

**Tensions between National and
Supranational Policy Responses to
Irregular Migration
and the Attendant Effect on
EU Migration Governance:**

Assessing and illustrating this impact
through the EU refugee crisis case study

A dissertation submitted by
Nadia Petroni
in partial fulfilment of the requirements for the
Degree of Doctor of Philosophy
in
International Relations

University of Malta
Faculty of Arts
Department of International Relations



University of Malta Library – Electronic Thesis & Dissertations (ETD) Repository

The copyright of this thesis/dissertation belongs to the author. The author's rights in respect of this work are as defined by the Copyright Act (Chapter 415) of the Laws of Malta or as modified by any successive legislation.

Users may access this full-text thesis/dissertation and can make use of the information contained in accordance with the Copyright Act provided that the author must be properly acknowledged. Further distribution or reproduction in any format is prohibited without the prior permission of the copyright holder.

Acknowledgements

This thesis is the result of ten years of research and would not have been possible without the help and encouragement of many persons. I would like to extend my gratitude to all those who offered their support in the process of writing this piece of work, offering their time, knowledge and cooperation. First and foremost, I would like to express my sincere gratitude to my supervisor, Dr Isabelle Calleja Ragonesi, for her valuable advice and constant guidance that helped me accomplish my research throughout this long winding journey. I would not have made it without her. I would also like to thank the Examination Board (Dr Anna Khakee, Prof. Camille Schmoll, Prof. Nicos Trimikliniotis and Prof. Edward Warrington) for their insightful and constructive feedback which allowed me to improve the quality of my research. Next, I would like to thank the academic and administrative staff at the Department of International Relations, in particular, Prof. James Sater, as well as the staff at the Institute for European Studies, the Mediterranean Academy of Diplomatic Studies and the Doctoral School. Special thanks go to the Università di Pisa, particularly the Dipartimento di Scienze Politiche for hosting me during my 12-month Erasmus+ mobility exchange (2017-2018). I am especially grateful to Prof. Francesco Tamburini, who acted as my supervisor during my stay, as well as other lecturers for their time and advice, in particular, Prof. Marcello di Filippo. The year spent in Italy was a challenging and enriching experience and I am very grateful to have had this opportunity. In this regard, I would like to thank Jake Grech from the International Office at the University of Malta for all his support prior to and during the duration of my mobility. I would also like to extend my appreciation to the interviewees who were kind enough to spare their time and share their deep knowledge with me. Last, but certainly not least, I would like to thank my husband Mariano for supporting and encouraging me during this quest, and my dearest cats for their loyal presence and quiet support.

Abstract

Irregular migration in the European Union (EU) dominates the current EU political agenda. EU member states, however, are not all affected to the same degree, giving rise to political friction over how to deal with the challenges of this phenomenon. This study deals precisely with this aspect, that is, how the different EU policy approaches to irregular migration impact on the relations between EU member states and institutions, as well as on EU migration governance. Previous studies have, for the most part, focused on the humanitarian dimension, i.e, the adverse impact of EU policy responses on the human rights of asylum seekers and migrants. Adopting a primarily qualitative research paradigm including a case study approach and employing various theoretical approaches, the study contributes to the literature on irregular migration in the EU and fills a knowledge gap on EU asylum and migration policymaking in the context of governance issues. It finds that despite significant divergence between EU policy approaches, EU member states and institutions are increasingly converging towards a common goal: to prevent irregular migration. Hence, an apparent paradox emerges, arguably linked to the rise of right-wing populist parties gaining ground across Europe, which I call ‘negative harmonisation’. This means that EU actors *are* converging, however, towards restrictive policies rather than the objective of creating a ‘level playing field’ whereby asylum seekers would receive similar treatment and the same outcome on their asylum application. This indicates that EU asylum and migration policymaking exhibits contradictory tendencies in that it comprises both deep divisions over developing a common approach to irregular migration and unity in preventing it, reflected in the prevailing focus on the ‘securitisation of migration’. More importantly, EU failure to develop a common approach has resulted in a litmus test for the future of Schengen and possibly even that of the entire European project.

TABLE OF CONTENTS

Acknowledgements	i
Abstract	ii
Table of Contents	iii
List of Figures.....	vii
List of Tables	ix
Acronyms	x
CHAPTER 1: INTRODUCTION	1
1.1 PROBLEM STATEMENT AND HYPOTHESIS	2
1.1.1 The current context	12
1.2 RESEARCH AIM AND QUESTIONS	14
1.3 SIGNIFICANCE OF THE STUDY	16
1.4 METHODOLOGY AND THEORETICAL FRAMEWORK	17
1.5 CHALLENGES IN MIGRATION TERMINOLOGY.....	19
1.6 PROBLEMS AND LIMITATIONS OF THE STUDY	24
1.7 THESIS OUTLINE	27
CHAPTER 2: LITERATURE REVIEW	29
2.1 INTRODUCTION	30
2.2 THE FIRST PHASE (1990s)	32
2.2.1 The securitisation' of migration	34
2.2.2 The negative impact on human rights	35
2.3 THE SECOND PHASE (2000s)	37
2.3.1 Challenges in EU asylum and migration policymaking	40
2.4 THE THIRD PHASE (2010s).....	45
2.4.1 Failure of EU asylum policies.....	46
2.4.2 The EU response to the refugee crisis	59
2.4.3 The rise of right-wing populism	53
2.4.4 The externalisation of migration control.....	55
2.5 THEORETICAL APPROACHES TO EU ASYLUM AND MIGRATION POLICYMAKING	56
2.5.1 Towards governance approaches	61
2.6 EU MIGRATION GOVERNANCE	64
2.7 KEY FINDINGS AND RESEARCH GAP.....	69

CHAPTER 3: THEORY AND METHODOLOGY	72
3.1 RESEARCH QUESTIONS AND HYPOTHESIS	73
3.2 THEORETICAL FRAMEWORK	79
3.2.1 Rationale for the inclusion of each theory and hierarchy of theories	82
3.2.2 Application of theories to empirical research	98
3.3 METHODOLOGY	102
3.3.1 Research design and approach	103
3.3.2 Justification for case selection	105
Data sources and collection methods	108
3.3.4 Data analysis	113
3.3.4.1 Validity and reliability	116
3.3.4.2 Ethical considerations	117
3.4 CONCLUSION	118
CHAPTER 4: THE DEVELOPMENT OF EU ASYLUM AND MIGRATION	
POLICIES	119
4.1 INTRODUCTION.....	120
4.2 THEORISING THE DEVELOPMENT OF EU ASYLUM AND MIGRATION	
POLICY	121
4.3 INTERNATIONAL LEGAL FRAMEWORK: BACKGROUND.....	126
4.4 THE EVOLUTION OF EU ASYLUM AND MIGRATION POLICIES.....	128
4.4.1 Historical background: from intergovernmental cooperation....	129
4.4.2 Towards supranational cooperation?	132
4.4.2.1 Maastricht: asylum and migration ‘matters of common interest’	133
4.4.2.2 Amsterdam: first steps towards an ‘AFSJ’ and a CEAS.....	135
4.4.2.3 Nice Treaty: qualified majority rule postponed	139
4.4.2.4 Lisbon establishes the ordinary legislative procedure	142
4.5 INTER-INSTITUTIONAL CONFLICT IN THE DEVELOPMENT OF THE CEAS	147
4.5.1 The impact of Court rulings on the CEAS	150
4.6 DISCUSSION AND CONCLUSION	151
CHAPTER 5: UNRAVELLING THE TENSIONS BETWEEN EU POLICY	
RESPONSES TO IRREGULAR MIGRATION: THE CASE STUDY OF	
THE REFUGEE CRISIS	155
5.1 CONTEXTUALISING THE REFUGEE CRISIS (2015-2017)	156
5.1.1 Conceptualising ‘crisis’ situations	159
5.1.2 Demarcation of the case study	160
5.2 THE EU RESPONSE TO THE REFUGEE CRISIS	160
5.2.1 Intra-EU relocation: a recipe for failure	164
5.2.1.1 Theoretical analysis: EU relocation mechanism	170
5.2.2 Reform of the CEAS: much of the same	173
5.2.3 Establishment of the EBCG and EUAA: old wine in new bottles?	176

5.2.4 EUNAVFOR MED Operation Sophia: a failed mission	178
5.2.5 The EU-Turkey statement: a fragile and controversial deal	180
5.3 UNILATERAL RESPONSES	183
5.3.1 ‘Temporary’ reintroduction of internal border controls	185
5.4 DISCUSSION OF MAIN FINDINGS	188
5.5 CONCLUSION	194
CHAPTER 6: THE CLASH BETWEEN EU INSTITUTIONS’ APPROACHES TO IRREGULAR MIGRATION	198
6.1 INTRODUCTION	199
6.1.1 The EU decision-making process	201
6.1.2 The difficulties in EU policymaking	203
6.2 THE EUROPEAN COMMISSION’S STANCE	205
6.3 THE APPROACH OF THE EUROPEAN PARLIAMENT	209
6.3.1 The positions of political groups within the EP	213
6.3.1.1 Differences between the positions of the EPP and the S&D	216
6.3.2 Voting behaviour in the EP	219
6.3.3 The rise of right-wing populist parties	225
6.4 COUNCIL OF THE EU: INTERGOVERNMENTAL DECISION-MAKING	229
6.4.1 The JHA Council’s security-oriented approach	231
6.5 THE FOCUS OF THE EUROPEAN COUNCIL	232
6.6 A RIGHTS-BASED APPROACH IN THE CJEU?	235
6.7 TENSION BETWEEN THE EU INSTITUTIONS’ POLICY POSITIONS	239
6.7.1 Second generation CEAS negotiations (2008-2013)	241
6.7.2 Third generation CEAS negotiations (2016-2018)	244
6.7.3 Conflict between EU institutions’ approaches.....	245
6.7.4 Application of the 3Ps public policy model	248
6.8 CONCLUSION.....	254
CHAPTER 7: NATIONAL POLICY APPROACHES TO IRREGULAR MIGRATION: A CONSTANT SOURCE OF FRICTION	256
7.1 INTRODUCTION	257
7.2 WHY DIFFERENT NATIONAL POLICY APPROACHES TO IRREGULAR MIGRATION? ..	259
7.3 FRAGMENTATION OF ASYLUM POLICIES THROUGH THE LENSES OF SECURITISATION AND SOCIAL CONSTRUCTIVISM.....	267
7.3.1 Registration and processing of the asylum procedure	271
7.3.2 Recognition rates and content of protection	272
7.3.3 Residence permits, family reunification and naturalisation	273
7.3.4 Detention of asylum seekers	275
7.3.5 Reception conditions	278
7.3.6 Discussion of findings	283
7.4 INCOHERENCY IN EU APPROACHES TO IRREGULAR MIGRATION	284

7.4.1 Suspension of Schengen rules: the 2011 Franco-Italian dispute	286
7.4.2 JHA ‘opt-outs’	290
7.4.3 Northwestern states	293
7.4.4 Central-Eastern states	295
7.4.5 Southern states	298
7.4.5.1 Disputes over migrants rescued at sea	307
7.5 DISCUSSION AND CONCLUSION: CONVERGENCE AND DIVERGENCE IN MEMBER STATES’ APPROACHES.....	311
CHAPTER 8: DISCUSSION OF RESEARCH FINDINGS	316
8.1 INTRODUCTION	317
8.2 REFLECTION ON THE THEORETICAL FRAMEWORK, LITERATURE REVIEW AND HYPOTHESIS	319
8.2.1 Theoretical analysis of key findings	321
8.2.2 Testing the working hypothesis	331
8.2.3 Addressing the knowledge gap	333
8.3 EVALUATION OF RESEARCH: DISCUSSION OF RESEARCH QUESTIONS	334
8.3.1 Why is EU asylum and migration policymaking resulting in tensions both between and within the national and supranational levels?	335
8.3.2 How are the diverse EU policy approaches to irregular migration impacting on EU migration governance?	336
8.3.3 What implications can be drawn from the EU responses, both at the institutional and national levels, towards the refugee crisis (2015-2017), and how has this affected relations between the EU and its member states?	338
8.4 BEYOND THE REFUGEE CRISIS: FUTURE GOVERNANCE OF MIGRATION IN EUROPE	342
8.4.1 The impact of the 2019 European elections on EU migration governance	343
8.5 CONCLUSION.....	347
CHAPTER 9: CONCLUSION AND RECOMMENDATIONS	348
9.1 IRREGULAR MIGRATION REMAINS HIGH ON THE POLITICAL AGENDA	349
9.2 KEY FINDINGS.....	350
9.3 <i>IN VARIETATE CONCORDIA?</i>	356
9.4 BENEFITS OF THE RESEARCH	357
9.5 RECOMMENDATIONS FOR FUTURE RESEARCH	358
9.5.1 Current developments in the field	361
9.6 CONCLUDING REMARKS	363

APPENDICES	366
BIBLIOGRAPHY	372
International Conventions and Protocols	429
EU Treaties and Conventions	429
EU Regulations	430
EU Directives	431
Other EU Documents	432

LIST OF FIGURES

Figure 1.1: Asylum applications in the EU, 1990-2019	2
Figure 1.2: Irregular arrivals in the EU, January 2007 - September 2018	5
Figure 1.3: Asylum applications in the EU member states, 2015 and 2016	7
Figure 2.1: Kingdon's multiple streams model	68
Figure 3.1: Plott's fundamental equation of politics	84
Figure 3.2: The theoretical framework	96
Figure 3.3: The flow of power relations in qualitative research.....	112
Figure 4.1: (Neo) functionalism vs (Liberal) intergovernmentalism	125
Figure 4.2: The 3 pillar structure introduced by the Treaty of Maastricht	134
Figure 4.3: The Common European Asylum System, 2013	137
Figure 4.4: Pre- and Post- Lisbon structure	143
Figure 5.1: Irregular arrivals in the EU, 2007 to 2018.....	156
Figure 5.2: Asylum applications lodged in the EU, 2007-2019	157
Figure 5.3: Asylum applications received by top 10 recipients in the EU, 2015	158
Figure 5.4: Chronology of events leading to the refugee crisis	161
Figure 5.5: Member state voting in JHA Council, 22 September 2015	167
Figure 5.6: Relocations carried out by EU and EFTA member states, 2015-2017	172
Figure 5.7: Timeline of EUNAVFOR MED	179
Figure 5.8: EU-Turkey vows	182
Figure 5.9: Border fences and internal border controls in the EU, 2017	184
Figure 5.10: Cumulative GDP 'deviation' scenarios (2025).....	187
Figure 6.1: How EU decisions are made	201
Figure 6.2: Turnout of European elections, 1979-2019	211
Figure 6.3: Composition of the EP, 2020	212
Figure 6.4: Composition of the EP, 1979-2019	213
Figure 6.5: Cohesion of political groups in the EP, 2014-2018	221
Figure 6.6: MEP voting allegiance according to national interest, 2014-2018	223

Figure 6.7: Right-wing populist parties' share of vote in general elections in EU member states and EFTA member state Switzerland, 2015-2018	226
Figure 6.8: Results of right-wing populist parties in general elections in EU member states and EFTA member state Switzerland, 2015-2018	227
Figure 6.9: Comparison of voting weights prior to and after 1 Nov 2014	230
Figure 6.10: 3Ps Public Policy Model, European Commission 2013	249
Figure 6.11: 3Ps Public Policy Model, European Commission 2018	250
Figure 6.12: 3Ps Public Policy Model, European Parliament 2013	251
Figure 6.13: 3Ps Public Policy Model, European Parliament 2018	252
Figure 6.14: 3Ps Public Policy Model, Council of the EU 2013	253
Figure 6.15: 3Ps Public Policy Model, Council of the EU 2018	254
Figure 7.1: Top 4 asylum-receiving states in 2016 and 2017.....	258
Figure 7.2: Enlargement of the EU (Europa, 2018)	261
Figure 7.3: Map of Europe and neighbouring countries	262
Figure 7.4: The rise of populism in Europe, 2000 vs 2017	265
Figure 7.5: Maximum time limit detention in EU member states, 2017	276
Figure 7.6: Average duration in detention, 2017	277
Figure 7.7: Access to the labour market for asylum seekers, 2017	280
Figure 7.8: Access to education for asylum-seeking children, 2017	282
Figure 7.9: JHA 'opt-outs'	291
Figure 7.10: Variable geometry in JHA policy: Opt-ins and opt-outs	292
Figure 7.11: Northwestern migration regime	293
Figure 7.12: Central-Eastern migration regime	295
Figure 7.13: Visegrád Group as a whole compared to the five largest EU member states	297
Figure 7.14: Southern migration regime	299
Figure 7.15: Current border controls between member states, 2017	302
Figure 7.16: Central Mediterranean: Main SAR Activity Zones	308
Figure 8.1: The public policy cycle model	321
Figure 8.2: 8th and 9th EP, seats per member state	344
Figure 8.3: Composition of 8th and 9th EP	346
Figure 9.1: EU governments in 2013/2015/2018	354
Figure 9.2: The failure of the EU relocation system	363

LIST OF TABLES

Table 1.1: Key terminology used in this study	24
Table 3.1: Semi-structured interviews conducted by the author	110
Table 4.1: Participation in legislative instruments: JHA opt-outs	129
Table 4.2: CEAS legislative instruments adopted in the 1st and 2nd phase	144
Table 5.1: Chronology of the EU response to the refugee crisis	162
Table 5.2: Relocations carried out by EU and EFTA member states, 2015-2017	169
Table 5.3: Commission proposals to reform the CEAS, 2016	173
Table 5.4: Border fences erected in the EU following the refugee crisis	183
Table 5.5: Temporary reintroduction of internal border controls, 2015-2018	186
Table 7.1: Residence permits time limits	274

Acronyms

AfD	Alternative für Deutschland
AFSJ	Area of Freedom Security and Justice
AIC	Actual Individual Consumption
AIDA	Asylum Information Database
ALDE	Alliance of Liberals and Democrats for Europe
AMIF	Asylum, Migration and Integration Fund
APD	Asylum Procedures Directive
APR	Asylum Procedures Regulation
CDU	Christian Democratic Union of Germany
CEAS	Common European Asylum System
CEE	Central and Eastern Europe
CEPS	Centre for European Policy Studies
CFSP	Common Foreign and Security Policy
CJEU	Court of Justice of the European Union
CoE	Council of Europe
COREPER	Committee of Permanent Representatives in the European Union
CSU	Christian Social Union
DG	Directorate-General
EASO	European Asylum Support Office
EBCG	European Border and Coast Guard Agency
EC	European Commission
EC	European Community/Communities (ceased on 1 Dec 2009 - date of entry into force of the Treaty of Lisbon)
ECHR	European Convention of Human Rights and Fundamental Freedoms
ECR	European Conservatives and Reformists
ECRE	European Council on Refugees and Exiles
ECtHR	European Court of Human Rights
EDAL	European Database of Asylum Law
EEA	European Economic Area
EEC	European Economic Community
EESC	European Economic and Social Committee
EFDD	Europe of Freedom and Direct Democracy
EFTA	European Free Trade Association
EMN	European Migration Network
ENF	Europe of Nations and Freedom
EP	European Parliament

EPC	European Policy Centre
EPP	European People's Party
EU	European Union
EUAA	European Union Agency for Asylum
EUNAVFOR Med	European Union Naval Force Mediterranean
Eurodac	European dactylographic system
Eurostat	the statistical office of the European Union (European Commission Directorate-General for Statistics)
EUROSUR	European External Border Surveillance System
FRA	European Union Agency for Fundamental Rights
FRONTEX	European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the EU
GDP	Global Detention Project
GDP	Gross Domestic Product
Greens/EFA	Greens–European Free Alliance
GUE/NGL	European United Left/Nordic Green Left
HI	Historical Institutionalism
HRW	Human Rights Watch
ICMPD	International Centre for Migration Policy Development
ID	Identity and Democracy
IO	International Organisation
IOM	International Organization for Migration
JHA	Justice and Home Affairs
LI	Liberal Intergovernmentalism
LIBE	European Parliament Committee on Civil Liberties, Justice and Home Affairs
MEP	Member of the European Parliament
MLG	Multi-level Governance
MPG	Migration Policy Group
MPI	Migration Policy Institute
MRCC	Maritime Rescue Coordination Centre
NGO	Non-Governmental Organisation
NI	Non-Inscrits
NI	New Institutionalism
OECD	Organisation for Economic Cooperation and Development
OJ	Official Journal of the EU
OLP	Ordinary Legislative Procedure
PPU	Preliminary ruling procedure
QD	Qualification Directive
QR	Qualification Regulation

QMV	Qualified Majority Voting
RCD	Reception Conditions Directive
RCI	Rational Choice Institutionalism
S&D	Progressive Alliance of Socialists and Democrats
SAR	Search and Rescue
SI	Sociological Institutionalism
SRR	Search and Rescue Region
TCNs	Third-country nationals
TEC	Treaty Establishing the European Community
TEU	Treaty on European Union
TFEU	Treaty on the Functioning of the European Union
TPD	Temporary Protection Directive
UK	United Kingdom
UN	United Nations
UNCLOS	United Nations Convention on the Law of the Sea
UNHCR	United Nations High Commissioner for Refugees
UREC	University of Malta Research Ethics Committee

Introduction

This chapter provides a brief overview of the research problem, it explains why this study is worth conducting and describes what actions were taken to carry it out. First, it presents the rationale for the study and the hypothesis underlying the research. Then it puts forward the research objectives, research questions, and the contribution to knowledge. This is followed by the research design, the methods used for data collection and the theoretical framework guiding the research. Next, it highlights the importance of migration-related terminology in the context of EU asylum and migration policymaking. Finally, the chapter acknowledges the limitations of the study and provides a brief outline of each chapter.

1.1 Problem statement and hypothesis

Although the issue of irregular migration has been high on the EU political agenda for over a decade, the political importance it achieved in the wake of the refugee crisis in 2015, when over 1.8 million irregular migrants arrived in the EU (Frontex, 2018), is without parallel. Here it is important to point out that in this study the term ‘without parallel’ is used in the context of irregular migration flows to the EU, and not vis-à-vis EU crises in general. Consequently, the question of how to deal with the phenomenon has become the most divisive issue within the EU, at both national and EU level. Between 2015 and 2017, during the so-called ‘refugee crisis’, the EU received an unprecedented influx of asylum seekers, resulting in over 3 million asylum applications. In 2016 alone, EU member states granted asylum to over 720,000 migrants, three times as many as Australia, Canada and the United States combined (EC, 2017e).

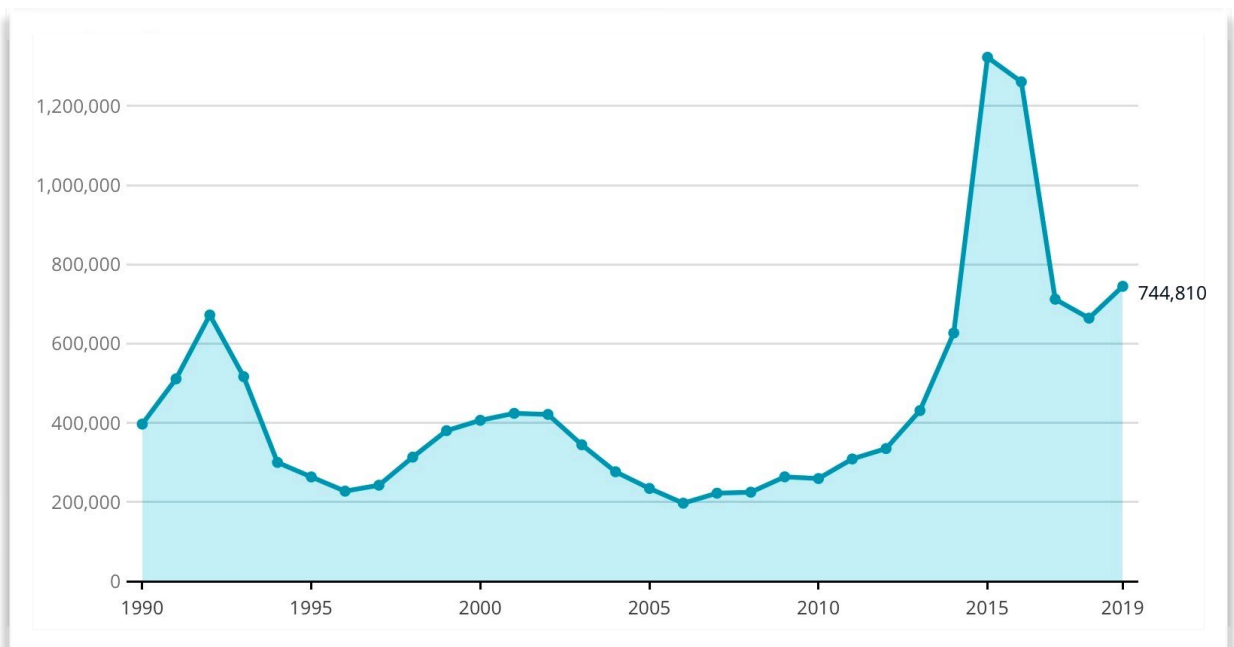


Figure 1.1: Asylum applications in the EU, 1990-2019 (Source: Council of the EU 2020, using Eurostat data).

Nonetheless, since the end of World War II, Europe received several significant influxes of migrants,¹ so what is it that sets the refugee crisis (2015-2017) apart from previous large-scale arrivals? In the aftermath of the Second World War, Germany was the European state most affected by immigration. By 1950, 7.8 million migrants had sought refuge in West Germany and 3.5 million in East Germany. These inflows mainly consisted of displaced ethnic German populations from Eastern bloc countries such as Czechoslovakia, Hungary, Poland and the USSR (Salt and Clout, 1976 cited in Dustmann and Frattini, 2012).

From the early 1950s, other European states, such as France and the UK, began to experience high levels of immigration mainly due to the fact that reconstruction of their economies necessitated immigrant labour, given serious labour shortages. Unlike the migratory flows to Germany, inflows to these states comprised diverse populations mainly from Southern Europe as well as the Southern Mediterranean and former colonies, as a result of the de-colonisation of former colonial powers and recruitment programmes for migrant workers (also known as guest worker schemes) (Van Mol and de Valk, 2016).

Later, following the fall of the Berlin Wall and the collapse of communism in Europe in the late 1980s and early 1990s, one of the largest 'waves' of irregular migration to Europe took place. This was predominantly composed of migrants from Eastern Europe following the disintegration of the Soviet Union and the conflicts that followed the breakup of the former Yugoslavia seeking refuge in states such as Austria, France, Germany and Sweden (Hatton and Williamson, 2004)

During this period, however, Northwestern European states became more restrictive towards immigration. Hence from the 1990s onwards, asylum seekers increasingly shifted towards the Southern member states - Italy, Greece, Spain and

¹ For a historical perspective on European migration, see Lucassen (2018) Peeling an onion: the "refugee crisis" from a historical perspective, *Ethnic and Racial Studies*, 41 (3), pp. 383-410.

Portugal - which, until then, had been traditional countries of emigration (Dustmann and Frattini, 2012).

Two important factors thus distinguish the refugee crisis from previous mass arrivals of asylum seekers and irregular migrants into Europe. First, previous influxes such as those following the end of WWII (during the 1950s and 60s) took place in a very different context, involving population decline and steady economic growth. As a result, migrants were welcomed in Europe as temporary workers (Bonifazi 2008; Dietz and Kaczmarczyk 2008; Loescher 1989). Such migrants, however, were granted few rights and in most cases no access to social benefits as they were expected to return home upon completion of their work (Boyle et al. 1998). In contrast, the refugee crisis (2015-2017) occurred after the EU had grown to twenty-eight (very diverse) member states,² following successive enlargement processes, with all the new members having GDPs below the EU's 75 per cent average (Baun and Marek 2014, p. 42), and a very different economic context following the financial crisis (global recession).

The enlargement processes from 2004 onwards nearly doubled the number of member states, with most of the new members from Central and Eastern Europe having a post-communist past, thus resulting in a much more heterogeneous Union (Chalmers et al. 2014). Additionally, the Union was still recovering from the financial crisis, which broke out in 2008. Hence an EU dealing with recession and austerity sought to prevent what it perceived as the additional 'burden' of asylum seekers and shifted its focus towards restrictive migration policies and the externalisation of migration controls to third countries to prevent irregular migration.

The second factor distinguishing the 'refugee crisis' to previous mass arrivals of asylum seekers and irregular migrants to Europe involved the cultural diversity and

²As from 1 February 2020, the EU comprises 27 member states, following the UK's withdrawal from the Union as a result of the Brexit referendum which took place in June 2016.

sheer figures of those arriving in the EU during the peak of the refugee crisis. Indeed, besides coming from very diverse countries and regions, the profiles of those arriving in Europe during the refugee crisis also differed from previous 'waves' of irregular migration (OECD, 2015).

Notwithstanding that, all in all, such individuals were forced to flee for similar reasons, during the refugee crisis they came from countries spreading from North Africa to the Middle East to Central Asia. Differences can also be observed in the demographics. During the wars in the former Yugoslavia in the 1990s, the vulnerable groups - women, children and the elderly - constituted the great majority of migrants while men from 18 to 65 years of age were accepted only if travelling with family or with a document certifying the family reunification in the country of reception. The refugee crisis of 2015-2017, on the other hand, recorded large numbers of young male adults (Frontex, 2016).

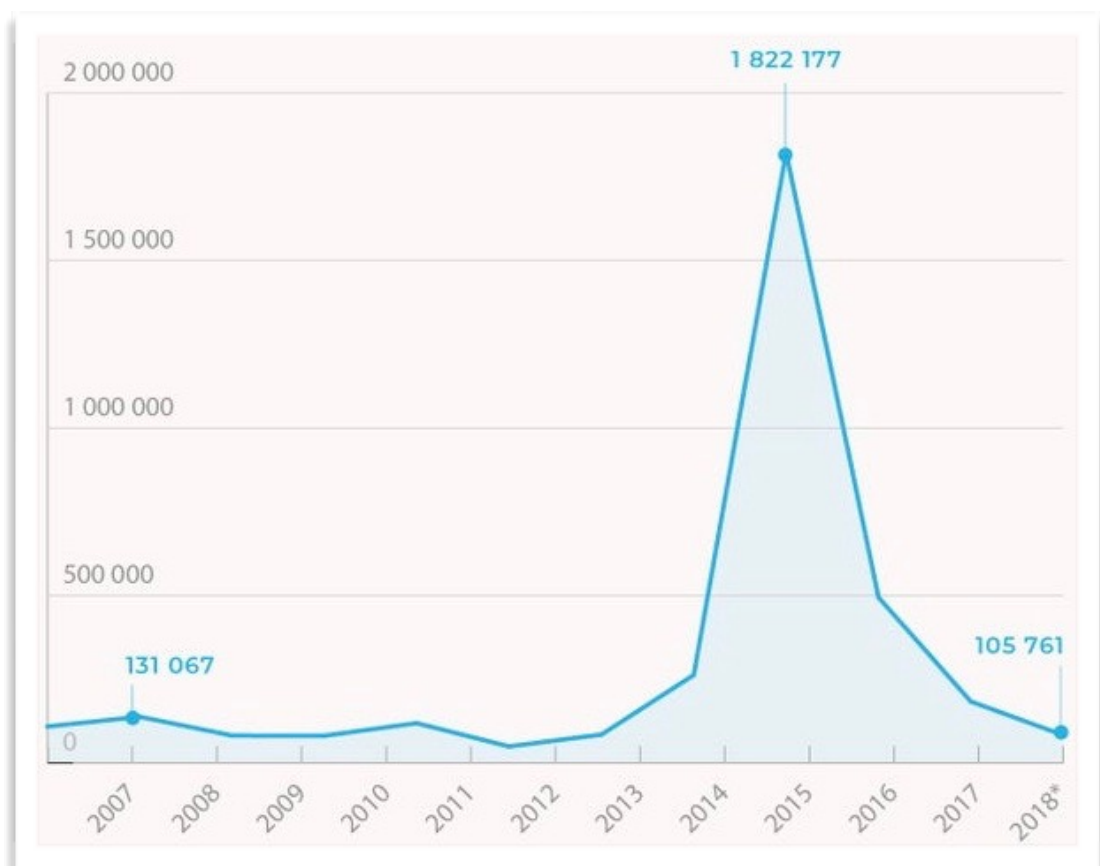


Figure 1.2: Irregular arrivals in the EU, January 2007 - September 2018 (Source: Council of the EU 2018, using Frontex data).

The EU's institutional and legislative frameworks proved unable to deal with the crisis. EU leaders' failure to find a coherent response to the crisis exposed fault lines across the EU including the emergence of a new East-West split in addition to an exacerbated North-South divide, highlighting lack of solidarity among EU member states, *even in times of crisis*. The crisis also exposed structural shortcomings in the Common European Asylum System (CEAS), namely the incoherent transposition of the asylum directives into national legislation, resulting in variation in member state practice, and systemic flaws in the Dublin Regulation which shifted the 'burden' of asylum responsibility on the frontline member states.

Indeed, one of the main challenges in developing a common approach to the (perceived) irregular migration crisis concerns the asymmetrical distribution of asylum responsibility among EU member states. In 2015, four member states (Germany, Hungary, Sweden and Austria) received nearly two-thirds of total applications, while the top ten receiving member states accounted for over ninety per cent of asylum applications received in the EU (Frontex, 2016).

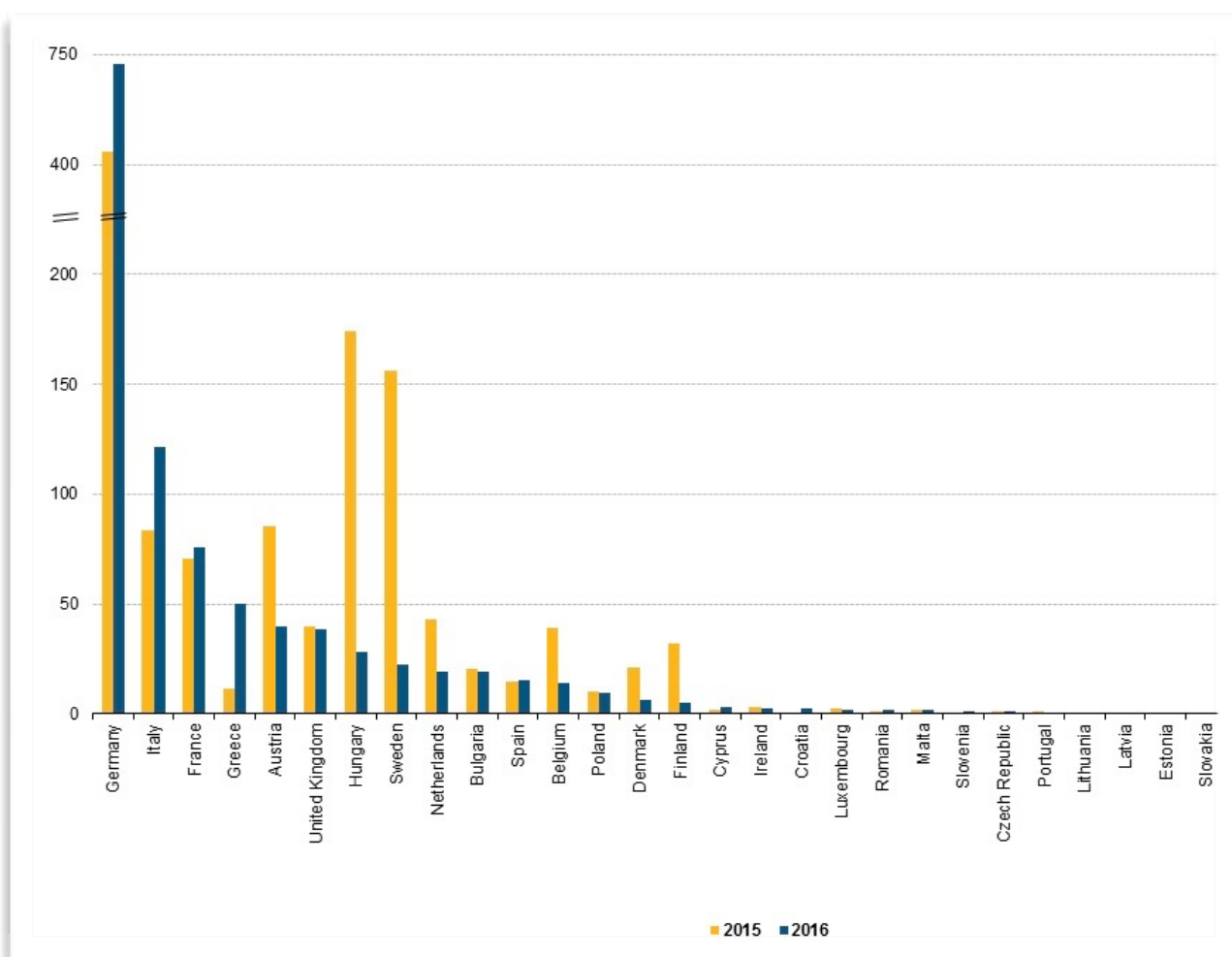


Figure 1.3: Asylum applications in the EU member states (thousands), 2015 and 2016 (Source: Eurostat, 2017).

In addition, for the first time ever (since September 2015), the overall functioning of the Schengen Area was put at risk as several member states reinstated internal border controls to prevent irregular secondary movements - this challenged the norm of solidarity and mutual trust - the cornerstones of the area without internal borders. These member states have indicated that they will not lift border controls even after the official deadline of November 2021.³

However, a return to permanent controls at the internal borders would signify the breakdown of Schengen, one of the major achievements of European integration.

³ European Commission official website (accessed 17 May 2021) See https://ec.europa.eu/home-affairs/what-we-do/policies/borders-and-visas/schengen/reintroduction-border-control_en

The principle of Schengen has also been threatened by the introduction of unilateral measures taken by other member states including building border walls and fences along their borders to prevent irregular secondary movements. The result is that Europe experienced a 'race to the bottom', with the tightening up of national asylum and migration policies to deter irregular migrants.

The outcome has been a shift at the EU level towards more restrictive policy measures. I call this, 'negative harmonisation' of EU asylum and migration policies. For rather than achieving the goal of creating a 'level playing field', that is, allowing asylum seekers to receive equal treatment and the same outcome from their asylum application, EU institutions and member states are increasingly converging towards preventing irregular migration. Hence it appears that although the EU remains divided over how to deal with irregular migration, a new consensus is emerging as EU member states and institutions are increasingly converging towards strengthening the EU's external borders and the externalisation of migration controls. In other words, the focus is increasingly on preventing irregular migrants from reaching Europe.

At the same time, differences in EU policy approaches to irregular migration, both at the national and supranational level, have created division among EU member states and institutions to the extent to threaten the European project. This was brought to the fore in the EU response to the refugee crisis which resulted in a serious political crisis characterised by deadlocked inter-institutional negotiations on the reform of the Dublin Regulation and the sustained unwillingness of certain member states to lift internal border controls. The development and harmonisation of EU policies in this field, therefore, is hampered by clashing interests of EU member states and institutions (Commission, Parliament and Council).

This study deals precisely with this aspect, that is, how the different EU policy approaches to irregular migration impact on the relations between EU member states, EU institutions, and among member states and institutions, and in turn, how this impacts on EU asylum and migration policymaking and ultimately on EU migration governance. The term ‘migration governance’ is defined as: ‘The combined frameworks of legal norms, laws and regulations, policies and traditions as well as organizational structures (subnational, national, regional and international) and the relevant processes that shape and regulate states’ approaches with regard to migration in all its forms, addressing rights and responsibilities and promoting international cooperation’ (IOM 2019, p. 138).

Research has shown, that in this policy area, there is a high level of dissonance between the different levels of governance which reflects a lack of understanding of the needs of the different actors involved. These findings lead to the key assumption underlying this study, that EU asylum and migration policymaking in the context of irregular migration is resulting in suboptimal policy outcomes that do not reflect the realities on the ground in the member states of first entry - i.e., in those member states facing strong migratory pressure. Hence the working hypothesis:

EU policymaking in the context of irregular migration has led to suboptimal outcomes that do not fully cater for the realities of migration pressures in the frontline member states.

In this study, the term ‘suboptimal’ is used to denote outcomes resulting from policies that tend towards the lowest common denominator (low standard or quality) and/or result in policy inconsistencies, and thereby, fail to achieve the desired outcome. In terms of the research question, EU asylum and migration policies in the context of irregular migration have proved to be suboptimal on two main grounds:

(1) they have shifted asylum responsibility onto only some member states, those located on the external borders - which are also those that tend to have fewer resources than other EU states - and (2) the ambiguous provisions in the asylum directives have resulted in wide divergences among member states such as asylum recognition rates (hence lack of harmonisation in the transposition of the asylum directives in national legislation), giving rise to significant consequences for asylum applicants as well as undermining their rights. As this study illustrates, following the mass influx of irregular migrants in 2015 and 2016, most EU member states amended their national asylum and migration policies to discourage irregular migration. In practice this involved a lowering of standards and restricting rights for asylum seekers, hence resulting in suboptimal policy outcomes.

EU asylum and migration policymaking, in reality, however, is much more complex than the hypothesis posits. Policy responses to irregular migration are in constant conflict and flux, both at the national and supranational level. The failure to articulate common asylum and migration policies that could alleviate pressure on the frontline (presumably overburdened) states is primarily a result of the asymmetrical impact of asylum responsibility, as well as clashing national policy preferences and, at times, the discordant objectives of the EU Commission, Parliament and Council. The latter has increasingly prioritised security objectives, such as ensuring effective border management and fighting migrant smuggling. These objectives are rooted in national governments' concerns over sovereign issues, involving: (1) the securitisation of their borders, and (2) the growing prejudice of the electorate towards migrants, which results in a more realist approach to irregular migration whereby governments act with the next general election in mind. In contrast, the European Parliament (EP), has traditionally favoured a more institutionalised human rights-based approach that would enable the EU to serve as a model. As opposed to government ministers, the

MEPs are much more distanced from day-to-day national politics and enjoy greater stability, which allows them to pursue more normative goals even if these might be unpopular with voters. Finally, the Commission, institutionally positioned and commonly perceived as a mediator between the Council and Parliament, aims to strike a balance between security concerns and more ambitious transnational goals. Similar to the Parliament, the Commission is relatively detached from national politics and is obliged to pursue the collective EU interest.

In addition to clashing national and institutional interests vis-à-vis irregular migration, the context within which policymaking takes place changes over space and time. In this regard, the CEAS was conceived following the fall of communism in CEE and the Yugoslav Wars, in the 1980s and 1990s, when the EU received a significant influx of asylum seekers, and at a time when it only comprised fifteen member states. The current EU context is very different. Following the enlargement processes from 2004 onwards, the number of member states has almost doubled, resulting in a more heterogeneous Union.

Hence, the unprecedented arrival of irregular migrants during the refugee crisis sparked a crisis between EU member states and institutions over how to deal with the challenge, as a result of this diversity in national and institutional preferences. The study thus includes the period preceding, during and post the refugee crisis, i.e., covering the period from 2013 to 2018 in order to illustrate the importance of the time continuum as part of the hypothesis.

1.1.1 The current context⁴

It is important to point out here that the EU is currently facing a new crisis, that of COVID-19. While much of the EU focus so far has been on the pandemic's impact on healthcare and the European economy, it has also pushed states further apart on the issue of irregular migration. As in the case of the refugee crisis, EU institutions and member states have once again failed to overcome their differences and pull together in the spirit of solidarity - despite that unlike the asymmetrical impact of the refugee crisis, the pandemic has affected all states bar none. Accordingly, the coronavirus pandemic has further strained intergovernmental relations in the EU. Against this backdrop, the EU remains as divided as ever in terms of its response to irregular migration, despite irregular arrivals to Europe decreasing in the aftermath of the 2015-2017 crisis.

The pandemic has also augmented the perceived threat of irregular migrants as they are being increasingly viewed as spreaders, resulting in the implementation of more restrictive migration measures in most EU member states. For instance, in April 2020, Italy and Malta closed their ports to persons rescued at sea for the duration of the health emergency (ECRE, 2020). Both governments later stated that migrants rescued in the Mediterranean would be quarantined at sea in order to prevent the spread of the virus (BBC News 2020; Indelicato 2020), sparking criticism from NGOs advocating migrants' rights (Aditus, 2020). Other member states reintroduced internal border controls within the Schengen Area⁵ to prevent irregular secondary movements of migrants from neighbouring states, under the guise of protecting public health.

⁴This section is beyond the remit of this thesis given that it was submitted in June 2020. Research on the impact of COVID-19 as well as the New Pact on Migration and Asylum on EU policymaking in the context of irregular migration is in the making at the time of writing.

⁵ Ibid. 3.

Certain states, such as Austria, Denmark, France, Germany and Sweden, have had border checks in place since the outbreak of the refugee crisis in 2015.

Consequently, the EU's fragmented response to the coronavirus crisis is impacting on EU policymaking in the context of irregular migration, resulting in even more restrictive migration policies. First, it has led to border closures in most member states, making it even more difficult for potential asylum seekers to reach the EU. It has also made EU member states more inward-looking, meaning that the priority is on advancing national interests rather than on human rights. Ultimately, the EU response to the pandemic exacerbated the drive towards the securitisation of migration across EU member states, leading to restrictions impeding access to asylum.

Another important development in the context of the research question concerns the European Commission's much-awaited 'New Pact on Migration and Asylum',⁶ presented in September 2020, which outlines the objectives for EU policies in the area of asylum and migration over the next five years (2019-2024). The new Pact, yet again, consolidates the EU strategy of preventing irregular migration, rather than ensuring that asylum and migration policies are governed by the principle of solidarity and fair sharing of responsibility. This is most visible in its focus on enhancing the return of failed asylum seekers and strengthening the role of Frontex, particularly in return operations.

Indeed, the proposals put forward in the Pact are largely characterised by the continuation of older ideas, focusing on the securitisation of migration. These include partnerships with third countries, returns, combatting human traffickers and smugglers, and stepping up efforts to police external borders. In terms of the most contested file in the discussions related to the CEAS reform, the Dublin Regulation,

⁶ EC 2020a, New Pact on Migration and Asylum, 23 September 2020 [COM(2020) 609 final].

despite the proposal to replace it with a new regulation (the Asylum and Migration Management Regulation), the entry criterion has not been abolished meaning that the 'first state of arrival' remains. Hence the proposal for a new regulation represents little beyond a change in name, and moreover, fails to include the establishment of a mandatory relocation mechanism. Instead, the proposal includes a new solidarity mechanism intended to alleviate the pressure on overburdened member states. Under this mechanism member states are given the flexibility to decide on whether and in what form they want to contribute to member states under pressure, yet what exactly constitutes 'pressure' has not been quantified in the text.

Another major shortcoming in the new Pact concerns the contentious issue of disembarkation of migrants rescued at sea. The Pact completely ignores the challenges that come with assigning responsibility for migrants rescued by NGO vessels and only goes so far as to encourage cooperation between states in such situations. Thereafter, member states are to ensure the prompt disembarkation of rescued persons in the nearest safe port, in most cases, in Italy or Malta. In short, the Pact does not attempt to resolve this issue, which presents a further challenge for the southern member states in dealing with irregular migration. This will also inevitably give rise to a series of ad hoc measures and unilateral actions.

1.2 Research aim and questions

In terms of the research objectives, the importance of exploring the EU response to the refugee crisis (2015-2017), lies in that it exposed fault lines dividing the bloc. The crisis was also an important influence on the rise of right-wing populism in

several member states and the fragmentation of mainstream politics. Indeed in recent years, and particularly following the refugee crisis, the issue of irregular migration has been at the core of electoral campaigns across the EU and has contributed to growing support for right-wing populist parties which now play a crucial role in politics in many member states.⁷ Furthermore, the EU response to the crisis demonstrated the limits of the Union's two dominant governance modes (intergovernmental and supranational).

Although the outbreak of the crisis, in 2015, stimulated academic debate in the field of irregular migration, research has primarily focused on the humanitarian dimension of migration, namely the adverse human rights impact of the EU response to the crisis, as well as the shortcomings of the CEAS in the context of the rights of asylum seekers and migrants (e.g., Beirens 2018; Chetail et al. 2016; Grigonis 2016; Lavenex 2018). Given that this research has, to a large extent, been law-based rather than politics-based, the impact of the different EU policy responses to irregular migration - both between and within the national and supranational levels - on EU migration governance remains an under-researched topic.

The objective of this study, therefore, is to fill this gap and identify the problems in developing a successful migration policy in the context of governance issues. This is being done by carrying out a comprehensive analysis of the various EU policy responses to the refugee crisis as well as their attendant impact on relations between the different levels of governance, and ultimately on policy outcomes. As a result, the study seeks to answer the following research questions:

⁷ Austria, Denmark, Finland, France, Germany, Greece, Hungary, Italy, the Netherlands, Poland, Sweden and the UK currently have prominent right-wing populist parties.

- 1. Why is EU asylum and migration policymaking in the context of irregular migration resulting in tensions both between and within the national and supranational levels?**
- 2. How are the diverse EU policy approaches to irregular migration impacting on EU migration governance?**
- 3. What implications can be drawn from the EU responses, both at the institutional and national levels, towards the refugee crisis (2015-2017), and how has this affected relations between the EU and its member states?**

The primary objective of this study, therefore, is to understand how the different EU policy approaches to irregular migration impact on EU migration governance, through the case study of the refugee crisis, in order to shed light on an insufficiently researched area and contribute, both empirically and theoretically, to the field of EU migration studies. Despite the decrease in irregular arrivals since 2017, to a large extent due to EU cooperation with third countries Turkey and Libya, in 2016 and 2017 respectively,⁸ the question of how to deal with the issue of irregular migration remains at the top of the EU political agenda at the time of writing.

1.3 Significance of the study

The underlying problem which gave rise to this research concerns EU failure to deal with the refugee crisis, as well as its inability to reform the CEAS to better support member states facing disproportionate migratory pressures. EU capability to take decisions and find a coherent outcome to the challenge of irregular migration, particularly in times of crisis, thus is questioned. As a result, this study examines an

⁸ Such arrangements, however, are transitory in view of the fact that they fall foul of human rights law and are constantly being challenged.

extremely pertinent and current issue that has frustrated deeper European integration and pits the EU principle of solidarity against state sovereignty.

The study focuses on a key policy area, as well as one of the most controversial, and attempts to contribute to the current literature on EU asylum and migration policymaking and provide a greater understanding of what both facilitates and limits the interaction between the national and supranational levels of migration governance.

More specifically, it attempts to build knowledge on how the different EU approaches to irregular migration impact on the relations between individual member states, between different EU institutions, as well as between member states and EU institutions, culminating in developing a picture on EU migration governance. In doing so it captures a particular period of EU migration governance (2013-2018) - prior to, during and post the refugee crisis. Although considerable research has been devoted to certain aspects of the refugee crisis, such as the unfolding humanitarian crisis and the failure of the CEAS, rather less attention has been paid to the impact of the EU response to the crisis on the relations between member states and institutions, and ultimately on policy outcomes. By examining this impact and its implications for the future of the European project, the study contributes to the emerging academic literature on the refugee crisis and EU migration governance. Hence the study fills a vacuum in academic research on EU asylum and migration policymaking.

1.4 Methodology and theoretical framework

The study proposes an empirical analysis employing mainly qualitative research methods - primarily document analysis although a number of semi-structured

interviews were also utilised - as well as quantitative methods such as official EU statistics. It also adopts a case study approach, seeing that this particular method 'provides tools for researchers to study complex phenomena within their contexts' (Baxter and Jack 2008, p. 544). The case study of the refugee crisis includes events from April 2015 up to September 2017, being the period when irregular arrivals peaked and when the debate on the crisis was the most intense. A chronological approach has been employed, and the case study is expanded to include the period prior to and post the crisis, that is from 2013 to 2018 (present). The years prior to the crisis are important in that 2013 marks the completion of the second generation CEAS legislative instruments, while in 2014 the European elections were held, resulting in declining support for mainstream political groups and hence a change in the composition of the Parliament.

Within a principally qualitative framework, and an interpretivist stance, exploratory research was conducted to answer the research questions. The main objective of exploratory research is to help explain a particular case and to determine any particular aims or necessary data to be taken into account via further research. The research draws extensively on primary data from official EU documentation and statistics from the websites of the EU institutions and agencies including debates of the European Parliament. Primary data was also collected from semi-structured interviews conducted in Malta, Italy, and Belgium with experts in the field of asylum and migration. Secondary sources mainly involved reviewing available literature from books and scholarly journals in addition to reports and studies of non-governmental organisations (NGOs) and independent think tanks which closely monitor the developments in EU asylum and migration policy. Other methods such as formal questionnaires were deemed inappropriate in order to answer the research questions.

With regard to the theoretical framework, given that decision-making processes within the EU are extremely complex, no single theory is able to analyze and interpret the developments in a satisfactory manner. In the context of EU asylum and migration policymaking, the complexity of decision-making results from the diverse national and institutional preferences as well as the inherent tension between the setting up of supranational rules and the ceding of national sovereignty. Various theoretical approaches, of both international relations (IR) and political science, thus have been applied to the study to explore the impact of the tensions between national and supranational policy responses to irregular migration on EU migration governance. The theoretical framework, therefore, consists of different theories and theoretical constructs that help explain the research questions. These include neofunctionalism, liberal intergovernmentalism (LI), multi-level governance (MLG), historical institutionalism (HI), public policy, the concept of securitisation, social constructivism, and alliance theory. Hence the selected theories serve the twofold purpose of (1) contributing to answering the research questions, and (2) enabling a more comprehensive analysis of EU asylum and migration policymaking.

1.5 Challenges in migration terminology

Migration-related terminology plays a significant role in understanding EU asylum and migration policymaking. This is primarily due to the fact that the lack of universally accepted definitions concerning key migration-related terms has resulted in different meanings or implications of such terms. Furthermore, as Triandafyllidou (2010, p. 2) points out:

The adjectives 'irregular', 'illegal', 'undocumented', 'unauthorised' or 'clandestine' are combined with the nouns 'migrants', 'immigrants', 'aliens' or 'foreign nationals', whilst expressions like 'sans-papiers', and 'clandestinos' have acquired international use.

This lack of universally accepted definitions presents a problem for the researcher seeking standard terms. However, this problem goes much further, since often imprecise and inflammatory terminology used to describe migrants can lead to a deterioration in their rights. Hence the academic is aware of how careful he/she needs to be in the choice of terminology. In practice, the issue has spurred extensive criticism, particularly from the academic world and representatives of NGOs⁹ working on asylum and migration issues. They have long argued that terminology shapes the ways in which governments respond to irregular migration, and have stressed the need to move beyond the current discourses that portray the refugee/migrant dichotomy in a negative light.

The importance of terminology is reflected in the large number of terms used to define migrants, many of which are inaccurate as they have been introduced by the media. In general, three groups are identified: (1) refugees, also known as beneficiaries of international protection, and asylum seekers,¹⁰ (2) migrants, which is a problematic term as it can refer to both forced and voluntary migrants, and (3) mixed migration flows which imply both groupings of refugees/asylum seekers and migrants (forced and voluntary/economic migrants), thus complicating matters further. The abundance of terms referring to migrants, particularly following the mass influx of irregular migrants from Africa and the Middle East to Europe in recent years, has become a highly controversial, politicised issue in the EU.

⁹ EPAM brings together NGOs seeking to contribute to the development of EU asylum and migration policies. See <http://www.ngo-platform-asylum-migration.eu>

¹⁰ An asylum-seeker is an individual who has crossed an international border and has lodged an application for international protection (UNAO 2014, p. 5).

According to the UNHCR (2018), 'a refugee is someone who has been forced to flee his or her country because of persecution, war or violence'. The 1951 Refugee Convention (Art. 1(A)(2)) defines a 'refugee' as any person who 'owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country'. In contrast, a migrant is someone who chooses to move to another country in search of a better life, such as to join family members, or for work or education. Thus the main difference between the terms is that refugees are forced to migrate whereas migrants choose to move voluntarily. However, the difference between the two can be largely academic since the latter group could be forced to flee desperate conditions such as famine and drought.

The importance in the distinction of these terms lies in the rights of refugees, which are established under international law, as opposed to those of migrants whose rights derive from national competence. Refugees, therefore, are protected against being refouled to a country where their lives could be endangered, and are entitled to welfare in the country of refuge. In contrast, migrants whose rights derive from national immigration legislation can be deported back to their country of origin.

Utilising the right terminology is particularly relevant in the context of EU asylum and migration policymaking, where it has become commonplace for EU member states and institutions to determine their own definitions in accordance with their respective approaches and needs (e.g., security-oriented or rights-based). Classifying migrants, however, is no simple task as people on the move often have mixed motives or change status along the way. For example, a person can enter a state as a tourist but then overstay due to changing conditions in the home country.

The term 'mixed migration' increasingly came into use in the 2000s as researchers and analysts emphasised the blurring of, or continuum between, 'forced' (refugees/asylum seekers) and 'voluntary' (economic migrants/other migrants) migration (Van Hear et al. 2009). The International Organization for Migration (IOM) defines mixed flows as 'complex population movements including refugees, asylum seekers, economic migrants and other migrants' (IOM 2004, p. 42).

The process of categorisation of migrants has also become extremely politicised in the context of the refugee crisis and has been used to justify restrictive migration policies (Crawley and Skleparis, 2018), both at the national and supranational level. It also makes the task for the researcher much more complex and challenging. In this study, the terms '**irregular migrants**' and '**irregular migration**' are used, except when quoting publications that deploy other terms. These terms are also the generally preferred terms by international organisations (IOs) such as the IOM, as well as the United Nations (UN), the Council of Europe (CoE), and – within the EU – the Parliament and the Commission.

According to the UN, the term 'irregular' is preferable to 'illegal' as it claims that the latter 'carries a criminal connotation, is against migrants' dignity and undermines the respect of migrants' human rights. Furthermore, the UN has pointed out that although migrants can be in an irregular situation, as any human being, they can never be illegal, and thus it is inaccurate to refer to a person as 'illegal' (IOM p. 2019, p. 102). Similarly, the CoE 'prefers to use the term 'irregular migrant' to other terms such as 'illegal migrant' or 'migrant without papers'. According to the CoE, this term is more neutral and does not carry, for instance, the stigmatisation of the term 'illegal'. In addition, the CoE has stated that it prefers to use this term given that it is increasingly favoured by IOs working on migration issues (PACE, 2006).

With regard to the preferred terminology in the EU institutions, the European Commission's glossary of preferred terms in the field of migration and home affairs¹¹ defines 'irregular migrants' as 'people who enter a country, usually in search of employment, without the necessary documents and permits'. There is no mention of 'illegal migrant' or 'forced migration' in the Commission's glossary. The EP also favours the terms 'irregular migrant' and 'irregular migration'. This can be seen, for example, in its 2016 resolution on the situation in the Mediterranean and the need for a holistic EU approach to migration.¹²

Furthermore, it is important to point out that this study makes use of the term '**irregular migration flows**' to denote third country nationals (TCNs) who seek entry into the EU without the required admission documents (undocumented). Although such flows can comprise different categories of migrants, such as economic migrants or forced migrants, the author has chosen not to distinguish between these categories as this is beyond the scope of this study. This is because the focus of this study is on EU policy responses to irregular migration and not the motives for migration of those individuals comprising such irregular flows. As Koser (2007) has highlighted, although migrants are often categorised such as voluntary or forced, political or economic, and legal or illegal, there is some overlap between the different categorisations. Indeed, he points out that, in practice, most voluntary migrants are also economic migrants, and many forced migrants are political migrants seeking asylum. In other words, most migrations are not purely voluntary or involuntary, and more importantly, individuals can 'transform' from one type of migrant to another within the various categorisations.

¹¹ EMN Glossary, European Commission official website (accessed 30 May 2021). See https://ec.europa.eu/home-affairs/what-we-do/networks/european_migration_network/glossary_search/irregular-migrant_en

¹² European Parliament resolution of 12 April 2016 on the situation in the Mediterranean and the need for a holistic EU approach to migration (2015/2095(INI)).

Definitions of key terminology used in this study	
Migrant	An individual who moves away from his or her country of usual residence, for a variety of reasons
Irregular migrant	A third country national (TCN) who has entered the EU without the required admission documents
Irregular migration flows	TCNs who seek entry into the EU without the required admission documents - such flows can comprise mixed categories of migrants, such as forced and economic migrants
Forced migration/ displacement	An involuntary or coerced movement of a person or people away from their place of usual residence as a result of conflict, persecution, violence or human rights violations, as well as other reasons such as environmental disasters, drought or famine
Asylum seeker	A TCN who has crossed an international border and has lodged an application for international protection
Failed asylum seeker	A TCN whose application for international protection has been rejected
Refugee	A TCN who has lodged an asylum application and has been granted international protection under the UN Refugee Convention
Subsidiary protection holder	A TCN who has lodged an asylum application and has been granted international protection under the EU Qualification Directive

Table 1.1: Key terminology used in this study (compiled by the author).

1.6 Problems and limitations of the study

There are four important limitations in this study that need to be acknowledged and addressed. First, it must be stressed that the analysis does not involve the tension between humanitarian policy and national security concerns. This tension has been extensively studied in the literature on EU migration and arises as a result of a state's right to control who crosses its borders and is resident on its territory. Yet notwithstanding this prerogative, states are bound by international - and in the case of EU member states, also European - human rights norms and obligations. This means that on the one hand, there are individuals with legitimate claims for reception and international protection, while on the other hand, there is the national constituency with a legitimate claim for deciding on these issues which may also include consideration on how they impact on the security of the state (Fauser, 2006).

