by receiving country (partner), type of request and legal provision, migr_dubro. Data retrieved from Eurostat, https://ec.europa.eu/eurostat/databrowser/view/MIGR_DUBRO/default/table?lang=en&category=migr.migr_asy.migr_dub.migr_dubro.

europa.eu/eurostat/databrowser/product/view/MIGR_DUBRO?lang=en&category=migr.migr_asy.migr_dub.migr_dubreq.

- Falkner, G., Treib, O., Hartlapp, M., & Leiber, S. (2005). *Complying with Europe: EU harmonisation and soft law in the member states*. Cambridge University Press.
- Federal Statistical Office (2020). Foreign permanent resident and non permanent resident population by residence permit, 1981–2019, FSO number: je-e-01.05.01.02. Data retrieved from Federal Statistical Office, <https://www.bfs.admin.ch/bfs/fr/home/statistiques/catalogues-banques-donnees/tableaux.assetdetail.13707255.html>.
- Habyarimana, J., Humphreys, M., D. N. Posner, & Weinstein, J. M. (2007). Why does ethnic diversity undermine public goods provision? *American Political Science Review*, 101(4), 709–725. <https://doi.org/10.1017/S0003055407070499>
- Hamlin, R. (2014). *Let me be a refugee: Administrative justice and the politics of asylum in the United States, Canada, and Australia*. Oxford University Press.
- Hanke, P., Wieruszewski, M., & Panizzon, M. (2019). The ‘spirit of the Schengen rules’, the humanitarian visa, and contested asylum governance in Europe – The Swiss case. *Journal of Ethnic and Migration Studies*, 45(8), 1361–1376. <https://doi.org/10.1080/1369183X.2018.1441615>
- Holzer, T., Schneider, G., & Widmer, T. (2000a). Discriminating decentralization: Federalism and the handling of asylum applications in Switzerland, 1988–1996. *Journal of Conflict Resolution*, 44(2), 250–276. <https://doi.org/10.1177/0022002700044002005>
- Holzer, T., Schneider, G., & Widmer, T. (2000b). The impact of legislative deterrence measures on the number of asylum applications in Switzerland (1986–1995). *International Migration Review*, 34(4), 1182–1216. <https://doi.org/10.2307/2675979>
- Hood, C. (1976). *The limits of administration*. Wiley.
- Jordan, B., Stråth, B., & Triandafyllidou, A. (2003). Contextualising immigration policy implementation in Europe. *Journal of Ethnic and Migration Studies*, 29(2), 195–224. <https://doi.org/10.1080/1369183032000079594>
- Kasperek, B. (2016). Complementing Schengen: The Dublin system and the European border and migration regime. In H. Bauder & C. Matheis (Eds.), *Migration policy and practice* (1st ed., pp. 59–78). Palgrave Macmillan.
- Lahusen, C., & Wacker, M. (2019). A European field of public administration? Administrative cooperation of asylum agencies in the Dublin system. In M. Heidenreich (Ed.), *Horizontal Europeanisation* (pp. 153–174). Taylor & Francis.
- Lavenex, S. (2006). Switzerland: Between intergovernmental co-operation and Schengen association. In M. Caparini & O. Marenin (Eds.), *Borders and Security Governance. Managing Borders in a Globalised World* (pp. 233–251). LIT Verlag Münster.
- Lavenex, S., & Uçarer, E. M. (2004). The external dimension of Europeanization: The case of immigration policies. *Cooperation and Conflict*, 39(4), 417–443. <https://doi.org/10.1177/0010836704047582>
- Lutz, P., Kaufmann, D., & Stünzi, A. (2020). Humanitarian protection as a European public good: The strategic role of states and refugees. *Journal of Common Market Studies*, 58(3), 757–775. <https://doi.org/10.1111/jcms.v58.3>
- Maiani, F. (2016). *The reform of the Dublin III Regulation. Study for the LIBE Committee*. Policy Department for Citizen’s Rights & Constitutional Affairs.
- Martén, L., Hainmueller, J., & Hangartner, D. (2019). Ethnic networks can foster the economic integration of refugees. *Proceedings of the National Academy of Sciences*, 116(33), 16280–16285. <https://doi.org/10.1073/pnas.1820345116>
- Martin, S. F., & Schoenholtz, A. I. (2000). Asylum in practice: Successes, failures, and the challenges ahead. *Georgetown Immigration Law Journal*, 14(3), 589.

