Asylum recognition rates in the EU

Do procedural differences matter?

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Abstract

This thesis aims to examine the extent to which procedural features can explain the differences in asylum recognition rates across the countries that are part of the Common European Asylum System. Despite the EU's effort to harmonize how asylum applications are adjudicated, there is a large gap in recognition rates across member states, even between asylum seekers from the same origin countries. In the existing literature, explanations of asylum recognition rates most commonly focus on dynamic, political and economic factors in destination countries. The results from these studies do not fully account for the observed differences in asylum outcomes.

In this thesis, a more proximate explanation of differences in asylum recognition rates in the Common European Asylum System is proposed, focusing on variations in procedural features. I draw upon indicators from the Asylum Information Database annual country reports to code ten explanatory variables along the dimensions of procedural design, access to the procedures, and procedural rights. I include control variables for destination country and origin country conditions, and test the effects of the variables on asylum recognition rates in a dataset of 21 countries that participated in the CEAS in the period from 2012 to 2019. My statistical model is a multilevel model with random intercepts for destination countries and origin countries, which allows one to analyze both the within-country and between-country effects of the independent variables, while controlling for the clustered structure of the dataset.

The results do not suggest a large impact of procedural features on asylum recognition rates. Some of the explanatory variables have clear effects that are consistent with the hypotheses, like the negative effect of employing an accelerated procedure, and the positive effect of better provision of information and access to NGOs. However, a few other variables portray inconsistent effects or contradict the hypotheses, while several variables show no effects at all.

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Not all heroes wear capes. I don’t know if this thesis would have come about without my terrific supervisor Pierre. Not only was his feedback on all the drafts I sent him very helpful, and the literature he recommended very informative, but his persistent optimism and support was also invaluable. Thank you!

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The people at Sofie Lindstrøm also deserve credit. Struggling immensely while working from home during periods of this project has made me realize how much a good working environment matters. Thanks especially to the awesome quiz team members for keeping up the spirits!

Finally, my thoughts are with everyone applying for asylum, for whom the decisions I analyze are not just data points, but can have immense consequences for the rest of their lives.

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List of abbreviations

AIDA	Asylum Information Database
CEAS	Common European Asylum System
EASO	European Asylum Support Office
ECRE	European Council for Refugees and Exiles
ICC	Intraclass Correlation Coefficient
IMF	International Monetary Fund
ML	Maximum Likelihood
Q-Q plot	Quartile-Quartile Plot
REML	Restricted Maximum Likelihood
UNHCR	United Nations High Commissioner for Refugees

1. Introduction

There are common rules in place that govern most of the process of applying for asylum in the European Union. Based on the UN Refugee Convention, a Common European Asylum System (CEAS) has been established, with laws that specify which member state is responsible for each asylum seeker, what rights asylum seekers have during their reception, how the asylum procedure works, and who qualifies for international protection (Craig and Zwaan 2019, 27). The aim is that an asylum seeker should get her application considered individually on its own merits and have the same chance of being granted asylum in every EU member state. However, the evidence suggests that this is not the reality, as recognition rates differ strongly between member states, even for applicants from the same origin country (Toshkov and De Haan 2013, 673). Asylum seekers are thus subjected to unequal treatment depending on where they apply for asylum – "violating the spirit, if not the letter" of the Refugee Convention, as Eric Neumayer (2005, 44) puts it.

The European Commission maintains that while the Common European Asylum System has made asylum procedures more similar across EU member states, the harmonization has not gone far enough. The Commission (2020) has proposed an Asylum Procedures Regulation and a Qualification Regulation to oblige member states to follow the same procedure and grant protection on the exact same legal basis, replacing the directives in place today that give member states more leeway (Schittenhelm 2019, 237). Some scholars (Goodwin-Gill 2015, 8; Guild 2016, 589) have suggested to go even further in promoting equal treatment of asylum applications across the EU, by centralizing the decision-making on asylum claims at a European Migration and Protection Agency, with negative decisions being appealable to a European asylum court. However, very little research has looked at the extent to which the differences in institutional design and procedural features are actually accountable for differences in asylum recognition rates across the EU member states. That is the gap this thesis aims to close.

1.1 The research question

This thesis sets out to examine the impact of variation in procedural features on asylum recognition rates in the countries participating in the Common European Asylum System. The explanatory variables I have chosen are all clearly linked to the process of making decisions on asylum applications. Thus, I aim to offer a more proximate explanation for asylum recognition rates than the common explanations found in existing literature that focus on political and economic conditions and dynamic effects in destination countries.

The research question is the following:
To what extent do procedural features explain the differences in asylum outcomes between the countries that are part of the Common European Asylum System?

The asylum procedures are continuously evolving. The development of a Common European Asylum System has eradicated several important differences in how asylum procedures used to be conducted in the participatory countries. There is very little purpose in analyzing the effects of differences in procedural features that are now redundant. Hence, in this study I look at the variation in aspects relating to the asylum procedure that still exist after the last major reform, the second phase of the CEAS that was introduced around a decade ago, in the early 2010s.

As is common in the research field, I will study the effects on both the total recognition rate and the convention recognition rate. The former is the share of decisions that grant any type of protection, while the latter is the share of decisions granting refugee status according to the 1951 United Nations Geneva Convention. Note that both rates are shares of *decisions* that are positive, not shares of *people* being granted protection, which is what ultimately matters. However, asylum statistics only allow us to study the former.

1.2 Why study asylum recognition rates in the CEAS?

Understanding why asylum recognition rates vary so much within the Common European Asylum System is important for several reasons. Firstly, the CEAS is based on an assumption that all the participatory countries can rely on each other to uphold the agreed upon standards for people in need of protection. The Dublin system is aimed at preventing asylum seekers from applying for protection in more than one participatory country by often returning them back to

the state they first entered (Craig and Zwaan 2019, 31). Consequently, other participatory countries are also liable for failing to accomplish humanitarian goals when one country falls short. Equal treatment is essential, as large differences in outcomes between the countries delegitimizes the CEAS cooperation.

Secondly, studying the effects of procedural factors on asylum recognition rates in the CEAS is important because of the enormous effort and resources the EU puts into harmonizing the practices across countries. Many of the explanatory variables I include in the analysis concern differences in procedural practices between countries that would be eliminated with the new proposals from the European Commission (2020) for an Asylum Procedures Regulation and a Qualification Regulation. The proposals include measures forcing the laggards to up their standards, like mandating free legal aid at all stages of the procedure, not just the appeal stage like the current Asylum Procedures Directive (Directive 2013/32/EU, 73). However, the proposals also include new restrictions like obliging all participatory countries to apply a border procedure for asylum seekers arriving irregularly, under certain circumstances (European Commission 2020, 13). When deciding to intervene quite considerably in how the participatory countries conduct their asylum procedures, it is crucial that the harmonization works as intended and actually reduces the gaps in asylum outcomes. However, little evidence has been provided to show that the differences in procedural aspects are actually what responsible for the variation in asylum outcomes. Hence, this study aims to fill at least partially what is a quite sizeable knowledge gap.

1.3 Research approach

To examine the effects of procedural features on asylum recognition rates in the EU, I conduct a multivariate regression analysis on a dataset that includes a total of 6084 destination country – origin country – year units, spread across 21 European countries in the period from 2012 to 2019. I operationalize and code ten explanatory variables based on comparative indicators found in annual country reports published by the Asylum Information Database (AIDA). In addition to the ten explanatory variables focused on procedural design, access to the procedures, and procedural rights, I include destination country and origin country control variables based on common explanations in the existing scholarly literature. The models I construct are multilevel models with random intercepts for destination countries and origin countries. This is a fairly novel approach compared with the fixed effects models most common in quantitative

analyses of asylum recognition rates like Neumayer (2005), Sicakkan (2008a), and Avdan (2014). This model design allows me to better analyze the effect of the explanatory variables, while controlling for the clustered structure of the data. As they are institutional variables, the explanatory variables usually do not change very much year on year, so much of their effects would be absorbed the destination country dummy variables in a fixed effects model.

1.4 Contributions

Overall, the results of this study do not indicate a very large role for differences in procedural features in explaining the variation in asylum recognition rates between the participatory countries in the Common European Asylum System. The analysis shows a quite clear and consistent negative effect of employing an accelerated procedure, and positive effects of better provision of information and access to NGOs and the UNHCR, which is consistent with the hypotheses. At the same time, other explanatory variables show inconsistent effects and at times even effects in the opposite direction of what was hypothesized. Moreover, several of the variables, like better access to legal help and the opportunity to appeal a negative decision with suspensive effect on a removal order, appear to have no effects at all. For some of the variables there are reasons to believe that their impact may be obscured by the way asylum statistics are compiled. Still, dynamic, political, and economic control variables in destination countries display more convincing effects than the variables measuring procedural aspects.

1.5 Structure of the thesis

The thesis will have the following structure. In *chapter 2*, I first examine the historical developments that have led to the Common European Asylum System, which regulates most aspects of asylum procedures in the participatory states today. I look into the contents of CEAS legislation and discuss the implementation in a multilevel setting gives room for substantial differences in how asylum procedures are conducted. The second part of the chapter is a literature review of what we know about asylum recognition rates and their determinants. In *chapter 3* I introduce the data used in the study. I first discuss the selection of cases and time period for the study, and then introduce the two dependent variables, the total recognition rate and the convention recognition rate. Thereafter, I present the ten explanatory variables. I make concrete hypotheses for the expected effects of each explanatory variable, based on scholarly

literature and reports from NGOs. I also give an account of how the variables have been operationalized and coded. Finally, I present the origin country and destination country control variables. In *chapter 4*, I present the analytical strategy and examine the assumptions for the regression. I employ multilevel models with random intercepts for origin country and destination country. *Chapter 5* presents the results. First, I present the main models analyzing both the total recognition rate and the convention recognition rate and discuss the results for each of the explanatory variables. Then, I present a series of robustness checks. In *chapter 6*, I summarize the results and discuss their implications, as well as the limitations of the study, before I consider further avenues of research.

2. Theory

This theory chapter of this thesis is divided into two sections. In the first section I give an overview of how asylum procedures are set up in the European Union. I start by presenting the UN Refugee Convention, which is the legal basis for granting refugee status, and then I give an account of how the Common European Asylum System was developed. Finally, I discuss the content of the CEAS policies and how they are implemented in a multilevel setting that leaves room for procedural differences to occur between countries. The second section is a literature review of studies on asylum recognition rates. First, I review studies that describe the differences in recognition rates between participatory countries of the CEAS, and examine whether there is a trend of convergence in recognition rates or not. Secondly, I look at explanations of recognition rates centered on differences between the asylum seekers applying in different countries, and thirdly I look at explanations centered on differences in destination countries. Finally, I discuss what the existing literature has to offer regarding explanations of recognition rates centered on the asylum procedure itself.

2.1 Asylum procedures in the European Union

To delve into the puzzle of why there are such large discrepancies in asylum recognition rates across EU member states, we first need to understand the patchwork that make up the legal basis for granting protection to asylum seekers.

2.1.1 United Nations Refugee Law

The basis for granting refugee status in the EU is the 1951 UN Geneva Convention relating to the Status of Refugees ("Refugee Convention"), which all EU member states are parties to. The Convention defines a refugee as:

> "a person who is outside his or her country of nationality or habitual residence; has a well-founded fear of being persecuted because of his or her race, religion, nationality,

> membership of a particular social group or political opinion; and is unable or unwilling to avail him or herself of the protection of that country, or to return there, for fear of persecution" (UNHCR 2011, 3).

Timothy Hatton (2020, 82) argues that there are three essential doctrines to the convention. Firstly, the signatory states must evaluate on an individual basis whether each claim qualifies for refugee status. Secondly, the non-refoulement clause, which forbids states from returning someone to a place where their life or freedom is threatened. Thirdly, illegal entry or presence in a country is not a valid reason for denying someone access to the asylum procedures.

The Convention is also the legal mandate for the United Nations High Commissioner for Refugees (UNHCR), the UN agency responsible for aiding refugees, forcibly displaced communities, and stateless people, which was established around the same time as the Convention. While the Convention and the UNHCR was initially established to deal with refugees resulting from events in Europe occurring before 1951, the Protocol of 1967 removed these temporal and geographic restrictions.

Only asylum seekers who are found to qualify for protection under the Refugee Convention are legally classified as "refugees", with all the rights that the Refugee Convention mandates. The European Convention on Human Rights of 1950 adds certain additional reasons for protection beyond the Refugee Convention (Hailbronner and Thym 2016, 1050). It can protect not only against persecution, but also against indiscriminate violence and socioeconomic conditions considered life-threatening. The EU's Qualification Directive refers to protection based on other international human rights treaties than the Refugee Convention as "subsidiary protection", and standardizes the eligibility criteria and rights that follow with this protection status (Craig and Zwaan 2019, 32). Moreover, national legislation in certain countries include additional clauses warranting protection. All types of protection other than refugee status are referred to as "complementary protection" in UNHCR asylum statistics.

2.1.2 Development of the Common European Asylum System

For a long time, EU member states had little coordination on asylum policy. It was left to each member state to enforce their borders and implement the Refugee Convention. Consequently, there was a great deal of divergence in how different countries approached refugee protection.

While most Northern and Western European countries had effective systems for asylum determination in place by the 1970s, Southern European countries did not (Zaun 2017, 59).

Two occurrences brought on the need for more cooperation in the 1990s. Firstly, the Schengen agreement led to the abolishment of internal borders within most of the EU, leading the member states to prioritize enforcing external borders (Zaun 2017, 61). Southern European countries had weak border enforcement, and so Northern and Western European countries went to work trying to push them to control their borders more effectively. Secondly, the sheer amount of asylum applications in the EU increased massively from the 1970s to the 1990s, with the fall of the communist regimes and the wars on the Balkans, putting pressure on national systems for asylum determination and giving the policy field increased attention (Hatton 2004, 7). In essence, Natascha Zaun (2017, 4) argues that the development of the CEAS was set on the agenda by the traditional destination countries in Northern and Western Europe, in their desire to make member states in the Southern Europe and later also Eastern Europe share the asylum burden. That meant those countries had to establish effective systems for asylum determination they did not yet possess.

A breakthrough for EU asylum cooperation occurred after the adoption of the Treaty of Amsterdam. The treaty that entered force in 1999 was among other things aimed at creating the Area of Freedom Security and Justice (van Wolleghem 2019, 34). As a part of this agenda, the Amsterdam treaty set out the goal of having common standards in asylum policy and called for a step-by-step creation of a Common European Asylum System (Zaun 2017, 67). In the next five years, the first phase of the CEAS was enacted through a series of legislative acts such as the first Asylum Reception Conditions Directive, first Asylum Qualification Directive, first Asylum Procedures Directive and the Dublin II Regulation. These initial directives and regulations aimed at ensuring limited minimum standards for the member state asylum procedures (Hailbronner and Thym 2016, 1024). An EU directive is a legislative act that sets out goals EU countries need to achieve. Then, each member state device their own laws on how to reach these goals (European Union 2021). Member state governments must then transpose the directive into national legislation, within a timeframe laid out in the directive, usually two years. Meanwhile, an EU regulation is a binding legislative act that is applied in its entirety across the whole EU. Because of the indirect step where they are transposed into national legislation, there is in practice often more leeway for the member states in how to implement directives than there is with regulations (Schittenhelm 2019, 236).

The Lisbon treaty, which entered force in 2009, gave the EU institutions more powers to legislate in the field of asylum. A second series of legislative acts were introduced to replace the minimum standards of the first phase of CEAS with common rules intended to reduce disparities between member states (Hailbronner and Thym 2016, 1025). Within four years, the Asylum Reception Conditions Directive, Asylum Qualification Directive, Asylum Procedures Directive, and Dublin Regulation had all been recast. Hailbronner and Thym (2016, 1026) argue that the first and second phase of the CEAS might be considered a modest success. While falling short of ensuring equal application of the Refugee Convention in all of the European Union, it pushed the establishment of refugee protection systems in all member states, including states that had hardly made contributions previously.

The "refugee crisis" that emerged soon after the rehaul of the CEAS amplified the need to fix flaws and shortcomings of the CEAS. A series of new reforms were proposed for all of the above-mentioned directives and regulations. In addition, a European framework for resettlement of asylum seekers was proposed. However, there was no breakthrough in getting agreement in and between the European Parliament and the Council of the EU and so negotiations never concluded (Sokolska 2019, 12).

Recognizing that the EU has been unable to make the desired progress on its common asylum system for the last five years, the new European Commission (2020, 1) has recently launched a new legislative initiative "establishing a common procedure for international protection". The Commission (2020, 3) suggests to among other things to replace the Dublin Regulation with a Regulation on Asylum and Migration Management, which includes a new solidarity mechanism of flexible contributions through either resettlement of asylum seekers, financial support, or the responsibility to return rejected applicants. As it stands, there are still larges discrepancies between the EU member states, despite the harmonization efforts. Eastern European countries are often unwilling to take part in burden-sharing efforts and Southern European states, especially Greece and Italy, have been unable to effectively handle applications and provide according to the rights of asylum seekers and refugees (Zaun 2017, 5).

2.1.3 The contents of the CEAS policies

Having given a historical account of how the CEAS has been established, I will now give a brief summary of the content of the most important EU asylum legislation, namely the Dublin Regulation, the Qualification Directive, the Asylum Procedures Directive, and the Reception Conditions Directive.

The most debated element of the CEAS is probably the Dublin Regulation. The law sets out a procedure for determining which member state is responsible for handling an asylum claim. The purpose of this is to prevent asylum seekers from applying for protection in more than one EU country. This is seen as necessary to ensure the efficiency of the system and reduce the extent to which asylum seekers are pushed back and forth between member states (Hailbronner and Thym 2016, 1024). The Dublin system relies on the assumption that all EU member states are safe for all asylum seekers and contends that most asylum seekers are to be sent back to the state they first entered. This probably makes the distribution of asylum seekers in the EU more uneven and puts an especially high burden on Greece and Italy, who are facing notorious problems in taking care of the applicants they receive in an acceptable manner (Craig and Zwaan 2019, 31).

The Qualification Directive (Directive 2011/95/EU, 10) deals with "standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection". It is meant to guide EU countries in their application of the Refugee Convention, making sure they have the same interpretation (Hailbronner and Thym 2016, 1032). This legislation defines who may receive international protection, and what that protection comes with in terms of rights, such as protection against refoulement, residence permits, travel documents, and access to the labor market, education, welfare, healthcare, accommodation, and integration facilities (Craig and Zwaan 2019, 32). It also specifies that applicants have the right to have their asylum claim considered both for refugee status and subsidiary protection (Hailbronner and Thym 2016, 1053).

Complementing the Qualification Directive is the Asylum Procedures Directive, which sets out the standards for giving access to and ensuring fairness in the asylum procedure (Craig and Zwaan 2019, 33). The directive has a dual and probably contradictory goal of ensuring fair, high-quality decisions as well as quick decisions. Procedural rights include having a personal

interview, legal assistance, right to an appeal, right to remain in the territory while the application and appeal is considered as well as special support for applicants with special needs, like unaccompanied minors.

The Reception Conditions Directive ensures that applicants are entitled to housing, food, and healthcare as well as employment, education, and economic benefits during the process of getting their claim considered and sets rules for when applicants can be detained (Craig and Zwaan 2019, 32). This is important to ensure the right to apply for asylum in practice, especially for the most vulnerable asylum seekers.

In an assessment of the CEAS legislation, Hailbronner and Thym (2016, 1026) contrasts the restrictiveness of the Dublin system, referred to as "fortress Europe" with the rather generous provisions of the Qualification Directive, which along with the rules on procedure and reception conditions can be seen as fairly extensive standards for protection of vulnerable people. However, both the strict rules of the Dublin Regulation on where an applicant can get their case considered, and the more generous provisions on how a case is to eventually be assessed only matter insofar as they are implemented by the member states.

2.1.4 Implementation of the CEAS

While CEAS legislation has gone quite far in harmonizing asylum procedures in EU member states, Schittenhelm (2019, 238) explains how implementation gaps between members states can occur from "inappropriate conditions for putting asylum legislation into practice". EU governance in the asylum field is fragmented, relying on lower levels of governance to implement its policies (Heijer, Rijpma, and Spijkerboer 2016, 623-624). The EU has no executive power in the policy area, there are no EU-wide asylum courts, and most of the EU asylum law is in the form of directives, transposed into national law, rather than regulations that directly apply to all member states (Craig and Zwaan 2019, 29).

As a result, it is not entirely surprising that the implementation of the CEAS appears to be uneven. The case of Greece stands out, where both the European Court of Human Rights and the European Court of Justice have noted the lack of compliance with human rights and EU legislation (Hailbronner and Thym 2016, 1026). Even in Northern European states like Sweden and Germany, which are prime examples of what Zaun (2017) calls "strong regulators" in the

asylum field, common practices for how to implement an EU directive on asylum do not come automatically. In her study of the implementation of the recast Asylum Procedures Directive, Schittenhelm (2019, 237) finds that the directive is "compatible with different, sometimes even contrasting properties of domestic asylum policies". For example, in Sweden a written report of the personal interview is given to the applicant along with free legal help before a decision is made, while it is not in Germany. Moreover, in Germany, an accelerated procedure is more extensively used for applicants from designated "safe countries of origin" than in Sweden (Schittenhelm 2019, 235).