Consequently, this results in tension between the promotion of human rights and the protection of national security. In the EU context, given that irregular migration is increasingly perceived as a threat to national security, member states are increasingly shifting towards restrictive policies resulting in friction between these two groups of rights. Although the focus of the study is not on this tension or on the negative impact of (restrictive) migration policies on the human rights of asylum seekers and migrants, this by no means is intended to undermine the importance of these issues.

At the same time, the issue of human rights, *per se*, has particular pertinence to the study given the inherent tension between security and human rights in the EU approach to irregular migration. Furthermore, since the EU is founded on respect for human rights, this aspect cannot be entirely disregarded. To a certain extent, the clashes both between and within EU member states and institutions are a result of the tension between the security-oriented and rights-based approaches. As this study highlights, there appears to be an increasing 'negative harmonisation' in this policy

field - i.e., convergence towards restrictive migration policies rather than creating a 'level playing field' for asylum seekers - as member states are increasingly focusing on national security rather than on human rights.

For instance, Malta closed its ports to persons rescued at sea in April 2020 under the guise of the COVID-19 pandemic, denying permission to such persons to disembark. It also quarantined persons rescued at sea for weeks before allowing them to disembark in Malta, delaying their right to lodge an application for international protection. This, however, was not the first time that Malta had denied entry to migrant-rescue vessels. In June 2018, Malta effectively closed its ports to such vessels, initially by denying safe harbour to migrants rescued by an NGO vessel, the *Aquarius* (Fink and Gombeer, 2018). This restrictive approach was also reflected in the past in the government's strict detention policy to discourage irregular migration under the guise of national security, resulting in a situation where persons entering the country without the necessary admission documents were systematically detained (up to 18 months). Furthermore, Malta's policy of mandatory detention also included asylum applicants awaiting a decision on their application, undermining migrants' rights. This illustrates that member states are increasingly prioritising security concerns over humanitarian obligations in addressing the issue of irregular migration (in line with the findings of this study).

The second limitation is that most primary research consists of EU documents available on the websites of the EU institutions, the EUR-Lex legal database available on the Europa website, and statistics from the Eurostat website. Although the European Commission and Parliament widely publish on their websites, such as legislative proposals and voting records of Members of the European Parliament (MEPs), information concerning the Justice and Home Affairs (JHA) Council, which develops cooperation and common policies on asylum and migration, is not freely

accessible, such as video recordings of informal meetings and votes on legislative acts.

The third limitation concerns the inherent bias in (the large number of) research projects which are financed or co-financed by the EU. Such publications often promote a pro-European bias and hence depict a more optimistic outlook regarding the EU approach to irregular migration as well as the development of EU policy in the field of asylum and migration. In addition, most of the material focuses on the human rights aspect and there is little material on governance issues.

The final issue concerns the absence of accurate statistics on irregular migration stocks and flows, as well as inconsistent methods of recording and estimating such stocks and flows across EU member states (Salt and Almeida, 2006). Consequently, data relating to irregular entry varies greatly across EU member states and is, by definition, inaccurate. EU member states also rely on different standards to identify irregular migrants resulting in recorded figures primarily only covering those stopped at borders or irregular entries. In sum, current estimates on stocks and flows of irregular migration in the EU are characterised by a generalised inaccuracy as reliable and systematic data collection mechanisms have not yet been developed. Hence, studies focusing on measuring the total number of irregular migrants in the EU, are constantly confronted by inconsistent terminology as well as by incomplete and incomparable data between member states (Singleton, 2016). Data concerning aspects of the asylum procedure such as the detention of asylum seekers is also hampered by the lack of accurate statistical data (AIDA, 2017).

1.7 Thesis outline

This study is organised into nine chapters, divided into three main parts. The first part, comprising Chapters 1 through 3, details the introduction, the literature review, and the theory and methodology. Following the introduction, **Chapter 2** evaluates the existing literature on EU asylum and migration policymaking in the context of irregular migration, identifying key debates and themes and shedding light on the knowledge gap. **Chapter 3** presents the theoretical framework and methodology guiding the research, including the working hypothesis, research questions and the research methods utilised in the design of the study.

The second part of the study, comprising Chapters 4 through 7, involves the empirical analysis. **Chapter 4** traces the evolution of EU asylum and migration policies in the context of irregular migration focusing on key moments of institutional reform, in order to reveal the inherent tensions in policymaking in this sovereignty-sensitive field. **Chapter 5** analyzes clashing interests of EU member states and institutions over how to deal with irregular migration, via the case study of the refugee crisis (2015-2017). **Chapter 6 and 7** explore the impact of the diverse policy responses to irregular migration (2013-2018), both at the national and supranational level, on the relations between EU institutions, among EU member states, and EU institutions and member states, and subsequently on migration governance.

The third and final part of the study, comprising Chapters 8 and 9, discusses the key findings and proposes new avenues for research. **Chapter 8** interprets the empirical findings of the study within the context of the theoretical framework and research questions. It also assesses the usefulness and limitations of the theoretical framework and identifies the knowledge gap filled by the study. The **final chapter** explains how the study contributes to the existing body of knowledge and puts forward recommendations for future research in the field of EU migration studies.

Literature Review

This chapter reviews the extant literature on EU asylum and migration policymaking in the context of irregular migration, identifying key debates and themes and shedding light on the knowledge gap. It reveals that starting in the 1990s, a substantial body of literature has emerged, driven primarily by events on the ground. As a result, research in this field has evolved in three distinct phases. First, in the 1990s, when the issue of irregular migration became a matter of national concern following the mass influx of migrants due to the end of the Cold War. In the second phase, in the 2000s, as member states began to adopt more restrictive measures to prevent irregular migration, literature primarily focused on the negative impact of such measures on the rights of asylum seekers. Academic interest in the third phase, during the 2010s, was dominated by the 'securitisation of migration' particularly in the context of the EU response to the unprecedented influx of irregular migrants during the so-called 'refugee crisis'. The chapter illustrates that despite a rapidly growing literature in this field, the focus has been on the humanitarian dimension, hence research on the impact of the different EU policy approaches towards irregular migration on EU migration governance as well as on the interaction among the different levels of migration governance is lacking.

2.1 Introduction

This chapter evaluates the literature on EU asylum and migration policymaking in the context of irregular migration, identifying key debates and themes, and addressing the knowledge gap. It reveals that literature in this field has devoted particular attention to the impact of EU asylum and migration policies on the rights of asylum seekers and migrants, to a large extent, stemming from the fact that most research has been influenced by law and human rights. As Favell and Hansen (2002, pp. 581-582) put it, 'driven by a normative attentiveness to the negative and exclusionary aspects of both current policies and hostile public opinion, scholars have tended to share the same vision which, in different ways, is also promoted by pro-migrant activists and control-minded member state governments, that is, the idea of the EU becoming 'Fortress Europe'. This state-centred approach is echoed throughout the burgeoning literature on irregular migration in the EU'.

The review of the literature demonstrates that, in general, research on EU asylum and migration policymaking in the context of irregular migration has been driven by events on the ground, evolving in three distinct phases: (1) in the 1990s, after the collapse of communist regimes in Europe, (2) in the 2000s, when (EU-15) member states agreed to establish common rules on asylum and migration, and (3) in the 2010s, following the outbreak of the Arab uprisings and even more so, the Syrian civil war which resulted in an unprecedented arrival of irregular migrants in the EU.

Since the 1990s, the EU has emerged as a major destination of irregular migration, with its main entry points found in the south and southeast of the continent. The steady increase in irregular arrivals to Europe has been accompanied by increased interest in academic research. As a result, scholarly work began to take off in the 1990s (e.g., Baldwin-Edwards 1997; Jacobsen 1996; King et al. 1997;

Reyneri 1998) and intensified after 2000 (e.g., Boswell 2005; Düvell 2006; Zolberg 2001).

Until the 1990s, as Geddes (2008) and Penninx (2010) point out, most scholarly literature focused on the consequences of postwar migration motivated by colonial ties or by guest-worker recruitment for a relatively small group of receiving states in northwestern Europe (e.g., Castles and Miller 1993; Fassmann and Münz 1994; Hollifield 1992; Koser 1997; 1998; Kritz et al. 1992). Furthermore, stress Boyle et al. (1998), such migrants were granted few rights and in most cases no access to social benefits as they were expected to return home upon completion of their work. Consequently, most academic research, being strongly embedded in domestic contexts, was deeply influenced by national perspectives (e.g., Abiri 2000; Bosswick 2000; Castles 1984; Delouvin 2000; Freeman 1986; Rist 1979). Of particular importance in the context of the issue under investigation, is that the post-WWII period was marked by economic expansion in northwestern Europe (Dietz and Kaczmarczyk, 2008), and as a result, migration was generally viewed positively during this period due to its economic benefits, both by sending and receiving states (Bonifazi, 2008).

However, in the 1990s the focus of the literature veered towards a new phenomenon. This involved the focus on the 'securitisation of migration', i.e., how the perception of irregular migration in the EU as a security threat has resulted in a shift towards restrictive migration policies and an increasing focus on strengthening the EU's external borders. A more recent topic within this body of research concerns the externalisation of migration controls to third countries. This aspect is increasingly attracting scholarly attention, particularly in view of the agreements with Turkey and Libya following the refugee crisis, in order to prevent irregular arrivals.

In the 2000s, a new branch of the literature on EU asylum and migration policymaking focused on another new development, that of the apparent failure of the Common European Asylum System (CEAS). The bulk of this literature emphasises both the systemic flaws in the Dublin Regulation and the lack of harmonisation in the implementation of the asylum directives - reflected in the variation in national asylum practices and resulting in the unequal treatment of asylum seekers - as well as the absence of solidarity and fair sharing of responsibility among EU member states.

Yet despite a proliferous increase in the literature on irregular migration in the EU, one particular area has been greatly neglected: the impact of irregular migration on EU governance. More specifically, the impact of the different EU policy responses (EU member states and the three main institutions involved in EU legislation) to irregular migration on the relations between EU member states, EU institutions, and among EU member states and institutions, and subsequently on EU migration governance, remains an under-researched topic. This chapter, therefore, aims to detail the existing literature and identify the gap in the literature.

2.2 The first phase (1990s)

Academic research on irregular migration to Europe began to take off in the 1990s when asylum applications soared due to the collapse of communist regimes in Europe and the Yugoslav Wars (e.g., Baldwin-Edwards 1997; Black 1993; Böcker and Havinga 1998; Boyle et al. 1998; Brochmann and Hammar 1999; Cesarani and Fulbrook 1996; Collinson 1993; Fassman and Münz 1992; Hatton and Williamson 1998; Joppke 1998; Money 1999; Reyneri 1998; Torpey 1998). During this period, most asylum applications were made by individuals or small groups who arrived

independently in the country of refuge, often illegally, and who then applied for international protection under the 1951 Geneva Convention. Asylum applicants, however, were frequently portrayed in the media as economic migrants and fake (or 'bogus') refugees (Hatton 2009, p. 183). As a result, the central public discourse on migration during the 1990s was dominated by 'asylum', shifting to concern with the 'illegal migrant' (Karakayali and Tsianos, 2005).

During this phase, EU member states began to perceive mass migration influxes as a threat to the stability and welfare of their societies. Indeed, as the rising visibility of migrants combined with social problems of the 'new settlers', member state governments found themselves under increasing pressure (Bicchi, 2001). Consequently, Europe experienced a shift towards the 'securitisation of migration' as member states began adopting restrictive migration policies. Indeed, by the mid-1990s, preventing irregular migration became a policy priority in most (EU-15) member states. The issue of irregular migration thus became deeply politicised within the EU with member states defending their sovereignty in terms of the conditions permitting migrants to enter their respective territory (e.g., Angenendt 1999; Brubaker 1992; Cornelius et al. 1994; Freeman 1995; Lambert 1995; Münz and Ulrich 1998; Uçarer and Puchala 1997).

This resulted in the creation of the 'Fortress Europe' metaphor in the media, to describe the tightening of Europe's external borders against irregular migration, while pro-migrant groups criticised its construction. Accordingly, the member state is depicted either as 'the villain or the victor' in the fight against irregular migration (Favell and Hansen 2002, p. 582). This generated significant academic interest, particularly with regard to the implications of 'Fortress Europe' (control and securitisation of migration) on the human rights of asylum seekers and migrants (e.g.,

Driessen 1996; Heyman and Smart 1999; Smith 1996; Wæver et al. 1993; Weiner 1995).

2.2.1 The 'securitisation' of migration

Starting in the 1990s, the literature on EU asylum and migration policymaking in the context of irregular migration has been dominated by the security aspect, referred to as the 'securitisation of migration'. The concept of securitisation, connected with the Copenhagen School of security studies, was first coined by Ole Wæver in 1995 and more systematically developed in 1998 by Buzan et al. The term provided a new perspective on the recurring debate over whether or not threats are objective. It proposed to view security as a speech act wherein the key issue is concerned with how a given issue can be socially constructed as a threat (subjective) - and not whether or not threats are real. In essence, the concept explores how an actor is able to convert a specific issue into an issue of 'security'.

As stated by the Copenhagen school, classifying an issue as 'security' inflates it as an issue of utmost priority. In this way, securitisation is perceived as a process whereby both politicised and non-politicised issues are elevated to security issues requiring emergency measures, possibly circumventing public debate and the democratic process (van Munster, 2004). Buzan et al. (1998, p. 23) define the concept of 'securitisation' as a 'move that takes politics beyond the established rules of the game, and frames the issue either as a special kind of politics or above politics'. The security-migration nexus has been subject to academic debate for over two decades, and scholars have widely analyzed, recognised and discussed this nexus.

De Haas et al. (2016) highlight that since the 1990s, the perception of irregular migration in the EU as a security threat has resulted in a shift towards restrictive migration policies and an increasing focus on strengthening the EU's external borders to prevent irregular arrivals. Various scholars (e.g., Boulanger 2011; Collyer 2008; Düvell 2006; Kaunert 2010; Luedtke 2009) have claimed that the 'securitisation of migration' in the EU has been augmented by the events of 9/11 and a series of terrorist attacks in EU member states, with irregular migration being linked to Islamic terrorism. In other words, due to the perceived links between transnational organised crime, primarily terrorism, and irregular migration, the latter is increasingly perceived as a threat to national security. This has prompted member states to adopt more restrictive migration policies, which, in turn, has stimulated academic interest in the topic. The EU's restrictive stance has been strongly criticised in the literature, particularly with regard to the implications of 'Fortress Europe' on the human rights of asylum seekers and migrants. Several migration scholars (e.g., Boutrouche 2003; Crisp and van Hear 1998; Freeman 1992; Guild and Niessen 1996; Joly 1996; Kjaerum 2002; Lahav 1998; Miles and Thränhardt 1995; Münz and Ulrich 1998) have argued that restrictive measures have not produced the expected results in terms of preventing irregular migration and that the dramatic increase in human trafficking is a direct result of such measures and the lack of alternative ones.

2.2.2 The negative impact on human rights

In this growing literature on securitisation, one of the most prominent debates revolves around the negative impact of EU asylum and migration policies on asylum seekers' and migrants' rights. Indeed, starting in the 1990s, a rich literature has

emerged focusing on the humanitarian dimension of irregular migration (e.g., Brubaker 1992; Cesarani and Fulbrook 1996; Guiraudon 1998; Hollifield 1992; Huysmans 2000; Jacobson 1996; Joppke 1998; Massey 1999; Roberts 1998; Sassen 1996; Soysal 1994; Torpey 1998). The main argument in this body of literature is that EU policies in this field are dominated by a security logic, and, as a result, are giving rise to restrictive policies which negatively impact on the rights of asylum seekers and migrants.

Consequently, this literature strongly criticises the restrictive approach in EU asylum and migration policymaking in terms of the impact on the right of persons in need of international protection to seek and enjoy asylum within the EU. Parkes (2008) points out that in order to reduce the pull factors attracting asylum seekers and irregular migrants, member states have restricted migrants' access to welfare benefits and the labour market. Likewise, Triandafyllidou (2010) underscores the wide range of measures taken by member states aimed at decreasing the attractiveness of their respective territory in order to discourage irregular entry, such as amending national legislation to restrict the rights of asylum seekers. Other authors, such as Cholewinski (2005) stress that EU asylum and migration policies have lost their human rights component altogether.

Stan (2006) identifies that EU citizens generally associate irregular migrants with several serious fears, namely that they represent a failure of state security, they will overtax public social systems, push indigenous workers out of the labour market, and drive up crime. Research conducted by Trimikliniotis and Demetriou (2011) in Cyprus finds that Africans receive the worst treatment of all asylum seekers, facing more overt and acute forms of discrimination, particularly from immigration officers who have no hesitation in demonstrating overt racist behaviour towards them. In the case of Malta, Zammit (2016) highlights that in general, public opinion towards irregular

migrants is generally associated with abusive recipients of humanitarian charity rather than subjects of legal rights.

The discourse of a presumably uncontrolled 'invasion' of Europe dates back to the 1990s when the shocking image of a tightly packed boat in high seas began to be used in the media, particularly in Spain and Italy. Subsequently, this image was transformed into a symbol of irregular migration to the EU. Furthermore, it was used by member states in the debate on EU asylum and migration policy to legitimise their respective needs and views (Castles and Miller, 1993). According to Engbersen (2001), 'Fortress Europe' may be turning into a 'Panopticon Europe', the development of which does not follow a Foucauldian logic of correction but rather a logic of exclusion, designed as 'a *factory of exclusion* and of people habituated to their status of the *excluded*' (Bauman 1998, p. 113).

2.3 The second phase (2000s)

Academic research related to irregular migration in the EU intensified after 2000 (e.g., Boswell 2005; Düvell 2006; Zolberg 2001) as new influxes of irregular migrants in the early 2000s resulted in EU cooperation towards developing common asylum and migration policies to deal with the phenomenon (Wolff, 2010). Scholarly interest in EU asylum and migration policymaking thus expanded quickly after the completion of the first generation CEAS, in the mid-2000s, as scholars set out to provide evidence that such policies were by no means 'common', highlighting wide divergences across national asylum systems resulting in the unequal treatment of asylum seekers (e.g., Ette and Faist 2007; Guild 2006; Thielemann 2009). Within this debate, several scholars (e.g., Vink 2013) have disputed whether the establishment

of common asylum policies has in practice resulted in more effective solidarity among member states or whether it has facilitated their ability to shirk responsibility (Lutz et al. 2020).

At the same time, the growing perception of irregular migration in the EU as a security threat continued to result in member states shifting towards restrictive migration policies and strengthening the EU's external borders to prevent irregular arrivals. Consequently, as in the 1990s, literature in the 2000s continued to be dominated by the negative impact of EU asylum and migration policies and the 'securitisation of migration' on the rights of asylum seekers and migrants (e.g., Bigo 2001; Bourbeau 2011; Buonfino 2004; Duvell 2006; Karyotis 2007; Lavenex and Schimmelfennig 2009; Léonard 2010; Luedtke 2009; Schain 2009; Trimikliniotis 2008).

Within the securitisation framework, when the issue of irregular migration is perceived as a threat to a community, it is viewed as an issue of public security, resulting in restrictive asylum and migration policies. Such perceptions, however, vary across EU member states, depending on the historical and social experiences of the different national communities involved, thereby creating different perceptions (Themistocleous, 2013) and resulting in different (and often clashing) policy approaches to irregular migration (albeit restrictive). As Angenendt (2008, p. 5) explains:

Irregular migration is one of the fastest-growing forms of migration worldwide. For many destination countries, irregular migrants present a serious challenge. To reduce their number, most of these countries have invested significant sums of money in recent years to develop instruments of governance and control. Up until now, however, these efforts have failed to produce the desired results.

A new related strand of research has also surfaced focusing on EU border states, particularly on the Mediterranean states, being the main points of entry (e.g., Baldwin-Edwards 2012; Finotelli and Sciortino 2009; Lutterbeck 2006; Mainwaring 2014; Pace 2013; Triandafyllidou and Dimitriadi 2014; Trimikliniotis 2008; 2014). Much of this research argues that these states have been most prominent, both as potential targets of irregular migration and in terms of the measures they have taken to prevent it. According to Bernardie-Tahir and Schmoll (2014a), EU states on the southern border have become sentinels, places of dissuasion. In a similar vein, Calleja Ragonesi (2012, p. 196) states:

As borders within the EU have come down new external borders of the Union have been erected, these have become the focus of irregular migrants beset on crossing these perceived barriers to wealth and security.

Koser (2011, p. 1) highlights that ‘the perception of migration as a threat to national security has indeed heightened in recent years’, particularly following large-scale influxes of irregular migrants across the Mediterranean, acquiring a dominant place on the EU political agenda. ‘The depiction of irregular migration as a security threat in the EU,’ according to Faist (2005, p. 4), has unwillingly contributed to what the American political scientist Samuel Huntington (1993) termed, the ‘clash of civilizations’, meaning that the ‘securitisation of migration’ strengthens existing stereotypes and cultural fears.

Scholarship promoting open borders (e.g., Clemens 2011; Freeman 2006; Hayter 2000; Klein and Ventura 2009; Legrain 2006), in a reaction to the EU’s restrictive approach, highlights the need to develop legal pathways into the EU and to focus more on migrant integration rather than on restrictive measures which often lead to violations of migrants’ human rights. Others (e.g., Angenendt 2008; Lutterbeck 2008; Triandafyllidou 2010) have argued that restrictive measures have prompted irregular

migrants to find new destinations and migratory routes, resulting in more dangerous and difficult journeys. Similarly, the European Council on Refugees and Exiles (ECRE 2002, p. 1) has claimed:

ever stricter control measures have not only obstructed the right of asylum seekers to access to the territory of Europe but have also forced people to resort to illegal entry and rely on criminal networks.

It has also been argued that EU member states have increasingly resorted to criminal law as a tool to sanction violations of migration legislation in their fight against irregular migration. The term ‘crimmigration’ coined by Stumpf (2006) describes the convergence of immigration law and criminal law regimes in order to establish ‘criminal enforcement authority within a civil regulatory regime’ (Koulis, 2016). This includes ‘the development of practices of border management and migration policing that evoke practices used by states to fight crime, and of political discourses that increasingly describe migrants as a criminal threat’ (Parkin 2013 in Delvino 2020, p. 85). Consequently, as Düvell (2008) underlines, irregular migration has become a highly politicised issue and is increasingly viewed as a threat to national security by EU governments and their citizens. Against this background, the following section reviews the literature on the difficulties facing EU policymakers in developing common asylum and migration policies.

2.3.1 Challenges in EU asylum and migration policymaking

Compared to the 1990s, when talking about border control as a tool to prevent irregular migration was still taboo, in the 2000s there is a shift towards finding

common policies to deal with the phenomenon. However, as Wallace (2000) highlights, important and persistent differences exist in the way in which the various EU actors (member states and institutions) engage in the EU legislative process. This sheds light on the challenges in EU policymaking in this sovereignty-sensitive field. In a similar vein, Sommer (2013) underlines that EU policymaking is not based on rational decision-making in a given structure but is an area of constant recreation shaped by changing contexts and actors' interests. Therefore, in the context of EU asylum and migration policymaking, this 'unfolds in the context of diverse interests and traditions of member states which clash in the European arena' (Héritier 1996, p. 149). Several academics have claimed that a key obstacle to establishing a common approach to irregular migration lies in the Union's diversity of interests (both of its member states and institutions) which gives rise to diverse policy approaches.

Pastore (2002) highlights that this diversity results from member states' individual experiences and problems with irregular migration, although he points out that some share analogous problems. Accordingly, he explains that the southern member states, such as Italy, Spain and Greece, were rapidly transformed from countries of emigration to countries of immigration, while others, such as Belgium, France and the UK, have been receiving states for over a century. As a result, the latter have longstanding traditions and experience with immigration, including the arrival of asylum seekers, whereas, for the former, it is a relatively recent phenomenon to which they have had to adapt very rapidly.

Although the notions of 'old' and 'new' irregular migration receiving member states and the North-South dichotomy both largely overlap, the latter is more commonly referred to in the literature on EU asylum and migration policymaking. Divisions between 'old' and 'new' member states and the differences in their policy approaches have been widely recognised in the literature (e.g., Baldwin-Edwards 2012; Geddes

2006; Finotelli and Sciortino 2009). Zigoura (2007) argues that this division has been influential in shaping asylum and migration policies in the southern member states due to the absence of policies in this field, contrary to their northern counterparts.

In her book, *EU Asylum Policies: The Power of Strong Regulating States*, Zaun (2017), analyzes the dynamics that lie behind fifteen years of EU asylum policymaking and finds that the strong regulators in this policy domain are those member states having both exposure to irregular migration as well as effective administrations. She also stresses that constant exposure to an issue results in a high degree of salience in a member state. According to Warntjen (2011, p. 169), this salience 'can be based *inter alia* on its (estimated) policy impact, the political sensitivity of an issue or the attention it receives from core constituencies'. Zaun (2017) points out that 'salience is a necessary condition for becoming more active in a given issue', yet she claims that 'only effective administrations respond to salience with strong bargaining'. Thus she concludes that (in addition to exposure to irregular migration) those member states that have effective administrations are better equipped to follow their positions through in the Council, as in the case of the northwestern member states which used their powerful bargaining positions to shape EU asylum policies, thus imposing their will on their southern and eastern counterparts.

The emerging literature on the EU and small states looks at how small EU member states feature in comparison to their larger counterparts in dealing with the challenge of irregular migration. In her book, 'Small States in the European Union: Coping with Structural Disadvantages', Diana Panke (2010) reveals that small EU states face size-related disadvantages in dealing with the challenge of irregular migration. Accordingly, she points out two important disadvantages: limited resources

in terms of space to receive migrants and capabilities to control migration flows, as well as limited power within the EU to influence policy.

In the context of the EU Mediterranean states, which are those most exposed to irregular migration flows to the EU, Godfrey Baldacchino (2014) emphasises that the small island member states, Cyprus and Malta, lack the jurisdictional geographies that would permit them to act as stepping stones, as opposed to the larger EU southern states, Italy (Lampedusa), Spain (the Canaries, the Balearics and the enclaves of Ceuta and Melilla) and Greece (Lesbos and other Aegean islands close to the Turkish mainland).

Other scholars, however, such as Cetta Mainwaring (2014), have claimed that despite their relative impotence within the EU, the increase in irregular migration to Cyprus and Malta has enhanced their profile at the regional level. For example, Malta, the smallest EU member state, won its bid to host the European Asylum Support Office (EASO) in 2009, making it the second EU member state among those that joined in 2004 to host an EU agency.¹³ The micro-island state was also the first member state chosen for the EU Pilot Project on Intra-EU Relocation (EUREMA)¹⁴ (EASO, 2012) which was implemented between 2011 and 2013. Mainwaring (2008; 2014), however, highlights that both Cyprus and Malta have resorted to joining forces with larger states within the EU to make their voice heard and push for intra-EU solidarity in dealing with the challenge of irregular migration.¹⁵ This is what Baldacchino (2018, p. 199) has described as 'shelter theory': a 'transactional, binary relationship that is clearly unequal but that provides symbolic or material benefits to either side'. He contends that small states seek 'rivers of water' and 'the shadow of a

¹³ Poland became the seat of the Frontex agency in 2005.

¹⁴ EUREMA is a EU Pilot Project for the relocation of beneficiaries of international protection from Malta, endorsed in the European Council Conclusions of 18-19 June 2009 (para 37).

¹⁵ See Section 7.4.5 which details the EU southern states' approach to irregular migration.

great rock', i.e., shelter, and refers to this as an 'increasingly strategically smart and crucial policy choice for these smaller players.' In a similar vein, Jakobsen (2009) highlights that case study literature on small states in international relations is unanimous in that the scope for success is significantly enhanced when coalition-building is seen as neutral and impartial and aimed at upgrading the common interest (known as honest broker coalition-building).¹⁶

An important obstacle, cited in the literature, to developing common asylum and migration policies concerns the asymmetrical impact of irregular migration across EU member states. As Collett and Munz (2010) highlight, geographical location, as well as the individual characteristics of member states, have played a central role in determining national policy approaches to irregular migration as the different regions of the EU experience different migratory pressures. Geddes and Scholten (2016) emphasise that by accident of geography, those member states located on the external borders of the EU have become the main entry points for irregular migrants and are staggering under the weight of irregular migration whereas others, such as those located in the core of Europe with internal borders within the Schengen area, have limited complications and therefore have little incentive to standardise policy. According to Buonanno (2017), geographic location is the principal factor affecting member states' approaches to irregular migration, followed by their historical experiences, administrative capacities, attitudes about humanitarian obligations, demographic trends, migrant preferences, and public opinion.

Furthermore, many scholars (e.g., Beirens 2018; Carrera and Guild 2010; Costello and Hancox 2016; De Haas et al. 2016; Fratzke 2015; Lavenex 2018) have argued that policymaking in this field has tended towards the lowest common denominator, resulting in negotiation deadlock and suboptimal policy outcomes (as the working

¹⁶ For a broader discussion of the strategies employed by small states, see Cooper and Shaw (2009), and Ingebritsen et al. (2006).

hypothesis of this study posits). As Niemann (2012) explains, this arises from the fact that member states tend to maintain their national interests in the adoption of such legislation based on the lowest common denominator agreements. Indeed, several scholars, such as Trauner (2016), have pointed out that EU asylum policies have produced suboptimal outcomes given that divergent member state practice has resulted in the unequal treatment of asylum seekers. In his seminal article, *The Joint-Decision Trap Revisited*, Scharpf (2006) argues that the diversity in member states' preferences hinders the possibility of finding a solution acceptable to all member states. Moreover, he claims that in the 'joint-decision trap', actors involved in the decision-making process pursue their own interests, rather than benefits for the EU as a whole, and thus are likely to generate suboptimal decisions, resulting in negotiation deadlock or inefficient lowest-denominator compromises:

the fact that member governments are directly participating in central decisions, and that there is a *de facto* requirement of unanimous decisions, will systematically generate sub-optimal policy outcomes unless a 'problem solving' (as opposed to a 'bargaining') style of decision making can be maintained (Scharpf 1988, p. 241).

The 'joint-decision trap' thus could partially answer why it is so difficult for EU actors to develop common asylum and migration policies.

2.4 The third phase (2010s)

During the third (ongoing) phase, renewed scholarly interest in EU asylum and migration policymaking was generated (e.g., Buonanno 2017; Carrera et al. 2015; Langford 2013; Niemann and Zaun 2018; Parkes 2017; Pastore 2017) following the completion of the second generation asylum legislative instruments and, even more

so, EU failure to develop a joint response to the unprecedented influx of irregular migrants in 2015 and 2016, during the so-called 'refugee crisis'. Following the outbreak of the crisis, the question of how to deal with irregular migration has become the most divisive issue within the EU, triggering academic interest in EU policy responses to irregular migration. Nevertheless, the most prominent debates in the 2010s continued to revolve around the negative impact of the 'securitisation of migration', including the externalisation of migration controls to third countries, and EU asylum and migration policies on the rights of migrants and asylum seekers (e.g., Campesi 2014; De Haas et al. 2016; Garlick 2016; Gatti 2018; Koulis 2016; Langford 2013; Léonard 2010; Palm 2016; Thompson 2013; Triandafyllidou 2010; Triandafyllidou and Dimitriadi 2014; Vedsted-Hansen 2016). Some scholars (e.g., Casolari 2016; Trauner 2016) have also looked into the conditions of irregular migrants once they reach the EU and argue that the receiving conditions for such migrants are not in compliance with human right laws, hence the EU is neglecting its obligations under international and EU law. Therefore, against this background, how does the existing literature explain the shortcomings of the CEAS and failed reform proposals?

2.4.1 Failure of EU asylum policies

There is a wide and ample literature that has concerned itself with explaining and evaluating the series of legislative measures comprising the CEAS (e.g., Costello and Hancox 2016; Den Heijer et al. 2016; Di Filippo 2016b; Garlick 2016; Hailbronner and Thym 2016; Henry and Pastore 2014; Kaunert and Léonard 2012b; Lavenex 2018; Mouzourakis 2016; Peers 2012; 2013; Schmalter 2018; Thielemann 2010;

Triandafyllidou 2010; Vedsted-Hansen 2016; Velluti 2014; Zaun 2016). Chetail et al. (2016) provide a comprehensive and critical analysis of the second generation CEAS instruments in their book *Reforming the Common European Asylum System: The New European Refugee Law*. Similarly, Guild et al. (2015) focus on the reasons why the Dublin system of assigning asylum responsibility does not operate effectively in practice, in their study commissioned by the EP's Committee on Civil Liberties, Justice and Home Affairs (LIBE).

Overall, this literature highlights the structural shortcomings in the Common European Asylum System, namely the incoherent transposition of the asylum directives into national legislation - resulting in divergent member state practice and hence in the unequal treatment of asylum seekers - as well as the systemic flaws in the Dublin Regulation which shift the burden of asylum responsibility on the frontline member states. During the past decade, the 'cornerstone' of the CEAS, the Dublin Regulation (2013), which establishes the criteria and mechanisms for determining the member state responsible for examining an application for international protection lodged in one of the member states, has received particular attention within this body of literature (e.g., Baldwin-Edwards and Lutterbeck 2018; Di Filippo 2016a; 2018; Garlick 2016; Fratzke 2015; Hruschka 2016; Maiani 2016b; Prudente 2017; Vink 2013; Wagner 2018). The debate revolves around two main issues: (1) Dublin's 'state of first entry' rule and (2) the absence of EU solidarity. With regard to the former, it has been widely acknowledged in the literature that this rule places excessive pressure on the border states, resulting in an unequal distribution of asylum seekers across EU member states as well as undermining asylum seekers' rights in that they are not able to claim asylum in the member state of their choice. Nonetheless, in relation to the latter issue, it also stresses that the lack of solidarity among EU members hinders reform of the Regulation which would involve replacing the said

rule with an automatic mandatory relocation mechanism to distribute asylum seekers more evenly across the EU.

Thielemann et al. (2010) point out that since irregular migrants and asylum seekers are perceived as a negatively constructed policy target group, most member states have no interest in amending policy. Indeed, given that states primarily perceive irregular migrants and asylum seekers as a burden to their economy and society, as well as a threat to political stability, they aim to minimise irregular arrivals in order to avoid the concomitant social and political costs. Therefore, as Toshkov (2013) stresses, EU member states have no interest in implementing overly liberal asylum policies that would increase their attractiveness as an asylum destination. In line with this expectation, EU member states have, since the 1990s, restricted access to asylum (Bernhard and Kaufmann 2018; Hatton 2009; Leudtke 2009; Thielemann 2009).

With regard to the literature examining the implementation of the asylum directives (e.g., Bovens et al. 2012; Kaunert and Léonard 2012a; Neumayer 2005; Toshkov 2013), here one of the key debates concerns the different standards of reception conditions and procedural guarantees for asylum applicants across EU member states - due to lack of harmonisation in the transposition of the asylum directives in national legislation - resulting in, among other things, significant variation in the recognition rates of asylum applicants from the same country of origin. Hence, the literature highlights that although the EU succeeded in establishing common rules on asylum, this has not resulted in policy harmonisation, giving rise to significant consequences for asylum applicants. It is also claimed that this is due to the erroneous assumption on which the CEAS is based, i.e., that asylum seekers will receive similar treatment and the same outcome on their asylum application regardless of the member state in which they lodge their claim (Castles, 2004). Betts

(2009) calls attention to a further complication hindering policy harmonisation, known as 'variable geometry', which gives rise to a situation where asylum policies have not been applied equally across the Union as certain member states (Denmark, Ireland and the UK) have obtained opt-outs from this policy area.

Consequently, Hampshire (2016) points out that increasing divergence in national interests as well as a deficit of trust in the enlarged EU, in terms of the degree of harmonisation and the content of EU policy in this field, has resulted in both longstanding 'vertical' tensions between EU member states and institutions, and newer 'horizontal' conflicts between member states. This was brought to the fore following the unprecedented arrival of irregular migrants during the so-called refugee crisis (2015-2017) which caught the EU unprepared.

2.4.2 The EU response to the refugee crisis

EU failure to develop a joint response to the unprecedented influx of irregular migrants during the refugee crisis generated renewed scholarly interest. Key debates in this nascent field focus on EU measures adopted to deal with the crisis as well as the discord between the different approaches within the EU. In terms of the latter, Biermann et al. 2017 (cited in Schimmelfennig 2018a, p. 978) underline that divergence between member states resulted primarily from the asymmetrical impact of the crisis. They explain that the frontline states, such as Italy and Greece, were directly affected by the mass influx of migrants but since they did not provide good asylum conditions many migrants refused to apply for international protection and decided to move to other destinations, such as Germany and Sweden. Consequently, these member states were severely impacted by secondary movements due to their

attractive conditions being wealthy states with relatively generous asylum systems. Transit states, such as Slovenia and Hungary, situated on the migration routes from the frontline to the destination states were also severely impacted. In contrast, 'bystander' states, such as Estonia and Latvia, were not directly affected, being situated out of the way. The authors highlight that, as a result, member states engaged in 'burden-minimising', with the more affected frontline and destination states pushing for intra-EU relocation of asylum seekers, and the transit and bystander member states opposing it.

In light of this, Lutz et al. (2020) make the following interesting observation in their paper: while member states seek to minimise their 'burden' of admitting asylum seekers, asylum seekers seek to maximise their life prospects. Thus, all actors (being rational) have incentives to maximize their utility, i.e., member states attempt to reduce their costs while asylum seekers seek to increase their benefits. The authors also explain that while states have an international obligation towards asylum seekers, clearly the costs are higher for those member states receiving high numbers of asylum seekers. Hence, there are incentives for states to free-ride on the efforts of others in terms of granting international protection. In other words, member states can create both positive and negative externalities for neighbouring states in that when a member state admits an asylum seeker other states have lower costs, and when it avoids asylum responsibility other states bear a larger proportion of the obligation to protect. Indeed, research shows that restrictive admission policies reduce the number of asylum applications, but they also cause spillover effects in neighbouring states by increasing the number of applications to them (Barthel and Neumayer 2015; Hatton 2009 cited in Lutz et al. 2020). The authors thus conclude that the result of this collective action problem is the under-provision of humanitarian protection.

Lavenex (2018) explains that, regrettably, the crisis did not trigger comparable reform dynamic and that most efforts by individual member states and the Commission pushing for joint solutions and political reform failed. Likewise, Schneider (2017) points out that EU member states proved unable to pull together and go beyond short-sighted and vote-seeking policies to deal with the crisis. This has led some scholars to classify the crisis as a 'political crisis' or an 'institutional crisis' rather than a refugee crisis (e.g., Angeloni and Spano 2018; Toygur and Benvenuti 2016), specifically because the EU failed to provide a united response.

The Commission's (failed) emergency programme to relocate 160,000 migrants from frontline members Italy and Greece to other member states (2015-2017) was the most contentious EU measure to deal with the crisis, and indeed is strongly criticised in the literature (e.g., Ardittis 2016; Banulescu-Bogdan and Fratzke 2015; Bauböck 2018; Carrera and Guild 2015; Di Filippo 2017; Hampshire 2016; Maiani 2016a; Sigona 2016). The programme aimed to address the influx of irregular migrants in Italy and Greece, but also the inadequacy of these states in handling the arrivals and allowing migrants to travel north to claim asylum in other preferred destinations, mainly Germany and Sweden (Guild et al. 2017). It has also been stressed in the literature that despite strong opposition by the Visegrád Group, the Decision was forced through by EU interior ministers and adopted by qualified majority voting (QMV), marking an unprecedented step, in terms of the use of a majority vote in a situation which involves basic aspects of national sovereignty, resulting in a new East-West divide (Papademetriou, 2015).

There has also been much debate on the issues of lack of EU unity and solidarity in the EU response to the refugee crisis (e.g., Brouwer 2016; Carrera and Lannoo 2018; Garlick 2016; Grimm and Giang 2017; Picarra 2016; Tsourdi 2016), where it has been stressed that precedence is given to national over common interests. This

body of literature argues that although common asylum policies should be governed by the principle of solidarity and fair sharing of responsibility (Art. 80 TFEU), in practice, this is largely lacking and is reflected in the (continued) disagreement among member states on the establishment of a mandatory 'burden-sharing' mechanism to evenly distribute asylum seekers across the EU. The absence of EU solidarity has been frequently cited as the main obstacle in forging a common approach to irregular migration. Crawley (2017) claims that despite UNHCR's (2017b) call to move from rhetoric to practice and make 'the rubber hit the road', 'Europe's car is still sitting in the garage trying to find a way to put the wheels back on'.

Furthermore, as Lutz et al. (2020) point out, the lack of solidarity in EU asylum policy is also reflected in the adoption of unilateral measures. This was demonstrated in the EU response to the refugee crisis as member states took matters into their own hands. Indeed, another often-cited criticism in this body of literature concerns the increasing use of unilateral measures to prevent irregular secondary movements from neighbouring member states, primarily by building walls and fences (e.g., Lehne 2016; Toygur and Benvenuti 2016). This literature resonates with the debates in the 1990s on the construction of 'Fortress Europe'. As Jünemann et al. (2017, p.1) underline:

While the search for solutions has not yet ended, a pattern seems to be emerging: Border fences are getting higher and higher.

Ultimately, the main outcomes of the dramatic political events during the refugee crisis resulted in non-coordination and maintaining the existing policy (Scipioni, 2017). According to Pastore and Henry (2016, p. 54), EU failure to agree on any significant solidarity effort has left migration governance in a weak and unstable position. In addition, they claim that a further complication arises as EU (centre-right

and centre-left) governments are facing increased pressure from anti-immigration movements to adopt more restrictive measures.

2.4.3 The rise of right-wing populism

Things fall apart; the centre cannot hold; Mere anarchy is loosed upon the world (Yeats, 1920).

During the 2010s, particularly following the refugee crisis, there is a fast-growing strand of literature on the steady growth in support for right-wing (anti-immigration) populist parties across the EU and how this is impacting on EU asylum and migration policymaking (e.g., Algan et al. 2017; Autor et al. 2017; Becker et al. 2017; Goksun 2017). A key debate concerns the relation between the perception of irregular migration as a threat to national security and voter support for right-wing populist parties (e.g., Barone et al. 2016; Becker and Fetzer 2017; Betts 2016; Hatton 2016). Other scholars, such as Francis Fukuyama (2018, p. 133) have looked at the importance of national identity in the context of growing support for populist parties linked with (negative perceptions of) increasing inflows of irregular migration. In his words:

Populist politicians argue that traditional understandings of national identity are being diluted and overtaken both by newcomers with different values and cultures and by a progressive left that attacks the very idea of national identity as racist and intolerant.

Several authors have acknowledged that right-wing populist parties across the EU have gained increasing support among the electorate in recent years. Hadfield (2017) argues that public criticism of the EU response to irregular migration coupled with recent terrorist attacks in EU member states has allowed right-wing populist

parties to use their position to heavily criticise the EU's inability to protect its borders and keep out those that (are perceived to) pose a national security threat.

Consequently, such parties have increased their significance in most member states as well as in the EP (Balcer, 2017), posing a significant challenge to the political mainstream (Jünemann et al. 2017). Burni (2018) points out that they have run the second round in presidential elections in Austria and France in 2016 and 2017, respectively, and have become key actors in government formation in some political systems. Connolly (2017) explains that in Germany, one such party, Alternative für Deutschland (AfD), won parliamentary seats in the 2017 federal election, becoming the first far-right party in the Bundestag since WWII.

Another key issue in this body of literature concerns the impact of growing support for right-wing populism on national policy approaches to irregular migration. Dimitriadi et al. (2018) examine the German case, a country known for its efficient asylum system and high recognition rates. The authors highlight how it shifted course since the end of 2015, hardening its stance towards asylum seekers due to domestic concerns over the integration of refugees coupled with the rise of the AfD. Similarly, Ekman (2018) points out how Sweden rapidly transformed, from promoting one of the EU's most open immigration policies to embracing one of its most restrictive. Furthermore, he contends that the rise of the right-wing populist party, Sweden Democrats, in the 2018 Swedish general election illustrates that this is Europe's 'new normal'. As a final example, Dinan et al. (2017) emphasise the crucial role of right-wing populist anti-immigrant rhetoric in the victory of the pro-Brexit forces in the 2016 UK EU membership referendum. Another aspect that is increasingly attracting scholarly attention in the context of EU asylum and migration policymaking, possibly linked to the rise of right-wing populism, concerns the externalisation of migration controls to third countries.

2.4.4 The 'externalisation' of migration control

A more recent and frequently addressed issue in the literature on the 'securitisation of migration' pertains to the externalisation of migration controls to third countries (e.g., Ambrosini 2018; Davitti and Ursu 2018; Drent 2018; Ferreira 2018; Himmrich 2018; Palm 2016). According to Baldwin-Edwards et al. (2018), following the outbreak of the refugee crisis in 2015, the core elements of EU asylum and migration policy have been transformed into the 'externalisation' of migration controls to transit and origin countries, together with 'preventative measures' designed to discourage or prevent irregular migration. Moreover, they claim that 'the framing of migration management as a 'crisis' has been used to justify extraordinary and exceptional measures which can be characterised as rapid, informal and flexible policy instruments at odds with the rule of law and the fundamental rights of migrants' (Ibid., p. 2149).

Similarly, Jeandesboz and Pallister-Wilkins (2016) and Van Reekum (2016) argue that such measures have provided new rooms for manoeuvre for member states to circumvent constraints and bypass the interests of the supranational institutions. The most obvious legacy of this approach, they explain, is in the EU-Turkey statement, where the Commission and the Parliament were sidelined.

The bulk of this research criticises the EU for increasingly resorting to outsourcing tools of border control to third countries and externalising 'the barriers against irregular migratory movements to areas outside the physical territories of the states or of the whole of the EU', thus creating a 'buffer zone' and integrating third states into the EU border control apparatus (CIR 2014, p. 12). Mainwaring (2018) further argues that the EU is prioritising the externalisation of migration controls to third

countries - many of which known for their poor human rights record - over the provision of international refugee protection.

Turkey's poor human rights record has been recognised by several scholars, including Peers (2016) and Dimitriadi et al. (2018). The statement between the EU and Turkey has been the subject of much controversial debate since its inception. Concerns have been raised in the literature over its compliance with international law, particularly concerning the principle of *non-refoulement* and the presumption that Turkey is a 'safe third country' for asylum seekers.

Having identified the key debates and themes in the literature on EU asylum and migration policymaking in the context of irregular migration, the next part of the chapter proceeds as follows. First, it explores the theoretical approaches that influenced this research, starting from the traditional schools of thought to the 'new' governance approaches. Then it examines the literature on EU migration governance, thereby highlighting the research gap related to the impact of the different EU policy responses to irregular migration - both between and within the national and supranational levels - on EU migration governance.

2.5 Theoretical approaches to EU asylum and migration policymaking

The literature on EU asylum and migration policymaking has been influenced by different theoretical approaches as it evolved in the three distinct phases outlined earlier in this chapter. The first phase was influenced by public policy at the domestic level, given that this research was deeply grounded in national perspectives. In the second phase, the literature began to be influenced by theories of IR and the security

school as member states began to perceive mass migration influxes as a threat to the stability and welfare of their societies, and hence shifted their focus towards the 'securitisation of migration' and the use of restrictive migration policies. At the end of the second phase, however, literature in this field began to be influenced by governance approaches. Simon Hix and Andrew Geddes were among the first scholars to focus on the dynamics of EU migration governance. During the third phase, research has been influenced by public policy and political science, both at the national and EU level, integrating public policy tools such as the 3Ps model to create new approaches to explore governance at the EU level.

The different schools of thought thus raise critical questions and offer distinct hypotheses regarding the main actors and the dynamics in EU asylum and migration policymaking (Pollack, 2010). The first theories of European integration aimed to shed light on the process of EU development from the creation of the Union to the current day, yet they remained focused on the concept of a union of states in the context of an IO. 'This body of theory initially pitted neofunctionalist models of integration through 'spillover' against intergovernmentalist models emphasising the continuing dominance of national governments' (Ibid. p.15).

Neofunctionalism, developed by Ernst Haas in his book *The Uniting of Europe* (1958), claimed that EU integration is primarily driven by elite interest groups and political parties below the state, together with supranational institutions standing above states. Moreover, the theory assumed that policy areas are interconnected, resulting in an integration dynamic driven by 'spillover' between policy areas. Therefore, from this perspective, spillover from other EU policies provided the rationale for common asylum and migration policies.

Several scholars (e.g., Taylor 1983; Wallace 1983) however, have claimed that the neofunctionalist view underestimates the resilience of the nation-state. One of the most significant contributions was put forward by Stanley Hoffmann (1964; 1966) who challenged the core assumptions of neofunctionalism in what he termed 'intergovernmentalism'. In his critique, he claimed that the nation-state, far from being obsolete, had proven 'obstinate'. Thus in terms of EU asylum and migration policymaking, the state-centric perspective assumes that (1) EU member states have the power to manage immigration and control their respective territories (Zolberg, 1999), and (2) the EU offers a framework whereby member states are able to cooperate in order to reduce negative externalities (Ette and Faist 2007, pp. 7-8).

Recognising that Hoffmann's argument departed from classical realism - wherein states were considered as unified rational actors with slight regard to domestic politics - a subsequent explanation of EU integration was developed by Andrew Moravcsik in 1993 which he termed 'liberal intergovernmentalism' (LI). Moravcsik argued in a series of articles (1993; 1995; 1997; 1999) and in a landmark book (1998) called *The Choice for Europe: Social Purpose and State Power from Messina to Maastricht*, that historical intergovernmental agreements, namely the Treaty of Rome (1957) and the Maastricht Treaty (1993), were the result of preference convergence among the strong regulating member states. His model of intergovernmental bargaining, however, assumes that EU member states strive to achieve their fixed preferences notwithstanding the constraints posed by EU institutions (Moravcsik 1998, pp.19-20).

Despite being the dominant theory of EU integration during the 1990s, LI's basic assumptions were disputed by several scholars (e.g., Kaunert and Léonard 2012a; Menz 2008). The main argument put forward was that, in practice, EU decision-making processes involve both 'uploading' and 'downloading' between the domestic

and supranational levels, hence the depiction of policymaking as ‘bottom-up’ underestimated the influence of EU institutions, primarily the agenda-setting powers of the Commission and, since the entry into force of the Lisbon Treaty, the enhanced legislative powers of the EP (Lahav 2004, cited in Hampshire 2016). In response to this criticism, in 2009, Moravcsik and Schimmelfennig claimed that LI ‘works best when decision-making takes place in decentralised settings under a unanimity requirement, rather than in settings of delegated or pooled sovereignty under more complex and nuanced decision-making rules’ (Moravcsik and Schimmelfennig 2009, p. 74). Consequently, a new body of theory grew out of dissatisfaction of some theorists with grand theory who felt that the two leading schools of thought of EU integration either missed the complexities of the EU or, if these complexities were factored into account, became too complicated to be useful (Nugent, 2017).

The emergence of ‘middle range’ theories, focusing on explaining smaller but more specific aspects of European integration, offered additional explanations as to how EU policy is being shaped. Although the study of institutions and their interactions, known as ‘institutionalism’, had been a specific focus of academic research since the early 20th century, in 1977 it experienced a substantial resurgence following the publication of a seminal paper by Meyer and Rowan in which the authors proposed a revised formulation of institutionalism. This resulted in a significant shift in institutional analysis, which came to be known as ‘new institutionalism’ (NI), the core assumption of which is that institutions matter in European politics (Nugent, 2017). Under this new theoretical framework, institutions operate in an ‘institutional environment’, i.e., an open environment consisting of several institutions where each institution is influenced by the broader environment (Peters, 1999).

In 1996, Hall and Taylor identified three main strands of NI which they termed historical institutionalism (HI), rational choice institutionalism (RCI) and sociological

institutionalism (SI). All three schools of thought hold that institutions are rules that shape behaviour (Steinmo, 2008), yet each has a distinct account of the importance of institutions in EU policymaking. As a result, each approach takes a particular view of actors' preference formation (Rosamond, 2007). From the lens of RCI, institutions are perceived as strategic utility-maximisers, while SI assumes that 'people act according to a 'logic of appropriateness' - whereby action is driven by the goal of acting as per accepted social norms - modifying their behaviour according to a given institutional environment' (Pollack 2009, p. 127). HI presents a 'middle way between the two camps by focusing on the effects of institutions over time and emphasising historical process' (Thelen 1999, p. 384).

Another middle-range theory, frequently cited in the literature on EU asylum and migration policymaking, concerns constructivism. This approach challenges the 'grand theories' for their emphasis on the distribution of power and the pursuit of power and wealth, and seeks to explain how key aspects of international politics are 'socially constructed'. In other words, constructivists hold that the major driving forces determining state action are non-material social factors shaping actors' identities and interests, transforming international politics (Wendt, 1995). With regard to the interests that determine action, the father of constructivist thinking, Max Weber (1991, p. 280), suggested that ideas are like 'switchmen' which often 'determined the tracks along which action has been pushed by the dynamic of interest'. Thus, from the lens of constructivism, changes in social relations between states can result in major changes in international politics. This highlights the pertinence of the approach in analysing EU asylum and migration policymaking, which is driven by actor interests and behaviours (Richmond, 2014). Thus from this standpoint, member states' diverging views are a reflection of the dominant discourses of 'social constructs' in each society.

Nevertheless, starting in the 1990s, a shift can be observed in the literature from explaining European integration to examining European governance as scholars began to shift their attention towards the nature of the EU, arguing that it ranged between an IO and a federal state (Wallace, 1983). This led to new conceptualisations of the EU, including 'network governance' (Kohler-Koch, 1996), a 'system of multi level governance' (Marks et al. 1996) and 'new governance' (Hix, 1998) to help explain the EU institutions and EU policymaking processes rather than employing traditional IR approaches (Borzel, 2018).

2.5.1 Towards governance approaches

This new approach to examining EU governance was actively promoted by Simon Hix (1994; 2008), who argued that previous EU studies had neglected the politics of the Union and the unique features of its political system. In 1998, his influential article presents the new governance approach as a '*sui generis* approach', dealing with the EU as distinct from any other form of polity and therefore requiring new theoretical approaches. This was further corroborated by Jachtenfuchs in 2001 (p. 245) in his seminal article entitled 'The Governance Approach to European Integration', where he argued that the study of European integration is divided into two distinct approaches: the classical integration theory and the governance approach. Above all, he claimed that the uniqueness of the governance approach is that - unlike traditional theories of integration - it treats the Euro-polity as an *independent* variable. In other words, those studying governance are more interested in *what* the EU does, rather than *how* it has come about (Christiansen 2019, p. 103).

The concept of multi-level governance (MLG), developed by political scientists Gary Marks, Liesbet Hooghe and Kermit Blank in 1996, frames the notion that several governance structures are engaged in the emerging EU political system. The approach challenges traditional state-centric approaches and argues that state sovereignty is constrained by collective decision-making as well as the delegation of competences to the supranational level. MLG thus rejects a conception of EU governance as existing at either the national or supranational level and instead views the process of EU policymaking as a single entity characterised by a complex web of interaction between various national, local, regional and international levels of authority. According to the approach, EU institutions are critical in the reordering of this policymaking space in that they provide arenas of interaction (Awesti, 2007). Similarly, the concept of 'network governance' is characterised by the two following features: (1) the multi-level nature of the EU 'political system', and (2) the growing importance of non-state actors in the policy process, such as NGOs (Kohler-Koch and Rittberger 2006, p. 34).

Although the term 'governance' developed into a broad concept and began to be applied to different policy areas, its meaning is contested in the literature resulting in different definitions. Furthermore, different disciplines have different approaches to governance. For instance, according to Kjaer (2004), governance involves 'coordination' and 'steering' while Pierre (2000, pp. 3-4) provides the following definition:

sustaining coordination and coherence among a wide variety of actors with different purposes and objectives such as political actors and institutions, corporate interests and transnational organizations.

Another definition, provided by Jachtenfuchs (2001, p. 246) states that governance involves:

The intentional regulation of social relationships and the underlying conflicts by reliable and durable means and institutions, instead of the direct use of power and violence.

As a final example, Kohler-Koch and Rittberger (2006, p. 28) define governance as:

both a process and a state whereby public and private actors engage in the intentional regulation of societal relationships and conflicts. Governance is thus different from government, the latter stressing hierarchical decision-making structures and the centrality of public actors, while the former denotes the participation of public and private actors, as well as non-hierarchical forms of decision-making.

The primary focus of academic research in the field of governance involves exploring and evaluating the formal institutional features of the term which has resulted in theoretical models of governance rather than an understanding of governing processes, i.e., the realities of governing in a particular area. Hence, EU governance is approached as an institutional matter, largely treated in a depoliticised fashion. Indeed, to a large extent, it has been approached as a 'neutral' activity, focusing on aspects such as the organisation and control of EU actors and institutions. The concept of governance, however, is far from neutral, As Borrás (2007) explains, it is the outcome of difficult political struggles between numerous actors in both national and supranational arenas - encompassing a multiplicity of actors, including EU member states and institutions, interacting at, and across the multiple institutional levels in EU governance processes.

2.6 EU migration governance

Indeed, an important feature of the research on EU governance is that different institutional levels are involved in the governance process, (e.g., Buchs 2008; Marks et al. 1996), epitomised in the so-called concept of multi-level governance (MLG). This thesis builds on Hampshire's (2016) assertion that EU migration governance has become increasingly multilevel, involving (1) authority structures at the supranational, international, national, and sub-national levels, and (2) numerous actors interacting at, and across national, EU and international institutions. Moreover, he points out that migration governance remains an area of shared competence, as member state governments have retained the right to decide whether to admit TCNs. The 'governance turn' has been an important development in the literature, indicating the changing nature of the EU integration process as a result of treaty revision as well as scholars' desire to adapt their research tools accordingly (Christiansen 2019, p. 112). Nevertheless, research on EU governance has mainly focused on specific aspects such as the EU political system and the driving forces behind European integration (e.g., Hix 2008; Hix and Hoyland 2011). Kohler-Koch and Eissing (1999) emphasise the unique political structure of the EU, in terms of lacking a central government, i.e., the delegation of political power to a decision-making authority at the European level. As a result, knowledge of how EU member states and institutions 'steer' governance processes is lacking (Kan, 2010).

The 'steering' aspect of EU migration governance has been analyzed and explained in the literature on Europeanisation as a discrepancy between EU and domestic policies (Borzel and Risse, 2003), i.e., in terms of whether this has led to a convergence of asylum practices and outcomes across EU member states. This approach, however, has been criticised for failing to include how governance

processes are shaped from the domestic level by actors pushing for specific policy agendas without requiring EU involvement (Buchs, 2008). Borrás (2007) argues that the steering of the content in governance processes is highly controversial as actors steer such content and clash over its direction. In the same vein, Hay (1998) stresses the vital role actors play in governance processes and the power struggles therein. This reflects the constant struggle between the actors involved in EU asylum and migration policymaking due to clashing interests vis-à-vis irregular migration.

Nonetheless, whereas the literature on EU asylum and migration policymaking has developed at a steady pace, there is a lack of research on how governance takes place within the asylum and migration policy domain, which is characterised by clashing interests and member state unwillingness to cede further competences to the supranational level. The IOM (2019, p. 138) defines migration governance as:

The combined frameworks of legal norms, laws and regulations, policies and traditions as well as organizational structures (subnational, national, regional and international) and the relevant processes that shape and regulate States' approaches with regard to migration in all its forms, addressing rights and responsibilities and promoting international cooperation.

Geddes (2018) underscores the complex nature of EU migration governance, comprising both an internal and external dimension. He explains that the internal dimension involves the Schengen Area and the Common European Asylum System, while the external dimension involves agreements with third countries to prevent irregular entry as well as readmission agreements facilitating the return of TCNs. Furthermore, it has also been stressed in the literature that, given the sovereignty-sensitive character of this policy field, intergovernmental cooperation remains the preferred mode.

Indeed, several scholars such as Schain (2009) have claimed that despite the post-Lisbon communitarisation of EU asylum and migration policymaking, the most effective areas of EU migration governance remain those that fare best under intergovernmental agreements, i.e., restrictive measures and border control. Likewise, Chrysogelos (2016, p. 23) argues that EU governments continue to jealously guard their room for manoeuvre. Moreover, he claims that member states' recourse to the European framework has become a question of short-term political calculation, and stresses that as a result, 'the dominant mode of EU migration governance has gone from deep to dysfunctional intergovernmentalism'.

Recent contributions to this body of literature underline the usefulness of the game-theoretic approach in offering a lens that enables EU policy analysis. According to Hermans et al. (2014), its usefulness lies in the assumption that outcomes of interactions are the result of rational decisions by individual actors. The approach encompasses actors' objectives together with their available options. Plott (1991, p. 903) combines these factors in his 'fundamental equation' of politics:

Preferences x Institutions = Outcomes, which illustrates two of the most important principles of formal political theory:

- If preferences change, outcomes will change, even if institutions remain constant.
- If institutions change, outcomes will change, even if preferences remain constant.

As Hix and Hoyland (2011) explain, the *preferences* of the actors involved in the decision-making process are the input factors, *institutions* are both official and non-official rules which establish the creation of common solutions, i.e., the governance structures actors find when engaging in the decision-making process, and *outcomes*, which include official policies and new institutional forms, are a product of the interaction between preferences and institutions.

