A CRITICAL DISCOURSE ANALYSIS AND REFORMULATION APPROACH TO THE DUBLIN III REGULATION[1]

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Abstract – This study is the result of an interest in Critical Discourse Analysis applied to the legal discourse of immigration. Its aim is to analyze the features characterizing the Dublin III Regulation (which is criticized because it fails in speeding up the analysis of asylum applications and in clearly assigning responsibility to a specific EU State) by applying Critical Discourse Analysis and taking into account the different linguistic points of view readers may use while conceptualizing a message. During the process of law drafting, legal experts are influenced by their own cultural mental schemata. This relevant, yet often ignored aspect of law making is a cause of difficulty which makes western legal texts inaccessible to receivers with different socio-cognitive schemata. Unfortunately, all the linguistic and syntactical features characterizing legal texts are justified by the fact that laws belong to the category of specialized discourse, which has its own features which diverge from everyday language. As it will be discussed, some of the most common features used in western legal texts are alien to migrants, therefore, after pragmatically analyzing the Regulation, this study wants to provide a possible and more accessible reformulation of the legal text, aiming to make the Dublin III Regulation more accessible to the multicultural audience it addresses. To verify the accessibility of the intralingual translation, both the original Articles and the reformulation have been submitted to a group of migrants.

Keywords: Dublin III Regulation; Critical Discourse Analysis; reformulation approach.

1. Historical background: the Dublin III Regulation

The European Union was born thanks to the politico-economic agreements between 28 Member States. Its main aim was to provide stability, and in order to do so, the EU drafted numerous agreements, including those dealing with humanitarian aid and migration. The growing number of migrants coming to the EU asking for asylum is the reason why EU lawmakers drafted legal texts like the Dublin III Regulation.

This Regulation determines the responsibility of a EU Member State in examining the application lodged by an asylum seeker asking for international protection within the European Union. The current regulation[2] is applied in conjunction with the EURODAC Regulation, which creates a database with the fingerprints of migrants who have tried to enter the EU territory illegally. These regulations should speed up the process of assigning responsibility to a specific Member State when it comes to asylum claims, and prevent asylum claimers from submitting applications in multiple EU states. According to the

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[1] Although both authors worked on the planning of the article, Mariarosaria Provenzano worked on: sections 2, 2.1, 2.1.1, 2.2, 2.3, 2.3.1. Irene Preite worked on: sections 1, 3, 3.1, 3.2, 3.3, 4, 4.1, 4.2, 4.3, 4.4, 4.5, 4.6, 5, 5.1, 5.2, 6.

[2] Regulation No 604/2013 (official text), from the website: eur-lex.europa.eu/LexUriServ/LexUriServ.do.

current Regulation, the responsible Member State is the one through which the migrant enters the EU territory.

A drawback of the law is the fact that, since the first country a migrant arrives in is the one responsible for the asylum application, border areas experience a situation of pressure and they are not able to offer support or protection.

Although this Regulation has improved and been redrafted for the third time, it is still severely criticized, because the system fails in providing fair examination, or efficient protection, due also to the disproportionate number of asylum claims among the Member States; moreover a poor asylum claim procedure may also be caused by the lack of proficiency of the officer in charge of interviewing the migrants. The presence of a cultural mediator is vital, especially considering the fact that English is now a lingua franca.

The current lively debate about immigration and the recent tragic events are the reasons why this study focuses on a law considered to be both crucial and controversial at the same time. A critical approach to its text aims to reveal all the techniques used by the drafters in order to shift responsibility or underline commitment and explain why this immigration law is so important, yet so criticized.

2. Theoretical Background

Language is one of the most important human characteristics, it permits us to express ourselves because of its double function as a code and a communication system. Linguistics is a science which studies human language, analyzing how certain members of a particular group conceptualize experience and transform it into verbal messages, used for social interaction; and if, on the one hand, society can influence language, on the other hand, language can have an impact on society too: a statement can manipulate the audience when the author/speaker uses specific lexical, textual, and syntactic features. This is the reason why language awareness is the most powerful means to understand current society, and it also allows us to be in control while speaking (Fairclough 1995).

The importance of the pragmatic and cognitive dimensions of language is the spur responsible for all the research in linguistic fields. Numerous are the analysts considered relevant to this analysis. Anderson (1980) and Carrell (1988) focused respectively on the interactive nature of a message, and the role played by mental schemata while reading a text; Halliday (1985) underlined the impact society has when it comes to language; Fairclough (1995) stated the importance of language awareness and the existence of a culture-specific perception of reality, used to shape texts.

Another important aspect that needs to be considered before introducing the method is the relevance of the lexical, syntactical and textual features characterizing legal texts (Gotti 2005, pp. 33-146).

Legal discourse belongs to the domain of specialized discourse, this means that it has its own rules diverging from the everyday language. Specialized discourse can be defined as a situational-contextual variety.

> Differences between current English and technical English can be found at all linguistic levels and they manifest themselves in a different way both qualitatively and quantitatively. (Bares 1972, p. 129)

According to Firth,

> A restricted language serves a circumscribed field of experience or action and can be said to have its own grammar and dictionary. (see Firth 1957 quoted in Gregory, Carroll 1978, p. 26)

The dominant criteria that should be followed while using specialized discourse are: economy, precision and appropriateness (Sager *et al*. 1980). Legal discourse, however, does not always respect these conventions, as Gotti himself highlighted. The following sections will explore all the features belonging to legal specialized discourse.