Julia Schmälter (2018, 1345) argues that for member states to comply and effectively implement EU policy, they must have both willingness and capacity to do so. Schmälter (2018, 1348) studies how the European Commission promotes the implementation of the CEAS in member states. She finds that the Commission extensively uses capability-enhancing instruments to support member states but does little to influence the willingness of member states to comply. National interests in asylum policy often seem to be different from European Union interests (Heijer, Rijpma, and Spijkerboer 2016, 623). From a simple collective action perspective, the benefits from providing refugee protection are not retained by the specific member state, but the costs largely are.

To aid the member states in the implementation of asylum policy, the has EU since 2010 built up the European Asylum Support Office (EASO). The office shares country of origin information, spreads knowledge about EU asylum law and supports member states in difficulties, including with emergency support teams (Hailbronner and Thym 2016, 1027).
Schmälter (2018, 1342) believes the EASO has "contributed considerably to building up member states' capacity" through providing common guidelines, handbooks, and best-practice examples. Schittenhelm (2019, 233) details how the EASO conducts "train-the-trainer" programs for participants who will spread the knowledge in their national asylum institutions, seeking to spread common practices that, if they were followed in every member state, could contribute to eliminating the gaps in recognition rates. On the other hand, Heijer, Rijpma, and Spijkerboer (2016, 623) note that EU member states have been unwilling to grant the EASO with any executive power, leaving it only with the softer tools of assisting national asylum authorities in its quest to reduce disparities in refugee protection.

Section 2.1 has described how the CEAS aims to standardize the way the refugee status and other forms of international protection are granted in the participatory countries. While the legislation attempts to make asylum decision-making more uniform, there is also an implementation gap between the member states. My research question asks whether differences relating to the asylum decision-making procedure, stemming from a lack of harmonization in law and in implementation, can account for the distinct outcomes produced by different EU countries, in terms of asylum recognition rates. Section 2.2 will complement the previous section by depicting the starkly different prospects for protection an asylum seeker faces depending on which EU country they apply for asylum in. Moreover, I will review the existing literature on asylum recognition rates, and the competing explanations for why the outcomes produced by the asylum procedures in Europe vary so much.

2.2 The Puzzle: Differing asylum recognition rates

The puzzle at the heart of this thesis is that despite EU member states granting refugee status according to the same Refugee Convention, and despite the EU regulations and directives that lay out comprehensive rules for how to uphold this convention, there are large and persistent differences in how easy or difficult it is to obtain protection in the different EU member states. This is problematic, as it implies that many asylum seekers are given an arbitrary rather than fair consideration of their applications.

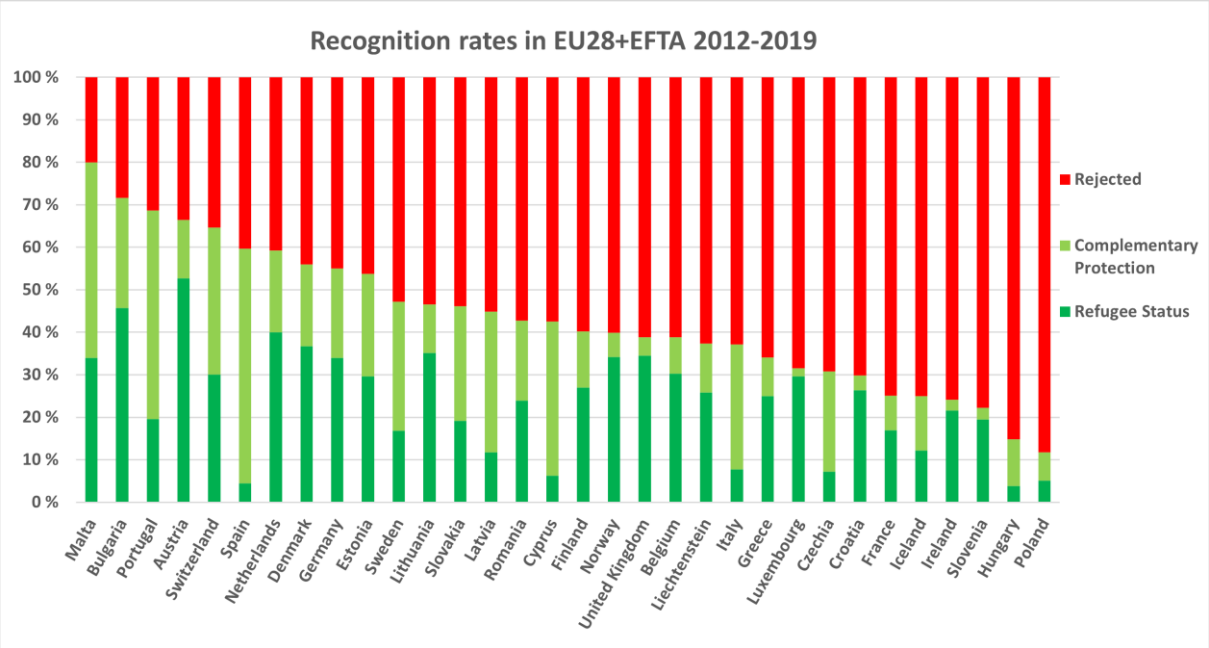
In this section, I will first go through the academic literature that has studied asylum recognition rates themselves and looked at the developments and dynamics in recognition rates across time and between EU member states. Then, I will discuss the proposed explanations of differences in asylum recognition rates between countries, first concerning structural conditions in origin countries, and secondly concerning structural conditions in destination countries. Finally, I will discuss the group of explanations that this thesis is part of, looking at causes of disparities associated with the asylum procedure itself.

2.2.1 Studies on recognition rates and convergence

A quick glance at a figure displaying asylum recognition rates in different countries usually reveals stark gaps between the countries that take part in the Common European Asylum System. Figure 2.1 below, in which I have added all decisions in the period of study for this

thesis, 2012 to 2019, reveals that total recognition rates for refugee status and complementary protection combined varied from around 80% in Malta down to barely 12% in Poland.

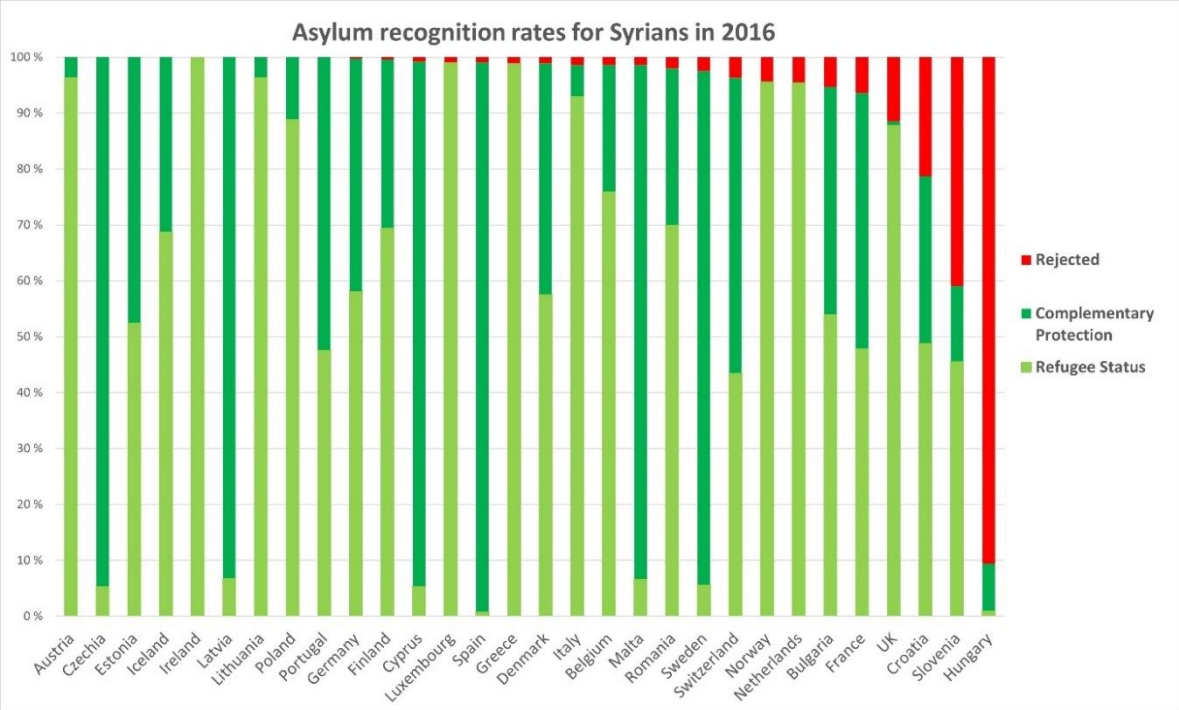
Figure 2.1: Recognition rates by country in EU28 + EFTA from 2012 to 2019. Data from UNHCR (2020), graph created by the author.



However, the raw recognition rates displayed in Figure 2.1 can be misleading, as each country makes decisions on applications from groups of asylum seekers that can be very different from each other. Looking at 2016, the year in the period under study in this thesis when most decisions on asylum applications were taken in the CEAS, the most common country of origin was Syria. The second most decisions were taken on applications from Afghans. Below I display charts showing asylum recognition rates for these two countries of origin in 2016. Note that a few small countries in the EU/EFTA did not make more than ten decisions regarding Syrians and Afghans respectively in 2016 and are therefore excluded from the table.

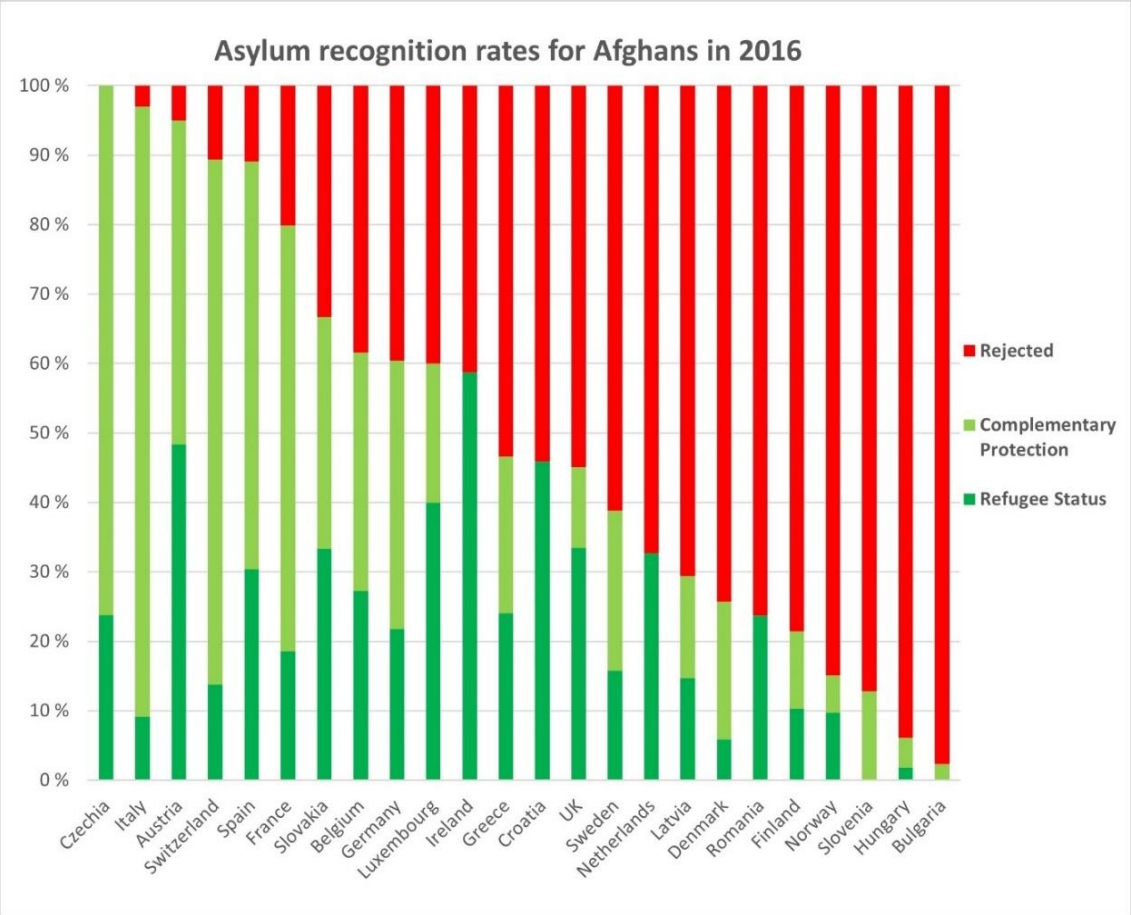
As Figure 2.2 shows, most destination countries in the CEAS gave protection to almost all Syrians in 2016, with Hungary as a big exception. However, countries differed substantially in terms of whether they primarily gave Syrians refugee status or some type of complementary protection.

Figure 2.2: Asylum recognition rates for Syrians in 2016, by destination country. Data from UNHCR (2020), graph created by the author.



Looking at the chart for Afghans in Figure 2.3, the rates are clearly not as uniform as for Syrians. The differences between EU/EFTA countries are even more stark, with recognition rates all across the spectrum. Some countries gave protection to almost all Afghans, while other countries rejecting almost all claims. Once again, some countries primarily gave refugee status to Afghans in 2016, while other countries primarily gave complementary protection. It can also be mentioned that for countries like Albania and Serbia, the fourth and fifth most common countries of origin in 2016, with just short of 50000 decisions each, the recognition rates were very low across the most of the CEAS, averaging only around 1% for refugee status and 3% for all types of protection, but a few countries had substantially higher rates. The key takeaways here are that the country of origin of the asylum seekers is a main factor explaining asylum recognition rates, but even for asylum seekers from a specific origin country a specific year, there is plenty of variation in recognition rates that remains unaccounted for.

Figure 2.3: Asylum recognition rates for Afghans in 2016, by destination country. Data from UNHCR (2020), graph created by the author.



Numerous studies testify to these vast and systematic differences in how generously European countries are in their assessment of asylum claims. Neumayer (2005, 58) conducts an analysis of the coefficients of variation in recognition rates in the EU-15 between 1980 and 1999, and finds large differences between the countries, also when the country of origin of the asylum seekers was taken into account. He does not find any trend towards *convergence*, decreasing variation in recognition rates between destination countries in this period, but then again this was before the CEAS was established. Toshkov and de Haan (2013, 673-676) look at recognition rates for the ten most common origin countries between 2000 and 2010, in the 27 EU member states of the period, Norway, and Switzerland. They calculate the coefficient of variation for each country and find clear gaps in recognition rates for all of them. Since the first phase of the CEAS was being implemented during this period, one would expect some degree of convergence if the policies were at all effective in achieving their goal of harmonization. Interestingly, they do find that the variation in recognition rates is lower in 2008-2010 than in

2000-2002 for nine of the ten countries of origin, with a trend towards convergence especially for recognition rates for asylum seekers from Afghanistan, Iraq, and Eritrea.

Besides the systematic patterns of differences in recognition rates, one finds occasionally stunning differences. As Parusel (2015, 131-133) points to, in 2013 recognition rates for Russians ranged from 41% in the UK to 2% in Germany, recognition rates for Afghans ranged from 11% in Greece to 91% in Italy and recognition rates for Syrians ranged from 51% in Italy to a whole 100% in Malta. Indeed, the European Commission (2008, 3) has itself admitted that the varying recognition rates in different EU member states for people from the same origin country is a clear problem. Perhaps telling of the European Commission's pragmatic priorities, it noted first that this causes secondary movements of asylum seekers within the EU as they aim to apply for asylum where they have a better chance of getting it, and second that such different recognition rates break with the principle of equal access to protection.

2.2.2 Explanation: Differences between applicants

It is important to emphasize that there are some justified reasons for why recognition rates should vary between countries. The same applicant should have the same likelihood of getting a positive decision in every country, but different applicants should probably have different chances. Since the composition of the group of applicants that apply for asylum is somewhat different in each country each year, this is a well-known cause of variation in recognition rates.

Numerous studies have tried to quantify and account for these differences between applicants. Leerkes (2015) looks at recognition rates in the EU in 2014 and takes into account the country of origin, age, and sex of each applicant to create "adjusted" recognition rates for each country where the differences in these three factors are held statistically constant for every country. Leerkes (2015, 31) finds that the gaps between countries are considerable smaller once adjusted, with country of origin being the factor that best predicts the positive or negative outcome, and sex and age having a much smaller impact. Still, the countries with the highest adjusted recognition rates accept about twice as many applications as the countries with the lowest adjusted rates, meaning there is much variation that remains to be explained. Also, almost all of the many Syrians who applied for asylum in 2014 got their applications accepted in all countries in the study, meaning that the gaps in recognition rates might be even larger in other years. Quantitative studies by Neumayer (2005) and Plümper and Neumayer (2020)

demonstrate further how worse conditions in origin countries are related with substantially higher recognition rates, and the circumstances under which women have somewhat higher chances of getting positive decisions.

Such general information about applicants and the countries originate from might seem inadequate to explain how differences between applicants affect their chances of getting their applications accepted, since it completely ignores their personal story and experience. However, this general information is often heavily relied on by decision-makers assessing the applications. In her ethnographic study inside the Norwegian asylum bureaucracy, Liodden (2019) describes the importance decision-makers put on treating comparable applications equally. They develop a practice made up of similar decisions to "serve as precedents in subsequent assessments" that includes the most common reasons for applying for asylum from a specific country, and whether those types of applications are usually given a positive or negative decision (Liodden 2019, 248). In other words, an applicant's personal account of why they are applying for asylum is seen in the light of knowledge about the origin country, to establish whether the testimony is credible or not. When the country information is outdated, this can lead to wrong decisions. Consequently, updated country information is one of the typical reasons for a negative decision being overturned. On the other hand, it is reportedly extremely unusual that a case is overturned on appeal due to a different assessment of the credibility of the applicant's personal testimony (Liodden 2019, 253).

2.2.3 Explanation: Conditions in destination countries

Another strand of scholarship looks at structural factors in destination countries that are not supposed to affect the assessment of asylum applications but are still believed to be associated. In accord with the Refugee Convention, applications are considered on an individual basis, and there is in principle no limit to how many applications a country must process and accept (Hatton 2020, 83). Still, one might suspect that the sheer amount of asylum applications and political and economic conditions in destination countries have an effect on recognition rates.

In his quantitative study of 29 European countries over 24 years, Toshkov (2014, 209) finds a dynamic relationship where "higher recognition rates in the past are related to higher applications shares now, and higher asylum shares in the past are related to lower recognition rates now." However, this effect is small. The findings of Weber (2018, 1291) are similar,

although he notes that the evidence is too weak to conclude that governments are recognizing a smaller share of applications as the number of applications increases. Thielemann and Dewan (2006) make the argument that there is an implicit burden sharing between countries, where some contribute to refugee protection primarily reactively by providing protection to the displaced people, while other countries contribute primarily proactively through peacekeeping efforts. They offer evidence for the years 1994-2002 that smaller Northern and Western European countries as well as Canada punch above their weight in terms of hosting refugees, while noting that larger countries like the US, UK and France carry more of the burden of peacekeeping operations (Thielemann and Dewan 2006, 356).

Another set of questions are whether measures of economic conditions like the size of a country's economic output per capita, its current growth rate and unemployment has any effect on recognition rates. In his quantitative study of recognition rates in Western European countries between 1980 and 1999, Eric Neumayer (2005) does not find any evidence of a weaker economy, measured in GDP per capita, or higher unemployment being related to lower total recognition rates. Toshkov (2014, 204) finds that GDP per capita has a positive effect on recognition rates in terms of between-country variation, but no effect in the form of within-country variation as a country's economy grows or shrinks over time. In line with Neumayer's results, Toshkov finds no effects of changes in the unemployment rate. Schneider, Segadlo, and Leue (2020, 12) conducts an analysis of recognition rates in the various German regions or "*länder".* Germany is an example of a federal country where the asylum procedure is conducted at a regional rather than national level of government. As it turns out, they do not find large or consistent effects of unemployment, GDP per capita or the economic growth rate on recognition rates at the sub-national level of a federal republic either.

