Security Over Human Rights? How Securitization Of Migration Impacts Variation In Compliance With ECtHR Non-Refoulement Judgments

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"SECURITY OVER HUMAN RIGHTS?
HOW SECURITIZATION OF MIGRATION IMPACTS VARIATION IN COMPLIANCE WITH ECTHR NON-REFOULEMENT JUDGMENTS"

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Abstract

This thesis examines how securitization of migration impacts variation in state compliance with European Court of Human Rights (ECtHR) judgments concerning the principle of non-refoulement. Using a most similar systems design, it compares three ECtHR judgments, their compliance processes and outcomes and the degree of securitizing discourse during compliance-decisive time episodes: Hungary after *Ilias and Ahmed v. Hungary (2019),* Italy after *Hirsi Jamaa and Others v. Italy (2012)* and Greece *after Sharifi and Others v. Italy and Greece (2014).* The study uses qualitative process tracing supported by a targeted qualitative analysis of discourse and documents. Findings indicate that high securitization coincides with lower-end compliance. The analysis suggests that migration securitization activates a security logic that prioritizes border control and narrows feasible compliance options, biasing states toward adopting minimal or non-protective formal compliance measures.

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A. Introduction

"[T]here is a need to look at how the European Court of Human Rights has developed its interpretation of the European Convention on Human Rights", stated nine European Prime Ministers and Presidents in an open letter in May 2025 (Governo Italiano, 2025). The European Court of Human Rights (ECtHR) is tasked with upholding human rights in all member states of the Council of Europe (CoE). Under Art. 46(1) European Convention on Human Rights (ECHR), its judgments are binding on the parties concerned. However, as of 2024, 44 percent of the last ten years' leading ECtHR judgments against European Union (EU) member states remained unimplemented (EIN & DRI, 2024, p. 9). Migration-related judgments are at the forefront of not (fully) implemented ECtHR judgments (EIN & DRI, 2024, p. 10). Notably, here, not all states fall short to the same extent:

In three individual ECtHR judgments (*Ilias and Ahmed v. Hungary (2019), Hirsi Jamaa and Others v. Italy (2012), Sharifi and Others v. Italy and Greece (2014*)), Hungary, Italy and Greece were each found to have violated the rights of migrants arising from the principle of non-refoulement enshrined in the ECHR. In response, Greece moved forward (procedural) reforms following its judgment, while Italy merely adhered formally while continuing similar control practices through third parties, and Hungary substantively disregarded most obligations imposed on it. This reveals a puzzle. Despite sharing the same legal obligations under the ECHR and despite facing similar migratory pressures at the EU's external borders, each state responded differently. What accounts for this variation?

The phenomenon of (non-)compliance with international human rights tribunals, particularly the ECtHR, has been studied extensively (Hillebrecht, 2014a, b; Anagnostou, 2013; Jay, 2025). Scholarship has offered rationalist, normative and domestic-institutional arguments to illuminate why and when states comply. These approaches, however, standing alone, struggle to explain different compliance outcomes under similar circumstances after similar judgments. At

the same time, scholarship has described how migration is increasingly being framed as a threat to national security, culture or economy (Balzacq et al., 2016; Planas, 2025). Surprisingly, the two bodies of literature have largely developed in parallel. *"In our opinion, safety and security […] should take precedence over other considerations",* the open letter goes on. *"We should have more room nationally to decide on when to expel criminal foreign nationals."* In a Europe where language of "security" has become almost irreversibly intertwined with debates over migrants' rights, we need to explore a connection between securitization and human rights compliance. Scholars have especially highlighted the weakening of non-refoulement obligations through "security" arguments (Jakulevičienė, 2023). Hence, this thesis investigates: **How does securitization of migration impact variation in state compliance with ECtHR non-refoulement judgments?**

Compliance is the execution of actions called for in the ECtHR judgment and is primarily dependent on domestic political processes, with outcomes on a spectrum. Securitization is the degree to which governmental and legislative actors frame migration as a security threat. This thesis proposes that securitization of migration shapes the form of state compliance with ECtHR non-refoulement judgments. It expects that when the discourse on migration compliance-defining post-judgment moments is highly securitized, this political context increases the likelihood of migration being governed through a security logic. This security logic prioritizes border control over migrants' human rights, making minimal or non-protective formal forms of compliance more likely.

This thesis adopts a qualitative small-N most-similar systems design comparing the degree of migration securitization during the post-judgment implementation phase and the subsequent compliance outcomes of three ECtHR non-refoulement judgments, *Ilias and Ahmed v. Hungary (2019)*, *Hirsi Jamaa and Others v. Italy (2012)* and *Sharifi and Others v. Italy and Greece (2014).* Process tracing is used to trace whether securitization of migration activates the

security logic that reshapes domestic compliance governance and thus compliance forms. This method is supported by targeted document and discourse analysis.

Academically, this study contributes to scholarly debates on international human rights compliance by combining domestic-institutional compliance theory with securitization theory in migration contexts. It specifically aims to advance insight into how European states handle the tension between security and human rights.

Societally, this study contributes to debates on the effectiveness of the Court and the European human rights system and European democracy. Populist narratives about the dangers of migration bring right-wing ideologies into politics, for which the ECtHR acts as a normative constraint. Persistent non- and partial compliance harms the institution of the ECtHR and the European human rights system (Stiansen & Voeten, 2020). The analysis illuminates conditions under which European states uphold human rights. This can be a valuable insight for the Committee of Ministers' (CoM) compliance supervision mechanism, Art. 46(2) ECHR.

Following this introduction, this paper evaluates relevant literature on compliance, presents the theoretical and conceptual framework and introduces the methodological design and choices. This is followed by within-case analyses of the three judgments, assessing the compliance form, the securitization degree and the functioning of the proposed security logic mechanism. The outcomes will be compared in a cross-case analysis to confirm or contest the theory. To conclude, the findings are summarized, the research question answered, the limitations discussed and possible avenues for future research suggested.

B. Literature Review

This thesis investigates how securitization of migration impacts variation in state compliance with ECtHR non-refoulement judgments. To situate this objective within the broader ECtHR compliance literature, this chapter reviews two areas of research: first, explanations for why and when states comply with ECtHR judgments, and second, partial compliance.

I. Compliance Explanations

ECtHR compliance literature has gained prominence in broader scholarship on international court compliance after Protocol No. 11 to the ECHR (1998) reformed the ECtHR into a full-time court open to individual complaints with compulsory jurisdiction over all CoE member states (Helfer, 2008, p. 126). The question of why and when states comply with ECtHR judgments is being debated in the literature. Scholars argue whether compliance is driven primarily by cost-benefit calculations (rationalist approaches), identity (normative approaches) or domestic political processes (domestic-institutional approaches). Notably, often, multiple approaches are combined.