2.1. Lexical Features

This section illustrates the relevant lexical features in the framework by Gotti (2005), and its main aim is to focus on (a) the general lexical traits of specialized discourse, and (b) on the peculiar characteristics of legal discourse, which stands aside from other technical languages. This focus is aimed to understand this specific language variety and, thus, facilitate the comprehensibility of its uses in professional domains, such as interaction with migrants.

The main traits of specialized lexis are: monoreferentiality, defined as the lexical parameter by which each term has only one referent, so in the context of specialized discourse, only one meaning is allowed. This characteristic also leads to the creation of new terminology, in order to define new concepts. This trait is particularly relevant in the analysis of modern European discourse of Immigration, because new terms are coined to identify the new geopolitical reality of the UE.

The lack of emotion implies that a specialized text should be mainly informative, so connotations should be avoided, and the tone be mainly neutral.

The two parameters of precision and transparency suggest that every term must point directly to its own concept. A text is transparent when the surface form of a term directly suggests its meaning.

Finally, conciseness implies that the writer must express concepts in the shortest possible form. Thus, to achieve it, also juxtapositions, acronyms and abbreviations may be used.

2.1.1. Legal Language Lexis

There are traits of legal language lexis, which need to be pointed out separately, because they are typical of this specialized language, and additionally may reveal new aspects of this language, if seen in the context of the European law. These features are: ambiguity and imprecision; and redundancy.

In legal discourse, old formulae are usually preferred to newly-coined ones, because they provide universally accepted interpretations. If applied to the analysis of modern European discourse, it is important to see if it still displays spaces of conventionalism, or otherwise divergent interpretations are available, and so to contextualize and explain them.

Finally, ambiguity and imprecision are often required to the text, as they may create different possibilities of term interpretation. Redundancy is seen as necessary to achieve textual cohesion, or to express pleonastic constructions.

2.2. Syntactic Features

The present section illustrates some aspects of the syntax of specialized discourse, with reference to the structures that are salient to the process of understanding of legal

discourse. From this perspective, the focus shall be mainly on: premodification, nominalization and depersonalization.

Premodification is an extremely frequent phenomenon in English. This feature creates a nominal group that is held by the last name. Sometimes compounds made up by two words become a single term after a certain period of use.

Nominalization is the use of nouns instead of verbs to achieve nominal density (ratio of content and grammatical words) and create an easier flow of information. Moreover, the avoidance of subordination makes the text easier to understand.

Legal texts prefer indirect and less personal language to convey the aspect of generality of a law. Depersonalization is also useful to shift the responsibility of a statement.

2.3. Textual Features

From the textual viewpoint, it is relevant to point out the features that characterize legal discourse, since they are functional to the interpretation of this specific language domain.

Thus, the subsections below aim to describe briefly some of the defining textual characteristics, and to interpret them also in the light of their role in: (a) shaping this specific domain, and (b) in aiding or hindering intercultural communication.

2.3.1. Textual Characteristics of Legal Discourse

Legal discourse is textually characterized by features that are worth redefine here, since this account may help professionals understand its uses in this domain, and then actualize this specific language in context, especially in the modern European Union context.

The focus is, thus, on anaphoric references and repetitions, on conjunctions, and thematic sequences.

Anaphoric references are the preferred choice to achieve textual cohesion. Even repetitions (considered as mistakes in literary texts) are used to provide clarity, avoid ambiguity, and achieve cohesion.

Another relevant feature is represented by connectives that have a high pragmatic function in legal texts. They are also used to achieve coherence and guide the reader through the comprehension of a text.

Additionally, the theoretical focus shall also involve the thematic sequences (Halliday 1985, p. 38) constructing the text, because the placing of certain specialized information in thematic or rhematic position may be extremely useful for the pragmatic value of the text.

3. Method

This paragraph focuses on the Method for the textual analysis. The practical guidelines applied on the legal text are: the seven standards of textuality (De Beaugrande, Dressler 1981), the four maxims for communicative cooperation (Grice 1975), and the macrorules for retextualization (Van Dijk 1980).

3.1. The Seven Standards of Textuality

De Beaugrande and Dressler elaborated seven guidelines or standards of textuality,

necessary to make a text communicative (De Beaugrande, Dressler 1981). The standards are: cohesion (the way in which different textual parts are linked together, using syntactic and textual devices), coherence (which is achieved when the component of the textual world are mutually accessible and relevant), intentionality (which represents the author's will to make a text both coherent and cohesive), acceptability (which focuses on the reader and their attitude to receive a text), informativity (which is achieved when new and unexpected information is provided), situationality (a standard which makes a text relevant to a situation of occurrence) and intertextuality (which allows the writer to use a piece of text according to their needs and preferences). (De Beaugrande, Dressler 1981, pp. 84-122).

3.2. Maxims for Communicative Cooperation

In order to make a message understandable, Grice elaborated four maxims for communicative cooperation (Grice 1975), which are: quantity (provide a contribution as informative as required), quality (be truthful), relevance (be relevant) and manner (avoid obscure expressions and prefer a plain and brief style).