- Mascini, P. (2009). Explaining inequality in the implementation of asylum law. *Refuge: Canada's Periodical on Refugees*, 25(2), 164–181. <https://doi.org/10.25071/1920-7336.26038>
- Mascini, P., & Van Bochove, M. (2009). Gender stereotyping in the Dutch asylum procedure: 'Independent' men versus 'dependent' women. *International Migration Review*, 43(1), 112–133. <https://doi.org/10.1111/j.0197-9183.2008.01149.x>
- Meyers, M. K., & Nielsen, V. L. (2012). Street-level bureaucrats and the implementation of public policy. In B. G. Peters & J. Pierre (Eds.), *The SAGE handbook of public administration* (pp. 303–321). SAGE Publishing.
- Milio, S. (2010). *From policy to implementation in the European Union: The challenge of a multi-level governance system*. IB Tauris.
- Mitsch, L. (2020). *Das Wissensproblem im Asylrecht: Zwischen materiellen Steuerungsdefiziten und Europäisierung* (Vol. 31). Nomos Verlag.
- Neumayer, E. (2005a). Asylum recognition rates in Western Europe: Their determinants, variation, and lack of convergence. *Journal of Conflict Resolution*, 49(1), 43–66. <https://doi.org/10.1177/0022002704271057>
- Neumayer, E. (2005b). Bogus refugees? The determinants of asylum migration to Western Europe. *International Studies Quarterly*, 49(3), 389–410. <https://doi.org/10.1111/isqu.2005.49.issue-3>
- Niemann, A. (2012). The dynamics of EU migration policy: From Maastricht to Lisbon. In J. Richardson (Ed.), *Constructing a policy-making state? Policy dynamics in the EU* (1st ed., pp. 209–233). Oxford University Press.
- Niemann, A., & Zaun, N. (2018). EU refugee policies and politics in times of crisis: theoretical and empirical perspectives. *Journal of Common Market Studies*, 56(1), 3–22. <https://doi.org/10.1111/jcms.v56.1>
- Poertner, E. (2017). Governing asylum through configurations of productivity and deterrence: Effects on the spatiotemporal trajectories of cases in Switzerland. *Geoforum*, 78, 12–21. <https://doi.org/10.1016/j.geoforum.2016.11.004>
- Princen, S. (2022). Differentiated implementation of EU law and policies. In P. R. Graziano & J. Tosun, (Eds.), *Elgar Encyclopedia of European Union public policy* (pp. 416–426). Edward Elgar Publishing.
- Püzl, H., & Treib, O. (2007). Implementing public policy. In F. Fischer, G. J. Miller & M. S. Sidney (Eds.), *Handbook of public policy analysis: Theory, politics, and methods* (pp. 89–107). CRC/Taylor & Francis.
- Rutgers, M. R., & van der Meer, H. (2010). The origins and restriction of efficiency in public administration: Regaining efficiency as the core value of public administration. *Administration & Society*, 42(7), 755–779. <https://doi.org/10.1177/0095399710378990>
- Schindler, B. (2017). Das Asylrecht als Experimentierfeld: Der Blick aus der Schweiz. In F. Merli & M. Pöschli (Eds.), *Das Asylrecht als Experimentierfeld: Eine Analyse seiner Besonderheiten aus vergleichender Sicht* (pp. 189–204). MANZ Verlag Wien, Dike.
- Schittenhelm, K., & Schneider, S. (2017). Official standards and local knowledge in asylum procedures: decision-making in Germany's asylum system. *Journal of Ethnic and Migration Studies*, 43(10), 1696–1713. <https://doi.org/10.1080/1369183X.2017.1293592>
- Schmälter, J. (2018). A European response to non-compliance: The commission's enforcement efforts and the common European asylum system. *West European Politics*, 41(6), 1330–1353. <https://doi.org/10.1080/01402382.2018.1427947>
- Schneider, G., Segadlo, N., & Leue, M. (2020). Forty-eight shades of Germany: Positive and negative discrimination in federal asylum decision making. *German Politics*, 29(4), 564–581. <https://doi.org/10.1080/09644008.2019.1707810>

- Scicluna, N. (2021). Wilful non-compliance and the threat of disintegration in the EU's legal order. *Swiss Political Science Review*, 27(3), 654–671. <https://doi.org/10.1111/spsr.v27.3>
- Slominski, P., & Trauner, F. (2018). How do member states return unwanted migrants? The strategic (non-) use of 'Europe' during the migration crisis. *Journal of Common Market Studies*, 56(1), 101–118. <https://doi.org/10.1111/jcms.v56.1>
- Thomann, E. (2019). *Customized implementation of European union food safety policy*. Palgrave Macmillan.
- Toshkov, D., & de Haan, L. (2013). The Europeanization of asylum policy: an assessment of the EU impact on asylum applications and recognitions rates. *Journal of European Public Policy*, 20(5), 661–683. <https://doi.org/10.1080/13501763.2012.726482>
- Van Wolleghem, P. G., & Sicakkan, H. G. (2022). Asylum seekers in the machinery of the state: administrative capacity vs. preferences. Recognition rates in EU member states. *European Union Politics*, 24(2), 348–369. <https://doi.org/10.1177/14651165221135113>
- Vink, M., & Meijerink, F. (2003). Asylum applications and recognition rates in EU member states 1982–2001: A quantitative analysis. *Journal of Refugee Studies*, 16 (sL 3), 297–315. <https://doi.org/10.1093/jrs/16.3.297>
- Zaun, N. (2022). Fence-sitters no more: Southern and Central Eastern European member states' role in the deadlock of the CEAS reform. *Journal of European Public Policy*, 29(2), 196–217. <https://doi.org/10.1080/13501763.2020.1837918>
- Zbiral, R., Princen, S., & Smekal, H. (2023). Differentiation through flexibility in implementation: Strategic and substantive uses of discretion in EU directives. *European Union Politics*, 24(1), 102–120. <https://doi.org/10.1177/14651165221126072>
- Zhelyazkova, A. (2022). Do EU policies constrain government autonomy? Insights from the implementation of EU migration policies. *West European Politics*. <https://doi.org/10.1080/01402382.2022.2135247>
- Zhelyazkova, A., Kaya, C., & Schrama, R. (2016). Decoupling practical and legal compliance: Analysis of member states' implementation of EU policy. *European Journal of Political Research*, 55(4), 827–846. <https://doi.org/10.1111/1475-6765.12154>
- Zhelyazkova, A., & Thomann, E. (2020). 'I did it my way': customisation and practical compliance with EU policies. *Journal of European Public Policy*, 29(3), 427–447. <https://doi.org/10.1080/13501763.2020.1859599>