A key question in the literature on EU governance revolves around why certain items become part of the political agenda. Various scholars (e.g., Haverland et al. 2016; Peters 2001; Pollack 1997; 2003; Princen 2007; 2012) have argued that the most effective way to shape EU policies requires framing a problem in the agenda-setting phase of the policy process, known as the 'first-mover strategy'. By providing a frame, i.e., defining a shared problem, member states can promote their approach to the problem (Knill and Tosun, 2012). According to agenda-setting theory, an issue is 'on the agenda' if it receives serious attention from policymakers. Hence it provides important insights into the debate on EU asylum and migration policymaking in the context of irregular migration. Zaun (2017), for instance, argues that 'first movers' (northwestern member states) have promoted cooperation at the EU level in order to shift responsibility for asylum claims to other member states. According to Princen (2007, p. 21), the theory 'can best be seen as the outcome of strategic decisions by political actors to shift issues to the venue that is most favourable to them'. Most notably, Guiraudon (2000) has argued that cooperation in the field of asylum and migration has been driven by EU member states' willingness to devise more restrictive measures. She claims that, in 'escaping' to the supranational level, EU governments have managed to evade public pressure at the national level. Drawing on Baumgartner and Jones' (1993) work, she termed the concept 'venue-shopping'. This 'refers to the idea that policymakers, when encountering obstacles in their traditional policy venue, tend to seek new venues for policymaking that are more amenable to their preferences and goals' (Guiraudon 2000, p. 252 cited in Kaunert and Léonard 2012a, p. 1397). Following this rationale, member states decided to cooperate at the EU level in matters of asylum and migration to develop more restrictive policies in order to prevent irregular migration. A prominent author in the literature on agenda-setting, John Kingdon (2003), developed a decision-making

model, known as the 'multiple streams' model, in which policymaking processes comprise three streams that evolve separately and display distinct dynamics (Figure 2.1).

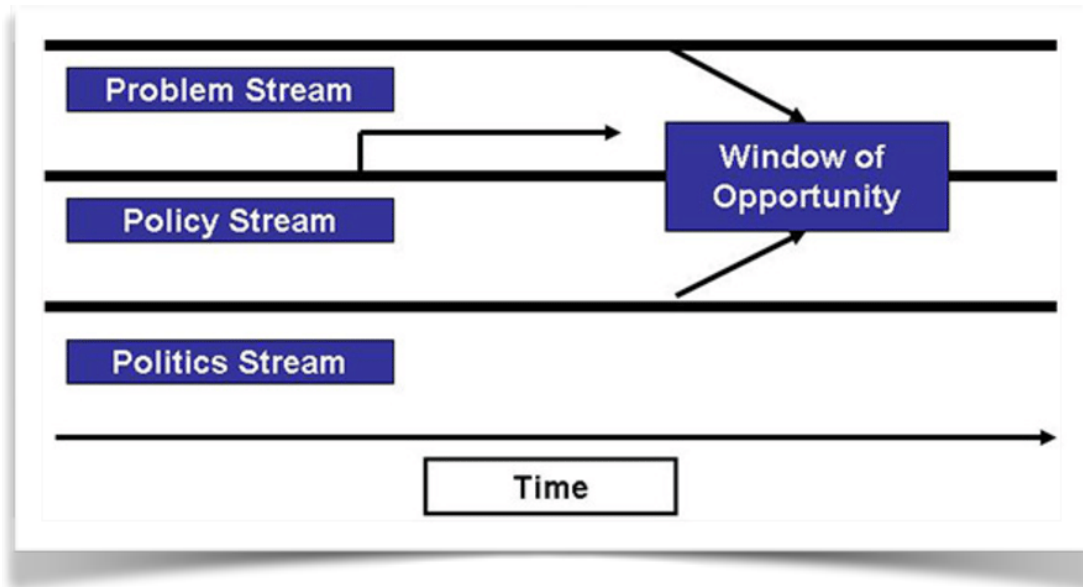


Figure 2.1: Kingdon's multiple streams model (Source: PolicyNL, 2013).

The first stream, the 'Problem Stream', consists of problem perceptions among policymakers. The second, 'Policy Stream', consists of proposals for government action, while the third, 'Politics Stream', consists of political activities and developments, such as elections, lobbying campaigns, and shifts in public opinion. Although the streams develop largely in isolation from each other, they can merge in a situation where (1) a problem is perceived as significant, (2) a possible solution is available, and (3) the political climate is positive for change. When this 'Window of Opportunity' opens, an issue shifts to the top of the political agenda (Versluis et al. 2011). A good example here, in the context of the research problem, is when over 1.8 million irregular migrants arrived in the EU in 2015 (Frontex, 2018) sparking a crisis as EU institutions and member states struggled to cope with the influx. Eventually,

the response to the so-called refugee crisis resulted in a window of opportunity for member states to reaffirm national sovereignty by shifting towards intergovernmental decision-making and unilateral measures to deal with the phenomenon.

Following the outbreak of the refugee crisis in 2015, another line of research emerged focusing on the (dysfunctional) interaction between EU member states and institutions in crisis situations (Niemann and Zaun, 2018). Panizzon and van Riemsdijk (2018) highlight that crisis governance upsets an already complex structure of multi-level migration governance, however, they also stress that the governance approach in terms of the impact of the crisis on this interaction is lacking in the literature. Hence, the question of how the levels of policymaking interact, conflict, or disengage is more often than not unexplored.

2.7 Key findings and research gap

This chapter aimed at fulfilling three main objectives. First, to provide an overview of previous research on EU asylum and migration policymaking in the context of irregular migration and how this evolved over the past three decades. Second, to identify the key debates and themes, and third, to address the knowledge gap. With regard to the first two objectives, the chapter reveals that since the 1990s, a growing body of literature examining EU asylum and migration policymaking in the context of irregular migration has emerged and that, overall, the bulk of this literature has been driven by events on the ground. The chapter also illustrates that, in consequence, research in this field evolved in three distinct phases.

Academic interest in the first phase, in the 1990s, was prompted following the collapse of communist regimes in CEE and the breakup of Yugoslavia when member states began to perceive large influxes of migrants as a threat to the stability and welfare of their societies. In the second phase, in the mid-2000s, as EU member states began to focus on the use of restrictive measures to prevent irregular migration, academic interest shifted towards the 'securitisation of migration' particularly in terms of the impact on the rights of asylum seekers and migrants. Furthermore, following the completion of the first generation CEAS in 2005, another line of research emerged focusing on the development of EU asylum policies and questioning their effectiveness. The final (and ongoing) phase, in the 2010s, attracted renewed interest following the completion of the second generation asylum instruments in 2013 and, even more so, the ensuing refugee crisis (2015-2017). In reaction to the EU's failure to develop a joint response to the crisis, a new body of literature surfaced focusing on the impact of irregular migration on the relations between EU member states and institutions, however, most of this research has been tackled from a national point of view, i.e., in terms of how the question of how to deal with the issue exposed fault lines between states.

As regards the third objective, the Chapter identifies a common thread running through the literature, in that it has been dominated by the (negative) impact on the rights of asylum seekers and migrants. To a large extent, this is due to the fact that it has been influenced by law and human rights. At the same time, there has been some emphasis on security issues (rights of the state), yet this has tended to be concerned with issues of state sovereignty. Accordingly, despite a rapidly growing literature on EU asylum and migration policymaking in the context of irregular migration, research on the impact of the different EU policy approaches on EU

migration governance as well as on the relations between and among EU member states and institutions is lacking.

In conclusion, there is a paucity of literature on the question of how the various levels of migration governance interact, conflict, or disengage, and the attendant impact on policy outcomes in the context of irregular migration. Hence a substantial research gap in the existing body of knowledge is identified. This study aims to build on this knowledge and fill this gap by examining the impact of the different EU policy approaches to irregular migration on the relations between member states, among EU institutions, as well as between member states and institutions, and subsequently on EU migration governance. This is carried out in the empirical analysis in Chapters 4-7. The following chapter presents the theoretical framework and methodology guiding the research, including the working hypothesis, research questions and the research methods utilised in the design of the study.

Theory and Methodology

This chapter presents the theoretical framework and methodology guiding the research. In the first part, the working hypothesis and research questions are put forward, followed by the theoretical framework and its application to the different parts of the study. The second part outlines the research methodology, including the research design, approach and methods utilised.

3.1 Research questions and hypothesis

The underlying problem which gave rise to this study concerns the EU's failure to deal with the challenges of irregular migration - particularly in terms of the refugee crisis - as well as to reform the CEAS to better support those member states facing strong migratory pressures, primarily by establishing a mandatory relocation mechanism to distribute asylum seekers among EU member states. EU capability to develop a unified and coherent response to the issue of irregular migration thus is questioned. Given this absence of a common approach, the study aims to explore the impact of the different EU institutional and national policy approaches to irregular migration on the relations between EU member states, between EU institutions, and between member states and institutions, and ultimately on EU migration governance by seeking to answer the three following research questions:

- 1. Why is EU asylum and migration policymaking in the context of irregular migration resulting in tensions both between and within the national and supranational levels?**
- 2. How are the diverse EU policy approaches to irregular migration impacting on EU migration governance?**
- 3. What implications can be drawn from the EU responses, both at the institutional and national levels, towards the refugee crisis (2015-2017), and how has this affected relations between the EU and its member states?**

In seeking to answer these questions, the study sheds light on an under-researched area and hence contributes, both empirically and theoretically, to the field of EU migration studies and more precisely, that of EU migration governance. In addition, it fills a vacuum in the literature on EU asylum and migration policymaking as well as on the impact of the EU response to the refugee crisis on relations between EU member states and institutions, and on EU migration governance.

The empirical analysis, carried out in Chapters 4-7, examines the factors influencing the different approaches of EU member states and institutions to irregular migration. More importantly, it examines the impact of the different approaches on the relations between EU institutions, between member states and between EU institutions and member states, and subsequently on EU migration governance. Differences over how to deal with the phenomenon, both at the national and supranational level, have resulted in divisions within the EU so far as to threaten the European project.

One of the main factors hindering a common approach to irregular migration concerns the asymmetrical impact of migration pressures across EU member states. In practice, while some member states are geographically exposed to spontaneous and irregular flows, in particular the Mediterranean member states, others are more protected against direct irregular entries through 'blue' and 'green' borders, such as the Czech Republic, Slovakia and Romania. Accordingly, the realities of migration pressures differ widely in each national context, leading to divisions over a common approach. The major assumption underlying this study is that EU asylum and migration policymaking in the context of irregular migration is resulting in suboptimal policy outcomes that do not reflect the realities on the ground in the member states of first entry - i.e., in those member states facing strong migratory pressure - hence the working hypothesis:

EU policymaking in the context of irregular migration has led to suboptimal outcomes that do not fully cater for the realities of migration pressures in the frontline member states.

The working hypothesis directs inquiry as it helps to establish the connection between the research question/s and the forms of evidence used to test the hypothesis. According to Shields and Tajalli (2006, p. 329), it is 'the organizing engine that drives explanatory research'. Dewey (1938, p. 142) describes it as 'a provisional, working means of advancing investigation' which can additionally uncover unanticipated facts. Consequently, the working hypothesis outlined above drives explanatory research in that it provides direction to investigate the research objectives/questions. More concretely, it drives the empirical research carried out in the following four chapters which examine the different policy approaches of EU institutions and member states to irregular migration and the attendant impact on the relations between EU institutions, between member states and between EU institutions and member states, and subsequently on EU migration governance.

That being said, EU policymaking in the context of irregular migration, is much more complex than the hypothesis posits due to the diversity of interests within the EU. This stems from the fact that the study is dealing with a *sui generis* system which incorporates characteristics both of an International Organisation (IO) and a political system bringing together a very unique and complex system incorporating different political systems. Furthermore, this *sui generis* system has changed since its inception in 1957, as subsequent treaties have revised how the system works, overall shifting it towards further integration, though at times also resulting in a shift towards a more intergovernmental model. Additional complexity arises from the fact that the system brings together different policy systems underpinned by different cultural systems. This complex mix can put a strain on good governance and has indeed

come to a head in the area of migration governance which has proved to be among the most difficult areas of governance in the EU. Additionally, it has long been characterised by a clash between intergovernmental and supranational approaches, given the shared nature of EU competence in the area of asylum and border control, unlike that of migration. Indeed, although member states have shared competences in matters of asylum, migration policy remains a national endeavour, where member states continue to develop their own migration policies and where clear political objectives for a common migration policy are lacking (Calleja Ragonesi, 2014). Hence, this is one of the policy areas that best illustrates EU inability to synchronise the intergovernmental and supranational approaches.

The result is that EU policy approaches to irregular migration have been in constant conflict, both at the institutional and national level, as well as between both levels, i.e., between EU institutions, between EU member states, and between EU institutions and member states. The difficulties confronted by policymakers in this field, therefore, result from the friction caused by the multiplicity of interests and methodologies (strategies/visions) both at the institutional and national level.

Another factor adding to the complexity of EU asylum and migration policymaking in the context of irregular migration is that this multiplicity of interests and methodologies is not static, but changes both over space and time as a consequence of the changing context within which policymaking takes place. This means that EU interests and approaches are constantly changing, both across EU member states and institutions as well as over time. A case in point concerns national elections in EU member states which commonly produce a change in government and thus a change in ideological beliefs with regard to how to tackle irregular migration. In practice, over the past decade, general elections taking place in EU member states

have resulted in a decline in traditional mainstream (centre-left/centre-right) political parties and increased voter support for right-wing (anti-immigration) populist parties.

In the context of the evolution of EU asylum and migration policies, following the unprecedented arrival of irregular migrants in the EU in the 1980s and 1990s, owing to the fall of communism in CEE, the EU agreed to establish a Common European Asylum System (CEAS). Yet following the completion of the first generation asylum legislative instruments, in the mid-2000s, such policies were already outdated and in crisis as the interests of EU institutions and member states were not the same interests as those back in 1999, when the CEAS was first agreed upon. This is because the EU tends to be slow-moving given the long and complex decision-making process. Consequently, policy outcomes often do not reflect the needs on the ground due to this mismatch in the timeframe between policy inputs and policy outputs. The first generation of EU asylum policies, therefore, failed to deal with the challenges of irregular migration *since their inception*, as the current preferences of EU institutions and member states had changed.

The second generation CEAS, which was completed in 2013, again because of the length taken to formulate outcomes, did not reflect the change in preferences within the EU, both at the institutional and national level, and as a result, proved unable to deal with the refugee crisis (2015-2017). These policies were not developed to deal with the unprecedented number of irregular arrivals. In practice, the recast asylum legislative instruments generated an asymmetrical impact among member states, shifting the burden of asylum responsibility to the frontline member states.

Furthermore, the political environment in which the first generation asylum policies were conceived was very different from the current situation. The initial CEAS legislative instruments were developed at a time when the EU comprised only fifteen

member states which, with the exception of the southern states, were prosperous and of a Northwestern European cultural trope. The accessions from 2004 onwards increased the number of member states to 28 with most of the new members from CEE with a post-communist past and having GDPs below the EU's 75 per cent average. This has made the Union much more heterogeneous, bringing new preferences and challenges. The new members, however, had to accept and apply the first generation asylum rules as a condition for full membership within the EU, without playing any formal role in the development of such instruments. Consequently, EU asylum policies were transferred to the new member states, reflecting only the preferences of EU-15. This illustrates the changing context within which EU policymaking takes place.

The arrival of over 1.8 million irregular migrants in the EU in 2015 (Frontex, 2018) sparked a crisis as EU institutions and member states were not able to deal with the situation. Unlike previous 'waves' of irregular migration, the refugee crisis exposed weaknesses in the asylum and Schengen *acquis*. It also revealed old and new political fault lines across the EU, between the northern and southern states as well as between the East and West.

The above thus sheds light on why EU asylum and migration policymaking in the context of irregular migration is far more complicated than the hypothesis assumes. Taking this into account, the working hypothesis is tested through material focusing on the years from 2013 to 2018, which includes the period prior, post and during the refugee crisis. This is in order to illustrate how changes in preferences and institutions result in changing outcomes that will impact on the relations between EU institutions and member states, and ultimately on EU migration governance. Having set the research context, the following section puts forward the theoretical framework guiding the research.

3.2 Theoretical framework

The theoretical framework, articulated by Merriam (1998, p. 45) as ‘the researcher’s lens with which to view the world’, functions as the framework for the ‘the problem statement, the significance of the study, and the research questions. It serves as the basis for the literature review, and above all, the methods of data collection and analysis’ (Grant and Osanloo 2014, p.12), thereby, allowing the reader to evaluate the overall reliability and validity of the study.

Academic interest in European integration has been marked by two distinct theoretical stages. During the initial stage, studies from the field of IR were more prominent, however in the later stage, such studies were reviewed and knowledge from, *inter alia*, public policy and governance studies were included. The simplest way to comprehend this theoretical switch is to view it as a departure from considering the EU as an IO to something that is unique and more akin to a political system.

In the first phase, classical, or traditional, theories of international cooperation and integration, namely neofunctionalism and intergovernmentalism, which emerged in the 1950s and 1960s, aimed to explain the process of EU integration from the early days of the Union to present times, yet they remained focused on the concept of a union of states, viewing the EU as an IO (Pollack, 2010). During the second phase, starting in the late 1990s/early 2000s, the development of complex governance structures originating from the European integration process led to the emergence of a new body of theory resulting in a transformation in the way the EU is analyzed (Pollack, 2007). In sum, the shift from examining the EU as an IO to something unique and more akin to a political system resulted in a shift from classical rationalist IR approaches of EU integration to critical and constructivist approaches, and hence

to different conceptual lenses, assumptions and theoretical approaches in European integration theory (Wiener and Diez 2009, pp. 6-11).¹⁷

Indeed, rather than viewed as an IO, the EU started to be studied as a *sui generis* political system (Pollack, 2007), which despite lacking a central authority, extends over different levels of government, based on the principle of shared powers between the supranational institutions and EU member states (Hix and Hoyland, 2011). Consequently, the complexities in analysing the EU are augmented due to its unique institutional setup, which possesses characteristics of both a federation and an IO, making it a *sui generis* project. As Nugent (2017, p. 436) affirms, the structure and political system of the EU are *sui generis* in various aspects due to its multi-dimensional nature. He claims its uniqueness is reflected in:

the way it embodies both supranational and intergovernmental features in its system of governance, and in the extent to which it embodies shared policy responsibilities between different levels of government and different nation states.

The EU contains both supranational and intergovernmental elements as it has exclusive competences in some policy areas, such as the customs union or competition policy, while having shared competences in other areas where EU member states exercise their own competence, such as the area of freedom, security and justice (AFSJ). This means that only certain competences have been transferred from the national to the supranational level (Hlavac, 2010).

In terms of EU migration governance, EU member states have opted to share competences with the supranational level in order to establish common asylum rules (Scholten and Penninx, 2016), yet at the same time, they have shown great reluctance to cede further competences to the EU level in the case of migration

¹⁷ Refer to Section 2.5 and 2.6 for a review of potential theoretical lenses to examine the area under investigation.

policies. Thereby, EU migration governance has been primarily driven by, on the one hand, asylum policies which are EU institutional driven and, on the other hand, by national interest considerations in terms of migration policies. As a result, the two different approaches, bringing together the national and supranational vision, have tended towards the lowest common denominator, resulting in negotiation deadlock and/or suboptimal policy outcomes.

These suboptimal policy outcomes thus require that decisions in migration governance be also viewed through the lens of critical theory. This theory sets out to critique repressive social practices and institutions that militate against emancipation by supporting ideas and practices that meet the universalist principles of justice (Ferreira, 2018).¹⁸ Given that this approach constitutes an important part of migration theories, it has been embedded in the questions this study seeks to explore, where the focus is on EU policymaking in the context of irregular migration. As the findings highlight, the EU approach towards asylum seekers is increasingly shifting towards restrictive measures - primarily strengthening the external borders and tightening national migration policies in order to prevent irregular migration - which I describe as 'negative harmonisation'. That is, rather than focusing on the objective agreed in the 1999 Tampere European Council to create a 'level playing field' whereby asylum seekers would receive equal treatment and the same outcome on their asylum application irrespective of the member state in which it is lodged, the EU is focusing on the 'securitisation of migration'. Hence the securitarian logic has prevailed over the humanitarian approach in this field.

The result is that the focus on security in the EU's approach to irregular migration is eroding human rights. Accordingly, migration scholars have argued that despite the

¹⁸ For further reading on critical theory, see Edkins and Vaughan-Williams (2009) *Critical Theorists and International Relations*; Held (1980) *Introduction to Critical Theory: Horkheimer to Habermas*; Tormey and Townshend (2006) *Key Thinkers from Critical Theory to Post-Marxism*.

fact that more people than ever before need, or rather are forced, to move, there are fewer legal opportunities for them to do so (Koser, 2007). In addition to making it more difficult for asylum seekers to reach the EU, restrictive practices are resulting in anti-immigration and racial politics infiltrating the mainstream across Europe (Trimikliniotis, 2019) as irregular migration is increasingly being perceived as a security threat. At the same time, this has resulted in the implementation of restrictive practices across EU member states, though such practices have not been harmonised, rather there has been a race to the bottom with each state implementing their own policies to deter the arrival of irregular migrants. This has resulted in growing tensions in this policy domain that are impacting the relations between EU actors as well as on EU migration governance. This is precisely what this study sets out to explore.

3.2.1 Rationale for the inclusion of each theory and hierarchy of theories

Given the complex nature of EU asylum and migration policymaking in the context of irregular migration, resulting fundamentally from the inherent tension between the setting up of supranational rules and the ceding of national sovereignty, there is no single theory able to analyze and interpret the research objectives in a satisfactory manner. The study, therefore, draws on various theories from both disciplines of IR and political science, given that both are pertinent in analysing and interpreting the complex issue under investigation.

More precisely, the argument in this study has been constructed utilising a political science model and governance theories developed in the second theoretical stage of EU integration, together with classical theories of IR which were developed in the first stage. The usefulness of classical theories, which assume that states are guided by national interests, is owing to the fact that the EU functions both at the supranational and national level - involving a competition of twenty-eight sovereign states¹⁹ which still retain certain competences. Thus in seeking to answer the research questions and comprehending the constant tension between intergovernmental and supranational approaches to irregular migration, the hypothesis and research questions will be analyzed using both IR and political science approaches including, public policy models, neofunctionalism, liberal intergovernmentalism (LI), multi-level governance (MLG), historical institutionalism (HI), securitisation, social constructivism, and alliance theory. The selected theories contribute to answering the research questions and to a more comprehensive analysis in understanding the complexities inherent in EU asylum and migration policymaking.

The overarching theory used, which allows one to incorporate all the other theories is that of Plott's equation of politics (*Preferences* x *Institutions* = *Outcomes*) as well as the corollary 3Ps model, which explains more clearly the 3 steps of the public policy process, described as *Politics* (*Preferences*), *Polity* (*Institutions*), *Policy* (*Outcomes*) and *Easton's system model* (*Inputs, Conversion/Throughput, Outputs*). The models are particularly pertinent as the focus of the thesis is on EU policymaking in the context of changing preferences and institutions/rules.

¹⁹ As from 1 February 2020, the EU comprises 27 member states, following the UK's withdrawal from the Union as a result of the Brexit referendum which took place in June 2016.

Plott's equation, despite being conceptual, i.e., the concepts cannot be multiplied together in any quantifiable way,²⁰ is useful in helping to understand how such elements interact to produce outcomes (Munger and Munger, 2015). The equation, as stated in the previous chapter, presumes the following:

- If **preferences** change, **outcomes** will change, even if **institutions** remain constant.
- If **institutions** change, **outcomes** will change, even if **preferences** remain constant.

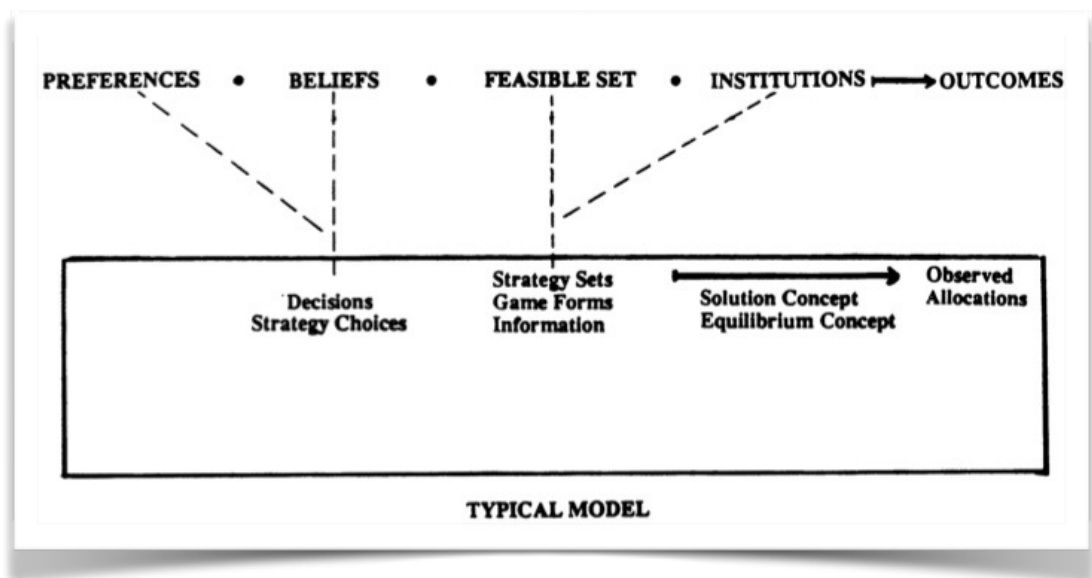


Figure 3.1: Plott's fundamental equation of politics (Plott 1991, p. 905).

Moreover, the equation sheds light on the importance of separating preferences and institutions in seeking to understand EU policymaking. In terms of the research questions, the relevance of the equation lies in the fact that EU policymaking is influenced by preferences and changing institutions. To be more specific, EU member states are interested in pursuing their national political preferences, resulting in friction in EU policymaking. In the context of EU asylum and migration policymaking,

²⁰ What I mean here is that the equation is conceptual not literal as 'preferences' multiplied by 'institutions' does not produce a numerical outcome. The usefulness of the equation is on shedding light on the impact of the diverse preferences within the EU, in terms of dealing with irregular migration, on policy outcomes.

the difficulties faced in achieving political agreement on common positions is reflected in the diverse national preferences. Indeed, as EU membership has expanded from 15 to 28 member states, national preferences have increased resulting in more diverging approaches on how to deal with irregular migration. At the same time, given the long and complex EU decision-making process, which above all fails to take into account the changes in national preferences, policy outcomes do not reflect the needs on the ground resulting in negotiation deadlock and/or suboptimal policy outcomes. This can be partially explained by the fact that institutions (and rules) have not changed to cater for the current needs.

More concretely, the models shed light on the diversity and constant fluctuation of interests both within EU institutions and EU member states, as well as between the levels in pursuing their preferences, and thus allow for a better understanding of EU policymaking. In the context of the research question, the difficulties faced in the development and implementation of EU asylum and migration policies in the context of irregular migration are indeed reflected in the diverse preferences of EU actors. This is why I use the term ‘overarching’, as the models provide organisational structure to the dissertation. In practice, the models drive the research in terms of indicating the main variables. The inclusion of the supplementary theories allows to further elaborate on these changing preferences and institutions/rules by detailing methods of play and motives, and hence in understanding the intricacies therein. They therefore constitute an analytical set of tools, involving relationships and governing institutions. As a result, the inclusion of these supplementary theories allows for a more in-depth analysis of these structures.

The study thus makes primary use of the public policy models to analyze and explain the research question, yet it also incorporates other theories in order to

ensure that these models reflect both the needs and behaviour of actors as well as the outcomes in this contested field of EU policymaking.

In terms of policy outcomes, the 'outcomes' of Plott's equation, the 'Policy' part of the 3Ps model, and the 'outputs' of Easton's systems model are further complicated by the politics of 'spillover' and 'unintended consequences' which, according to the **neofunctionalist** tradition, provide rationales for common policies (Haas, 1958).

From this view, the initial plan in the 1980s to abolish internal borders and apply the free movement of persons coordinated one segment of policymaking at the supranational level and 'spilled over' to the asylum and migration domain (Lavenex and Wallace, 2005). In other words, EU member states found themselves in need of a common solution to solve what was evidently a transnational problem. This led to initial steps in the Maastricht Treaty and the development of the Dublin Convention, followed by the Tampere European Council, where member states agreed to harmonise their asylum systems on the basis of binding legislation towards the creation of a CEAS. The neofunctionalist lens thus implies that the development of the CEAS emerged from the need for a common policy to secure full functionality of Schengen and free movement of people under the Single European Market (SEM) (Niemann and Schmitter, 2009).

In contrast, the different preferences in the EU also need to be explored in terms of **liberal intergovernmentalism** which takes a state-centric approach and focuses on the role of member states in the EU integration process. From this standpoint, EU member states, rather than supranational institutions, are the major driving forces in the EU integration process. LI brings detail to this as it highlights the importance of national preferences. Hence, in the context of the public policy models, the theory argues that with regard to 'preferences', it is the member states that are the stronger elements. This has a significant impact on the 'institutions/polity/throughput' part of

the models in that national preferences influence decision-making by national institutions, and in turn, this impacts supranational institutions.

From the lens of LI, it is the member states that decide whether or not to pursue a certain policy based on their national preferences, created as a result of influences coming from the domestic environment. Thus according to liberal inter-governmentalists, the European integration process is characterised by member states willingly concluding agreements with their counterparts in order to jointly tackle common concerns. In addition, from this perspective, although member states face certain restrictions on their autonomy, the European integration process ultimately remains in their hands.

The inclusion of the traditional theories of regional integration, therefore, allows for a better understanding of what prompted EU member states to cooperate, or otherwise, in matters of asylum and migration and why EU policymaking in the context of irregular migration is resulting in tensions both between and within the national and supranational levels. Yet despite their usefulness in seeking to understand the complexity in EU asylum and migration policymaking, and moreover, why this sovereignty-sensitive policy domain represents a problem for EU migration governance, the two main schools of thought of EU integration have been challenged by a third approach, possibly a more accurate approach: the **multi-level governance approach** (MLG).

In terms of nation states, the concept of MLG tends to be developed at the domestic level, however, in seeking to understand EU asylum and migration policymaking, it is far more complex. Moreover, more research needs to be carried out to determine how to incorporate the approach accurately into the 3Ps public policy model. Hence, this is a whole area of study that needs to be developed. The concept of MLG suggests that although member states remain the primary actors,

they 'do not have a monopoly of decision-making power. Instead, policymaking responsibility is shared among a variety of actors at the supranational, national and sub-national levels' (Marks et al. 1996, p. 346). Accordingly, MLG rejects a conception of EU governance as existing at either the national or supranational level and instead views the process of EU policymaking as a single entity characterised by a complex web of interaction between various national, local, regional and international levels of authority (Awesti, 2007). This explains the usefulness of the MLG lens to analyze the factors that drive policymaking at each level, and to understand to what degree such factors lead to policy convergence or otherwise in the field of asylum and migration.

The MLG approach transcends intergovernmentalist conceptualisations of policymaking in this area as an entirely state-dominated process by highlighting the multitude of actors across different levels in decision-making processes. For this reason, it offers a more subtle image of the complex reality of EU policymaking in the context of irregular migration. Nevertheless, it should be noted that empirical results of studies that base their arguments on this approach also suggest that despite the wide range of actors across the different levels, member states continue to play a crucial role in the formulation and implementation of EU asylum and migration policies (Bergmann and Niemann, 2015). Indeed, throughout the development of such policies, preferences have been primarily dictated by national actors rather than supranational institutions. In addition, as national imperatives have increased with each enlargement, this has resulted in increased discord between EU member states. The inclusion of the concept of MLG thus contributes to a deeper understanding of which factors drive policymaking at the different levels of governance, and the extent to which such factors lead to convergence or divergence of EU policies in this field.

In terms of understanding the interactive form of governance which is specific to the supranational approach, the lens of **historical institutionalism** (HI) is useful in providing a theoretical basis to help explain how the EU's institutional framework in the field of asylum and migration has developed over time, as well as the changing impact of EU institutions on member states. The lens of HI also sheds light on the question of whether member states are gaining or losing control in the asylum and migration policy domain, and how this is impacting on the relations between the EU and its member states. The example par excellence is that of the supremacy of EU law and the growing role of the CJEU. In other words, member states are not always fully aware of how institutional rules and changes impact on policy outcomes. In addition, as national preferences change, if institutions do not also change to reflect the changing needs on the ground, policy outcomes will be suboptimal.

According to this approach, EU member states' placed constraints on their own behaviour in establishing supranational institutions. This is evidenced by the fact that member states often disagree with the Commission's proposals. HI is thus distinguished from other social science approaches by its attention to real-world empirical questions, its historical orientation and its attention on how institutions structure and shape political behaviour and outcomes (Steinmo, 2008). The historical institutionalist lens thus provides a theoretical basis to help explain how the EU's institutional framework in the field of asylum and migration has developed over time, and how new ideas and dynamics emerge as central causal factors. HI also posits that the leeway for a radical change of previous policies becomes limited (Thelen, 1999). The importance of acquired policies results from the fact that besides being outputs, policies are also inputs into the policy process (Goodman, 2012), which is where constant tensions between EU institutions and member states first arise. A suboptimal policy output results in new input through the feedback loop, but may not

result in change via the throughput. A good example here is the Dublin Regulation which has been stuck in reform since 2016 over lack of consensus among member states (in the JHA Council).

The concept of **securitisation**, connected with the Copenhagen School of security studies, is also influencing the debate and the system of preferences. Within this framework, the issue of irregular migration is being increasingly perceived as a threat to a community (and possibly the identity of that community) and viewed as an issue of public security (Wæver, 1995). In the post-Cold War era, the concept of security and what threatens national security also includes unconventional security threats such as irregular migration, transnational crime and terrorism. Following 9/11 and several terrorist incidents in the EU, irregular migration is increasingly regarded as a security threat with concerns of terrorism regularly cited as grounds to strengthen the EU's external borders. The inclusion of the concept thus contributes to a greater understanding of how the security aspect is increasingly influencing member states' policy approaches to irregular migration and the adoption of more restrictive policies in this field. It also sheds light on whether the 'securitisation of migration' varies from one member state to another, and if so, whether different perceptions of irregular migration give rise to different sets of policy responses. In practice, national preferences are increasingly being informed primarily through the lens of securitisation and, as a result, this has become one of the areas where it appears that national preferences are converging (e.g., border control), hence the importance of this lens in the empirical analysis.

Consequently, the theory of constructivism provides the space to understand the different views that are influencing the preferences (e.g., prior to the 1990s the issue was not viewed as a security issue). The basic premise of this approach is that fundamental aspects of IR are 'socially constructed'. In other words, they come into

being as a result of the continuously changing process of socialisation (Tripathi, 2015). Hence, from this perspective, actors' preferences may change as a consequence of sustained interaction under certain conditions (Checkel, 2001). The lens of constructivism, thereby, sheds light on how the processes of social practice and interaction shape national interests and preferences.

Social constructivism entered the field of EU studies in the late 1990s (e.g., Adler 1997; Christiansen et al. 1999) primarily as a 'spillover' from the discipline of IR, but also due to profound misgivings among scholars with regard to the rather narrow focus and fruitless debates between neofunctionalism and LI (Risse, 2004). The constructivist approach challenges the classical approaches for their emphasis on the distribution of power and the pursuit of power and wealth (Wendt, 1992). Here the focus is rather on normative power and how the use of normative power, rather than solely hard power, influences the shaping of national preferences.

Thus, from the constructivist standpoint, the most important aspect of IR is social, not material. Constructivists hold that actors cannot decide what their interests are until they know who they are which, in turn, depends on their social relationships. Accordingly, non-material social factors, particularly identity, are the driving forces influencing the policymaking process. Governments, therefore, are strongly influenced by such aspects in pursuing national interests (Jepperson et al. 1996). The importance of the identity aspect lies in its ability both to generate and shape actors' interests. As a result, it is increasingly being used as a constructivist variable explaining actor behaviour (Katzenstein, 1996).

In terms of asylum and migration policymaking, which is inextricably linked to core issues of national sovereignty and identity, constructivists view the formation of identity versus the perceived identity of 'others' as preceding the formation of interests (Checkel, 2001). Hence, the constructivist approach illustrates clearly that

preferences in the EU are influenced by many different identities. Utilising constructivism allows one to illustrate the complexities inherent in EU asylum and migration policymaking where a range of different preferences are present, due to the multiplicity of actors from different nations involved in the policymaking process. In addition, it helps to better understand the policy process by focusing on the significant role played by the socialisation processes of actors on policy outcomes.

Consequently, a constructivist perspective introduces a unique understanding of power focused on its non-material qualities. Hence if shared ideas, norms, and identities are determinants for the behaviour of actors, it follows that important soft political resources are drawn from the ideational sphere. These 'sociological' resources influence the way a policy area or an issue are framed rather than focusing solely on the formal procedural and institutional rules that guide policymaking in that area. Actors, therefore, can gain significant power if they are able to persuade other actors to accept certain norms and ideas. They can achieve this by framing the field in a way that suits their preferences and interests. Policy frames, however, far from being just a tool in the hands of some actors, grow and establish themselves beyond actors' control and become 'the rules of the game' for all. Frames and actors, therefore, are mutually constitutive: actors can influence the sphere of shared ideas, norms, and beliefs by imposing or transforming a frame. The categories and ideational elements implied by the frame, in turn, will play a role in constructing the interests and in guiding the behaviour of actors (Risse, 2004). Furthermore, constructivists' accounts do not view institutions as setting external constraints on actors but rather as endogenous to interaction through which they can shape the identities and, subsequently, the interests of actors.

Social constructivism, therefore, provides a methodology to examine the underlying social dimension of EU asylum and migration policymaking in the context

of irregular migration and offers an important contribution to the field of EU migration studies by focusing on the role of norms, identity, and other national cultural aspects in shaping state preferences and international relations.

The lenses of social constructivism and securitisation build on each other and allow for a better understanding of how the security aspect has become the most significant variable in terms of how member states are dealing with irregular migration. With regard to the concept of securitisation, its importance lies in that the issue of irregular migration in the EU is increasingly perceived as a security threat - resulting in the EU focus increasingly shifting towards restrictive migration policies. At the national level, in addition to the perception of irregular migration as a threat to national security, the issue is also being increasingly viewed as a threat to cultural identity. In this regard, the application of the lens of social constructivism adds credence to the securitisation theory by exploring further how social interaction changes the way security is perceived over time. Hence, the theory helps to provide a deeper understanding of how the issue of irregular migration is increasingly viewed as a threat to cultural identity, and that as a result, EU governments are pursuing more restrictive national migration policies.

Finally, in the context of EU policymaking, the perceived uneven balance of power among EU member states (mainly due to area/land size and economical/wealth factors) when coordinating policy and ensuring system preferences, balance of power and **alliance theories** must also be incorporated into the analysis. The assumption that states form alliances to escape control from more powerful states forms the basis of traditional balance of power theory (Walt, 1985). National interests are by definition always unique to any one state, but may well, and indeed regularly do, temporarily line up with those of other states, and this is how intergovernmental cooperation and alliances are created (Buchan, 2012). States, thus enter into

alliances with one another in order to supplement each other's capabilities and can take several forms, depending on the circumstances under which they come into play, the level of cooperation and their ambit (Dwivedi 2012, p. 227). George Liska's work in 1962 was the first in the sphere of theory of alliances. He emphasised the relevance of traditional alliance patterns in the contemporary international system claiming that 'it is impossible to speak of IR without referring to alliances; the two often merge in all but name' (Liska 1962, p. 3). Thus, according to Liska, the decision to align, or not align, in what form, and with whom is part of a deliberate policy, and is made with reference to national interests. In the context of EU policymaking, alliances typically are formed based on similar preferences. Preferences, therefore, involve (1) the national preferences of EU member states, (2) the preferences of EU institutions, and (3) the preferences of groups of states. In addition, with regard to the latter, these alliances change depending on the issue in question. Hence the usefulness of the lens of **alliance theory** in seeking to understand these alliances in terms of EU policymaking in the context of irregular migration over a period of time, in particular, in explaining coalition formation in the Justice and Home Affairs (JHA) Council.

One of the central questions concerning alliance formation is what determines who allies with whom (Snyder, 1990), particularly in politically-sensitive policy areas. In this regard, solidarity and intra-EU relocation of asylum seekers are of particular interest for those member states on the EU's southern periphery, such as Italy, Greece, Spain and Malta, where asylum seekers crossing the Mediterranean mainly arrive. Hence, the formation of the Southern alliance in this policy area. In contrast, Central and Eastern members Hungary, Poland, Slovakia and the Czech Republic, have transitioned into a more self-assertive alliance following the refugee crisis (2015-2017) when all four Visegrád capitals underscored that they would reject any

form of automatic relocation mechanism to distribute asylum seekers across EU member states.

The inclusion of the various theoretical approaches outlined above thus has allowed for the construction of a useful framework in order to fully address the research questions and enable a more comprehensive analysis of EU asylum and migration policymaking in the context of irregular migration. Each of the selected theories, therefore, are important as they bring order and inform all the empirical chapters. The different theoretical approaches have enabled a deeper understanding of how EU policymaking in the context of irregular migration has been influenced by various actors across the multiple levels of governance in both national and supranational arenas, and how the diverse policy approaches, both at the institutional and national level, are impacting on EU migration governance as well as on the relations between EU actors. Figure 3.2 below provides a visual representation of the various theoretical approaches employed in the study, how they are linked, and the hierarchy between them. It makes clear that the public policy models have been selected as the overarching theory as they shed light on changing preferences and rules/institutions in EU policymaking in the context of irregular migration, which is the core of this study. The theories that follow comprise the analytical set of tools necessary to examine specific aspects of the study.

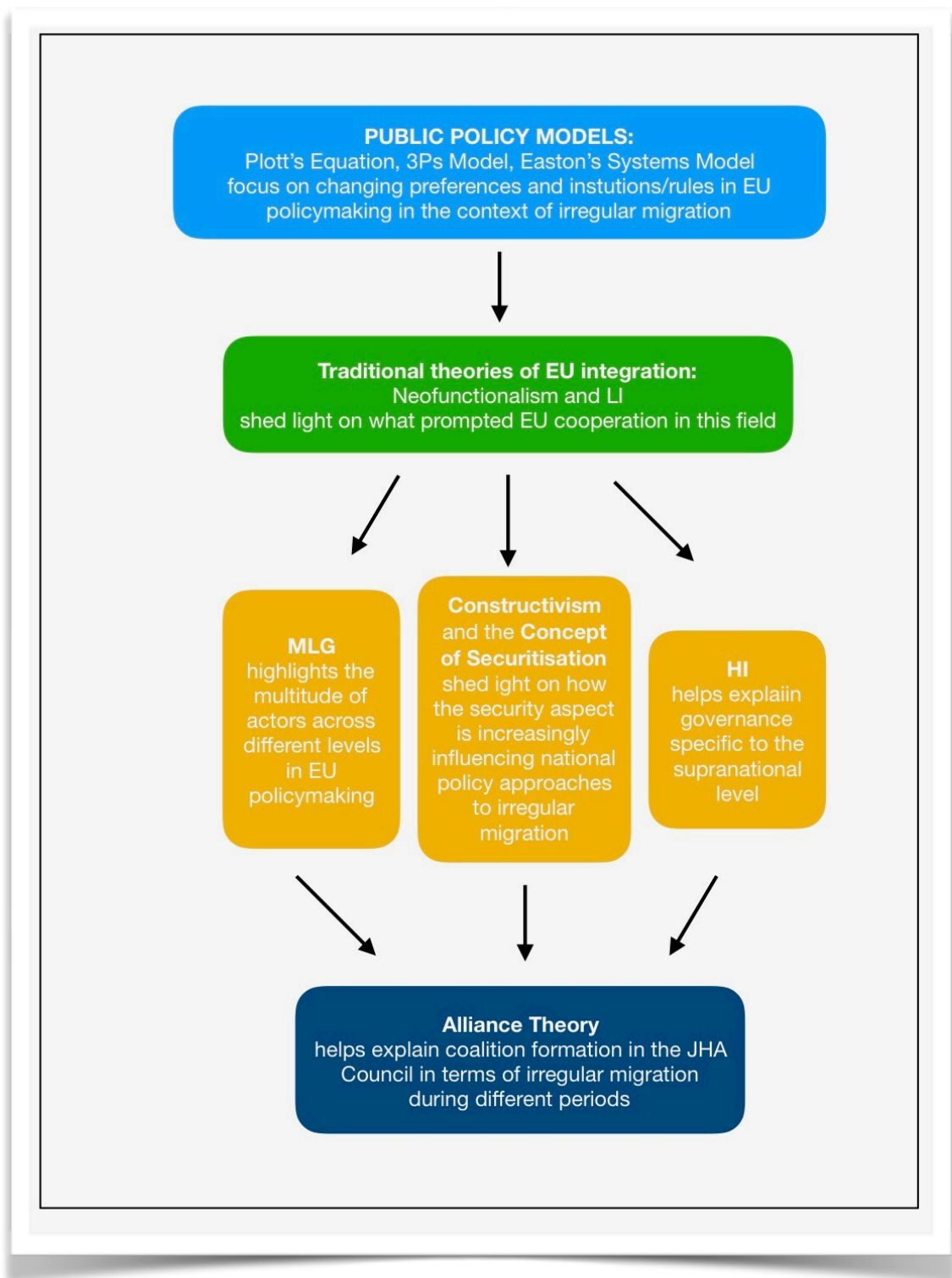


Figure 3.2: The Theoretical Framework (compiled by the author)

The traditional schools of thought, neofunctionalism and LI, have allowed for a better understanding of why policymaking in this field is resulting in tension between the national and supranational levels. Subsequently, the lenses of MLG, constructivism, the concept of securitisation and HI have been employed in order to examine specific aspects of the study.

The application of the lens of MLG has shed light on the multitude of actors in EU policymaking, and thus provides a deeper understanding of the complexity therein. Constructivism and the concept of securitisation have allowed for a deeper understanding of EU actors' (changing) preferences in terms of how to deal with irregular migration, which are increasingly resulting in a shift towards restrictive migration policies. Consequently, the lens of HI sheds light on the changing relationship between supranational institutions and EU member states over a period of time and on whether member states are becoming more constrained by EU institutions and rules. Finally, alliance theory has been applied for its usefulness in providing insight into coalition formation in the Council of the EU in terms of asylum and migration policymaking in the context of irregular migration.

To conclude, the application of the various theoretical approaches adds value to the study. Previous studies in this area of research have not utilised public policy models. The incorporation of such models together with IR theories thus has resulted in a novel approach in dealing with this policy area. Accordingly, in addition to its empirical contribution, the study also contributes theoretically to the field of EU migration studies through the application of the theories and approaches outlined above. The chapter proceeds with explaining in more detail how the theoretical framework is applied to the study.

3.2.2 Application of theories to empirical research

One of the main contributions of this study involves shedding light on how the EU and its member states have dealt with the policy area of asylum and migration in the context of irregular migration during the years 2013-2018 - being the period before, during and after the refugee crisis - through the lenses of the various theories and approaches put forward in the previous section. The following pages explain how the selected theories and approaches are applied to the research questions. As indicated earlier in this chapter, the study makes primary use of public policy models both to analyze and explain the questions but also to incorporate the other theories discussed above in order to ensure that these models reflect the needs and the behaviour of actors as well as the outcomes in EU asylum and migration policymaking, and the complexity therein.

Plott's equation (preferences x institutions = outcomes), as well as the 3Ps model (politics, polity, policy) and Easton's system model (inputs, conversion/throughput, outputs), are used to analyze the challenges faced in the development and (uneven) implementation of EU asylum and migration policies. In practice, since 2004, EU membership has grown from fifteen to twenty-eight states, primarily including CEE states, bringing new national preferences, and hence, a change in migration governance. At the same time, recent general elections taking place across EU member states have resulted in a decline in traditional mainstream political parties - which had dominated national politics since the end of WWII - and a rise in support for right-wing populist parties in several member states, with some even taking the reins of government. This new political scenario has led to different outcomes (policies/outputs), namely restrictive migration policies. Plott's 'fundamental equation of politics' is particularly useful in the analysis of the impact of national and

institutional preferences on outcomes during the three phases mentioned above, covering the period from 2013 to 2018, which includes the refugee crisis. The rationale here is that the limitations of policy outcomes are best illustrated in times of crisis. This is because when the EU is not in crisis, the models are not stretched to their limit. Crisis situations, therefore, provide a litmus test of the EU's capacity to develop satisfactory policy outcomes. The public policy models thus are applied with the assistance of the theories discussed above as follows.

The two dominant schools of thought of European integration, **neofunctionalism** and **LI**, are applied to evaluate the first research question - *Why is EU asylum and migration policymaking in the context of irregular migration resulting in tensions both between and within the national and supranational levels?* As aforementioned, EU policy approaches to irregular migration are in constant conflict, both at the institutional and national level, as well as between both levels, due to the diversity of interests within the EU. For instance, at the national level, varying political cultures and migration traditions, as well as the asymmetrical distribution of asylum responsibility among member states, have shaped differing national preferences. Moreover, this diversity of interests changes over time as a result of the changing context within which policymaking takes place, such as new governments taking office. This diversity of ever-changing interests, therefore, results in tensions both within EU institutions and EU member states, as well as between the levels.

In view of this, the traditional theories of regional integration are useful to better understand what prompted EU member states to cooperate in matters of asylum and migration. On the one hand, from the neofunctionalist lens EU cooperation in this field is the result of 'spillover' from one segment of policymaking at the supranational level - i.e., the establishment of the Single Market and Schengen Area in the 1980s - to the asylum and migration domain. On the other hand, the usefulness of the

opposing, state-centric view of LI lies in its assumption that cooperation in matters of asylum and migration was triggered by member states' decision to pursue a certain policy based on their national preferences, created as a result of influences coming from the domestic environment. Thus by shedding light on *why* EU asylum and migration policymaking in the context of irregular migration is resulting in tensions both between and within the national and supranational levels, the distinct theoretical standpoints also highlight the challenge in reaching political agreement in this sovereignty-sensitive policy domain.

The concept of **securitisation**, together with **constructivism** and **alliance theory**, are employed in the analysis of the different EU policy approaches to irregular migration and the resulting impact on EU migration governance. Hence they help to answer the second research question - *How are the diverse EU policy approaches to irregular migration impacting on EU migration governance?* Deep divisions have been exposed in the EU resulting from differing policy approaches of EU member states and institutions to irregular migration, particularly following the outbreak of the refugee crisis in 2015. In addition, the overall functioning of the Schengen regime, one of the major achievements of European integration, is under threat as some member states have 'temporarily' reinstated border controls (from 2015 to the present day) to prevent secondary movements of irregular migrants from neighbouring member states. Consequently, EU migration governance is increasingly characterised by restrictive policies as well as the emergence of *ad hoc* and unilateral measures and a shift towards intergovernmental decision-making.

The concept of securitisation is applied to test whether the 'securitisation of migration' varies from one member state to another, and if so, whether different perceptions of irregular migration give rise to a different set of policy responses. Then, the lens of constructivism is utilised to explore whether non-material social

factors, namely identity, are in fact, the driving forces in determining member states' policy approaches to irregular migration. Lastly, alliance theory is applied in seeking to understand coalition formation in the JHA Council negotiations, prior to, during and post the refugee crisis, in the context of EU asylum and migration policymaking. The different lenses thus shed light on how the diverse policy approaches to irregular migration, both at the institutional and national level, are impacting on EU migration governance.

With regard to the third and final question - *What implications can be drawn from the EU responses, both at the institutional and national levels, towards the refugee crisis (2015-2017), and how has this affected relations between the EU and its member states?* - the theories of **LI**, **MLG** and **HI** are utilised in the analysis of the EU response to the refugee crisis, which brought to the fore EU inability to act cohesively in the face of migration pressures and resulted in new divisions within the Union. The theories are applied in the analysis of the most contentious aspect of the EU response to the crisis: the temporary relocation mechanism of 160,000 migrants from Italy and Greece to other member states over the period 2015 to 2017. Divergences within the EU over this matter led to the emergence of a new East-West cleavage in addition to an exacerbated North-South dispute over 'burden-sharing' of asylum seekers, with Central-Eastern members refusing to relocate migrants from the frontline members. Hence, for the first time since the Eastern enlargement of the EU, an East-West split emerged in the area of JHA.

The theoretical lenses of LI, MLG and HI offer useful insights through which to examine the challenges facing the delegation of sovereign powers in the field of asylum and migration to the supranational level, as well as the absence of solidarity among member states, particularly in times of crisis. From the state-centric view of LI, when a crisis occurs governments respond rationally, and as a result, negotiate to

achieve the outcome that maximises their national interest. Thereby, the theory is applied to the analysis of the JHA negotiations in relation to the temporary relocation mechanism. Then, the concept of MLG, which views the process of EU policymaking as a complex web of interaction between various levels of governance, is applied to help understand which factors drive policymaking at the different levels of governance, and the extent to which such factors lead to convergence or divergence of EU asylum and migration policies. Finally, HI's assumption that states did not foresee the impact of institutions and as a result will lose control over them is applied to the analysis on whether member states are gaining or losing control in the asylum and migration policy domain, and how this is impacting on the relations between the EU and its member states.

Having established the theoretical foundation, it is now necessary to reflect upon how evidence has been collected to support the arguments adopted in this study. The research design and approach together with the specific data sources chosen, collection methods and data analysis, are all considered to be part of the methodology of this study and are set out in the following section.

3.3 Methodology

This study proposes an empirical analysis employing mainly qualitative research methods, primarily document analysis although a number of semi-structured interviews were also utilised, as well as quantitative methods such as official EU statistics. It also adopts a case study approach, seeing that this particular method 'provides tools for researchers to study complex phenomena within their

contexts' (Baxter and Jack 2008, p. 544). The research methodology is outlined in the following pages as follows. First, the research design and the research approach are put forward, followed by the rationale for the case study selection. The next two sections describe the data sources and collection methods utilised, in addition to the chosen methods of data analysis. The final section addresses the issues of validity and reliability, and the principles for the ethical conduct of interviews. Thereby, a framework is constructed which will serve as the basis for the analysis of the research questions.

3.3.1 Research design and approach

Within a primarily qualitative framework and an interpretivist stance, this study aims to analyze the impact of EU policy approaches to irregular migration on the relations between member states, among EU institutions, and between member states and EU institutions, and ultimately on EU migration governance. The analysis of such phenomena was rather complicated. It was also, as far as I am aware, not yet conducted by other academics. Consequently, the research provided in this study is for the most part exploratory. Furthermore, since the study primarily employs a qualitative approach, its design is flexible, hence it was able to evolve throughout the whole research process.

The main advantage of the qualitative approach is that it 'is useful to uncover what lies behind the phenomenon about which little is known and which is highly complex' (Strauss and Corbin 1990, p. 19). Therefore, within a primarily qualitative research paradigm, the study adopts an interpretive paradigm. The interpretivist approach is well-suited for the social sciences lending credence to the understanding

of themes (Blaxter et al. 2010). 'In qualitative research, rather than using a measurement scale as an instrument of observation, the researcher is the instrument of observation' (Durrheim 2007, p. 51). The interpretive approach, therefore, combines the continuous processes of data collection and analysis, possibly resulting in the creation of new research questions.

From the interpretivist standpoint, the results of (qualitative) research are an individual interpretation of fact, based firmly on a systematic approach to analysis (generating themes) and the maintenance of an open mind (avoiding bias) (Denscombe, 2002). As a result, interview questions were adapted and reformulated in response to data collected, following a semi-structured approach which allowed the researcher to concentrate on the specific phenomena under examination. In addition, although interpretive research tends to rely heavily on qualitative data, quantitative data may add more precision and clearer understanding of the phenomenon under investigation, hence the study also incorporates statistical analysis.

Exploratory research was carried out to answer the research questions. The main objective of exploratory research is to uncover a given situation and identify any concrete goals or required data to be tackled via further research. Barker et al. (2002 cited in Elliot and Timulak 2005, p. 149) suggest that such research is 'typically used when there is little known in a particular research area, existing research is confusing, contradictory, or not moving forward or the topic is highly complex'. Hence within the exploratory-interpretive branch of qualitative research, the research questions sought to determine why the phenomenon comes about, and, how it unfolds over time. In other words, why EU asylum and migration policymaking in the context of irregular migration results in tensions between EU member states and

institutions, and how this impacts on the relations between EU actors involved in the decision-making process and on EU migration governance.

Primary data from official EU documentation and statistics from the websites of the EU institutions and agencies including debates of the European Parliament, as well as from semi-structured interviews conducted in Malta, Italy, and Belgium with experts in the field of asylum and migration, was an effective way of carrying out exploratory research. Other methods such as formal questionnaires were deemed inappropriate in order to answer the research questions. The research also draws upon a range of secondary sources including books, academic journals, reports and studies of non-governmental organisations (NGOs) and independent think tanks which keep a close watch on the developments in EU asylum and migration policy. Having established the key features of the research design and approach, the next section explains the methodological justification for the case selection.

3.3.2 Justification for case selection

The value of the case study approach has been widely acknowledged in the literature as a qualitative research method to investigate situations in the real world. According to Hartley (2004, p. 323), the approach is currently widely used in the social sciences and there is growing confidence in its applicability as ‘a rigorous research strategy in its own right’. Various definitions have been given to the case study approach including ‘a research strategy which focuses on understanding the dynamics present within single settings’ (Eisenhardt 1989, p. 534), and

an empirical inquiry that investigates a contemporary phenomenon in depth within its real-life context, especially when the boundaries between phenomenon and context are not clearly evident (Yin 2009, p. 18).

In accordance with Yin, Merriam (1998, p. 27) holds that boundaries are key in defining case studies. She asserts that the 'single most defining characteristic of case study research lies in delimiting the object of study: the case'. Hence the case is a unit, entity, or phenomenon with defined boundaries that the researcher can demarcate or 'fence in', and therefore, can also determine what will not be studied. The case study approach is also suitable when the objective is to find hints for additional research. Creswell (2013) and Gerring (2017) underline that the exploratory nature of the case study is what gives it the advantage of gaining in-depth knowledge of a phenomenon. This is the rationale behind the case selection of the EU response to the refugee crisis (2015-2017).

Investigating the case leads to gaining insight into the impact of the different EU policy responses to irregular migration on the relations between EU member states, among EU institutions, and between member states and institutions, and ultimately on EU migration governance. Although considerable scholarly research has been devoted to certain aspects of the refugee crisis such as the humanitarian consequences and the failure of EU asylum policies, rather less attention has been paid to the impact of the EU response on the relations between EU actors. Therefore, by analysing the impact of the EU response on relations between EU member states and institutions, on EU migration governance, as well as its implications for the future of the European project, the study also contributes to the emerging academic literature on the refugee crisis.

The case study captures a particular period in EU migration governance, including events from April 2015 to September 2017, being the period when irregular arrivals peaked and when the debate on the crisis was the most intense. Although irregular migration had been at the top of the EU political agenda for over a decade, the political importance it achieved following the outbreak of the refugee crisis in 2015 is without parallel. During the peak of the crisis, the EU received an unprecedented influx of asylum seekers, resulting in over three million asylum applications, sparking a crisis as EU institutions and member states struggled to cope with the influx. More importantly, the question of how to deal with the phenomenon has become the most divisive issue within the EU, at both national and EU level, highlighting the importance of the case. Indeed, the case study of the EU response to the refugee crisis is particularly interesting as it reveals the impact of the diverse interests of EU member states and institutions vis-à-vis irregular migration, resulting in divisions within the EU that have grown to a level where they may threaten the entire European project.

Furthermore, the case study illustrates that in the wake of the refugee crisis, the issue of how to deal with irregular migration became a top priority within the EU, at both national and supranational level, leading to increased attention to the asylum and migration policy domain, thus enhancing its salience. This is what McLean and McMillan (2009, p. 473) define as 'the importance of a political issue'. The case study of the EU response to the refugee crisis, therefore, fits into Payne and Payne's (2004, p. 31) definition of a case study:

A very detailed research enquiry into a single example of a political process, organization or collectivity seen as a political unit in its own right and as a holistic entity.

Having laid out the research design and approach, the next section outlines the data sources and collection methods.

3.3.3 Data sources and collection methods

The study draws extensively on EU documents and official publications of the EU institutions and agencies, available from the EU's official portal (<http://www.europa.eu>) including the EUR-Lex legal database which provides access to EU legislation and the EU Official Journal as well as other related documents. As regards primary quantitative data, most have been collected from the Eurostat, Frontex and EASO official websites. Seminar, workshop and conference attendance were also particularly useful in terms of providing direction to sources. These included the Odysseus Network Summer School (2016) and Annual Conference on EU Asylum and Migration Policy (2017) in Brussels, as well as other conferences and seminars organised by the Università di Pisa and the European University Institute (Florence) during my Erasmus+ mobility period in Italy (2017-2018). Besides document analysis, primary qualitative data has been gathered via semi-structured face-to-face interviews conducted by the researcher with experts in the field of irregular migration in the EU including the previous Maltese Prime Minister, the technical attaché from the JHA unit within the PermRep of Malta to the EU, Maltese MEPs, as well as experts from academia. Interviews were conducted in Malta, Italy, and Belgium, apart from one which was carried out via email (Table 3.1).

These interviews were necessary to gather more specific information in relation to the research questions, such as participants' positions concerning coalition-building in the Council and the EP in terms of the EU response to irregular migration, as well as to gain more specific data when the formal documents lacked satisfactory information. The key advantage of the qualitative research interview in exploratory research is that, if need be, the person conducting the interview has the opportunity

to clarify questions by adding more details, possibly resulting in an enhancement of the quality, accuracy, and the amount of information gathered.