Rationalist scholars of international court compliance argue that compliance increases when states find that its benefits outweigh the political, economic or reputational costs of non-compliance (Carruba & Gabel, 2015). In ECtHR scholarship, such approaches are rare. Though her framework is anchored in domestic-institutionalism, Hillebrecht (2014a) offers one of the few rationalist accounts. She argues that states may comply for reputational benefits by signaling reliability to international audiences. In a system without coercive enforcement mechanisms, however, it is unclear when reputational benefits would be sufficient to outweigh compliance costs. Kosař and Petrov (2018) suggest that the "unexpected external shock" of the 2015 "migration crisis" led the cost of compliance to outweigh the international pressure. However, their argument is not suited to explain low and partial compliance in migration cases even before

2015. Von Staden (2018), therefore, suggests that only the means of compliance are determined by a cost calculation, where states may adopt the narrowest possible interpretation of a judgment. This offers a compelling argument about why states' compliance outcomes may vary. Rational choice approaches, standing alone, risk overestimating the impact of international pressure. The supervising CoM can only "name and shame", not force.

The "if" of compliance with the ECtHR, according to von Staden (2018), is often normative rather than rational. European states' self-professed identity as liberal rule-of-law democracies can remove non-compliance as a political option. When compliance costs are too high, however, non-compliance is possible. Notably, this risks post-hoc classification as both outcomes fit the theory without clear observable criteria. Additionally, illiberal European states are not accounted for.

While normative approaches, on their own, can offer valuable insight into why many European states treat compliance with ECtHR judgments as a default, they are less well suited to explain why variation in compliance with similar rulings persists even among states with similar rule-of-law identities.

To address these limitations, domestic-institutional approaches shift attention to the domestic political processes through which ECtHR judgments are implemented. Voeten (2014, p. 229) describes a "subtle relationship between time, institutional capacity, and checks and balances". Notably, high institutional capacity may facilitate compliance, but it can also enable states' ability to "formally" comply but circumvent a judgment substantively.

Most scholars focus on the interaction of government, legislatures, courts, civil society and European actors (Anagnostou, 2013; Anagnostou & Mungiu-Pippidi, 2014). The willingness of government and courts to cooperate and comply is argued to be crucial (Hillebrecht, 2014b; Marmo, 2008; Kunz, 2020; Hawkins and Jacoby, 2010). However, while the increased focus on domestic politics is commendable given it identifies relevant actors involved in compliance

processes, domestic-institutional approaches often underspecify the conditions under which these actors mobilize in favor of compliance. While Fikfak (2019) finds that generally monetary remedies are more likely to be complied with than obligations that require a structural change, the effect of issue framing on compliance governance is underspecified. This is especially consequential in contested policy areas such as migration.

II. Partial Compliance

A central theme in ECtHR compliance scholarship concerns the prevalence and meaning of partial compliance. Given that the ECtHR offers the respondent states a margin of appreciation for the means of implementation, most contemporary scholars argue that compliance is not binary and most compliance outcomes fall in between non- and full compliance as partial compliance (Hillebrecht, 2014b; Hawkins & Jacoby, 2010; Jay, 2025; Remezaite, 2019). Particularly in migration contexts, especially in view of *Hirsi Jamaa and Others v. Italy (2012),* a phenomenon has been described where states adopt measures that appear to fulfil Strasbourg's judgment while in practice policies continue in ways that undermine the judgment's rights-protective purpose, e.g. through the outsourcing of border control (Greenberg, 2021; Jakulevičienė, 2023). Yet, this body of work has paid comparatively less attention to explaining variation in compliance with similar ECtHR migration judgments. In particular, the causal conditions under which states comply more or less, remain undertheorized.

III. Gap

Despite extensive work on compliance causes and partial compliance, existing explanations have not sufficiently addressed why, under comparable legal obligations and similar border pressures, states adopt different compliance forms in response to ECtHR non-refoulement judgments. While research on partial compliance has shown how states may implement

judgments formally while undermining the judgments' purpose, the conditions under which such strategies are undertheorized. More broadly, the potential role of securitized migration governance in shaping domestic compliance processes has rarely been studied. This thesis addresses these gaps through a qualitative comparative analysis of three most-similar cases, examining how securitization of migration impacts variation in state compliance with ECtHR non-refoulement judgments.

C. Theoretical and Conceptual Framework

To explore how the securitization of migration (independent variable) impacts variation in compliance (dependent variable) with ECtHR non-refoulement judgments, this thesis combines two theoretical frameworks. Domestic-institutional compliance theory provides the foundational assumption that compliance depends on domestic political processes and varies along a spectrum, while securitization theory offers the explanatory lens to examine how governing migration as a security concern conditions these processes.

I. Compliance Theory

1. Compliance Through Domestic Politics

Domestic-institutional compliance theories suggest that compliance with international human rights court decisions happens through the interplay of multiple domestic actors, including the government, courts, civil society and the media (Anagnostou, 2013; Anagnostou & Mungiu-Pippidi, 2014). Given the absence of a coercive enforcement mechanism within the CoE and the primacy of state sovereignty in the ECHR-system (Greenberg, 2021), the effectiveness of the ECtHR depends on the voluntary execution of its judgments. This requires domestic legislative and administrative action. Therefore, variation in compliance with ECtHR judgments is best analyzed at the level of domestic politics; external influences are treated as background conditions rather than a primary explanatory mechanism. Further, while acknowledging that multiple actors play a role in the compliance process, and particularly courts may act as important compliance partners (Kunz, 2020), the analysis focuses specifically on executive and legislative elites responsible for migration governance. This analytical constraint reflects the executive nature of non-refoulement violations as well as the concentration of authority in final compliance decision making on the executive (practice change) and legislative (legal change).

2. *Compliance as a Spectrum*

Within this framework, this thesis understands substantive compliance as the full execution of the action or complete avoidance of the action called for or prohibited in the ECtHR judgment (Kapiszewski & Taylor, 2013, p. 4), as further clarified through the supervision process by the CoM (EIN, 2020, p. 5). However, given the deliberate margin of appreciation afforded to states regarding the means of compliance (Jay, 2025, p. 13), compliance is best conceptualized as a spectrum in between non-compliance and full compliance along the different degrees of compliance (minimal – non-protective formal – substantive). This spectrum includes forms of partial compliance that are primarily formal in nature. As Greenberg (2021, p. 519) describes, states may adopt measures that formally adhere to the terms of the judgment but limit its intended human rights protection effect in practice - an implementation strategy this thesis terms "non-protective formal compliance".

II. Securitization Theory

Building on this basis, this thesis uses securitization theory to advance one explanation for variation in compliance with ECtHR non-refoulement judgments. Importantly, this study does not claim to deliver a panacea for all ECtHR compliance matters, nor is it concerned with the causes of securitization of migration.

1. *Context*

Securitization theory views security threats not as an objective condition but as politically and socially constructed (Balzacq et al., 2016, p. 496). In accordance with Buzan et al. (1998, p. 21), this thesis defines securitization as the process through which political actors frame a subject as an existential threat to a valued referent object, thereby justifying measures beyond ordinary political procedures to handle the threat. This thesis aligns with contemporary

scholarship in viewing both discourse and governance practices as securitizing acts (Bigo, 2002, p. 65; Balzacq et al., 2016).

2. Security Logic

While securitization justifies extraordinary measures, these are here not understood as "panic politics" leading to urgent emergency measures but rather as a gradual change in governing the issue (McDonald, 2008). Once an issue is securitized, its management tends to shift from ordinary politics to a governance through a distinct security logic. This mode of governance is characterized by political priorities structured around and policy options narrowed toward threat prevention, deterrence, control and the protection of the valued referent object (Balzacq, et al., 2016). Importantly, this security logic does not directly imply the suspension of law. Instead, compliance with legal obligations is likely assigned reduced weight when those conflict with security objectives. This dynamic increases the likelihood that legal obligations are complied with in ways that limit their human rights protection effect (Planas, 2025).