3.3. Macrorules for Retextualization

Van Dijk's model provides a cognitive approach to text comprehension, which is useful for text reformulation and simplification (Van Dijk 1980).
        According to Van Dijk, an individual uses their cognitive abilities, in order to reshape a text and extract the "gist" of the discourse, starting from the text macrostructure. "Macrorules" are the cognitive devices used to understand the gist of the discourse, and to provide summaries and reformulations (Provenzano 2008).
        The macrorules Van Dijk proposed are: deletion (omission of irrelevant details); generalization (which permits to understand the general meaning of a sentence); and construction (which allows us to rebuild a sentence into a new one).
        Extension (or elaboration) and substitution are two other useful strategies for text reformulation. The first one is used to provide more information or to explain concepts, while substitution creates paraphrases to clarify concepts.

4. Textualisation parameters in the Dublin III Regulation

The following sections focus on some extracts from the Dublin III Regulation and provide a thorough analysis of the textualisation parameters.

4.1. Lexis and Coherence in The Dublin III Regulation

The main aim of this law is to regulate all the cases in which a Member State is responsible for processing an asylum application; so the type of lexis expected to be found in the Regulation is the one related to the concept of responsibility, therefore the text should have a highly performative style.
        Law drafters usually achieve coherence in this Regulation by repeating key words, like the term "Member State". The expression refers to all the EU countries considered as migrants' point of entry or final destination. The adjective used with "Member State" is

"responsible"; it underlines the importance of responsibility being allocated to one EU Country more than another. Let's see an example in the second paragraph of Article 3.

> (Art. 3) 2. Where no *Member State responsible* can be designated on the basis of criteria listed in this Regulation, the first *Member State* in which the application for international protection was lodged shall be *responsible* for examining it.[3]

It is also extremely interesting to mention the way in which migrants are addressed. Asylum seekers are defined as: a third-country national, stateless person, and applicant, as it is possible to notice in Article 19.

> (Art. 19) 1. Where the Member State issues a residence document to the *applicant,* the obligations specified in Article 18(1) shall be transferred to that Member State.
> 2. The obligation specified in Article 18(1) shall cease where the Member State responsible can establish, when requested to take charge or take back an *applicant* or *another person* as referred to in Article 18(1) (c) or (d), that the *person concerned* has left the territory of the Member States for at least three months, unless the *person concerned* is in possession of a valid residence document issued by the Member State responsible.[4]

The use of vague terms is crucial, because it allows legal and personal interpretation when dealing with cessation of responsibility.

Other expressions widely used in the Regulation to achieve coherence through repetition are: "request", "requested" and "requesting". The following section (paragraph 2 from Article 17) is an example of this.

> (Art. 17) 2. [...] The *request* to take charge shall contain all the material in the possession of the *requesting* Member State to allow the *requested* Member State to assess the situation.
> The *requested* Member State shall carry out any necessary checks to examine the humanitarian grounds cited, and shall reply to the *requesting* Member State within two months of receipt of the *request* using the 'DubliNet' electronic communication network set up under Article 18 of Regulation (EC) No 1560/2003. A reply refusing the *request* shall state the reasons on which the refusal is based.
> Where the *requested* Member State accepts the request, responsibility for examining the application shall be transferred to it.[5]

Another important issue undermining text comprehension is the presence of compound words. The ability of understanding how pre- and post-modifiers work should not be taken for granted. Compound words convey layers of information that might not be accessible to non-western readers.

The following extract from Article 2 provides an example of the use of compound words in the Regulation.

> (Art. 2) (l) '*residence document*' means any authorisation issued by the authorities of a Member State authorising a *third-country national or a stateless person* to stay on its territory, including the documents substantiating the authorisation to remain on the territory under *temporary protection arrangements* or until the circumstances preventing a removal order from being carried out no longer apply, with the exception of visas and *residence authorisations* issued during the period required to determine the Member State responsible as

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[3] Regulation (EU) No 604/2013, Art. 3, Par. 2, L 180/37.
[4] Regulation (EU) No 604/2013, Art. 19, Par. 1, 2, L 180/42.
[5] Regulation (EU) No 604/2013, Art. 17, Par. 2, L 180/41.

established in this Regulation or during the examination of an application for international protection or an application for a *residence permit*. [...].[6]

4.2. Achievement of Cohesion

Cohesion concerns the way in which textual devices are used to link together different parts of the text. Legal discourse can achieve cohesion using repetitions, thanks to pronouns (both personal and relative), deictic words, nominalizations and -ing forms.

Let's focus on some examples from the Regulation. The first extract shows how repetition has been used to achieve both coherence and cohesion.

> (Art. 27) 4. *Member States* may provide that the competent authorities may decide, acting ex officio, to suspend the implementation of the transfer decision pending the outcome of the appeal or review.
> 5. *Member States* shall ensure that the *person concerned* has access to legal assistance and, where necessary, to linguistic assistance.
> 6. *Member States* shall ensure that legal assistance is granted on request free of charge where the *person concerned* cannot afford the costs involved. *Member States* may provide that, as regards fees and other costs, the treatment of applicants shall not be more favourable than the treatment generally accorded to their nationals in matters pertaining to legal assistance.[...].[7]

The following example shows how pronouns can be used to link different parts of the text together. In this case, even the adjective "its" has been used for the same purpose.

> (Art. 17) 1. By way of derogation from Article 3(1), each Member State may decide to examine an application for international protection lodged with *it* by a third-country national or a stateless person, even if such examination is not *its* responsibility under the criteria laid down in this Regulation.[8]

Nominalization is another feature which can be a problem for non-western readers. It occurs when a sentence is turned into a noun, in order to achieve brevity; also gerundive construction are used for the same purpose. Here is an example of nominalization and gerundive construction ("concerning") in the Regulation.