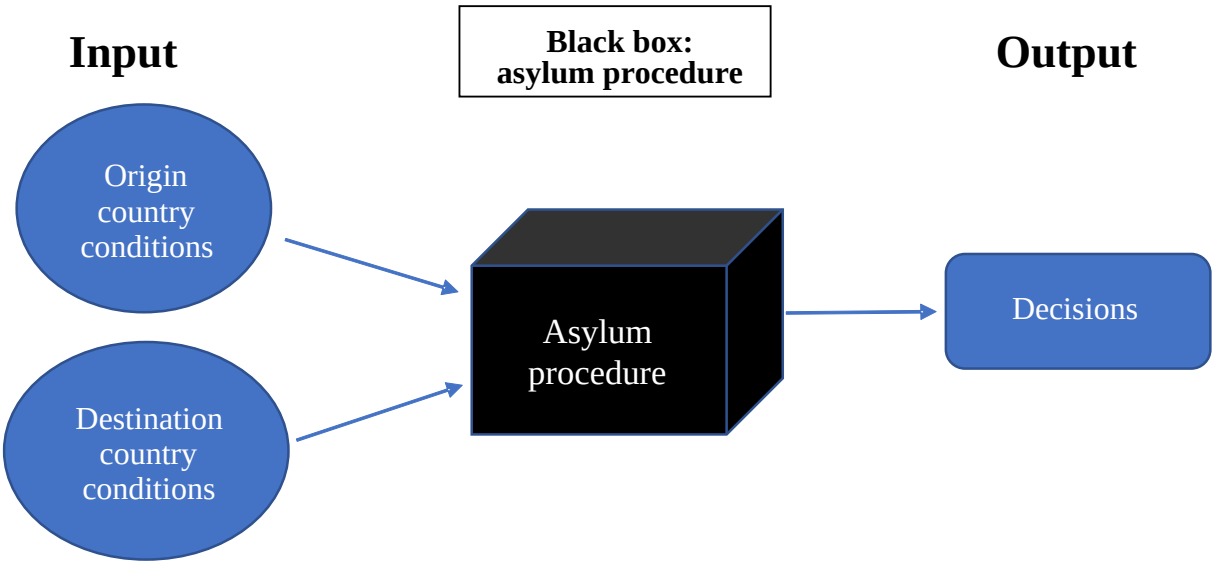
When it comes to political conditions in destination countries, the findings are even less remarkable. Neumayer (2005, 60) finds that the share of votes for right-wing populist parties does not seem to matter at all. Toshkov (2014, 200-201) tries to develop a more encompassing measure of the government's position on immigration and multiculturalism using data from the Manifesto Project. He aggregates several variables and weights the score for each party in government by their share of members in parliament to get a score for each government's stance. However, Toshkov (2014, 204) only finds a small positive effect of a government's pro-immigration stance on asylum recognition rates, which he accounts to structural cross-country variation rather than dynamic variation from government alterations in each country across

time. Interestingly, Schneider, Segadlo, and Leue (2020, 12) find a clear positive effect of how many years the Social Democratic Party, as opposed to the Christion Democratic Party has historically been leading the government of a German region on its recognition rates. The Social Democratic Party being currently in government on the other hand, seem to even have a small negative effect on recognition rates. Like in Neumayer's (2005) study, the share of the vote for right-wing parties has no consistent effects in German regions either.

2.2.4 Explanation: Inside the decision-making process

To sum up, neither political nor economic structural conditions in destination countries seem to be able to adequately explain the large variation in recognition rates between countries that remain even when accounting for the fact that the applicants for asylum are different in each country each year. Quantitative studies of dynamic, economic, and political conditions in destination countries that may correlate with asylum recognition rates, like those by Neumayer (2005) and Toshkov (2014) do not engage with the mechanism through which their indicators are supposed to impact asylum recognition rates. Policymakers may care about the political or economic consequences of granting asylum at a high or low rate, but policymakers do not make decisions on asylum applications. The bureaucrats and judges who make these decisions are supposed make decisions on a legal basis, so it is unclear how factors like the unemployment rate or share of the vote for right-wing populists would be able to impact the process.

Figure 2.4: The asylum procedure as a "black box".



As Figure 2.4 illustrates, the common destination country-centered explanations of differences in asylum recognition rates across the CEAS treat the process through which an application is considered and either accepted or rejected as a "black box", ignoring the internal workings of the system. However, there are good reasons to believe this process is of importance.

My study will focus on differences in procedural design, access to the procedures, and procedural rights in trying to explain the cross-national variances in asylum recognition rates. The specific explanatory variables along with hypotheses for their individual effects, grounded in scholarly literature and NGO reports, will be presented in section 3.3 of the next chapter. Against the backdrop of the extensive efforts of the European Commission to harmonize asylum procedures in the EU, it is theoretically and practically interesting to analyze the extent to which such differences in procedures have a measurable impact on the output of the system. There is not a lot of existing literature looking to explain cross-national differences in asylum outcomes by looking at the decision-making procedure itself, but especially Sicakkan (2008a) stand out as a source of inspiration to draw upon. In the following section I will discuss this work and a few other studies and alternative explanations of asylum recognition rates embedded in the decision-making process itself.

Sicakkan's study (2008a)

There is really only one previous quantitative study that has touched upon the same research question that I do in this thesis, namely explaining differences in asylum recognition rates with institutional design and procedural differences. As the title of Sicakkan's (2008a) book *Do Our Citizenship Requirements Impede the Protections of Political Asylum Seekers?* suggests, the main research question in his study does not directly relate to my own. However, his study is very thorough, and performs analyses of a total of six general hypotheses identified in existing literature as having the potential to explain European asylum recognition rates (Sicakkan 2008a, 280). One of these is the variation in legal and institutional setup of national asylum procedures.

There was a lot more procedural heterogeneity between European asylum procedures in the time period of 1980-1999 that Sicakkan studies, compared to today, since the first and second phases of the CEAS have led to a lot of harmonization since the beginning of the millennium. Sicakkan spends three chapters developing a long list of variables covering the topics of "Detention Procedure", "Access to Asylum Determination Procedures", and "Normal Asylum Determination Procedures".

To analyze the effects of these groups of variables, Sicakkan uses the dataset developed by Neumayer (2005), and the same origin control variables. However, unlike Neumayer, he does not use destination country dummy variables to control for the multilevel structure of the data (Toshkov 2014, 196). Among the findings in the analyses are that allowing multiple actors to partake in decision-making – central authorities, legal courts, NGOs, and asylum boards – is associated with higher recognition rates, and that countries with a welfare perspective in the provision of legal help, i.e. equal provision to all, have lower recognition rates than countries with a needs-based charity perspective on the provision of legal help. Some of the analysis revolves around variables that are no longer relevant as the asylum procedures of Europe have evolved. For example, Sicakkan (2008a, 308) finds that single procedures may lead to lower recognition rates than separate procedures for refugee status and complementary protection. However, following the first phase of the CEAS almost all EU member states implemented a single procedure (Zaun 2017, 167), and with the recast Asylum Procedures Directive (Directive 2013/32/EU, 61) from 2013 this became the standard.

Compared with Sicakkan's study, I focus on a narrower set of procedural variables that are directly linked to the asylum procedures. I aim to offer a clear and plausible explanation for why each variable would affect the outcome in terms of recognition rates, from which I generate specific hypotheses. In the next chapter (section 3.3) I discuss how I have developed and coded these variables. The data for my study is from a later time period after the harmonization of the first and second phase of the Common European Asylum System, begging the question: Are procedural differences between EU countries still relevant to account for differences in asylum recognition rates? Finally, I have developed a different analytical model that takes into account how the data is clustered in origin and destination countries.

Hamlin (2014)

A more legal approach to explaining cross national differences in asylum recognition rates with varying rules and procedures is made by Hamlin (2014). She conducts a case study of the United States, Canada, and Australia, and focuses her explanation on a difference between formal/informal as well as adversarial/inquisitorial styles of decision-making (Hamlin 2014, 18-19). While the factors Hamlin focuses on might not be entirely quantifiable or transferable to the EU context, the distinction between judicial and administrative review that is one of the

explanatory variables presented in the next chapter corresponds to some extent with her line of reasoning.

Alternative explanations relating to the asylum procedures

It is important to point out that my type of explanations of the variations in recognition rates across countries focusing on procedural design, access to the procedures, and procedural rights are not the only possible explanations embedded in the decision-making process itself. Although there are few studies in this research field, it is possible to identify an alternative strand of explanations that are focused rather on organizational culture, norms, and individual values of decision-makers in the asylum bureaucracies than on the rules and procedures of the decision-making.

Fraser (2020, 28-29) conducts a case study of Canada, Japan, Ireland, and South Korea, and argues that it is "organizational culture, or organization-specific norms stemming from shared training and experiences that create distinct patterns of policy implementation". Specifically, he points to how bureaucrats with a background in refugee advocacy tend to see asylum seekers in fluid categories and focus on the macro-level causes of forced migration rather than the accuracy of the asylum seekers' claims, while decision-makers with a law enforcement backgrounds tend to see asylum seekers in fixed categories of either credible or not credible, leading to lower recognition rates.

Several studies have looked at differences between individual decision-makers. In the United States, Ramji-Nogales, Schoenholtz and Schrag (2007, 296) find "amazing disparities in grant rates, even when different adjudicators in the same office each considered large numbers of applications from nationals of the same country". In Canada, Rehaag (2008, 335) reveals that some decision-makers grant refugee status in nearly all cases they heard, while others only did so rarely, if at all. Differences in the caseloads of the different bureaucrats only partially accounted for these discrepancies. As Affolter, Miaz and Poertner's (2019, 274) ethnographic study of the Swiss asylum bureaucracies testifies to, it is well-known that every caseworker and office does not follow the exact same practice: "It is very common within the office to denounce other decision-makers, asylum units, divisions and even centres as being either softies or hardliners". However, the question remains of whether differences in individual values or practice between offices can explain the differences between countries.

Summing up

In this section, I have detailed what we know about the determinants of asylum recognition rates. I have discussed the legislation of the Common European Asylum System, and how there is an implementation gap between the participatory countries. Thus, despite the efforts at harmonization, there still exist substantial procedural differences, and it is interesting to examine the extent to which these can account for the variation in asylum recognition rates.

Explanations of asylum recognition rates focusing on aspects associated with the asylum procedure itself has the advantage that it is much clearer how these factors can directly affect the outcome of the asylum procedures, compared with dynamic, political, and economic factors in destination countries. Moreover, knowing the impact of differences in procedural design, access to the procedures, and procedural rights on recognition rates can have practical implications, as the EU is in the process of trying to further harmonize the asylum procedures and eliminate many of these differences.

3. Data and Measurement

In this chapter I will present the data used to analyze the effects of procedural features on asylum recognition rates in EU member states. First, I will discuss the case selection, in terms of the countries and time-period included in the study. Second, I will present how the dependent variables, the total recognition rate and the convention recognition rate, are operationalized, and discuss the implications this has for the analysis. Third, I will give a detailed account of each explanatory variable. I will explain why each variable is believed to have an impact on asylum recognition rates and present the hypothesized effects. Where it is applicable, I will comment on how current EU legislation leaves room for different implementation across the member states, and how proposed new legislation might change the circumstances. Moreover, I will describe how the explanatory variables have been operationalized and coded. Fourth, I will present the destination country and origin country control variables that are included in the study. Lastly, I present the descriptive statistics for the variables and discuss the measurement validity and reliability of the variables.

3.1 Case Selection

3.1.1 Countries

The scope of this study is in theory focused on the Common European Asylum System. Consequently, the cases I am interested in are the states that took part in the CEAS during the time period I study. However, the boundaries are not entirely clear. From the EU-28, the UK and Denmark opted out from certain CEAS measures (Craig and Zwaan 2019, 28). In addition, the EFTA countries of Switzerland, Norway, Iceland, and Liechtenstein take part in various parts of the CEAS, including the Dublin system.

As it turns out, the database with the best information on asylum procedures in the different EU/EFTA countries, the Asylum Information Database (AIDA), does not publish country reports for all countries, as smaller countries that process few asylum applications have been

left out. Moreover, AIDA only started publishing reports for some of the countries after 2012, so they do not cover the whole period of interest. In Table 3.1 I list the 21 countries that are covered by AIDA country reports and thus included in the analysis, and the years covered for each country, as well as the 11 countries of interest that participate in at least some aspects of the CEAS, but are not included in the AIDA database and thus not included in the analysis. I usually refer to the countries in this study as "EU member states" for simplicity, even though EFTA countries are also included. Since the excluded countries and the latecomers to the AIDA database are smaller European countries, they only represent 21,3% of the destination country-origin country-year units in the analysis, and only 5,0% of the almost 5,5 million decisions on asylum applications made in EU/EFTA in the time period of study.

Table 3.1: Countries and years included in the analysis

Countries included (21)	**Year beginning**	**Year ending**
Austria	2012	2019
Belgium	2012	2019
Bulgaria	2013	2019
Croatia	2014	2019
Cyprus	2014	2019
France	2012	2019
Germany	2012	2019
Greece	2012	2019
Hungary	2012	2019
Ireland	2012	2019
Italy	2012	2019
Malta	2012	2019
Netherlands	2012	2019
Poland	2012	2019
Portugal	2016	2019
Romania	2017	2019
Slovenia	2017	2019
Spain	2015	2019
Sweden	2012	2019
Switzerland	2014	2019
United Kingdom	2012	2019
Countries not included (11)		
Czechia Denmark Estonia Finland Iceland Latvia Liechtenstein Lithuania Luxembourg Norway Slovakia		

3.1.2 Time period

The purpose of the study is to investigate the extent to which variations in institutional design and procedural features can explain the persistent gaps in asylum recognition rates after the major efforts to harmonize the asylum procedures of EU countries in the first and second phase of the CEAS. The second phase of the CEAS started with a plan introduced by the European Commission in 2008. The first major piece of legislation, the recast Qualification Directive, was passed in 2011, and by the end of 2013 all the other major legislative acts of the second phase, as described in the previous chapter, had also been passed (Hailbronner and Thym 2016, 1025). As I have discussed earlier, EU regulations and especially EU directives require some time before they are implemented by national governments. Some governments are a lot quicker than others. This means that it likely took many years after 2011 for the full effect of the second phase of CEAS legislation to be felt. It is unlikely that the second phase of the CEAS had much of an impact on asylum procedures in the EU/EFTA in 2011 since the Qualification directive was passed in the middle of December that year. I choose to start the analysis in 2012 to capture the whole time period since the beginning of the implementation of the second phase, even though some countries were still implementing directives several years later. As an example, Italy transposed the recast Asylum Procedures Directive into national legislation on September 15, 2015, after the deadline set by the EU, and more than two years after the directive was passed (De Donato 2015, 104).

Figure 3.1: Recognition rates by year. Data from UNHCR (2020), graph created by the author.

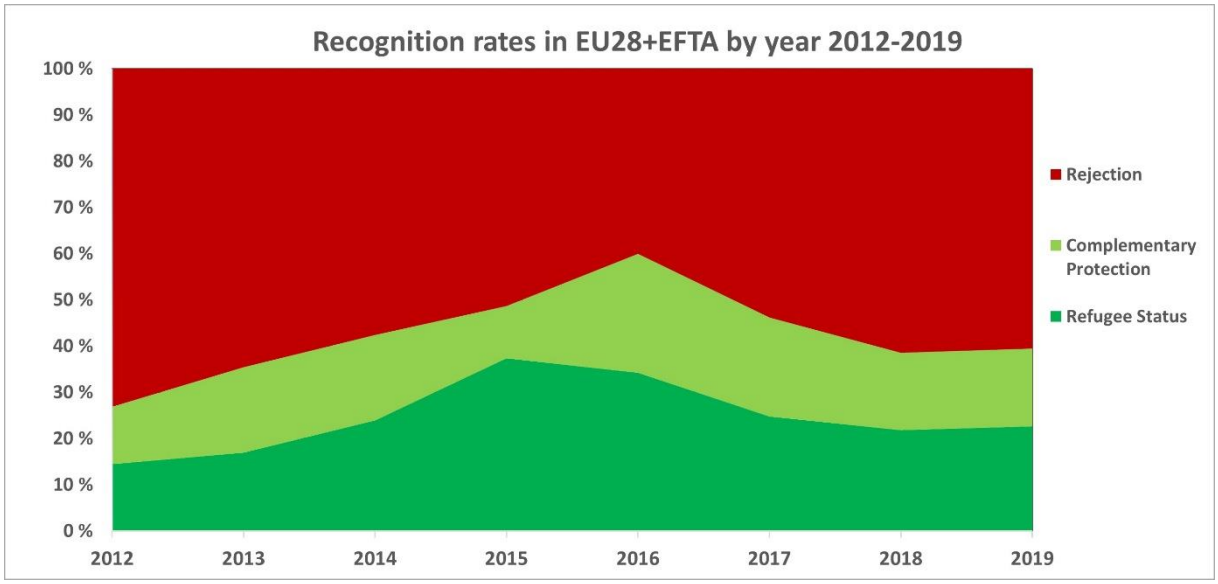


Figure 3.1 displays the recognition rates for all the countries of interest in the time-period of the study. As can be seen, there is a surge in the share of decisions granting refugee status in 2015 and 2016, during the height of the "European migration crisis". In the subsequent years, recognition rates have fallen to similar levels as were seen preceding the crisis.

3.2 Dependent variable: asylum recognition rates

Theoretically, the dependent variable of interest is the rate of recognized asylum seekers. *What are the chances of an asylum seeker being granted asylum in a given destination country in a given year?* However, to compile such a statistic one would have to follow cohorts of asylum seekers applying for the first time in a country each year and follow them through the messy asylum procedure that sometimes takes years before it is clear if one is granted protection or not. Unfortunately, such statistics do not exist. Therefore, researchers are left with the statistics on asylum decisions, from which one can calculate the rate of successful asylum decisions, rather than the rate of successful asylum seekers. *What percentage of decisions on asylum applications grant a positive outcome in a given destination country in a given year?* This difference, which is discussed by Neumayer (2005, 51), Sicakkan (2008b, 209) and others, causes some problems.

Firstly, cases are recorded by the year the decision is made, not when the application is made. This means for example that the applications lodged in a specific year do not correspond 100% with the applications decided upon that year. Secondly, applicants are likely counted twice if they appeal a rejected decision, once when the first instance decision is made and again when a final instance decision is made. The statistics measure the decisions that are made, not the people who are protected (or not). Thirdly, if an asylum seeker files a subsequent application, which is not unusual as there might have been mistakes in the application or circumstances might have changed in their origin country, the asylum seeker will be counted again. This means that the calculated recognition rate is lower than the real rate of asylum seekers who receive protection. As the UNHCR (2017, 59) points out, this is also a source of heterogeneity between countries, as asylum seekers in different destination countries and from different origin countries do not appeal negative decisions and file subsequent applications at the exact same rate.

For the dependent variables I use data from the United Nations High Commissioner for Refugees (UNHCR 2020), like most previous research (Neumayer 2005; Sicakkan 2008a; Toshkov 2014; Avdan 2014). The data is easily available and structured in a practical way. Decisions are reported as either "Recognized", "Complementary protection", "Rejected" or "Otherwise closed". In accord with UNHCR (2010, 38) practice, I plan on using two dependent variables: The first is the "convention recognition rate", which only includes decisions that grant refugee status according to the 1951 UN Refugee Convention. The second is the "total recognition rate" that also includes decisions granting complementary protection.

Prominent authors in the literature on asylum recognition rates do not go into a lot detail about the analytical differences between the total recognition rate and the convention recognition rate. Toshkov (2014, 200) argues that the convention recognition rate is the most comparable between countries because the legal basis is exactly the same, unlike the total recognition rate which includes protection granted on the basis of national legislation. On the other hand, Neumayer (2005, 51) points to the clear substitutional effect complementary protection has on the granting of refugee status. As can be seen by Figure 2.2, almost all Syrians were granted protection in all but a few of the CEAS participatory states. However, some countries consistently granted refugee status, while other countries consistently granted complementary protection. It is less than ideal that the convention recognition rate conflates decisions granting complementary protection and rejections. We would not want to conflate an effect of a variable that leads to increased use of complementary protection with an effect than leads to more frequent rejections, as the consequences are vastly different for asylum seekers.

The convention recognition rate is calculated by taking the number of decisions that grant refugee status and dividing it by the total number of applicants who receive refugee status, complementary protection, and rejection. The total recognition rate is calculated by taking the number of decisions that grant refugee status or complementary protection and dividing it by the total number of applicants who receive refugee status, complementary protection, and rejection. The cases that are reported by the UNHCR as "Otherwise closed" are ignored for the purpose of calculating the recognition rates. UNHCR (2010, 38) explain that they exclude from calculations "cases that were closed for administrative reasons without taking a decision on the substance". The examples offered of such cases are when the applicant dies, when the applicant does not show up for an interview, when the applications is withdrawn, when the claim is

abandoned, and when it is determined that another country is responsible for the claim (e.g. Dublin procedure in the EU/EFTA).

The guidelines for how the data are supposed to be compiled are not extremely detailed, and so national statistics agencies compile their statistics a bit differently. The most obvious source of heterogeneity is that some countries report first instance and final decisions together, while most countries report these separately. In addition, some countries report statistics for new applications and subsequent/reopened applications separately. Most researchers (Neumayer 2005; Sicakkan 2008a; Avdan 2014; Koch et al. 2020) deal with this problem by aggregating first instance and final decisions into one and analyzing these together for each year. The alternative, as done by Toshkov (2014) and Leerkes (2015) for example, is to only look at first instance decisions, since one then avoids the heterogeneity caused by the fact that appealed cases are counted both at the first stage and the appeal stage. The disadvantage of this approach is of course that one ignores a vital part of the asylum procedure, as many applicants get their negative first instance decision overturned at the appeal stage. I have chosen the first approach of aggregating all decisions and analyzing them as one.

3.3 Explanatory variables

For the types of variables I want to study the effect of on asylum recognition rates, there is no preexisting database of operationalized variables. Sicakkan (2008a) is the only similar study, which created independent variables drawn from a huge pool of indicators covering the time period from 1980 to 1999. Because European asylum procedures have changed a lot since then, and because the reports from which the data was drawn are old and do not cover more recent years, Sicakkan's (2008a) study can serve as a source of inspiration for variables, but not a source of data or a blueprint to simply copy.