3. Securitization of Migration and Non-Refoulement

Based on this, when migration is securitized, it is likely to be governed through a security logic. (Securitization is the framing, and security logic is the resulting mode of governance.)

In this context, border policy is managed primarily through deterrence and control (Bello, 2022). Policy options are likely to be narrowed toward maintaining border protection, rather toward human rights protection (Planas, 2025).

This is particularly consequential for non-refoulement obligations under the ECHR – the substantive and procedural guarantee that nobody is to be returned to a country where they face a real risk of ill-treatment, under Art. 3 and Art. 13 in conjunction with Art. 3 ECHR. Obliging non-refoulement obligations might limit the speed and scope of border control measures, and

therefore likely contradicts security incentives. As compliance with ECtHR non-refoulement judgments primarily depends on domestic executive and parliamentary decision-makers, this thesis expects that when their discourse on migration is securitized at times important for the compliance-decision, the political context likely activates a security logic that prioritizes border control and deterrence over migrants' human rights. This is expected to constrain the set of politically feasible compliance options and to shift compliance outcomes downward along the compliance spectrum.

Based on this, this study formulates the following **expectation**:

The higher the degree of migration securitization during compliance-deciding moments, the more likely security logic governs migration politics and the more likely compliance outcomes are minimal or non-protective formal.

The suggested process: high securitization of migration → migration governed through security logic narrowing compliance strategies → lower-end compliance forms.

D. Methodology

To examine how securitization of migration impacts state compliance with ECtHR non-refoulement judgments, this thesis employs a qualitative small-N comparative design adopting a most-similar systems design. Using theory-guided process tracing supported by targeted document and discourse analysis, it compares three ECtHR judgments.

I. Design and Case Choices

The investigation of the proposed mechanism requires in-depth reconstruction and analysis of decision-making processes and discourse. A qualitative small-N design is best suited to trace and interpret processes and rhetoric in the necessary depth.

An MSSD is appropriate as it enables a structured comparison of selected cases that share principal background characteristics but differ in the dependent variable (compliance outcome after ECtHR non-refoulement judgment). Three cases were selected: Hungary after *Ilias and Ahmed v. Hungary (2019)*, Italy after *Hirsi Jamaa and Others v. Italy (2012)* and Greece after *Sharifi and Others v. Italy and Greece (2014),* for the following reasons:

1. Comparability

Each country has been subject to an ECtHR judgment for violating the principle of non-refoulement in border control contexts within the last fifteen years. Hungary, Italy and Greece are geographically located at the EU's external borders and confronted with similar migration pressures. All three are all members of the EU and the CoE. They share the same legal obligations under both, particularly under the ECHR and CoM supervision.

The following factors are considered explicitly and are not expected to undermine the structured comparison:

- Found procedural and substantive violations of non-refoulement are treated as principally similar. That is because the ECtHR treats procedural safeguards as integral to Art. 3 ECHR non-refoulement protection, which includes Art. 13 in conjunction with Art. 3 ECHR (CoE & ECtHR, 2025, p. 35).
- The judgments occurred at different points in time, particularly before and after the "migration crisis" (EU Parliament, 2017) in 2015. Contexts outside the selected phases are potentially missed. Comparability is given because the study is designed to compare specific implementation phases rather than identical calendar years. Temporal variation is analytically valuable as it allows to capture migration governance in different temporal contexts.
- In contrast to Italy and Greece, Hungary has been considered an "electoral autocracy" (Arioli, 2025) since 2019. This is a limitation to strict most-similar comparability. It does, however, not undermine the analysis. Reduced liberal constraints are expected to intensify the proposed mechanism.
- Although *Sharifi and Others v. Italy and Greece (2014)* concerns two respondent states, this thesis only looks at Greece. This risks overlooking bilateral dynamics in compliance. However, including both would introduce a two unit analysis in one case, which is not present in the other cases. Further, Greece was selected for compliance outcomes possibly being substantive. This ensures variation in the dependent variable.
- Financial constraints, particularly Greece's financial crisis (2009 – 2018), may affect compliance capacity. This is a limitation of this study. Finance-related arguments are considered when they emerge in post-judgment compliance discourse, however, they are not operationalized as an alternative explanatory variable.

2. Variation in Dependent Variable

Hungary disregarded most obligations after the ruling (Aida & Ecre, 2025). Italy adhered formally while continuing control practices through third parties (Gauci, 2017). Greece introduced (procedural) reforms after its judgement (CoM, 2020a).

II. Operationalization and Data

1. Compliance (dependent variable)

Compliance is operationalized as the degree to which the respondent state in each case executes the obligations regarding non-refoulement required by the ECtHR judgment. The obligations are defined by the judgment and by the CoM during the supervision process. They can include individual measures and general measures (to prevent similar violations from happening) (CoE, 2025). Compliance is examined from the judgment date until the closing of the CoM supervision (or if not closed, until the most recent CoM compliance assessment), with a short post-closure observation period of two years to identify non-protective formal compliance.

As the ECtHR grants a margin of appreciation for implementation means, for each case, compliance is assessed using two indicators: (1) the CoM's evaluation of the compliance progress and the supervision status (ongoing/closed); and (2) evidence of (legal and executive) policy changes addressing the violations found. The second indicator is added to assess non-protective formal compliance, where measures may satisfy formal requirements but uphold refoulement risks in practice.

Outcome classification:

Is supervision closed? No → Minimal compliance (unless exceptional reforms); Yes → Do credible sources report continued similar violations/workarounds? Yes → Non-protective formal compliance; No plus evidence of policy changes addressing the violation → Substantive compliance.

2. *Securitization (independent variable)*

Securitization of migration is operationalized as the degree to which governmental and parliamentary decision-makers in migration governance frame migration as a threat. Decision-makers are the members of government and parliament. The analysis is limited to discourse and does not test audience acceptance because threat framing in official discourse captures the political context in which compliance decisions are justified and made. This thesis is not concerned with causes or methods of securitization and does not conduct a full securitization analysis.

Due to long and uneven implementation processes, the analysis focuses on selected episodes post-judgment until the end of the compliance period (s. above), in which compliance choices were formulated, justified or contested (e.g. Action Plan/Report submissions, CoM decisions, major policy reforms, publicly discussed recurrence of similar violations). Both securitization and security logic are assessed within the same episodes to ensure temporal alignment. A brief (2 months) pre-judgment assessment of migration securitization is included to establish whether securitization predates the ECtHR judgment.

Within each episode, a corpus of sources are reviewed and then a small number of representative quotes selected that best illustrate the dominant frame. To avoid a bias toward securitizing frames, quotes that fulfil the indicators and alternative frames are equally noted.

Within each episode, I purposively sample government and parliamentary discourse most relevant to migration governance and compliance decision-making. Quotes are selected to represent dominant frames and alternative frames.