> (Art. 36) 1. Member States may, on a bilateral basis, establish administrative arrangements between themselves *concerning* the practical details of the *implementation* of this Regulation, in order to facilitate its *application* and increase its effectiveness. Such arrangements may relate to:
> (a) exchanges of liaison officers;
> (b) *simplification* of the procedures and shortening of the time limits relating to transmission and the *examination* of requests to take charge of or take back applicants.[9]

4.3. Modality in the Dublin Regulation

Modality allows the writer to give specific implications to a sentence. Legal texts tend to mostly use deontic modality. In this regulation the preferred choice seems to be the modal "shall", in order to denote an obligation to be fulfilled.

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[6] Regulation (EU) No 604/2013, Art. 2, Section l, L 180/36.
[7] Regulation (EU) No 604/2013, Art. 27, Par. 4, 5, 6, L 180/46.
[8] Regulation (EU) No 604/2013, Art. 17, Par. 1, L 180/41.
[9] Regulation (EU) No 604/2013, Art. 36, Par. 1, L 180/51.

Here is an example from Article 34, paragraph 5, concerning the administrative cooperation among Member States.

> (Art. 34) 5. The requested Member State *shall* be obliged to reply within five weeks. Any delays in the reply *shall* be duly justified. Non-compliance with the five week time limit *shall* not relieve the requested Member State of the obligation to reply. [...][10]

Also "may" is a verb that can be easily found in the Regulation. This modal, used with directive modality implies permission. It is also considered as more formal, distant and polite than "can".

> (Art. 34) 3. Furthermore, provided it is necessary for the examination of the application for international protection, the Member State responsible *may* request another Member State to let it know on what grounds the applicant bases his or her application and, where applicable, the grounds for any decisions taken concerning the applicant. The other Member State *may* refuse to respond to the request submitted to it, if the communication of such information is likely to harm its essential interests or the protection of the liberties and fundamental rights of the person concerned or of others. [...][11]

It is also possible to find the modal "will". In legal text "shall" is used for obligations, while "will" indicates volition (Commissive Modality). Here it is an extract from the Convention:

> (Art. 49) This Regulation [...] shall apply to applications for international protection lodged as from the first day of the sixth month following its entry into force and, from that date, it *will* apply to any request to take charge of or take back applicants, irrespective of the date on which the application was made. [...][12]

Another interesting choice is the use of "would" to express conjecture. This extract belongs to Article 11 and it concerns family procedure.

> (Art. 11) [...] where the application of the criteria set out in this Regulation *would* lead to their being separated, the Member State responsible shall be determined on the basis of the following provisions: [...][13]

The modal "should", on the other hand, has been used to provide recommendation (directive modality). Here it is an example from Article 20.

> (Art. 20) 2. [...] Where an application is not made in writing, the time elapsing between the statement of intention and the preparation of a report *should* be as short as possible.[14]

This regulation has proven to be extremely heterogeneous in the choice of modal verbs. Understanding the real meaning of modals is both interesting and vital for a correct interpretation; unfortunately, not all the readers are able to do so.

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[10] Regulation (EU) No 604/2013, Art. 34, Par. 5, L 180/50.
[11] Regulation (EU) No 604/2013, Art. 34, Par. 3, L 180/50.
[12] Regulation (EU) No 604/2013, Art. 49, L 180/53.
[13] Regulation (EU) No 604/2013, Art. 11, L 180/40.
[14] Regulation (EU) No 604/2013, Art. 20, Par. 2, L 180/43.

4.4. The Passives in the Regulation

As previously mentioned, passive voices make the text more impersonal, they shift responsibility, focusing on the process instead of on the actor; moreover passives used as pre- (or post-) modifiers consent to avoid subordination. Unfortunately, migrants, who have different cultural schemata from law makers, will find passives difficult to be conceptualized, especially if they do not own accusativity, but process reality thanks to ergativity.

The following Articles provide examples of passives used as verbs or modifiers. The first extract belongs to Article 30 and it concerns the cost of applicant transfer.

> (Art. 30) 1. The costs necessary to transfer an applicant or another person as *referred* to in Article 18(1) (c) or (d) to the Member State responsible *shall be met* by the transferring Member State.
> 2. Where the person *concerned has to be transferred* back to a Member State as a result of an erroneous transfer or of a transfer decision that *has been overturned* on appeal or review after the transfer *has been carried out*, the Member State which initially carried out the transfer *shall be responsible* for the costs of transferring the person *concerned* back to its territory.
> 3. Persons *to be transferred* pursuant to this Regulation *shall not be required* to meet the costs of such transfers.[15]

It is possible to notice that most passive voices are agentless. This choice was made in order to provide vagueness, which can allow several possible interpretations. In cases in which the passive has an agent, the agent is always an abstract entity. This can cause confusion, as it is difficult to allocate a subject to a verb, or to understand who the subject really is. On the other hand, when passives are used as modifiers, the main aim of the writer is to avoid hypotaxis, as it is possible to notice from words like "referred" or "concerned" in the above example.

4.5. Intertextual References in the Regulation

Intertextuality (De Beaugrande, Dressler 1980) concerns the way in which a text is related to other texts. This Regulation is full of references to other Articles or laws. The references can create confusion for those who are not legal experts and those who do not keep in mind a specific legal frame.