By far the most comprehensive source of data on contemporary asylum procedures in different European countries is the Asylum Information Database (AIDA). Managed by the European Council on Refugees and Exiles (ECRE), the database has compiled an expanding list of annual country reports, which has grown to 23 countries for 2019. While drawing inspiration from Sicakkan (2008a) and other literature on the asylum procedures, AIDA has been the main source used to develop the explanatory variables and code data from. AIDA has published a series of comparative reports that highlight differences between laws and practices in European

countries on topics relating to the asylum procedures. In addition, their country reports contain many indicators in the same format for every country every year, and thus serve as a useful source of reliable and comparable data. However, these indicators have not been aggregated into quantitative variables, and so this work I have done myself.

I have constructed and operationalized a total of ten explanatory variables, spread across the three dimensions *procedural design, access to the procedures*, and *procedural rights*. The dimensions and the independent variables belonging to each of them are presented in Table 3.2.

Table 3.2: List of explanatory variables across three analytical dimensions

Dimension	**Variables**
Procedural design	Judicial vs. administrative review Border procedure Accelerated procedure Grounds for accelerated procedure
Access to the procedures	Grounds for inadmissibility Suspensive appeals Suspensive subsequent applications
Procedural rights	Legal help Information and access to NGOs Rights for vulnerable applicants

In contrast with the very wide range of asylum-related variables that Sicakkan (2008a) includes, I have chosen to include only variables that are directly connected to the process of determining asylum applications. For this reason, I have not included factors like border control regime, reception conditions, use of detention, and rights of recognized refugees. While these factors are very important to asylum seekers and could have an indirect effect on asylum recognition rates by impacting if and where prospective asylum seekers seek protection, it is hard to link them directly with the asylum determination process. I have also not included the Dublin procedure, where it is determined which EU country is responsible for handling the application, as a case resulting in a Dublin transfer is not registered as either recognized or rejected, but rather as "otherwise closed" (UNHCR 2010, 38). I include variables concerning all the other types of procedures in the EU; the admissibility procedure, regular procedure, border procedure, and accelerated procedure, as these can lead to accepted or rejected asylum applications as registered in UNHCR statistics.

In the following section, I will go through the ten explanatory variables across the three dimensions. I present specific hypothesized effects for each variable, grounded in existing literature and NGO reports. When applicable, I also comment on how policies proposed by the European Commission could harmonize the current disparities between member states that the variables measure. Moreover, I give a brief explanation of how the variables have been coded from AIDA country reports. A detailed explanation of the coding rules can be found in Appendix A.

3.3.1 Dimension: Procedural design

From AIDA reports one can identify a number of important differences between European countries in how they have set up their asylum procedures My selected variables include *judicial vs. administrative review*, the *border procedure*, the *accelerated procedure*, and *grounds for accelerated procedure.*

Hypothesis 1: Employing judicial review has a positive effect on asylum recognition rates

An important procedural variable is concerned with whether negative first instance decisions that are appealed, are subjected to judicial review or administrative review. A few decades ago, there was greater diversity in the asylum procedures of Europe, and Sicakkan (2008a, 221-232) described four models of institution arrangements. Out of these four models, two are obsolete, as no countries still have central authorities as decision-makers at both the first and appeal instance, or the UNHCR as the primary decision-maker. However, a divide still exists between the countries on one hand where the central authorities make first instance decisions and legal courts make decisions on appeal, and the countries on the other hand where central authorities are the first instance decision-maker, and an asylum board is the decision-maker on appeal. The asylum boards were developed to assemble judicial competence and provide impartiality by including NGOs and the UNHCR as well as judges and government representatives. However, Sicakkan (2008a, 310) finds that countries with asylum boards rather than legal courts at the appeal instance are associated with lower recognition rates.

The variable is operationalized as a dummy variable, with the value of "1" if the destination country in a given year employs a judicial review of appealed cases, either through the ordinary

legal system or a specialized asylum court, and the value "0" if the destination employs an asylum board in a less legalized process to review appealed cases.

Hypothesis 2: Employing a border procedure has a negative effect on asylum recognition rates.

A border procedure is conducted when someone applies for asylum at the border of an EU country, and the authorities decide to consider the application directly at the border or in transit zones (EASO 2020, 6). Under current rules, EU member states are permitted, but not required, by article 43 of the Asylum Procedures Directive to perform a border procedure. The new Migration pact proposed by the European Commission sees a revamped role for the border procedure, along with a new pre-entry screening, and a seamless link between asylum and return procedures (European Commission 2020, 4-5).

The European Council on Refugees and Exiles (2019, 1) calls the procedure "highly controversial", and argues that "Conducted in situations of formal or de facto detention in border areas which are generally difficult to access by legal assistance providers, border procedures are not conducive to a fair and effective examination of international protection claims." If this is the case, then applying a border procedure seem likely to have a negative effect on recognition rates.

The border procedure entails either examining if the application is admissible, before it is considered in merit under a regular procedure on the territory if accepted as admissible, or it may entail a full examination of the substance of an application (EASO 2020, 12). The latter is only allowed by the Asylum Procedures Directive in the same cases as for accelerated procedure, essentially when the application is considered unlikely to succeed (EASO 2020, 6).

With information taken from AIDA country reports, the destination countries are coded as "1" if they make use of a border procedure, and "2" if this border procedure also includes decisions on substance, and not only admissibility. Countries are coded "0" if they do not employ a border procedure at all. As a robustness check, I have also run analyses with a different operationalization, where countries are coded as "1" only if they examine applications in substance at the border, and otherwise are coded as "0".

Hypothesis 3: Employing an accelerated procedure has a negative effect on asylum recognition rates

Another procedural factor is whether a country employs an accelerated procedure for applicants that are expected to get their asylum claims rejected. This practice is permitted but not mandated by the article 31(8) of the Asylum Procedure Directive (Directive 2013/32/EU, 78). To improve efficiency, many countries have employed such a fast-track system, but scholars and NGOs (Schittenhelm 2019, 235; Eriksen 2017, 82-83) worry that the accelerated procedure strips asylum seekers of some of their procedural guarantees, and that there is a self-reinforcing mechanism in sorting out cases expected to be rejected, which is usually done on the basis of destination country.

A key point is that an accelerated procedure usually entails lower procedural guarantees, for example the revoking the suspensive effect an appeal has on deportation if the first instance decision is negative (ECRE 2017, 2). However, the extent to which the process is different for an accelerated application compared to a normal evaluation varies between EU countries. Some countries also prioritize fast assessment of applications from vulnerable applicants or those considered very likely to be successful, but this is not considered an accelerated procedure as they have full procedural guarantees. This is instead referred to as "prioritized examination" in AIDA reports. The fact that the European Commission (2020, 8) has previously suggested to make the use of the accelerated procedure obligatory in certain cases means it is even more important to examine what effects the procedure has on asylum recognition rates.

The variable is coded as a dummy variable, with the value of "1" if the country employs an accelerated procedure for certain cases likely to be rejected, and "0" if it does not make use of such a procedure. This information is found in AIDA country reports. While more detailed information on what percentage of cases the accelerated procedure is applied to in each country would have been interesting, such data is only available for certain countries in certain years (ECRE 2017, 4-5).

Hypothesis 4: Employing more grounds for accelerating the procedure has a negative effect on asylum recognition rates.

EU member states do not only vary in terms of whether they employ an accelerated procedure or not. They also vary in terms of how many different grounds a country has enshrined in national law as a reason for employing the accelerated procedure, which I have coded in a separate variable. This variable gives more granularity to the analysis. The article 31(8) of the Asylum Procedures Directive (Directive 2013/32/EU, 78-79) specifies ten conditions under which the examination of an application may be accelerated. These grounds include: submitting an application with no relevant facts for the examination, coming from a safe country of origin, presenting false documents or information, having destroyed one's passport, making clearly false statements, making a subsequent application, applying only to delay deportation, having entered the country illegally and without good reason not applied for protection as soon as possible, refusing to take fingerprints, and being considered a danger to the national security. Consistent with hypothesizing that employing an accelerated procedure has a negative effect on recognition rates, I predict that employing more grounds for accelerating the procedure will also have a negative effect on recognition rates.

AIDA country reports offer a clear description of the grounds each country employs. Counting these gives a score from 0 to 10. However, each ground in national law do not always correspond clearly to a specific ground in the Asylum Procedures Directive. Therefore, the coding of this variable is the one that is probably the most unreliable, with a certain amount of judgement needed to match national grounds with the grounds in the Asylum Procedures Directive.

3.3.2 Dimension: Access to the procedures

The second dimension of explanatory variables concerns access to the procedures. EU countries vary significantly in how easy it is to appeal a negative decision, launch a subsequent application, and get one's asylum application considered on its merits rather than rejected as inadmissible on formal grounds first. It is understandable that destination countries would want to prevent asylum procedures from dragging on forever, as it is expensive to process applications, and asylum seekers have a lot of material rights during the examination period. In the worst case, a completely unrestricted system could lead to fraud and exploitation. However, by preventing certain asylum seekers from appealing a negative decision, launching a subsequent application, or dismissing their claim on formal grounds without considering its merits, one is all but guaranteed to also reject asylum seekers with genuine protection needs.

Concerning this dimension of variables, the less-than-optimal way asylum statistics are compiled becomes especially apparent. While we would in theory be interested in how a factor impacts an asylum seeker's chances of getting granted protection, what the dependent variable actually measures is the rate of positive decisions. Features like a better opportunity to appeal with suspensive effect or launch subsequent applications are likely to increase the amount of questionable, marginal, or improbable applications. These variables could therefore have a negative effect on the dependent variable, since most of these claims will get rejected, even though such features would probably have a small positive effect on an asylum seeker's chances of getting protection. Hypothesis 6 and 7 reflects this notion. It is also possible to imagine a more indirect and opposite effect, whereby the prospect of a quick rejection through for example a border procedure, accelerated procedure or admissibility procedure could lead some applicants with improbable claims to not apply at all, leading to higher recognition rates. However, while the first effect only assumes that asylum seekers who are allowed to apply for protection will apply, this second effect assumes more advanced strategic behavior from asylum seekers, where they anticipate the likelihood of a quick rejection and adjust their strategy according to this perception. Therefore, I have not based any hypotheses on this logic.

Hypothesis 5: Employing more grounds for inadmissibility has a negative effect on asylum recognition rates.

The Asylum Procedures Directive (Directive 2013/32/EU, 79) gives EU member states the opportunity to reject an asylum claim as manifestly inadmissible if one of the following five criteria is fulfilled: the claimant is under the protection of another EU member state (1), has protection in another country outside the EU (2), has travelled through a safe third country where they could apply for protection (3), is launching a subsequent application with no new elements to consider (4), or has had their claim considered as a dependent before launching a new claim in their own name (5). If this is the case, EU member states can quickly reject the application, without considering its substantial merits.

However, the Asylum Procedures Directive does not mandate that EU member states must apply all these conditions, and so there is a great variability in terms of how many of these five grounds for inadmissibility each member state applies in national legislation, with some being much more rigorous than others. Sicakkan (2008a, 316) finds that employing more grounds to

deem an applicant inadmissible is associated with lower recognition rates. It seems reasonable to expect that more broadly rejecting applications without considering their merits lowers recognition rates. This of course presumes that applications that are rejected as inadmissible are filed under "rejected" rather than "otherwise closed" under UNHCR statistics. UNHCR Statistical Yearbooks are not entirely clear on this, as "admissibility" is a concept particular to the EU asylum procedure, but Eurostat (2016, 29) technical guidelines to the national statistics agencies are explicit that applications considered as inadmissible shall be counted as rejected.

The effects of applying more or fewer grounds of inadmissibility is particularly interesting given the clear agenda of the European Commission to expand the use of the admissibility procedure. The 2016 Asylum Procedures Directive proposal (European Commission 2016, 4) that was not passed, but is being resurrected, would have made it mandatory for member states to apply an admissibility procedure. Even more recently, the European Commission (2020, 21) has suggested to introduce a new "pre-entry phase", screening the admissibility of all applicants at the border or in transit zones before they are possibly allowed to enter the country and have their applications considered on the merits.

From AIDA country reports it is fairly easy to figure out which of these five grounds for inadmissibility are mandated for use by national legislation in each member state. In the coding, the destination countries are given one point for each ground for inadmissibility they apply, which gives a score from 0 to 5.

Hypothesis 6: More chances to appeal with suspensive effect has a negative effect on recognition rates

For asylum seekers to be able to claim their rights, they must be able to appeal negative first instance decisions, to avoid arbitrary decision-making. Moreover, it is crucial that the appeal suspends a deportation order until the appeal is considered, for the right to be meaningful in practice. As an example, Sorgoni (2019, 233) tells the story of an Iraqi Kurd who applied for asylum in Italy and appealed the negative decision. He gets a hearing scheduled for two months later, but this hearing never takes place, as he had been deported, and so the case is closed. A comparative report from ECRE (Mouzourakis 2016, 23-24) reveals that there is much divergence between European countries when it comes to the opportunity to appeal with

suspensive effect, and practices in some countries even breaks the standards set by the Asylum Procedures Directive.

Logically, one would think that an asylum seeker has a somewhat better chance of being granted asylum in the end, if there are more opportunities to appeal a negative decision at all the various stages of the procedure. However, since the dependent variable is not focused on successful asylum seekers, but on successful applications, each appeal and subsequent application counts as a new case. This means that the data on hand is not very well suited to investigate what effect suspensive appeals have. A more accessible opportunity to appeal, with deportation being suspended while the claim is being processed, opens the door for many applicants with low prospects of getting a positive decision, perhaps to be able to stay in the country a while longer while making other plans. Therefore, greater access to appeal negative decisions is hypothesized to have a negative effect on asylum recognition rates as recorded by the UNHCR, even though it is believed to increase an asylum seeker's chances of eventually being granted asylum.

I aggregate a series of indicators to create a variable that measures the opportunities to launch suspensive appeals. I include the normal, accelerated, border and admissibility procedures, with regular procedures being weighted double the other three procedures, as it is the most important one. For each procedure, a country gets one point if one can appeal negative first instance decisions, and another point if this appeal automatically suspends deportation. With four procedures included and regular procedures being weighted double, this gives a maximum of ten points.

Hypothesis 7: More chances to launch subsequent applications with suspensive effect has a negative impact on recognition rates

There are several reasons why an asylum seeker might want to launch a subsequent application. As ECRE points out, cases are sometimes closed because asylum seekers fail to show up to the personal interview or respond to a request for information. This may be because the asylum seeker is hospitalized or the invitation to the interview never reached the applicant (ECRE 2011, 25). Other times changed circumstances or new evidence means the asylum seeker has improved chances of being granted asylum. Accordingly, there are many good reasons why someone may want to launch a new application. At the same time, a subsequent application

may also be launched to delay a removal order from being executed, or simply because the asylum seeker hopes to be more fortunate the second time someone considers the case.

The logic surrounding subsequent applications is in many respects the same as in the discussion above on appeals. It seems certain that launching a subsequent application will not hurt an asylum seeker's chance of ultimately being granted protection, but since an open approach where it is possible to apply for asylum again and automatically suspend one's impending deportation can lead many asylum seekers with improbable claims to reapply and open a new case, the hypothesis is that this will have a negative effect on asylum recognition rates, as it is decisions that are counted, not people.

Today, the practices regarding subsequent applications vary a lot between EU member states, but this could change soon. In its 2020 proposal for an Asylum Procedures Regulation, the European Commission (2020, 19) suggests streamlining the rules on subsequent application, with the stated intent of preventing "abusive or last-minute subsequent applications". If implemented, these rules would make a subsequent application have an automatic suspensive effect, but not if it is made in the last stages of a return procedure. An appeal against a subsequent application would not have suspensive effect.

The variable for suspensive subsequent applications is fairly simple, with each country being given one point if a first subsequent application can be handed in and is automatically suspensive, and another point if a second, third application can also be handed in and is suspensive. As a robustness check I have also coded an alternative dichotomous operationalization where countries are coded "1" if a first subsequent application can be handed in and is automatically suspensive and "0" if it is not.

3.3.3 Dimension: Procedural rights

The final dimension focuses on the rights asylum seekers have during the asylum procedure. I have identified three independent variables focused on *legal aid, access to information and NGOs, and rights for vulnerable applicants.* These are all factors that the European Commission (2020, 4) argues need to be harmonized through a regulation to make sure they are applied to an acceptable standard across all member states.

Hypothesis 8: Better access to legal aid has a positive effect on asylum recognition rates

The Asylum Procedures Directive has been criticized for the large discrepancies in how easily and widely available free legal aid is in the asylum procedures of different EU member states (Peers 2013, 5). The article 20 of the directive declares that member states must provide legal assistance and representation in court at the appeal stage and may provide legal assistance at the first instance stage. The legal assistance can be withheld if the application is "considered by a … competent authority to have no tangible prospect of success" (Directive 2013/32/EU, 73). In the Asylum Procedures Regulation proposal from 2016 that was not passed, the access to legal help would have been improved, with asylum seekers having the right to request free legal assistance and representation at all stages of the procedure (European Commission 2016, 14). This notion was also included in the more recent proposal from 2020 (European Commission 2020, 4).

Inadequate legal aid is often cited by scholars and NGOs as a problem, and a reason why asylum applicants who should have been granted asylum end up not getting protection (see for example Gill and Good 2019, 12; Campbell 2019, 107; Hambly 2019, 198; ECRE 2020, 2). However, while insufficient legal aid might clearly seem to be a stumbling block for asylum seekers in individual cases, much less is known about the extent to which legal aid has an effect on the overall outcomes produced by asylum procedures in different countries. Sicakkan (2008a, 309) does not find a significant effect of the availability of legal help itself on recognition rates, while he does find some effect when he categorizes countries into either a welfare or charity model of legal aid, with the latter being correlated with higher recognition rates.

The legal aid score is the most complex of the ten explanatory variables. All EU countries provide some free legal assistance, but the extent varies a lot, both in terms of at what stages of the procedure the legal aid is available, and in terms of how easy it is to actually access the help one is entitled to, since some member states make it unnecessarily difficult in practice. AIDA indicators ask whether free legal aid is available at the first and appeal instance of each specific procedure, and the question is answered as "Yes" which would give two points in the calculation, "not always/with difficulty", which would give one point in the calculation, or "No", which would give zero points in the calculation. As with the appeal variable, I include the normal, accelerated, border and admissibility procedures, with regular procedures being weighted double the other three procedures, as it is the most important one. With four procedures measured, of which one is weighted double of the other three, and with both first

and appeal instances included for each procedure, this gives each country a score between 0 and 20 points. Since the distinction between "Yes" and "Not always/with difficulty" is a matter of judgement which AIDA country report writers have to decide on, there is a chance that it does not reflect real differences in access to legal help. As a robustness check, I have therefore coded an alternative operationalization, where both "Yes" and "Not always/with difficulty" gives 1 point. This adds up to a score between 0 and 10.

Hypothesis 9: Giving asylum seekers better information about the procedures and better access to the UNHCR/NGOs has a positive effect on recognition rates.

Access to information and access to the UNHCR/NGOs can be crucial factors inhibiting many asylum seekers from asserting their rights. As ECRE (2011, 11) emphasize: "Provision of full and reliable information to asylum seekers regarding the asylum procedure is a basic but essential aspect of a fair and efficient asylum system". Asylum procedures in the EU are complicated, and so this is far from simple. About the situation in Sweden for example, ECRE (2017, 7) remarks that access to information is a "significant challenge, as individuals are not clearly informed about the procedure or track they are subject to".

The Asylum Procedures Directive asserts that "Member States shall ensure that, on request, applicants are provided with legal and procedural information free of charge" (Directive 2013/32/EU, 74). Furthermore, it is stated that "Member States shall ensure that organizations and persons providing advice and counselling to applicants have effective access to applicants present at border crossing points, including transit zones, at external borders" (Directive 2013/32/EU, 68). The Asylum Procedures Directive (Directive 2013/32/EU, 77) also specifies the role for the UNHCR, which includes access to applicants in detention, at the border and in transit zones, as well as access to information on individual applications and the decisions taken. In practice however, the extent to which asylum seekers are provided information about the procedure and have access to the UNHCR and NGOs varies a lot from country to country. It is hypothesized that better access to information and the UNHCR/NGOs will lead to higher recognition rates, as asylum seekers are able to more effectively assert their rights.

The AIDA country reports contain a series of indicators suited to score the EU member states based on how well they provide information and access to the UNHCR and NGOs. A score is aggregated based on indicators on five questions. These questions are concerned with

information provided about the procedures (1) and asylum seekers rights and obligations (2), and access for asylum seekers to NGOs/UNHCR at the border (3), in detention centers (4), and in remote locations (5). Making a score that ranges from 0 to 10, I code 2 for each question answered "Yes", 1 for each question answered "Not always/with difficulty", and 0 for each question answered "No", in effect attributing equal importance to each question and aggregating them into one variable measuring access to information and access to UNHCR/NGOs. Just like with the variable for legal aid, the difference between "Yes" and "Not always/with difficulty" is not entirely clear and subject to the judgement of the country report writer. As a robustness check, I have therefore coded an alternative variable where both "Yes" and "Not always/with difficulty" gives 1 point. Otherwise, the alternative variable is composed in the same way as the original. The points add up to a score between 0 and 5.