Indicators: (1) Migration being described as a threat or similar to security, culture, economy, public order; and (2) Usage of existential (e.g. survival or collapse) or emergency language (e.g. invasion, war, crisis, flood) in migration discourse.

Classification:

- Low: Isolated threat framing and emergency language.
- Moderate: Recurrent threat framing and emergency language coexisting with other frames.
- High: Dominant threat framing and emergency language.

To avoid overweighting isolated statements, securitization is classified as high only when threat framing recurs across multiple sources and at least two actor types and alternative frames are rarely observed.

3. *Governance Through Security Logic (mechanism*)

Governance through a security logic is operationalized as the degree to which compliance processes are shaped by border control priorities sidelining human rights constraints. Security logic is treated as the causal mechanism rather than a separate explanatory variable.

Indicators:

(1) Delegitimization of compliance arguments (what arguments count?): judgment or its obligations are framed as constraining security (s. above); competing compliance incentives (e.g. human rights obligations, reputational concerns, NGO/CoM pressure) absent from discourse or explicitly dismissed.

(2) Security prioritizing policies (which options are feasible?): adoption or continuation of border control-oriented legislation or practices in a way that reduces practical space for compliance. (Compliance outcomes show what happened in relation to the judgment's required measures, while indicator (2) shows broader migration governance orientation which is expected to narrow the range of possible compliance outcomes. The securitization context is shown through discourse, while security practices are considered in indicator (2) insofar as they reflect the security logic.)

Classification:

- Weak: indicators largely absent or one contested
- Moderate: one indicator present or two contested
- Strong: both indicators present

III. Data Sources and Collection Method

Data is sourced from: ECtHR judgments (HUDOC), CoM supervision materials (HUDOC-EXEC: Action Plans/Reports, CoM decisions, IO/NGO communication), statements and speeches of members of government and parliament, parliamentary debates, official policy documents and legislation; triangulated with credible secondary reports on securitization, compliance, policy reforms and legislation change (e.g. Amnesty, aida and ecre, academic scholarship, journalism). Because compliance with ECtHR judgments is extensively supervised by the CoM, the analysis relies on CoM materials. These materials are enriched by domestic discourse and policy documents and NGO/IO and journalistic and scholarly reports to ensure credibility, measure securitization and capture what is happening beyond the CoM's supervisory scope.

The data will be collected purposively using an episode-based strategy (s. above).

IV. Data Analysis Method

The data is primarily analyzed using theory-guided process tracing. The compliance process is traced from the finalized judgment until the end of this study period (s. above). After the judgment has been summarized and the non-refoulement obligations have been defined, the compliance outcome is classified along the compliance spectrum. Then, the compliance-important moments are identified and the degree of securitization of migration discourse in these moments is assessed analyzing purposively selected discourse. Based on the findings, expectations for the case are formulated. Then, the security logic is traced and summarized, supported by

selected discourse and documents. Finally, a conclusion is provided. Afterwards, cross-case comparison examines whether variation in securitization and security logic correspond with variation in compliance.

The mechanism is confirmed if securitized migration discourse coincides with observable security-logic indicators and lower-end compliance forms. The mechanism is disconfirmed if substantive compliance occurs despite high securitization and strong security logic governance.

V. Limitations

Beyond the above mentioned limitations, it is acknowledged that while it increases mechanism plausibility, a small-N design limits generalizability of the findings to ECtHR migration cases. However, its findings can serve as a basis for future studies. Secondly, securitization and security logic are assessed through selected discourse and documents in selected moments. This increases subjectivity in the study. Every choice, however, is justified to be as traceable as possible. Lastly, this study does not claim to provide the only explanation for variation in compliance, nor for the impact of securitization on ECtHR compliance. EU pressure, domestic court strength, public opinion or fiscal constraints, for example, are treated as background information. They cannot be fully controlled for.

E. Analysis

I. Case Studies

1. Hungary After Ilias and Ahmed v. Hungary (2019)

a) Judgment Summary

The case of Ilias and Ahmed v. Hungary (ECtHR, GC, 2019) concerned two Bangladesh nationals who transited from Serbia to Hungary, where they immediately applied for asylum in September 2015. Their asylum application was rejected on the grounds that Serbia, according to a government decree, was a "safe third country'. They were held in the Röszke transit zone in Hungary for 23 days before they were escorted to Serbia.

The ECtHR judged that the procedural obligation under Art. 3 ECHR (non-refoulement) had been violated by deporting the men to Serbia based on the general legislative assumption that Serbia was a "safe third country", without assessing the risk of ill-treatment and the chance to access asylum procedures in Serbia for them. In contrast to the preceding judgment of a lower ECtHR chamber in 2017, the Grand Chamber did not find a violation of Art. 5 ECHR by the stay in the transit zone (ÖIM, 2019).

b) Compliance

Hungary has complied with the individual measures by paying just satisfaction (ÖIM, 2019, p. 9; CoM, 2025a).

General measures: The ECtHR expected Hungarian authorities to ensure that, before removing asylum-seekers to Serbia, the access to an adequate asylum procedure and the respect of the non-refoulement principle in Serbia is thoroughly and up to date assessed for each case; and that the general legislative presumption of Serbia being a "safe third country" is re-examined or not applied (CoM, 2025a).

Regarding general measures, the CoM supervision remains ongoing, suggesting that the obligations have not been fully complied with (CoM, 2025a). This is supported by an observed lack of reforms addressing the violation: While Hungary argued in its action reports that the "safe third country" presumption has only been exceptionally applied since 2020 and that its asylum authorities assess refoulement risks and access to asylum procedures in all cases (Tallódi, 2023; Tallódi, 2024; Tallódi, 2025), both CoM and NGO observations contest these claims. Amnesty International and the CoE Commissioner for Human Rights continuously report forced removals from Hungary to Serbia without the assessment of refoulement risks, with 75,000 removals in 2022 alone (Amnesty International, 2021, pp. 180 - 182; Amnesty, 2025, p. 191; CoE Commissioner for Human Rights, 2022, p. 4). The Hungarian Helsinki Committee reports that until 2025, no measures aimed or with the actual result of meeting the judgment's requirement have been implemented (HHC, 2025). Subsequent ECtHR judgments on continued violations of non-refoulement through expulsions to Serbia, e.g. *S.S. and Others v. Hungary (2023)* and *H.Q. and Others v. Hungary (2025),* also suggest the persistence of the judged practices. This is supported by the CoM, which continuously finds that Hungary has not reassessed Serbia as a "safe third country" and continues pushbacks to Serbia (CoM, 2025b; CoM, 2024a; CoM, 2022a; CoM, 2021a; CoM, 2021b). Thus, while the individual remedy was paid, credible sources show that reforms addressing the violation were not implemented. Together with the ongoing CoM supervision, the compliance outcome is therefore classified as minimal compliance.

c) Implementation Episodes

The process tracing analysis focuses on the following compliance-decisive time episodes: (1) the first year after the judgment (September 2019 – September 2020), to analyze the most important initial compliance stance; (2) the year between CoM Interim Resolution in September

2023, adopted due to persistent compliance issues, and the CoM's September 2024 decision, to show persistent compliance issues; (3) six months before the latest Action Report and CoM decision in September 2025 until the end of the study period, December 2025, to capture the current execution state. These three episodes were chosen to representatively capture the domestic compliance processes from the beginning.

d) Securitization of Migration

Hungarian parliamentary speeches (translated from Hungarian with Google Translate) discuss migration as a "battle" (Molnar, 2019), an "attack" (Ágh, 2020; Rétvári, 2024) and a "security risk" to borders, safety and health "posed by the uncontrolled entry of masses" (Pál, 2019; Stummer, 2020), to name just some examples of threat framing and emergency language. Migrants are repeatedly framed as violent, a security threat to the people, the police, women and Christian culture (Rétvári, 2024; Juhász, 2025). In most contexts that migration is mentioned, such as demographic issues (Dunai, 2020) or Covid (Stummer, 2020), or EU politics (Nasca, 2023; Juhász, 2025), the dangers of illegal immigration as well as the importance of border protection and sovereignty are stressed, while humanitarian framings rarely appear in the examined sources. The consistent recurrence and dominance of threat framing and emergency language suggest a highly securitized migration discourse in all three episodes.