The following extract (Article 31) shows references to a previous version of the Dublin III Regulation. In order to fully understand the meaning of the Article, the reader needs to know both the 2003 version and the Article referred to in the extract.

> (Art. 31) 3. The exchange of information under this Article shall only take place between the authorities notified to the Commission in accordance with *Article 35* of this Regulation using the 'DubliNet' electronic communication network set-up under *Article 18 of Regulation (EC) No 1560/2003*. The information exchanged shall only be used for the purposes *set out in paragraph 1* of this Article and shall not be further processed.[16]

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[15] Regulation (EU) No 604/2013, Art. 30, Par. 1, 2, 3, L 180/47.
[16] Regulation (EU) No 604/2013, Art. 31, Par. 3, , L 180/48.

4.6 How to Achieve Textual Simplification

In this last paragraph practical examples of legal text reformulation will be provided. The intra-lingual translation and textual simplification will reduce the difficulties encountered by migrants while reading this Regulation.

In order to provide a more accessible and comprehensible text, Van Dijk's macrorules (1980) will be used: vague terms will be changed into more specific ones, irrelevant details will be deleted and obscure expressions will be explained. At the end of the chapter it will be proven that a legal text can be changed and made easier, without distorting the original sense of the law.

The first Article to be reformulated is Article 3, concerning the procedures necessary in order to examine an application for international protection.

> (Art. 3) 1. *Member States* shall examine any application for international protection *by a third-country national or a stateless person* who applies on the territory of any one of *them*, including at the border or in the transit zones. The application *shall be examined* by a *single Member State*, which shall be the one which the criteria set out in Chapter III indicate is responsible.
>
> 2. Where no *Member State* responsible *can be designated* on the basis of the criteria *listed* in this Regulation, the first *Member Stat*e in which the application for international protection *was lodged* shall be responsible for examining *it*.
>
> Where it is impossible to transfer an applicant to the Member State primarily *designated* as responsible because there are substantial grounds for believing that there are systemic flaws in the asylum procedure and in the reception conditions for applicants in that *Member State*, resulting in a risk of inhuman or degrading treatment within the meaning of Article 4 of the Charter of Fundamental Rights of the European Union, the *determining Member State* shall continue to examine the criteria set out in Chapter III in order to establish *whether* another Member State *can be designated* as responsible.
>
> Where the transfer *cannot be made* pursuant to this paragraph to any *Member State designated* on the basis of the criteria set out in Chapter III or to the first *Member State* with which the application *was lodged*, the *determining Member State* shall become the *Member State* responsible.
>
> 3. Any *Member State* shall retain the right to send an applicant to a safe *third country*, subject to the rules and safeguards *laid down* in Directive 2013/32/EU.[17]

The main problems with this Article concern the use of the term "Member State", which could be too vague and specialized to be understood. Moreover, the use of agentless passives and pronouns could create confusion in the process of designation of responsibility. Even "whether" could be problematic because of its formality. Taking into account the techniques mentioned in the method, it is now possible to attempt a reformulation:

> 1. EU Countries shall examine any application for international protection by a migrant who applies on the territory, the border or the transit zones of any EU Country. A single Country shall examine the application, according to the criteria in Chapter III.
>
> 2. If it is impossible to designate a EU Country, the first State where the migrant applied for international protection shall be responsible for the application.
>
> If it is impossible to transfer a migrant to the responsible EU State, because there are risks of inhuman or degrading treatment within the meaning of Article 4 of the Charter of Fundamental Rights of the European Union, the EU Country shall continue to examine the criteria in Chapter III, in order to establish if another State can be responsible.

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[17] Regulation (EU) No 604/2013, Art. 17, Par. 1, 2, 3, L 180/37.

> If it is not possible to transfer the migrant to the country of destination on the basis of the criteria in Chapter III, or to the first EU Country where the migrant lodged the application, the country responsible shall be the country of the migrant's final destination.
> 4. Any EU State shall have the right to send a migrant to another safe country, subject to the rules and safeguards in Directive 2013/32/EU.

It is possible to notice that the vague term "Member State" has been changed into "EU State" or "EU Country". All the passives have been transformed into active voices, where the agent can be easily found. The conjunction "Whether" has been turned into the more informal "if" and irrelevant details have been deleted. Moreover, the term "migrant" has been used instead of "third-country national" or" stateless person".

Article 26, which deals with transfer decisions, has been used as an example because of the high number of passives and modifiers in it. Let's focus on the main problems a migrant can have.

> (Art. 26) 1. Where the requested *Member State* accepts to take charge of or to take back an applicant or other person as referred to in Article 18(1) (c) or (d), the *requesting Member State* shall notify the *person concerned* of the decision to transfer him or her to the *Member State* responsible and, where applicable, of not examining his or her application for international protection. If a legal advisor or other counsellor is representing the *person concerned*, Member States may choose to notify the decision to such legal advisor or counsellor instead of to the *person concerned* and, where applicable, communicate the decision to the *person concerned.*
> 2. The decision *referred to in paragraph 1* shall contain information on the *legal remedies available*, including on the right to apply for suspensive effect, where applicable, and on the time limits applicable for seeking such remedies and for carrying out the transfer, and shall, if necessary, contain information *on the place where, and the date on which*, *the person concerned* should appear, if that person is travelling to the Member State responsible by his or her own means.
> *Member States* shall ensure that information on persons or entities that may provide legal assistance to the *person concerned is communicated* to *the person concerned* together with the decision referred to in paragraph 1, when that information *has not been already communicated.*
> 3. When the *person concerned is not assisted or represented* by a legal advisor or other counsellor, *Member States* shall inform him or her of the main elements of the decision, which shall always include information on the legal remedies available and the time limits applicable for seeking such remedies, in a language that the *person concerned* understands *or is reasonably supposed to understand.*[18]