Hypothesis 10: Stronger procedural guarantees for vulnerable applicants has a positive effect on recognition rates.

Finally, another important aspect of the asylum procedures where EU member states diverge is the procedural guarantees for vulnerable applicants. The Asylum Procedures Directive asserts that "Certain applicants may be in need of special procedural guarantees due, inter alia, to their age, gender, sexual orientation, gender identity, disability, serious illness, mental disorders or as a consequence of torture, rape or other serious forms of psychological, physical or sexual violence" (Directive 2013/32/EU, 63-64).

If an applicant is considered vulnerable, it can for example mean they are moved out of the accelerated procedure, so that their application is considered more carefully (Gill and Good 2019, 14). It can also mean that someone with special training is assigned to conduct the interview (Schittenhelm 2019, 236). It is often extremely difficult for asylum seekers to talk about topics like sexual abuse or their sexual identity, even if it is crucial for the prospect of their applications. Finally, unaccompanied children have special rights, like being exempted from detention except as a "last resort" and being assigned a legal guardian to act in their best interest (Giannopolous and Gill 2019, 109-110).

A comparative report from ECRE (Mouzourakis, Pollet and Fierens 2017, 16-17) makes clear that which factors are included in the definition of vulnerable asylum seekers vary quite a bit from country to country. Only a couple of countries have any statistics on how many of the

applicants they consider vulnerable, but here too there is a great deal of variation, from only a few percent in Cyprus to upwards of 20% in Croatia (Mouzourakis, Pollet and Fierens 2017, 23). Finally, the special rights for vulnerable applicants only matter insofar as these vulnerable applicants are identified, and not all EU countries have a mechanism to do this.

AIDA country reports include five indicators that are useful in creating a variable measuring protection of vulnerable applicants. For each indicator, a "Yes" gives 1 point and a "No" gives zero points. The indicators ask whether there is an identification mechanism in place to identify vulnerable asylum seekers, whether there are special procedural arrangements/guarantees for vulnerable people, whether the law provides for an identification mechanism for unaccompanied children, whether the law provides for the appointment of a representative to all unaccompanied children, and whether the law provides for the possibility of a medical report in support of the applicant's statements regarding past persecution or serious harm. Added up, this gives a possibility of a maximum of five points, and thus a score from 0 to 5.

3.4 Control variables

As I reviewed in the previous chapter, there is a substantial body of research trying to explain variation in asylum recognition rates besides my explanatory variables that focus on procedural explanations. My analysis needs to control for the effects of these alternative explanations. I will draw upon the control variables used by Avdan (2014), as well as the original framework developed by Neumayer (2005) which Avdan has later modified.

3.4.1 Control variables in destination countries

Firstly, I control for variation in destination countries. I include control variables measuring the past asylum burden, GDP per capita, unemployment, and the vote share for nationalist parties.

Past asylum applications

Firstly, I include a measure of past asylum applications per capita, giving an indication of the burden that the protection system in each country is under when decisions are made. Studies like Toshkov (2014, 207) have found a dynamic effect between recognition rates and the number of applications, where an increase in applications seems to have a negative effect on recognition rates. Like Avdan (2014, 454) I take the moving average of the past 3 years' asylum

applicants and divide it per thousand inhabitants of the destination country. This is done because the number of applications can vary a lot from year to year, and because there often is a substantial delay from when an application is submitted until a decision is made.

GDP per capita

To control for the economic situation in destination countries I include a measure of Gross Domestic Product (GDP) per capita, which a measure of a country's level of economic development that is quite stable from year to year. The GDP p.c. measure is taken from the United Nations (2021) statistics division and is measured in US dollars at current prices. Neumayer (2005, 62) finds a small negative effect of destination GDP per capita, while Avdan (2014, 460) finds a positive effect on total recognition rates.

Unemployment rate

As another economic control variable, I include unemployment rates in destination countries. Compared with the GDP p.c. variable, the unemployment rate is a more cyclical measure of how well the national economy is doing at the moment, as well as an indicator of whether labor is in ample supply or there is a need for more hands. Neumayer (2005, 60-62) and Avdan (2014, 466) find mostly weak and insignificant effects of unemployment on asylum recognition rates, with a slight negative tendency. The unemployment rates are annual estimates made by the International Labor Organization, measured as a percentage of the whole labor force. This data was downloaded from the World Bank (2021).

Nationalist parties

The political explanations of policy responses to asylum immigration tend to focus on the share of the vote for the parties that Hatton (2011, 66) calls "extreme right-wing" parties and Zaun (2018, 44) refers to as "right-wing populist" parties, whose opposition to immigration, especially non-Western immigrants, is a trademark policy. However, this group of parties are notoriously difficult to define and categorize. The best data set available is from the Manifesto Project (Volkens et al. 2020), and what they classify as "nationalist parties". This category of parties includes Front National in France, Alternative für Deutschland in Germany, Lega Nord in Italy, Golden Dawn in Greece, Jobbik in Hungary, the Sweden Democrats, PVV in the Netherlands, VOX in Spain and Vlaams Belang in Belgium. While the data set appears to capture the targeted group of parties fairly well, it does not include parties like UKIP (UK) which is classified as a special issue party, and PiS (Poland) and Fidesz (Hungary) that are

classified as conservative parties, despite their well-known opposition to asylum seekers and multiculturalism. The variable is operationalized as the share of the vote for nationalist parties in percentage points (0 to 100) in the last parliamentary election. In Neumayer (2005)'s study the effects of the variable were close to zero, but nationalist parties have had a surge of support in the new millennium and become a political force to reckon with.

3.4.2 Control variables in origin countries

An important issue is how to control for variation in which origin countries the asylum applicants to the different European countries are from, and the varying conditions in these origin countries. In the previous literature of studies analyzing the determinants of recognition rates, a couple of studies (Toshkov 2014; Schneider, Segadlo and Leue 2020) ignore the origin country entirely. I follow the more common approach (Neumayer 2005; Sicakkan 2008a; Avdan 2014; Koch et al. 2020) of studying the asylum recognition rates in each destination country from each origin country in each year separately. Neumayer (2005) developed a framework of variables for controlling for country of origin-effects. This was also used by Sicakkan (2008a) who used the same dataset and was modified a bit and used by Avdan (2014) who used more recent data. I use more or less the same framework.

One would expect higher recognition rates from more autocratic origin countries with more human rights violations and more battle fatalities, as the persecution people seek protection from is more serious in these countries, which the results from Neumayer (2005) and Avdan (2014) strongly and consistently confirms. Regarding origin country GDP per capita, expectations are not as clear, with Avdan (2014, 460) finding that recognition rates are higher from origin countries with higher GDP p.c., but Neumayer (2005, 61) not finding a consistent effect.

GDP per capita

The GDP per capita measure is the same as described in the section above on destination country control variables, taken from the UN (2021) statistics division. It could have been desirable to have a GDP p.c. measure that was at constant prices instead of current prices and adjusted for purchasing power parity, but such estimates do not exist for some of the most fragile economies that are also large origin countries for asylum seekers. As an example, an IMF (2021) dataset was missing data for Syria, Cuba, and North Korea.

Autocracy

To measure the degree of autocracy, I use the Freedom House (2021) dataset, the same that Neumayer (2005) uses. I could have been interesting to use the Polity V measure, like Avdan (2014) does, but unfortunately the research group behind this dataset has recently been defunded, so the dataset does not cover 2019. Freedom House's score of autocracy goes from 2 (most democratic) to 14 (most autocratic). The measure is an added score of the two scales "Civil Liberties" and "Political Rights", which are each measured 1 to 7.

Human rights violations

The Political Terror Scale (Gibney et al. 2020) is a measure of human rights violations. There are three codifications available, all ranging between 1 (best) and 5 (worst). Like Avdan (2014, 453) I will primarily use the scores drawn from Amnesty International's annual reports, and secondarily the US State Department's reports if Amnesty does not provide a score for a specific country-year. Thirdly I will use the scores based on Human Rights Watch's scores when neither of the two first sources provide a score.

Battle fatalities

I use the Uppsala Conflict Data Program's measure of battle fatalities as another measure of conflict in origin countries (Pettersson and Öberg 2020). Similar to Neumayer (2005), the variable is coded "1" if the best estimate of battle fatalities is between 25 and 1000, and "2" if the estimate is higher than 1000 in a single year.

3.5 Descriptive statistics

Table 3.3 displays descriptive statistics for the dependent and independent variables presented in this chapter. It is worth noting that the variables are on very different scales, and have different degrees of variability, so the effect of each independent variable cannot be directly compared in terms of coefficient sizes. Some of the explanatory variables have quite low variability, like judicial v. administrative review, with maximum score of 1 and mean of 0.9, as only a few countries in the data set employ administrative review. Note also that the variability is much higher for destination GDP per capita than for origin GDP per capita.

Table 3.3: Descriptive statistics of the dependent and independent variables

Variables	Minimum value	Maximum value	Mean	Standard deviation	Coef. of variation
Dependent variables					
Convention recognition rate	0	100	16.8	21.8	1.30
Total recognition rate	0	100	26.9	28.4	1.06
Explanatory variables					
Judicial v administrative review	0	1	0.9	0.3	0.40
Border procedure	0	2	1.1	0.9	0.79
Accelerated procedure	0	1	0.8	0.4	0.49
Grounds for accelerated procedure	0	10	4.4	3.6	0.81
Grounds for inadmissibility	0	5	2.3	1.6	0.68
Supensive appeals	5	10	8.6	1.2	0.14
Suspensive subsequent applications	0	2	1.2	0.8	0.71
Legal help	0	20	12.3	5.1	0.42
Information and access to NGOs	2	10	6.0	1.6	0.27
Rights for vulnerable applicants	1	5	4.0	1.0	0.25
Destination control variables					
Past asylum applications	0.1	11.0	2.5	2.4	0.95
Destination GDP per capita	7.0	89	42.5	16.3	0.38
Unemployment rate	3.1	27	8.4	5.0	0.59
Nationalist parties vote share	0	34	10.4	8.6	0.82
Origin control variables					
Autocracy	2	14	9.4	3.2	0.34
Origin GDP per capita	0.1	65	4.0	5.6	1.40
Human rights violations	1	5	3.3	1.1	0.33
Battle fatalities	0	2	0.5	0.7	1.35
N=6084					

3.6 Data validity and reliability

I end this chapter on data and measurement with a discussion of the measurement validity and reliability of the variables. It is especially important to be aware of these issues given that I have in part coded the data myself.

3.6.1 Measurement validity

As Adcock and Collier (2001, 530) defines it, "Valid measurement is achieved when scores … meaningfully capture the ideas contained in the corresponding concept." In section 3.2 I have already discussed in detail how the operationalized asylum recognition rate of successful

decisions is different from the theoretically correct rate of successful asylum applicants, and the problems this causes.

Regarding the measurement validity of the explanatory variables, some of them like the use of judicial vs administrative review, a border procedure, or an accelerated procedure, are fairly straightforward to measure and operationalize in a meaningful way. On the other hand, several of the variables are operationalized as scores aggregated from a number of indicators, attempting to measure a core concept like the access to legal help, access to appeal a negative decision, or protection of vulnerable applicants.

It is no easy task to create meaningful operationalizations of the concepts the explanatory variables attempt to measure, while at the same time having to aggregate numerous small bits of information into a manageable number of independent variables. Especially in the case of the rights for vulnerable applicants variable, I think it can be questioned how well the indicators are able to capture the core concept. For another variable, information and access to NGOs, one can discuss how meaningful it is to group together the two concepts that this variable aggregates. I have done it that way since that is what AIDA country reports do.

3.6.2 Reliability of the explanatory variables

As King, Keohane and Verba (1994, 31) defines it, "Reliability means that applying the same procedure in the same way will always produce the same measure". There are two stages of the creation of these variables where reliability can be questionable. Firstly, the question is whether AIDA country reports are reliable. The reports are written by personnel of national refugee councils, and then edited by experts at the European Council for Refugees and Exiles. For some of the more complex assessments there is definitely the potential that different authors will assess issues differently. This is especially clear for the questions on legal aid and information/access to NGOs, where authors are asked to assess whether the provision is fully or only partially satisfactory. For several of the variables, I have therefore coded alternative operationalizations to better be able to evaluate how reliable the results are.

Secondly, there is the question of whether my coding of the variables based on the AIDA country reports is reliable. Most of the coding rules are very simple, and hardly possible to interpret in several different ways, but a couple of variables, especially "grounds for

inadmissibility" and "grounds for accelerated procedure" require a certain degree of interpretation. Regarding the grounds for admissibility, I compared my coding with a report from AIDA (Mouzourakis 2016, 15-16) which looks at the grounds for inadmissibility applied in each member state in 2016. My own coding was the identical to the report for every destination country that year. Generally, it would have been desirable to have another researcher code some or all of the country-years and check the consistency of the coding with my own, but this has unfortunately not been done.

4. Analytical Strategy

In this chapter I present how I will use the dataset to test the ten hypotheses presented in the last chapter and address the general research question of the extent to which procedural factors have an impact on asylum recognition rates in the CEAS. First, I will explain why I have chosen a multilevel model with random intercepts for origin countries and destination countries. Second, I will discuss the most important features of random intercepts models and compare its advantages and disadvantages with the other alternatives I considered. Third, I will discuss why I have opted to not perform the analysis on a logit transformation of the dependent variable, unlike some of the previous literature on asylum recognition rates. Fourth, I will examine the extent to which the assumptions of the statistical analysis are fulfilled in my models, and finally I will discuss how to interpret the results.

4.1 The case for a multilevel model

The study is a time-series cross-sectional analysis, with a fairly short time span and a very clustered dataset. As Skrondal and Rabe-Hesketh (2004, 49) explain, multilevel data arise when units are nested in clusters. The units belonging to the same cluster share the same cluster-specific influences. However, we cannot expect to include all cluster-specific influences as independent variables in an analysis because we often have limited knowledge or data regarding these variables. Hence, there is cluster-level unobserved heterogeneity leading to dependence between units in the same cluster. In a multilevel model, unobserved heterogeneity is modelled by including random effects (Skrondal and Rabe-Hesketh 2004, 49-50).

Theoretically, it is very clear that the units are clustered in origin countries and destination countries. In addition, there may be unobserved heterogeneity stemming from clustering in years. As was shown in Figure 3.1, when all the decisions made in the CEAS in the period of study were aggregated, total recognition rates rose substantially from 2012 to 2016, before they fell again. However, it seems most reasonable to believe that this is best explained by changing conditions in the origin countries of the asylum seekers throughout the period, especially the

large number of applications from Syrian that came in 2015 and 2016, of whom almost everyone were granted protection.

One can also find a statistical justification for employing a multilevel model by looking at the Intraclass Correlation Coefficients (ICC) in the data. As Hox, Moerbeek and van de Schoot (2018, 12) put it, "data observations from the same group are generally more similar to each other than the observations from different groups, and this violates the assumption of independence of all observations. The amount of dependence can be expressed as a correlation coefficient: the intraclass correlation." By running separate empty models with destination country, origin country and year as random intercepts, with both the total and convention recognition rates as dependent variables, I separately calculated the ICC for each group of clusters in the data, displayed in Table 4.1:

Table 4.1: Intraclass Correlation Coefficients (ICC) of empty models

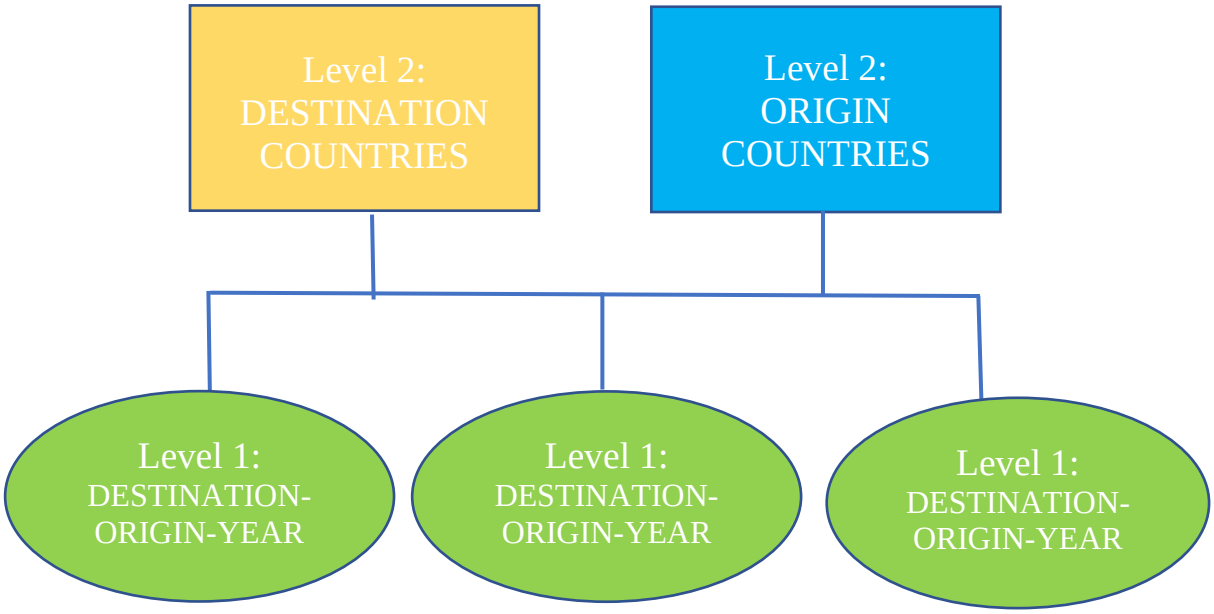
	Destination country	**Origin country**	**Year**
Total recognition rate	0.13	0.43	0.01
Convention recognition rate	0.05	0.38	0.01

As can be seen, the intraclass correlation is very strong for origin countries, and almost non-existent for years. Accordingly, it is essential to include random intercepts for origin countries, and not warranted to include random intercepts for years, as Toshkov (2014, 205) does in one of his models. For destination countries, the ICC is quite a lot larger when analyzing the total recognition rate than for the convention recognition rate. This is not entirely surprising, as there is probably less room for discretion in granting refugee status than for granting complementary protection. Christophersen (2018, 111) sets as a guideline that a multilevel model should be chosen if ICC is ≥0,05, in which case including destination country random intercepts in clearly warranted for the total recognition rate, but right at the cutoff point in the case of the convention recognition rate.

Since it is justified both theoretically and statistically, I choose to include random intercepts for destination countries and origin countries in my models. As illustrated in Figure 4.1, my models have a hierarchical two-level structure. The destination country – origin country – year units are nested in two higher-level groups, destination countries and origin countries. My

explanatory variables are all centered on destination countries, while I have included control variables both centered on destination countries and origin countries.

Figure 4.1: Hierarchical structure of the data, clustered in destination and origin countries



4.2 Random intercept models and alternatives

The key feature of a random intercept model is that the intercept is allowed to vary for each cluster (Christophersen 2018, 114), in my case origin and destination countries. As Bartels (2015, 98) explains, a random intercept approach conflates the between-cluster and within-cluster effects, and thus one is analyzing both the within-country and between-country effects of the independent variables. Meanwhile, the regression coefficients are fixed across the clusters, assuming the effects of the independent variables are the same for all units. I choose not to allow the slopes of the coefficients to vary between clusters as well, what is called a random coefficient model. My hypotheses do not specify any reasons why the effects of the independent variables should vary across clusters. Accordingly, it is better to keep the model simple.

Some of the choices I have made regarding model specification are perhaps best highlighted by a comparison with previous studies of asylum recognition rates. Neumayer (2005) develops an analytical strategy that is copied by Avdan (2014) and one of several approaches used by Toshkov (2014). First, Neumayer displays the results of a completely pooled model, that does

not account for unobserved heterogeneity. Next, he displays the results of a fixed effects model, which involves including dummy-variables for each destination and origin country. As Bartels (2015, 97) points out, this is essentially a "no-pooling approach", as each country is given its own intercept which absorbs all between-country variation, meaning that the independent variables only display within-country effects. My explanatory variables are institutional variables that usually do not change much within a country from year to year. With a fixed-effects model many of my explanatory variables would probably be highly correlated with the destination country dummy variables, and their effects would be hard to estimate. The between-country effects are highly relevant for answering my research question and hence, I go instead for a random intercept model, what Bartels (2015, 98) calls a "partial pooling"-approach.

4.3 The case for and against logit transformation

In the previous studies of asylum recognition rates, the composition of the dependent variable has led some scholars (Toshkov 2014, Koch et al. 2020) to opt for a logit transformation, while most have opted not to (Neumayer 2005, Sicakkan 2008a, Avdan 2014, Schneider, Segadlo and Leue 2020). A concern with an untransformed dependent variable is that observed values of the dependent variable can only vary between 0 and 100%, while predicted values can be negative or larger than 100%, which is not conceptually possible. Taagepera (2008, 217) recommends always constructing "logical models" that "cannot predict absurdities even at unrealistically extreme values. To do this in the case of explaining asylum recognition rates, one would have to perform analysis on a logit transformation of the dependent variable [ln(x/(1-x))], instead of the dependent variable itself (Taagepera 2008, 105). A methodological concern in doing this is that it is not possible to perform a logit transformation of the values that are exactly 0 or 1, and there are quite a lot of units in this study with a 0 or 100% recognition rate. Toshkov (2014, 200) deals with this by adding 0.001 to the zeros and subtracting 0.001 when the dependent variable is exactly one, but this changes the values in an arbitrary way according to what small number you add or subtract. The logit transformation also makes the sizes of the effects of the independent variables very difficult to interpret, as Toshkov (2014, 203) concedes. With this in mind, I have opted not to do the analysis on logit transformed asylum recognition rates. This probably has some consequences for the distribution of the residuals, which is discussed in sections 4.4.2 and 4.4.3 on model assumptions.