This framing is consistent with Prime Minister Orbán's long-standing description of migration as an existential threat and emergency: "migration has swamped Western Europe", there is a "constant threat of terrorism", Hungary needs to protect its borders from a security threat, withstanding "waves" of illegal immigration (Orbán, 2025; Ory, 2022). Bakondi, Orbán's security adviser, finds most illegal immigrants are "driven by organized crime" (Kovács, 2024), which strongly indicates threat framing. Beyond framing migration as an urgent security threat, the Hungarian government also repeatedly framed migration as a threat to economy and culture:

Orbán claimed a "population exchange" was taking place (Hungary Today, 2025) and State Secretary Czomba "protects" the domestic labor market by letting in foreign workers only under strict conditions (About Hungary, 2023).

This evidence shows that, recurrently, migration was framed as a threat to security, identity, culture and economy. Alternative frames, such as legal obligations and humanitarian protection, are marginal in the examined sources. This suggests that in all three episodes migration discourse by executive and parliamentary decision-makers was characterized by a high degree of securitization.

Before the judgment, Orbán, his government and parliament had already securitized migration, with Orbán mentioning the threat of population exchange just weeks before the judgment (Walker, 2019).

e) Security Logic

In accordance with the proposed theory, we should expect that a strong security logic connects the high securitization levels to the minimal compliance outcome. We should see security logic indicators consistently present in all three episodes.

(1) Episode 1

First, Zoltán Kovács, Secretary of State, announced that the ECtHR had ruled in favor of Hungary (About Hungary, 2022). His comment referred to the decision that the complainants' stay in the transit zone did not violate the ECHR. While he declared the judgment a "big defeat" for "open-borders, pro-immigration forces", he validated Hungary's border-control approach while sidelining the non-refoulement violation, which indicates a prioritization of border control incentives. This is supported by Justice Minister Varga's stance that the lawsuit was a "political attack" (About Hungary, 2022). This framing of the judgment as constraining security and the dismissal of competing opinions suggests the prevalence of a security logic.

In parliamentary plenary discussions, the judgment has not been discussed. Possible incentives to comply, such as humanitarian obligations, were rarely discussed, while border control discourse dominated (s. above).

In June 2020, *ACT LVIII of 2020* was adopted in response to the Pandemic. The act requires individuals to apply for asylum in Hungary at Hungarian Embassies in Serbia and Ukraine, resulting in the immediate removal - without assessing refoulement risks - of asylum-seekers who enter Hungary before (AIRE & ECRE & DCR, 2021; CoE Commissioner, 2022). This practically makes the individual assessment of each case impossible and, even if the presumption of Serbia as a "safe third state" was not applied, forces migrants into Serbia. The UNHCR considers the act to be inconsistent with the right to seek asylum in Hungary and a violation of non-refoulement (UNHCR, 2020). Thus, the Act reduces practical space for compliance, indicating security logic. Similarly, the 2018 "Stop Soros" legislation, which continued until 2021 (Demeter, 2021), made the individual assessment in each case almost impossible. Compliance options, therefore, were narrowed. As both indicators were consistently present in episode 1, the security logic is classified as strong.

(2) Episode 2

In its 2024 Action Report, Hungary framed immigration as a "crisis" (Tallódi, 2024), indicating that implementation discourse continued to be governed through a security lens rather than by a human rights rationale. This supports indicator (2) of security logic.

Hungary argued, the "safe third country" rule in respect of Serbia has not been applied since *ACT LVIII of 2020* was adopted (CoM, 2024a). "Replacing an unlawful practice with another unlawful practice" (HHC, 2024) cannot show a priority change but rather highlights, again, a limitation of feasible policy options. Instead of adopting measures that would enable rights protective execution, implementation is framed as achievable through alternative control instruments. Both indicators were present in episode 2. The security logic is classified as strong.

(3) Episode 3

Despite evidence of the contrary, Hungary keeps repeating the same arguments: the "safe third country" concept has not been applied for Serbia, non-refoulement is examined in all cases (Tallódi, 2025). The lack of acknowledgement of any rights-based arguments, e.g. in the NGO communication, for five years, while border-control arguments are repeated, supports the assumption that compliance incentives are sidelined.

ACT LVIII of 2020 is now part of the ordinary legal framework, and not an exceptional law anymore (HHC, 2025). That the act that seriously restricts access to asylum has been strengthened instead of stopped, strongly suggests a lack of interest on Hungary's side to implement meaningful reforms aimed at compliance.

Both factors are consistently present in episode 3. The security logic is classified as strong.

f) Conclusion

Throughout all three episodes, the security logic has shown to be strongly present. The mechanism holds for the case of Hungary.

2. *Italy after Hirsi Jamaa and Others v. Italy (2012)*

a) Judgment Summary

The case of Hirsi Jamaa and Others v. Italy (2012) concerned 24 Somali and Eritrean nationals traveling by boat from Libya to Italy in 2009. Near Lampedusa, the Italian Coast Guard stopped them and brought them back to Libya, without asking about their identity (push-back).

The ECtHR found a substantive violation of Art. 3 ECHR through the deportation to Libya because the complainants would face a real risk of ill-treatment once in Libya and insufficient guarantees protecting them from being returned to their country of origin. Further, a violation of Art. 4 Prot. 4 ECHR was found (prohibition of collective expulsions), as well as a violation of Art. 13 in conjunction with Art. 3 and Art. 4 Prot. 4 ECHR, because the Coast Guard neither asked for their identity nor gave them a chance to apply for asylum (ÖIM, 2012).

b) Compliance

Italy has complied with the individual measures (CoM, 2016).

General measures regarding non-refoulement: Italy had to ensure that migrants intercepted at sea are not returned to Libya or other unsafe territories but to Italy and that migrants have access to domestic asylum procedures in all cases (CoM, 2025c).

The CoM supervision closed in September 2016 (CoM, 2016). In February 2011, the Italy-Libya-Friendship Treaty, which established joint migration control, was suspended (Frenzen, 2011). In combination with Italy's confirmation that push-backs will not be resumed and that asylum-seekers have access to domestic asylum procedures, and the adoption of Legislative Decree 142/2015, implementing EU reception condition directives, the CoM declared the general measures to be satisfied (CoM, 2016; CoM, 2025c). CoM closure suggests at least formal compliance.