Kvale (1996, p. 174) defines a semi-structured interview as ‘neither a free conversation nor a highly structured questionnaire’, characterised ‘by a methodological awareness of forms of questioning, focusing on what is said during the dyadic interplay between interviewer and interviewee’ (Qu and Dumay 2011, p. 242). Hence, during the interviews, the questions allowed scope for the respondent to express himself or herself at length. Nevertheless, it is important to point out that participants expressed the wish not to be identified directly with a particular statement.

Participants were selected on the basis of the following three criteria:

- (1) Does the person have the required information?
- (2) Would he/she be willing to share it with me?
- (3) Would the person be available for an interview?

Though seemingly obvious, the third question is of utmost importance as it is not always straightforward to arrange for an interview with experts, especially with high-profile individuals. There may be cases where a person may not be interested to participate in the first place or may be willing to participate but not able to take time off from a busy schedule. In order to encourage participation, all interviews were conducted in a location convenient for the participants, usually at their place of work (in Malta, Italy, and Belgium), whilst one was carried out via email.

Name of interviewee	Position	Place of interview	Date of interview
Alison Gatt	Immigration and asylum attaché, Perm Rep of Malta to the EU	Perm Rep of Malta to the EU, Brussels, Belgium	6 July 2016
Roberta Metsola	MEP (EPP)	Dar Centrali PN, Pieta', Malta	17 August 2016
Marlene Mizzi	MEP (S&D)	Vincenti Buildings, Valletta, Malta	19 September 2016
Miriam Dalli	MEP (S&D)	via email	16 October 2016
Joseph Muscat	Prime Minister of Malta	OPM, Valletta, Malta	6 March 2017
Gabriele Tomei	Associate Lecturer in Sociology	Universita' di Pisa, Italy	28 March 2018
Eugenio Pizzimenti	Associate Lecturer in Political Science	Universita' di Pisa, Italy	30 March 2018
Giovanna Pizzanelli	Associate Lecturer in Administrative Law	Universita' di Pisa, Italy	9 April 2018
Marcello di Filippo	Associate Lecturer in International Law	Universita' di Pisa, Italy	9 July 2018
Francesco Tamburini	Associate Lecturer in Political Science	Universita' di Pisa, Italy	9 November 2018

Table 3.1 Semi-structured interviews conducted by the author.

I decided to carry out research in Italy, given that it is one of the EU member states most impacted by irregular migration, due to its geographical position on the EU's external southern borders. With regard to the choice of University, the University of Pisa was selected on account of its 'Observatory on European Migration Law', a centre dedicated to issues related to migration based in the Department of Political Science. The Observatory allowed me to conduct expert interviews with academics who were not only knowledgeable in the field, but were also able to provide a

southern European perspective of the area under investigation. Hence the interviews were sufficient as the aim was not to produce a representative sample but to obtain broader details. In practice, the interviews were useful in providing directions to raw data as well as indicating that the research was moving in the right direction. In sum, the interviews helped me understand that the data I was utilising was relevant as well as what to look for and where, yet not in providing new data.

In terms of the criteria mentioned above, the importance of the first two resides in the fact that the research findings partly depend on the participant's level of expertise. Nonetheless, even though a person may have the required information, it cannot be assumed that this person will be willing to share that information. Thus to enhance the credibility of the qualitative analysis, research on the participants was carried out before the interviews took place to help determine whether they had the required information and would be likely to share it. In addition, rather than recording the interviews, the researcher opted for handwritten notes on the basis of the assumption that participants may be reluctant to share their information freely if they know that they are being recorded. Individual face-to-face (save one) semi-structured interviews were conducted between 2016 and 2018. Each lasted between thirty and sixty minutes. Open-ended questions were prepared in light of the research questions and were clear and conversational in tone. Examples of such questions include:

- What are your views on complementing the current Dublin system with an automatic allocation mechanism to support member states facing disproportionate pressures on their asylum systems?
- Are there any member states with whom Malta has forged alliances in the context of asylum and migration policymaking?
- In your opinion, did the refugee crisis affect EU asylum and migration policymaking? and if so, in what way/s?

Karnieli-Miller et al. (2009) argue that defining what knowledge is to count in such interviews is not always the exclusive right of the interviewer as interviewees bring their own agenda to the research situation. They explain that interviewees are able to determine the level of participation during the session by, for example, shifting the focus of the discussion or even terminating the interview. Besides being dependent on the participant's willingness to participate, the interviewer is also dependent on his/her willingness to disclose his/her thoughts and experiences regarding the issue at hand, as highlighted in the aforementioned criteria.

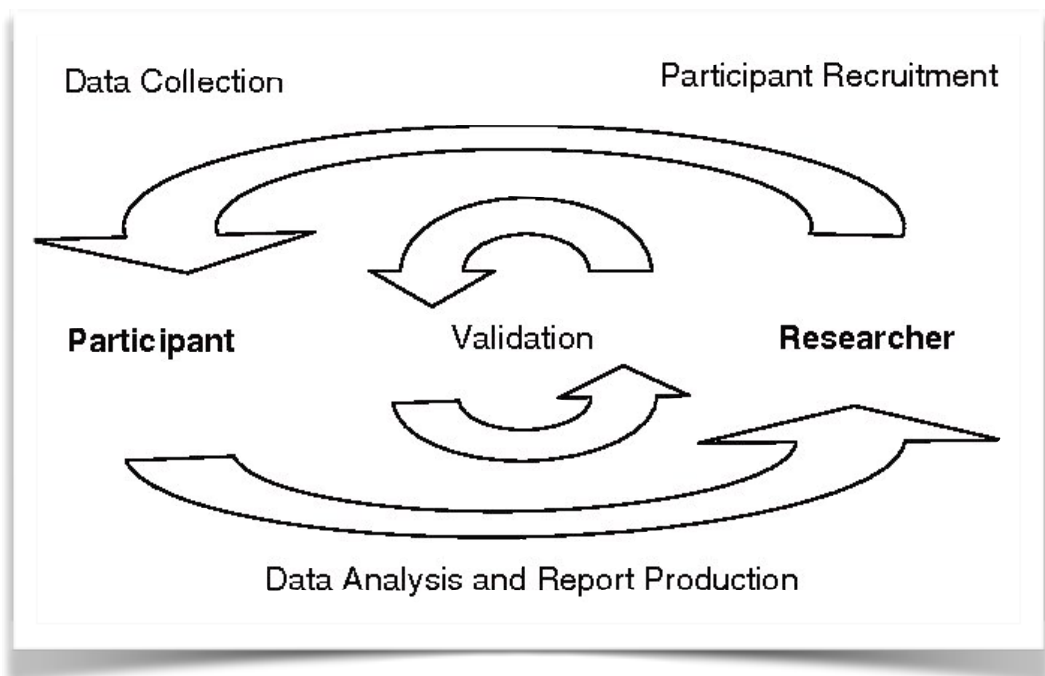


Figure 3.3: The flow of power relations in qualitative research
(Source: Karnieli-Miller et al. 2009, p. 284).

Triangulation²¹ of data sources provides a richness of data. Hence, a variety of secondary sources such as books, academic journals and newspapers were also used, as well as online academic databases, e-journals and e-books. Other

²¹ The term 'triangulation' refers to the practice of using multiple sources of data or multiple approaches to analyzing data to enhance the reliability of a research study (Denzin, 2006).

secondary sources used in the research include reports and studies of NGOs and independent think tanks such as the European Policy Centre (EPC), the Migration Policy Institute (MPI), the Centre for European Policy Studies (CEPS), and the International Centre for Migration Policy Development (ICMPD), all of which keep a close watch on the developments in EU asylum and migration policy. National country reports available on the websites of the Asylum Information Database (AIDA), European Migration Network (EMN), and the Global Detention Project (GDP) were utilised to analyze the differences between national asylum practices across EU member states, such as in detention conditions, residence permits, family reunification and citizenship for beneficiaries of international protection. The following section presents the methods of data analysis utilised to interpret the data collected, including issues of validity and reliability, as well as ethical considerations.

3.3.4 Data analysis

Data analysis pertains to the process of separating gathered data into various components for individual assessment, i.e., ‘breaking data down into bits, and then ‘beating’ the bits together’ (Bohm 1983, p. 125). ‘The core of qualitative analysis lies in the related processes of describing phenomena, classifying it, and seeing how the concepts interconnect’ (Dey 2005, p. 31). Hence, there is a close connection between data collection and data analysis. Moreover, as Krueger and Casey (2000, p. 128) affirm, data analysis should be ‘systematic, sequential, verifiable and continuous’.

The first step in data analysis involved developing thorough and comprehensive descriptions of the area under investigation. This has been referred to as ‘thick’

description (Geertz, 1973). Denzin (1978, p. 33) suggests that unlike 'thin' description - which is limited to stating facts - 'a 'thick' description comprises the broader context, the actor's intentions, and the process in which action is embedded. The focus, therefore, is on a 'holistic' approach to identify 'themes or issues in the data by absorbing them as a whole rather than by analyzing them line by line' (Dey 2005, p. 110).

Generating themes is a critical feature of the qualitative approach, and essential for data analysis. Data was analyzed throughout the entire research process, as themes facilitate the transformation of data into findings, from the planning of data collection to the writing of the final draft. Consequently, the data collected has been transformed into findings within different themes generated from the research questions. Furthermore, as Robson and Hedges (1993) advise, the data has been constantly reviewed and reassessed. The following section explains how the data collected has been analyzed in terms of the research questions.

The first research question - *Why is EU asylum and migration policymaking in the context of irregular migration resulting in tensions both between and within the national and supranational levels?* - aims at discovering the main factors influencing the approaches of EU member states and institutions to irregular migration, resulting in conflict over how to deal with the phenomenon. This involved utilising both qualitative and quantitative data. Primary data was derived from document analysis, drawing extensively on EU documents and official publications of the EU institutions and agencies, as well as official EU statistics from the Eurostat, EASO, and Frontex websites. Secondary data was procured from academic journals and books as well as reports and studies of NGOs and independent think tanks which closely monitor developments in the asylum and migration policy domain as well as the implementation of related policies at the national level.

The second question - *How are the diverse EU policy approaches to irregular migration impacting on EU migration governance?* - aims at revealing policy outcomes in the field of asylum and migration in the context of irregular migration, such as whether the EU is shifting towards more restrictive policies and whether decision-making in this policy domain is increasingly characterised by an intergovernmental logic. It also aims to reveal the dynamics at both national and EU level which are influencing EU policy choices on asylum and migration, and how the levels of policymaking interact. In order to answer the question, secondary data from academic journals, reports and studies of NGOs and independent think tanks have been used, in particular, the AIDA and EMN country reports, as well as primary qualitative data from semi-structured expert interviews.

The final question - *What implications can be drawn from the EU responses, both at the institutional and national levels, towards the refugee crisis (2015-2017), and how has this affected relations between the EU and its member states?* - aims at illustrating the impact of both EU and unilateral policy initiatives developed to deal with the refugee crisis (2015-2017) on the relations between EU institutions and member states. Primary quantitative data, involving official EU statistics, from the Eurostat, EASO and Frontex websites were used to answer the question. Secondary data such as academic journals, reports and studies of NGOs and independent think tanks which closely monitor the developments in EU asylum and migration policy have also been employed.

3.3.4.1 Validity and reliability

Validity is ensured through a clear starting point when it comes to research perspective and purpose, whilst reliability refers to reliable data and requires accurate tools of measurement. Previous research, as well as the theoretical and methodological frameworks, have been clearly defined and explained to help the reader decide on reliability. During the data analysis process, each step has been examined thoroughly by the principal supervisor. Furthermore, by using multiple sources, data and methods, the researcher is able to corroborate the evidence that strengthens the reliability (Creswell, 2013).

First, the research is tied to a specific period of time (2013-2018) and incorporates a case study (2015-2017). Second, the research design involves a combination of techniques such as document analysis and semi-structured expert interviews in order to answer the research questions. Third, the researcher has also sought to confirm data gathered from expert interviews by means of document analysis and/or double-check with other participants, whenever possible. This approach served to enhance the reliability of interpretation by taking into account discrepancies in the overall understanding of the text by readers other than the researcher, in this case, the principal supervisor, who provided constant and constructive feedback on findings and interpretations.

The final measurement for establishing the quality of this thesis is reliability. The objective of the reliability test is to downplay mistakes and biases in a study, by ensuring that if another researcher were to conduct the same procedures as described in this study he/she would arrive at the same findings and conclusions (Yin, 2009). In practice, however, this can only be applied to the documents analyzed and the quantitative data extracted from such documents.

3.3.4.2 Ethical considerations

As Blaxter et al. (2010, p. 161) postulate, 'the conduct of ethically informed social research should be a goal of all social researchers'. Several measures thus have been adopted to guarantee that the research was carried out in an ethical manner. The ethical standards that regulate the treatment of interviewees - as per the University of Malta Research Code of Practice - provided the basis for the methodological approach.

Researchers have a responsibility towards the participants as well as to the discipline of social science. The ethical obligation to protect participants of the study requires their informed consent, accurate information, and being aware that they are free to ask questions and also, completely withdraw from the study at any time. Position and objectivity of the researcher is another ethical concern. According to Smythe and Murray (2000), qualitative researchers face ethical challenges when engaging in constructing meaning based upon participants' narratives as this can result in contradictions between participants' interpretations and the interpretive understanding of the researcher.

All interviewees were fully informed of the research goals and what would be asked of them in order to be able to make an informed decision regarding their participation. Hence, consent was obtained from the participants prior to processing any personal data. Participants were informed of their rights as set out in the Data Protection Act, such as the right to access, rectify, and where applicable erase the data concerning them. They were also informed of their right to withdraw from the interview at any time, and which measures will be taken to protect their anonymity at all stages in the process. Finally, they were provided with the researcher's contact details to be able to request written information about their data and amend or erase

such data. All procedures were carried out in accordance with the guidelines outlined in the University of Malta Research Code of Practice found on the University Research Ethics Committee (UREC) website.

3.4 Conclusion

This chapter presented the theoretical framework and methodology guiding the research, including the research hypothesis and questions, the research design and approach, the data sources utilised and the chosen methods of data analysis, as well as the principles for the ethical conduct of interviews. The empirical analysis exploring the impact of EU policy responses to irregular migration on the relations between EU institutions, between member states and between EU institutions and member states, and subsequently on EU migration governance, is carried out in the following four chapters. The next chapter traces the evolution of EU cooperation in asylum and migration, in the context of irregular migration, focusing on key moments of institutional reform, in order to shed light on the difficulty in establishing common policies in this sovereignty-sensitive field.

The development of EU asylum and migration policies

This chapter analyzes the evolution of EU asylum and migration policies in the context of irregular migration. First, it examines the development of EU policymaking in this field through the lenses of the two traditional theories of European integration. Next, it presents an overview of the international legal instruments and traces the evolution of EU asylum and migration policy focusing on key moments of institutional reform until 2015, when the EU experienced an unprecedented influx of irregular migrants.²² The final part of the chapter summarises and discusses the challenges in establishing common asylum and migration policies, primarily resulting from the different EU policy approaches to irregular migration as well as the inherent tension between the setting up of supranational rules and the ceding of national sovereignty.

²² Subsequent EU policy developments in the field are discussed in the following chapter, which analyzes the case study of the refugee crisis (2015-2017).

4.1 Introduction

The first efforts to cooperate in matters of asylum and migration at the European level can be mainly attributed to the mass inflow of asylum seekers during the late 1980s and early 1990s, following the end of the Cold War and the collapse of communist regimes in CEE (Ette and Faist, 2007). As an initial response to the unprecedented influx, the then 12 EC states began to implement and coordinate policies to prevent irregular arrivals. During this period, two major problems were identified. The first involved the risk of 'asylum shopping', i.e., a situation in which migrants apply for asylum in more than one member state or seek to apply in a state other than the first state of arrival. The second challenge related to the possibility that asylum seekers would gravitate towards member states with more generous asylum and welfare systems.

As a result, the 12 EC states found themselves in need of a common solution to solve what was perceived as a transnational challenge. This led to the development of the Dublin Convention in 1990 and initial steps in the Maastricht Treaty of 1993, where issues of asylum and migration became 'matters of common interest' but were still dealt with on an intergovernmental basis. In 1997, the Treaty of Amsterdam, which amended Maastricht, included the objective to gradually establish an area of freedom, security and justice (AFSJ) encompassing matters related to asylum and migration. Subsequently, at the Tampere European Council in 1999, member states agreed to harmonise their asylum systems based on binding legislation towards the creation of a Common European Asylum System (CEAS).

Nevertheless, despite EU efforts to harmonise asylum legislation, spanning over two decades, significant differences persist in the recognition rates, provision of reception conditions and procedural guarantees for asylum seekers across EU

member states. In practice, these divergences are the result of the ambiguous provisions in the asylum directives, however, and more importantly, they reflect the diversity in national preferences in terms of how to deal with irregular migration. This highlights the difficulty not only in developing policies in this field but even more so, in harmonising common standards across the EU. Consequently, the EU has not managed to achieve the objective of creating a 'level playing field', i.e., to provide equal treatment for asylum seekers and the same outcome on their asylum application across the EU. The chapter sets out by examining the development of EU asylum and migration policy through the lenses of the two main schools of thought of European integration.

4.2 Theorising the development of EU asylum and migration policy

As has been pointed out earlier, member states are more willing to cede power to the supranational level when national interest or national sovereignty is *not* at stake, while they are hesitant to give up control in policy areas that are closely tied to national security. Therefore, against this backdrop, why have member states decided to cede *some* sovereignty to the supranational level in issues related to asylum and migration, given that this policy domain is closely tied to national security and national interest? (Inzetta, 2012). The explanation for the evolution of European cooperation in the field of asylum and migration is illustrated, in particular, by two opposing views which, to a large extent, reflect the divide between the two major schools of thought of European integration. Notwithstanding their popularity in attempting to explain integration as a general phenomenon, there have been only a

few attempts to apply the two major theories to explain the drive towards European cooperation in asylum and migration policymaking (Gurzu, 2012).

The first perspective holds that states aim to solve national issues via international solutions (Keohane and Nye, 2001). From this viewpoint, European cooperation in the area of asylum and migration is a result of (individual) member states' inability to control irregular migration. This line of reasoning is closely connected to the main assumptions underpinning neofunctionalism, primarily that 'spillover' and 'unintended consequences' from other policy areas provide the impetus for developing common asylum and migration policies. From the neofunctionalist lens, the transfer of decision-making power in the field of asylum and migration thus is spillover from the consequences of the 1986 Single European Act (SEA), and in particular, the implementation of the Single European Market (SEM) in 1993. In other words, the construction of the single market, with its aim to create a common market based on the 'four freedoms' (the free movement of persons, goods, services and capital within the EU), elicited a countervailing response to preserve public order and internal security across the EU (Lavenex and Wallace, 2005).

The development of the Dublin Convention in 1990²³ and subsequently the CEAS in 1999, thus are seen as 'spillover' from the SEM and the free movement of people within an area without internal border controls. Neofunctionalists argue that the Dublin Convention is a spillover effect from the 1985 Schengen Agreement for two main reasons: (1) it was necessary for the Schengen Area to function effectively, enabling EU citizens to cross internal borders without undergoing border checks, and (2) member states required a European solution to protect them against cross-border organised crime, such as the provision of illicit goods and services including human

²³ Convention determining the State responsible for examining applications for asylum lodged in one of the Member States of the European Communities, 15 June 1990.

trafficking, given that individual member states could not solve the issue at the domestic level.

According to neofunctionalists, member states' subsequently embarked on a process to develop, implement and harmonise common asylum and migration policies (agreed upon at the Tampere European Council in 1999). Therefore, from this perspective, the development of the CEAS emerged as a result of member states' need of a common policy that would enable the proper functioning of Schengen as well as protect them against transnational organised crime. Hence, policymaking at the supranational level spilled over to the asylum and migration domain.

The opposing view on EU cooperation in the field of asylum and migration takes a state-centric stand. The point of departure here 'is the nation state which indeed has the power to manage international migration and control national territory' (Zolberg 1999 cited in Ette and Faist 2007, p. 8). Two different ideas emerge from this standpoint. The first is closely related to LI and argues that exogenous pressures caused by increasing irregular migration and cross-border organised crime cause 'convergence of national preferences and therefore establish a precondition for cooperation. From this perspective, the EU provides an arena for member states to cooperate with the aim of reducing negative externalities' (Moravcsik 1993 cited in Ette and Faist 2007, p. 8). The second idea holds that member states' political constraints including NGOs, far-right parties and public opinion (endogenous pressures), is what induces them to cooperate at the EU level (Ette and Faist 2007, p. 8). European cooperation in matters of asylum and migration, therefore, results from the possibility for member states to avoid national political constraints by shifting to the new 'venue' provided by the supranational level (Guiraudon 2000, 2003; Huysmans 2000 cited in Ette and Faist 2007, p. 8).

According to liberal intergovernmentalists, cooperation in a given policy area stems from a collective outcome of member states' rational choices (Moravcsik and Schimmelfennig, 2009). Hence, member states are willing to cooperate as it is beneficial both for their political and economic interests (Niemann and Schmitter, 2009). For instance, in the negotiations of the Dublin III Regulation, the most geographically exposed member states to irregular migration, such as Italy, Greece and Malta, formed similar national preferences and called for a 'burden-sharing' system, whereas the more shielded states, such as France, Germany and the Netherlands, obstructed the proposal. This also highlights that although the issue of irregular migration is at the top of the political agenda in most member states, varying national preferences often result in different outputs in terms of how to deal with the phenomenon. Based on the above cursory analysis, therefore, which of the two theories is best able to explain what prompted member states to cooperate in the field of asylum and migration?

From the neofunctionalist lens, integration in the asylum and migration policy domain is unavoidable and essential for the functionality of other EU policy areas (Inzetta, 2012). In contrast, the liberal intergovernmentalist view holds that despite the asymmetrical impact of irregular migration across the EU, it was a rational decision of member states to cooperate driven by a common goal to reduce negative externalities (Thielemann, 2009). The theories thus offer different perspectives which shed light on what prompted member states to cooperate in this highly contested policy domain. However, in the context of understanding how the creation of the internal market led to the development of the CEAS, neofunctionalism arguably provides a better explanation as it demonstrates how cooperation in matters of asylum and migration has been driven by economic integration.

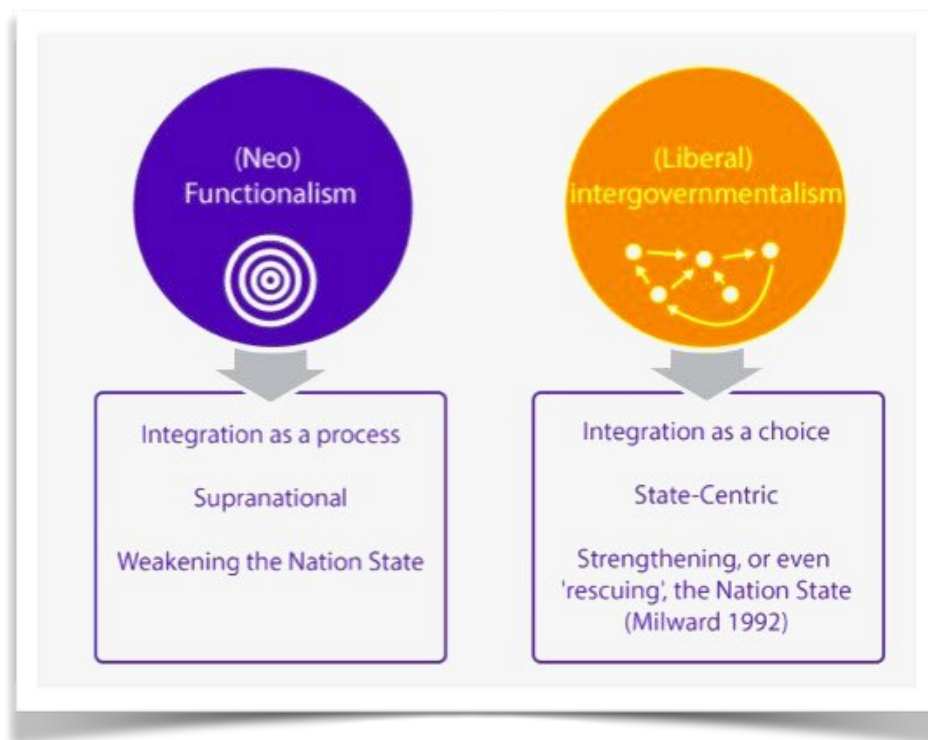


Figure 4.1: (Neo) functionalism vs (Liberal) intergovernmentalism
(Source: University of Portsmouth, 2013a).

Indeed, following the establishment of the principle of freedom of movement for persons within the EU, the requirement to manage a common external border became increasingly evident. This led to the development of common asylum standards within the EU and the 'external dimension' of cooperation on asylum and migration (Betts 2009, p. 181). Nonetheless, despite their usefulness in helping to explain what prompted EU cooperation in this field, both theories fail to shed light on the complexities in EU asylum and migration policymaking - this will be further explored in the following three chapters. The next section briefly discusses the two primary international conventions on which the CEAS is based.

4.3 International legal framework: background

As a starting point, it is important to note that EU asylum legislation did not emerge as an independent legal framework but has relied on international obligations already in place, regulated by the provisions of the 1951 UN Refugee Convention and the 1953 European Convention on Human Rights (ECHR). The former establishes the definition of a refugee (Art. 1(A)(2))²⁴ as well as the rights afforded to those granted international protection. Initially limited to protecting the millions of Europeans uprooted by WWII, it was later amended by the 1967 Protocol which effectively removed the geographical and time limitations stated in the 1951 Convention. EU primary law²⁵, as well as secondary legislation,²⁶ provide a legally binding commitment to respect the Convention and its Protocol. The 1951 Convention establishes the principle of *non-refoulement*, the cornerstone of international refugee law, which, in Article 33 (1) states:

No Contracting State shall expel or return ('refouler') a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.

It should also be noted, however, that hitherto the Convention does not allow for the accession of the EU. Hence, in contrast with its member states, the EU has not formally acceded to the UN Refugee Convention.

²⁴ The identification of the key terminology used in this study is explored in Section 1.5.

²⁵ Art. 78 (1) TFEU and Art. 18 Charter of the EU.

²⁶ Including regulations and directives, which are derived from the principles and objectives set out in the Treaties.

EU member states are also members of the Council of Europe (CoE) and consequently bound by the provisions of the ECHR. The European Court of Human Rights (ECtHR) interprets the ECHR as prohibiting the sending of anyone to a country where he or she would face a real risk of torture or inhuman or degrading treatment or punishment (Art. 3) (Pace, 2013). It also establishes the right to an effective remedy before a national authority (Art. 13). Accordingly, the ECtHR effectively turned the Convention into an instrument of refugee protection, despite the fact that the contracting parties had intentionally omitted the right to asylum therein (Hailbronner and Thym 2016, p. 8).

Of particular significance here is that, as in the case of the 1951 Refugee Convention, the EU does not have the necessary competence to become a party to the ECHR. Discussions concerning the EU's accession, ongoing for over 40 years, gained new momentum after the entry into force of the Treaty of Lisbon in 2009, which created the required legal ground. Nevertheless, the legal problems and complexities of the accession process have indeed made the fulfilment of this mandate a challenge for all the actors involved in both the CoE and the EU. In December 2014, the Court of Justice of the EU (CJEU) adopted one of the most controversial decisions in recent decades, precluding the EU from acceding to the ECHR,²⁷ thereby highlighting the power struggle of the European Court to maintain its perceived supremacy (Iglesias 2015; Peers 2015). Following the above discussion of the two primary international conventions in the context of international protection, the next section examines the development of EU asylum and migration policies, focusing on key moments of institutional reform.

²⁷ Opinion 2/13 of the Court, 18 December 2014 (CURIA, 2014).

4.4 The evolution of EU asylum and migration policies

European cooperation in the field of asylum and migration can be traced back to the mid-1970s. However, early cooperation took place outside the framework of the then European Community, on an entirely intergovernmental basis, until the Maastricht Treaty granted the EU its first, albeit modest, competences in this sovereignty-sensitive policy domain (Kaunert and Léonard, 2012b).

Nonetheless, the evolution of EU policymaking in this field has not been unproblematic. One of the major challenges concerns the issue of variable geometry. This means that besides the difficulty in establishing as well as harmonising common policies, some member states have obtained opt-outs from this policy area. Hence policies in this field do not apply to the EU as a whole as Protocols 21 and 22 attached to the TFEU state that Denmark, Ireland and the UK will not participate in the adoption of measures relating to the AFSJ, and will not be bound by measures adopted by the other EU member states. Table 4.1 below reveals how these protocols have allowed such member states to pick and choose participation in the JHA legislative instruments.

Legal Instrument	UK	Ireland	Denmark
Temporary Protection Directive (2001)	yes	yes - however it never adopted national legislation giving effect to the Directive	no
Qualification Directive (2011)	no - but remains bound by the previous QD (2004)	no - but remains bound by the previous QD (2004)	no
Asylum Procedures Directive (2013)	no - but remains bound by the previous APD (2005)	no - but remains bound by the previous APD (2005)	no
Reception Conditions Directive (2013)	no - but remains bound by the previous RCD (2003)	yes - since 2018	no
Dublin III Regulation (2013)	yes	yes	no - but signed an agreement with the EU associating itself with the contents of the former Dublin II Regulation (2003)
Schengen Agreement (1985)	no	no	yes

Table 4.1: Participation in legislative instruments: member states with opt-outs in JHA (Compiled by the author using data from the Europa.eu website).

4.4.1 Historical background: from intergovernmental cooperation...

Given that issues related to asylum and migration touch upon state sovereignty, the founding Treaties of the European Communities (EC) did not comprise any rules aimed at the ceding of competences from the national to the supranational level. The main objective of the 1957 Treaty of Rome,²⁸ which established the European Economic Community (EEC), involved the creation of a Single European Market based on four fundamental freedoms of movement. However, as mentioned

²⁸ Treaty establishing the European Economic Community, 1957.

previously, intergovernmental cooperation in the field of asylum and migration was slowly established from the mid-1970s.

The first instance of this was the **TREVI Group**, established during the European Council Summit in Rome in 1975, in order to fight terrorism and coordinate police cooperation on terrorism. The Group's work was based on intergovernmental cooperation between the EEC's 12 member states, excluding the Commission and the Parliament. A subsequent instance of intergovernmental cooperation in this field involved the '**Ad Hoc Group on Immigration**' set up in 1986 to coordinate member states' national asylum and migration policies, a goal which nonetheless proved too ambitious (McMahon, 2015).

In view of the increasing number of intergovernmental groups dealing with issues related to the free movement of persons, it was decided at the 1988 European Council meeting in Rhodes to establish a '**Group of Coordinators**' consisting of senior national civil servants, including the Commission as an observer. In 1989, the Group drew up the '**Palma Document**' which advocated a more harmonised approach to various aspects of cooperation in the area of justice and home affairs, particularly in terms of management of the external borders. The Document signalled the beginning of a shift from *ad hoc* interstate cooperation to a more formalised and coherent framework (Boccardi, 2002).

EU cooperation in the field of asylum and migration was further influenced by the adoption of three European legal instruments: the Single European Act (SEA), the Schengen Agreement, and the Dublin Convention. The **Single European Act** (1986),²⁹ which represented the first major revision of the 1957 Rome Treaty, aimed to amend the rules governing the operation of the European institutions and expand Community powers. The main driving force behind the adoption of the Act is found in

²⁹ Single European Act, 17 February 1986.

Article 8A, which sets out the objective of establishing a single market by 31

December 1992, defined as:

an area without internal frontiers in which the free movement of goods, persons, services and capital is ensured in accordance with the provisions of this Treaty.

This objective, therefore, implied the abolition of controls for persons at the internal borders between member states, calling for harmonisation of border controls at the EEC's external borders including legislation concerning asylum and migration (EAC, 2012). Although the SEA introduced some changes in competences in its new Article 100a, providing for the use of QMV in the Council, provisions relating to the free movement of persons were deliberately omitted. This was a clear sign of member states' will to preserve their sovereignty in those matters where unanimity remained the rule for the adoption of measures as well as to continue to cooperate in an intergovernmental framework.

The **Schengen Agreement**,³⁰ signed in 1985 initially by only 5 EC member states, led to the creation of the Schengen Area in 1995, which resulted in the gradual abolishment of border checks at the common borders of most member states. This, however, led to concerns of irregular secondary movements of migrants and multiple asylum applications in more than one member state. Thus, by facilitating internal mobility for EU citizens, Schengen also enabled TCNs to move freely within the borderless area. Consequently, this led to the creation of the **Dublin Convention**³¹ in 1990 which laid down the criteria and procedure for determining the member state

³⁰ The Schengen Acquis, 1985.

³¹ Convention determining the State responsible for examining applications for asylum lodged in one of the Member States of the European Communities, 15 June 1990.

responsible for examining an asylum application lodged in one of the EU member states,³² in most cases the state of first entry.

In practice, Dublin aimed at averting situations of ‘asylum shopping’ (migrants applying for asylum in more than one member state) and ‘asylum seekers in orbit’ (the continuous transfer of asylum seekers between member states in an attempt to avoid accepting responsibility). Despite being one of the most significant agreements signed on an intergovernmental level in the field of asylum and migration, Dublin has been widely criticised since its inception as being inequitable, dysfunctional and expensive. The most frequently cited criticisms claim that it has shifted asylum responsibility onto those member states located on the external borders, due to its ‘state of first entry’ rule, and has also undermined asylum seekers’ rights (Di Filippo 2016b; Fratzke 2015). The next section examines the impact of the adoption of the Treaties of Maastricht, Amsterdam, Nice and Lisbon on EU asylum and migration policymaking.

4.4.2 Towards supranational cooperation?

European cooperation in the field of asylum and migration accelerated after the entry into force of the **Maastricht** Treaty³³ in 1993 which involved a major overhaul of the founding treaties, establishing the EU and formalising intergovernmental cooperation in the area of JHA under the third pillar. Subsequently, in 1999, the Treaty of **Amsterdam**,³⁴ which amended certain provisions of Maastricht, represented a move towards more supranational decision-making on two counts.

³² As well as in the EFTA member states: Norway, Iceland, Switzerland and Liechtenstein.

³³ Treaty on European Union, 1992.

³⁴ Treaty of Amsterdam, 1997.

First, several issues were moved to pillar one, the Community pillar, subjecting them to the ‘Community method’³⁵. Second, in 2005, the Commission gained the sole right of initiative in the area of asylum and migration, following a 5-year transitional period of sharing it with EU member states.

In 2003, the Treaty of **Nice**³⁶ created complex requirements for the adoption of legislation in view of the imminent ‘big bang’ enlargement.³⁷ This, however, only resulted in modest steps towards a further deepening of European cooperation in asylum and migration. Finally, in 2009, the **Lisbon Treaty**³⁸ granted the EU new competences to adopt legislative acts towards the development of a common policy on asylum and migration to be governed by the principle of solidarity and fair sharing of responsibility (Art. 80 TFEU)³⁹. Moreover, the Treaty established that the adoption of such legislative acts is to be carried out following the ordinary legislative procedure, enhancing the role of the EP by placing it on an equal footing with the Council in the legislative process. The following pages further explore the impact of the entry into force of these four Treaties on EU asylum and migration policymaking.

4.4.2.1 Maastricht: asylum and migration ‘matters of common interest’

³⁵ The Community method or Union method refers to EU decision-making processes which emphasise the roles of the supranational decision-making bodies.

³⁶ Treaty of Nice, 2001.

³⁷ Prospected in May 2004 with the joining of 10 new members including 8 post-Communist states in CEE - Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia and Slovenia - and 2 Mediterranean island states - Cyprus and Malta.

³⁸ Treaty of Lisbon, 2007.

³⁹ Art. 80 TFEU: The policies of the Union set out in this Chapter and their implementation shall be governed by the principle of solidarity and fair sharing of responsibility, including its financial implications, between the Member States. Whenever necessary, the acts of the Union adopted pursuant to this Chapter (Chapter 2 - Policies on border checks, asylum and immigration) shall contain appropriate measures to give effect to this principle.

The Treaty of Maastricht (1993),⁴⁰ which established the EU and introduced a three-pillar system of policymaking (Figure 4.2), formalised intergovernmental cooperation in the field of asylum and migration between the 12 EC states. The first pillar, also known as the European Community, was the only pillar with a legal personality and covered the vast majority of EU legislation. The second and third intergovernmental pillars were termed ‘common foreign and security policy’ (CFSP) and ‘justice and home affairs’ (JHA), respectively. Following the adoption of Maastricht, matters relating to asylum and migration thus became ‘matters of common interest’ (Title VI Provision K1) but were still dealt with on an intergovernmental basis under the third pillar of the EU. Decisions were adopted unanimously by member states in the JHA Council, in the absence of any parliamentary and judicial control. Hence, the area of asylum and migration remained an exclusive competence of national governments.

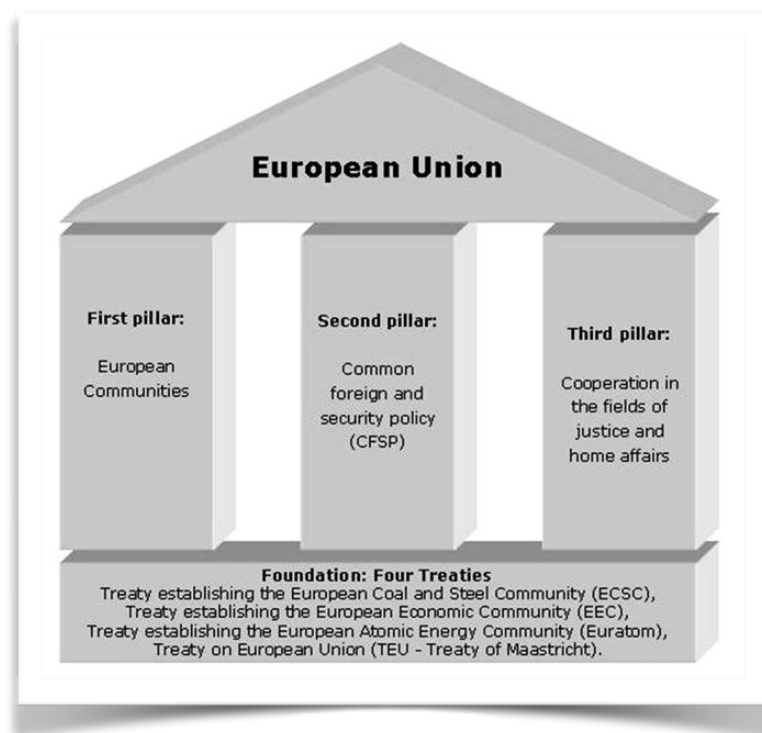


Figure 4.2: The 3-pillar structure introduced by the Treaty of Maastricht, 1993 (Source: ADST, 2016).

⁴⁰ Officially, the Treaty on EU or TEU

In other words, the twelve member states committed to collaborate in issues related to asylum and migration, however, only on an intergovernmental basis reflecting their unwillingness to surrender sovereignty to the supranational level (Van Oudenaren, 2004). Therefore, despite the indispensable step provided by Maastricht in the process leading to the development of EU asylum and migration policies, the third pillar did not produce the desired results. Consequently, the deficiencies of the third pillar led to the Treaty of Amsterdam, agreed by European political leaders in 1997.

4.4.2.2 Amsterdam: first steps towards an 'AFSJ' and a CEAS

The entry into force of the Amsterdam Treaty in 1999 reshaped cooperation in JHA matters thus marking a new phase in EU asylum and migration policymaking. A primary goal of the Treaty was to progressively establish an area of freedom, security and justice (AFSJ). Consequently, issues related to asylum, migration and external border controls were transferred from the third pillar, which required unanimity in an intergovernmental setting, to the first pillar, falling under the shared responsibility of both EU member states and institutions. In addition, the Treaty formally incorporated the 1985 Schengen Agreement and 1990 Implementing Convention⁴¹ into the EU legal framework as the Schengen *acquis*.

At the same time, however, decision-making in the Council required unanimity and the EP did not gain co-decision powers, meaning that the Treaty did not lead to full implementation of the ordinary legislative procedure. Furthermore, Denmark, Ireland and the UK secured the right to 'opt out' of the treaty's provisions as regards JHA, allowing them not to take part in the adoption of measures relating to the AFSJ and

⁴¹ Convention Implementing the Schengen Agreement, 14 June 1985.

hence not to be bound by measures adopted by the other member states.

Nevertheless, Amsterdam represented a significant step forward in the development of common asylum and migration policies, reflecting the political commitment to enforce European integration in this sovereignty-sensitive policy domain. Most notably, Article 63⁴² laid down a 5-year programme to develop the necessary measures on asylum and migration and set out objectives for the first stage of the CEAS.

With the ground set for Community decision-making, the 1999 European Council in Tampere⁴³ was dedicated to the creation of an AFSJ. Under this initiative and the ensuing Tampere Programme, which provided ‘the political mandate and the overall policy agenda for initial action towards establishing the AFSJ’, negotiations started on the creation of a Common European Asylum System (CEAS) comprising a set of legislative instruments (Buono 2009, p. 333). The uniqueness of the CEAS when compared to other regional asylum systems, such as those in Central and Latin America, lies in that it regulates procedural as well as substantive issues for international protection, from the asylum seeker’s arrival in a member state until the final determination of the claim (EASO 2016, p. 13).

⁴² Art 63 Treaty of Amsterdam, 1997:

The Council, acting in accordance with the procedure referred to in Art 67, shall, within a period of five years after the entry into force of the Treaty of Amsterdam, adopt:

- (1) measures on asylum, in accordance with the Geneva Convention of 28 July 1951 and the Protocol of 31 January 1967 relating to the status of refugees and other relevant treaties, within the following areas:
 - (a) criteria and mechanisms for determining which Member State is responsible for considering an application for asylum submitted by a national of a third country in one of the Member States,
 - (b) minimum standards on the reception of asylum seekers in Member States,
 - (c) minimum standards with respect to the qualification of nationals of third countries as refugees,
 - (d) minimum standards on procedures in Member States for granting or withdrawing refugee status;
- (2) measures on refugees and displaced persons within the following areas:
 - (a) minimum standards for giving temporary protection to displaced persons from third countries who cannot return to their country of origin and for persons who otherwise need international protection,
 - (b) promoting a balance of effort between Member States in receiving and bearing the consequences of receiving refugees and displaced persons;
- (3) measures on immigration policy within the following areas:
 - (a) conditions of entry and residence, and standards on procedures for the issue by Member States of long term visas and residence permits, including those for the purpose of family reunion,
 - (b) illegal immigration and illegal residence, including repatriation of illegal residents;
- (4) measures defining the rights and conditions under which nationals of third countries who are legally resident in a Member State may reside in other Member States.

⁴³ Presidency Conclusions, Tampere European Council, 15-16 October 1999.

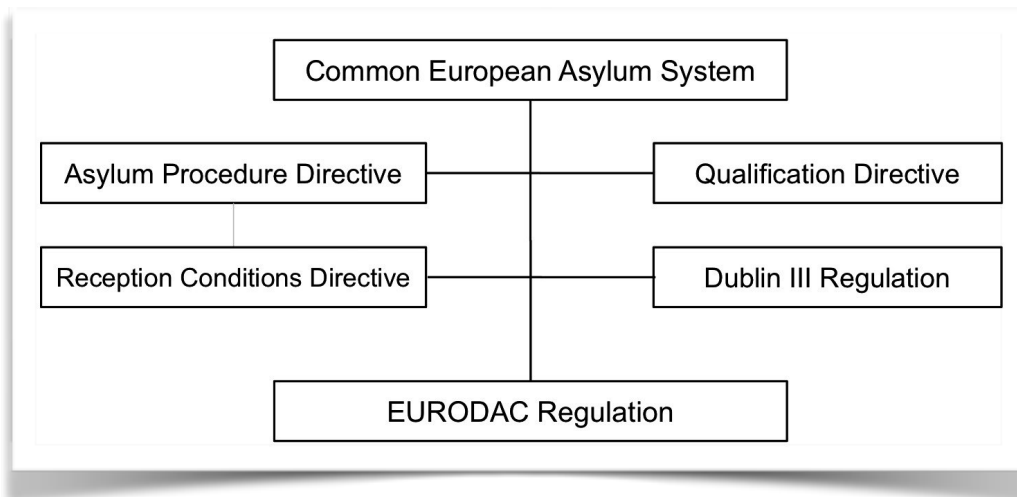


Figure 4.3: The Common European Asylum System, 2013
(Compiled by the author).

In keeping with the aim to establish a CEAS, the need arose to replace the Dublin Convention with a Community instrument. The **Dublin II Regulation**,⁴⁴ which replaced the largely identical 1990 Convention, entered into force in 2003 prior to the then-approaching ‘big bang’ enlargement.⁴⁵ The negotiations leading up to the ratification of the Dublin System (comprising the Dublin Regulation and the Eurodac Regulation, which went into operation in 2003 and established a biometric database for comparing fingerprints of irregular migrants) were, however, characterised by political deadlock for years.

Also adopted in 2003, the **Reception Conditions Directive**⁴⁶ (RCD) laid down minimum standards for the reception of asylum seekers while their claim is being examined. The Directive has been heavily criticised for the wide discretion left to member states, which undermines the creation of a ‘level playing field’. In this regard, the southern states have most notably been in the limelight. Greece failed to provide

⁴⁴ Council Regulation (EC) No 343/2003

⁴⁵ See Footnote 37.

⁴⁶ Council Directive 2003/9/EC

reception conditions for asylum seekers on a par with the requirements of the directive, as stated in the ECtHR's 2011 landmark judgment in *M.S.S. v. Belgium and Greece*.⁴⁷ Italy and Malta have also been accused of failing to provide adequate reception conditions for asylum seekers, in violation of the minimum requirements of the directive (Langford, 2013).

It is important to point out that the aim pursued in the first phase of the CEAS (1999-2004) involved harmonising national asylum systems through the adoption of Directives and Regulations on the basis of 'common minimum standards' (Wagner et al. 2019). The approach of adopting minimum standards (instead of genuinely common ones) was dictated by its political feasibility, yet it included the objective of harmonising legislation. In practice, the adoption of minimum standards set in motion a 'race to the bottom' across EU member states with regard to harmonisation of such policies, exacerbated by the introduction, in most member states, of restrictive migration policies to prevent irregular migration.

This harmonisation 'ad minima' was further reinforced by the influence of the Council on the drafting of the CEAS instruments. While the Commission proposed rather ambitious drafts in order to draw the layout of the CEAS in conformity with the Tampere Conclusions, the Council negotiations compromised the substance of such instruments (Chetail, 2016). The reforms achieved in Amsterdam in the context of EU asylum and migration policymaking thus did not go as far as intended. Given the number of institutional issues left unresolved, a solution became more pressing in view of the upcoming 'big bang' enlargement of 2004. This led to new negotiations, in 2000, over the future of the EU, culminating in a new agreement amending the Treaty of Maastricht and the Treaty of Rome.

⁴⁷ See Footnote 69.

4.4.2.3 Nice Treaty: qualified majority rule postponed

The main objective of the Treaty of Nice, which entered into force in 2003, was to reform the institutional structure of the EU in order to facilitate the accession of ten new member states, an undertaking which was previously planned to have been accomplished by the Amsterdam Treaty.

Nice, however, failed to make significant progress in the context of EU asylum and migration policymaking, primarily as the application of the qualified majority rule, granting the EP co-decision power rather than mere consultation, was postponed. The unanimity requirement for the adoption of legislation in this area thus continued to hamper the legislative process. Nevertheless, the first phase of the CEAS was completed in 2005, under Nice, following the adoption of the Qualification Directive and the Asylum Procedures Directive, yet it remained limited to minimum standards (Niemann, 2012).

The **Qualification Directive**⁴⁸ (QD), adopted in 2004, set out the conditions for the qualification and status of TCNs or stateless persons as refugees or as beneficiaries of subsidiary protection. According to the Directive, asylum applicants are granted refugee status on the basis of the Refugee Convention, while subsidiary protection is granted in cases where the requirements of the Convention are not met but the asylum applicant 'would face a real risk of suffering serious harm' if returned to his or her country of origin (Art. 2 (e)). As a result, the content for refugees and subsidiary protection holders differs in certain respects, with the latter granted limited rights compared to the former.⁴⁹ The highly polarised negotiations prior to the adoption of the Directive, with the Commission and the EP pushing for higher standards of

⁴⁸ Council Directive 2004/83/EC

⁴⁹ Such as access to healthcare, social benefits, labour market, as well as duration of residence permit (Arts. 24-33).

protection for asylum seekers and the Council's focus on the prevention of abuse of the asylum system and on irregular arrivals, are illustrative of the difficulties in reaching political agreement in this sovereignty-sensitive policy domain (Velluti, 2014). The resulting QD proved to be an instrument of compromise and political pressure to be adopted before ten new states joined the EU on 1 May 2004, bringing new views and legal heritages. This partially explains the passage of some poorly drafted provisions and the interpretative difficulties of national courts in applying the scope of subsidiary protection, highlighted in the seminal CJEU judgment of 2009 in the case of *Elgafaji*.

In 2004, **FRONTEX**,⁵⁰ the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the EU, was set up in response to the need to strengthen the management of the EU's external borders. According to the Regulation establishing the agency, however, it is the member states that remain responsible for control and surveillance of external borders. In other words, the agency is merely tasked with the 'coordination' of national forces. Following the unprecedented influx of irregular migrants in 2015 and 2016, Frontex was reformed into a 'European Border and Coast Guard Agency'⁵¹ (EBCG) giving it a broader mandate, as the EU focus shifted further towards strengthening the external borders (Carrera and den Hertog, 2016). Nevertheless, given that the EBCG has not been transformed into a centralised agency means that, like its predecessor, it remains incapable of solving the structural problem of European border management (De Bruycker, 2016).

⁵⁰ Council Regulation (EC) No 2007/2004

⁵¹ Regulation (EU) 2016/1624

In December 2005, the adoption of the **Asylum Procedures Directive**⁵² (APD) completed what is referred to as the first phase of the CEAS. The Directive aimed to establish minimum standards for procedures for granting and withdrawing international protection in order to reduce the disparities between member states. However, given the fact that the APD was adopted beyond the May 2004 deadline, due to deep divisions on several contentious matters, highlights the difficulty in reaching agreement in this sovereignty-sensitive policy domain.

Following the implementation of the Tampere Programme (1999-2004), the **Hague Programme**⁵³ adopted by the European Council at the end of 2004 outlined the objectives of a second multiannual JHA programme for the period 2005-2009. Hague reiterated the objective to create a CEAS and called for second-phase instruments to harmonise common standards for asylum to be adopted by the end of 2010 (however most of the legislative instruments were eventually adopted in 2013).

In 2008, the French Presidency of the Council of the EU attempted to take control over the migration agenda through its **European Pact on Immigration and Asylum**.⁵⁴ The Pact aimed to guide the future development of EU asylum and migration policies in the spirit of solidarity among EU member states. Nonetheless, since it called for political rather than legal force, in the form of a non-binding set of guidelines (Parkes and Angenendt, 2009), it did not succeed in establishing a concrete basis for the development of common asylum and migration policies. Still, notwithstanding its limited contribution in terms of content, its timing and symbolism were quite significant. Indeed while the Commission was presenting proposals for the third multiannual JHA programme for the period 2010-2014 (the Stockholm Programme), France was using its Presidency of the Council in an attempt to define

⁵² Council Directive 2005/85/EC

⁵³ The Hague Programme: strengthening freedom, security and justice in the European Union, 2005.

⁵⁴ European Pact on Immigration and Asylum, 2008.

the political agenda. Although member states have long aspired to upload their policy preferences to the EU level, the French Presidency's, and by extension, the Council's, public attempt to sideline the Commission indicated member states' unwillingness to cede national competences to the EU level (Hampshire 2016, p. 543).

Between 2001 and 2009, the process leading to the entry into force of the Lisbon Treaty was one of the most troubled of any EU agreement, as well as one of the most lengthy. Given the divergent visions of the EU and the difficulties of negotiating in an enlarged Union, substantial treaty reform is thus highly unlikely in the near future (Berman, 2012).

4.4.2.4 Lisbon establishes the ordinary legislative procedure

The Lisbon Treaty, (initially known as the Reform Treaty) entered into force on 1 December 2009, amending the two treaties which form the constitutional basis of the EU, the Treaty Establishing the European Community (TEC / Rome) and the Treaty of the EU (TEU / Maastricht), and ending the pillar structure of the EU which was created following the adoption of the Maastricht Treaty in 1993. In this process, the TEC, renamed Treaty on the Functioning of the Union (TFEU), brought JHA provisions under a single Title (V of Part 3, Arts. 67-89).

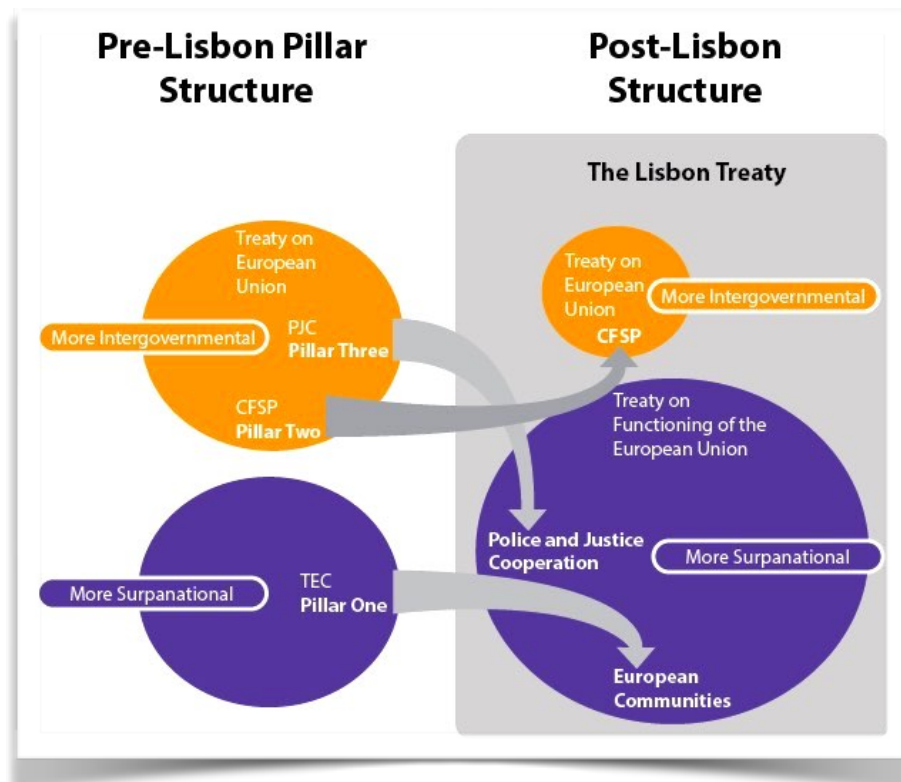


Figure 4.4: Pre- and Post- Lisbon structure (Source: University of Portsmouth, 2013b).

Moreover, Lisbon altered the institutional framework governing the development of asylum and migration policy (Arts. 78 and 79)⁵⁵ foreseeing that legislation in this field should be adopted in accordance with the ordinary legislative procedure (Art. 294), thus enhancing the role of the Parliament by placing it on an equal footing with the Council in the legislative process. Lisbon also confirms the objective of developing common asylum and migration policies. Of particular interest is that according to the

⁵⁵ Art. 78 (1) TFEU: The Union shall develop a common policy on asylum, subsidiary protection and temporary protection with a view to offering appropriate status to any TCN requiring international protection and ensuring compliance with the principle of non-refoulement. This policy must be in accordance with the Geneva Convention of 28 July 1951 and the Protocol of 31 January 1967 relating to the status of refugees, and other relevant treaties.

Art. 79 (1) TFEU: The Union shall develop a common immigration policy aimed at ensuring, at all stages, the efficient management of migration flows, fair treatment of TCNs residing legally in Member States, and the prevention of, and enhanced measures to combat, illegal immigration and trafficking in human beings.

Treaty, the Council may adopt provisional measures in the event of one or more member states being confronted by a sudden influx of TCNs (Art. 78 (3))⁵⁶.

The **Stockholm Programme**,⁵⁷ which was also adopted in December 2009, set out the next five years of work (2010-2014) towards the completion of the AFSJ. However, in contrast to its forerunners (Tampere and Hague), the period following the adoption of Stockholm was characterised by several disputes between the Commission and the Council regarding its structure and implementation (Carrera and Guild, 2012). Furthermore, despite the programme's long-term objective of establishing a common asylum procedure and a uniform status for beneficiaries of international protection in the EU by 2012, precise policy guidelines with regard to the nature and level of harmonisation to be achieved were lacking (Velluti, 2014). The EU remained stuck in political gridlock during the negotiations of the **second phase of the CEAS**, thus failing to meet the deadline of 2010. Eventually, most of the legislative instruments were adopted in 2013.

CEAS legislative instruments	1st generation	2nd generation
Dublin Regulation	2003 (Dublin II)	2013 (Dublin III)
Eurodac Regulation	2003	2013
Reception Conditions Directive	2003	2013
Qualification Directive	2004	2011
Asylum Procedures Directive	2005	2013

Table 4.2: CEAS legislative instruments adopted in the first and second phase (Compiled by the author).

⁵⁶ The use of the emergency response mechanism was triggered for the first time following the outbreak of the refugee crisis in 2015. This is explored in Chapter 5, Section 5.2.1.

⁵⁷ The Stockholm Programme – An open and secure Europe serving and protecting the citizens, 2009.

In 2008, the Commission proposed amendments to the RCD (2003)⁵⁸ and the Dublin (2003)⁵⁹ and Eurodac Regulations (2000),⁶⁰ and in 2009, to the QD (2004)⁶¹ and the APD (2005).⁶² In 2011, the EP and the Council agreed on the recast QD,⁶³ making this the first CEAS instrument adopted under the ordinary legislative procedure. At the same time, disagreement in the Council over how to revise the other rules resulted in deadlocked negotiations. Thus, to restart discussions, in 2011 the Commission tabled amended proposals for the RCD (2003) and APD (2005) which addressed the major issues facing member states. In 2013, the Council and EP finally reached agreement on the texts of the APD,⁶⁴ RCD⁶⁵ and the Eurodac⁶⁶ and Dublin⁶⁷ Regulations. Yet despite years of long and difficult negotiations, the second generation of asylum instruments had no significant impact on policy outcomes, as they failed to oblige member states to raise their standards. In other words, the changes were largely cosmetic, resulting in what Peers (2013, p. 16) has described as ‘putting lipstick on a pig’.

In June 2014, agreement on **a fourth multiannual JHA programme** was finally reached for the period 2014-2020, following a lengthy debate over whether any new AFSJ five-year plan should be drawn up at all (Carrera and Guild, 2012). Opponents insisted there was little need for a new programme that would add to the significant number of rules that had already been adopted, arguing that JHA policy would

⁵⁸ Council Directive 2003/9/EC

⁵⁹ Council Regulation (EC) No 343/2003

⁶⁰ Council Regulation No 2725/2000

⁶¹ Council Directive 2004/83/EC

⁶² Council Directive 2005/85/EC

⁶³ Directive 2011/95/EU

⁶⁴ Directive 2013/32/EU

⁶⁵ Directive 2013/33/EU

⁶⁶ Regulation (EU) No 603/2013

⁶⁷ Regulation (EU) No 604/2013

remain in 'implementing mode' for the next few years. In contrast, proponents of new 'strategic guidelines' drew attention to gaps in several areas and called for further action (Lazarowicz and Pascouau, 2013). The other major reason for the delay in agreement on the JHA programme is that 2014 was a 'turnover' year for the EU due to the approaching elections to the EP in May 2014. In practice, EU institutions tend to be weak during such transitions, to some extent owing to doubts about the legitimacy of allowing outgoing stakeholders to commit incoming ones (Hartnell, 2015).

The reluctance to cede competences to the supranational level in this sovereignty-sensitive policy field has shifted cooperation to more operational aspects, such as, through the creation of a **European Asylum Support Office (EASO)**. The agency, set up in 2010, aims to strengthen EU member states' practical cooperation on asylum, enhance the implementation of the CEAS and support member states whose asylum and reception systems are under particular pressure. Reflecting the aspirations of the Council and Parliament, the Preamble of the Regulation establishing the agency⁶⁸ encourages it to become 'a European centre of expertise on asylum' so that member states would be better able to provide international protection to those entitled 'while dealing fairly and efficiently with those who do not qualify' (Recital 13). The Regulation, however, also states that the agency 'should have no direct or indirect powers in relation to the taking of decisions by member states' asylum authorities on individual applications for international protection' (Recital 14), jurisdiction for which remains firmly in the hands of member states. It also refrains from conferring on the agency any explicit authorisation to monitor member states' practice in asylum decision-making (Garlick, 2016). Consequently, the establishment of EASO was politically uncontroversial due to its focus on

⁶⁸ Regulation (EU) No 439/2010

operational cooperation, having no impact on national legislation or encroaching on the sovereignty of nation states in this area (Van de Peer, 2016).

Following the above discussion on the evolution of EU asylum and migration policies, the next section examines the different positions of the Council, Commission and Parliament during the process of inter-institutional negotiations on the two generations of CEAS legislative instruments in order to shed light on the challenge in establishing common policies in the area of asylum and migration.