4.4 Assumptions

In this section I will discuss the extent to which the assumptions on which the regression models are based on are fulfilled. These include the independence of observations, the normality and homoscedasticity of residuals and the absence of multicollinearity.

4.4.1 Independence of observations

Regular multivariate regression analysis assumes that the units of analysis are independent from each other. As Gerring (2012, 243) explains, observations need to be separate so that each observation provides new evidence of a causal proposition. Violations of independence can be in the form of spatial correlation or temporal autocorrelation (Gerring 2012, 243). The multilevel model design with random intercepts takes into account that the units are in fact not spatially independent, but rather clustered in destination and origin countries, so that unobserved heterogeneity stemming from these clusters should not bias the results. The very low ICC for year indicated that a trend of the dependent variables across time is not likely to be a source of bias.

Autocorrelation is another issue. As Christophersen (2018, 77) puts it, the values of a unit at one point in time are usually conditioned by the values of the corresponding unit at earlier points in time. According to Christophersen, autocorrelation does not change the direction of the regression coefficients, but the coefficient variance increases, which can lead to biased standard errors and p-values. A common remedy is to control for first order autocorrelation by including a dependent variable that is lagged by one year as an independent variable (Bartels 2015, 102-103).

Including a lagged dependent variable is uninviting in my analysis because of how the dependent variable is structured. As the units are destination country-origin country dyads for a specific year, there is sometimes zero or too few decisions for each dyad the preceding year, from which a lagged dependent variable can be calculated. When I construct a lagged dependent variable, it only covers 5325 out of 6084 units, which would be a large loss of units. In the studies of Neumayer (2005), Sicakkan (2008a) and Koch et al. (2020) with the same structure of the dependent variable, they do not include a lagged dependent variable. Toshkov (2014), who only includes origin countries in one of his four models, and Schneider, Segadlo and Leue

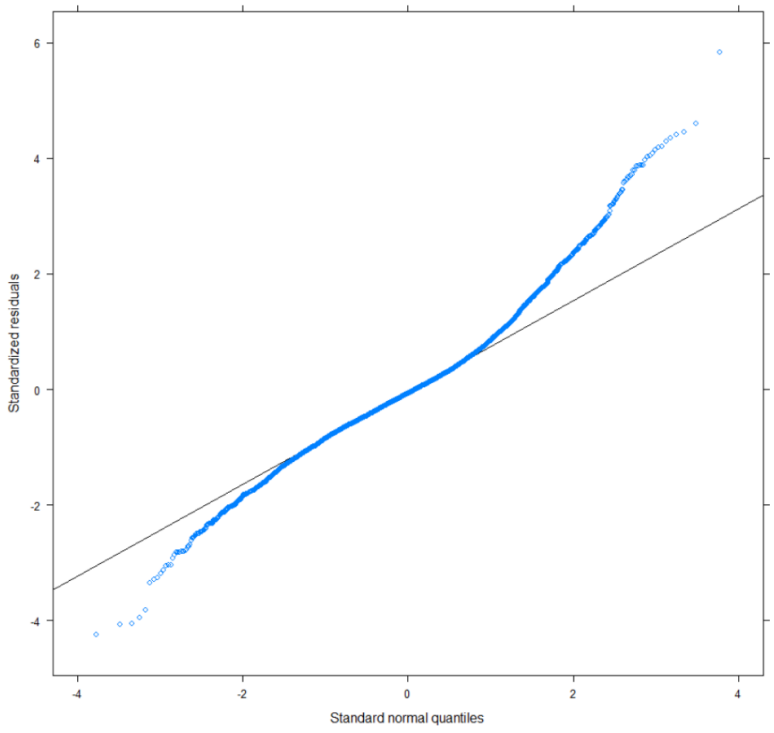
(2020) who ignore origin countries, include a lagged dependent variable, although excluding country of origin information leads to another source of bias in the results.

In addition, there is a methodological problem with including a lagged dependent variable in random intercept models. Allison (2015) warns that "including a lagged dependent variable in a mixed model usually leads to severe bias", with the coefficient of the lagged dependent variable usually being inflated, and the coefficients for other variables usually being too small. Allison's advice is clear: "Don't put lagged dependent variables in mixed models". Hence, I have not done so.

4.4.2 Normality of residuals

The regression assumes that the residuals of the dependent variables are normally distributed. This assumption must be fulfilled to get a correct estimate of confidence intervals and significance, and can be checked with a Quantile-Quantile plot (Q-Q plot) of the expected versus observed quantiles of residuals (Christophersen 2018, 74-75). I did this for all the models presented in the main analysis, and the plots all had the same pattern as illustrated by Model 2 in Figure 4.2.

Figure 4.2: Q-Q plot of residuals in Model 2

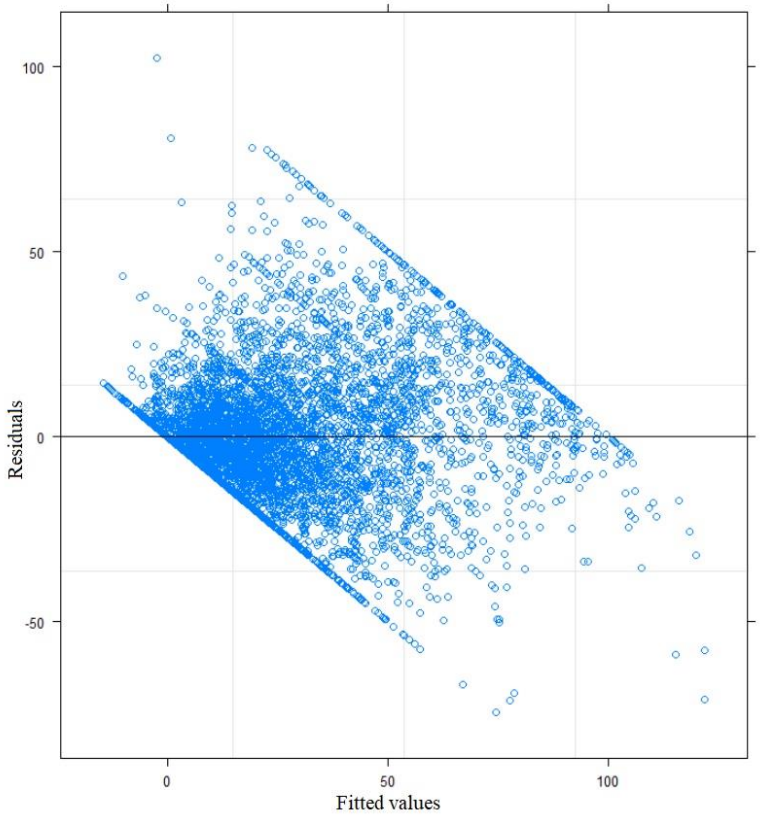


The Q-Q plot indicates some non-normality, with “heavy tails”, which is an indication of a larger than normal frequency of extreme values. This is probably partially attributable to the fact that observed values can only range between zero and 100%, while predicted values can be outside this range. The consequences of the residuals not being normally distributed is that standard errors will not be precisely estimated. The problem is most acute with small sample sizes but does not vanish entirely with larger samples like mine (Hox, Moerbeek and van de Schoot 2018, 247).

4.4.3 Homoscedasticity

Moreover, it is assumed that the residuals are homoscedastic, meaning that the variance is constant for any values of the independent variables. This is necessary to estimate the coefficient variances correctly and get a precise estimate of the confidence interval and significance level (Christophersen 2018, 75). One can get an impression of whether there is homoscedasticity or heteroscedasticity through a scatterplot of the predicted values of the dependent variable versus the empirically observed residuals (Christophersen 2018, 75).

Figure 4.3: Fitted values versus residuals for Model 2



The plot in Figure 4.3 is from Model 2, and the plots were similar for all the other models presented. As can be seen by the plot, residuals of the models are skewed at the ends, since the observed values can only be between 0 and 100, while the fitted values can be lower or higher than that. Hence, when the fitted value is negative, the residuals are always positive, and when the fitted values are above 100, the residuals are always negative. There are clearly some outliers at each end, indicating a certain problem with heteroscedasticity. At the same time, most of the residuals have a desired distribution across the fitted values.

Now, what can be done to reduce the problem of heteroscedasticity? The linear regression model assumes that the relationship between the independent variables and the mean of the dependent variable follows a straight line (Agresti 2018, 272). If the relationship in reality not linear, this can be a cause of heteroscedasticity (Hox, Moerbeek and van de Schoot 2018, 239). I plotted each independent variable against the residuals of the model, but there were not any patterns indicating any non-linear relationships. Sometimes transforming the dependent variable could be a solution (Hox, Moerbeek and van de Schoot 2018, 247), but as I have discussed in section 4.3, that would be undesirable in this case.

One partial remedy that does not solve the problem of heteroscedasticity and non-normality of the residuals, but rather takes it into account, is to estimate the models with robust standard errors. With heteroscedasticity, the standard errors that are estimated are usually too small. Employing robust standard errors does not correct this entirely, but they can help estimating more accurate confidence intervals and p-values (Hox, Moerbeek and van de Schoot 2018, 247-248). The main drawback is that some statistical power is sacrificed. Another issue when applying robust standard errors is that they need a certain sample size to be accurate. Hox, Moerbeek and van de Schoot (2018, 248) recommend a second-level sample size of 100 for multilevel models, but in my dataset there are only 21 destination countries. In section 5.3 on robustness checks, I have estimated the full models with robust standard errors and compared them to the original models.

4.4.4 Absence of multicollinearity

Finally, another assumption is that there is no multicollinearity, high intercorrelation, between two or more of the independent variables. Christophersen (2018, 76) attests that high collinearity can cause regression coefficients to have a large standard error, have an effect in an

unexpected direction, or display standard coefficients above 1, i.e. very large effects. To uncover multicollinearity, a VIF-test is used, which runs a series of regressions on the independent variables, with each as the dependent variable in turn, where high R^2-values indicate multicollinearity. A VIF-score of more than 5 indicates a problem multicollinearity (Christophersen (2018, 76).

Table 4.2: VIF-scores for Model 2

Variables	**VIF-score**
Explanatory variables	
Judicial v. administrative review	1.16
Border procedure	1.99
Accelerated procedure	1.72
Grounds for accelerated procedure	3.53
Grounds for inadmissibility	2.44
Suspensive appeals	1.89
Suspensive subsequent applications	1.26
Legal help	1.38
Information and access to NGOs	1.36
Rights for vulnerable applicants	1.78
Destination control variables	
Past asylum applications	1.69
Destination GDP per capita	1.52
Unemployment rate	1.68
Nationalist parties vote share	1.85
Origin control variables	
Autocracy	1.20
Origin GDP per capita	1.08
Human rights violations	1.16
Battle fatalities	1.06

As can be seen from Table 4.2, multicollinearity is not a problem for any of the variables, with the highest score being 3.53 for grounds for accelerated procedure. This is a VIF-test from Model 2, and results were very similar for the other models.

4.5 Interpretation of the results

Before I present the results, I will now discuss some of the aspects that will be interpreted in the analysis, including statistical and substantive significance and goodness of fit.

4.5.1 Statistical significance and substantive significance

What does statistical significance mean in this analysis? As Kellstedt and Whitten (2018, 164) puts it, "P-values are an estimate of the probability that we would see the observed relationship between the two variables in our sample data if there were truly no relationship between them in the unobserved population". The data in my analysis is not really a sample drawn from a universe. As Beck (2001, 273) points out, time-series cross-sectional units are fixed, not sampled from an underlying population. However, my data is to some extent a sample if one considers the time dimension, not to mention the fact that certain smaller countries are not included because of lacking data on the explanatory variables. In addition, p-values offer useful information as they are based on standard errors, and high standard errors makes it less clear if an independent variable has an effect on the dependent variables.

Substantive significance is, in contrast to statistical significance, "a judgment call about whether or not statistically significant relationships are large or small in terms of their real-world impact" (Kellstedt and Whitten 2018, 228). After all, the substantive significance is what we are interested in, to answer the research question. Accordingly, one must take into account the size of the coefficients as well as the scales each of the independent variables are measured on. At the same time, it is important to point out that a parameter estimate can only be substantively significant if it is also statistically significant (Kellstedt and Whitten 2018, 228).

4.5.2 Explained variation

One can look at Akaike's Information Criterion (AIC) and Schwarz's Bayesian Information Criterion (BIC) to compare the fit of statistical models that are fit to the same data set and using

the same estimation method. As Hox, Moerbeek and van de Schoot (2018, 38-39) explain, AIC is calculated from the deviation *d* and number of parameters *p*: [AIC = d + 2p]. To calculate BIC one also includes to sample size *N*, in the formula: [BIC = d + q*ln(N)]. Generally, a model with lower deviance fits the data better than a model with higher deviance (Hox, Moerbeek and van de Schoot 2018, 36), so lower values of AIC and BIC indicate a better fit. Both AIC and BIC penalize the inclusion of more independent variables, but for most samples BIC give the largest penalties (Hox, Moerbeek and van de Schoot 2018, 39). As part of the analysis, I will compare the AIC and BIC of a full model including the explanatory variables with a model including only the control variables.

5. Results

In this chapter, I will first perform some univariate analysis on the dependent variables, to make it clear for the reader the how the dataset is composed. Subsequently, I will present the main models, which are run on both the total and convention recognition rates, and comment on the statistical and substantive significance of each explanatory variable. In addition, I will more briefly comment on the results for the control variables. The first models I present only include the control variables. Then I present the full models, including all explanatory and control variables. Finally, I present a third model selected through backward elimination. As Agresti (2018, 420) explains:

> Backward elimination begins by placing all of the explanatory variables under consideration in the model. It deletes one at a time until reaching a point where the remaining variables all make significant partial contributions to predicting y. The variable deleted at each stage is the one that is the least significant, having the largest P-value in the significance test for its effect.

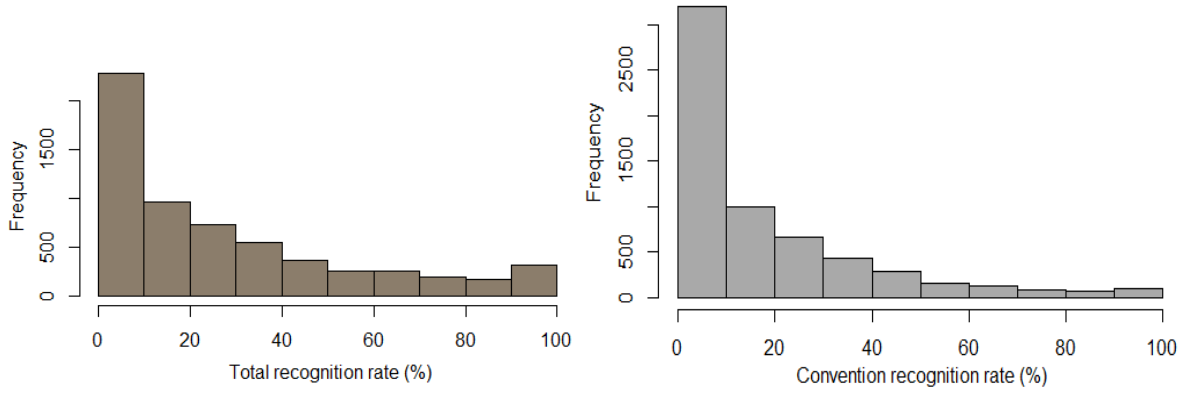
Agresti argues that simpler models are preferable, all else being equal. When a lot of independent variables are included, it is possible that very few of them make significant partial contributions because of correlations between the variables (Agresti 2018, 420). I therefore present the trimmed models to show the implications of removing the less significant variables. In the backwards elimination, I set the significance level at $p < 0,05$, which is the most common significance level in social science studies (Kellstedt and Whitten 2018, 153).

After presenting the main models and commenting on the results, I will present a thorough set of robustness checks and comment on how these various factors impact the interpretation of the results. This includes presenting the effects of the alternatively operationalized variables and estimating the full models with robust standard errors and restricted maximum likelihood (REML) instead of the maximum likelihood (ML) estimation used in the main models.

5.1 Descriptive analysis of the dependent variables

To start the analysis, I will briefly explore the composition of the dependent variables. As a reminder, the units have a value from 0 to 100. This represents the percentage of the decisions in a year in a specific destination country, of applicants from a specific origin country, that were granted refugee status (convention recognition rate), or any type of protection (total recognition rate). Each unit is equally weighted regardless of how many decisions they are comprised of. Because UNHCR round decisions below ten to the nearest five, units with ten or less decisions were deleted, leaving 6084 units. These are clustered in 21 destination countries and 140 origin countries, and spread across eight years from 2012 to 2019.

Figure 5.1: Dispersion of units across the values of the dependent variables



Looking at the dispersion of the dependent variable in Figure 5.1, we see that a lot of units are in the lowest decile of a zero to ten percent recognition rate. Frequencies decline gradually for higher deciles, but with slightly more units in the highest bracket of 90% to 100% recognition rates. Since consistency, in the sense of following the same practice for applicants from the same country with the same type of asylum claim is often a goal for bureaucrats adjudicating asylum claims (Liodden 2019, 259), it is not surprising that recognition rates from specific origin countries are quite frequently close to 0% or 100%.

5.2 Results of the multilevel models

We now turn to analyzing the results of the multivariate regression models. The models presented in this section are all estimated using the R-package *lme4* (Bates et al. 2021). Table 5.1 offers a recap of the hypothesized direction of effects presented in chapter 3.

Table 5.1: Hypothesized effects of the explanatory variables

Explanatory variables	Expectations
Judicial v. administrative review	+
Border procedure	-
Accelerated procedure	-
Grounds for accelerated procedure	-
Grounds for inadmissibility	-
Suspensive appeals	-
Suspensive subsequent applications	-
Legal help	+
Information and access to NGOs	+
Protection of vulnerable applicants	+

I first present Table 5.2 displaying three models with the total recognition rate as the dependent variable. Model 1 includes only the control variables, with random intercepts for origin countries and destination countries. The explanatory variables are then added in Model 2. Finally, Model 3 displays the results of a backwards elimination selection procedure for the independent variable, where the variable with the highest p-value was removed in turn, until only variables with effects significant at a 95% confidence level remained. As can be seen in the table, the standard errors of the remaining variables are generally a bit lower after completing this procedure, and the effects of a border procedure, information and access to NGOs and human rights violations are all statistically significant in Model 3 while they were not in Model 2.

Table 5.3 features the same model specifications as Table 5.2, except that the convention recognition rate is being analyzed. Model 4 includes only the control variables, while Model 5 is the full model with 18 independent variables. Model 6 displays the variables remaining from a backwards elimination selection procedure. Unlike in the analysis of the total recognition rate, there are no additional variables that are statistically significant after the backwards elimination, but most of the coefficients are a little bit higher, and the standard errors usually a little bit lower.

Table 5.2: Models 1-3: analysis of the total recognition rate

Total recognition rate	Model 1	Model 2	Model 3
Explanatory variables			
Judicial v. administrative review		**-5.86**	
		(3.71)	
Border procedure		**-1.97**	**-2.23****
		(1.00)	(0.80)
Accelerated procedure		**-5.90****	**-5.85****
		(1.07)	(0.95)
Grounds for accelerated procedure		**0.09**	
		(0.19)	
Grounds for inadmissibility		**0.79***	**0.69****
		(0.31)	(0.23)
Suspensive appeals		**0.24**	
		(0.61)	
Suspensive subsequent applications		**0.31**	
		(0.55)	
Legal help		**0.07**	
		(0.14)	
Information and access to NGOs		**1.08**	**1.77****
		(0.77)	(0.69)
Rights for vulnerable applicants		**-0.55**	
		(0.55)	
Destination control variables			
Past asylum applications	**0.71****	**0.92****	**0.90****
	(0.19)	(0.21)	(0.19)
Destination GDP per capita	**0.17***	**0.11**	
	(0.07)	(0.08)	
Unemployment rate	**-0.43****	**-0.40***	**-0.39***
	(0.16)	(0.17)	(0.16)
Nationalist parties vote share	**-0.83****	**-0.73****	**-0.69****
	(0.07)	(0.09)	(0.08)
Origin control variables			
Autocracy	**2.82****	**2.80****	**2.91****
	(0.27)	(0.27)	(0.26)
Origin GDP per capita	**-0.16**	**-0.15**	
	(0.12)	(0.12)	
Human rights violations	**0.93***	**0.89**	**1.06***
	(0.46)	(0.46)	(0.45)
Battle fatalities	**1.09**	**1.06**	
	(0.71)	(0.71)	
Random effects			
σ^2	310.72	308.05	308.70
τ_{00}	181.36_{origin}	181.35_{origin}	176.17_{origin}
	$153.69_{destination}$	$152.98_{destination}$	$169.49_{destination}$
ICC	0.52	0.52	0.53
N	140_{origin}	140_{origin}	140_{origin}
	$21_{destination}$	$21_{destination}$	$21_{destination}$
Number of observations	**6084**	**6084**	**6084**

*p<.05, **p<.01, standard errors in parentheses. Models are estimated using maximum likelihood.