On the other hand, credible reports and scholarship suggest that Italy continued to pursue substantially similar control practice as were judged. Rule 9 communications during the supervision process already criticized a continued cooperation with Libya on migration control and the continued risk of refoulement in practice (Amnesty International, 2014). In February 2017, only months after closure, Italy and Libya signed the "Memorandum of Understanding" (Governo Italiano, 2017). The countries agreed that Libya would intercept and return boat migrants back to Libya before they reach Italian waters, while Italy would provide funding, training and logistical support. This outsourcing stategy "walks the precise legal and jurisdictional line that *Hirsi* established" (Greenberg, 2021, p. 531): instead of being pushed back, migrants are being pulled back (Riemer, 2018). In *S.S. and Others v. Italy (2025),* the ECtHR declared the application inadmissible for lack of jurisdiction over applicants who were intercepted by Libya, which reinforced the formal shift of legal responsibility away from Italy under Art. 1 ECHR. Materially, however, scholars and NGOs argue that the memorandum and its practice amount to "refoulement by proxy", given Italy's contribution to a system that results in returns to Libya without the assessment of ill-treatment (Greenberg, 2021; Riemer, 2019; Forensic Oceanography, 2018). Accordingly, compliance can be classified as largely formal while credible sources indicate workarounds that undermined the judgement's protective substance, resulting in non-protective formal compliance.

c) Implementation Episodes

The process tracing analysis focuses on the following compliance-decisive time episodes: (1) the first year after the judgment (February 2012 – February 2013), to analyze the initial compliance stance; (2) the year before the CoM closed supervision (September 2015 – September 2016), to capture processes leading to formal compliance and closure; (3) the two-year post-

closure observation window (October 2016 – October 2018) to capture processes surrounding the outsourcing.

d) Securitization

(1) Episode 1

Between February 2012 and February 2013, threat framing largely coexisted with humanitarian framing of migration.

This is reflected, for example, in Senate discussions. In the same plenary session, in which Bodega calls an unemployed immigrant a "very serious attack on citizen's safety", Marcernaro stresses the need to limit dangers for migrants at sea (Senato della Repubblica, 2012a, translated from Italian with Google Translate).

While on one hand, members of Senate mourned the death toll of migrants at sea (Senato della Repubblica, 2012b, p. 120, translated) and Italy's Integration Minister acknowledged problems for migrants (INMP, 2026), the Interior Ministry talked about a "fight", a "crisis", a "wave" and an "emergency" (Ruperto, 2012; Redattore Sociale, 2021, translated). Evidence suggests that in episode 1, threat framing and humanitarian framing existed to a similar extent. Thus, the securitization level is classified as moderate.

(2) Episode 2

With the beginning of the so-called "refugee crisis" in 2015, the discourse shifted more toward framing migration as a threat.

Migration was increasingly linked to organized crime (Senato della Repubblica, 2016a, p. 91, translated), titled an "invasion" (Senato della Repubblica, 2016b, translated), a "crisis" and an "emergency" (Senato della Repubblica, 2016c, p. 57, translated), showing an increased use of emergency language and threat framing.

However, humanitarian discourse continued, especially in the context of search and rescue operation Mare Nostrum. Torrisi, for example, stressed that "solidarity, humanity and welcome" is needed (Senato della Repubblica, 2016d, translated).

While threat framing and emergency language were increasingly used, the continuation of human rights framing constraints the securitization degree, which is thus still classified as moderate.

(3) Episode 3

Between October 2016 and 2018, the discourse became even more securitized.

To name just a few examples, parliamentary rhetoric framing migration as an existential threat was strongly present: migration was titled an "insane invasion" (Senato della Repubblica, 2016e, translated) and a "real national security emergency", which will bring "a lot of terrorism" (Senato della Repubblica, 2016f, translated). At an extraordinary EU conference, Prime Minister Gentiloni argued the migration threat had "profoundly destabilized" the European countries and societies (Ambasciata d'Italia Berlino, 2017, translated). In comparison to episode 2, these frames suggest a higher intensity of securitization. At the same time, humanitarian discourse continued, contesting the securitization of migrants and stressing the "moral duty" to welcome and rescue them instead (Senato della Repubblica, 2017). However, as human rights discourse was rarely observed in the evidence, the analysis suggests that securitizing discourse dominated the debate. Therefore, in episode 3, securitization is high.

e) Security Logic

In accordance with the proposed theory with a non-protective formal compliance outcome and moderate to high securitization degree, we should expect a moderate security logic operating in episode 1 and 2 (indicators partly present) and a strong security logic in episode 3 (indicators strongly present).

(1) Episode 1

Italy did not publicly delegitimize the judgment or the Court as an illegitimate constraint. Instead, in July 2012, Italy confirmed that the policy of push-backs would not be resumed (CoM, 2025c), suggesting an acceptance of the Court's decision. This is supported by a January 2013 parliamentary report on migration, in which the judgment is explicitly mentioned (Senato della Repubblica, 2013, pp. 17 – 19, translated). Instead of using securitizing language, the report acknowledges struggles of migrants, emphasizes Italy's respect to the Court's interpretation and human rights and recognizes push-backs as rights-depriving. This indicates that institutional legal framing dominated over security arguments and rejection. Compliance arguments remained publicly legitimate, particularly in the context of NGO/IOs framing the judgment as groundbreaking (UNHCR, 2012).

At the same time, Italy and Libya agreed to rekindle their collaboration on border control (Amnesty International, 2012), planning on pulling back maritime migrants (Forensic Union for the Protection of Human Rigts, 2012). While Italy stressed that the agreement did not imply the resumption of push-backs (CoE Secretariat, 2012), this rapprochement suggests at least an underlying indication of border-control practices that narrow compliance options.

As one indicator is partly observable, the security logic in episode 1 is classified as moderate.

(2) Episode 2

From September 2015 on, evidence suggests that rights-based arguments still dominate the (indirect) compliance discourse. This is primarily reflected in Italy's 2016 Action Report, where Italy "reaffirms its active commitment to respecting the Convention", stresses its continuous humanitarian efforts in search-and-rescue missions and indicates compliance with EU regulations (CoM Secretariat, 2016, translated from French with Google Translate). This shows that legal constraints remained articulated in the policy debate – evidence does not show a delegitimization of compliance arguments.

On the other hand, evidence shows how external cooperation became the standard policy set: the humanitarian rescue mission Mare Nostrum was replaced by Frontex' Triton, which focused strongly on border control (Kopp, 2015) and "Operation Sophia" (EU Council, 2016) led Italy to train the Libyan Coast Guard. This stronger focus on border control and cooperation with Libya suggests a limited feasibility of compliance options.

As one indicator is observable, the security logic in episode 2 is classified as moderate.