4.5 Inter-institutional conflict in the development of the CEAS

In the first place, it is important to keep in mind that both sets of negotiations of the CEAS (phase 1 and 2) were conceived in a context wherein it was assumed (1) that EU member states would fulfil their European and international legal obligations, and (2) the existence of mutual trust between such states. The negotiations leading up to the first generation CEAS instruments (1999-2004) were characterised by high levels of discord, particularly between the Council and the Parliament. However, since the EP had no more than the right to be consulted, the Council transposed most of its positions into EU legislation.

Positioning itself as a human rights advocate, the EP strongly opposed restricting the freedom of movement of asylum seekers as well as introducing restrictive notions such as the 'safe country' principle. It also pushed for higher levels of harmonisation to mitigate member state discretion, thus ensuring that each asylum application is examined in the light of standard criteria (Guild, 2006). The aim pursued was that of achieving a 'level playing field', meaning that asylum seekers receive equal treatment

and the same outcome on their asylum application irrespective of the member state in which it is lodged.

Parliament's focus on liberal, refugee-friendly measures, thus contrasted with that of the Council which was primarily concerned with limiting rights and benefits for asylum seekers in order to maintain flexibility for member states (Hix and Noury, 2007). The Commission, similar to the EP, stressed a rights-based approach, however, in the end, the supranational institutions modified their positions leaving member states in the (JHA) Council in the driving seat.

During the negotiations of the second generation instruments (2008-2013), the EP acted as co-legislator under the 'ordinary legislative procedure' on an equal footing with the Council, unlike the first generation negotiations when it was merely consulted. Nevertheless, even though both the Parliament and the Commission pushed for more harmonised and liberal rules, member states in the Council maintained a restrictive stance (Lopatin, 2013). In the initial stages of the negotiations, the Council appeared to be more open to strengthening certain rights such as those related to family reunification and vulnerable persons, yet this was presumably owing to external factors such as the landmark rulings of the ECtHR and CJEU in 2011 (Kaunert and Léonard, 2012b).

The Commission displayed an ambivalent pattern on the restrictive/liberal dimension but tried, overall, to shift towards more rights-based provisions. For example, during the negotiations of the recast QD, the Commission sought to strengthen asylum seekers' rights by proposing to reform certain controversial rules in the first generation directive. One such proposal involved extending the definition of 'family' and reducing the conditions wherein a non-state actor could be an agent of protection.

In other texts, however, particularly those dealing with access to procedures (recast APD), it proposed more restrictive measures such as more flexibility for member states confronted with large numbers of asylum applications, as well as strengthening the procedural tools to deal with real or perceived 'abuse' of the asylum procedure (ECRE, 2011).

Similarly, during the negotiations of the recast RCD, the EP's position moved closer to that of the Council in certain contentious matters, such as the option to reduce or withdraw reception conditions. Nonetheless, in other negotiation points, for instance, on issues of gender and vulnerable persons, the EP continued to put forward more liberal positions.

Overall, the positions of the Commission and the EP contrasted with that of the Council, with the first two focusing on seeking to reduce member state discretion in order to harmonise asylum rules, and the latter seeking to safeguard state sovereignty. Ultimately, the Council's position prevailed, particularly in controversial matters such as in the negotiations of the Dublin reform where the Council rejected a legal provision proposed by the Commission - and backed by the Parliament - allowing for the temporary suspension of transfers to member states facing 'particular pressure' on their asylum and reception systems (Ripoll Servent and Trauner, 2014). Before concluding this chapter, the following section briefly examines the impact of the rulings of the Strasbourg and Luxembourg Courts on EU asylum and migration policymaking.

4.5.1 The impact of Court rulings on the CEAS

The past decade has witnessed an increase in court proceedings in the realm of asylum and migration, at both national and EU level, particularly concerning the application of the Dublin system. In 2011, the delivery of two landmark rulings from the European Court of Human Rights (ECtHR) in the case of *M.S.S. v. Greece and Belgium*,⁶⁹ and the Court of Justice of the EU (CJEU) in the joined cases of *N.S. and M.E.*⁷⁰ fundamentally changed the automatic operation of the Dublin system. Although Dublin is premised on the idea of a 'level playing field' across member states with harmonised standards of protection, the landmark rulings underline that the system has proven to be highly dysfunctional. They also call into question prior assumptions that participating states will fulfil their European and international legal obligations.

In the direct aftermath of the judgments, most member states suspended Dublin transfers to Greece (Dublin Transnational Project, 2013). In addition, since 2012, national courts have also suspended transfers of asylum seekers to other member states. German courts, for example, have suspended Dublin transfers to Italy in more than 200 cases between 2011 and 2013, while courts in Italy have suspended transfers to Malta and Hungary.⁷¹ In 2014 Belgium and Denmark both announced they would temporarily suspend transfers of asylum seekers to Bulgaria due to deficiencies in the asylum system (AIDA 2014a; 2014b).

⁶⁹ *M.S.S. v. Belgium and Greece*, Application No. 30696/09, 21 January 2011. According to the ECtHR, the applicant had been subject to inhuman and degrading treatment (Art. 3 ECHR), and violated of his right to an effective remedy (Art.13). This was the first decision from the ECtHR to directly challenge the assumption that mutual trust between member states implied ignoring obvious violations of the asylum *acquis* and IL.

⁷⁰ *N. S. (C 411/10) v. Secretary of State for the Home Department and M. E. (C 493/10) and others v. Refugee Applications Commissioner, Minister for Justice, Equality and Law Reform*, 21 December 2011. The CJEU ruled that member states have an obligation *not* to transfer asylum seekers to states where such a transfer would result in inhuman or degrading treatment in violation of Art. 4 of the EU Charter. This means that EU member states must not take for granted that their counterparts comply with the EU Charter, the ECHR and the Geneva Convention.

⁷¹ See Dublin Transnational Project's European Comparative Report (2013) 'Dublin II Regulation: Lives on Hold', p. 113.

Nevertheless, in the wake of the refugee crisis in 2015, Hungary refused to take back applicants who had crossed its borders to other EU member states on the grounds that the reception capacity of its asylum system was significantly overstretched. In contrast, Germany decided to make use of the 'sovereignty clause' in August 2015 to voluntarily assume responsibility for processing asylum applications of Syrian nationals allowing in over a million asylum seekers. The federal republic, however, shifted course the following month with Chancellor Merkel's U-turn on migration resulting in the reinstatement of border controls at the German-Austrian border (Murray, 2018). These aspects are further investigated in the following three chapters.

4.6 Discussion and conclusion

This chapter traced the evolution of EU cooperation in asylum and migration in the context of irregular migration focusing on key moments of institutional reform, thus shedding light on the difficulty in establishing common policies in this policy domain. Indeed, the chapter illustrated that despite two decades of efforts towards the development of common and harmonised asylum and migration rules, clashing interests of EU actors as well as member state reluctance to transfer competences to the supranational level has hindered this goal.

The chapter explains that from the late 1980s onwards, granting asylum in Europe suddenly became a major issue as numbers of asylum seekers began increasing following the collapse of communist regimes in CEE and the Yugoslav Wars. Consequently, member states started to amend their asylum and migration legislation in order to prevent irregular migration. In practice, once a member state changed its

policy, other member states followed suit in order to ensure they would not become an 'attractive' destination. In essence, the EU lacked a stable institutional framework to deal with the issue of irregular migration.

From 1999, the development of the CEAS sought to address needs which mainly arose from the processes flowing from the Schengen Agreement and the Dublin Convention, and the gradual expansion of EU powers to create an AFSJ. Hence member states' decision to cooperate in matters of asylum and migration was conceived as an accompanying measure of European integration to compensate for the abolishment of internal borders and to reduce irregular secondary movements of migrants from neighbouring member states.

The two main theories of regional integration help to explain what prompted member states to cooperate in matters of asylum and migration. Neofunctionalism helps to explain the process in terms of 'spillover' from one issue area to another, led by the rationale of the creation of the internal market 'spilling over' into the asylum and migration domain. In contrast, according to the state-centric perspective of LI, despite the asymmetrical impact of irregular migration in the EU, it was a rational decision of member states to cooperate in order to circumvent both exogenous and endogenous pressures.

The chapter identifies two main challenges in EU asylum and migration policies in the context of irregular migration. First, although the EU has succeeded in establishing a Common European Asylum System, it has been struggling for years to harmonise such rules. At the same time, it has not yet managed to develop a common migration policy as a result of member states' unwillingness to delegate decision-making in this sovereignty-sensitive policy domain beyond the national level. Currently, the CEAS legislative instruments are under recast procedure (for the third time), reflecting member state reluctance to adopt new measures which could impact

on their sovereignty. It also illustrates that most EU member states are uninterested in changing the status quo, resulting in responsibility-shifting rather than cooperating to distribute the 'burden' of asylum seekers.

The second challenge involves two related issues: the inadequacy of the Dublin Regulation and lack of solidarity among EU member states. Given that the Regulation does not provide for any form of 'burden-sharing', frontline states have assumed a much higher degree of asylum responsibility due to their geographical location and the Regulation's 'state of first entry' rule. Consequently, on various occasions, they have called for a permanent relocation mechanism to distribute asylum seekers across EU member states. Meanwhile, other, less-affected member states, have taken a hardline stance, rejecting the establishment of such a mechanism. The absence of solidarity within the EU, therefore, impedes reform of the Regulation and continues to shift asylum responsibility on the states of first entry. In practice, the only form of solidarity that has been institutionalised to date in this field involves financial assistance, particularly via the Asylum Migration and Integration Fund (AMIF).

The chapter highlights that the three main institutions involved in EU legislation differ in the emphasis they put on different values, which explains the differences in their approaches to asylum and migration policymaking in the context of irregular migration. The Council has prioritised security objectives, such as ensuring effective border management and fighting migrant smugglers, to prevent irregular migration. These objectives, derived from EU member states' concerns over sovereignty, result in a more realist approach whereby governments act with the next general election in mind. In contrast, the EP calls for a human rights-based approach that would enable the EU to serve as a model. Compared with member states' representatives, the MEPs are much more distanced from popular sentiment and enjoy greater stability,

which allows them to pursue more ambitious goals even if these might be unpopular with voters. Finally, the Commission, institutionally positioned and commonly perceived as a mediator between the Council and the EP, aims to strike a balance between security concerns and more ambitious transnational goals. Similarly to the Parliament, the Commission is relatively detached from national politics and is obliged to pursue the collective EU interest (Penev 2017, pp. 48-49). Therefore, in addition to the long and complex EU decision-making process, the different policy approaches of EU institutions and member states towards irregular migration hinder progress in establishing common asylum and migration policies - which would cater for the current needs on the ground.

The following chapter explores the impact of the different EU policy approaches to irregular migration through the case study of the EU refugee crisis (2015-2017) when the EU received the largest influx of irregular migrants since the end of WWII. The case is particularly interesting as it sheds light on how the diverse interests of EU member states and institutions vis-à-vis irregular migration have resulted in divisions within the EU so far as to threaten the European project.

Unravelling the tensions between EU policy responses to irregular migration: The case study of the EU refugee crisis

This chapter examines clashing interests of EU member states and institutions over how to deal with irregular migration, via the case study of the refugee crisis (2015-2017) when the EU received an unprecedented influx of irregular migrants. The chapter reveals that the crisis strengthened the notion of state sovereignty within most member states. As a result, rather than moving towards further supranationalism, member states are increasingly resorting to intergovernmental methods of decision-making and unilateral measures to deal with the issue of irregular migration. The case thus reveals that while supranationalism in the asylum and migration policy domain is still in the embryonic stage, intergovernmental cooperation provides the possibility for member states to evade EU rules in crisis situations as well as to establish more restrictive migration control measures. Moreover, the case study illustrates that EU failure to develop an effective and unitary response to the crisis led to divisions within the EU so far as to threaten the European project.

5.1 Contextualising the refugee crisis (2015-2017)

The EU has been faced with several crises since its inception which have emphasised existing cleavages within and among its member states and institutions. Although the issue of irregular migration has been high on the EU political agenda for over a decade, the political importance it achieved following the outbreak of the refugee crisis is without parallel.⁷² The year 2015 marked a turning point in EU asylum and migration policymaking and the related political debate on irregular migration, with more restrictive rhetoric dominating the debate. The arrival of over 1.8 million irregular migrants in the EU (Frontex, 2018), compared to 280,000 irregular arrivals in 2014 (Frontex, 2016), sparked a crisis as EU institutions and member states were unable to deal with the situation.

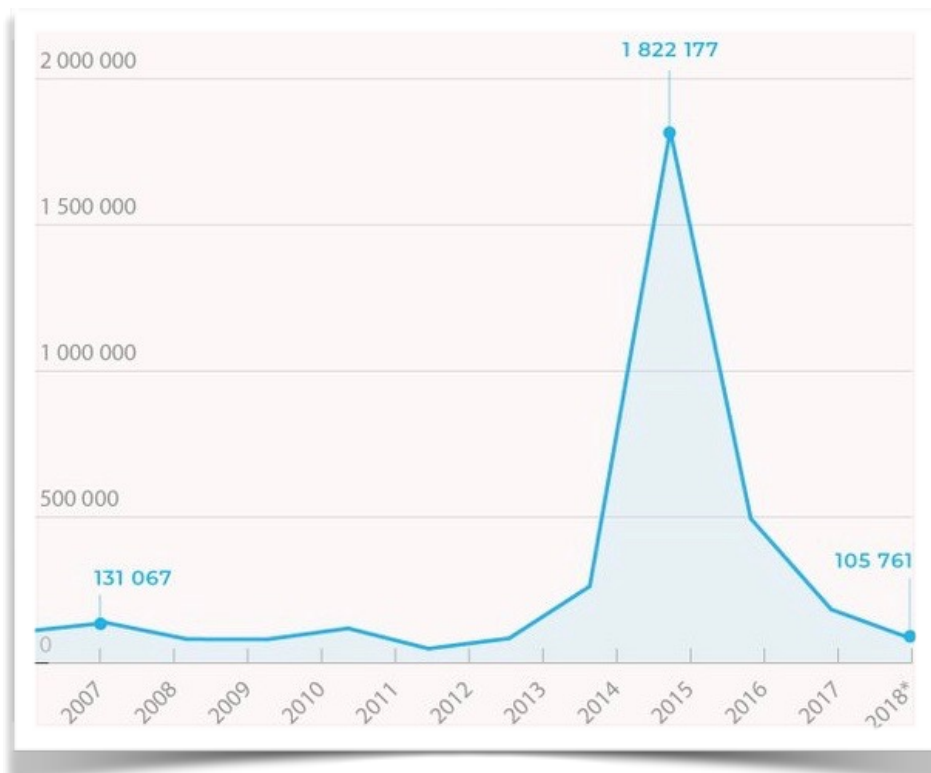


Figure 5.1: Irregular arrivals in the EU, 2007 to 2018⁷³ (Source: Frontex, 2018).

⁷² The term 'without parallel' is used in the study in the context of irregular migration flows to the EU, and not vis-à-vis EU crises in general.

⁷³ * until 30 September 2018

In the context of such increased migratory movements, it became challenging both for EU institutions and member states, particularly those located on the EU's external borders. The inability of the EU's institutional and legislative frameworks to provide an effective solution to the refugee crisis exposed the shortcomings of the nascent CEAS as well as the Schengen *acquis*. Moreover, the crisis exposed deep divisions within the EU, unsettling it like no other. As former European Council President Donald Tusk (quoted in EPRS 2016, p. 7) has stated:

the refugee crisis is perhaps the biggest challenge Europe has faced for decades and it has the potential to change the European Union as we know it.

The EU response to the crisis resulted in tensions both within and among EU member states and institutions, to the extent to threaten the European project. In terms of the number of asylum applications, the EU received over 1.2 million in both 2015 and 2016, compared to around 560 thousand in 2014 (Eurostat, 2017).

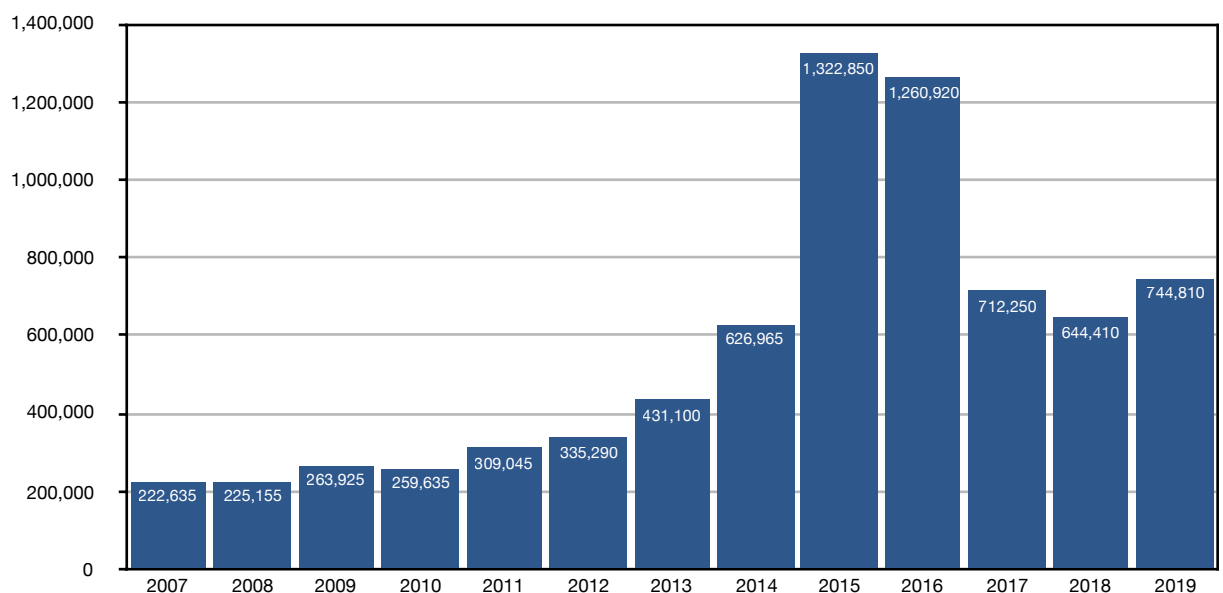


Figure 5.2: Asylum applications lodged in the EU, 2007-2019 (Compiled by the author using Eurostat 2020 data).

Figure 5.3 below reveals that in 2015 four member states (Germany, Hungary, Sweden and Austria) received around two-thirds of the total applications registered in the EU, whereas the top ten receiving member states accounted for over 90 per cent of the total asylum applications received by EU member states (Frontex, 2016). This highlights the asymmetrical distribution of asylum responsibility across EU member states and, consequently, the difficulties in reaching agreement in this policy area. In addition, EU asylum and migration policymaking is hampered by a multiplicity of interests both at the institutional and national level.

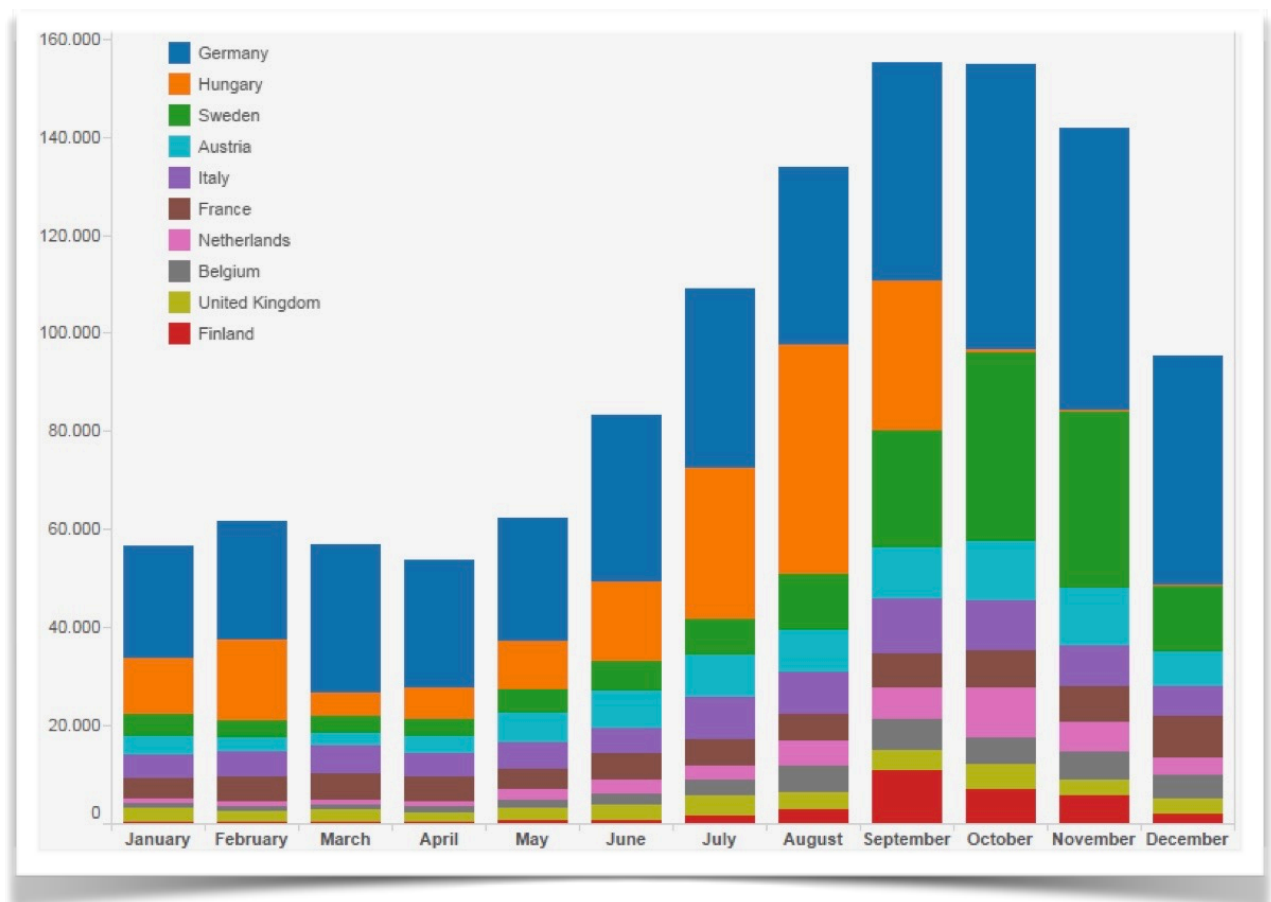


Figure 5.3: Asylum applications received by the top ten recipients in the EU, 2015
(Source: Wikimedia Commons, 2015a based on Eurostat data).

5.1.1 Conceptualising 'crisis' situations

According to Beeson and Diez (2018, p. 117), crisis situations can be conceptualised as '*events that have the potential to change the existing international and/or domestic economic, political or strategic status quo in systematically consequential ways*'. Similarly, Capoccia and Kelemen (2007) define crisis situations as crucial moments during which a specific part of the ever-changing international system is challenged and altered in unforeseen ways. Although the notion of 'crisis' appears to implicate a sort of urgency, crises may also be long-term. Among the most influential contributions to the study of IR theory, Edward Hallett Carr's (1964) book '*The Twenty Years' Crisis: 1919-1939: An Introduction to the Study of International Relations*', as implied in the title, did not view crises as short-lived, albeit their apparent urgency. The EU refugee crisis (2015-2017) is a case in point.

EU leaders' inability to deal with the crisis exposed fault lines across the EU including the emergence of a new East-West split in addition to an exacerbated North-South divide. Furthermore, five years down the line, the EU is stuck in a political impasse over how to develop a common approach to irregular migration. This has led some scholars to classify the crisis as a 'political crisis' or an 'institutional crisis' rather than a 'refugee crisis', specifically because the EU failed to adequately respond to this issue (Toygur and Benvenuti, 2016). The refugee crisis, therefore, may be conceptualised as an event that has changed current dynamics within the EU, characterised by an 'ever-looser union' in which the principle of solidarity and fair sharing of responsibility, based on mutual trust among member states is lacking, and achievements of past decades, in particular, one of the founding principles of the EU, freedom of movement within the EU, are at risk.

5.1.2 Demarcation of the case study

The case study includes events from April 2015 up to September 2017, being the period when irregular arrivals peaked and when the debate on the crisis was the most intense. September 2017 also coincides with the end date of the implementation of the emergency relocation scheme to distribute 160,000 migrants from frontline states Italy and Greece to other member states. The first calls for EU-level action occurred in April 2015 when attention was called to the high number of migrant fatalities while crossing the Mediterranean and this was when the debate reached the agenda of the European Council.

5.2 The EU response to the refugee crisis

In the context of the special meeting of the European Council on 23 April 2015, triggered by large numbers of migrants crossing the Mediterranean and a number of shipwrecks in April 2015 (Figure 5.4), the Commission presented its 'European Agenda on Migration' on 13 May 2015 (EC, 2015a)⁷⁴, stating specific actions to respond to the situation and establish a comprehensive framework to deal with the unprecedented influx of irregular migrants. Following the initiative, in September 2015, two Council Decisions establishing a temporary relocation mechanism of 160,000 migrants from Italy and Greece⁷⁵ to other member states proved to be the most contentious, and alas unsuccessful measure.

⁷⁴ EC, European Commission (2015a).

⁷⁵ The first proposal on 27 May 2015 involved an emergency relocation proposal for 40,000 persons, while the second proposal on 9 September 2015 involved 120,000 persons.

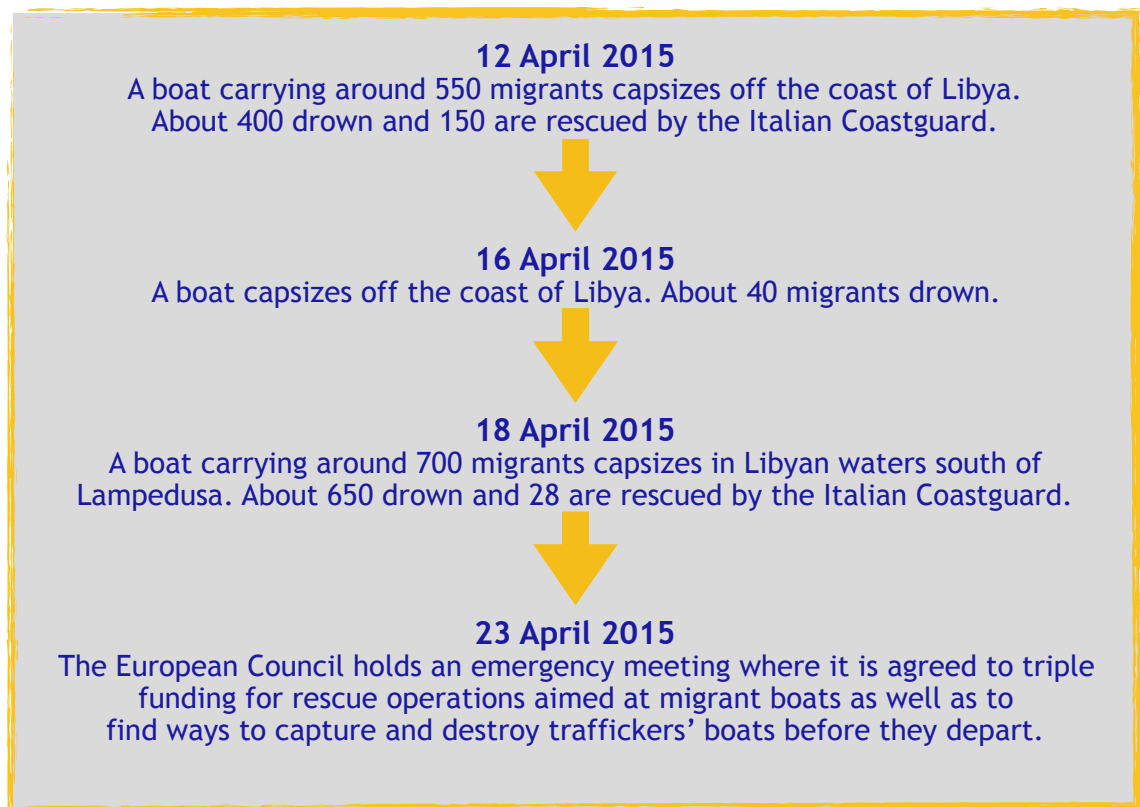


Figure 5.4: Chronology of events leading to the refugee crisis (Compiled by the author based on data from the European Council and Council of the EU websites).

In May and July 2016, the Commission presented proposals to reform the CEAS legislative instruments (see Table 5.3) including proposals to replace the directives on asylum procedures and qualification with regulations in order to encourage greater harmonisation of national asylum systems. EU member states, however, were deeply divided and the Commission was unable to provide leadership in persuading them to find a common solution. Table 5.1 below provides a chronology of key developments in relation to the EU response to the refugee crisis in the wake of the special meeting of the European Council in April 2015.

Chronology of key events, 2015-2016	
27 May 2015	Commission puts forward a first package of measures to address the crisis including an emergency relocation proposal for 40,000 persons to be distributed from Italy and Greece to other member states
15-16 June 2015	JHA Council rejects Commission proposal of 27 May 2015
22 June 2015	JHA Council launches EUNAVFOR MED
9 September 2015	Commission puts forward a second package of proposals including an emergency relocation proposal for 120,000 persons from frontline member states
13-17 September 2015	Germany, Austria and Slovenia reinstate internal border controls
14 September 2015	A Decision establishing a temporary and exceptional relocation mechanism of 40,000 persons is adopted (on a voluntary basis) during an extraordinary JHA Council meeting
22 September 2015	A Decision establishing a temporary and exceptional relocation mechanism of 120,000 persons from Italy and Greece to other member states is pushed through during a JHA Council via QMV
11-12 November 2015	Valletta Summit on Migration - EU leaders meet with their counterparts from African countries and agree on an action plan to combat irregular migration
12 November 2015	Sweden reinstates internal border controls
13 November 2015	France reinstates internal border controls
15 December 2015	Commission proposes to establish a European Border and Coast Guard (EBCG)
17-18 March 2016	EU leaders and their Turkish counterpart agree on a deal whereby Turkey will readmit all migrants crossing irregularly into Greek islands from its territory in exchange for 6 billion euro by the end of 2018
20 March 2016	EU-Turkey statement enters into force
4 May 2016	Commission presents a set of proposals to reform the CEAS , including the Dublin System
13 July 2016	Commission presents a second set of proposals to reform the CEAS legislative instruments (APD, QD, RCD)
6 October 2016	The EBCG is officially launched

Table 5.1: Chronology of the EU response to the refugee crisis (Compiled by the author using data from the European Council and Council of the EU websites).

From the onset, most member states showed extreme reluctance to comply with the Agenda, justifying lack of cooperation on grounds of security concerns, notably owing to the Paris and Copenhagen terrorist attacks in 2015 (Ambrosini, 2018). In addition, Denmark, Ireland and the UK continued to benefit from their exemptions of the rules and laws adopted under the Agenda, having obtained opt-outs from legislation related to the AFSJ.

Increasing irregular arrivals through the so-called 'Balkan route' (crossing through Albania, Montenegro and Bosnia to reach the EU) in 2015 generated new political crises as the asylum systems of member states such as Croatia, Hungary and Slovenia became overstretched. As a result, such states responded successively by closing their borders (Sardelic, 2017). At the same time, other (destination) member states, such as Austria, France, Germany and Sweden, reintroduced internal border controls to prevent irregular secondary movements of migrants from other member states. Hence, the Schengen regime came under threat as the reinstatement of internal border controls became the 'new norm' - given that most controls are still in place until the present day. In March 2016, the entry into force of the EU-Turkey Statement closed the eastern border with Turkey resulting in a significant reduction in irregular arrivals (Ambrosini, 2018). Nonetheless, the deal, agreed upon by EU leaders, sidelining the supranational institutions, proved to be very controversial.

During this period, the Central Mediterranean route via Libya remained open, hence Italy became the main gate for irregular entry into the EU by sea. This led to the signing of the bilateral Memorandum of Understanding (MoU) between Italy and Libya in February 2017, backed by the EU, to reduce the flow of migrants through this route. The deal was hailed by the EU as another achievement in preventing irregular migration by blocking off an added key migration trajectory, reflecting the restrictive focus of the EU (Baldwin-Edwards et al. 2018). Irregular migration into

Europe however, continued, albeit at lower levels (see Figure 5.1). The chapter proceeds by exploring the impact of EU measures taken in response to the refugee crisis, both at the supranational and national level, on the relations between EU member states and institutions, as well as on EU migration governance, starting with the measure that exposed deep divisions within the EU.

5.2.1 Intra-EU relocation: a recipe for failure

The most contentious proposal presented in the Commission's European Agenda on Migration involved the use of the emergency response mechanism, **for the first time**, under Article 78 (3) of the Lisbon Treaty which states:

In the event of one or more member states being confronted with an emergency situation characterised by a sudden inflow of nationals of third countries, the Council, on a proposal from the Commission, may adopt provisional measures for the benefit of the member state(s) concerned. It shall act after consulting the EP.

The initiative aimed at establishing a temporary relocation mechanism to distribute 160,000 migrants from frontline states Italy and Greece to other member states in order to ease migratory pressure - based on a 'distribution key' model of allocating responsibility for asylum seekers on the basis of four criteria: (1) GDP and (2) population (40 per cent each), (3) unemployment and (4) the number of asylum seekers already hosted (10 per cent each) (EC, 2015b).

Despite that under the initiative member states would receive a flat rate of six thousand euro for each migrant relocated, several member states immediately appeared reluctant to participate. Denmark and the UK (JHA 'opt-outs') announced their withdrawal from the scheme while other members such as France, Spain and most CEE states opposed the Commission's responsibility criteria (Betts et al. 2017).

From the outset it was evident that the proposal would not be unanimously approved, highlighting lack of solidarity among EU member states, *even in times of crisis*.

In fact, the Commission's first proposal to relocate 40,000 migrants from Italy and Greece, **based on set quotas**, was rejected on 16 June 2015 by EU interior ministers. Nonetheless, it was later adopted during an extraordinary JHA Council⁷⁶ on 14 September 2015, however, **on a voluntary basis**. Just days before, on 9 September 2015, the Commission put forward a second package of proposals including an emergency relocation proposal for 120,000 persons in clear need of international protection from frontline member states. As was the case with the first proposal, it immediately sparked criticism in several member states, particularly in the CEE states. The Visegrád group⁷⁷, comprising the Czech Republic, Hungary, Poland and Slovakia, strongly opposed the quota system and threatened to establish a blocking minority to veto the proposal.

Member states' disparate responses resulted in a watershed in crisis management, exposing a new East-West divide. Hence, two camps revealed opposing strategies to deal with the crisis. At the one end, the Visegrád members, under the leadership of Hungarian PM Viktor Orbán, insisted that the focus of EU efforts should be on strengthening the external borders and building walls and fences in order to prevent irregular migration (Toygur and Benvenuti, 2016). At the other end, the northwestern member states, including Germany, backed the Commission's plans in view of their interest in the measure accompanying the relocation mechanism. This involved the establishment of hotspots in the frontline states which would ensure that all irregular migrants would be registered and fingerprinted thereby preventing secondary movements of such migrants. Accordingly, Italy and Greece lost the

⁷⁶ Council Decision (EU) 2015/1523

⁷⁷ The Visegrád Group (also known as the 'Visegrád Four' or 'V4') reflects the efforts of its members to work together in a number of fields of common interest within the EU (Official Internet portal of the Visegrád Group: <http://www.visegradgroup.eu/about>).

‘liberty to ignore the rules on fingerprinting and registration outlined in the Eurodac Regulation’ (Trauner 2016, p. 320). Prior to the refugee crisis, both states had for years unofficially allowed irregular migrants to cross internal borders and reach other member states (Ambrosini, 2018).

Divergent national interests with regard to the relocation mechanism resulted primarily from the asymmetrical impact of the crisis due to geographical proximity to main departure points for irregular migrants. Frontline states, notably Italy and Greece, were directly affected by the mass influx of irregular migrants, yet they lacked favourable asylum conditions. As a result, many migrants moved on to other destinations offering more attractive conditions, such as Germany and Sweden, to apply for international protection, resulting in these member states being severely impacted by secondary movements. Transit states situated on the migration routes from the frontline to the destination states, such as Hungary and Slovenia, were also severely impacted. In contrast, other member states being situated out of the way, such as Estonia and Latvia, were not directly affected. Consequently, the more affected frontline and destination member states pushed for the adoption of the relocation scheme, whereas the transit and ‘bystander’ member states opposed it (Biermann et al. 2017 cited in Schimmelfennig 2018a, p. 978).

Despite strong opposition by the V4 group, a second Council Decision establishing an emergency relocation proposal for 120,000 persons in clear need of international protection from Italy and Greece was forced through by EU interior ministers and **adopted by QMV** on 22 September 2015⁷⁸ (see Figure 5.5), marking an unprecedented step in terms of the use of a majority vote in a situation which involves basic aspects of national sovereignty.

⁷⁸ Council Decision (EU) 2015/1601

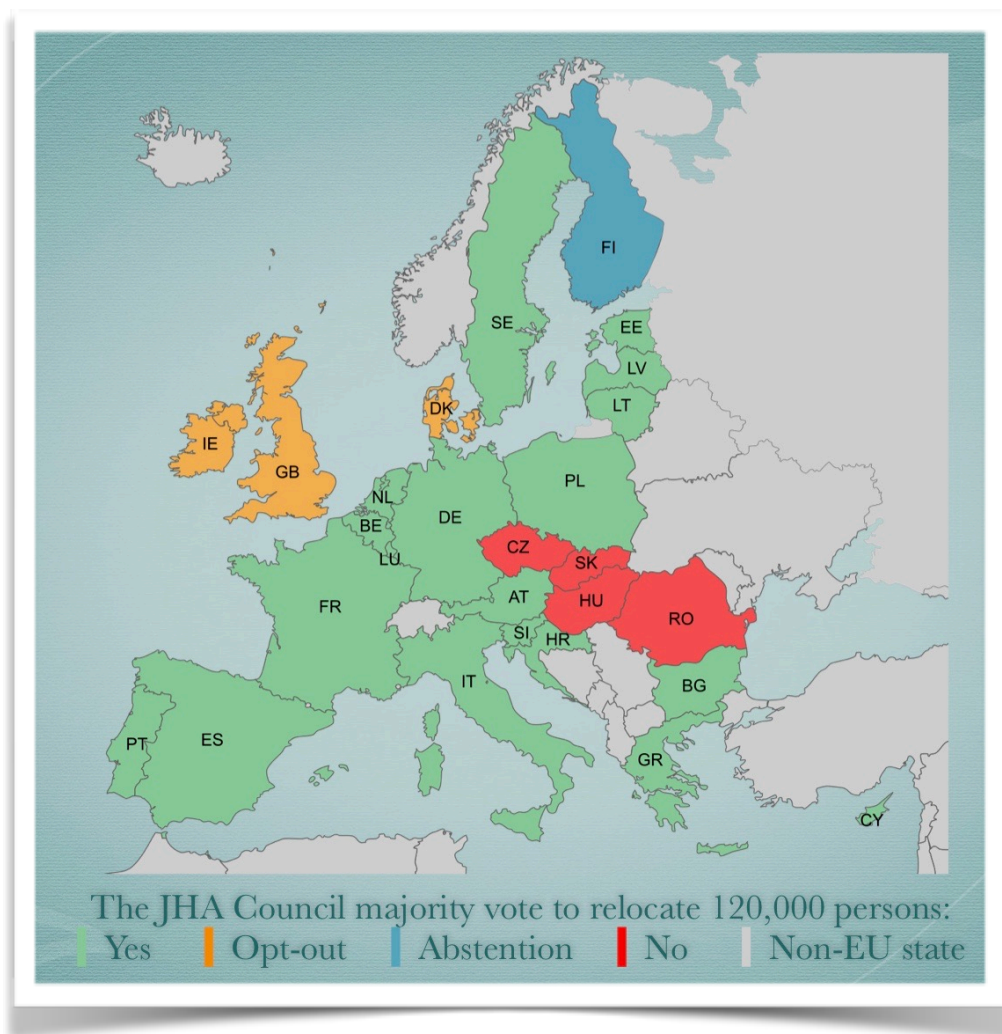


Figure 5.5: Member state voting in JHA Council, 22 September 2015 (Source: Wikipedia Commons, 2015b).

The Council Decision exposed profound divisions within the EU, severely impacting on relations between member states as well as between member states and institutions. The CEE member states continued to strongly oppose the relocation mechanism claiming that it would act as a pull factor drawing more irregular migrants to Europe, impacting significantly on the social fabric. Opposition did not stop at political criticism but also took legal forms, with two of the member states which had voted against the proposal, Hungary and Slovakia filing actions for annulment to the CJEU in December 2015 (CJEU 2015a; b). The Court, however, dismissed the

actions in its judgment of September 2017,⁷⁹ stating the Council's right to impose mandatory quotas and *to take executive action in practically any emergency situation*.

The Hungarian government went so far as to call for a referendum, on 2 October 2016, on the issue of mandatory relocation of asylum seekers. Although the popular consultation did not produce a valid result due to low voter turnout (around 44 per cent), given that the vast majority of voters (98 per cent) voted against relocation represented a strong political signal (Pastore, 2017). Ultimately, EU members did little to implement the plan and show solidarity towards Italy and Greece, hence the relocation schemes failed to meet the Commission's expectations. As it became more and more evident that they were doomed to failure, the Commission lowered the target from 160,000 to 98,255 in March 2017, under the guise of lack of eligible persons.⁸⁰

By November 2017, the total number of persons relocated from Italy and Greece stood at a mere 31,503 (Table 5.2). Some member states, such as Austria, the Czech Republic and Slovakia, relocated less than twenty persons, while others, such as Hungary and Poland, did not even relocate one person. This illustrates that most member states failed to fulfil their legal obligations, however, what is more interesting is that even those states that had **voted in favour** of the relocation mechanism, such as France, Germany and Spain, failed to comply with the Council Decision.

⁷⁹ Judgment of the Court (Grand Chamber) of 6 September 2017 in the Joined Cases C-643/15 and C-647/15 Slovakia and Hungary v Council.

⁸⁰ Eligibility for the relocation scheme was limited to applicants who arrived in Italy and Greece after 15 April 2015 and were nationals or stateless residents of those countries for which the EU-wide average recognition rate was more than 75 per cent. Thus the majority of eligible migrants were Syrians, Eritreans and Iraqis (IOM website <http://eea.iom.int/index.php/what-we-do/eu-relocation>).

Member State	Relocated from Italy	Relocated from Greece	Total	Legal commitment
Austria	15	0	15	1,953
Belgium	361	698	1,059	3,812
Bulgaria	0	50	50	1,302
Croatia	18	60	78	968
Cyprus	47	96	143	320
Czech Republic	0	12	12	2,691
Estonia	0	141	141	329
Finland	779	1,201	1,980	2,078
France	377	4,322	4,699	19,714
Germany	3,972	5,197	9,169	27,536
Hungary	0	0	0	1,294
Ireland	0	646	646	600
Latvia	27	294	321	481
Liechtenstein	0	10	10	
Lithuania	29	355	384	671
Luxembourg	211	271	482	557
Malta	67	101	168	131
Netherlands	842	1,709	2,551	5,947
Norway	816	693	1,509	
Poland	0	0	0	6,182
Portugal	315	1,192	1,507	2,951
Romania	45	683	728	4,180
Slovakia	0	16	16	902
Slovenia	60	172	232	567
Spain	205	1,096	1,301	9,323
Sweden	1,202	1,619	2,851	3,766
Switzerland	877	574	1,421	
TOTAL	10,265	21,238	31,503	98,255

Table 5.2: Relocations carried out by EU and EFTA member states from September 2015 to November 2017 (EC, 2017c).

The events surrounding the Council Decision of September 2015 establishing a temporary relocation mechanism to distribute 160,000 migrants from frontline states Italy and Greece to other member states, shed light on the challenges facing the transfer of national competences to the supranational level in this sovereignty-sensitive policy domain. Furthermore, they shed light on the complexity in EU asylum

and migration policymaking in the context of irregular migration, resulting from the multiplicity of interests both at the institutional and national level, as well as the lack of EU solidarity *even in times of crisis*. The following section examines the contested relocation mechanism through the lenses of liberal intergovernmentalism (LI), multi-level governance (MLG) and historical institutionalism (HI).

5.2.1.1 Theoretical analysis: EU relocation mechanism

According to liberal intergovernmentalists, national governments are rational actors, and therefore, respond rationally in the face of a crisis. Consequently, they negotiate to achieve the outcome that maximises their national preferences, created as a result of both exogenous and endogenous pressures. Therefore, from the lens of LI, member states calculated the national consequences of relocation and oriented their policy positions towards national interest (Schimmelfennig, 2018b). The intergovernmental conflict that developed within the EU, particularly between Eastern and Western member states, following the adoption of the Council Decision on relocation, thus is in line with LI expectations (Moravcsik, 1998). The emerging East-West divide falls largely along geographic lines, as well as accession date. Although the newer member states from Central and Eastern Europe, particularly the Visegrád members, sought EU membership to integrate into Europe, following the refugee crisis, the overwhelming force bringing these states together has been a trend towards preventing irregular migration.

The Council Decision, however, also embodies an appropriate model of MLG. The multi-level governance approach views the process of EU policymaking as a complex web of interaction between various levels of governance. Nevertheless, according to

the approach, states remain the primary actors. The case illustrates that lack of a concerted EU response to the refugee crisis resulted in a window of opportunity for member states to take the lead and force through the Council Decision via QMV. Consequently, EU member states in the Council emerged as the primary actors, maintaining the central role in the negotiations establishing the temporary relocation scheme.

A more nuanced analysis, utilising the historical institutionalist analytical framework, reveals that the changing relationship between EU institutions and member states over a period of time offers a more compelling explanation of the new dynamic of EU asylum and migration policymaking and governance. Hence it could be argued that HI provides a more convincing account of the outcome than its intergovernmentalist and multi-governance alternatives. The Relocation Decision featured intergovernmental conflict, particularly resulting in a new East-West divide, so clearly the alternative theories are relevant, however, they cannot fully explain the outcome. The historical institutionalist lens enables an understanding of how member states gained significant control in policy areas that are intimately connected with national sovereignty, demonstrated by the outcome of the Council Decision. Still, although member states were behind the wheel, not all were in favour of the outcome, and surprisingly, even those that supported the proposal failed to fulfil their obligations. Indeed, at the end of the two-year period in which the relocations should have taken place (September 2017), only Malta and Finland had relocated all the migrants they were legally obliged to take.

29,401 Total persons relocated

20,323 Relocated from Greece
(30% of 66,400)

9,078 Relocated from Italy
(23% of 39,600)

Countries	Relocation from Italy	Relocation from Greece	Allocation
Austria	15	-	1,953
Belgium	299	698	3,812
Bulgaria	-	50	1,302
Croatia	18	60	968
Cyprus	47	96	320
Czech Republic	-	12	2,691
Denmark	-	-	-
Estonia	-	141	329
Finland	779	1,196	2,078
France	377	4,091	19,714
Germany	3,641	4,838	27,536
Greece	-	-	-
Hungary	-	-	1,294
Ireland	-	552	600
Italy	-	-	-
Latvia	27	294	481
Lithuania	27	355	671
Luxembourg	159	271	557
Malta	47	101	131
Netherlands	762	1,680	5,947
Poland	-	-	6,182
Portugal	299	1,197	2,951
Romania	45	683	4,180
Slovakia	-	16	902
Slovenia	45	172	567
Spain	190	1,089	9,323
Sweden	657	1,619	3,766
United Kingdom	-	-	-
Iceland ***	-	-	-
Liechtenstein ***	-	10	-
Norway ***	816	693	-
Switzerland ***	828	409	-
Total	9,078	20,323	98,255

***EFTA Member States are participating in the EU relocation scheme on a voluntary basis

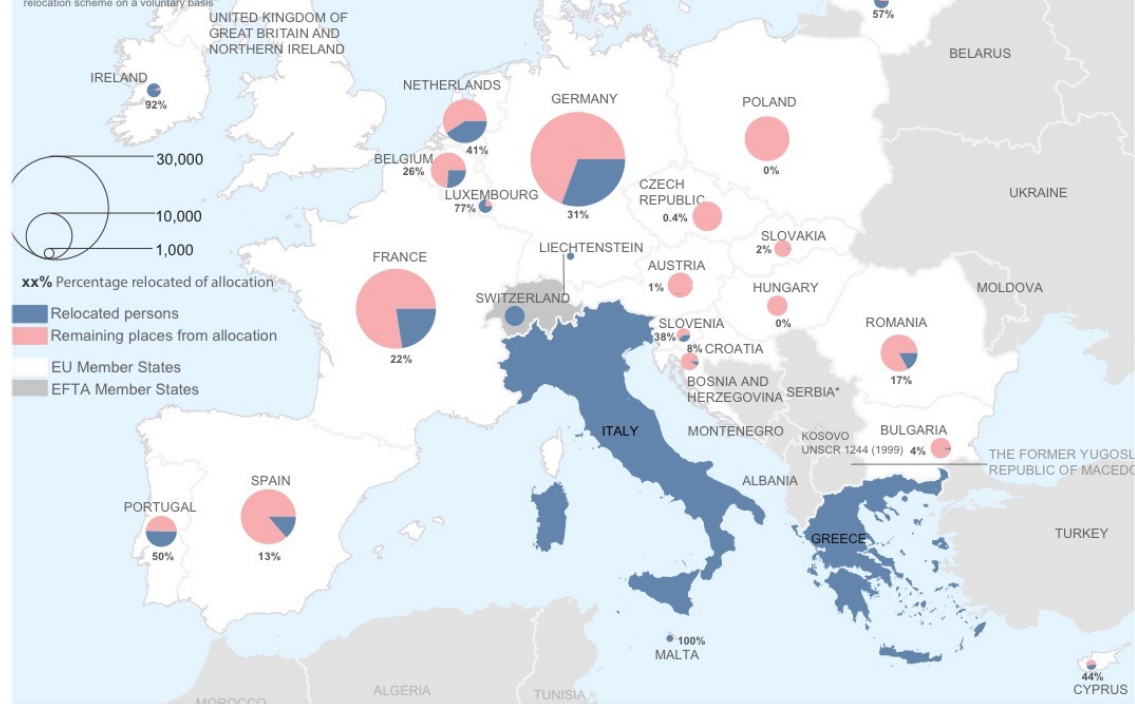


Figure 5.6: Relocations carried out by EU and EFTA member states from September 2015 to September 2017 (Source: UNHCR, 2017b).

Although the different theoretical approaches of LI, MLG and HI have something to offer, they are not able to provide a comprehensive explanation with regard to member state reluctance in participating in the relocation scheme. Failure to implement the Council Decision reflects the friction in EU asylum and migration policymaking which is characterised by clashing interests both at the institutional and national level over how to deal with irregular migration. The following section examines other proposals put forward by the Commission to deal with the refugee crisis in order to shed light on how EU actors' clashing interests impact on EU migration governance as well as on relations between such actors.

5.2.2 Reform of the CEAS: much of the same

The CEAS, formally completed in 2013, was put to the test following the outbreak of the refugee crisis, revealing its shortcomings. Subsequently, the Commission proposed the third generation CEAS legislative instruments, comprising seven proposals tabled in two packages, in May and July 2016 (Table 5.3).

4 May 2016	13 July 2016
• reform the Dublin Regulation	• replace the Directives on qualification and asylum procedures with REGULATIONS
• reinforce the Eurodac System	• reform the RCD
• transform the EASO into an EUAA	• establish an EU Resettlement Framework

Table 5.3: Commission proposals to reform the CEAS, 2016 (Compiled by the author based on data from EU websites).

It is important to point out that the new legislative amendments were proposed without having first thoroughly examined the effect of the second-generation instruments, which had only been recently implemented into national law. The Commission, however, stressed their necessity in the context of the EU response to the crisis, as well as to ensure greater harmonisation of asylum rules.

The shortcomings of the ‘cornerstone’ of the CEAS, the **Dublin Regulation**, were brought to the fore in the wake of the crisis prompting the Commission to put forward a proposal for a revised Dublin Regulation (IV). In its European Agenda on Migration (EC 2015a, p. 13), the Commission openly acknowledged that ‘the mechanism for allocating responsibilities to examine asylum applications is not working as it should’. Nevertheless, the Commission proposal builds on Dublin III by retaining the ‘state of first entry’ rule supplemented by a ‘corrective allocation mechanism’⁸¹ which would be triggered automatically in cases where member states’ asylum systems are faced with ‘disproportionate’ pressure (Zaun, 2017).

In the Council, there were divergent views on the way forward, with member states falling into two sharply opposed camps. At one end, the southern member states pushed for an automatic ‘burden-sharing’ mechanism to distribute asylum seekers more evenly across the EU. This was supported by some northwestern member states, in particular, Germany and Sweden, being the main countries of destination for asylum seekers (Figure 5.3). At the other end, the Visegrád members along with other member states less affected by irregular arrivals were against reform of the regulation. Within this group, some member states opposed the reform given that they had benefitted from the Dublin rules in the past, while others claimed that an

⁸¹ To be triggered automatically in cases where the number of asylum applications in a given member state exceeds 150 per cent of the figure determined in the reference key (based on (1) the size of the population and (2) the total GDP of a member state).

automatic system to distribute asylum seekers across EU member states would result in ‘forcing’ states to accept such persons.

Parliament’s position was more in line with that of the southern states. In other words, it pushed for the ‘state of first entry’ rule to be replaced with an automatic ‘burden-sharing’ mechanism. Furthermore, several parts of the proposal were criticised by MEPs, primarily with regard to the possibility to ‘opt-out’ of the allocation system, allowing member states to buy themselves out by paying 250,000 euro per asylum applicant to the member state determined responsible for examining those applications (Dublin IV proposal 2016, p.19). As a result, there are two quite opposite proposals on the table: the Commission proposal retains the ‘state of first entry’ rule while Parliament is calling for its abolishment. The latter proposal thus appears to reflect the needs of the frontline member states in terms of irregular migration and asylum seeking pressures. Parliament has, however, also expressed concern on the distance between the Council discussions and its own position. In November 2017, Dublin IV rapporteur, Cecilia Wikström, noted:

if the Council were to agree on such a position it would make negotiations between the co-legislators very difficult.⁸²

Indeed, the greatest difficulties will be encountered upon the final approval within the Council, which reflects member states’ interests and manifesting, until now, diverging opinions. Consequently, disagreement both within and among EU institutions and member states has resulted in deadlocked negotiations on the Dublin reform. This illustrates the challenges in EU asylum and migration policymaking resulting from clashing interests of EU actors over how to deal with irregular migration.

⁸² EP Press Release, 2017b.

Following the influx of irregular migrants during the refugee crisis, the **asylum directives** also came under criticism for the wide discretion left to member states, leading to, among other things, significant variation in the recognition rates of asylum applicants from the same country of origin. As part of the reform of the CEAS, the Commission published proposals to replace the **QD** and **APD** with regulations in order to encourage greater convergence in recognition rates as well as the type of international protection status, and to develop a uniform procedure for international protection in all member states by introducing more prescriptive, harmonised rules. Initial reactions to the proposals varied significantly among EU member states. Some, such as Italy,⁸³ supported the proposals while others, such as the Czech Republic and Estonia, voiced opposition. There were also member states, such as Spain, that expressed doubts about the suitability of the legal basis for turning the acts into Regulations (EC, 2016). Trilogues between the co-legislators started in September 2017 and are still ongoing. Nevertheless, unless member states manage to unblock the stalemate in the Council on the reform of Dublin, the ‘cornerstone’ of the CEAS, reform of the asylum directives will not make a significant difference to the overall functioning of the CEAS.

5.2.3 Establishment of the EBCG and EUAA: old wine in new bottles?

Following the outbreak of the refugee crisis, the Commission also tabled proposals to revise the mandates of two JHA agencies, thereby proposing to transform **Frontex** into a **European Border and Coast Guard Agency (EBCG)** and **EASO** into a

⁸³ Resolution adopted by the Italian Senate, 19 October 2016. See: [http://www.europarl.europa.eu/RegData/docs_autres_institutions/parlements_nationaux/com/2016/0466/IT_SENATE_CONT1-COM\(2016\)0466_IT.pdf](http://www.europarl.europa.eu/RegData/docs_autres_institutions/parlements_nationaux/com/2016/0466/IT_SENATE_CONT1-COM(2016)0466_IT.pdf)

European Union Asylum Agency (EUAA). The Regulation on the creation of an EBCG, replacing Frontex, was approved by Parliament and Council in September 2016,⁸⁴ in a record time of nine months following the Commission proposal.⁸⁵ Even though European leaders hailed the success of its establishment, given that it has not been transformed into a centralised agency means that, like its predecessor, it remains incapable of solving the structural problem of border controls in the EU (De Bruycker, 2016).

During the legislative process, the question of how to proceed in cases of emergency at the external borders of member states refusing to take action resulted in one of the most controversial issues. In its original proposal of December 2015,⁸⁶ the Commission included a substantial increase in Frontex's remit to ensure efficient border management. In particular, this involved the right to return failed asylum applicants and to deploy guards to the borders of member states in the absence of their governments' authorisation (Schimmelfennig, 2018b), thus challenging member states' safeguards to protect their borders under the Treaties.⁸⁷ In other words, the Commission anticipated that it would be in command in providing crisis intervention carried out by the EBCG with the backing of the member state in question. These proposals, however, did not pass the Council and the EP.

In terms of the proposal to transform the EASO into an EUAA⁸⁸, the key objective of the Commission was to amend and expand the mandate of EASO to turn it into a fully-fledged agency. In June 2017, the Maltese Presidency of the Council reached a

⁸⁴ Regulation 2016/1624

⁸⁵ UK and Ireland are not participating; Denmark was originally excluded but notified that it would implement the Regulation as of 14 March 2017.

⁸⁶ Proposal for a Regulation of the EP and of the Council on the European Border and Coast Guard and repealing Regulation (EC) No 2007/2004, Regulation (EC) No 863/2007 and Council Decision 2005/267/EC [15.12.2015]

⁸⁷ Art. 4 (2) TEU and Art. 72 TFEU

⁸⁸ Proposal for a Regulation of the EP and of the Council on the EUAA and repealing Regulation (EU) No 439/2010, 4 May 2016.

broad political agreement with the EP (Council of the EU, 2017). Despite its name change, however, the proposal does not present a fundamental overhaul of EASO's mandate. In practice, the Agency remains unable to enforce a common asylum procedure and uniform status for persons granted asylum, hence its competences remain restricted to supporting and coordinating member states in the implementation of EU asylum rules (Carrera and den Hertog, 2016).

Of particular interest here, in the context of the research question, is that the negotiations on the establishment of both the EBCG and EUAA are illustrative of member states' reluctance to surrender competences in this sovereignty-sensitive policy domain to the supranational level. The next section examines the EU's military 'Operation Sophia', established as a consequence of the April 2015 shipwrecks off the Libyan coast.

5.2.4 EUNAVFOR MED Operation Sophia: a failed mission

The EU Naval Force Mediterranean (EUNAVFOR MED)⁸⁹ was established in June 2015 as an emergency response in a period when the EU was incapable of setting a comprehensive strategy and when its member states were deeply divided. Within this context, once the Union defined its strategy with the presentation of the European Agenda on Migration in May 2015, the need emerged for an instrument to address the most pressing issues related to irregular migration flows. The mandate of the operation, renamed 'Sophia' in September 2015, ranges from analysing smuggling and trafficking routes to capturing and disposing of vessels, and training Libyan

⁸⁹ See EUNAVFOR MED Operation SOPHIA official website: https://eeas.europa.eu/sites/eeas/files/eunavfor_med_-_mission_01_june_2017_en.pdf

coastguards, and is divided into three sequential phases (Figure 5.7). In view of the participation of most EU member states, it would appear that the operation constitutes an important step in terms of the EU response to the crisis as well as an expression of European cooperation.

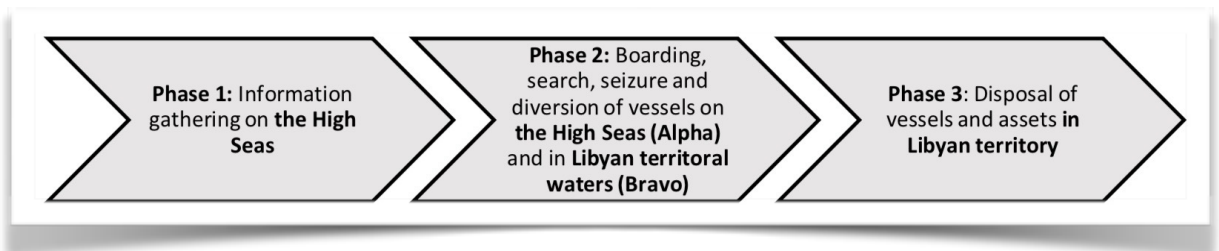


Figure 5.7: Timeline of EUNAVFOR MED (Source: Johansen, 2017).

Indeed, at first glance, EU member state participation and the rate at which the operation was set up appears to indicate the EU's capacity to respond in situations of crisis. However, closer examination indicates a decision that was politically symbolic rather than a genuine response to the crisis. Although Phase 1 and 2 Alpha were put into operation rapidly, the lack of a UN Security Council resolution or agreement from Libyan authorities to intervene in Libyan territorial waters and on its territory subsequently forced the operation into a standby position, remaining incapable of transitioning into Phase 2 Bravo and beyond. Consequently, the EU's ambitious naval initiative has been heavily criticised, with most criticism directed at the inability or even impossibility in reaching its initial goals, given that a unified and effective government in Libya is a precondition to operate in the territorial waters of Libya and on its territory (Johansen, 2017).