Emphasis has been added to highlight: passives, superfluous references, long formulae, or irrelevant details. Here is a possible reformulation of Article 26:

> 1. If the requested EU Country accepts to take charge of or to take back a migrant, as referred to in Article 18(1)(c) or (d), the EU state who made the request shall notify the migrant of the decision and, if applicable, of not examining the application for international protection. If a legal advisor or other counsellor is representing the migrant, EU States may choose to notify the decision to the legal advisor or counsellor instead of to the migrant and, if applicable, communicate the decision to the asylum seeker.
> 2. The decision in paragraph 1 shall contain information on the remedies, including information on the right to apply for suspensive effect, and on the time limits for seeking such remedies and for carrying out the transfer, and shall, if necessary, contain information on where, and when, the migrant should appear, if he or she is travelling to the EU State responsible by his or her own means.

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[18] Regulation (EU) No 604/2013, Art. 26, Par. 1, 2, 3, L 180/45.

> EU Countries shall ensure the communication of information on persons or entities that may provide legal assistance to the migrant, together with the decision in paragraph 1, when the EU Country has not already communicated that information.
>
> 3. If a legal advisor or other counsellor does not assist the migrant, the EU States shall inform him or her of the main elements of the decision, the elements shall always include information on the legal remedies and the time limits for seeking such remedies, in a language that the migrant understands or he or she is likely to understand.

The reformulation shows that irrelevant details can be omitted without compromising the general meaning of the Article. Active voices are now the main characteristic of the extract, whose agents can be easily found, and this change also may be relevant to the new thematization of the sentence, thus possibly facilitating interpretation and acceptability.

It has proven indeed how crucial the problem of law acceptability is. Less generally acknowledged is the fact that intercultural differences between people play a relevant role in the conceptualization of specialized texts. This is the reason why the following section will provide the intercultural translation of the Articles which concern directly the migrants' needs.

5. The Framework

This last section aims to prove the importance of legal text comprehensibility and the need of cultural mediators when dealing with asylum seekers, by showing some extracts of the Dublin III Regulation and their possible reformulations to a group of migrants living in Lecce.

5.1. The Reformulated Articles

Here the extracts from the Dublin III Regulation that will be proposed to a small group of migrants. The first extract belongs to the section concerning definitions in Article 2:

> (Art. 2) (j) 'unaccompanied minor' means a minor who arrives on the territory of the Member States unaccompanied by an adult responsible for him or her, whether by law or by the practice of the Member State concerned, and for as long as he or she is not effectively taken into the care of such an adult; it includes a minor who is left unaccompanied after he or she has entered the territory of Member States; [...].[19]

This is its possible reformulation:

> Unaccompanied minor: minor who arrives in a European state without adults, or a minor who is left alone after they entered a European country.

The second extract is Article 38, which deals with data security and data protection:

> (Art. 38) Member States shall take all appropriate measures to ensure the security of transmitted personal data and in particular to avoid unlawful or unauthorised access or disclosure, alteration or loss of personal data processed. [...].[20]

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[19] Regulation (EU) No 604/2013, Art. 2, Section. j, L 180/36.
[20] Regulation (EU) No 604/2013, Art. 38, L 180/52.

Here is the reformulation:

> European countries shall ensure the security of personal data transmission. The European states shall also avoid illegal access or disclosure and the alteration or loss of personal data already present in the system.

The reformulated version should be perceived as more accessible, because of the substitution of vague expressions, passive voices, subordinate sentences and relative pronouns.

The next paragraph, focusing on the framework, aims to verify the accessibility of the reformulated versions.

5.2. Framework

Articles 2 and 38 have been submitted to five migrants in an Italian Centre for Refugees in Lecce.

The extracts have been analyzed by two men subjects from Nigeria (Igbo, English), a woman from Ghana (Igbo, English), a man from Egypt (Arabic, English), and a man from Pakistan (Urdu, English). Every one of them gave an interesting insight into the problems caused by the features characterizing these articles.

Both men from Nigeria had problems with the expression "Member States", and found the reformulation "European State" easier. They both complained about the article length, which was filled, according to them, with information not particularly relevant for the general purpose of the Article. After reading the reformulation, they were surprised about its shortness and comprehensibility.

The woman from Ghana defined Article 38 as not clear, referring especially to the expressions "unlawful" and "unauthorized". When asked to explain them, she strongly relied on physical gestures more than words. According to her opinion, the reformulation was: "Easy, very easy."

The third man, who came from Egypt, had received a BA in Geography in his Country. Despite his high educational level he had several problems while reading the Articles. This is proof of the fact that a high level of education is not enough to fully understand a legal text from another country. He complained about the global vagueness and about the fact that a migrant has to rely on someone else in order to get explanations and understand a legal text. Moreover, according to his personal experience, the volunteers he met were not able to fully satisfy his requests.