(3) Episode 3

Following the closure of CoM supervision, the Memorandum of Understanding between Libya and Italy was agreed. With regard to compliance with *Hirsi*, the agreement strongly narrows the option to substantively comply with the judgment (no refoulement, guarantee access to asylum-procedures), as it has been criticized for enabling refoulement through pull-backs (s. above). The necessity of the Memorandum, thus indirectly the explanation for limited compliance, is explained in the Memorandum itself as strengthening border security. The Memorandum itself constitutes strong evidence for security logic governance because it institutionalizes externalized border control as the preferred policy response. Therefore, it directly demonstrates that the security logic was strongly present in episode 3.

f) Conclusion

In the case of Italy, the security logic has shown strong presence when coinciding with strong securitization and moderate presence with moderate securitization. The moderate-strong security logic coincides with non-protective formal compliance. The mechanism holds for the case of Italy.

3. *Greece after Sharifi and Others v. Italy and Greece (2014)*

a) *Judgment Summary*

The case of Sharifi and Others v. Italy and Greece (2014) concerns 35 Afghan, Sudanese and Eritrean nationals who had traveled to Greece and from there per boat to Italy where they were caught by the Italian border police and brought back to Greece. Back in Greece, they had to stay in the refugee camp "Patras". Neither in Italy nor in Greece did they have the chance or the means to apply for asylum.

The ECtHR found that Greece did not provide effective legal remedies to the complainants risking a deportation to their home countries and ill-treatment there - and therefore violated a procedural non-refoulement obligation under Art. 13 in conjunction with Art. 3 ECHR (ÖIM, 2014).

b) *Compliance*

Greece has complied with the individual measures (CoM, 2020a).

General measures: The ECtHR required Greece to ensure that the procedure followed from the arrival of migrants ensures an effective access to the domestic asylum system (CoM, 2017). Importantly, substantive compliance here means the structural repair of procedural safeguards, not a change in physical practice.

The CoM supervision was closed in September 2020 (CoM, 2020a). This suggests at least formal compliance.

Evidence shows that Greece adopted reforms addressing the obligations: the asylum procedure in Greece underwent substantial reforms in 2016, reorganizing the asylum-system and creating new institutions ((L) 4375/2016), which supports substantive compliance. From 2019 onwards, Greece adopted a more restrictive asylum framework that was criticized for creating procedural hurdles for asylum-seekers (Greek Council for Refugees, 2025). Instead of substantive

compliance, this could suggest non-protective formal compliance. However, the latter would require an appearance of compliance while underlying violation persist in the same form. This is not observed here. Later restrictive changes within an implemented framework may constitute partial backsliding but they are analytically distinct from non-protective formal compliance. The required procedure was introduced. In combination with the closed CoM supervision, this amounts to (contested) substantive compliance rather than non-protective formal compliance.

c) Implementation Episodes

Although Greece took several years to comply with Sharifi, the implementation process was concentrated on few decisive moments. Hence, the analysis of two episodes provides sufficient leverage to test the mechanism: (1) two years after the judgment, including the initial post-judgment phase and the main reform period (October 2014 – October 2016), capturing the initial government stance; and (2) the late implementation period (September 2019 – September 2020), capturing the final CoM assessment.

d) Securitization

(1) Episode 1

In the context of the 2015 "migration crisis", threat framing largely coexisted with humanitarian framing.

The President of the Hellenic Parliament stressed that security issues "must not be carried out through the violation of human rights" and the principle of non-refoulement (Hellenic Parliament, 2015, translated from Greek with Google Translate), representing strong humanitarian language. Further, while Prime Minister Tsipras told the UN General Assembly that Greece was facing an "unprecedented migration crisis" (The Press Project, 2015, translated), at the

same time, he continuously underlined the humanitarian issues that migrants face, stating the Greek culture "requires us to protect these people and not use violence against them" (Tsipras & Tusk, 2016, translated) – indicating a rights-based discourse.

However, at the same time, Defense Minister Kammenos, for example, famously threatened to "strike" Europe with a "flood" of migrants while linking migration to terrorism (Wood, 2015), herby weaponizing migrants and using strong emergency language.

As securitizing and humanitarian framing coexist, the securitization level is classified as moderate.

(2) Episode 2

In episode 2, securitization became stronger and more explicit.

Prime Minister Mitsotakis publicly argued that migration was an "asymmetrical threat", with people entering Greece who "don't hesitate to blatantly use violence", and that he needed to "safeguard the integrity and sovereignty" of Greece (Mitsotakis, 2020). His words represent the increased use of existential and emergency language in migration discourse.

On the other hand, even if less, humanitarian framing prevails: Notis Mitarakis, Minister for Immigration and Asylum, said, for example, "protecting our borders also serves a humanitarian dimension", referring to human trafficking and exploitation; safe zones for vulnerable groups should be set up (Greek Ministry of Migration and Asylum, 2020, translated). This makes clear that, despite security interest, helping migrants remains a priority.

As securitizing and humanitarian framing coexist, the securitization level is classified as moderate.

e) Security Logic

According to the proposed mechanism, the combination of moderate securitization and (contested) substantive compliance implies that security logic should only weakly have become a mode of governance shaping the compliance process *in this case*.

(1) Episode 1

In review of the CoM Sharifi HUDOC-EXEC execution files, no public political reaction by Greek decision-makers is identifiable in the initial post-judgment phase. The material available for Greece is largely limited to the judgment itself and supervision documents. While the absence of official reactions in HUDOC-EXEC cannot exclude such reactions entirely, it indicates that the judgment did not become publicly contested.

Instead, Greece's choice to adopt the 2016 asylum procedure reforms itself indicates the prevalence of a rights-based approach to the judgment. While Greece's broader migration governance increasingly relied on deterrence measures (e.g. Amnesty International, 2016), indicating the prevalence of security priorities, the execution trajectory in Sharifi followed law-based approach. This variance suggests that a security logic might have existed in the wider political context, however, it did not become the dominant mode of governance shaping compliance processes in this specific case.

Accordingly, for episode 1 after Sharifi, the security logic is classified as weak.

(2) Episode 2

In 2019, Greece institutionalized a fast track border procedure by adopting the International Protection Act ((L) 4636/2019), which has been repeatedly criticized by NGOs as an attempt to create procedural and substantive hurdles for asylum-seekers (AIDA, 2020). The new law overruled the initially introduced procedural reforms for border control and security reasons. The adoption of this security prioritizing policy is an indicator for security logic governance, even in the case of Sharifi.

At the same time, official discourse continued to asylum procedures as a mechanism of "international protection" from inhumane treatment (Hellenic Ministry of Migration and Asylum, 2020), indicating that human rights compliance incentives were not sidelined in episode 2.

As one indicator was observable, the security logic is classified as moderate.

f) Conclusion

In the case of Greece, moderate securitization coincided with weak and moderate security logic but (contested) substantive compliance. This pattern suggests that moderate securitization did not automatically translate into an overall moderate security logic and that moderate securitization can coincide with substantive compliance. The mechanism only holds partly in this case. This points to the relevance of additional scope conditions that require further discussion.

II. Comparison and Discussion

In the following, the three cases are compared to assess how securitization of migration impacts variation in compliance with ECtHR non-refoulement judgments. Following an MSSD, the three cases are comparable in that all concern ECtHR non-refoulement judgments against CoE and EU member states facing similar migratory pressures at the EU's external borders. As they adopt varying forms of compliance with the respective judgments, this thesis examined whether a securitization of migration in compliance-decisive moments reshaped domestic compliance governance by activating a security logic that prioritizes border control over human rights obligations, which biased states to adopt minimal or non-protective formal compliance forms.