Furthermore, there is an ongoing debate as to whether Operation Sophia has pushed migrants into taking more dangerous routes to reach Europe, leading to an increase in deaths at sea (e.g., Carrera and Den Hertog, 2016). According to Frontex

(2017), over 4,500 migrants lost their lives crossing the Central Mediterranean route in 2016, in contrast to 3,175 in 2015. The operation has also failed to meet the stated objective of its mandate, i.e., to disrupt and dismantle human trafficking and smuggling networks in the Central Mediterranean. Hence it appears that overall, the operation turned out to be a failed mission due to its overly ambitious goals. More importantly, the establishment of 'Operation Sophia' highlights that EU asylum and migration policymaking in the context of irregular migration leads to suboptimal outcomes.⁹⁰ The next section discusses the implementation in 2016 of the controversial EU-Turkey Statement which resulted in the closure of the main migratory route into the EU during the crisis.

5.2.5 The EU-Turkey statement: a fragile and controversial deal

Concluded in March 2016 by EU leaders and the Turkish Prime Minister, the EU-Turkey Statement, spearheaded by Germany, was officially presented as one of the flagship EU responses to the refugee crisis. The main aim of the agreement was to stem irregular migration via the Western Balkan route by sending back all irregular migrants entering Greece from Turkey. In exchange, Turkey would receive, *inter alia*, six billion euro in economic assistance. EU leaders portrayed the deal as a huge success, with some even recognising it as a model to be replicated elsewhere, in view of the fact that irregular border crossings fell significantly following the implementation of the agreement. President Erdoğan, however, has repeatedly threatened that Turkey could withdraw its cooperation, highlighting the fragility of the deal (Ambrosini, 2018).

⁹⁰ For a definition of the term 'suboptimal', see Chapter 1, Section 1.1, p. 10.

From the outset, the Statement has been a particularly controversial issue. Concerns have been raised over its adherence to international law, particularly with the principle of *non-refoulement*. The presumption that Turkey is a ‘safe third country’ (Art. 38 APD) for asylum seekers has been heavily criticised by NGOs (e.g., AI, 2017) and legal experts (e.g., Peers, 2016). A key question revolves around its actual legal nature in terms of EU law.

This was brought to the fore in February 2017 following the decision of the CJEU in three cases involving asylum seekers in Greece who challenged the Statement’s legitimacy on the basis of its premise that Turkey could be deemed a ‘safe third country’.⁹¹ Surprisingly, the General Court concluded that it did not have the competence to pass judgment in the proceedings. The Court declared that since the Statement was ‘an agreement concluded by the Heads of State or Government of the Member States of the EU and the Turkish Prime Minister’ (CURIA, 2017), it could not conclude that it was an act pertaining to an EU institution.

Despite the involvement of the European Council, the Council and the Commission in the creation of the statement, the EU institutions denied having any association before the Court. The question on the legality of the EU-Turkey statement remains unanswered as the CJEU has not yet determined its legal nature nor reviewed the effects of its enforcement.

⁹¹ Orders of the General Court in Cases T-192/16, T-193/16 and T- 257/16 NF, NG and NM v European Council, 28 February 2017. Currently, this decision is pending for appeal at the CJEU.



Figure 5.8: EU-Turkey vows (Source: Núñez Ferrer, 2017).

The deal thus represents a form of intergovernmental agreement which operates outside the EU legislative framework. In practice, it has allowed member states to circumvent constraints and bypass the interests of the supranational institutions, suggesting a weakening of the supranational role in EU asylum and migration policymaking. It is also indicative of the move towards intergovernmental modes of cooperation in order to prevent irregular migration, where member states in the Council remain firmly in the driving seat. The following section examines unilateral measures taken by EU member states to deal with the refugee crisis and their impact on EU migration governance.

5.3 Unilateral responses

As discussed earlier, EU member states were not affected to the same degree by the influx of irregular migrants during the refugee crisis. Most Eastern members, together with Portugal and the UK were less affected by irregular migrants entering or transiting their territories, while those member states located on the EU's external borders, namely Italy and Greece were receiving increasing numbers. In view of the high numbers of irregular arrivals, these two border states disregarded the Dublin Regulation's criteria resulting in secondary movements of migrants, primarily, though not exclusively, to Germany and Sweden. This triggered several member states to 'go it alone', in order to prevent such movements, by building border walls and fences on their borders. Hungary was harshly criticised for being the first member state, in July 2015, to start building a fence on its southern borders with Serbia and Croatia. Nonetheless, other member states soon followed suit.

	Border fences in the EU
July 2015	Hungary begins preparation work for a fence along the length of its border with Serbia and Croatia
August 2015	Bulgaria builds a wall along the Turkish border
September 2015	Hungary completes its wall along the Serbian border
September 2015	France and the UK begin construction of the Calais border barrier
October 2015	Hungary completes its wall along the Croatian border
October 2015	Austria begins construction of border barriers at several border crossings with Slovenia
November 2015	Slovenia builds a razor sharp fence along parts of its border with Croatia
November 2015	Austria begins construction of a border barrier on its border with Slovenia
April 2016	Austria begins construction of a fence on its border with Italy

Table 5.4: Border fences erected in the EU following the refugee crisis (Compiled by the author based on data from EU websites).

Indeed, the initial decision taken by Hungary set the scene for other member states to close their borders. To a large extent, this unilateral action lacked prior coordination, taking place in a beggar-thy-neighbour approach,⁹² thus resulting in friction among member states (Lehne, 2016). Table 5.4 and Figure 5.9 detail the barriers, fences and walls erected by member states along their borders to prevent irregular entry following the outbreak of the refugee crisis. In this context, it is also important to point out that Spain has had fences in Ceuta and Melilla on its borders with Morocco since 1993 to prevent irregular crossings.

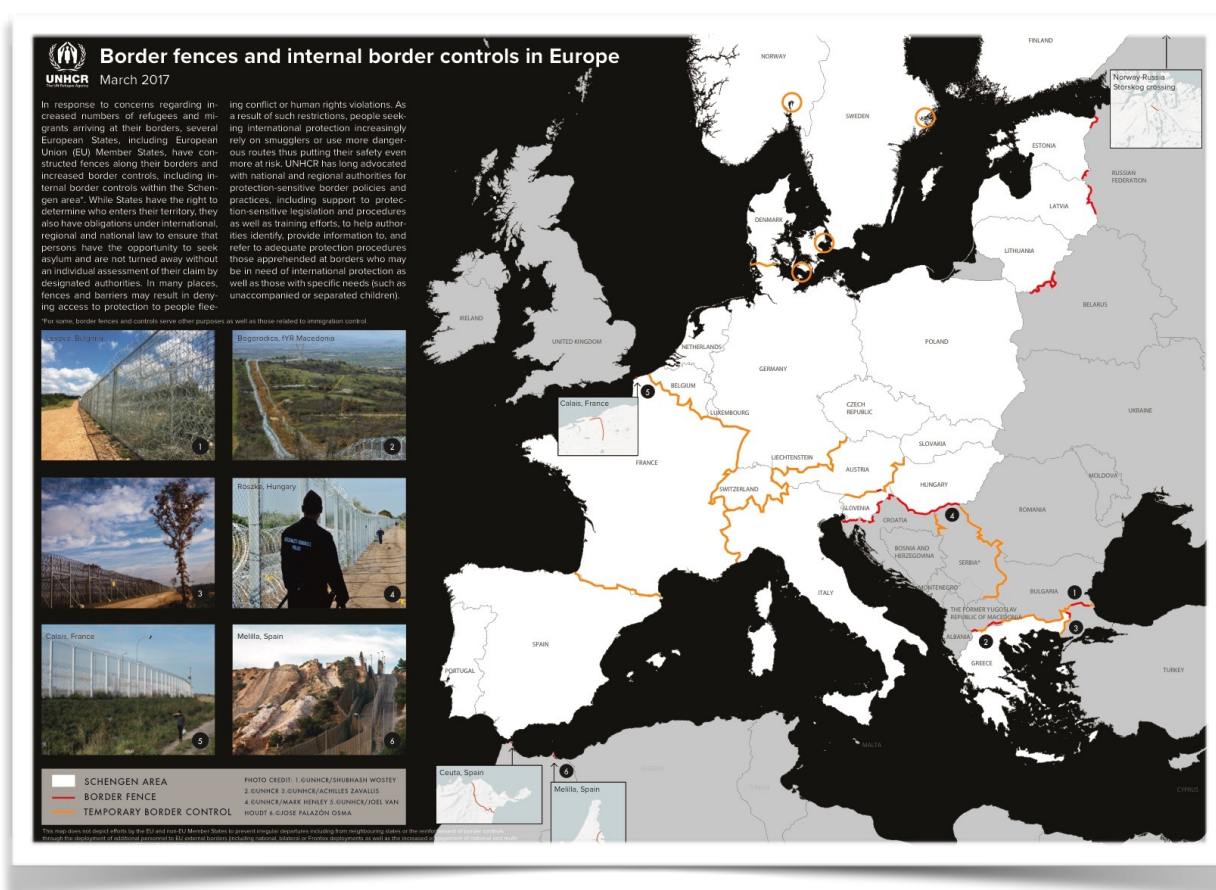


Figure 5.9: Border fences and internal border controls in the EU, 2017 (Source: UNHCR, 2017a).

⁹² A policy through which one state attempts to remedy its problems by means that tend to worsen those of others.

In June 2018, frontline member states Italy and Malta decided to close their ports to NGO migrant rescue vessels (Caruana 2018; Il Giornale 2018) in order to prevent further irregular arrivals. Despite widespread criticism of the Italian and Maltese governments' decision, to date, there has not been one European government that has stood out for its open immigration stance during this period and/or offered to take in migrants rescued at sea.

The above thus illustrates that the focus of EU member states is increasingly shifting towards measures to prevent irregular migrants from entering their territory. The following section examines another unilateral measure implemented following the outbreak of the crisis, shedding light on how member states gained significant control in the policy area of asylum and migration. It also highlights the difficulty in developing a common response to deal with the issue of irregular migration, resulting from the multiplicity of interests of the actors involved.

5.3.1 'Temporary' reintroduction of internal border controls

In addition to building fences and walls along national borders to prevent irregular migration, following the outbreak of the crisis, several member states also resorted to reinstating 'temporary' internal border controls, some of which remain in place until the present day (Table 5.5). In the past, this measure was applied in relation to major sporting events or high-level political meetings and usually carried out for only a few days or weeks (FRA, 2016). Thus the decision of several member states to suspend Schengen rules, thereby closing their borders, unlocked a serious debate on the functioning of the Schengen Area and the challenges facing it. One of the major issues concerned the possible collapse of the border-free zone owing to the

unprecedented arrival of irregular migrants in 2015 and 2016 (Toygur and Benvenuti, 2016). As a result, the Schengen regime⁹³ came under serious pressure as the reintroduction of internal border controls became the ‘new norm’ in several member states, despite the significant decrease in irregular arrivals following the implementation of the EU-Turkey statement.

Member State	Start date	End date	Internal border controls
Germany	13 September 2015	11 November 2021	Land borders with Austria
Austria	16 September 2015	11 November 2021	Land borders with Hungary, Slovenia, Czech Republic and Slovakia
Slovenia	17 September 2015	16 October 2015	Land borders with Hungary
Hungary	17 October 2015	22 May 2021	Land borders with Slovenia
Sweden	12 November 2015	11 November 2021	All internal borders
France	13 November 2015	31 October 2021	All internal borders
Denmark	4 January 2016	11 November 2021	All internal borders with an initial focus on the land border with Germany and ports with connection to Germany
Belgium	23 February 2016	1 April 2021	Border between the Province of West-Vlaanderen and France
Finland	27 July 2020	25 May 2021	All internal borders except the border with Iceland

Table 5.5: Temporary reintroduction of internal border controls, 2015-2021
(Compiled by the author based on data from European Commission website).

Furthermore, the economic costs of non-Schengen are huge. The Commission estimates that annual direct (trade) costs could result in a figure ranging anywhere between five and eighteen billion euro. Similarly, studies from the two largest economies in the Schengen area, France and Germany, highlight the gravity of the situation. According to France Stratégie, permanent border controls until 2025 would

⁹³ The Schengen Area: http://www.consilium.europa.eu/media/32853/2017_140_schengen_a1_web.pdf

result in a loss of 10 billion euro in trade for France alone and cumulative losses of over 100 billion euro. The German Bertelsmann Foundation study calculates that Germany could risk extra expenses ranging between 77 and 235 billion euro by 2025, while cumulative losses could range between 471 billion and 1.43 trillion euro. Non-Schengen would also impede extra-EU trade with major partners, in particular, China and the US (EP, 2016). Estimates carried out by the Bertelsmann Foundation in 2016, on the economic costs of non-Schengen based on two scenarios, are presented in Figure 5.10. In the first, more pessimistic projection, intra-EU import prices would increase by 3 per cent, while according to the second, more conservative scenario, it would involve an increase of 1 per cent (Bohmer et al. 2016).

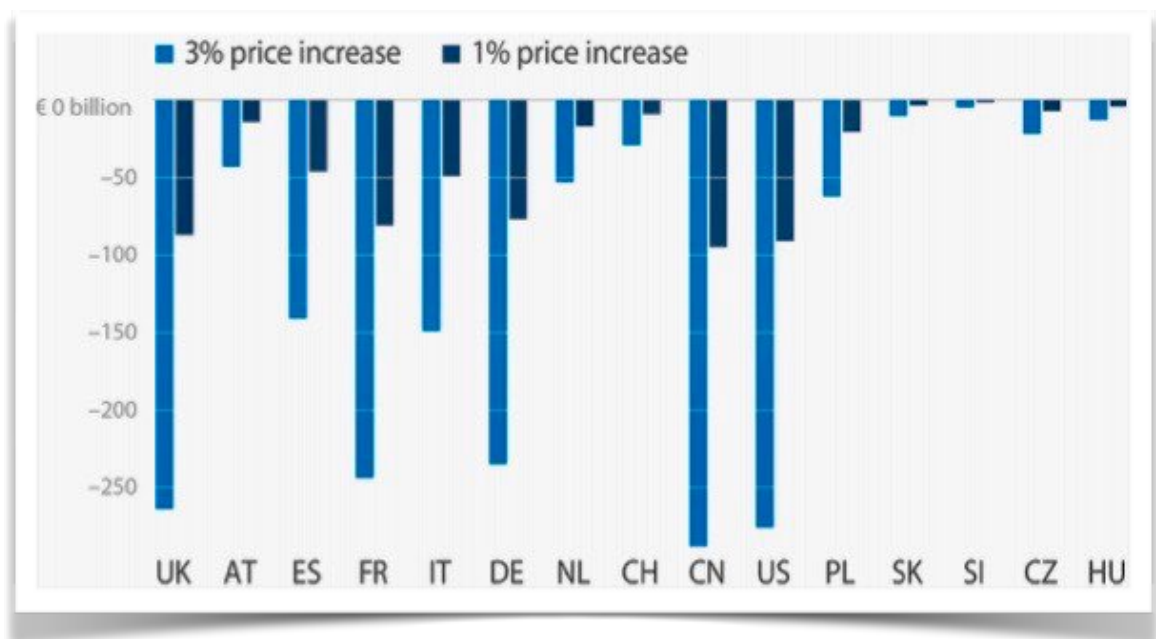


Figure 5.10: Cumulative GDP 'deviation' scenarios (2025), in billion euros (Source: Bohmer et al. 2016).

Another study carried out at the German Ifo institute,⁹⁴ however, highlights that the end of Schengen would imply bearing further, more difficult to quantify, costs. The study stresses that the European project, together with several of its political achievements, would be put at risk if Schengen ceases to exist. In other words, the danger is that the real cost related to the decision of certain member states to reinstate internal border controls could result in the first step towards European disintegration (Pascouau and Guillaumez, 2016). Following the analysis of EU and unilateral measures introduced in response to the refugee crisis, the next section presents the key findings from the case study in the context of the research questions.

5.4 Discussion of main findings

Although irregular migration to Europe is not a new phenomenon, the political importance it achieved following the outbreak of the refugee crisis in 2015 is without parallel. Primarily, this was a result of the EU response to the crisis, which was incoherent and uncoordinated, slow and divided, and ultimately, unable to deliver. Despite the range of initiatives put forward, both at the EU and national level, to deal with the unprecedented influx of irregular migrants, EU failure to provide an effective common response to the crisis led to divisions within the EU so far as to threaten the European project.

⁹⁴ The Trade Effects of Border Controls: Evidence from the European Schengen Agreement, 14 September 2016. Available from: https://editorialexpress.com/cgi-bin/conference/download.cgi?db_name=RESCConf2017&paper_id=216

The case study on the refugee crisis has allowed for an in-depth understanding of how the different EU policy responses to irregular migration impact on the relations both between and within EU member states and institutions, and subsequently on EU migration governance. Hence the findings help to answer the research questions, particularly the third question: *What implications can be drawn from the EU responses, both at the institutional and national levels, towards the refugee crisis (2015-2017), and how has this affected relations between the EU and its member states?* The investigation sheds light on the difficulty in EU asylum and migration policymaking in the context of irregular migration - due to the diverse interests of the actors involved - as well as in reaching agreement on common asylum and migration policies *in a crisis situation*.

The chapter illustrated that the outbreak of the crisis, in 2015, exposed shortcomings in the second generation of the CEAS instruments - which had just been completed two years earlier - most notably, inconsistent transposition into national legislation resulting in divergent outcomes for asylum applicants across the EU. Besides their inability to cope with a large influx of irregular migrants, the legislative instruments generated an asymmetrical impact among member states by shifting the 'burden' of asylum responsibility to the frontline member states. Nonetheless, the Commission's proposals, in 2016, to reform the CEAS, particularly the Dublin Regulation, resulted in two opposing camps with the frontline and destination states falling in the first and the transit and bystander states in the latter. Eventually, the Commission's inability to provide leadership in convincing member states to find a common solution to reform the CEAS to better cater for the realities of migration pressures in the frontline member states, led to a stalemate in negotiations, illustrating the difficulty in reaching agreement on common asylum and migration

policies due to **conflicting interests** as well as **lack of EU solidarity**. As one of the interviewees commented:

The reality is that the way the EU works to have proper mechanisms and legislations in place you need the approval of the member states. On certain issues, there will be this lack of agreement which slows things down tremendously.

The case study reveals that as the EU struggled to develop a common response to the crisis, member states took matters into their own hands and resorted to **unilateral actions** to prevent irregular entry, such as building fences and closing national borders as well as reinstating internal border controls within the Schengen area. As a result, the overall functioning of **Schengen was put at risk** following the decision of several member states to reinstate 'temporary' border controls - to prevent irregular secondary movements of migrants under the pretext of national security. Although such measures were authorised by the EU, they effectively denote a major and long-term restriction of the earlier state of integration, given that they have been prolonged several times (and are still in place at the time of writing). The state of affairs also indicates the **lack of solidarity and mutual trust** among member states, where precedence is given to national over common interests.

Linked to this aspect, member state reluctance in engaging in solidarity measures, illustrated in the failed Commission relocation plans to ease pressure on frontline member states Italy and Greece hampered the development of a unified response to the crisis. As highlighted in this chapter, even those states that had voted in favour of the relocation proposal failed to take in migrants despite their legal commitments, further emphasising the absence of solidarity among member states. Furthermore, non-implementation of the intra-EU relocation plans suggests a weakening of the supranational role of the EU in this policy area.

Indeed the findings reveal that the EU response to the crisis resulted in **weakened EU institutions** as well as **lack of unity** and **political leadership**. The inability of the EU institutional framework to respond effectively to the crisis weakened the EU, casting doubt on the functioning of the EU institutions. The Commission was unable to provide political leadership to overcome the crisis situation, at the same time, the Council failed to secure agreement on a common approach. Meanwhile, the Parliament was sidelined in terms of the EU-Turkey Statement, which was agreed upon by EU leaders without its involvement, illustrating that member states took the lead in an issue falling under the area of shared competence. A major finding connected with this issue pertains to the fact that member states are increasingly opting for intergovernmental agreements which operate outside the EU legislative framework in order to prevent irregular migration.

The case study illustrates that, rather than moving towards further supranationalism, member states are increasingly resorting to **intergovernmental decision-making** and unilateral actions to deal with the challenge of irregular migration. In situations where common positions are feasible, member states operate within the EU legislative framework, as evidenced in the creation of the EBCG, however, when common positions are unattainable, such as in the relocation proposals, alternative policy venues are searched for. A case in point is the EU-Turkey Statement which, as aforementioned, was agreed upon by EU leaders, effectively bypassing the European Parliament. The increasing intergovernmental nature of EU asylum and migration policymaking thus could be interpreted as a reflection of member states' unwillingness to surrender competences in this politically sensitive area. As a result, EU migration governance is increasingly characterised by the fragmentation of national interests as well as member state resistance towards further harmonisation of common asylum policies and the development of a common

migration policy. Accordingly, the securitarian approach is increasingly prevailing over the humanitarian approach.

EU policy responses to irregular migration are indeed in constant conflict, both at the supranational and national level, however, as the case study illustrates, following the outbreak of the refugee crisis, the supranational institutions have a lesser role in EU asylum and migration policymaking, leaving member states in the Council at the wheel. As stated above, member states are increasingly shifting towards intergovernmental decision-making and unilateral actions to tackle the phenomenon of irregular migration, thus excluding the supranational institutions from decision-making in this field. The absence of a common EU response to the refugee crisis thus resulted in a 'window of opportunity' for member states to reaffirm national sovereignty. Indeed, member states were in the driving seat with regard to tackling the crisis, in particular, by forcing through the Council Decision establishing the temporary relocation mechanism in 2015, as well as by signing an intergovernmental agreement with Turkey in 2016. In practice, policymaking in this sovereignty-sensitive policy domain remains in the hands of EU member states, as a result of their unwillingness to cede sovereignty to the supranational level. Hence the governance gap between national and supranational responses to irregular migration.

The EU response to the refugee crisis also resulted in a more divided EU. New **fault lines were exposed**, including an East-West split, reflecting the different interests of EU member states over how to deal with the crisis. This additional obstacle in developing a common approach to irregular migration was underlined by former President Tusk ahead of the December 2017 European Council Summit:

Today and tomorrow we will also deal with issues where **a lack of unity is very visible**. As you know, I am talking about EMU and migration. When it comes to EMU, the divide is – and sorry for this geographical simplification – between north and south, and when it comes to migration, it is between east and west. **These divisions are accompanied by emotions which make it hard to find even a common language and rational arguments for this**

debate. This is why we should work on our unity even more intensively and more effectively than before.⁹⁵

In addition to causing a split between member states, the EU response also resulted in tensions between the national and supranational level reflected in the Commission's infringement proceedings against Hungary, Poland and the Czech Republic, launched in June 2017 (arguably too late), for failure to carry out their obligations pursuant to the relocation Council Decision. In December 2017 the Commission proceeded to the subsequent stage of the proceedings, hence referring the member states to the CJEU. The cases are still in progress at the time of writing.

The response to the crisis also affected the tone of political discourse in the EU, which has become increasingly focused on irregular migration, resulting in the **rise of right-wing populism** in several member states. In practice, while the response to the crisis exposed the EU's limitations in relation to its ability in dealing with the situation, right-wing (anti-immigration) populist forces occupied centre stage in the debate as public perceptions of the threats associated with increased irregular migration led to a general rise of anti-immigration policies. Consequently, right-wing populist parties have made significant electoral gains as a result of EU failure to deal with the crisis, with some taking office and others becoming the main political opponents.

Finally, the impact of (national and institutional) preferences in the context of irregular migration on policy outcomes during the refugee crisis can also be illustrated via the public policy models. According to Plott's equation, *Preferences x Institutions = Outcomes* (1) if preferences change, outcomes will change, even if institutions remain constant, and (2) if institutions change, outcomes will change, even if preferences remain constant. The case study, therefore, fits the first premise

⁹⁵ Quoted in European Council Press Release, 14 December 2017.

of the equation. As this Chapter has illustrated, following the outbreak of the refugee crisis, preferences, both at the national and institutional level changed, with the focus shifting towards more restrictive migration policies and the strengthening of the EU's external borders. At the same time, institutions remained constant, reflected in the deadlocked negotiations on the Dublin reform and the inability of the EU to develop a common response. Still, outcomes changed, resulting in suboptimal measures such as the closure of national and external borders as well as the bypassing of supranational institutions in the EU-Turkey Statement. This also confirms the working hypothesis of this study - that EU asylum and migration policymaking in the context of irregular migration is resulting in suboptimal policy outcomes that do not fully cater for the realities of migration pressures in the member states of first entry. As the case study illustrates, since EU policies dealing with irregular migration fail to take into account the current preferences, policy outcomes in the context of the refugee crisis failed to reflect the needs on the ground - i.e., in those member states that faced strong migratory pressure - and resulted in negotiation deadlock and/or suboptimal policy outcomes. This, therefore, can be partially explained by the fact that institutions (and rules) have not changed to cater for the current needs. The key findings discussed above are further explored in the following two chapters. The next section concludes the chapter.

5.5 Conclusion

This chapter illustrated that European cooperation in the field of asylum and migration has not automatically translated into EU integration. On the contrary, increasing fragmentation of national preferences has reinforced member state

resistance towards further harmonisation of asylum policies and the development of a common migration policy. The EU's inability to develop a unified response to the unprecedented influx of irregular migrants in 2015 and 2016 reflects the clashing interests of EU actors vis-à-vis irregular migration. It also highlights that policies in this field have resulted in suboptimal outcomes that do not cater for the needs on the ground in those member states facing strong migratory pressure.

In exploring the EU response to the refugee crisis, the case study shed light on the importance of the asymmetrical impact of the crisis in developing a common response, resulting in member states falling into four distinct groups in terms of their approach. First, the frontline states, such as Italy and Greece, being those states directly affected by major inflows of irregular migrants, pushed for Dublin's 'state of first entry' rule to be replaced with a mandatory mechanism to distribute asylum seekers across EU member states. The second group, comprising the transit states, such as Hungary and Slovenia, were also significantly affected being situated on the migration routes from the frontline to the destination states. Hence they sought to redirect irregular migration flows to other member states by sealing their borders and, failing that, let them move swiftly to other states. Similarly to the transit states, the third group, the destination states, such as Germany and Sweden, were also severely impacted, being the preferred states for asylum seekers. As a result, they closed their borders, however, they pushed for a 'burden-sharing' system thereby supporting the frontline states. Finally, the bystander states, such as Estonia and Latvia, not being directly affected by irregular entry had little interest in amending policy and thus chose to maintain the status quo. Ultimately, the EU response generated new tensions within the EU, leading to an East-West split, and exacerbated pre-existing ones, between northern and southern member states, particularly following the closure of national borders.

In essence, the EU response to the crisis resulted in a serious test for the asylum and Schengen *acquis*. Yet, more importantly, it brought to the fore structural and political weaknesses of European cooperation in this field, calling into question the principles of solidarity and mutual trust. The case study reveals that unity and political will for common solutions in the context of irregular migration are clearly lacking and that as a result, decision-making has become more disputed, thereby making it harder to reach agreement in this policy domain. As discussed earlier, the unprecedented use of QMV in a sovereignty-sensitive issue highlights the extent to which decision-making processes in this policy area have become contested. The low number of intra-EU relocations carried out between 2015 and 2017 together with some member states judicially and politically challenging the Council Decision reveals the difficulties not only in reaching agreement in this policy area but more importantly, in policy implementation. Besides undermining the authority of EU decisions, non-implementation of the EU relocation scheme demonstrates the extent to which the EU was challenged in dealing with the crisis.

The EU response to the crisis thus altered the political context both at the national and supranational level. On the national level, this concerns, in particular, the increasing politicisation of irregular migration, with right-wing populist parties capitalising on the reinforced security-migration nexus. In addition, most member states are increasingly opting for short-term *ad hoc* initiatives given that no benefits are perceived in developing long-term solutions. At the same time, at the European level, the resurgence of intergovernmental modes of cooperation has contributed to a change in the institutional environment, hence the strengthening of intergovernmental JHA cooperation in the Council with its focus on preventing irregular migration. A form of ‘supranational intergovernmentalism’ decision-making thus emerges in which member states are increasingly cooperating at the EU level within an

intergovernmental framework, reflecting their reluctance to surrender competences in this sovereignty-sensitive policy domain to the supranational level.

A key issue that emerged from the case study is that the EU is increasingly shifting its focus towards preventing irregular migration, as exemplified by the adoption of the EU-Turkey statement and the creation of the EBCG. In other words, the focus is increasingly on the securitarian approach - on restriction and control by entering into agreements with third countries and strengthening the EU's external borders - rather than on the humanitarian approach. This is an important finding in light of the fact that it is ***the only aspect*** of the EU response to the refugee crisis where EU member states were undivided.

Finally, the case study reveals that there is a credibility gap (at least in the short term) in the saying that the EU emerges stronger when crisis strikes. Generally, situations of crisis have been viewed as a trigger for both stronger European integration and supranational decision-making. Nonetheless, as the EU has expanded its membership, more seats at the table have meant more diverging opinions on how it should operate. As this chapter has illustrated, these divisions have widened in the wake of the 'refugee crisis, resulting in additional tensions between national and supranational policy responses. Consequently, the likelihood is that the challenge of irregular migration will continue to create friction within the EU with unilateral decisions becoming 'the new norm' as migration-related pressures persist in those member states most exposed to the phenomenon. In the next two chapters, the impact of national and supranational policy approaches to irregular migration on the relations between EU member states and institutions, and subsequently on EU migration governance are explored in more detail.

The clash between EU institutions' approaches to irregular migration

This chapter examines the different approaches of the EU institutions to irregular migration. First, it examines differences in the approaches of EU institutions. This is followed by an analysis of the impact of such approaches on EU asylum and migration policymaking as well as on relations between EU institutions, covering the period prior, during and post the refugee crisis (2013-2018). The chapter finds that notwithstanding the importance of the issue of irregular migration, EU institutions have not managed to overcome their differences and develop a common approach to deal with the phenomenon. Moreover, given that the policy domain of asylum and migration is increasingly characterised by intergovernmental cooperation, it is the (JHA) Council that remains the dominant actor in the decision-making process.

6.1 Introduction

This chapter draws on the discussion from the previous chapter which shed light on the impact of the different EU policy approaches to irregular migration on the relations between EU actors as well as on EU asylum and migration policymaking, via the case study of the EU response to the refugee crisis (2015 to 2017). More specifically, this chapter analyzes how the different approaches of the three central legislative institutions of the Union (referred to as the EU's 'institutional triangle') impact on the relations between such institutions as well as on policy outcomes, covering the period 2013 to 2018. As stated earlier, despite the fact that the issue of irregular migration has been an EU policy priority for over a decade, a common approach is lacking as a result of clashing national policy preferences and, at times, the discordant objectives of the EU Commission, Parliament and Council.

The Council is increasingly prioritising security objectives, such as strengthening the EU's external borders and increasing cooperation with third countries to prevent irregular entry. These objectives are in line with rationalist thinking in that decision-making in the Council in the context of irregular migration is driven by member states' aim for utility-maximisation, and hence for policy outcomes that are nearest to their ideal positions. However, more often than not, this results in suboptimal policy outcomes. This is because member states in the Council - cooperating at the EU level within an intergovernmental framework - tend to have less integrationist positions than the Commission and the Parliament. Given that EU legislation is likely to have significant effects on EU member states, preventing legislation on issues of asylum and migration which could lead to higher standards or increased harmonisation of EU rules is a common concern of member states. As a result, they frequently oppose Commission proposals or request amendments in accordance with

their national preferences. Moreover, a group of member states that has sufficient votes can block any new legislation (Hayes-Renshaw and Wallace 2006 in Warntjen 2017).

In terms of the Parliament, although it has traditionally advocated for a rights-based approach, supporting the protection of the rights and safeguards of asylum seekers and migrants, following the refugee crisis varying support among political groups has resulted in a lowering of standards. In this regard, the emergence of right-wing populist parties with their anti-immigration agenda is increasingly impacting on asylum and migration policymaking. Arguably, this is one of the major European political developments of the past decade in this field, resulting in the end of the centre-left/centre-right duopoly that has dominated EU politics in the post-war era. Finally, the Commission, similarly to the EP, shifted from a rights-based approach to a more security-oriented approach in the wake of the refugee crisis, bowing to political pressure to satisfy the political interest in the Council.

It is also important to reiterate here that over the past two decades, changes to the EU institutional framework, following the entry into force of various treaties, have had a significant effect on EU asylum and migration policymaking. Under Maastricht, the role of Parliament⁹⁶ was strengthened. With Lisbon, its role was further enhanced, with Commission proposals having to pass through both the Parliament and the Council under the ordinary legislative procedure.⁹⁷ Thus before exploring the approaches of the EU institutions to irregular migration, the chapter briefly looks at how EU decisions are made as well as the difficulties in EU decision-making.

⁹⁶ as well as that of the CJEU

⁹⁷ Arts. 78 and 79 TFEU.

6.1.1 The EU decision-making process

EU legislation all starts with an official proposal from the Commission.⁹⁸ During this initial stage, the Commission consults widely, usually by public consultation to establish a group of experts on a specific topic, thus allowing those parties and experts involved to provide input. Civil society lobbyists, therefore, are able to exert their influence in shaping a new law (TASC, 2018).

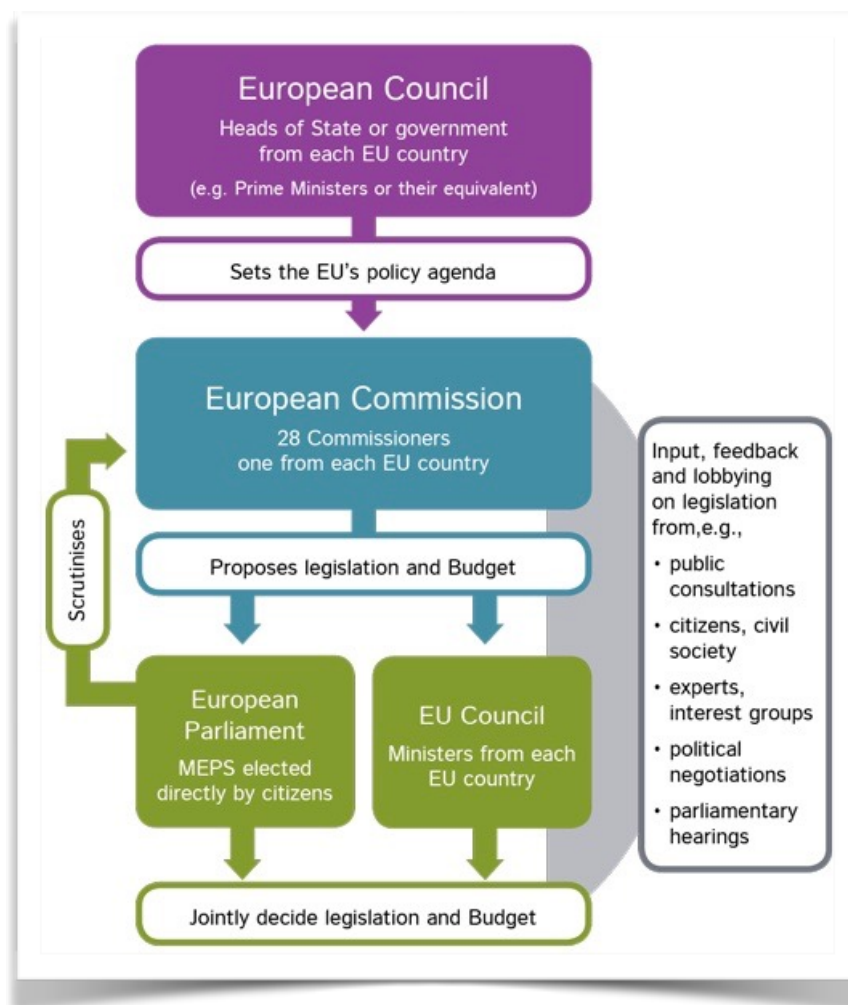


Figure 6.1: How EU decisions are made (Source: TASC, 2018).⁹⁹

⁹⁸ The European Council can also put forward requests for new legislation, or amendments to current legislation, usually due to matters referred by members of the EP and Council, other EU institutions or specific interest groups.

⁹⁹ Think-tank for Action on Social Change (TASC) official website: <https://www.tasc.ie/opengovtoolkit/public-decision-making/european-union/>

After the consultation period, the Commission submits its proposal to the relevant Council configuration and Parliamentary Committee. In terms of asylum and migration policymaking, these involve the Justice and Home Affairs (JHA) Council and the Committee on Civil Liberties, Justice and Home Affairs (LIBE), respectively. The way in which this process evolves hinges on the degree of agreement between the co-legislators on the proposal put forward by the Commission. Generally, in the Parliament, a Member of the EP (MEP) is entrusted by the LIBE Committee with the task of preparing a report in response to the Commission's proposal, and subsequently debated and put to the vote in plenary. In contrast, in the (JHA) Council, most of the discussion on the said proposal takes place in the Working Group on Asylum and Migration and in the Permanent Representatives Committee (COREPER) meetings. During the initial stage of the legislative process, the EP either accepts or amends the proposal, and states its position to the Council which in turn either adopts or amends it. In the event that the Council adopts Parliament's position, the proposal becomes a law, however, if the Council decides to amend it, the co-legislators seek to reach a compromise. If this is not the case, the Conciliation Process is triggered, and if a compromise is not reached then, the proposal is not adopted. In practice, however, the vast majority of Commission proposals for new legislation are agreed during the first phase (*Ibid.*). Following the adoption of proposed legislation, it is the Commission's responsibility to ensure that it is implemented.

6.1.2 The difficulties in EU policymaking

It has been widely acknowledged in the literature that EU decision-making processes are extremely complex (e.g., Best 2016; Chari and Kritzinger 2006; Givens and Luedtke 2004; Tsebelis and Garrett 2000; Wallace et al. 2015). A major challenge, according to Hix (2008), concerns the number of veto players, which can block legislation. He identifies four main instances in which this can take place. First, the Commission may decide not to put forward a proposal. Second, under the ordinary legislative procedure, the EP or the Council can reject a legislative proposal. Third, under unanimity, each member state is a veto player. Lastly, under qualified majority voting (QMV), a blocking minority can be established as long as there is a minimum of four Council members representing no less than 35 per cent of the total population of the EU. The need to accommodate so many veto players to adopt a given policy led Simon Hix (2008, p. 589) to characterise the EU as 'a hyper-consensus system of government'.

Research on the interaction between the three central legislative institutions of the EU in policymaking (e.g., Lewis 2010; Tallberg 2010; Thomson and Hosli 2006) tends to treat the institutions as unitary actors, neglecting the competing preferences behind the common institutional positions. This body of literature generally emphasises the enhanced role of the EP following the entry into force of the Lisbon Treaty becoming a co-legislator on an equal footing with the Council, whereas the Commission's influence is widely considered to have been diminished. Nonetheless, some authors (e.g., Mühlböck and Rittberger, 2015) do underline that the Council and Parliament have been opponents in the struggle for power ever since their creation, given their contrasting representational roles within the EU political system, with the former representing member state governments and the latter EU citizens.

In terms of the literature analysing decision-making in the Parliament, the 'minimum-winning coalitions' approach has been commonly applied (Riker, 1962) due to a tendency within the EP whereby coalitions seek to obtain the minimum number of votes required in order to have fewer interests to take into account and hence gain greater influence over policy output (Axelrod, 1970). Other authors (e.g., Volden and Carrubba, 2004), however, have argued that MEPs are more inclined to form grand coalitions, possibly to enhance the EP's influence relative to that of the Council.

There is a greater debate in the literature on how the Council takes decisions (e.g., Fabbrini and Puetter 2016; Naurin and Wallace 2008; Wartnjen 2009). From the constructivist perspective, informal norms of consensus are the primary mode of decision-making in the Council. In contrast, rational choice scholars assume that member states aim for utility maximisation, hence in seeking to maximise their utility and minimise their losses, they generally either exert their bargaining power or vote trade (Warntjen, 2010).

Political scientists have increasingly used elaborate formal models of Council voting to establish the relative bargaining power of various member states (Pollack 2007, p. 38). One implication of this analysis is that those member states having preferences close to the centre of the range of preferences on a given issue will form part of the winning majority irrespective of their official voting weight. Other member states whose preferences are far from the centre of the range of preferences on the issue in question, therefore, are more likely to be isolated in decision-making in the Council (Young, 2015).

As regards decision-making in the Commission, two different views prevail in the literature. One view stresses 'the importance of technical expertise and legal mandates' and 'sees value in insulating decision-makers from political pressures in that decisions can be taken for the greater good rather than to benefit the

powerful' (Ibid., p. 58). Since 'the Commission is pan-European and not democratically elected, it is less likely to be captured by vested interests by national regulators', being more insulated from political pressures. As a result, there is a strong possibility that it will take difficult decisions (Majone 1994, p. 94). The second view of decision-making in the Commission involves compromise and consensus between various parts of the executive exhibiting diverse preferences (Rosati, 1981).

Since the Commission is responsible for agenda-setting and proposing legislation, most of this literature is rooted in principal-agent analysis (Hix and Hoyland, 2011). According to the principal-agent approach, the principal (member state) delegates power to an agent (Commission) to act on his behalf. Reasons to delegate could include to reduce transaction costs and improve decision-making, to evade blame for any unpopular decision, and to enhance credibility. A problem with the approach, however, occurs when the preferences of the principal(s) and agent clash, given that 'the act of delegation gives the agent scope to pursue its own preferences, rather than those of the principal(s)' (Young 2015, p. 57). Nonetheless, the agent is compelled by the principal's preferences and thus is not entirely free to take decisions (Pollack, 2003). The above, therefore, sheds light on the difficulties in EU policymaking.

6.2 The European Commission's stance

Established to act as an independent supranational authority separate from member states - unlike the Parliament and the Council which represent member states' citizens and governments - the European Commission has been described as the only body 'paid to think European' (Day cited in EurActiv, 2006). In terms of its

approach towards irregular migration, throughout the development of EU asylum and migration policy, the Commission has emphasised its support for further integration in this field. This was reiterated by the former Commission President, Jean-Claude Juncker, in each of his State of the Union Addresses between 2015 and 2018.¹⁰⁰ The Commission has also voiced preferences for a more comprehensive approach, including the enhanced protection of asylum seekers. By way of example, in its January 2017 Joint Communication¹⁰¹ it identifies a set of key actions concerning the management of migration flows and saving lives on the Central Mediterranean route, and stresses the importance of efficient asylum procedures. Another example can be found in its Joint Statement of December 2017 (EC, 2017f), where it declares that its central priority is to respect and protect the fundamental rights and freedoms of migrants. Again, in its Roadmap on the migration package¹⁰² of December 2017, the Commission calls for finding solutions to move from an *ad hoc* approach based on crisis management, towards a harmonised asylum and migration legislative framework. The statement also reiterates the Union's commitment to continue to be the continent of solidarity, emphasising that in 2016 the EU granted asylum to over 720 thousand migrants, amounting to three times as many as Australia (117,000), Canada (57,000) and the United States (34,000) combined. Consequently, the Commission also promotes the development of well-managed legal migration pathways which it claims, could tackle the problems related to a declining working-age population thereby encouraging migrants possessing the skills required by EU member states (EPSC, 2017b).

¹⁰⁰ State of the Union speeches by President Jean-Claude Juncker, 2015-2018. See: https://ec.europa.eu/info/priorities/state-union-speeches_en

¹⁰¹ EC, European Commission (2017a).

¹⁰² EC, European Commission (2017d).

The executive of the EU is also in favour of providing support to EU member states facing high migratory pressures. This became evident during the negotiations of the reform of Dublin III when, in September 2015, the Commission proposed to establish a permanent system for relocation of asylum seekers to be triggered in crisis situations.¹⁰³ Nonetheless, it later bowed to political pressure to satisfy the interest in the Council and tabled a second proposal, in May 2016,¹⁰⁴ this time including a new 'corrective' allocation mechanism integrating a fairness mechanism into the Dublin rules that would be triggered automatically under 'certain circumstances', rather than the mandatory system of relocation, which the EP was pushing for. Similarly, during previous negotiations involving the reform of Dublin II back in 2008, the Commission supported the suspension of transfers of asylum seekers to member states facing increasing migratory pressure and had put forward a proposal for a 'temporary suspension mechanism', a legal provision allowing for the temporary suspension of transfers to member states facing 'particular pressure' on their asylum and reception systems.¹⁰⁵ In addition, as underlined by one of the interviewees, the fact that the Commission did not flex its political muscles following the failed relocation plans, further highlights the weaknesses in its approach to irregular migration.

The Commission's autonomous proposal powers, however, at times face constraints. More concretely, its autonomy to propose legislation in the field of asylum and migration varies according to the saliency of irregular migration. Under low

¹⁰³ Proposal for a Regulation of the EP and of the Council establishing a crisis relocation mechanism and amending Regulation (EU) No 604/2013 of the EP and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a TCN or a stateless person [9.9.2015].

¹⁰⁴ Proposal for a Regulation of the EP and of the Council establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a TCN or a stateless person (recast) [4.5.2016].

¹⁰⁵ Proposal for a Regulation of the European Parliament and of the Council establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (Recast) [COM(2008) 820 final, 3.12.2008].

salience, the Commission has more flexibility to propose legislation supporting asylum seekers' rights and safeguards, as illustrated in the proposals of the first generation CEAS legislative instruments. Yet, when salience increases, the Commission is put under political pressure by member states in the Council, given their enhanced interest in pursuing national political preferences, as was the case in the negotiations on the reform of Dublin III. This illustrates that as the salience of irregular migration increases, the Commission enjoys less autonomy to develop legislative proposals and indeed is more dependent on the member states in the Council.

This was revealed in the Commission's European Agenda for Migration, presented in May 2015 (EC, 2015a) following the outbreak of the refugee crisis, the goal of which was to set out both immediate actions in response to the recent migrant deaths in the Mediterranean, as well as longer-term measures to tackle the migration phenomenon. A closer look at the Agenda reveals that the focus is on preventing irregular migration by strengthening the external borders, combating trafficking in human beings and migrant smuggling, and returning rejected asylum seekers. Hence, it did not mark a breakthrough from the Council's security-oriented approach and its lasting fight against irregular migration.

Therefore, despite the Commission's monopoly to propose legislation, in practice, its degree of autonomy is affected by member states in the Council which endeavour to limit such autonomy. As a result, the Commission's approach towards irregular migration shifted from a rights-based approach prior to the crisis, to preventing irregular arrivals in the wake of the crisis. This was clearly illustrated in Juncker's 2018 State of the Union address (EC 2018a, p. 7) where he stresses the achievement of the EU approach to irregular migration in terms of the reduction in irregular flows:

Our efforts to manage migration have borne fruit: arrivals have been drastically reduced – down 97% in the Eastern Mediterranean and 80% in the Central Mediterranean.

This contrasts sharply with the previous year's State of the Union Address, in which he stated (EC, 2017b):

Europe is not a fortress and must never become one. Europe is and must remain the continent of solidarity, where those fleeing persecution can find refuge.

In his 2018 speech, he also announces plans to reinforce the EBCG in order to strengthen the EU's external borders by adding a standing corps of ten thousand border guards, reflecting how the Commission's stance shifted towards preventing irregular migration.

6.3 The approach of the European Parliament

Since the entry into force of the Lisbon Treaty, the European Parliament (EP) has progressed from a purely advisory role to a co-legislator in the adoption of legislation on asylum and migration, gaining extensive new powers and therefore, in principle, on an equal footing with the Council. Similarly to the Commission, the EP holds a liberal position with regard to irregular migration and hence aims to counterbalance the security-oriented objectives of the Council by pushing to improve standards and the provision of equal treatment for asylum seekers across EU member states.

Over the past two decades, the EP has emphasised the need for a holistic approach to migration including the creation of legal pathways, the implementation of fair and efficient asylum procedures, and a responsibility-sharing mechanism to distribute asylum seekers across EU member states (EP, 2017). Parliament has also

adopted several own-initiative resolutions tackling irregular migration. One such resolution, adopted by the plenary in April 2016,¹⁰⁶ focuses on the situation in the Mediterranean and the need for a holistic approach to migration, taking into account various aspects of asylum and migration policy.¹⁰⁷ Also, during the inter-institutional negotiations on Dublin III, MEPs accepted the Commission proposals with amendments, hence supporting the Commission's approach, most notably as regards strengthening the scope and rights of asylum seekers.¹⁰⁸ The EP's liberal stance towards irregular migration thus appears to reflect the view of its centrist and liberal political groups (EPP, S&D, ALDE¹⁰⁹). In spite of this, how does the approach of the European Parliament relate to the electorate that elects MEPs?

According to Tsebelis and Garrett (2000), since EU citizens are increasingly losing interest in EP elections, MEPs have more freedom to act independently. Figure 6.2 reveals the decrease in voter turnout since 1979 - even though following successive enlargements EU membership has increased from nine to twenty-eight members - with an all-time low voter turnout in the 2014 elections when only 42.61 per cent of eligible voters cast a ballot¹¹⁰ (EP, 2014). This supports Tsebelis' and Garrett's assertion that the European electorate is not that interested in European elections, and that as a result, the political groups in the EP have more leeway to pursue their own policy goals.

¹⁰⁶ EP Resolution of 12 April 2016 on the situation in the Mediterranean and the need for a holistic EU approach to migration, Report compiled by LIBE co-rapporteurs Roberta Metsola (EPP) and Cécile Kyenge (S&D).

¹⁰⁷ The report called for a radical overhaul of Dublin rules involving the establishment a central system for allocating asylum applications based on a quota system. Other salient aspects include tackling human smuggling and trafficking, border management, and developing legal pathways.

¹⁰⁸ EP Report of 2 July 2008 on the evaluation of the Dublin system.

¹⁰⁹ In June 2019, the ALDE group was renamed 'Renew Europe'.

¹¹⁰ Yet in 2019 European election turnout reached a 20-year high (50.95%). See Figure 6.2.

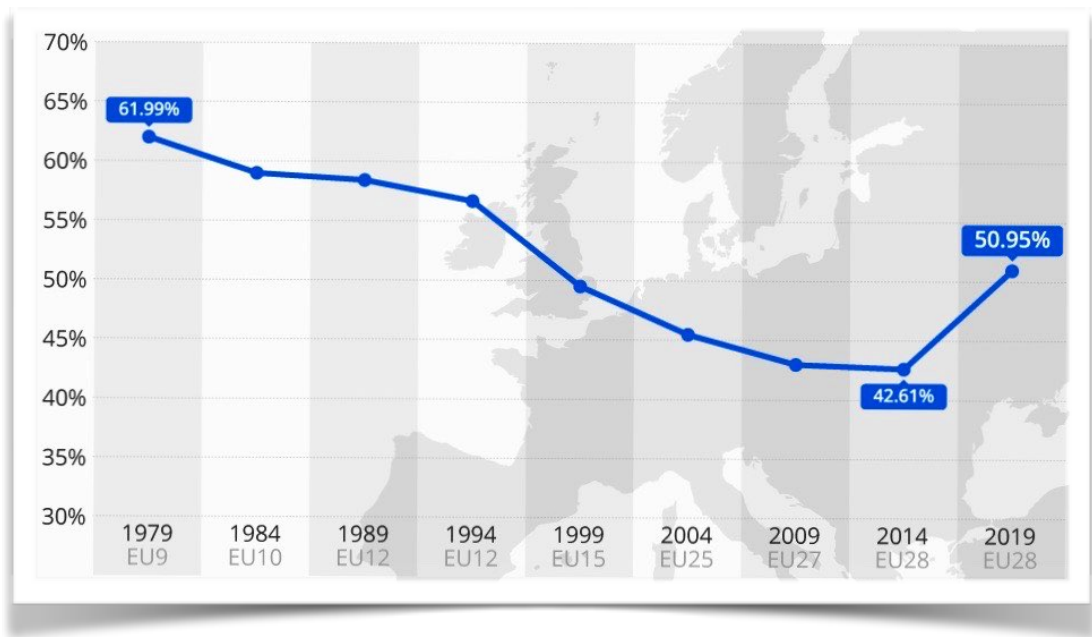


Figure 6.2 Turnout of European elections, 1979-2019 (Source: Statista, 2019b).

Nonetheless, the position of the EP is threatened when national interest in a given issue increases. This is because higher salience leads to a higher possibility that MEPs vote in accordance with member state preference, rather than their political group. Hence the question arises: how does increased salience of irregular migration impact on the cohesion of political groups in the Parliament?

Some scholars suggest that the best prediction of MEP voting behaviour is to look at the preference of their political group. The ideological preference of the political group would manifest itself through the votes of the parliamentarians (Wallace et al. 2015). Conversely, one interviewee pointed out that in principle MEPs from the 'old' member states should be more cohesive than those coming from the 'new' ones. At times, however, MEP voting behaviour may be influenced by the degree of salience attached to a specific issue in their member state. Indeed, despite that political

groups in the EP¹¹¹ have been generally depicted as cohesive actors in the literature (e.g., Hix 2002; Hix et al. 2003; Hix and Hoyland 2011; Hix and Noury 2009), this can change depending on the issue in question.

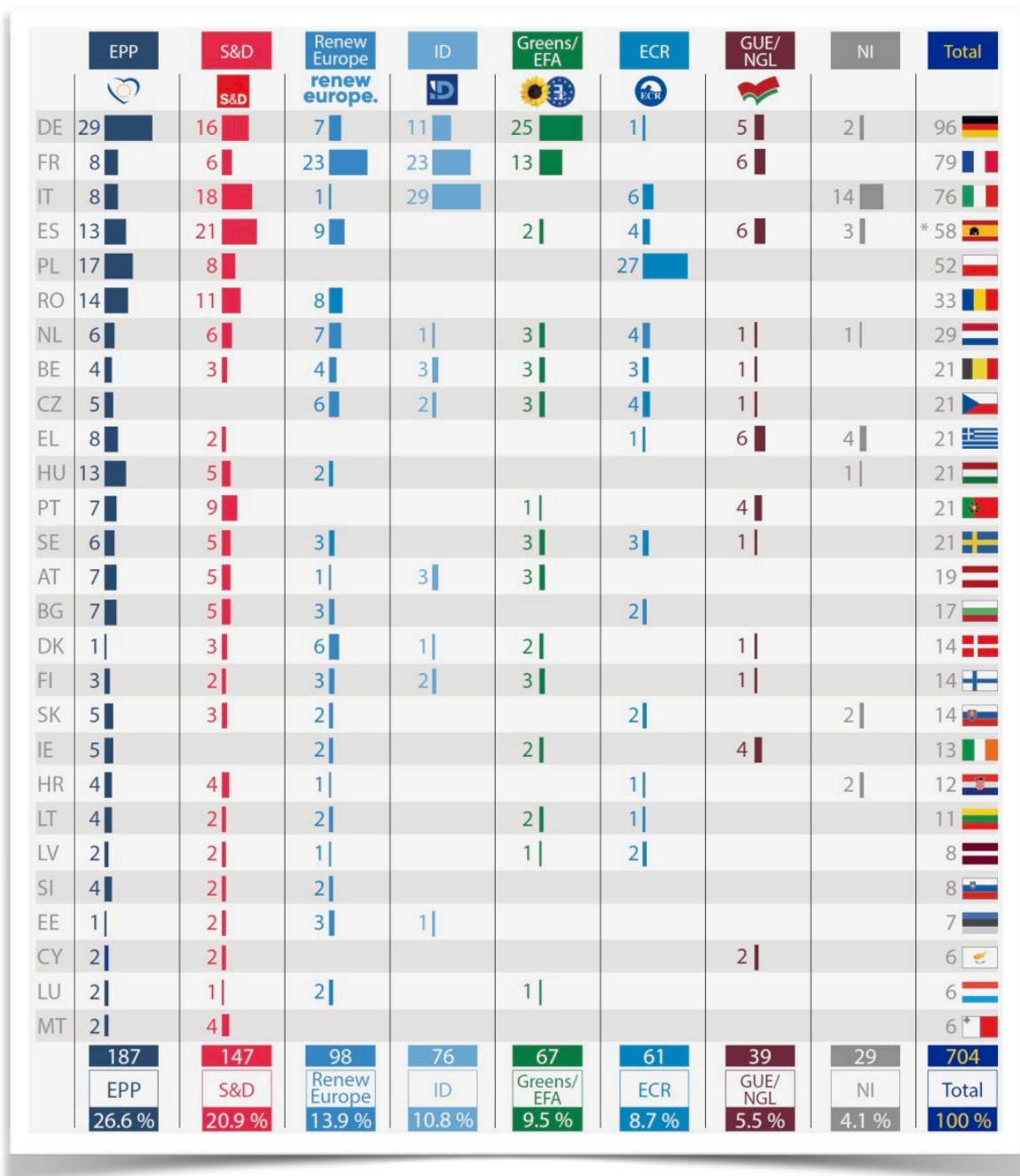


Figure 6.3 Composition of the EP, 2020 (Source: EP, 2020).

¹¹¹ The European People's Party (EPP), Progressive Alliance of Socialists and Democrats (S&D), Renew Europe, Identity and Democracy (ID), Greens/European Free Alliance (Greens/EFA), European Conservatives and Reformists (ECR), European United Left/Nordic Green Left (GUE/NGL), Non-Inscrpts (NI).

For instance, political groups can be more cohesive when voting in certain policy areas than in others. In general, Eurosceptic groups and non-attached members vote independently, while the other, larger, and more pro-EU groups tend to be much more cohesive. Nevertheless, in some cases, the voting behaviour of MEPs sitting in these groups challenges such unity. Furthermore, since MEP re-election is contingent upon national parties, no consequences arise from these ‘rebellious’ votes (Cicchi, 2017).

Figure 6.3 provides a snapshot of the composition of the different political groups within the EP in February 2020 as well as MEPs per member state, while Figure 6.4 shows the composition of the EP political groupings from 1979 to 2019, thus revealing that the S&D and EPP groups have dominated the EP since 1979. The figure also illustrates that the S&D group was the largest group in the European Parliament until 1999 when the EPP took over.

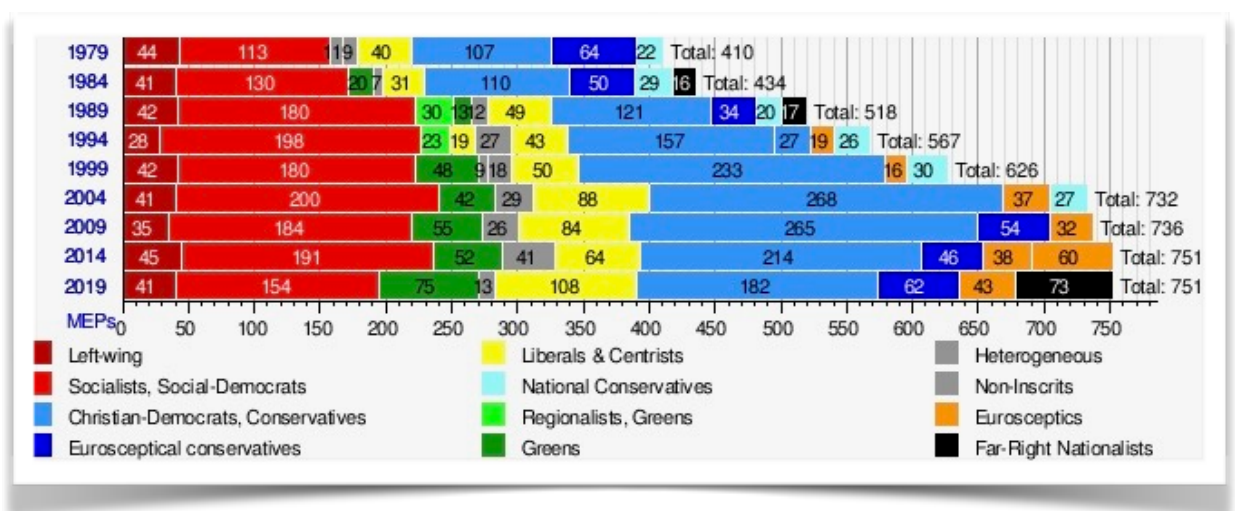


Figure 6.4 Composition of the EP, 1979-2019 (Source: Wikipedia, 2021).

6.3.1 The positions of political groups within the EP

Divergences between political groups in the EP, in terms of their approach towards irregular migration, have changed considerably in the aftermath of the refugee crisis.

Whereas the Parliament was previously characterised by a right-left division, nowadays political groups are profoundly divided over their approach towards irregular migration (Katsanidou and Lefkofridi, 2018).