Table 5.3: Models 4-6, analysis of the convention recognition rate

Convention recognition rate	Model 4	Model 5	Model 6
Explanatory variables			
Judicial v. administrative review		**-6.52**	
		(3.36)	
Border procedure		**3.40****	**3.17****
		(0.91)	(0.71)
Accelerated procedure		**-2.69****	**-3.01****
		(0.96)	(0.85)
Grounds for accelerated procedure		**-0.04**	
		(0.17)	
Grounds for inadmissibility		**1.45***	**1.50****
		(0.28)	(0.23)
Suspensive appeals		**0.37**	
		(0.55)	
Suspensive subsequent applications		**-0.38**	
		(0.49)	
Legal help		**0.08**	
		(0.13)	
Information and access to NGOs		**0.32**	
		(0.70)	
Rights for vulnerable applicants		**-2.27****	**-2.20****
		(0.50)	(0.44)
Destination control variables			
Past asylum applications	**0.14**	**0.44****	**0.47****
	(0.17)	(0.19)	(0.17)
Destination GDP per capita	**-0.11***	**-0.12**	
	(0.06)	(0.07)	
Unemployment rate	**-1.05****	**-1.08****	**-0.93****
	(0.14)	(0.15)	(0.13)
Nationalist parties vote share	**-0.23****	**-0.43****	**-0.42****
	(0.06)	(0.08)	(0.07)
Origin control variables			
Autocracy	**2.24****	**2.23****	**2.34****
	(0.22)	(0.22)	(0.20)
Origin GDP per capita	**0.04**	**0.05**	
	(0.10)	(0.10)	
Human rights violations	**0.85***	**0.73**	
	(0.41)	(0.41)	
Battle fatalities	**0.02**	**-0.12**	
	(0.63)	(0.63)	
Random effects			
σ^2	251.37	247.35	247.93
τ_{00}	99.53_{origin}	100.05_{origin}	104.29_{origin}
	$78.99_{\text{destination}}$	$132.90_{\text{destination}}$	$93.58_{\text{destination}}$
ICC	0.42	0.49	0.44
N	140_{origin}	140_{origin}	140_{origin}
	$21_{\text{destination}}$	$21_{\text{destination}}$	$21_{\text{destination}}$
Number of observations	**6084**	**6084**	**6084**

*p<.05, **p<.01, standard errors in parentheses. Models are estimated using maximum likelihood.

5.2.1 Effects of the explanatory variables

In the following section I comment on the results of the analysis for each of the explanatory variables and discuss the effects in light of the hypotheses.

Judicial v. administrative review

For both the total and convention recognition rates, the results show a negative effect of employing judicial review of rejected applications that are appealed, versus employing administrative review. While the coefficients are quite large, they are not statistically significant due to the large standard errors. A problem with this variable is the low variability, with only a few countries employing an administrative review, and only Cyprus changing between the two forms of review during the time series. Due to this, a reliable inference of the effect is hard to draw from the dataset. That said, there the analysis certainly does not lend support to the hypothesis that judicial review leads to higher recognition rates than administrative review.

Border procedure

The analysis offers interesting results regarding the employment of a border procedure. The results vary a lot depending on whether the total or convention recognition rate is analyzed. For the total recognition rate, the effect of a border procedure is negative, and statistically significant in Model 3 after the backwards selection procedure. This effect is consistent with the hypothesis. Looking at the convention recognition rate, however, the border procedure has a strong positive and statistically significant effect on recognition rates. It is hard to rationalize why employing a border procedure should have a negative effect on total recognition rates, but a positive effect on convention recognition rates. This mean the results should be taken with a sizeable pinch of salt, but it is worth noting that employing a border procedure seem to matter for asylum recognition rates, as opposed to some of the other explanatory variables.

Accelerated procedure

Of all the explanatory variables, the effects of employing an accelerated procedure are the most clear and consistent. For both the total and convention recognition rate, the negative effect of employing an accelerated procedure is strong and statistically significant. In the full models, the predicted total recognition rate is almost six percentage points lower for countries that employ an accelerated procedure compared to the countries who do not, which is a sizeable effect. For the convention recognition rate, the predicted effect is almost three percentage points

lower for countries that employ an accelerated procedure. These robust negative effects of employing an accelerated procedure are consistent with the hypothesis. This underscores the concerns raised by NGOs and scholars (Eriksen 2017, 82-83; Schittenhelm 2019, 235) about the consequences for refugee protection as the European Commission aims to implement accelerated procedures as the norm in all EU member states.

Grounds for accelerated procedure

In contrast to the reliably negative effects of employing an accelerated procedure, the variable measuring how many grounds in national legislation for which an accelerated procedure may be employed does have any meaningful effects in any of the models. In section 3.6.2, I discussed how the reliability of the coding of this variable is the somewhat uncertain, as it required a degree of interpretation. Moreover, one can question whether the number of different grounds enshrined in legislation is a meaningful measurement of how broadly the accelerated procedure is employed. The results suggest it is not, as the variable show no effect, even as the employment of an accelerated procedure in itself showed strong and consistent negative effects on recognition rates. Data currently not available, showing for example the percentage of cases for which the accelerated procedure is employed in different EU member states could perhaps illuminate further what consequences the application of an accelerated procedure has for asylum recognition rates.

Grounds for inadmissibility

The results for the number of grounds for inadmissibility are interesting. The effect are positive and statistically significant across both models. For the total recognition rate, the effect size translates to a predicted recognition rate that is around four percentage points higher for a country that employs all five grounds for inadmissibility in national legislation, compared to a country that does not employ any admissibility procedure. For the convention recognition rate the predicted recognition rate would be more than seven percentage points higher, so these are substantial effects. While the effect is in the opposite direction of what was hypothesized, this is not entirely surprising. It is plausible that employing more grounds for inadmissibility can have a positive effect on recognition rates because the prospects of a quick and predictable rejection on formal grounds without considering the merits of the application could discourage the submission of many improbable applications that are ultimately unlikely to be successful anyways.

Suspensive appeals

Due to the how asylum statistics are compiled, increased access to appeal with a suspensive effect on deportation was hypothesized to have a negative effect on asylum recognition rates, even though it was believed to have a positive effect on an applicant's chance to ultimately be granted asylum. The results, however, show only small effects that are not statistically significant. I will argue that to get a better comprehension of how the access to appeal negative decisions with suspensive effect impacts recognition rates, asylum statistics must be compiled in a different way, measuring the success rate of asylum seekers after the final decision has been made, instead of reporting decisions at each stage of the procedure separately. The unimpressive results in this analysis could be because the null hypothesis is true and the access to appeal does not matter much for recognition rates. However, it could also be that a possible positive effect on an asylum seeker's chances to get protection is conflated with the inflationary effect access to suspensive appeals probably has on the number of decisions.

Suspensive subsequent applications

The interpretation of the effects from suspensive subsequent applications is somewhat similar to the effects from suspensive appeals. The effects are very small and not statistically significant for either the total or the convention recognition rate. The results thus indicate that access to launch suspensive subsequent applications does not have much of an effect of asylum recognition rates, but I will add the same caveat as with the access to suspensive appeal; that the suboptimal data structure makes it hard to get a clear answer from the analysis. It is pretty much unthinkable that increased access to appeal negative decisions and launch subsequent applications with suspensive effect can decrease an asylum seeker's chance of ultimately getting protection, but the results of the analysis do not indicate that these factors increase an applicant's chances either.

Legal help

Considering the attention devoted to the topic in literature, the resources devoted by governments and NGOs, and the large variation between the EU member states on this aspect, the consistently minimal effects of access to free legal help on both the total and convention recognition rate are a little surprising. One possible explanation of the unimpressive effects of the access to free legal help on asylum recognition rates is of course that the null hypothesis is correct and that access to legal help does not matter. On the other hand, it could also be that the variable is poorly operationalized. However, as will be clear in the section on robustness checks,

the alternative operationalization which does not distinguish between the "Yes" and "Not always/with difficulty" responses to whether free legal aid is available at a specific stage of a specific procedure yields virtually the same insignificant effects. More generally, it could be that qualitative aspects of legal aid beyond whether one has access to any free legal help or not is what actually matters, something indicators from AIDA country reports are not suited to measure. Lastly, it is possible that the way asylum statistics are compiled could cloud the effects, but I consider this less likely in the case of free legal help than for the variables on suspensive appeals and subsequent applications, which are very likely an inflationary impact on the number of decisions taken.

Information and access to NGOs

It was hypothesized that better access to information and refugee-assisting NGOs has a positive effect on asylum recognition rates, and this is also what the results suggest. For the total recognition rate, the positive effect is statistically significant in Model 3, following the backwards elimination selection procedure, and the effect size is quite substantial too, corresponding to a predicted recognition rate in Model 3 that is around 14 percentage points higher in a country with the maximum score of 10, compared with the lowest performing country with a score of 2. When analyzing the convention recognition rate, the positive effect is much smaller, and not statistically significant.

Rights for vulnerable applicants

The results indicate a negative effect of rights for vulnerable applicants on asylum recognition rate. For the total recognition rate, the effect is very small and not statistically significant, but for the convention recognition rate, the negative effect is both statistically significant and relatively large. These results contradict the hypothesis, and it is difficult to explain both why this variable would have a negative effect, and why it would predominantly impact the convention recognition rate. As mentioned in section 3.6.1, I have concerns about the measurement validity of the operationalization of this variable. AIDA country reports offered much written information about the procedural guarantees for vulnerable applicants, but the concept was not easily quantifiable, having to rely on vague indicators such whether an identification mechanism was in place, whether one could use medical records as supportive evidence, and whether or not any special procedural arrangements for vulnerable applicants were employed. Thus, I believe one should be somewhat skeptical of the effects that the results indicate for this variable.

5.2.2 Effects of control variables

Though not the main focus of this thesis, the effects of the control variables found in the analysis deserve some commentary. Regarding the destination control variables, the results are consistent across the analysis on both total and convention recognition rates, and mostly in line with expectations. Firstly, the results indicate that recognition rates are higher in countries that have received more asylum applications per capita in the last three years. The effects on the convention recognition rate are only statistically significant in Model 5 after the explanatory variables have been included. Destination GDP per capita has a positive effect on the total recognition rate and a negative effect on convention recognition rates. The effects are statistically significant in Model 1 and Model 4, before the explanatory variables are included, but not in the other models. The substantive effects of destination GDP per capita are fairly large, as the coefficient might be small, but the variable has high variability and a wide range between 7 and 89 (measured in thousands of dollars). In line with expectations, both higher unemployment rates and a higher share of the vote for nationalist parties have a negative effect on recognition rates, and these are statistically significant in all the models.

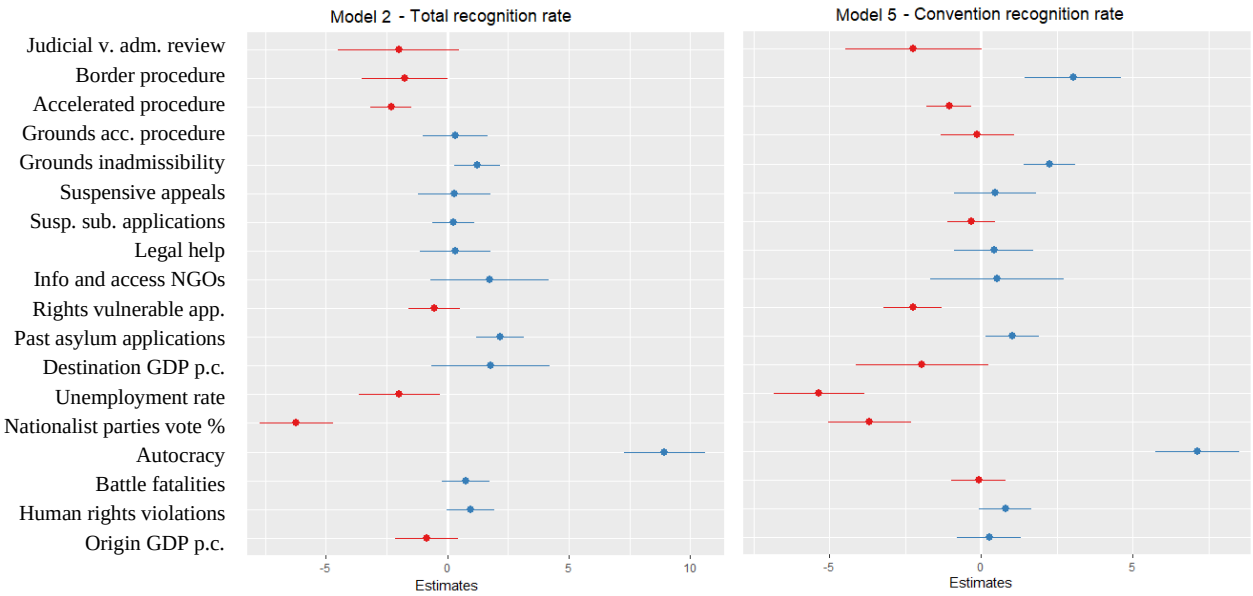
When it comes to the origin country control variables, it is primarily Freedom House's measure of autocracy that has a large positive effect on recognition rates, which is statistically significant in all the models. The Political Terror Scale measure of human rights violations also has a positive effect on recognition rates, in line with expectations, and the effects are statistically significant before explanatory variables are included, for both the total and convention recognition rate. After the backwards elimination selection procedure, the positive effect is once again statistically significant when analyzing the total recognition rate in model 3. The origin GDP per capita and battle fatalities variables only display small effects that are not statistically significant.

5.2.3 Standardized coefficients

Since the sizes of regression coefficients depend on the units of measurement for each variable, it is not appropriate to compare them directly, as the scales they range on vary a lot. Accordingly, more meaningful comparisons can be made between standardized regression coefficients (Agresti 2018, 334). In Figure 5.2, the independent variables have been standardized by subtracting their mean and dividing them by one standard deviation. The plot

shows the standardized coefficient and the 95% confidence interval for each variable in the full models.

Figure 5.2: Plot of standardized coefficients and confidence intervals.



As Agresti (2018, 336-337) points out, one must make comparisons between standardized coefficients with caution, and one cannot simply conclude that the variable with the largest standardized coefficient has the largest impact on the dependent variable. The plot clearly indicates a large positive effect of autocracy in these two models. As Table 4.1 revealed, much more variation was attributable to the origin country clusters than the destination country clusters, so it is not surprising that an origin country-variable shows the largest effect. Moreover, I have included 14 destination country variables and 4 origin country variables in the models, so the effects of autocracy might have been reduced if I had attempted to construct a more advanced set of origin country variables, but that was not the focus of the research question.

More generally, Figure 5.2 shows that some of the variables that did not display statistically significant effects in these two models, like judicial v. administrative review, information and access to NGOs and destination GDP per capita, have sizeable coefficients, but large standard errors, and hence the wide confidence intervals. Reversely, the accelerated procedure variable has a consistent negative effect, with a narrow confidence interval, even though the size of the effect is not larger compared to many of the other variables.

5.2.4 Goodness of fit

As can be seen in Table 5.4 below, AIC decreases when explanatory variables are added to the model, while BIC increases. This is the pattern for both the analysis of the total recognition rates and the convention recognition rates. As mentioned in section 4.5.2, lower values of AIC and BIC indicate a better fit. The reason why AIC indicates a better fit with the explanatory variables, and BIC indicates a better fit with only the control variables, is that BIC places a higher penalty on including more independent variables. Accordingly, one might argue that the fit information suggests a modest contribution of this set of procedural variables in explaining asylum recognition rates. Unsurprisingly, both AIC and BIC decrease after the backwards elimination selection procedure in Models 3 and 6, as only statistically significant predictors are kept in the model.

Table 5.4: AIC and BIC for the models

	Total recognition rate			**Convention recognition rate**		
	Model 1: Control variables	**Model 2:** Full model	**Model 3:** Backward elimination	**Model 4:** Control variables	**Model 5:** Full model	**Model 6:** Backward elimination
AIC	52678	52647	52640	51334	51269	51260
BIC	52759	52794	52727	51414	51417	51341

5.3 Robustness checks

In the following section I will perform a series of robustness checks, and comment on how the results differ from the full models presented in section 5.2. First, I present the results of estimating the models with the alternative operationalizations I made for four of the explanatory variables. Secondly, I estimate the models with robust standard errors, which is meant to give better estimates of p-values and confidence intervals if the assumptions about the distributions of the residuals are violated (Hox, Moerbeek and van de Schoot 2018, 247-248). Third, I estimate the models using REML instead of ML. The results of the robustness checks are mostly consistent with the results from the main models, but there are some interesting exceptions that I will discuss.

5.3.1 Alternative operationalizations for explanatory variables

As I mentioned in chapter 3, I coded alternative operationalizations for four of the variables. For two of the variables, "Border procedure" and "Suspensive subsequent applications" I have made an alternative dichotomous operationalization, compared of the original variables with three potential values. The alternative "Legal help" and "Information and access to NGOs" variables have an alternative operationalization that ignores the distinction between "Yes" and "Not always/with difficulty", since this is a subjective judgement of the degree to which the provision of legal help or information and access is at an acceptable standard or not. Table 5.5 shows the descriptive statistics for the original and alternative operationalizations for these four variables. As can be seen in the table, all the alternative variables have narrower ranges and lower standard deviations than the original variables.

Table 5.5: Descriptive statistics for alternative operationalizations

Variables	**Minimum value**	**Maximum value**	**Mean**	**Standard deviation**	**Coef. of variation**
Suspensive subsequent applications	0	2	1.2	0.8	0.71
Alternative operationalization	0	1	0.7	0.4	0.61
Border procedure	0	2	1.1	0.9	0.79
Alternative operationalization	0	1	0.5	0.5	1.06
Legal help	0	20	12.3	5.1	0.42
Alternative operationalization	0	10	8.5	2.3	0.27
Information and access to NGOs	2	10	6.0	1.6	0.27
Alternative operationalization	2	5	4.8	0.6	0.12

In Table 5.6, I present the effects of the alternative operationalizations along with the effects of the original operationalizations, for both the total and convention recognition rates. Regressions have been run separately for each alternative variable, on the full models with all explanatory and control variables included.

Table 5.6: Regression coefficients for original and alternative variables

Variable	**Model 2:** Total recognition rate	**Model 5:** Convention recognition rate
Border procedure	**-1.97***	**3.40****
	(1.00)	(0.91)
Alternative operationalization	***-0.27***	***4.60****
	(1.77)	*(1.60)*

Suspensive subsequent applications	**0.31**	**-0.38**
	(0.55)	(0.49)
Alternative operationalization	***2.22****	***-0.01***
	(1.08)	*(0.97)*
Legal help	**0.07**	**0.08**
	(0.14)	(0.13)
Alternative operationalization	***-0.09***	***0.13***
	(0.22)	*(0.20)*
Information and access to NGOs	**1.08**	**0.32**
	(0.77)	(0.70)
Alternative operationalization	***4.50****	***0.87***
	(1.42)	*(1.28)*

*p<.05, **p<.01, standard errors in parentheses.

The dichotomous border procedure variable has a positive effect on the total recognition rate and a negative effect of the convention recognition rate, just like the original variable. The negative effect of a border procedure in Model 2 is much smaller and no longer statistically significant with the alternative operationalization. Regarding the alternative suspensive subsequent applications variable, a statistically significant positive effect appears for the total recognition rate in Model 2, where the original variable had a small insignificant effect, while the effect is still negligible for the convention recognition rate. While the effects from the border procedure variables are not consistent between the total to convention recognition rates, it is fairly consistent between the different operationalizations, indicating decent reliability of the measurement. For the suspensive subsequent applications variable, the results are inconsistent both between the total and convention recognition rates and between the two operationalizations.