The last subject interviewed, a man from Pakistan, whose first language was Urdu, said that the reformulations were characterized by easier expressions and asked for more information about where to find the legal texts he was reading. He complained about the difficulty migrants have when they try to get access to legal texts, which can be mainly found online. He also complained about the absence of an Urdu version of the text.

The feedback migrants gave has proven to be very useful: not only did they reveal the lack of clarity characterizing the Regulation, they also proved that few little adjustments can effectively make a legal text more accessible to eastern readers as well, and this can be of benefit both to migrants and European countries.

6. Conclusions

Analyzing such a debated Regulation has been both interesting and challenging. The reason why we decided to analyze these legal texts is the fact that law comprehension has a powerful impact on people's life, especially on migrants, who arrive in a foreign Country unprotected and neglected by institutions. It was also important to make clear that migrants' inability to fully understand western legal texts is not linked to their level of education, but to a cultural barrier (see Roberts, Sarangi 1999, p. 399) which cannot be simply destroyed with the assistance of legal volunteers who are not intercultural experts.

The scarce availability of legal text translations also suggests an urgent need for cultural mediators in refugees centers, in order to provide an efficient service and allow a complete text comprehensibility, taking into account all the cultural differences and implications of a speech.

The growing number of refugees arriving in the EU asking for international protection should give the intercultural aspects of communication greater importance and should lead to a reshaping of legal texts according to all the parameters Critical Discourse Analysis has provided (de Beaugrande and Dressler 1981; Grice 1975; van Dijk 1980).

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References

Anderson J.R. 1980, *Cognitive Psychology and Its Implications,* Freeman, San Francisco.

Austin J.L. 1962, *How to Do Things with Words,* Clarendon Press, Oxford.

Bares K. 1972, *The Morphological Features of Technical English and their Presentation in Teaching*, in Fried V. (ed.), *The Prague School of Language and Linguistics*, Oxford University Press, Oxford, pp. 128-141.

De Beaugrande R. and Dressler W. 1981, *An Introduction to Text Linguistics,* Longman, London.

Blommaert J. 1997, *Workshopping: Notes on Professional Vision in Discourse Analysis*, UIA-GER, Antwerp.

Brown G. and Yule G. 1983, *Discourse Analysis*, Cambridge University Press, Cambridge.

Carrell P.L. and Eisterhold J.C. 1988, *Interactive Approaches To Second Language Learning,* Cambridge University Press, Cambridge.

Chomsky N. 1965, *Aspects of the Theory of Syntax*, The MIT Press, Cambridge, MA.

Chomsky N. 1975, *Reflections on Language*, Pantheon Books, New York.

Chomsky N. 1981, *Lectures on Government and Binding*, Mouton de Gruyter, Berlin.

European Union 2013, *Joint Practical Guide for persons involved in the drafting of European Union legislation*, Brussels.

Fairclough N. 1995*, Critical Discourse Analysis,* Longman, London.

Firth J.R. 1957, *The Techniques of Semantics*, in "Papers in Linguistics 1934-51", Oxford University Press, London, pp. 7-33.

Gotti M. 2005, *Investigating Specialized Language,* Peter Lang, Bern.

Gregory M. and Carroll S. 1978, *Language and Situation: Language Varieties and their Social Contexts,* Routledge and Kegan Paul, London.

Grice H.P. 1975, *Logic and Conversation*, in Cole P. and Morgan J. (eds), *Syntax and Semantics 3: Speech acts,* Academic Press, New York, pp. 41-58.

Grice H.P. 1981, *Presupposition and Conversational Implicature*, in Cole P. (ed.), *Radical Pragmatics,* Academy Press, New York, pp. 183-198.

Guido M.G. 2004a, *Cross-cultural Miscommunication in Welfare Officers' Interrogations*, in Candlin C.N. and Gotti M. (eds.), *Intercultural Aspects of Specialized Communication*, Peter Lang, Bern, pp. 127-145.

Guido M.G. 2004b, *Mediating cultures: A Cognitive Approach to English Discourse for the Social Sciences,* LED, Milan.

Guido M.G. 2005, *Context Misconstructions in Professional Entextualizations of "Asylum" Discourse*, in Cortese G. and Duszak A. (eds), *Identity, Community, Discourse: English in Intercultural Settings,* Peter Lang, Bern, pp. 183-205.

Guido M.G. 2008, *English as a Lingua Franca in Cross-cultural Immigration Domains*, Peter Lang, Bern.

Halliday M. 1970a, *Language Structure and Language Function*, in Lyons J. (ed.), *New Horizons in Linguistics*, Penguin, Harmondsworth, pp. 140-165.

Halliday M. 1970b, *Functional Diversity in Language as Seen from a Consideration of Mood and Modality in English*, in "Foundations of Language" 4, pp. 225-242.

Halliday M. 1976, *Deep Grammar: System as Semantic Choice*, in Kress G. (ed.), *Halliday: System and Function in Language*, Oxford University Press, Oxford, pp. 88-100.

Halliday M. 1978, *Language as Social Semiotic: The Social Interpretation of Language and Meaning,* Edward Arnold, London.

Halliday M. 1985, *An Introduction To Functional Grammar,* Edward Arnold, London.

Halliday M. 1990, *New Ways of Analysing Meaning,* in "Journal of Applied Linguistics" 6, pp. 7-36.

Halliday M. 1994, *An Introduction to Functional Grammar*, Edward Arnold, London.