Although the general debate on irregular migration is polarised between the groups to the left and the right of the political spectrum, an analysis of LIBE committee meetings and plenary debates involving issues related to irregular migration, carried out between 2014 and 2018¹¹², reveals two major coalitions. The first, comprising the EPP, S&D, ALDE¹¹³ and GUE-NGL groups calls for a common approach focusing on the root causes of migration and the creation of legal pathways. In contrast, the focus of the second coalition formed by the ECR, Greens/EFA, EFDD and ENF¹¹⁴ groups, including NI members, is on preventing irregular migration and supporting genuine asylum seekers (as opposed to economic migrants), as well as cracking down on human smuggling and trafficking in view of its (perceived) nexus with terrorism. With regard to the issue of the impact of irregular migration on internal security, again a divide is observed between the two coalitions, with the first focusing on the human dimension (tragedy) of migration and pushing for

¹¹² The following meetings and debates were analyzed:

- 25 April 2018 LIBE Committee meeting with Commission Paraskevi Michou DG HOME
- 25 October 2017 Debate: The fight against illegal immigration and people smuggling in the Mediterranean
- 12 September 2017 Debate: Recent developments in migration
- 16 May 2017 Debate: Making relocation happen
- 1 February 2017 Debate: Managing migration along the Central Mediterranean Route
- 14 December 2016 Plenary debate: European Commission Recommendation on the implementation of the EU-Turkey Statement and the reinstatement of Dublin transfers
- 11 May 2016 Debate: Decision adopted on the CEAS reform
- 12 April 2016 Resolution: The situation in the Mediterranean and the need for a holistic EU approach to migration
- 8 March 2016 Plenary debate: Communication on implementing the European agenda on migration
- 16 December 2015 Plenary debate: Detention and use of force against asylum-seekers
- 16 September 2015 Debate: Conclusions of the JHA Council on migration (14 September 2015)
- 9 September 2015 Debate: Migration and refugees in Europe
- 20 May 2015 Debate: European Agenda on Migration
- 29 April 2015 Debate: Report of the extraordinary European Council meeting (23 April 2015) - The latest tragedies in the Mediterranean and EU migration and asylum policies
- 11 February 2015 Debate: Way forward for Frontex and the European Asylum Support Office
- 25 November 2014 Debate: Situation in the Mediterranean and the need for a holistic EU approach to migration

¹¹³ See Footnote 109.

¹¹⁴ Following the EP 2019 elections, the EFDD ceased to exist while the ENF group was replaced by the 'Identity and Democracy' group.

a reform of the Dublin Regulation, and the second focusing on the ‘securitisation of migration’.

Furthermore, within both coalitions, MEPs from the different groups focus on different aspects of the EU approach to irregular migration, however, some overlap between the two coalitions can also be observed. In the first coalition, EPP members call for structural responses, efficient external border control, and the return of rejected asylum seekers, while S&D members call for a common migration policy based on solidarity and the creation of legal pathways in cooperation with third countries. Some S&D members also emphasise the negative impact of permanent internal border controls, suggesting that they could possibly result in a trust deficit between the members of the Schengen area. GUE-NGL members also call for legal channels, stressing that Libya is not a party to the Geneva Convention. Members from ALDE stress their disapproval in giving financial aid to countries with poor human rights records to prevent irregular departures, namely Turkey and Libya. In this regard, they claim that the EU has made itself dependent on dictators and this will have an adverse impact on Europe, as well as on migrants attempting to cross Libyan or Turkish borders.

MEPs sitting in the political groups forming the second coalition also focus on different aspects of the EU approach to irregular migration, however, as mentioned above, there is some overlap between the two coalitions, particularly with regard to EU agreements with third countries. Members from the ECR group acknowledge EU inability to provide unlimited assistance and focus solely on the humanitarian aspect of migration, yet they also claim that the EU has been fuelling criminal networks involved in human trafficking and smuggling. Similarly, EFDD¹¹⁵ members emphasise that the rules and principles enshrined in the Treaties are not being respected, given

¹¹⁵ See Footnote 114.

the agreements with Turkey and Libya. Together with Greens/EFA members, they claim that although the EU is committed to protecting human rights at the same time it is funding Turkey and Libya to prevent migrants from leaving their borders. However, on the question of the establishment of a mandatory relocation mechanism for asylum seekers, members from the EFDD group are in strong opposition. ENF members disapprove of financial payments to Turkey, similarly to their EFDD counterparts, and stress that despite the deal, irregular crossings have not come to a halt. Finally, interventions from NI members, place great emphasis on securing the external borders. They also criticise the EU for its inability in dealing with the challenge of irregular migration, which they highlight has resulted in a divided Union. The following section takes a closer look at the differences between the positions of the two largest political groups in the Parliament, which together hold over 50 per cent of total seats.

6.3.1.1 Differences between the positions of the EPP and the S&D

The European People's Party (EPP), comprising Christian democrats, conservatives and centre-right parties, and the Socialists and Democrats (S&D), comprising social democratic, socialist and labour, and centre-left parties, have been the largest groups in the EP since 1979 (see Figure 6.4). In the context of asylum and migration policymaking, the majority of the chairs and vice-chairs of the LIBE committee along with the rapporteurs for the CEAS legislative instruments have, in fact, been members of the EPP and S&D groups.

Although the two groups appear to share similar views with regard to the EU approach to irregular migration, a closer look reveals differences between their

respective approaches. Indeed, despite some convergence in their approaches, there is a political and rhetorical struggle between the two groups on what courses of action are deemed necessary and realistic to address the issue. This section explores the main differences between their positions based on European Parliamentary debates held between November 2014 and April 2018,¹¹⁶ being the period before, during and after the EU refugee crisis. More specifically, it looks into two of the most contentious topics discussed during this period: (1) intra-EU relocation of asylum seekers and (2) strengthening the EU's external borders vs creating legal pathways to enter Europe.

With regard to the first issue, the analysis reveals that although most EPP and S&D members emphasise the importance of a mandatory relocation mechanism in order to distribute asylum seekers more evenly across EU member states, unanimity within the groups is lacking. In their statements, members from both groups oppose such a mechanism claiming that it constitutes a form of 'forced' solidarity. This sheds light on the diverse interests between the groups but also *within* the same group. As pointed out in the previous chapter, intra-EU relocation remains a thorny issue due to divergent views both in the EP and in the Council, with inter-institutional negotiations resulting in a stalemate (since 2016).

Another important difference in the approaches of the EPP and S&D towards irregular migration concerns the latter's emphasis on creating safe legal pathways for migrants to enter the EU, and the former's preoccupation with the need to secure the EU's external borders, fight transnational organised crime and ensure the proper functioning of the Schengen area. Divergences were observed not only in the statements of MEPs from both groups but also in the language used during the interventions. By way of illustration, EPP members frequently use words such as

¹¹⁶ See Footnote 112 (meetings and debates analyzed).

‘fight’ and ‘combat’ migration and the ‘success’ of closing migration routes, whereas S&D members repeatedly argue that migration ‘cannot’ and ‘should not’ be combated, but managed. Thus, with regard to the issue of creating legal pathways into Europe, there is strong divergence between the two standpoints.

At the same time, however, there are several points of convergence between the two groups. Most notably, both generally acknowledge the need to strengthen the EU’s external borders. Hence, on this issue there is considerable convergence, reflecting the fact that irregular migration is increasingly perceived as an issue of national security within the EP. This has contributed to a shift in the focus of the Parliament from a rights-based approach prior to the refugee crisis to a more security-oriented approach following the crisis.

Perhaps the most interesting finding is that the variance *within* the two political groups in some instances was larger than *between* them, indicating that MEPs’ perceptions are perhaps more strongly mediated by nationality rather than political affiliation. Some EPP statements demonstrate internal friction within the group with certain members arguing that mandatory quotas are ‘unrealistic’ and thus not a desired course of action. However, a closer look at the nationalities of MEPs reveals that most EPP members that opposed the establishment of a mandatory relocation mechanism and expressed concerns about border security were from Eastern member states (namely Hungary and Poland), whereas more liberal EPP members almost invariably came from Western or Southern member states. On some issues, S&D members from Eastern Europe also maintained similar positions. The analysis, therefore, reveals that although MEPs sitting in the same political group generally vote together, irrespective of their nationality, when salience in an issue is high MEPs are more likely to vote in favour of national preference rather than according to political group affiliation if their views are opposing. The next section further explores

the issue of whether MEPs prioritise the interests of their political group or their member state in issues related to irregular migration.

6.3.2 Voting behaviour in the EP

As the role of the European Parliament within the EU institutional framework has been enhanced, its political groups have generally been depicted as cohesive actors, i.e., MEPs vote in accordance with their political group, not their nationality (Cicchi, 2016). This, however, relates only part of the story, as highlighted in the previous analysis. Indeed, despite the high degree of coherence among MEPs sitting in political groups that cross national boundaries, there have been several occasions when national delegations have defected from their group on a specific vote (Kreppel, 2001). Research by Hix (2002; Hix et al. 2005; Hix and Noury 2009) shows that overall the cohesion of political groups in the EP has been rising since the 1990s. Moreover, it reveals that the degree of cohesion continued to be high following the EU's largest enlargement in 2004 when EU membership grew from 15 to 25 states and the number of MEPs increased from 626 to 732¹¹⁷ (O'Neill, 2009). Nevertheless, these findings do not expressly apply to MEP voting behaviour in connection with issues of irregular migration.

The following section, therefore, seeks to determine whether MEPs dissent from their groups' positions in issues related to irregular migration when national interest is at stake, and vote in accordance with member state preference, if their views are opposing. More precisely, it examines MEPs voting behaviour during the period prior,

¹¹⁷ As of the 2014 European elections, the number of MEPs is 751: 750 MEPs plus the President of the EP, this being the maximum number allowed by the Lisbon Treaty (Cuthbert, 2015). Nevertheless, following the UK's withdrawal from the EU, the EP shrunk from 751 to 705 MEPs, leaving room for future member states (Bijsmans, 2018). See Figure 8.2.

during and post the refugee crisis to determine which interests are prioritised in this sovereignty-sensitive policy domain, i.e., whether it is those belonging to political group or member state. As a result, it seeks to answer the following question: **How do MEPs vote when specific interests in the EP regarding irregular migration trigger divisions between European and national allegiances?**

The basic premise here is that when national interest in an issue increases, MEPs' voting behaviour becomes more unpredictable. The analysis also rests upon two main assumptions. The first is that MEPs from the centrist groups (EPP, S&D and ALDE)¹¹⁸ generally vote according to political group ideology, *however*, when national interest in an issue increases they have a higher chance of voting in accordance with their member state preference rather than their political group, if their views are opposing. The second assumption is that Eurosceptic groups do not share a homogeneous ideology, yet given that the majority share anti-immigration views, they vote together in issues of irregular migration irrespective of their member state interest. The analysis is based on 70 votings taken on issues in the area of asylum and migration during the 8th legislature of the EP.¹¹⁹

¹¹⁸ Comprising 63.1% of MEPs.

¹¹⁹ See Appendix B

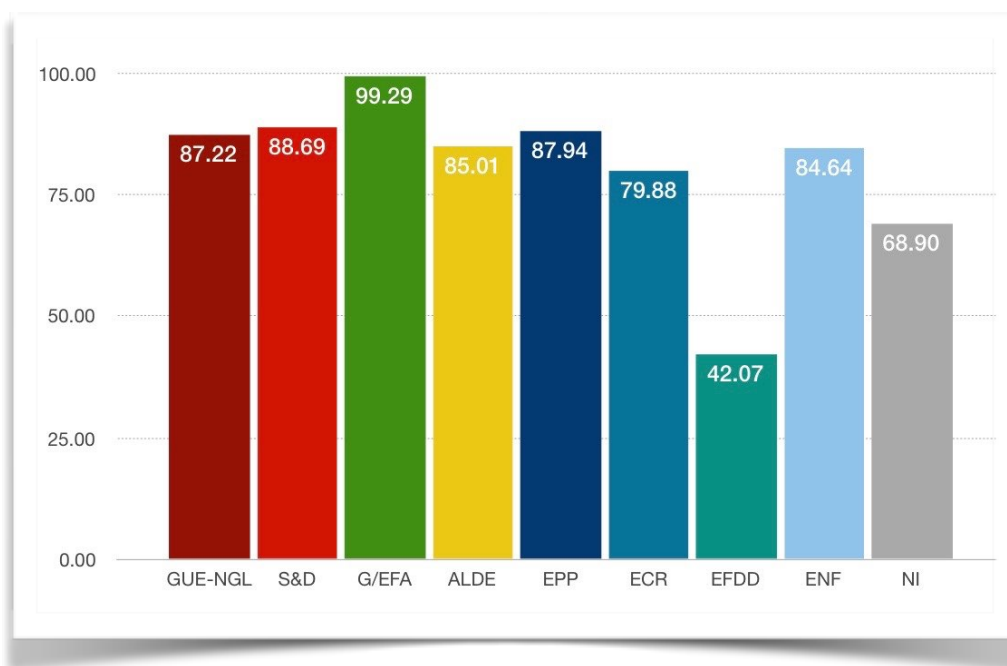


Figure 6.5: Cohesion of political groups in the EP, 2014-2018 (Compiled by the author based on 70 votings taken on issues in the area of asylum and migration).¹²⁰

As Figure 6.5 illustrates, the highest cohesion rate (99.29%) was found within the Greens/EFA group. These findings are in keeping with analyses of previous compositions of the EP carried out by Hix and Noury (2009) (5th and 6th legislatures, 1999 to 2009) and VoteWatch Europe (2011) (7th legislature, 2009 to 2014). The findings reveal that the S&D and EPP groups follow, scoring 88.69 and 87.94 per cent, respectively. Similarly, Hix and Noury (2009) found a high cohesion rate within the S&D during the 5th and 6th EPs. The ALDE group falls somewhere in the middle scoring a cohesion rate of 85.01 per cent. From the Eurosceptic groups, the EFDD emerges as the group with the lowest cohesion rate scoring only 42.07 per cent. The other two Eurosceptic groups, the ECR and ENF¹²¹, are much more cohesive scoring 79.88 and 84.64 per cent, respectively. Again, according to Hix and Noury (2009), the least cohesive groups in the 7th EP include the Eurosceptics and the nationalists. In

¹²⁰ See Footnotes 109 and 114.

¹²¹ Since the ENF was formed in 2015 it participated in 54 out of the 70 voting sessions.

addition, the analysis reveals that the non-attached members fall among the least cohesive groups in the EP (68.90%).

Thus, according to the findings, the majority of MEPs voted along European political group lines, with the exception of the EFDD group. The most important observation (in terms of the cohesion of political groups in the EP) is that the two largest political groups, together holding 54.1 per cent of MEP seats, both score a high level of cohesion, with 88.69 per cent for the S&D centre-left group and 87.94 per cent for the EPP centre-right group.

A closer look at how MEPs voted vis-à-vis national interest (Figure 6.6) reveals that the Maltese MEPs scored highest in terms of voting according to member state preference in matters of asylum and migration, scoring 94.21 per cent,¹²² followed by MEPs from Slovenia (84.07%), Estonia (82.86%), Luxembourg (82.81%), Croatia (81.69%), Romania (81.59%) and Bulgaria (81.49%).

¹²² “In Malta we have consensus among political parties with regard to irregular migration.” Roberta Metsola, Maltese MEP sitting in the EPP group (First Vice-President of the EP since November 2020), TEPSA conference, Malta, 11 November 2016.

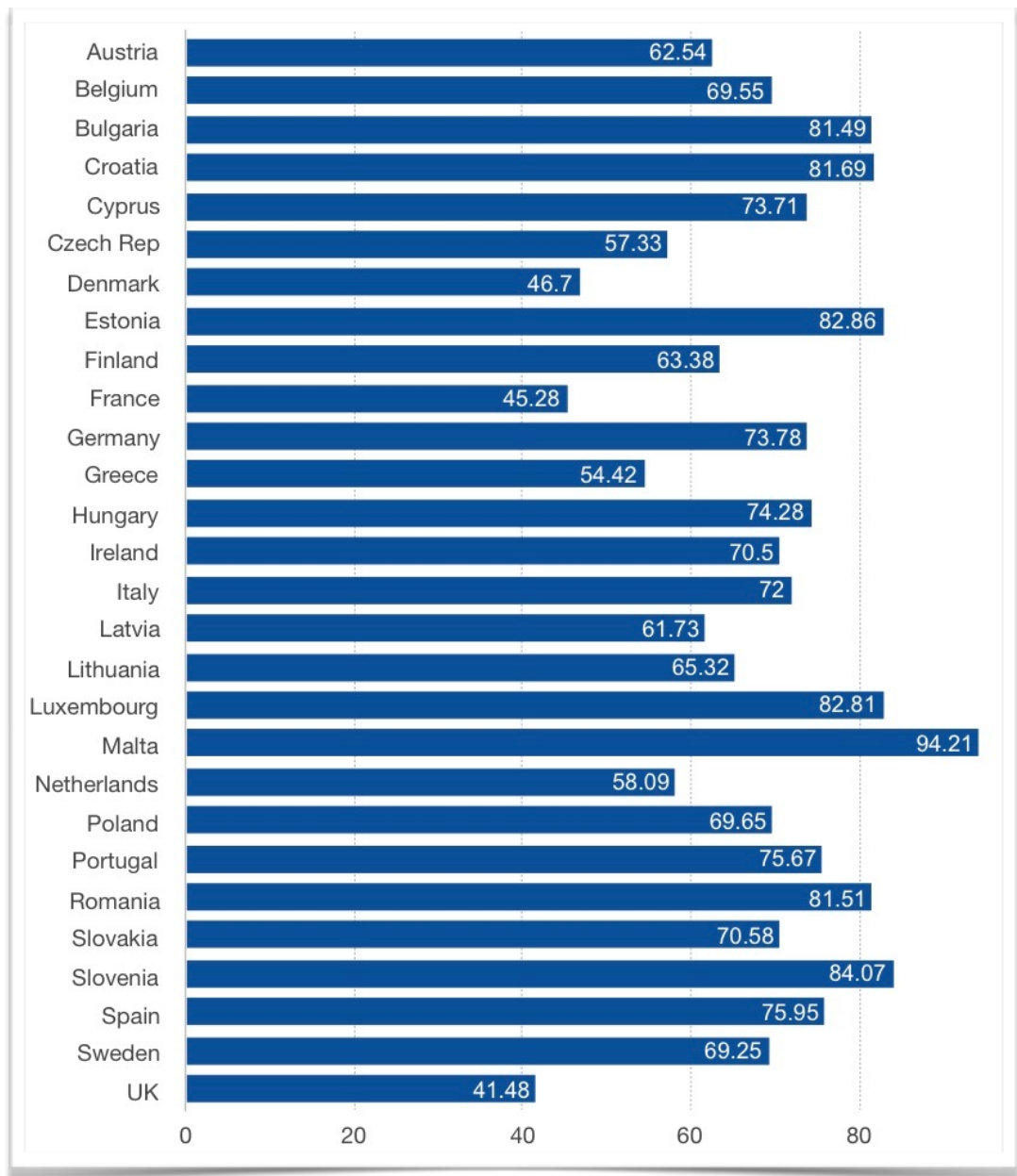


Figure 6.6: MEP voting allegiance according to national interest (2014-2018)
(Compiled by the author based on 70 votings taken on issues in the area of asylum and migration).

With regard to the above, it is, however, important to point out that except for Luxembourg, these are all ‘new’ member states. Hence, the likelihood is that MEPs from these member states are less ‘Europeanised’ compared to their counterparts. In addition besides MEPs from Bulgaria and Romania, the other MEPs voting in accordance with member state interest come from small states. For instance, Malta,

being the smallest EU member state has only 6 MEPs, and these are split between the EPP and S&D groups.

At the other end of the spectrum, the UK MEPs scored the lowest at 41.48 per cent, hence voting more following their political group ideology than member state interest. MEPs from Denmark, France and the UK were the only nationalities to score an average rate under 50 per cent. This, however, could be explained by the fact that all three member states have around 30 per cent of their MEPs sitting in Eurosceptic groups (see Figure 6.3). With regard to MEPs from the larger member states, those coming from Germany, Italy and Spain¹²³ scored between 72 and 76 per cent, the majority of which sitting in centrist groups¹²⁴.

Interestingly, the V4 ‘rebels’ did not score as high as expected with MEPs from Hungary scoring the highest rate out of the four at 74.28 per cent and those from the Czech Republic scoring the lowest at 57.33 per cent. Nonetheless, this could be due to the fact that similarly to the larger member states, the majority of their MEPs sit in centrist groups.¹²⁵ MEPs from Austria, another member state with an increasing anti-immigration stance, scored 62.54 per cent. As with the V4 members, the majority of its MEPs sit in centrist groups.¹²⁶

The views of the EP are the clearest indicator of how divided the EU has become in its approach to irregular migration. Although a deeper analysis involving the composition of nationalities per political group and their national political parties could give more accurate results, the above analysis contributes to original evidence-based research in accordance with Hix and Hoyland’s (2013) claim that a national versus supranational dimension plays a role when MEPs cast their votes. The next section

¹²³ Germany has 96 MEPs, Italy has 73, whilst Spain has 54.

¹²⁴ Germany and Italy 63%, Spain 72%.

¹²⁵ 76% of Hungarian MEPs, 53% Polish, 71% Czech, and 77% Slovakian.

¹²⁶ 63% of Austrian MEPs.

examines the emergence of right-wing populist parties in the EP and the resulting impact on MEP voting behaviour in issues related to irregular migration.

6.3.3 The rise of right-wing populist parties

In recent years, particularly following the outbreak of the refugee crisis, several right-wing populist parties gained ground across Europe, many deriving success by protesting against the political establishment and for their anti-immigrant sentiment. The 2014 European elections saw such parties gaining unprecedented support, increasing their presence in the EP¹²⁷ from around 15 per cent in 2009 to 20 per cent in 2014 (Lochocki, 2014). Coalitions of right-wing populist groups such as the Europe of Nations and Freedom (ENF), European Conservatives and Reformists (ECR) and the Europe of Freedom and Direct Democracy (EFDD), are increasingly at the forefront of criticising the EU approach to irregular migration, in view of their focus on tougher anti-immigration policies.

The rise in support for right-wing populist parties, however, has not only manifested itself in the results of the 2014 European elections and, in consequence, in the composition of Parliament and its work, but it has also impacted on the political landscape of individual member states. As a result, with the exception of five states - Croatia, Ireland, Malta, Portugal and Romania - such parties currently have representatives in national parliaments across the EU.

¹²⁷ Such as the National Rally (until 1 June 2018 'National Front'), the Danish People's Party, and the UK Independence Party.

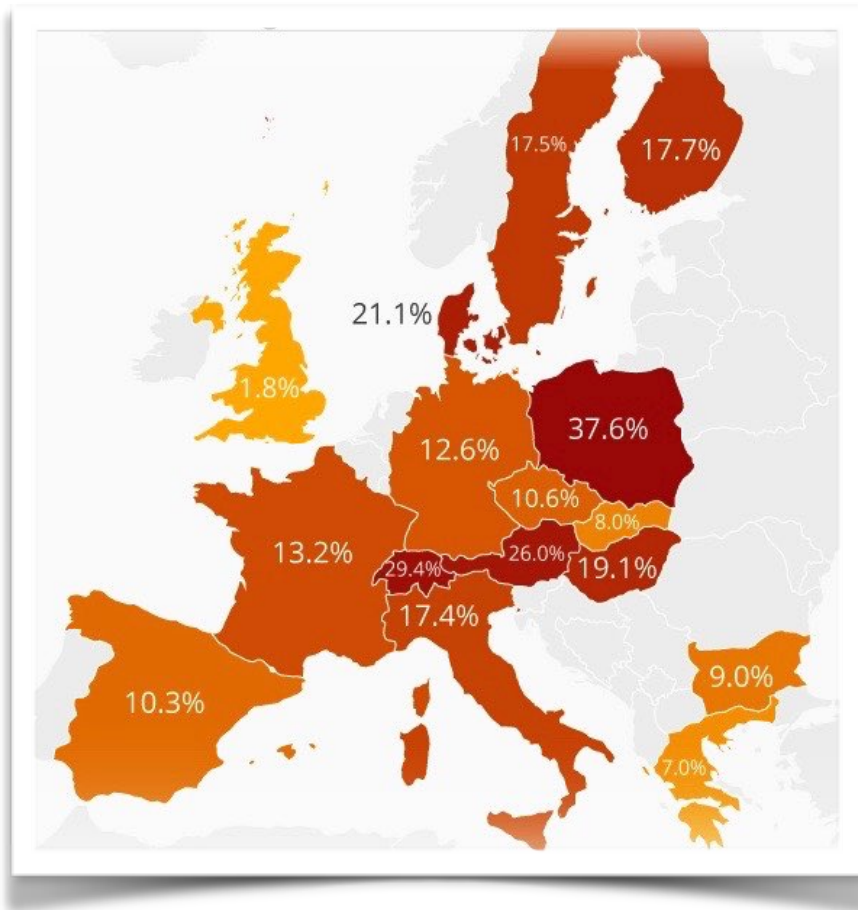


Figure 6.7: Right-wing populist parties' share of vote in general elections in EU member states and EFTA member state Switzerland, 2015-2018 (Source: Statista, 2019a).

In 2017, the Party of Freedom (PVV), a nationalist right-wing populist party, came in second place in the Dutch general election, whereas in France, mainstream political parties were overtaken by the National Front¹²⁸ in the presidential election where its leader, Marine Le Pen, received around 30 per cent of the total vote in the second round. In Germany, the AfD, another right-wing populist party, received over 12 per cent of the total vote in the federal election, becoming the first far-right party in the Bundestag since the Second World War. Voter support for right-wing populist parties across the EU continued in 2018 with both the League and the Sweden

¹²⁸ See Footnote 127.

Democrats winning over 17 per cent of the total vote in the Italian and Swedish general elections (Rosa Luxemburg Stiftung, 2018).

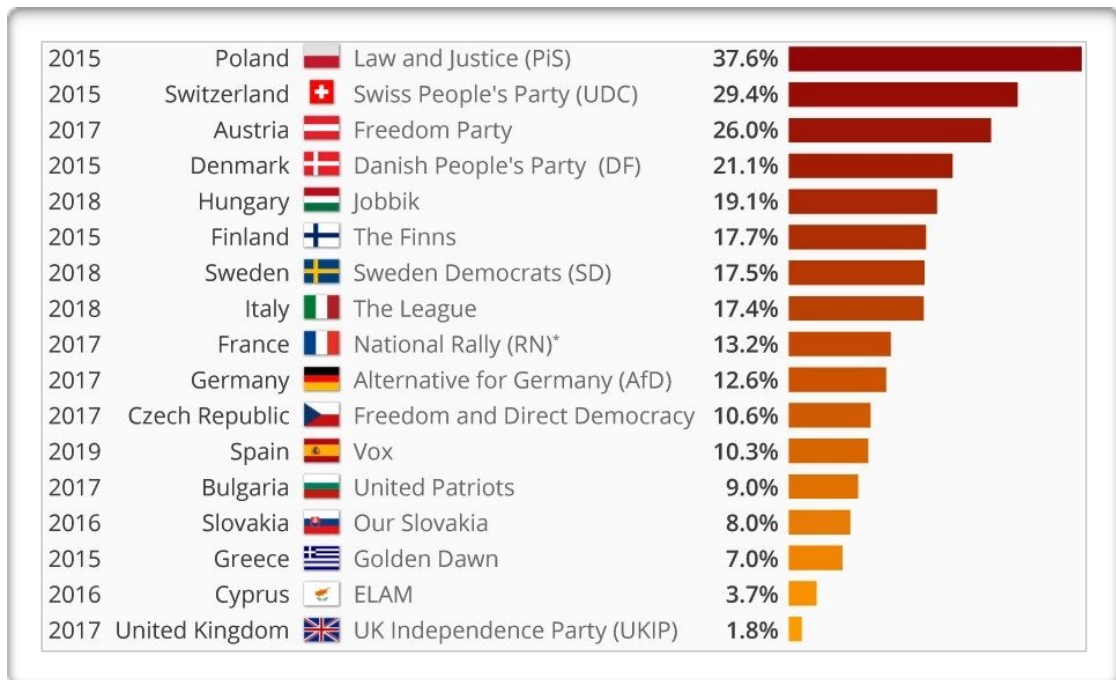


Figure 6.8: Results of right-wing populist parties in general elections in EU member states and EFTA member state Switzerland, 2015-2018 (share of vote) (Source: Statista, 2019a).

The steady growth in support for right-wing populist parties across the EU thus is impacting on asylum and migration policymaking given that such parties now hold decision-making powers in the EP and have increased their significance in most member states (Balcer, 2017). A Bloomberg analysis carried out in 2017 involving decades of election results across 22 EU member states reveals that support for right-wing populist parties is higher than it has been at any time over the past thirty years. The analysis reveals that such parties increased their share from 5 to 11 per cent between 1997 and 2007, up to 16 per cent of the overall vote on average a decade later in the general election in each member state (Tartar, 2017). By making anti-immigration a central component of their political platform, right-wing populist

parties are gaining support at the domestic level from voters who are dissatisfied both with traditional political parties as well as by the EU, thus challenging the centre-left/centre-right duopoly that has dominated EU politics in the post-war era. This begs the question: **how are right-wing populist political dynamics influencing EU policymaking in the context of irregular migration as the political centre is being pulled further right?**

Since the politics of most member states, particularly in EU15, have been traditionally 'shaped by an interplay between centre-left and centre-right parties, and their coalitions, the emergence of a third strong power threatens to tilt Europe's political scales. Moreover, it has been argued that this new phenomenon is shifting the entire political spectrum and could eventually tear the EU apart' (Bax, 2017). Public criticism of the EU response to irregular migration coupled with rising terror attacks in several member states¹²⁹ has allowed right-wing populist parties, sharing a hardline stance on irregular migration, to use their position to heavily criticise the EU's inability to protect its own borders and keep out those that pose a national security threat (Hadfield, 2017). For example, Italy's 2018-2019 coalition government, composed of the anti-establishment Five Star Movement (M5S) and the League party, known for its strong anti-immigration views, closed its ports to migrant rescue NGO vessels at the end of June 2018¹³⁰. Conversely, Malta also closed its ports, in the same month, despite having a centre-left party in government.

At the supranational level, right-wing populist parties have exploited growing discontent over the EU approach to irregular migration as well as distrust towards EU institutions in order to push political views further right. This has resulted in mainstream political parties adopting a similar mindset. Indeed, in a climate

¹²⁹ In Madrid (2004), London (2005), Paris (2015), Brussels, Nice and Berlin (2016), Manchester, London and Barcelona (2017).

¹³⁰ The cost of taking in asylum seekers, estimated at €4.2 billion for 2017 alone (120,000 asylum applicants), is one of many contributing factors as to why Italy closed its ports (Source: <https://borgenproject.org/tag/european-refugee-crisis/>).

characterised by increased political cleavages, a unifying factor has appeared out of a consensus to pursue tougher anti-immigration policies in order to protect the EU's external borders and reduce irregular arrivals. Accordingly, the political centre is being pulled further right as right-wing populist sentiment is on the rise across the Union, influencing EU decision-making in the context of irregular migration.

6.4 Council of the EU: intergovernmental decision-making

The Council of the EU represents the EU member states' governments, and hence, intergovernmental cooperation at the EU level. Since the entry into force of the Treaty of Lisbon in 2009, the Council is a co-legislator with the EP under the ordinary legislative procedure, except in cases where the treaties require a different procedure, such as a unanimous vote. More importantly, this means that QMV now also applies to asylum and migration policymaking. Under the Lisbon Treaty (Art. 16), the new system for adopting decisions in the Council reflects member states' demographic weight, favouring the larger member states, namely, Germany, France, Italy and the UK, in terms of voting power, whereas medium-sized and small states lose out (Figure 6.9). Indeed, medium-sized states such as Belgium and the Czech Republic lose nearly half their votes while small members such as Malta and Luxembourg see their voting weight nearly vanish.¹³¹

¹³¹ For further reading on small states in EU negotiations, see Panke 2010; 2011.

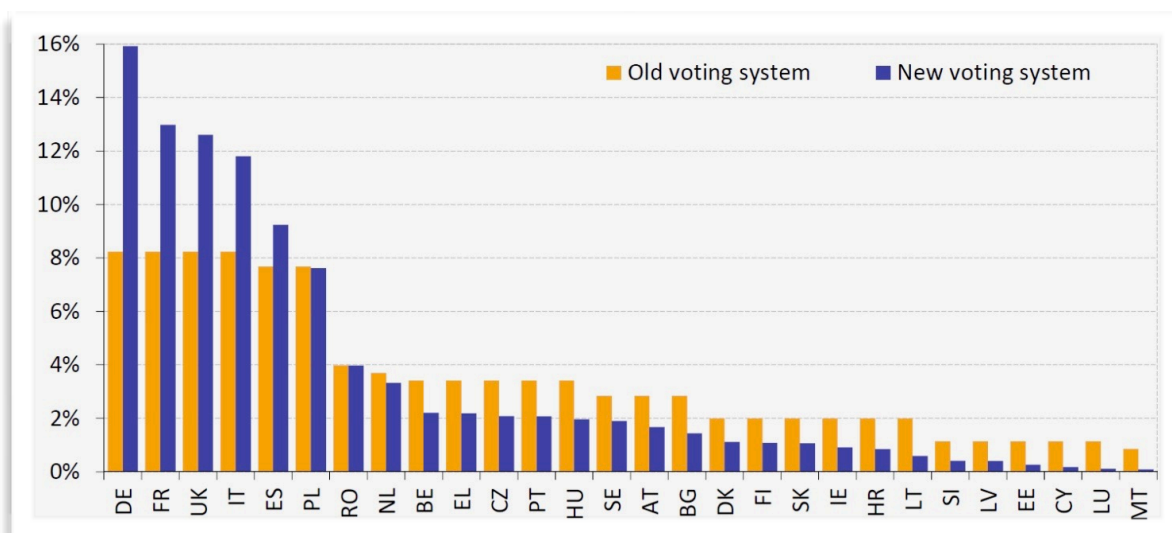


Figure 6.9: Comparison of voting weights prior to and after 1 November 2014 (Source: EPRS, 2014).

The change introduced by Lisbon aimed at more efficient decision-making in the Council by lowering the threshold requirement in the adoption of legislative acts. Thereby, decisions in the Council requiring a qualified majority are now adopted by way of the new 'double majority', that is, 55 per cent of member states representing at least 65 per cent of the total population of the EU must approve. Furthermore, to reduce the likelihood of large member states uniting to block proposals, a blocking coalition must comprise a minimum of four member states representing not less than 35 per cent of the total EU population (EP 2014, p. 1). The fact that more votes result in more influence has been widely suggested, most notably in the literature connected with rational choice theory. Conversely, constructivist approaches emphasise alternative key determinants, such as arguments and norms, in the development of legislation (Warntjen 2017, pp. 674-5). Still, in practice, most Council decisions are taken by consensus without the need of a formal vote, with negotiations usually continuing until a compromise is reached.

6.4.1 The JHA Council's security-oriented approach

As stated earlier, JHA cooperation has been described as a form of 'supranational intergovernmentalism', meaning that member states are increasingly cooperating at the EU level within an intergovernmental framework, highlighting their reluctance to surrender competences in this field to the supranational level. In contrast to the holistic approach that the Commission has advocated for, and the rights-based approach promoted by the EP, prior to the refugee crisis, the JHA Council's control-oriented approach reflects the restrictive and security-focused preferences of member state governments. This includes measures such as joint border patrols and readmission agreements with third countries, as well as the promotion of strengthened border management in countries of origin and transit. Hence the dominant focus of the JHA Council was and continues to be on preventing irregular arrivals to the EU. To further enforce this goal, it also promotes cooperation with third countries close to member states on the external borders (e.g., Morocco, Algeria, Tunisia, Libya and Turkey) in relation to security issues such as border control and readmission agreements.

Member state governments thus pursue their own egoistic objectives. Moreover, under times of high salience, given their enhanced interest in pursuing national political preferences, it becomes even more difficult to reach a common position in the Council. Under low salience, the first generation CEAS legislative instruments were negotiated between the most exposed southern member states and the stronger northwestern states, which had a long tradition with asylum seekers. During these negotiations, the stronger member states were dominant in determining the Council's position. However, under high salience, during the negotiations of the

second and third generation CEAS legislative instruments, all member states have an increased interest in negotiating, making it harder to reach consensus.

Furthermore, as one of the interviewees pointed out, the EU15 member states were already divided over how to deal with irregular migration, thus following successive enlargements in the 2000s and 2010s decision-making in the Council has become even more fragmented. Consequently, it could be argued that the Council is short-sighted as member states seek short-term or *ad hoc* solutions, whereas long-term measures are disregarded. This is in line with rationalist thinking in that decision-making in the JHA Council is driven by member states' aim for utility-maximisation, and hence for policy outcomes that are nearest to their ideal positions. As a result, decision-making in the Council in the context of irregular migration is increasingly reflecting its prioritisation of a security-oriented approach to irregular migration and hence has tended towards the lowest common denominator resulting in suboptimal policy outcomes and/or negotiation deadlock.

The above, therefore, helps to gain a better understanding of the approach of the JHA Council towards irregular migration. Nevertheless, it is important to point out that, in contrast to the Parliament, information such as voting results and video recordings of informal meetings, is not readily accessible from the Council's website, thus it was not possible to carry out a quantitative analysis of voting in the JHA Council in matters related to irregular migration.

6.5 The focus of the European Council

The European Council officially became an EU institution in 2009, after the entry into force of the Lisbon Treaty. Its main objective is to determine the policy agenda of

the Union, generally by adopting 'European Council Conclusions' - in most cases taken by consensus - which provide direction on actions to take in order to achieve set goals. Compared to the Commission and the Parliament, where Commissioners and MEPs have fixed five-year terms, membership of the European Council can be very volatile due to member states' electoral calendars and the frequency of leadership changes at times other than following general elections (EPRS, 2018a).

An analysis of the attention paid to irregular migration per European Council meeting shows that between 2014 and 2017, the issue covered one-quarter of the text in the Conclusions. It occupied over sixty per cent of the agenda of three summits in 2015 and one in 2017. In 2016, EU leaders discussed the issue during all six meetings including an informal one exclusively dedicated to migration, covering half of the text in the conclusions. This illustrates that in recent years, particularly following the refugee crisis, the issue that has received the most attention in the European Council clearly is irregular migration (EPRS 2017b, p. 14).

Unlike the Parliament and the Council, the European Council does not exercise legislative functions¹³² and thus does not negotiate or adopt EU legislation. As noted earlier, its main role involves giving strategic direction to the EU, traditionally by adopting 'conclusions' during European Council meetings which identify issues of concern and actions to take.¹³³ Nevertheless, the unprecedented arrival of irregular migrants in 2015 and 2016 resulted in decisions which, in some cases, involved short-term measures. Moreover, whereas the initial response of the European Council to the crisis focused on preventing migrant deaths at sea, attention shifted, only a few months later, towards tackling the influx of irregular migrants, particularly

¹³² TEU Art. 15: "The European Council shall provide the Union with the necessary impetus for its development and shall define the general political directions and priorities thereof. It shall not exercise legislative functions."

¹³³ 'The European Council **defines the EU's overall political direction and priorities**. It is not one of the EU's legislating institutions, so it does not negotiate or adopt EU laws' (European Council official Website: <https://www.consilium.europa.eu/en/european-council/>).

via the Western Balkans route, and hence on strengthening the EU's external borders to prevent irregular arrivals.

During the initial phase, more prominent commitments involved increased resources for Frontex operations, efforts to disrupt human trafficking networks such as destroying their vessels, supporting member states of first entry with more resources, establishing relocation plans and setting up 'hotspots'. During the next phase, when the focus shifted to tackling the influx of irregular migrants, primarily via the Western Balkans route, priorities included scaling up financial assistance for third countries, stepping up dialogue and cooperation with Turkey, and ensuring that the CEAS is implemented uniformly across EU member states. After October 2015, when the focus further shifted towards strengthening the external borders of the EU, priorities included establishing an integrated border management system, enhancing Frontex's mandate, and assuring full implementation of the relocation schemes (EPRS, 2016).

In 2016, the European Council continued to focus on the implementation of the relocation Council Decisions, irregular migration routes to Europe, and cooperation with Turkey. Other prevalent issues on the agenda included the reform of the CEAS, the establishment of the EBCG, speeding up returns of rejected asylum seekers, reinforcing the EU's external borders, and cracking down on both human smuggling and trafficking rings. After the signing of the deal with Turkey in March, the focus shifted to the Central Mediterranean route, the establishment of a framework with third countries to stop irregular crossings, and the implementation of the Bratislava objectives.¹³⁴ Thus, to a large extent, priorities reflected the situation on the ground, primarily involving the ongoing influx of irregular crossings via the Central

¹³⁴ Bratislava Declaration and Roadmap, 16 September 2016. See <https://www.consilium.europa.eu/media/21250/160916-bratislava-declaration-and-roadmapen16.pdf>

Mediterranean route, the fragile political situation in Libya, and the lack of progress on the reform of the CEAS (EPRS 2017a, pp.11-12).

Despite that the number of irregular arrivals continued to decline in 2017, irregular migration remained the most pressing policy issue for the European Council. The top priority throughout the year was to strengthen the control of the EU's external borders and restore the normal functioning of the Schengen area. Other goals included deepening cooperation with third countries to prevent irregular migration and adopting a tougher approach in terms of human smuggling and trafficking networks. Moreover, it focused on blocking the Central Mediterranean route to prevent irregular migration from Libya to Italy by supporting unilateral Italian efforts and by assisting Libyan authorities. The most contentious issue during the discussions concerned the establishment of a permanent relocation mechanism to distribute asylum seekers across EU member states, as part of the ongoing Dublin reform negotiations. The issue, however, was bitterly divisive with the leaders of North-Western and Southern member states, generally in favour, and the leaders of CEE member states in strong opposition (EPRS, 2018a).

Finally, the affirmation in the European Council Conclusions of October 2018¹³⁵ that the stemming of irregular arrivals is an EU achievement and that the goal is to continue efforts to this end illustrates the shift in the European Council's focus since the outbreak of the crisis - from preventing migrant deaths in the Mediterranean to strengthening the EU's external borders to prevent irregular migration to Europe.

6.6 A rights-based approach in the CJEU?

¹³⁵ European Council Presidency Conclusions, 18 October 2018.

Through its case law, the Court of Justice of the European Union (CJEU) contributes to the development of and respect for fundamental rights (EP 2018a, p. 3). Following the entry into force of the Treaty of Lisbon, the Court's remit has been extended to include, among other areas, asylum and migration. Above all, Lisbon provides for the possibility of any national judicial instance¹³⁶ via the preliminary ruling procedure¹³⁷ to refer questions to the CJEU on the interpretation of the asylum *acquis* (Ferreira 2017, p. 3). This means that the Court's rulings contribute to the uniform interpretation of EU asylum rules and, subsequently, contribute to harmonising national asylum practices. It has, however, been argued that notwithstanding the relevant role of the Luxembourg Court in such cases, ultimately it is the national court requesting the preliminary ruling that takes the decision (Labayle and De Bruycker, 2012). Nevertheless, throughout the development of the CEAS, the Court has played a crucial role in shedding light on the interpretation of key norms in the regulations and directives, such as in matters regarding qualification for international protection,¹³⁸ reception conditions,¹³⁹ and the Dublin system.¹⁴⁰ Hence the question arises: **how has CJEU case law impacted on EU asylum and migration policy, particularly following the unprecedented arrival of irregular migrants in 2015 and 2016, during the so-called refugee crisis?**

¹³⁶ Previously this only applied to last instance courts.

¹³⁷ The preliminary ruling procedure (PPU) is applied when a national court or tribunal refers a question of EU law to the CJEU for a preliminary ruling so as to enable the national court, on receiving that ruling, to decide the case before it. The function of the PPU is to ensure uniform interpretation and validity of EU law across all the member states, laid down in Art. 267 TFEU (Eurofound, 2011).

¹³⁸ Such as in the Grand Chamber Judgment of 17 February 2009 in Case C-465/07 Meki Elgafaji, Noor Elgafaji v Staatssecretaris van Justitie where the Court ruled that the QD does not require the existence of 'serious and individual threat to life or person' of the applicant for subsidiary protection to be subject to the condition of evidence that the applicant is specifically targeted by reason of factors particular to his personal circumstances' (Azarov, 2009).

¹³⁹ Such as in the Fourth Chamber Judgment of 27 September 2012 in the Case C-179/11 Cimade, Groupe d'information et de soutien des immigrés (GISTI) v Ministre de l'Intérieur, de L'Outre-mer, des Collectivités territoriales et de l'Immigration.

¹⁴⁰ Such as in the Grand Chamber Judgment of 21 December 2011 in joined Cases C-411-10 and C-493-10, N.S. v UK and M.E. v Ireland.

In the aftermath of the crisis, the CJEU was called to rule on the most politically sensitive issues and delivered very controversial answers. Most notably, the Court was called to rule in cases involving migrants who had entered the EU through Croatia and then moved on to other member states. In its Judgments of 26 July 2017,¹⁴¹ it ruled that ‘even in the event of a mass influx of migrants, **the member state of first entry in the EU remains responsible for examining asylum applications** lodged subsequently in the other member states’ (CJEU 2018, p.18).

Again, when asked to examine the legitimacy of the EU-Turkey Statement, in three cases started by asylum seekers who feared being sent from Greece to Turkey in the event that their asylum applications would be rejected, the General Court delivered a very controversial ruling, stating that ‘**it lacked jurisdiction to hear and determine the cases**¹⁴² and, accordingly, dismissed them. In its Judgments, the Court accepted the arguments put forward by the European Council, the Council and the Commission, primarily that they were not the authors of the Statement and that the measure had been concluded by the Heads of State or Government of the EU member states, as actors of international law, and the Turkish Prime Minister. Thus the Court concluded that the EU-Turkey Statement could not be considered an act of an EU institution’¹⁴³ (Goldner Lang 2018, p. 77-78).

Following the controversial judgment, the CJEU was heavily criticised by NGOs advocating migrants’ rights and academics alike, for having ‘escaped’ ruling on the substance (Cannizzaro, 2017). Jean Monnet Professor of EU Law Iris Goldner Lang (2018) describes the judgment as ‘judicial passivism’, that is, a situation whereby the

¹⁴¹ CJEU Judgment in Cases C-490/16 A.S. v Slovenian Republic and C-646/16 Khadija Jafari and Zainab Jafari. See <https://curia.europa.eu/jcms/upload/docs/application/pdf/2017-07/cp170086en.pdf>

¹⁴² EU General Court ruling of 28 February 2017 in joined Cases T-192/16, T-193/16 and T-257/16 NF, NG and NM v. European Council.

¹⁴³ In accordance with Art. 263 TFEU.

Court deliberately chooses not to act in a given case on the grounds that it falls outside the scope of EU law.

In another awaited judgment, in 2017, the CJEU dismissed the actions brought by Slovakia and Hungary against the 2015 Council Decision establishing a temporary relocation mechanism of 120,000 asylum seekers from Greece and Italy¹⁴⁴ to other member states. In its judgment, the Court held that **‘Article 78 (3) of the TFEU enables the EU institutions to adopt all the provisional measures necessary to respond effectively and swiftly to an emergency situation characterised by a sudden inflow of displaced persons’** (CJEU 2017, p. 1). The judgment thus sets an important precedent that presumably will be invoked in subsequent disputes concerning irregular migration.

Despite the confirmation by the CJEU of the validity of the relocation mechanism, Hungary together with Poland and the Czech Republic remained in breach of their legal obligations and gave no indication of contributing to the implementation of the Council Decision¹⁴⁵ in their replies to the Commission. As a result, in December 2017 the Commission proceeded to the following stage of the infringement procedure, referring the three member states to the CJEU.¹⁴⁶ In March 2018 the CJEU published the actions brought by the Commission against Hungary¹⁴⁷, Poland¹⁴⁸ and the Czech Republic¹⁴⁹ for failing to fulfil their obligations under the Council Decision on relocation. The cases are in progress at the time of writing.

¹⁴⁴ CJEU Judgment of 6 September 2017 in Joined Cases C-643/15 and C-647/15 Slovakia and Hungary v Council.

¹⁴⁵ Council Decision (EU) 2015/1601 of 22 September 2015 establishing provisional measures in the area of international protection for the benefit of Italy and of Greece.

¹⁴⁶ European Commission Press release: Relocation: Commission refers the Czech Republic, Hungary and Poland to the Court of Justice, 7 December 2017.

¹⁴⁷ Case C-718/17: Action brought on 22 December 2017 - European Commission v Hungary

¹⁴⁸ Case C-715/17: Action brought on 21 December 2017 - European Commission v Republic of Poland

¹⁴⁹ Case C-719/17: Action brought on 22 December 2017 - European Commission v Czech Republic

Several important observations emerge in assessing the case law of the CJEU in matters of asylum and migration and its impact on this policy domain. Notwithstanding the progress in judicial protection brought about by the Treaty of Lisbon, and the vital role played by the Court in clarifying the interpretation of key norms in the asylum regulations and directives, the controversial recent judgments discussed above do not seem to reflect the promotion of a human rights-based approach. However, it is also important to point out that the case law of the Luxembourg Court is lacking in volume with regard to asylum and migration proceedings, particularly when compared to the Strasbourg Court. Since the adoption of the Lisbon Treaty, the CJEU carried out a total of eighty such Judgments, until January 2018.¹⁵⁰ This means that, on average, the Court only ruled in nine cases a year on issues of asylum and migration. Furthermore, the low number of referrals for a preliminary ruling is surprising given the complexity of EU law,¹⁵¹ suggesting that national courts do not deem it necessary to resort to the Courts of the EU. Having examined the different approaches of the EU institutions to irregular migration, the following section examines the impact of such approaches on the relations between institutions and on EU migration governance.

6.7 Tension between the EU institutions' policy positions

Starting with the approach of the EU's executive arm, this chapter revealed that the Commission promoted high standards of protection for asylum seekers until the outbreak of the refugee crisis in 2015, when it shifted its focus towards strengthening

¹⁵⁰ 5 Judgments concerning the APD, 21 Judgments concerning the QD, 5 Judgments concerning the RCD, 19 Judgments concerning the Dublin Regulation, and 30 other relevant asylum Judgments.

¹⁵¹ See the online European Database of Asylum Law (EDAL), managed by ECRE, for asylum-related case law from 22 European states, the CJEU and the ECtHR: <http://www.asylumlawdatabase.eu/en>

the EU's external borders under the guise of security. With regard to the Parliament, although as a rule, it promotes a rights-based approach, policy responses to irregular migration vary between (and at times also within) the political groups with some advocating a liberal stance and others adopting more hostile positions. In addition, the rise of right-wing populist parties in the EP, which hold anti-immigration views, is impacting on the Parliament's approach to irregular migration. In contrast to the approaches of the Commission and the EP, the security-oriented approach in the Council reflects the national interests of EU member states. Given that the primary aim of national ministers sitting in the Council is to keep their election/campaign promises in order to remain in office/stay in power, the resulting focus is on the securitisation and externalisation of migration. In other words, on sealing the EU's external borders to prevent irregular border crossings, particularly through its southern and eastern borders.

In terms of the approach of the European Council, during the past decade, the issue of irregular migration dominated most European Council meetings, with priorities shifting from establishing a CEAS, in the 1999 Tampere European Council, to developing measures to stop the flow of irregular migration, as exemplified by the 2016 EU-Turkey Statement. Finally, the Court of Justice of the EU provides a rights-based approach within the current legislative asylum framework through its function of ensuring that EU legislation is enforced, understood and uniformly applied in all member states and by the EU institutions. Nonetheless, despite the progress in judicial protection made by the Treaty of Lisbon, the controversial recent judgments discussed above fail to reflect the promotion of a rights-based approach. Thereby the approach of the CJEU is questioned. More research, therefore, is needed to draw more solid conclusions in this regard.

The following pages examine the standpoints of the three central legislative institutions of the Union during the negotiations of the second and third generation CEAS legislative instruments in order to provide a better understanding of the tensions resulting from the different policy positions as well as their impact on EU asylum and migration policymaking over the space of time (2008 to 2018). Interestingly, both sets of negotiations took place within a post-crisis context involving the two biggest challenges that the EU has had to deal with in the past decade: the financial crisis and the refugee crisis. The former negotiations span over the period 2008 to 2013 when the EU was still recovering from the financial crisis, while the latter commencing in 2016, following the unprecedented arrival of irregular migrants in 2015 and 2016 and EU inability to deal with the issue, are still ongoing at the time of writing.

6.7.1 Second-generation CEAS negotiations (2008-2013)

The second-generation CEAS legislative instruments were negotiated under the ordinary legislative procedure, following the entry into force of the Treaty of Lisbon, as opposed to the first generation negotiations when the Parliament was merely consulted. In practice, under the Lisbon rules, Parliament was granted power to co-legislate on an equal footing with the Council. During the negotiations, the EP, in alliance with the Commission, was keen to harmonise common standards and procedures and develop more liberal rules, however, the Council remained stuck to its (security-oriented) position. In addition, since member states had just implemented the first generation of CEAS legislative instruments, they perceived less urgency to agree on second-generation asylum rules (Trauner 2016, p. 316).

The most contentious issue during these negotiations regarded the reform of the Dublin II Regulation, ‘the Achilles heel of the CEAS’. More specifically, with regard to the Commission proposal to establish a ‘temporary suspension mechanism’¹⁵² - a legal provision allowing for the temporary suspension of transfers to member states facing ‘particular pressure’ on their asylum and reception systems. The EP, though critical of the proposals on the Dublin reform, referring to them as modest changes, accepted them with amendments, hence supporting the Commission’s approach most notably as regards strengthening the scope and rights of asylum seekers. In the Council, member states were divided between those in favour of a continuation of the Dublin rules - such as Austria, Germany and the UK - and those pushing for an overhaul of such rules - namely Italy, Greece and Malta (Dreyer-Plum 2017, p. 15).

Ultimately, the Council rejected the Commission’s ‘temporary suspension mechanism’, replacing it with a ‘mechanism for early warning, preparedness and crisis management’.¹⁵³ As a result, the outcome, the ‘Dublin III’ Regulation, is a continuation of its predecessor, remaining unable to respond adequately to member states facing disproportionate migration pressures, particularly those situated at the EU’s external frontiers. This is in line with the working hypothesis which posits that EU policymaking in the context of irregular migration has led to suboptimal outcomes that do not fully cater for the realities of migration pressures in the frontline member states.

¹⁵² Art. 31 ‘Dublin II Recast’ Proposal 2008.

¹⁵³ Art. 33 Dublin III Regulation 2013. The aim was to detect weaknesses in the asylum administrations of member states facing increasing migration pressure so that the Union could take the necessary measures to respond to deficiencies in national asylum systems, thus ensuring the operation of the Dublin system at all times.

With regard to the negotiations on the reform of the three asylum directives - the APD, QD and RCD, here again, the EU institutions pursued different objectives. In terms of the Commission, the focus was to develop harmonised asylum rules with uniform conditions across EU member states. This was reflected in its proposal to improve the situation of asylum seekers by, among other things, facilitating their access to the labour market in the reform of the Reception Conditions Directive. Similarly, in its proposal to reform the Qualification Directive, it aimed to abolish the sharp contrast between refugee and subsidiary protection status and the respective rights. Yet despite the Commission's attempt to reconcile member state interest and asylum seekers' rights, the proposed reforms for all three directives were mitigated in the Council.

The focus in the Council involved the 'fight' against irregular migration and cracking down on human trafficking and smuggling, including efforts to strengthen the EU's external borders and increase cooperation with third countries. Very much in contrast to the Council's position was that of the Parliament where the focus was on advocating rights and safeguards of asylum seekers. Its contributions, however, were barely heard in the end. The Council thus emerged as the most significant actor during the negotiations of the second generation CEAS legislative instruments, blocking most Commission- and Parliament-backed proposals. Ultimately, the lengthy negotiations, ending in 2013, translated into policy outcomes close to the status quo. Consequently, the second generation of asylum laws leans more towards member state interests, which can be attributed to the negotiation impact of the Council (Ripoll Servent and Trauner, 2014).

6.7.2 Third-generation CEAS negotiations (2016-2020)

The second generation CEAS, formally completed in 2013, was put to the test in 2015 following the unprecedented influx of irregular migrants, revealing its shortcomings. Thus, in the context of the refugee crisis, the Commission tabled proposals in May and July 2016 to reform the CEAS, resulting in the so-called ‘third generation CEAS negotiations’.

As was the case in the previous negotiations, member states in the Council led the process, this time indicating that the Commission was under pressure to satisfy the political interests of the EU member states. The position of the executive branch indeed shifted from a rights-based approach during previous negotiations, to a more security-oriented approach following the outbreak of the refugee crisis. More concretely, its proposals highlighted reluctance in strengthening asylum seekers’ rights, justified on the grounds that giving more rights could potentially lead to abuses of the asylum system - suggesting that the Commission was facing high political pressure. Thereby, compared to the previous negotiations, the EU executive was less progressive in its approach during the third generation proposals.

The Commission’s altered approach was met with discontent by the EP and its rights-based approach in terms of the reform of the CEAS. As a result, the Commission proposals were subject to heavy criticism by the Parliament.¹⁵⁴ Most notably, with regard to the reform of Dublin III, the EP wanted to move beyond the Commission’s proposal to set up a system for the mandatory allocation of asylum responsibility¹⁵⁵ that would apply when thresholds are exceeded - claiming that by retaining the same philosophy ‘Dublin IV is unlikely to achieve its objectives’ (Maiani

¹⁵⁴ In particular the EP Report by Rapporteur Cecilia Wikström, 6 November 2017. Available from: http://www.europarl.europa.eu/RegData/etudes/BRIE/2016/586639/EPRS_BRI%282016%29586639_EN.pdf

¹⁵⁵ Whereby member states would take a defined number of migrants based on ratio calculated on the basis of GDP and population (see Footnote 81).

2016b, p. 1) - and make it applicable at all times rather than only in certain situations. Parliament also proposed that those member states which refuse to participate in the allocation system would lose access to EU funds.

Consequently, disagreement between EU institutions in the negotiations on the reform of the CEAS, particularly on the reform of Dublin III, ended in deadlock. Similarly to the second generation negotiations, inter-institutional tensions revolve around the reform of the Dublin system and the 'state of first entry' rule - i.e., over whether to abolish the rule and/or introduce a mandatory or a voluntary relocation mechanism for asylum seekers - with the JHA Council taking centre stage. The following section further examines the differences in the approaches of the EU institutions to irregular migration.

6.7.3 Conflict between EU institutions' approaches

The above analysis concerning EU institutions' positions in the negotiations of the second and third generation CEAS legislative instruments (2008 to 2018) reveals that the Commission shifted its approach during the latter negotiations, presumably as a result of Council pressure. In practice, during the former negotiations (2008 to 2013), the executive branch of the EU enjoyed a high degree of autonomy when developing new proposals, leading to pro-asylum seekers' rights proposals. However, during the latter negotiations, the position of the Commission changed remarkably from focusing on strengthening the rights and safeguards of asylum seekers to preventing irregular arrivals by strengthening the EU's external borders. Moreover, the Commission's shift in focus complicated its relationship with the Parliament, increasing the distance between their positions, and thus making it harder to find common solutions.

With regard to the EP approach, the analysis reveals that although the overall focus during both sets of negotiations was on the promotion of asylum seekers' rights, at the same time there is varying support among MEPs.¹⁵⁶ In other words, although the EP generally promotes a rights-based approach, policy responses to irregular migration vary between the political groups but, more interestingly, *within* political groups, particularly when national interest increases. Furthermore, the rise of right-wing populist groups in the EP is influencing policy responses to irregular migration as the political centre is being pulled further right. Still, the Commission's third-generation CEAS proposals were criticised as 'going backwards' in terms of rights by some political groups in the Parliament, mainly the centre-left, in keeping with the finding from the earlier negotiations that the EP supported a more rights-based approach.

In terms of the Council, the analysis reveals that the negotiations of the second generation CEAS legislative instruments were driven by the preferences of the north-western member states, and this was for two main reasons. First, despite the southern members' calls for a stronger redistribution mechanism in the Dublin System, they were unable to garner enough political support. The second reason is that the eastern members had no vested interest in irregular migration during these negotiations and thus did not have any national preferences to push forward in the Council. Consequently, the northwestern member states emerged as the strong regulators, pushing their national preferences at the EU level.

¹⁵⁶ For example, with regard to the RCD it appears that there was a low degree of conflict, yet some elements in the proposal were watered down in the amended proposal, which could have helped decrease the level of conflict. Even though the evidence could imply that most MEPs were satisfied with the proposal, this could be due to the fact that the right-leaning majority accepted the amended proposal because it was better than the initial proposal, whilst the left-leaning majority accepted the amended proposals because it was better than the first generation directive. With regard to the APD, disagreements were high. The initial report was barely adopted by a majority in the LIBE committee, and there seem to be divisions among MEPs in the EPP group.

During the third generation negotiations, however, all member states in the Council have an enhanced interest in pursuing their national political preferences, thereby making it much harder to reach common positions. This confirms that member states' approaches fluctuate according to salience. In other words, high salience, resulting from the mass influx of irregular migrants in 2015 and 2016, made it harder to reach agreement in the Council in the third generation negotiations, compared to the second. The 'rules of the game' thus changed in the Council, during the latter negotiations when salience was high.

Indeed, from the outset the Eastern member states had a far clearer position on the proposed legislation, resisting proposals, namely with regard to including a 'corrective allocation mechanism' in the reform of the Dublin System and to transform the asylum Directives on standards for common procedures and qualification of international protection into Regulations. The negotiation situation thus differs from previous negotiations when the Eastern members did not perceive irregular migration as an issue of concern. In addition, differences between the preferences of the strong regulators increased. By way of example, Germany and Sweden now support the proposal for the recast of the Dublin System, unlike France (and the UK). Essentially, such changes can be attributed to the unprecedented arrival of irregular migrants during the refugee crisis.

More importantly, the analysis of the negotiations of the second and third generation CEAS legislative instruments illustrates that EU asylum and migration policymaking shows clear signs of following an intergovernmental logic of cooperation, where the supranational institutions have a lesser role leaving member states in the JHA Council in the driving seat. According to one of the interviewees, this results from the fact that the EU has not yet succeeded in becoming a key actor in the field of asylum and migration due to member states' reluctance to cede

national competences to the supranational level. In addition, given that following the refugee crisis and a series of terrorist attacks in several member states, the issue is increasingly linked to national security, the likelihood is that national competences will not be transferred to the EU level in the near future. The following section applies the 3Ps public policy model to the approaches of the Commission, Parliament and Council to irregular migration.