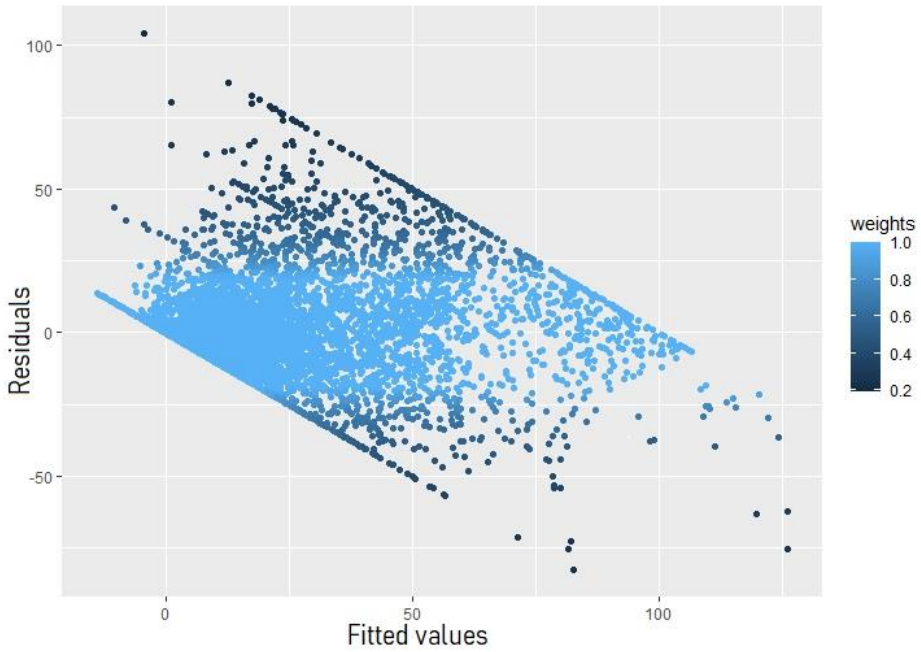
Regarding the alternative legal help and information and access to NGOs variables, the effects were fairly consistent with the original variables. The alternative "Legal help"-variable had virtually no effects on recognition rates, just like original variable. The alternative "Information and access to NGOs"-variable displays positive effects on recognition rates just like the original variable, with larger coefficients. The positive effect of the alternative operationalization is only statistically significant when analyzing the total recognition rate. A positive effect of information and access to NGOs is in line with the hypothesis. However, this alternative variable has a maximum value of 5 and a mean of 4.8, so what the results indicate is in essence that the few worst performing countries on information and access to NGOs have lower recognition rates.

5.3.2 Robust standard errors

As was discussed in sections 4.4.2 and 4.4.3, the assumptions of the models are violated to a certain degree by the fact that the residuals are not normally distributed, but rather have a somewhat higher than normal frequency of extreme values, and the residuals also seem to be slightly heteroscedastic, with some outliers at each end of the scale for the fitted values. As mentioned, these problems can lead to estimation of standard errors that are usually too small. Employing robust standard errors does not correct this entirely, but they can help estimating more accurate confidence intervals and p-values (Hox, Moerbeek and van de Schoot 2018, 247-248).

To estimate the models with robust standard errors, I use the R-package *robustlmm* (Koller 2021). The method used for estimating the robust errors in the models presented below is called the "smoothed Huber function". Essentially the standard errors are weighted, so that the outliers have less of an impact on the estimated coefficients and standard errors. This can be seen in Figure 5.3 below. The residuals plotted against the fitted values look the same as shown in Figure 4.3 in the section on assumptions. The difference is that the residuals are weighted to reduce the impact of outliers on the estimation, as can be seen by the color-coded weights to the right of the plot.

Figure 5.3: Residuals plotted against fitted values for Model 2, with robust standard errors.



In Table 5.7, I present the full models including both explanatory variables and control variables, that were introduced in section 5.2, along with the same models estimated with robust standard errors. Model 2 analyzes the total recognition rate, while in Model 5 the convention recognition rate is the dependent variable.

Table 5.7: Model 2 and Model 4, with and without robust standard errors

	Total recognition rate		**Convention recognition rate**	
	Model 2	**with robust standard errors**	Model 5	**with robust standard errors**
Explanatory variables				
Judicial v. administrative review	**-5.86**	**-5.09**	**-6.52**	**-6.61***
	(3.71)	(3.42)	(3.36)	(2.73)
Border procedure	**-1.97**	**-3.26****	**3.40****	**2.86****
	(1.00)	(0.91)	(0.91)	(0.72)
Accelerated procedure	**-5.90****	**-6.25****	**-2.69****	**-2.27****
	(1.07)	(0.95)	(0.96)	(0.73)
Grounds for accelerated procedure	**0.09**	**0.27**	**-0.04**	**0.10**
	(0.19)	(0.17)	(0.17)	(0.13)
Grounds for inadmissibility	**0.79***	**0.54***	**1.45***	**1.09****
	(0.31)	(0.27)	(0.28)	(0.21)
Suspensive appeals	**0.24**	**-0.34**	**0.37**	**0.43**
	(0.61)	(0.55)	(0.55)	(0.43)
Suspensive subsequent applications	**0.31**	**0.20**	**-0.38**	**-0.03**
	(0.55)	(0.48)	(0.49)	(0.37)
Legal help	**0.07**	**0.14**	**0.08**	**0.09**
	(0.14)	(0.13)	(0.13)	(0.10)
Information and access to NGOs	**1.08**	**1.23**	**0.32**	**0.46**
	(0.77)	(0.71)	(0.70)	(0.56)
Rights for vulnerable applicants	**-0.55**	**-0.20**	**-2.27****	**-1.89****
	(0.55)	(0.49)	(0.50)	(0.38)
Destination control variables				
Past asylum applications	**0.92****	**0.82****	**0.44****	**0.41****
	(0.21)	(0.19)	(0.19)	(0.06)
Destination GDP per capita	**0.11**	**0.11**	**0.12**	**-0.07**
	(0.08)	(0.07)	(0.07)	(0.06)
Unemployment rate	**-0.40***	**-0.40****	**-1.08****	**-0.94****
	(0.17)	(0.15)	(0.15)	(0.12)
Nationalist parties vote share	**-0.73****	**-0.66****	**-0.43****	**-0.40****
	(0.09)	(0.08)	(0.08)	(0.06)
Origin control variables				
Autocracy	**2.80****	**2.49****	**2.23****	**1.83****
	(0.27)	(0.23)	(0.22)	(0.16)
Origin GDP per capita	**-0.15**	**-0.14**	**0.05**	**-0.01**
	(0.12)	(0.10)	(0.10)	(0.07)
Human rights violations	**0.89**	**0.53**	**0.73**	**0.42**
	(0.46)	(0.40)	(0.41)	(0.31)
Battle fatalities	**1.06**	**1.18**	**-0.12**	**0.32**
	(0.71)	(0.63)	(0.63)	(0.47)

Random effects				
σ^2	308.05	228.48	247.35	134.07
τ_{00}	181.35_{origin} 152.98_{dest}	116.58_{origin} 166.03_{dest}	100.05_{origin} 132.90_{dest}	47.93_{origin} 158.16_{dest}
ICC	0.52	0.55	0.49	0.61
N	140_{origin} 21_{dest}	140_{origin} $21_{destination}$	140_{origin} $21_{destination}$	140_{origin} $21_{destination}$
Number of observations	**6084**	**6084**	**6084**	**6084**

*p<.05, **p<.01, standard errors in parentheses.

The results of the estimating the models with robust standard errors are very similar to the original models, and thus lend support to the notion that problem with heteroscedastic residuals does not bias the results to a large degree. At the same time, the coefficients and standard errors vary enough that one needs to have certain reservations about the size of the effects and sometimes also the confidence level. In the Model 2 with robust standard errors, analyzing the total recognition rate, the negative effect of a border procedure is statistically while it was not in the original model, as the coefficient is considerably larger. In the Model 5 with robust standard errors, analyzing the convention recognition rate, the negative effect of judicial review versus administrative review is statistically significant, as the standard error is lower than in the original model. Overall, the robustness check of estimating the models with robust standard error has reaffirmed the original findings. This is a good sign, as if the robust standard errors had been much different from the standard errors estimated by maximum likelihood, it would have been a sign that one or more distributional assumptions had been violated (Hox, Moerbeek and van de Schoot 2018, 250).

5.3.3 REML instead of ML

The results presented so far has all been estimated using maximum likelihood (ML), which is the most common estimation method for multilevel modelling (Hox, Moerbeek and van de Schoot 2018, 28). Alternatively, one can use restricted maximum likelihood (REML). I will not go into detail about the methodological differences, but as Hox, Moerbeek and van de Schoot explain (2018, 28), in REML only the variance components and not the regression coefficients are included in the likelihood function.

To check whether the estimation method makes a difference, I estimated the full models, Model 2 and Model 5, with restricted maximum likelihood. The regression tables can be found in Appendix B. The regression coefficients of the independent variables almost did not change at

all. When analyzing the convention recognition rate with REML, the Judicial v. administrative review-variable is statistically significant, as opposed to with ML. The p-value barely changed, from 0,052 to 0,049, but just enough to move it across the quite arbitrary threshold of the 95% confidence level when the model was estimated with REML. Overall, estimating the models with REML instead of ML made very little difference to the results.

6. Discussion and concluding remarks

6.1 Discussion of empirical results

A couple of the explanatory variables had effects that were sizeable, fairly consistent across models and in robustness tests, and in line with the hypotheses. This is especially the case for the negative effect of employing an accelerated procedure, but I will argue also the case for the positive effect of information and access to NGOs, which had a strong effect on the total recognition rate, which was even clearer with the alternative operationalization. The effect on the convention recognition rate was also positive across all models, but not statistically significant at a 95% confidence level.

Another couple of variables had sizeable and statistically significant effects, but they were inconsistent across models or contrary to the hypothesis. The effects of employing more grounds for inadmissibility were consistently positive, contradicting the hypothesized negative effect. This is not entirely surprising, as the prospects of getting an application quickly dismissed as inadmissible may discourage applications that are unlikely to succeed anyways. Furthermore, the results indicated that employing a border procedure has a clear negative effect on the total recognition rate, which is what the hypothesis predicted, but also a strong positive effect on the convention recognition rate. While one could find arguments for why the effect could be positive instead of negative, due to how asylum statistics are compiled, it is hard to rationalize why the effect would change diametrically when analyzing the convention recognition rate instead of the total recognition rate. Finally, the results indicated a strong negative effect of rights for vulnerable applicants on the convention recognition rate. It does not make a lot of sense why the effect should be negative, nor why it should only affect the convention recognition rate. I have argued that this surprising result may be due to poor measurement validity.

No clear effects were found for the remaining five explanatory variables: judicial v. administrative review, grounds for accelerated procedure, suspensive appeals, suspensive

subsequent applications, and legal help. I have argued that for some of these variables, the way asylum statistics are compiled might cloud the effects, and that better asylum statistics might help reveal their impact on asylum recognition rates.

Overall, the results indicate that the impact of the explanatory variables on asylum recognition rates are quite modest. This is underscored by the stronger and more consistent effects of the control variables drawn from common explanations of asylum recognition rates in the existing scholarly literature. For the destination country control variables, there was a clear positive effect of more asylum applications per capita in the last three years, and a negative effect of unemployment and higher vote shares for nationalist parties. Unsurprisingly, the analysis found much higher recognition rates for applicants from origin countries that scored higher in terms of autocracy and human rights violations.

6.2 Contributions and limitations of the thesis

Existing literature on the determinants of asylum recognition rates have tended to focus on dynamic, political and economic factors in destination countries. These explanations have a very unclear and indirect causal mechanism linking them to asylum decisions. I have instead studied the effects of procedural factors where the linkage to the process of determining asylum outcomes is much clearer. The results do not suggest a massive impact of procedural factors in explain asylum recognition rates, but do offer support to some of the hypotheses.

The results of the analysis are particularly interesting in the context of the comprehensive reforms of the CEAS that have recently been proposed by the European Commission (2020) in the form of an Asylum Procedures Regulation and a Qualification Regulation. It is especially concerning that employing an accelerated procedure is clearly associated with lower recognition rates, when the European Commission (2020, 8) has suggested to make the use of this procedure obligatory in certain cases. More generally, the low overall impacts of procedural features on asylum recognition rates found in this study suggest that the desired convergence of recognition rates between participatory countries in the CEAS might not materialize if the proposed regulations are enacted.

There are several limitations to this study. First, AIDA country reports, from which the explanatory variables have been coded, were not available for some of the smaller countries

that participate in the CEAS, and some years were missing for several of the countries that were included. Secondly, there are reasons to believe that the measurement validity is questionable for at least one of the variables, rights for vulnerable applicants. Moreover, it would have been desirable to have another researcher code the same data and examine the intercoder reliability. On the other hand, robustness checks, like testing alternative operationalizations of some explanatory variables and estimating the models with robust standard errors and REML, indicated quite consistent results.

Finally, the perhaps greatest limitation of the study is the fact that asylum recognition rates measure the share of successful decisions, rather than the chances of a positive outcome for an asylum seeker, which is what we are ultimately most interested in understanding. This means that asylum seekers who appeal a decision or launch a subsequent application may be counted twice, inflating the number of negative decisions. Accordingly, it is hard to evaluate the effects of procedural variables that may both inflate the number of applications and impact an asylum seekers prospects for getting a positive decision in the end. Regardless of how the recognition rate is calculated, one also faces the possibility that procedural factors which inhibit asylum seekers with poor prospects from applying for protection in the first place can have a positive effect on recognition rates, even though these factors serve to prevent people from getting protection.

6.3 Further research

As mentioned, a major obstacle to improved insights into how procedural features (and other factors) affect the chances an asylum seeker has of getting protection, is the way asylum statistics are compiled. My views mirror some of the arguments made in a factsheet published by ECRE (2020) on the limitations of how asylum statistics are compiled. First of all, a key issue is that the statistics only cover first instance and appeal/final decisions separately. Moreover, there is no way to connect the cases at the appeal stage to the rejected cases at first instance, as these can be partially separate caseloads. A major improvement would be to report the share of accepted and rejected claims of cohorts for all stages combined, after a final decision has been made. In addition, asylum statistics are muddled by the ambiguity of cases that are “closed” rather than accepted or rejected, and the lack of a separation between a rejection based on inadmissibility and an assessment of the merits of the claim. I would think the effects of variables in this study like the grounds for inadmissibility, suspensive appeals and

suspensive subsequent applications could be particularly sensitive to how asylum statistics are compiled, and better statistics could help reveal their impact on recognition rates.

Another general observation about the prospects for future research trying to explain asylum recognition rates, is that quantitative time-series cross-sectional studies and qualitative studies could complement each other better. The quantitative studies of asylum recognition rates, like those of Neumayer (2005) and Toshkov (2014), propose a number of dynamic, political, and economic factors in destination countries that might affect recognition rates, and they find at least some support from the data analysis. However, they spend very little effort engaging with how the asylum procedure works, and trying to explain how these factors can affect the outcome of decisions. How does, say, higher unemployment rates, trickle into the decision-making process and affects the outcome? On the other hand, qualitative studies, like the dozen compiled in Gill and Good's (2019) book *Asylum Determination in Europe* do engage with the asylum procedure, but they are not geared towards examining cross-national differences in outcomes.

Finally, an expanded cross-national database would further increase the potential of studying the impact of procedural features on asylum recognition rates. The Asylum Information Database (AIDA) project is gradually expanding, both when it comes to covering more countries, and in terms of the level of detail in their annual country reports. This is a promising development, as I believe there is more to unravel regarding the consequences of differences in asylum procedures, and a good database is an essential precondition for doing that.

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Appendix A: Coding rules for explanatory variables

Variable name	Explanation	Scale
Judicial v. administrative review	The variable is coded 1 if the country employs "judicial review" and 0 if it employs "administrative review".	0-1
Grounds for inadmissibility	I added 1 for each of the five grounds for inadmissibility in the Asylum Procedures Directive that a country has transposed into national legislation.	0-5
Border procedure	A unit is coded as 0 if the country does not have a procedure at the border or in transit areas, 1 if a country has an admissibility procedure at the border, and 2 if applications are also evaluated in substance during the border procedure.	0-2
Alternative operationalization	Alternatively, the units are coded 1 only if a country examines applications in substance at the border, and 0 if not.	0-1
Accelerated procedure	Units are coded 1 if a country employs an accelerated procedure for applications likely to get rejected, and 0 if it does not have a separate procedure for such applications.	0-1
Grounds for accelerated procedure	The Asylum Procedures Directive specifies ten specific conditions under which an accelerated procedure may be employed. The units are coded according to how many of these ten conditions a country has transposed into national legislation.	0-10
Legal help	For both the first instance and appeal instance of the regular procedure, border procedure, accelerated procedure, and admissibility procedure, indicators ask whether free legal aid is available. Each "Yes" is coded 2 points, each "not always/with difficulty" is coded 1 point, and each "No" is coded 0 points. Scores are doubles for the regular procedure. This formula gives a total of 20 possible points added together. If a country does not apply one or more of these four specific procedures, the score is divided by the maximum possible score from the procedures the country does apply, and then multiplied by 20 to give a comparable score.	0-20
Alternative operationalization	Alternatively, the coding rules are the same, except that both a "Yes" and a "not always/with difficulty" are coded 1 point. This gives a score between 0 and 10.	0-10
Suspensive appeals	For both the regular procedure, border procedure, accelerated procedure, and admissibility procedure, indicators ask whether a decision can be appealed, and	0-10

	whether this appeal has automatic suspensive effect on deportation. For each procedure, 1 point is given if a negative decision can be appealed, and 1 point if the appeal is automatically suspensive. If the appeal is automatically suspensive on "Some grounds" this is counted the same as "Yes" and given 1 point. Scores are doubles for the regular procedure. This formula gives a maximum of 10 points. If a country does not apply one or more of these four specific procedures, the score is divided by the maximum possible score from the procedures the country does apply, and then multiplied by 10 to give a comparable score.	
Information and access to NGOs	The indicator is based on answers to these five questions: - *Is sufficient information provided to asylum seekers on the procedures in practice?* - *Is sufficient information provided to asylum seekers on their rights and obligations in practice?* - *Do asylum seekers located at the border have effective access to NGOs and UNHCR if they wish so in practice?* - *Do asylum seekers in detention centres have effective access to NGOs and UNHCR if they wish so in practice?* - *Do asylum seekers accommodated in remote locations on the territory (excluding borders) have effective access to NGOs and UNHCR if they wish so in practice?* 2 points are awarded for each question answered "Yes", and 1 point for each question answered "Not always/with difficulty". 0 points for "No". In more recent reports, the two first questions asking about information have been merged into one question. When this is the case, that question gives double points. If a question is considered irrelevant and is not answered (if the country does not have a border procedure for example), the score is divided by the maximum possible score from the other questions, and then multiplied by 10 to give a comparable score.	0-10
Alternative operationalization	Alternatively, the coding rules are the same, except that both a "Yes" and a "not always/with difficulty" are coded 1 point. This gives a score between 0 and 5.	0-5

Suspensive subsequent applications	Units are coded 1 if a first subsequent has automatic suspensive effect on deportation. Units are coded 2 if a second, third subsequent application has automatic suspensive effect. Units are coded 0 if there is no automatic suspensive effect of subsequent applications. These AIDA indicators only have the options "Yes" or "No" in country reports, but a few authors have added boxes for "Not systematically" which I have coded as "No" or "On some grounds" which I have coded as "Yes". *Alternative operationalization* Alternatively, units coded 1 if a first subsequent has automatic suspensive effect on deportation, and 0 if not.	0-2 0-1
Rights of vulnerable applicants	The indicator is based on answers to these five questions: - *Is there a specific identification mechanism in place to systematically identify vulnerable asylum seekers?* - *Are there special procedural arrangements/guarantees for vulnerable people?* - *Does the legislation provide for the possibility of a medical report in support of the applicant's statements regarding past persecution or serious harm?* - *Does the law provide for an identification mechanism for unaccompanied children?* - *Does the law provide for the appointment of a representative to all unaccompanied children?* Units are scored with 1 point for each "Yes" and 0 points for each "No", giving a maximum score of 5. The answers "Yes, but not in all cases" and "Yes, but only for some categories" are coded as "Yes" and given 1 point.	0-5

Appendix B: Full models estimated with REML

	Total recognition rate Model 2	**Convention recognition rate** Model 5
Explanatory variables		
Judicial v. administrative review	**-5.99**	**-6.73***
	(3.77)	(3.42)
Border procedure	**-1.96**	**3.40****
	(1.02)	(0.92)
Accelerated procedure	**-5.90****	**-5.90****
	(1.08)	(0.97)
Grounds for accelerated procedure	**0.09**	**-0.03**
	(0.19)	(0.17)
Grounds for inadmissibility	**0.79***	**1.46****
	(0.31)	(0.28)
Suspensive appeals	**0.23**	**0.36**
	(0.62)	(0.55)
Suspensive subsequent applications	**0.32**	**-0.37**
	(0.55)	(0.49)
Legal help	**0.07**	**0.09**
	(0.14)	(0.13)
Information and access to NGOs	**1.14**	**0.43**
	(0.78)	(0.71)
Rights for vulnerable applicants	**-0.53**	**-2.28****
	(0.55)	(0.50)
Destination control variables		
Past asylum applications	**0.92****	**0.43***
	(0.21)	(0.19)
Destination GDP per capita	**0.10**	**-0.13**
	(0.08)	(0.07)
Unemployment rate	**-0.41***	**-1.10****
	(0.17)	(0.16)
Nationalist parties vote share	**-0.73****	**-0.43****
	(0.09)	(0.08)
Origin control variables		
Autocracy	**2.80****	**2.23****
	(0.27)	(0.22)
Origin GDP per capita	**-0.16**	**0.05**
	(0.12)	(0.10)
Human rights violations	**0.89**	**0.73**
	(0.46)	(0.41)
Battle fatalities	**1.05**	**-0.13**
	(0.71)	(0.63)
Random effects		
σ^2	308.83	247.96
τ_{00}	183.63_{origin}	101.44_{origin}
	$173.25_{destination}$	$154.62_{destination}$
ICC	0.53	0.51
Number of observations	6084	6084

*p<.05, **p<.01, standard errors in parentheses.