Hymes D.H. 1974, *Foundation in Sociolinguistics: An Ethnographic Approach,* University of Pennsylvania Press, Philadelphia.

Hymes D.H. 1981, *"In Vain I Tried to Tell You": Essays in Native American Ethnopoetics,* University of Pennsylvania Press, Philadelphia.

Hymes D.H. 1996, *Ethnography, Linguistics, Narrative Inequality: Toward an Understanding of Voice,* Taylor and Frances, London.

Hymes D.H. 2003, *Now I Know Only So Far: Essays in Ethnopoetics,* University of Nebraska Press, Nebraska.

Johnson M. 1987, *The Body in the Mind: The Bodily Basis of Meaning, Imagination and Reason*, The University of Chicago Press, Chicago.

Langacker R.W. 1991, *Foundations of Cognitive Grammar,* Stanford University Press, Stanford.

Lyons J. 1977, *Semantics,* Cambridge University Press, Cambridge.

Neubert A. and Shreve G.M. 1992, *Translation as Text,* Kent State University Press, Kent, Ohio.

Palmer F.R. 1979, *Modality and the English Modals,* Longman, London.

Palmer F.R. 1986, *Mood and Modality,* Cambridge University Press, Cambridge.

Procaccia U. 1979, *Readable Insurance Policies: Judicial Regulation and Interpretation*, in "Israel Law Review" 14 [1], pp. 74-103.

Provenzano M.R. 2008, *The EU Legal Discourse of Immigration: a Cross-cultural Cognitive Approach to Accessibility and Reformulation,* FrancoAngeli, Milan.

Roberts C. and Sarangi S. 1999, *Talk, Work and Institutional Order: Discourse in Medical, Mediation, and Management Settings,* Mouton de Gruyter, Berlin.

de Saussure F. 1959, *Course in General Linguistics*, Philosophical Library, New York.

Searle J.R. 1969, *Speech Acts,* Cambridge University Press, Cambridge.

Sweetser E.E. 1990, *From Ethymology to Pragmatics: Metaphorical and Cultural Aspects of Semantic Structure,* Cambridge University Press, Cambridge.

Urban G. and Silverstein M. 1996, *Entextualization, Replication, and Power*, in Urban G. and Silverstein M. (eds.), *Natural Histories of Discourse*, University of Chicago Press, Chicago, pp. 21-44.

van Dijk T.A. 1980, *Macrostructures: An Interdisciplinary Study of Global Structures in Discourse, Interaction and Cognition,* Erlbaum, Hillsdale.

van Dijk T.A. 1998, *Ideology,* Sage, London.

van Dijk T.A. and Kintsch W. 1983, *Strategies of Discourse Comprehension,* Academic Press, New York.

Widdowson H.G. 1996, *Linguistics*, Oxford University Press, Oxford.

Websites

The Dublin Regulation II, 2003, Dublin: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do

The Dublin Regulation III, 2013, Dublin: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do

Appendix

Introduction

I am a student at the University of Salento and I am writing a degree thesis focusing on how language is used in legal texts. I am here because I would like to ask you few questions about a European law, called the Dublin III Regulation.

I would like to know your point of view about the articles I have chosen, and I also would like to know if you prefer the original articles, or if you find my version clearer. Before starting, I'm going to ask you few general questions about you.

1. Where are you from?
2. What is your first language?
3. Is English an official language in your country of origin?
4. May I ask you about your own national laws in matter of borders and immigration? Are the laws in English?
5. Are the laws generally accessible?
6. What is the approach of your national laws to immigration and borders?

Articles from the Dublin III Regulation

1. First extract

(Art. 2) "(j) '**unaccompanied minor**' means a minor who arrives on the territory of the **Member States unaccompanied** by an adult responsible for him or her, whether by law or by the practice of the Member State concerned, and for as long as he or she is not effectively taken into the care of such an adult; **it** includes a minor who is left **unaccompanied** after he or she has entered the territory of **Member States**; [...]".[21]

Reformulation:

"'Unaccompanied minor': minor who arrives in a European state without adults, or a minor who is left alone after they entered a European country."

Interview

1. Article 2

Can you understand the meaning of "unaccompanied minor" in Article 2?
Do you think it is easier the expression "Member States" or "European state/ country"?
Can you understand the general meaning of Article 2?
Can you understand easily the Article after you have read the reformulation?
Can you understand the words in bold (black) from Article 2 or do you think that the second text is more comprehensible?

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[21] Regulation (EU) No 604/2013, Art. 2, Section. j, L 180/36.

*L*ingue e
*L*inguaggi

How can you compare your national laws and the European ones on borders?

2. Second extract:

(Art. 38) "Member States shall take all appropriate measures to ensure the security of **transmitted personal data** and in particular to avoid **unlawful or unauthorised** access or disclosure, alteration or loss of personal data **processed**. [...]"[22]

Reformulation:

"European countries shall ensure the security of personal data transmission. The European states shall also avoid illegal access or disclosure and the alteration or loss of personal data already present in the system".

Interview

1. Article 38

Do you understand the meaning of "unlawful"?
Do you understand the meaning of "unauthorized"?
Is the expression "illegal" clearer to you?
Do you think that the general meaning of the article is more understandable in the reformulation?
Do you have any suggestion that can help European lawmakers?

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[22] Regulation (EU) No 604/2013, Art. 38, L 180/52.

Lingue e Linguaggi