Case	**Securitization Degree**	**Security Logic Strength**	**Compliance Outcome**	**Theory Supported?**
Ilias and Ahmed v. Hungary (2019)	High	Strong	Minimal	Yes
Hirsi Jamaa and Others v. Italy (2012)	Moderate - high	Moderate - strong	Non-protective formal	Yes
Sharifi and Others v. Greece (2014)	Moderate	Weak - moderate	(Contested) substantive	Partially

Table 1: Classifications for independent variable, mechanism, dependent variable and support for the proposed theory in each case.

1. Claims

Three claims arise from the within-case analyses.

Claim 1: Higher securitization coincides with lower-end compliance outcomes

Across all three cases, higher securitization clearly coincides with lower-end compliance outcomes.

Hungary exhibits the highest degree of securitization across the analyzed episodes. Migration is consistently framed as a threat and a matter of emergency and existentiality, while humanitarian and legal frames remain marginal. In this context, the compliance outcome is minimal, with ongoing CoM supervision and no evidence of adopted reforms addressing the violation.

Italy reveals moderate to high degrees of securitization across the analyzed episodes. Threat framing and emergency/existential language coexist with humanitarian and legal framing of migration. In this context, the compliance outcome is non-protective formal, with closed CoM supervision but credible evidence of ongoing similar violations by "proxy" through a third party. Non-protective formal compliance is located in the middle of the compliance spectrum, indicating comparatively, that middle-range securitization coincides with middle-range compliance.

Greece shows low to moderate degrees of securitization across the analyzed episodes. While humanitarian and legal framing first dominated migration discourse, they later coexist with securitizing discourse. In these contexts, minimal or non-protective formal compliance outcomes would have contested the claim. However, Greece displays substantive compliance (even if contested), which supports the claim. CoM supervision was closed and evidence suggests that meaningful reforms were adopted, which later, however, were changed again.

Together, these findings provide strong support for the claim. High securitization coincides with lower-end compliance forms, moderate to high securitization coincides with middle-range compliance forms and low to moderate securitization coincides with substantive compliance.

Claim 2: Securitization shapes compliance processes and outcomes through a security logic that prioritizes border control and narrows feasible compliance options

By tracing the domestic compliance processes, the within-case analyses aimed at showing how securitization activates a security logic that conditions priorities and policy options, which biases states toward adopting lower-end compliance forms.

In Hungary, process tracing has shown a strong and consistent dominance of security logic. In compliance-decisive contexts, possible humanitarian, legal or reputational compliance incentives were absent from the discourse or explicitly dismissed and policy choices reflected a narrowing of feasible compliance options.

In comparison to Hungary, for Italy, process tracing shows within-case variations in the strength of security logic, dependent on the degree of securitization in the respective time frame. Where securitization was high, security logic was strongly present; where securitization was moderate, security logic was moderately present. This conditions and supports a new claim: Within one case, different degrees of securitization coincide with different strengths of security logic.

Taken together, the findings support the claim that securitization activates the security logic which in turn shapes policy priorities and options.

The case of Greece portraits a mixed picture. While securitization is moderate in both episodes, the security logic is weak to moderate, and compliance is substantive. A weak security logic is associated with a high compliance outcome. Nevertheless, Greece shows that moderate security logic can also lead to substantive compliance. Notably, the classification as substantive compliance can be contested for the adoption of the 2019 reforms, which reportedly limit the original reform's protective effect. This thesis accounts for this by acknowledging the contestation of substantive compliance in the Greece case. This can resolve the issue. The moderate security logic likely influenced the 2019 reforms. Consequently, the claim is supported: weak security logic increases the likelihood of substantive compliance, moderate security logic (in the same case) can weaken the compliance outcome.

Claim 3: The securitization – compliance with procedural obligations link is conditional to the securitization – compliance effort ratio

Greece illustrates another analytical finding: moderate securitization can coincide with substantive compliance. This does, however, not contradict the theory but shows the need for additional conditions. I argue that the securitization activated a general security logic that was yet not activated in this specific case because Greece only had to implement procedural safeguards as it violated Art. 13 in conjunction with Art. 3 ECHR. In comparison to Italy's obligation to change a largely established border control practice (violation of Art. 3 ECHR), this seems like an easier task, making it more likely to be complied with, disregarding the moderate securitization level. Hungary also violated only a procedural obligation under Art. 3 ECHR, but the exceptionally high securitization degree, I argue, trumped the "easiness" of implementing procedural reforms. Procedural violations are likely to be complied with even when the securitization degree is moderate. They are less likely to be complied with when the securitization degree is high.

2. Alternative Explanations

Several alternative explanations might account for variation in compliance.

Financial constraints, as has already been mentioned, can limit a state's ability to comply with often costly and resource intensive obligations. This thesis treats them as background information, however hints at them in claim 3, suggesting that the effort to comply matters for the compliance decision. Secondly, EU dynamics can interact with domestic processes, which this thesis does not account for. Further, Hungary's minimal compliance might not only reflect high securitization but a general authoritarian stance on (international) legal obligations, which, however, does not undermine the proposed mechanism. Fourthly, domestic courts have often

been mentioned as drivers of compliance. Especially their interaction with securitization degrees is a promising field of research.

Importantly, this thesis focuses on how securitization impacts variation in compliance in ECtHR non-refoulement judgments. Findings can be used as a basis for research beyond the scope of this thesis, particularly for broader research on international law compliance.

3. Answering the Research Question

The analysis has shown that securitization of migration impacts variation in compliance with ECtHR non-refoulement judgments through activating a security logic which shapes compliance processes by prioritizing border control and narrowing feasible compliance options, biasing states towards adopting lower-end compliance measures. This link is consistent within the same case over different time periods and across cases. It is conditional to the ratio of securitization and efforts needed to comply.

F. Conclusion

This thesis examined how securitization of migration impacts variation in compliance with ECtHR non-refoulement judgments. Using an MSSD, it compares three cases and their compliance processes and outcomes: Hungary after Ilias and Ahmed v. Hungary (2019), Italy after Hirsi Jamaa and Others v. Italy (2012) and Greece after Sharifi and Others v. Italy and Greece (2014). The analysis used qualitative process tracing supported by a targeted qualitative analysis of discourse and documents.

The findings indicate that higher degrees of securitization coincide with lower-end compliance outcomes. For Hungary, high securitization levels coincided with minimal compliance. Italy portraits moderate to high securitization levels and non-protective formal compliance – it simulated compliance but continued violating behavior in practice by proxy through Libya. Greece exhibited moderate securitization levels and complied substantively, indicating that the type of non-refoulement violation matters for compliance outcomes.

These patterns support the thesis' central mechanism: securitization of migration impacts variation in compliance with ECtHR non-refoulement judgments through activating a security logic which shapes compliance processes by prioritizing border control and narrowing feasible compliance options, biasing states towards adopting lower-end compliance measures.

Overall, this study contributes to ECtHR compliance scholarship by linking compliance theory and securitization theory. Future research could test the proposed mechanism across a larger set of judgments and include interviews with decision-makers, to gain a more in-depth insight into how they experience the impact of securitization and security logic on their compliance decisions.

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