6.7.4 Application of the 3Ps public policy model

As the above discussion illustrates, EU institutions set their own agendas, which may conflict with each other resulting in clashes over how to deal with the challenge of irregular migration. Further complicating matters, the approaches of EU institutions are not static but change over time as a result of the changing context within which policymaking takes place. Against this background, the application of the 3Ps public policy model (Politics, Polity, Policy) during two different periods - prior to and post the refugee crisis - helps to shed light on the different approaches of EU institutions to irregular migration as well as any shift in their respective approach.

Starting with the executive branch of the EU, during 2013, which marked the final year of negotiations of the second generation CEAS legislative instruments, the focus was on harmonising common standards on asylum across EU member states in order to ensure that asylum seekers receive similar treatment and the same outcome on their asylum application irrespective of the member state in which their request is lodged (i.e., to create a 'level playing field').

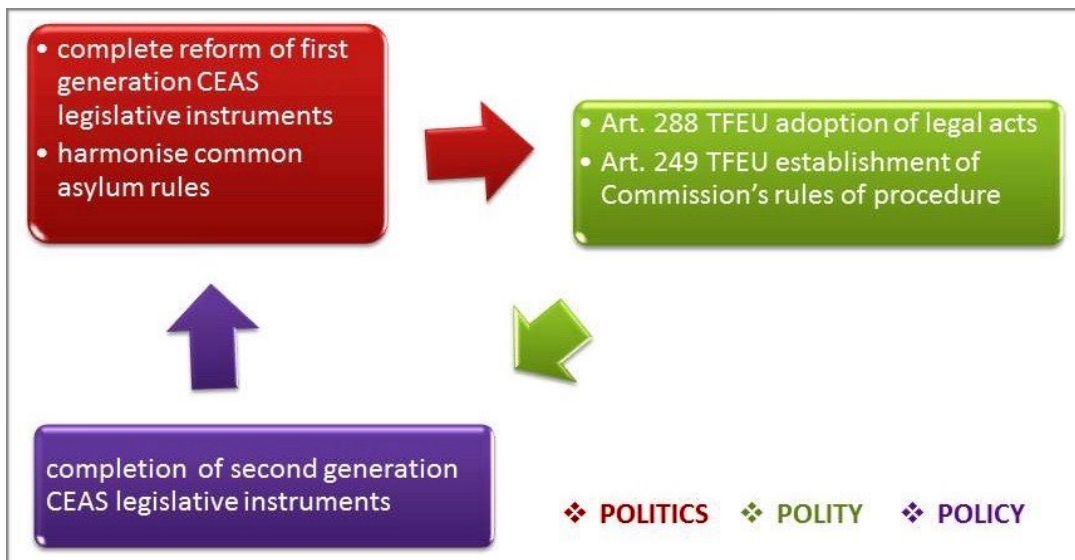


Figure 6.10: 3Ps Public Policy Model, European Commission 2013
(Compiled by the author using data from EU websites).

In contrast, following the outbreak of the refugee crisis and hence under a different context, **the Commission's focus** shifted towards strengthening the EU's external borders and cooperating with third countries in order to prevent irregular migration. This involved a proposal to transform Frontex into a European Border and Coast Guard Agency (EBCG), thereby increasing its remit to ensure efficient border management, which was eventually approved by Parliament and Council in a record time of nine months. The Commission's approach was further consolidated in its proposals to increase the EBCG operational staff, creating a standing corps of 10,000 border guards by 2027, and to almost triple funding for migration and border management to nearly 35 billion euros for the period 2021 to 2027, in contrast to 13 billion euro in the previous period (2014-2020).



Figure 6.11: 3Ps Public Policy Model, European Commission 2018
(Compiled by the author using data from EU websites).

With respect to **the European Parliament's approach**, two important observations can be made when looking at the different time periods. First, between 2013 and 2018 a change occurred in the composition of the EP following the European elections in May 2014, which resulted in declining support for mainstream political groups. In addition, MEP seats increased from 736 to 751 due to Croatia's accession to the EU in 2013. Second, during the 7th parliamentary term (2009-2014) the EP's position was close to that of the Commission, particularly with regard to the negotiations of the second generation CEAS legislative instruments. In practice, the focus of the Parliament involved promoting the rights of asylum seekers and migrants and creating safe and legal pathways to Europe.

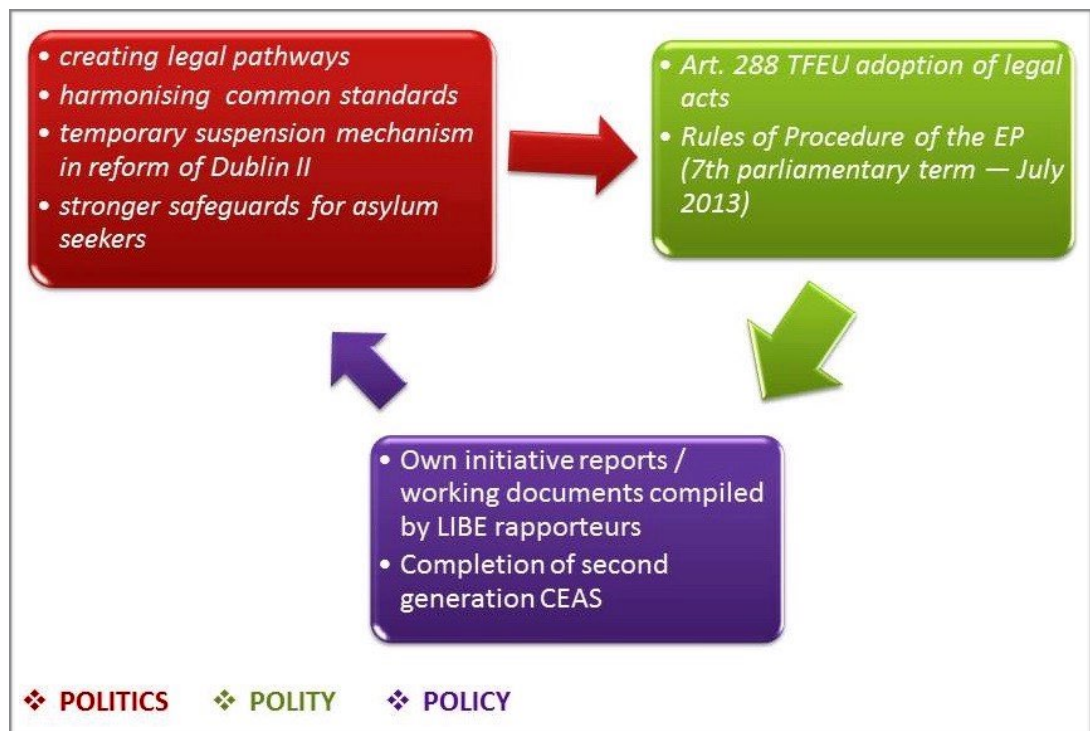


Figure 6.12: 3Ps Public Policy Model, European Parliament 2013
(Compiled by the author using data from EU websites).

Nonetheless, following the shift in the Commission's approach towards irregular migration, now focusing more on preventing irregular arrivals than on promoting rights, the distance between the positions of the Parliament and the Commission increased, complicating their relationship and thus making it harder to find common solutions. In other words, the Commission's change in approach during the 8th legislative term (2014-2019), was met with discontent by the EP and its rights-based approach, particularly concerning the reform of the Dublin System. At the same time, the rise of right-wing populist groups in the EP are impacting on its approach to irregular migration as the political centre is being pulled further right.



Figure 6.13: 3Ps Public Policy Model, European Parliament 2018
(Compiled by the author using data from EU websites).

Finally, **the focus of the (JHA) Council** on preventing irregular migration reflects the restrictive and security-focused preferences of member state governments. Although the Council's security-oriented approach dominated in both periods, two important observations emerge from the analysis. First, in 2013, during the negotiations of the second generation CEAS instruments, the western and northern member states proved the most successful in pursuing their national preferences owing to the fact that the southern members failed to garner enough political support while the eastern members, not being particularly affected by irregular migration, had no interest in pursuing any national preferences. Things changed however in 2018, following the unprecedented arrival of irregular migrants in 2015 and 2016, with all member states now having an enhanced interest in pursuing their national political preferences, thus making it harder to reach agreement in the Council. It also indicates that changes in salience result in fluctuations in member states' positions since in times of high salience national governments find themselves under pressure to satisfy public opinion.

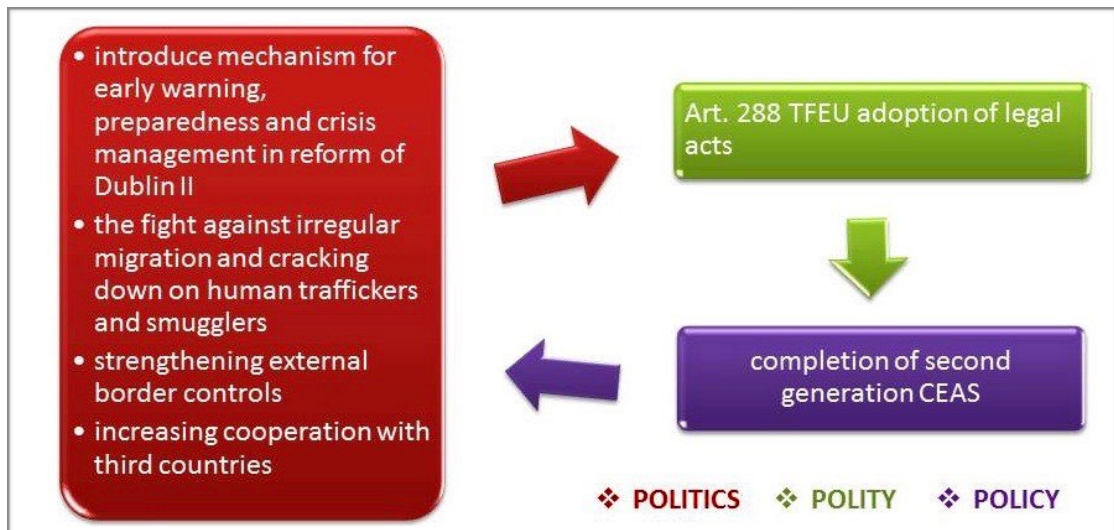


**Figure 6.14: 3Ps Public Policy Model, Council of the EU 2013
(Compiled by the author using data from EU websites).**

The second observation concerns the fact that although the dominant focus of the Council is on preventing irregular migration, it gravitates towards different aspects related to the phenomenon at different periods. Such aspects range from the strengthening of external border controls, increasing cooperation with third countries, and dismantling human trafficking and smuggling networks along the Mediterranean routes, to more controversial proposals in the aftermath of the refugee crisis including the development of regional disembarkation platforms in third countries and controlled centres in the EU. Government ministers, nonetheless, have hitherto been unable to reach consensus on the latter proposals.

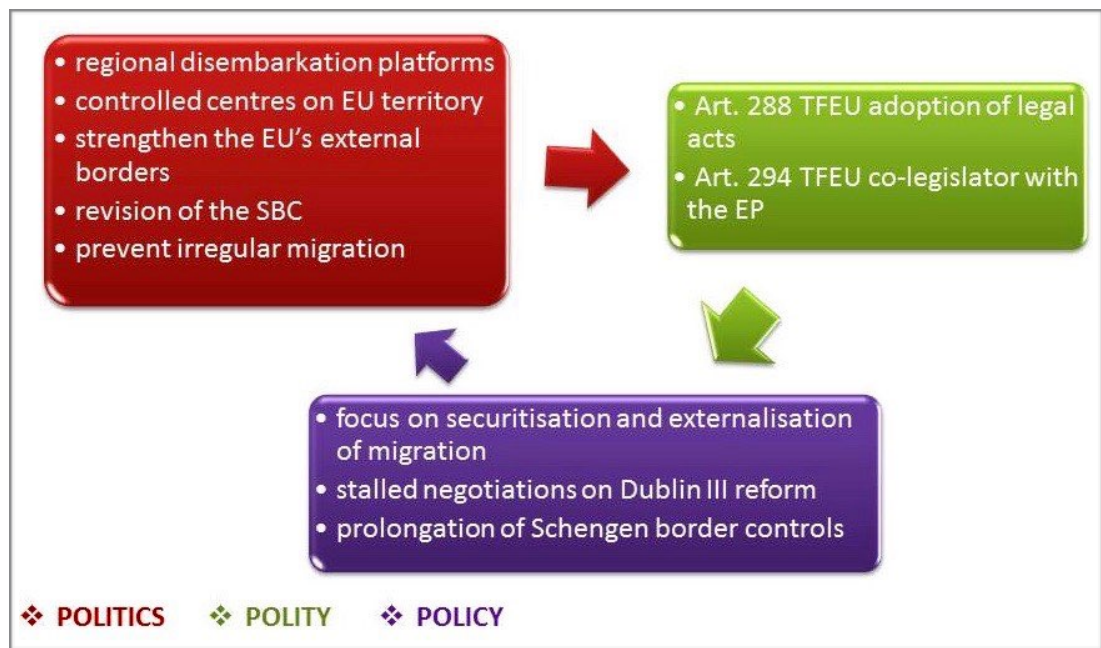


Figure 6.15: 3Ps Public Policy Model, Council of the EU 2018
(Compiled by the author using data from EU websites).

6.8 Conclusion

This chapter analyzed the different priorities and goals of the EU institutions towards irregular migration as well as their impact on EU migration governance. Primarily, it revealed that the policy approaches of the EU institutions vis-à-vis irregular migration, not only differ but change over time, namely due to increasing political salience of the phenomenon. Indeed, this chapter has illustrated that as the salience of irregular migration increases, the Commission enjoys less autonomy to propose rights-based legislation, finding itself under pressure by member states in the Council and the dominant focus on preventing irregular arrivals.

At the same time, high salience results in more active decision-making in the Council thus making it harder to reach an agreement, whilst in the Parliament, it increases the chances of MEPs voting in accordance with member state preference rather than political group ideology. As a result, this sovereignty-sensitive policy domain shows clear signs of following an intergovernmental logic of cooperation, where the supranational institutions have a lesser role leaving member states in the JHA Council in the driving seat. Following the above analysis on the differences in the approaches of EU institutions, the next chapter explores the differences in EU member states' policy approaches to irregular migration in order to gain a better understanding of the impact of clashing national interests on the relations between states and on EU migration governance.

National policy approaches to irregular migration: a constant source of friction

This chapter focuses on the impact of member states' policy approaches to irregular migration on the relations between states as well as on EU migration governance. First, it explores the key factors influencing national approaches. Next, it analyzes the divergences in national asylum practices through the lenses of securitisation and social constructivism. Then it explores how member states located in the three main regions of the EU - Northwestern, Central-Eastern and Southern - differ in their approach to irregular migration, primarily due to the relative impact of the phenomenon. The chapter thus highlights the challenge in agreeing on common asylum and migration policies stemming from the diversity of national interests in the context of irregular migration as well as lack of solidarity among member states. Furthermore, it reveals that despite significant divergence in national approaches to irregular migration, EU member states are increasingly converging towards more restrictive migration policies including strengthening the EU's external borders, largely owing to the increasing perception of irregular migration as a threat to public security.

7.1 Introduction

Building upon the findings from the preceding chapters which shed light on the diversity in EU actors' approaches to irregular migration, this chapter focuses on national policy approaches. More specifically, it examines the impact of clashing national interests in the context of irregular migration on the relations between member states and on EU migration governance. In doing so, the chapter highlights the difficulties in developing a common approach to irregular migration, revealing that the main obstacle stems from the fact that asylum seekers are not evenly distributed among EU member states. As Figure 7.1 below reveals, in 2016 and 2017, four member states accounted for around 80 per cent of total asylum applications lodged in the EU. Germany received 60 per cent (or 720,000) of total applications in 2016, which amounted to 1.2 million, followed by Italy (10% or 120,000), France (6% or 76,000) and Greece (4% or 50,000). In terms of applicants per capita, however, the highest figures were recorded in Germany (8,790 applicants per million inhabitants), ahead of Greece (4,625), Austria (4,585), Malta (3,995), Luxembourg (3,585) and Cyprus (3,350). The lowest numbers were recorded in Slovakia (18), Portugal (69), Romania (94), the Czech Republic and Estonia (both 114) (Eurostat, 2017).

Again, in 2017 out of a total of 650,000 asylum applications lodged in the EU, Germany received the most applications, accounting for 31 per cent (198,000) of total applications, followed by Italy (20% or 127,000), France (14% or 91,000) and Greece (9% or 57,000) (Eurostat, 2018). This highlights the asymmetrical impact of asylum seekers across EU member states, resulting in a major determinant influencing member states' preferences in the context of irregular migration.

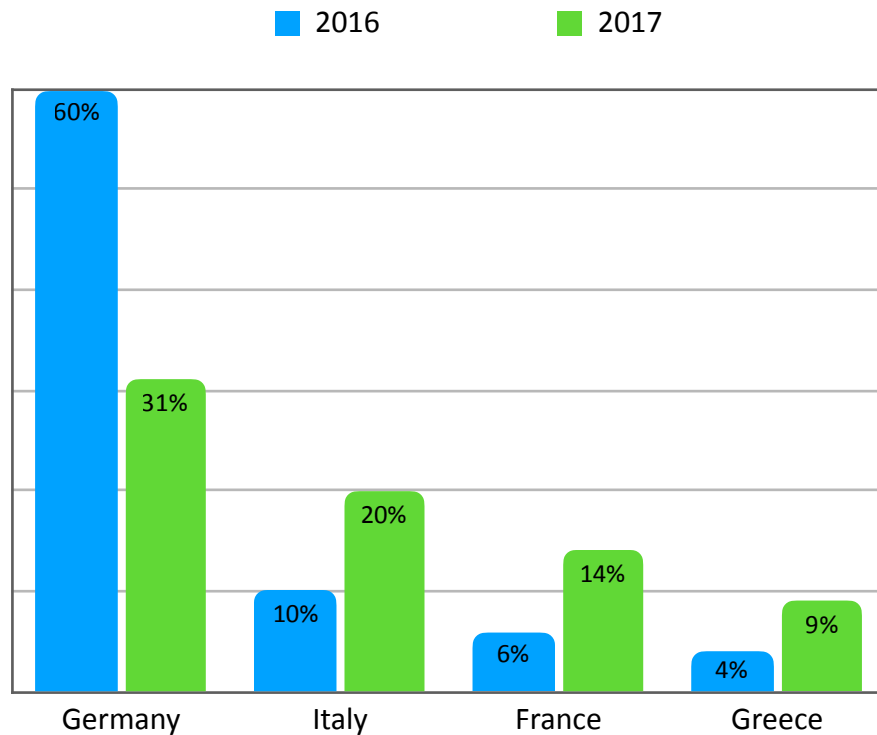


Figure 7.1: Top 4 receiving states in 2016 and 2017, % of total asylum applications received in the EU (Compiled by the author using Eurostat 2018 data).¹⁵⁷

In addition to the unequal distribution of asylum seekers, other factors including individual historical experiences with immigration, date of EU accession and public opinion, continually shape national preferences vis-à-vis irregular migration, which often clash at different stages of the EU decision-making process. Another important influence significantly impacting on national approaches, and closely connected to public opinion, concerns national politics. This aspect is becoming more relevant in EU asylum and migration policymaking in the context of irregular migration, given that disagreement among member states over how to deal with the phenomenon takes place at a moment of radical political change within the bloc. On the political right, there has been a sharp rise in anti-immigrant rhetoric and calls for stricter

¹⁵⁷ This diagram serves to illustrate the asymmetrical impact of asylum responsibility across EU member states. See Figure 5.3 for data on asylum applications received by top 10 recipients in the EU in 2015. Also see Figure 5.2 for data on asylum applications for the years 2007 to 2019 and Figure 1.1 for data on asylum applications in the EU from 1990 to 2019.

border control, while on the left, the EU's insistence on strict fiscal measures has boosted the popularity of anti-austerity movements such as Syriza in Greece and Podemos in Spain. These discourses have coincided with a rise in anti-EU sentiment in the EU, exemplified by the UK's vote in June 2016 to leave the bloc. Consequently, these powerful cleavages represent a challenge in reaching consensus in the field of asylum and migration. Against this backdrop, the next few pages examine the main factors influencing member states' policy approaches to irregular migration in more detail.

7.2 Why different national policy approaches to irregular migration?

Initially a 6-member regional bloc, by the mid-1990s the Union comprised 15 member states, which, with the exception of the southern states, were prosperous and of a Northwestern European cultural trope. Following the enlargement processes from 2004 onwards (Figure 7.2), the number of member states has almost doubled. Hence, the Union has become more heterogeneous, particularly given that most of the new members from Central and Eastern Europe are post-communist states, bringing new preferences and challenges for EU asylum and migration policymaking. Furthermore, member states' preferences change over time as a result of the changing context within which policymaking takes place, such as new governments taking office. This highlights the difficulty in developing a common approach to irregular migration resulting from the Union's diversity of interests which give rise to diverse national policy approaches.

A major factor impacting on national approaches to irregular migration concerns member states' individual **historical experiences with immigration**. For instance, several northern and western European states experienced high levels of immigration in the aftermath of WWII due to colonial commitments or recruitment programmes for migrant workers. France received an influx of Algerians fleeing the civil war during the 1950s and 60s while Britain received migrants from the Indian subcontinent and the Caribbean. In contrast to these member states, sharing a history of receiving large numbers of migrants from multiethnic backgrounds particularly from former colonies, member states located in central, eastern and southern Europe had little experience with immigration and asylum seekers (Dustmann and Frattini, 2012).

The southern member states, namely Italy, Greece, and Spain, were rapidly transformed from countries of mass emigration during the 1950s, 60s and early 70s, to mass immigration during the 1980s and especially, in the 90s and 2000s, generated by the end of communist rule in CEE and the Yugoslav Wars, as well as unrest in the Middle East and Africa (King and Thomson, 2008). Similarly, the 'new' southern members, Cyprus and Malta, became immigrant-receiving countries following EU membership in 2004.

The CEE member states received their first influx of migrants in the post-Cold War era. However, since most migrants were from Ukraine, and thus holding similar cultural beliefs, these member states did not gain experience in dealing with cultural diversity (Zaborowski, 2015). This illustrates that most of the 'older' EU members have longstanding traditions and experience with immigration, including the arrival of asylum seekers, whereas, for the 'newer' member states, it is a relatively recent phenomenon to which they have had to adapt very rapidly. Linked to this aspect, the

date of accession to the EU also has a significant impact on member states' approaches to irregular migration.

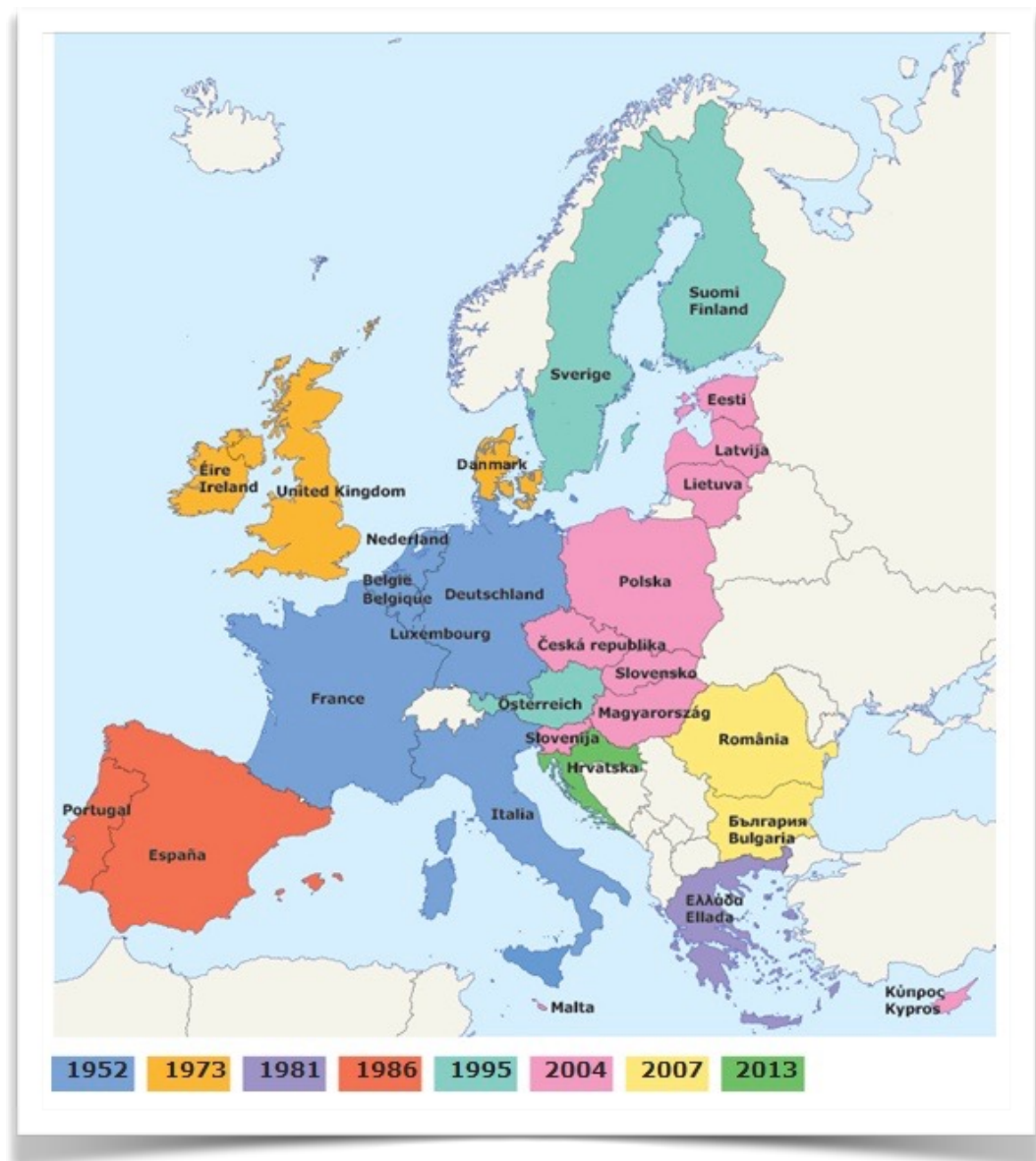


Figure 7.2: Enlargement of the EU (Source: Europa, 2018).

Indeed, the ‘new’ members had to accept and implement the asylum *acquis* as a condition for full membership within the EU. Hence, the legislative instruments comprising the CEAS were transferred from the advanced asylum systems in the ‘old’ member states to the nascent structures in the ‘new’ ones. In other words, the asylum *acquis* was implemented in a different legal and political environment in the

‘new’ member states than in the ‘old’ ones, where it was created. Furthermore, the experiences of the ‘new’ member states in implementing the *acquis* differed from the ‘old’ member states as well as among each other.

Divergence in the implementation of the CEAS in the ‘old’ and ‘new’ member states stems from economic inequality between most ‘new’ (post-communist) members and the ‘old’ members, but more importantly geographical location. This is because the process of accession shifted the ‘burden’ of asylum responsibility from the core of Europe to its periphery. **Geographic location**, therefore, is an important (if not the most important) determinant of member states’ approaches to irregular migration since states confront irregular migration to differing degrees in the context of their geographical proximity to zones of instability and conflict (Figure 7.3).



Figure 7.3: Map of Europe and neighbouring countries (Source: Geology.com, 2007).

In practice, the different regions of the EU experience different migratory pressures. Member states on the EU's periphery, particularly Italy and Greece, have become the main entry points for irregular migrants by accident of geography, and are responsible for guarding long sea and land borders. By contrast, those member states located in the core of Europe are more protected against direct irregular entry.

In addition to the aspects discussed above, member states' policy approaches to irregular migration are also influenced by **public opinion** given that national governments need electoral support to remain in office. Indeed, the public's focus on an issue has an impact on national responses. This is because, in times where salience in a given issue is low, national governments are not under pressure to 'deliver' a policy that the public accepts, given that the latter is not particularly concerned with the issue in question. However, when an issue is problematised in the media resulting in high salience, as in the case of irregular migration, the public will be more concerned. Hence the response of the governing party or coalition will tend to pander to public opinion (Givens and Luedtke, 2004).

In public discourse, asylum seekers and irregular migrants are often construed as a threat to the welfare system and employment opportunities, as well as a threat to national security for their association with the recent rise in terrorism in Europe. Salience thus increases when such arguments are successfully promoted through politics and media. The case of Malta, for instance, illustrates how the fears and tensions in public discourse, associated with irregular migration, pervade the press on a daily basis and are also reflected in the recent origins of a number of far-right parties¹⁵⁸ (Calleja Ragonesi, 2012).

¹⁵⁸ Despite lack of parliamentary representation, the rise of such parties has been a complete novelty in Malta's political landscape.

A final and more topical aspect impacting on member states' policy approaches to irregular migration pertains to the **rise of right-wing populist parties** in the EU. In recent years, and particularly following the refugee crisis, such parties managed to increase voter support in several member states as the issue of irregular migration emerged as a key debate in national elections across Europe. In Western Europe for instance, the slogan of the right-wing populist National Front leader Marine Le Pen in the 2017 French presidential election was "stopping 'uncontrolled' immigration" (Wolff, 2017). Also in 2017, the campaign of the AfD in the German federal elections focused on fighting an 'invasion of foreigners' with its leader, Alexander Gauland, openly stating that Islam is alien to German society (BBC, 2017). Meanwhile, in the Austrian election campaign, the Austrian People's Party (ÖVP) and the Freedom Party of Austria (FPÖ) both included restrictive positions on immigration and integration at the centre of their electoral campaign. ÖVP leader, Sebastian Kurz, called for 'limits on the number of asylum seekers entering Europe as well as reduced social benefits for EU citizens living in Austria' (Sterling, 2017).

Irregular migration was also a key issue in Eastern European member states such as in the run-up to Hungary's election in 2018. A central pillar of Prime Minister Viktor Orbán's campaign was that Hungary would be 'overrun' by refugees if he was not elected. He also appealed to the prejudices of his core supporters with talk of the importance of 'ethnic homogeneity', and of a 'Europe under threat of invasion' (Reuters, 2018a). Arguably, it was easier for right-wing populist leaders in Eastern member states, compared to other EU member states, to frame non-European migrants as a threat to their nations since their citizens had not been exposed to high levels of interaction with migrants of different ethnic and cultural backgrounds, as well as due to the re-emergence of Christianity as a cornerstone of national identity in these states (GPF, 2018).

Lastly, in Southern Europe, in the run-up to the Italian general election in 2018, the electoral campaign of the League was characterised by anti-immigrant rhetoric. Its leader, Matteo Salvini, declared that if he was elected prime minister one of his principal objectives would be to expel half a million failed asylum seekers (Squires, 2018). He also campaigned with slogans such as ‘Italians first’ and ‘Stop the invasion’¹⁵⁹ (Palm, 2018).

Figure 7.4 below illustrates the rise of populism in Europe, revealing that since the turn of the century such parties have steadily increased their support, entering most national parliaments across Europe. An unprecedented populist belt now covers a large stretch of CEE, from the Baltic to the Aegean Sea.

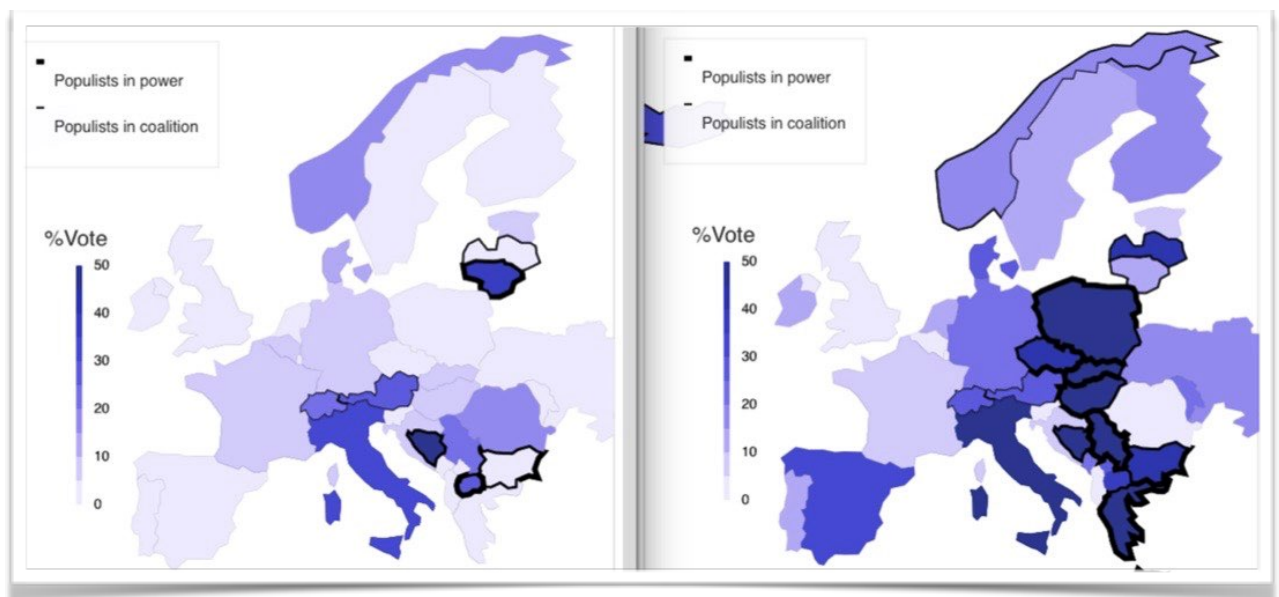


Figure 7.4: The rise of populism in Europe, 2000 vs. 2017 (Source: Blair Institute, 2017).

¹⁵⁹ ‘Prima gli Italiani’ e ‘Stop invasione’.

In terms of EU asylum and migration policymaking, the steady growth in support for right-wing populist parties is transforming member states' policy approaches to irregular migration. For example, Germany, a country known for its efficient asylum system and high recognition rates, shifted course since 2016, hardening its stance. National concerns over the integration of refugees coupled with the rise of the AfD have resulted, *inter alia*, in lower recognition rates and family reunification put on hold for beneficiaries of subsidiary protection (Dimitriadi et al. 2018). Thus it appears that the rise of right-wing populist political parties across Europe has contributed to a shift in the EU approach to irregular migration, i.e., towards more restrictive migration policies.

To conclude, although different aspects, such as those outlined above, impact in different ways on member states, giving rise to diverse approaches to irregular migration, at the same time, the phenomenon is increasingly being viewed through the prism of national security and, as a result, the focus of EU member states is increasingly shifting towards restrictive migration policies to prevent it.

Furthermore, since the practice of providing international protection is costly, EU member states are increasingly amending legislation restricting the rights of asylum seekers in order to decrease the attractiveness of their respective territory, thus encouraging them to seek protection elsewhere. According to the Organisation for Economic Co-operation and Development (OECD, 2017a), the average cost for processing and accommodating asylum seekers within the EU is around ten thousand euro per asylum seeker for the first year. Indeed, one of the most visible ways in which member states' approaches differ is in the (uneven) implementation of the EU asylum instruments, which is characterised by national interests and lack of EU solidarity. In view of the foregoing, the following section takes a closer look at the differences between national asylum practices across EU member states. More

specifically, it examines variation in certain aspects such as access to the asylum procedure, detention conditions, recognition rates and reception conditions, through the lenses of securitisation and constructivism in order to shed light on the diversity of EU interests, resulting in policy incoherence in this field.

7.3 Fragmentation of asylum policies through the lenses of securitisation and social constructivism

The complexity in EU asylum and migration policymaking in the context of irregular migration, stemming from the multiplicity of interests, is augmented by the fact that it is not based on rational decision making in a given structure, but is a constantly evolving policy area shaped by changing contexts and actors' interests. Moreover, it is strongly influenced by social interaction and discourse (Sommer, 2013).

Following 9/11 and a series of terrorist attacks in several EU member states, the issue of irregular migration is increasingly linked to Islamic terrorism and thus is perceived as a security threat. In consequence, the EU focus has shifted towards strengthening its external borders and on the external dimension of migration policy by concluding agreements with third countries located along the main migratory routes, such as Turkey and Libya, in order to prevent irregular arrivals.

Meanwhile, at the national level, in addition to the perception of irregular migration as a threat to national security, the issue is also being increasingly viewed as a threat to national welfare systems and cultural identities. The importance of these aspects is in that they are increasingly influencing policymakers, particularly in light of the fact that according to the Standard Eurobarometer of Autumn 2018, the issue of irregular migration is the top concern of European citizens (followed by terrorism) (EC, 2018b).

As a result, this is impacting on member state governments as they are finding themselves under pressure to satisfy public opinion. In practice, several member states have tightened their asylum and migration policies in recent years, implementing securitising practices to prevent irregular migration, i.e., increasingly focusing on the 'securitisation of migration'.

Still, the 'securitisation of migration' varies between member states due to various factors, such as those explored earlier, thereby creating different perceptions among the different national 'audiences' involved (Themistocleous, 2013). In this regard, the aspect of geographical location is of particular significance as the different regions of the EU have had different experiences with irregular migration and this may result in different understandings of 'threat', 'insecurity' or the need for a policy response (Neal, 2009). These differences have translated into different national policy approaches to deal with the phenomenon, reflected in the uneven implementation of the EU asylum instruments.

The lenses of securitisation and social constructivism allow for a deeper understanding of how EU member states' approaches to irregular migration are increasingly converging towards restrictive policies, notwithstanding variation in state practice. Social constructivism is particularly useful in exploring whether non-material social factors, such as identity, are in fact, the driving forces in determining member state policy approaches, while the concept of securitisation is useful in testing whether the 'securitisation of migration' varies from one member state to another, and if so, whether different perceptions of irregular migration give rise to a different set of policy responses.

During the past decade, EU member states have taken a hardline stance against irregular migration. In particular, following the refugee crisis, several member states amended their legislation, restricting the rights of asylum seekers in order to

decrease the attractiveness of their respective territory, such as restricting family reunification and granting lower recognition rates. These practices, however, have not been harmonised among EU member states, resulting in lack of harmonisation in this policy domain. For instance, Germany reduced reception conditions for asylum seekers in July 2016 (zu Hohenlohe, 2017) while frontline member states Italy and Malta closed their ports to NGO migrant rescue vessels in June 2018 (Caruana 2018; Il Giornale 2018). Similarly, other member states, such as Austria, Belgium, Denmark, France, Hungary, Slovenia and Sweden introduced or planned to introduce amendments to their asylum legislation (Wagner et al. 2016), in order to implement securitising practices. It is important to point out here that despite the link between the recent rise in voter support for right-wing populist parties and the shift in EU focus towards restrictive migration policies, securitisation as a strategic practice is used by parties from across the political spectrum.

The Copenhagen School offers a framework for analysis that structures the security debate. Within this framework, irregular migration is viewed as a 'societal security issue when it is staged as a threat to a community, and the very identity of that community' (Furuseth 2003, p. 24). Two broad theoretical positions have emerged on this matter, the classical or traditional school, and the critical theories school. The classical approaches, such as 'neorealism and neoliberalism, share rationalist assumptions, i.e., that reality is comprised of tangible and palpable objects. The materialist approach, therefore, reduces everything to matter and what is observable. Thus according to rationalists, social processes such as culture, values and norms, between state actors are an indirect function of the material dimension' (Whyte 2012, p. 4). On the other hand, critical theories question the 'materialist explanation of the classical materialist analysis. For critical theorists, such

as constructivists, irregular migration is viewed as an issue that has been securitised by various actors to serve their 'elitist' interests and objectives' (Themistocleous 2013, pp. 1-2).

Social constructivism challenges the classical approaches for their emphasis on the distribution of power and the pursuit of power and wealth. Instead, it seeks to demonstrate how core aspects of IR are 'socially constructed', i.e., they are given their form by ongoing processes of social practice and interaction. The theory, therefore, sheds light on how such processes shape national interests and preferences (Tripathi, 2015). Accordingly, the social constructivist approach provides a methodology to examine the underlying social dimension of EU asylum and migration policymaking and offers an important contribution to the field of EU migration studies for its emphasis on norms, values and other national cultural aspects. From this standpoint, governments are strongly influenced by such aspects in pursuing national interests (Jepperson et al. 1996).

In sum, the framing of irregular migration in the EU as a threat has given rise to security measures, primarily involving the protection of the external borders of the EU. Furthermore, as the following section illustrates, although member states have implemented various securitising practices to prevent irregular migration, such practices have not been harmonised among EU member states. As a result, this policy area is defined by both convergence and divergence. The approaches of securitisation and social constructivism - the former focusing on the threat to national security and the latter emphasising its impact on identity, norms and culture - help to shed light on how the perceived threats of irregular migration translate into varying (albeit restrictive) policy outcomes. Within this paradigm, the following section examines the differences between EU member states' asylum systems and practices, drawing on data from the Asylum Information Database (AIDA) and European

Migration Network (EMN) country reports available online.¹⁶⁰ By examining salient variances in member state practice, following the outbreak of the refugee crisis, the following section aims to shed light on (1) the lack of harmonisation in the field of asylum, and even more importantly (2) how EU member states are converging towards restrictive policies to prevent irregular migration.

7.3.1 Registration and processing of the asylum procedure

Under the Asylum Procedures Directive (APD), member states are required to register an asylum application within three days, or up to ten days in the event of a large number of simultaneous applications. In practice, despite this provision, access to the registration process often takes months. In 2016, asylum seekers in Greece waited up to 12 months before being registered, while in other member states such as Austria, Germany and France, asylum seekers waited from several weeks to months, encountering difficulties in securing accommodation and not having access to healthcare. Similarly, in 2017, asylum seekers waited for months to obtain an appointment to register in member states such as France, Italy and Spain. In some member states, there were also problems with access to the territory and pushbacks¹⁶¹. In Hungary, migrants are automatically pushed back by the police without registering their data or allowing them to submit an asylum claim.

The APD also states that asylum procedures should be completed within 6 months. However, in practice, this often takes much longer. In 2016, asylum seekers waited up to 18 months for their application to be processed in member states such

¹⁶⁰ AIDA and EMN country reports may be accessed here: <https://www.asylumineurope.org/reports> and https://ec.europa.eu/home-affairs/what-we-do/networks/european_migration_network/reports/factsheets_en

¹⁶¹ Such as Austria, Bulgaria, Croatia, Greece, France, Italy, Poland, Romania and Spain.

as Spain (18 months), Austria (over a year), Sweden (over 10 months), and Italy (over 8 months), while in 2017, in member states such as Sweden and Spain the average handling time was 16 months and 14 months, respectively. The length in registering and processing asylum applications over and above the timeframes stipulated in the APD possibly is an indicator of the restrictive approach of EU member states towards asylum seekers following the refugee crisis.

7.3.2 Recognition rates and content of protection

Significant discrepancies across EU member states can also be observed in the recognition rates for asylum seekers from the same country of origin as well as the type of protection granted. In 2016, the recognition rate for Afghan asylum seekers ranged from 1.7 per cent in Bulgaria to 97 per cent in Italy (Eurostat, 2017). In terms of asylum seekers from Iraq, recognition rates in EU member states ranged between 13 and 100 per cent, with the average recognition rate falling from 85 per cent in 2015 to 63 per cent in 2016. Variance among member states is also observed in the *type* of protection granted to asylum applicants. In 2016 EU member states granted higher subsidiary protection rates as opposed to refugee status, most likely as a result of the outbreak of the refugee crisis (EASO, 2017).

Arguably, differences in recognition rates could be a part of a member state's strategy to encourage asylum seekers to seek refuge in other EU states. Likewise, the granting of subsidiary protection over refugee status could also be a part of a strategy to offer less preferential treatment to beneficiaries of international protection with regard to, *inter alia*, access to residence permits, family reunification and citizenship (AIDA, 2016c). Hence, both the decrease in recognition rates and refugee

status (compared to subsidiary protection) illustrates that member states are indeed shifting towards restrictive policies, particularly following the unprecedented influx of irregular migrants in 2015 and 2016 as the issue of irregular migration is increasingly perceived as a threat to national security as well as national identity.

7.3.3 Residence permits, family reunification and naturalisation

According to the Qualification Directive (QD), beneficiaries of international protection are entitled to a minimum duration of **residence permits**, i.e., three years for refugees and one year for holders of subsidiary protection. Following the refugee crisis, reforms in several member states have aimed at decreasing the security of residence for beneficiaries of international protection, namely by placing time limits on residence permits that were previously permanent or reducing their duration. In some member states, the distinction in residence rights for those granted subsidiary protection as opposed to refugees is dramatic. For instance, 'in France, refugees receive a residence permit valid for 10 years, while subsidiary protection beneficiaries are only entitled to residence for 1 year, renewable for 2-year periods' (AIDA 2016c, p. 15). Table 7.1 details the time limitations that have been recently introduced in certain member states illustrating the shift towards reducing the rights of beneficiaries of international protection in order to discourage migrants from seeking protection in their territories.

Member State	Refugee status		Subsidiary protection	
	<i>from</i>	<i>to</i>	<i>from</i>	<i>to</i>
Austria	Permanent	3 years	1 year	1 year
Belgium	Permanent	5 years	1 year	1 year
Denmark	5 years	2 years	5 years	1 year
Sweden	Permanent	3 years	Permanent	1 year

Table 7.1: Residence permits time limits before and after reforms were introduced (Compiled by the author using data from AIDA, 2016a).

In addition to lowering the duration of residence permits, member states are increasingly making it more difficult for beneficiaries of international protection to be reunited with their family members, highlighting that national policies are becoming more restrictive. Despite significant divergences between member states in relation to the granting of **family reunification** for both refugees and subsidiary protection holders, in recent years, several member states have introduced legislative reforms aimed at restricting the right to family reunification. These include Austria, Denmark, Finland, Hungary and Ireland. Other member states, such as Cyprus, Germany, Greece, Malta and Sweden, have gone so far as to exclude subsidiary protection beneficiaries from the right to family reunification altogether.

In terms of **naturalisation** for beneficiaries of international protection, significant differences exist in national legal frameworks regarding waiting periods for applying for nationality. Furthermore, most member states draw extremely sharp distinctions between refugees and beneficiaries of subsidiary protection in the waiting periods imposed. In France, this can range from under a year to 5 years whereas in Austria it falls between 6 and 15 years. In Malta, the absence of a written policy has resulted in

the naturalisation procedure at the complete discretion of the authorities, who in most cases disregard applications from beneficiaries of subsidiary protection. Other member states impose stricter administrative formalities on holders of subsidiary protection. For instance, in Greece, the application fee for refugees is 100 euros as opposed to 700 euros for beneficiaries of subsidiary protection (AIDA, 2016c). This illustrates that, as in the case of the granting of residence permits and family reunification, governments are adopting tougher policies to discourage irregular arrivals. In addition, it appears that member states offer preferential treatment to refugees compared to beneficiaries of subsidiary protection yet, as discussed earlier, they are also granting lower recognition rates for refugees, suggesting an overall lowering of standards for beneficiaries of international protection across EU member states.

7.3.4 Detention of asylum seekers

According to the Reception Conditions Directive (RCD), an asylum applicant may be detained only 'when it proves necessary and on the basis of an individual assessment of each case' (Art. 8). Furthermore, Article 9 (1) requires detention to be as 'short as possible', however, it does not lay out a specified timeframe.

It is important to note here that a significant challenge in researching national detention practices is that, in general, member states fail to provide detailed or comparable data. The analysis in this section thus draws on evidence from the websites of three different (credible) sources: (1) the AIDA database, which is managed by the European Council on Refugees and Exiles (ECRE), (2) the EMN, an EU network of asylum and migration experts, and (3) the Global Detention Project

(GDP), an NGO which promotes the human rights of persons who have been detained for reasons relating to their non-citizen status.

The data reveals significant variation in maximum time limits for detaining asylum seekers. Several member states have chosen to abide by the time limit set out in the Returns Directive¹⁶² of 18 months (Art. 15), while others, such as Finland, have not yet set a defined period of detention in the law.

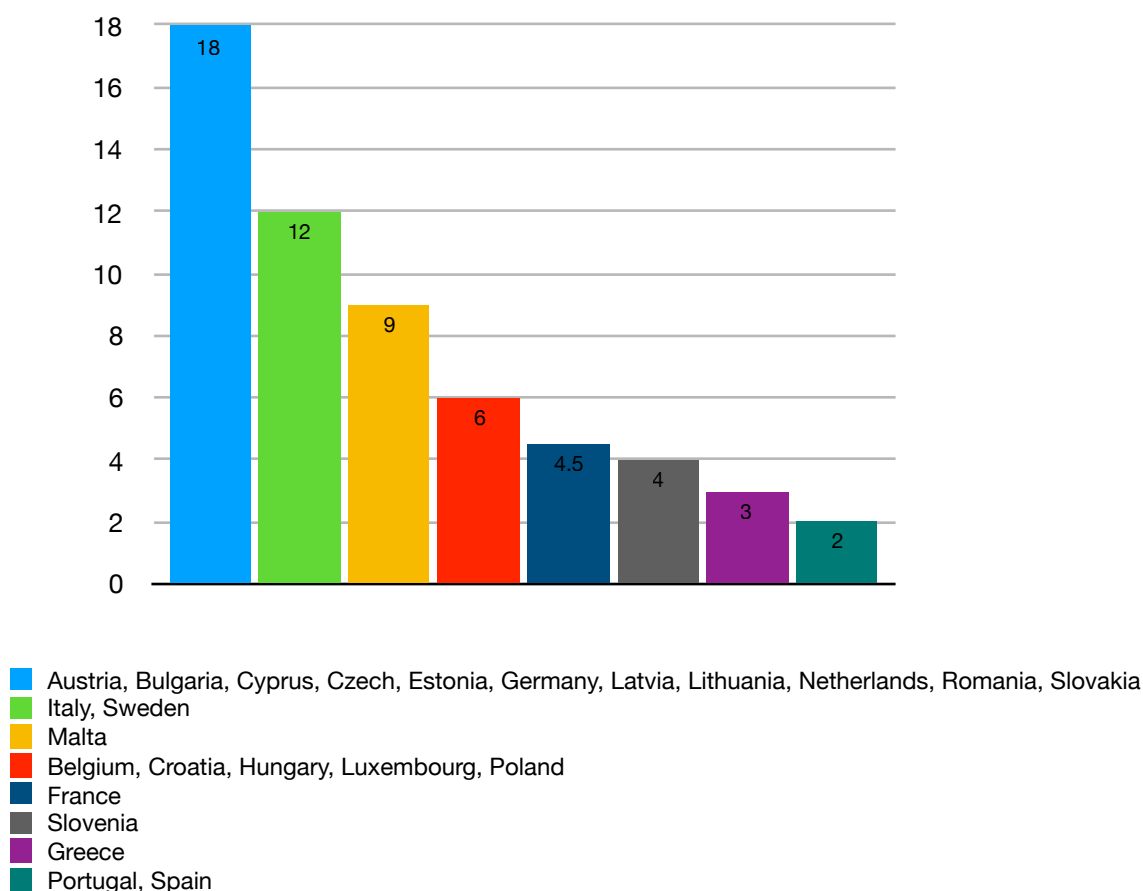


Figure 7.5: Maximum time limit for detention (months) in EU member states, 2017¹⁶³ (Compiled by the author using data from AIDA 2017 country reports and the Global Detention Project country profiles).

¹⁶² Directive 2008/115/EC of the EP and of the Council of 16 December 2008 on common standards and procedures in member states for returning illegally staying TCNs.

¹⁶³ Excluding Finland and JHA ‘opt-outs’: Denmark, Ireland and the UK.

As Figure 7.5 reveals, maximum time limits set out in national legislation range from 2 months in Portugal and Spain to 18 months in several member states including Germany and the Netherlands - member states considered to have generous asylum systems. Nevertheless, in practice, the duration of detention is generally much shorter than the legal maximum. In most cases, the average length of detention is under 3 months (Figure 7.6), however, these figures hide the extremes of the spectrum as in reality, asylum seekers are detained either for very short or very long periods. Still, the data serves to illustrate the variation in member state practice.

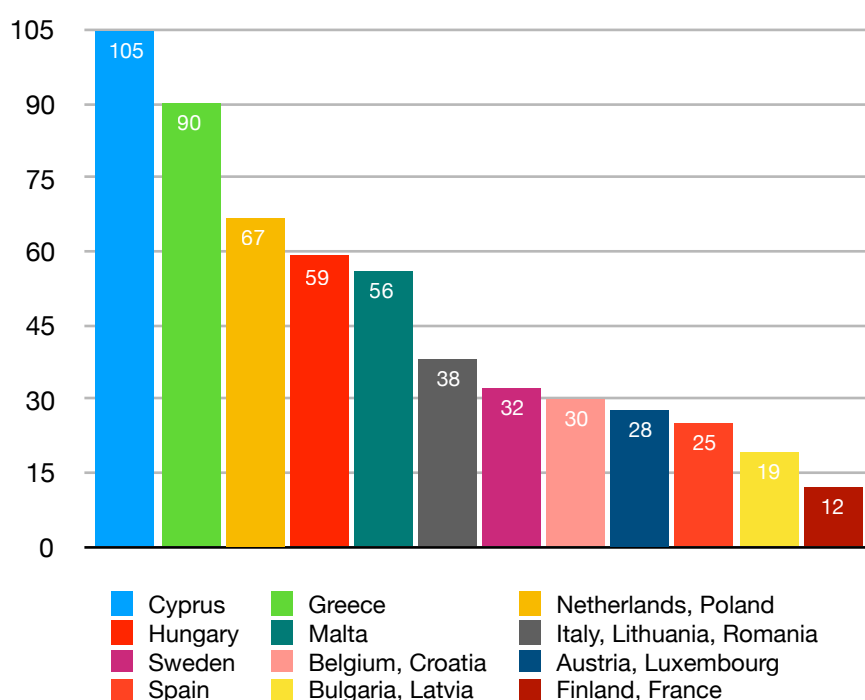


Figure 7.6: Average duration in detention, 2017¹⁶⁴ (days) (Compiled by the author using data from AIDA 2017 country reports and the Global Detention Project country profiles).

¹⁶⁴ Data on detention not available from the following member states: Czech Republic, Denmark, Estonia, Germany, Ireland, Portugal, Slovakia, Slovenia and the UK.

Following the refugee crisis, member state governments are exercising tighter control and stepping up restrictions on asylum seekers including extending the duration of detention. In Romania, although families with children were seldom detained, they are now being held in detention centres, while in Austria the maximum duration of detention has been extended from 10 to 18 months. Hungary passed a new law in March 2017 allowing for blanket detention of asylum seekers, in breach of its obligations under EU and international law. As a final example, France approved a controversial immigration law in 2018 which included several key changes giving the government more control. One of the amendments doubled the maximum period of detention from 45 to 90 days with the possibility of reaching a maximum of 135 days (4.5 months). The analysis of detention practices in the EU again highlights not only the wide divergence in state practice but also that member states are increasingly shifting towards more restrictive policies, reflecting their focus on the 'securitisation of migration'.

7.3.5 Reception conditions

The complexity in examining national reception systems - arising from changing political leadership and national conditions that shape budgets and restrict or empower capabilities - renders any meaningful comparison between EU member states a highly challenging endeavour. A further complication concerns the issue of insufficient or lack of data. Taking into consideration these limitations, the following section, examines certain aspects of reception conditions across the EU, employing data from the AIDA and EMN websites, in order to determine differences therein.

The RCD sets out the applicable standards for reception conditions offered to asylum seekers during the asylum procedure including **housing, employment, healthcare** and **education**. In terms of housing, the directive states that accommodation centres for asylum seekers must 'guarantee an adequate standard of living' (Art.18 (1)(b)). Following a decrease in the number of new asylum applicants from 2017 (as a result of the EU-Turkey deal) several member states such as Belgium, Finland and Sweden closed reception facilities that had been created in previous years to cope with the higher asylum influx. Other states, such as the Netherlands, stopped providing accommodation for holders of residence permits in reception centres whilst searching for alternative housing (EMN 2017, p. 17). Hence the approach of member state governments in relation to access to housing services is increasingly one of exclusion, reflecting the overall shift towards more restrictive national policies, thereby creating risks of destitution and homelessness for asylum applicants and beneficiaries of international protection.

In terms of **employment** of asylum seekers, access to the labour market should be granted no later than 9 months after the asylum application is lodged according to the RCD (Art. 15). The provision, however, allows member states a wide margin of discretion as per national legislation. This has resulted in significant obstacles and differences across EU member states. For example, while some member states, such as Greece, Portugal and Sweden offer immediate access to the labour market, in other member states, such as Hungary and Lithuania, asylum seekers are not allowed to access the labour market while their application is pending.

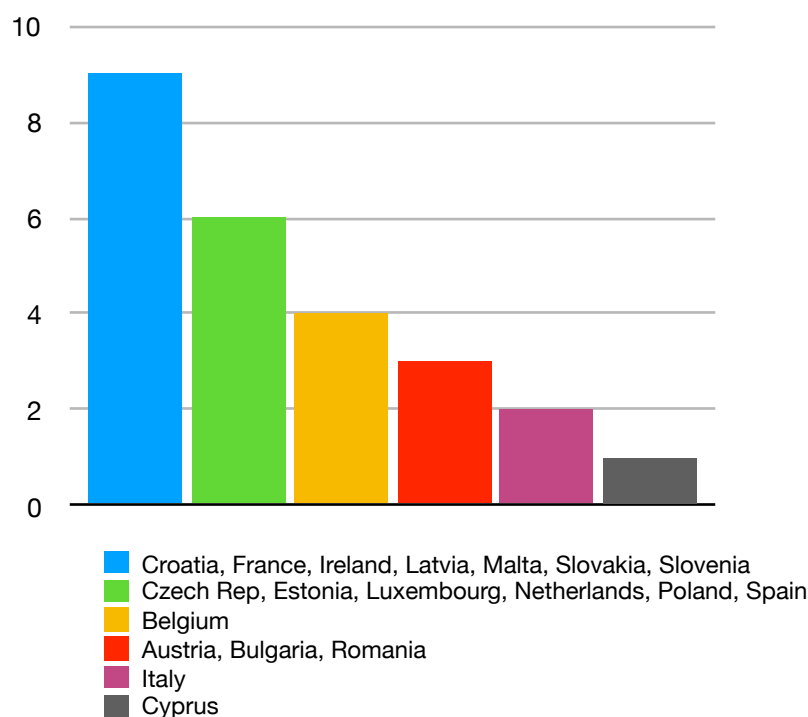


Figure 7.7: Access to the labour market for asylum seekers, 2017 (months)
 (Compiled by the author using data from AIDA 2017 and EMN 2017 country reports).¹⁶⁵

Nevertheless, in most member states, asylum seekers can only work in the unskilled sector or apply for jobs which are not taken by EU nationals having the same skills and qualification for the respective position. In practice, asylum seekers are faced with increasing obstacles to accessing the labour market, primarily language requirements and the labour market situation with high unemployment rates. Possibly, the difficulties for asylum applicants wishing to access the labour market are a result of public pressure, particularly in those member states facing economic decline and high unemployment rates. However, they also reflect the general securitised approach in the EU towards irregular migration, in line with the concept of securitisation.

¹⁶⁵ In Germany access to the labour market ranges between 3 to 6 months.

With regard to access to **healthcare** for asylum applicants, member states must ensure the necessary healthcare which includes a minimum of emergency care and essential treatment of illnesses and serious mental disorders, as stipulated in the RCD (Art. 19). The wide margin of discretion afforded to member states, however, has led to a situation where emergency healthcare is the only minimum level of access recognised throughout the EU. In several member states - such as Bulgaria, Finland, Lithuania, Luxembourg and Slovakia - it is also the only level of healthcare that asylum seekers can access. In other member states - such as Austria, Hungary, Malta, Poland and Spain - asylum seekers can only access certain specialist services but are still excluded from primary (GP visit) and secondary care (in hospital or clinic). Access to (some level of) primary and secondary care services for asylum applicants is only granted in ten member states: Belgium, Czech Republic, France, Germany, Ireland, Italy, Netherlands, Portugal, Sweden and the UK.

Nevertheless, often, practical or legal obstacles make healthcare inaccessible. The most frequently encountered problem is the language barrier. Another obstacle is that national problems often spill over to healthcare offered to asylum seekers. For example, in Cyprus and Greece, the financial crisis resulted in cuts which have led to a deterioration of healthcare quality. In other member states such as France, Germany, Ireland and Poland, the remote location of some reception centres has also caused problems and impeded access to healthcare. Requirements to pay the full cost of treatments in the Czech Republic, Ireland (including emergencies) and the UK (for secondary care) equally nullify, in practice, the accessibility to these medical services. Finally, administrative difficulties in member states such as Austria and France create barriers to effective access to healthcare for asylum seekers. The general trend of keeping healthcare services to minimal levels, particularly following

the refugee crisis, again is illustrative of the shift towards restrictive policies in the context of irregular migration, and the EU focus on the ‘securitisation of migration’.

Under the RCD, member states are also obliged to provide access to the **education** system for minor children of applicants and to applicants who are minors, under similar conditions as their own nationals by not later than three months after the application is lodged (Art. 14). According to data from AIDA and EMN country reports, however, the age limit varies in member states’ national legislation, ranging from 15 to 18 years (Figure 7.8).

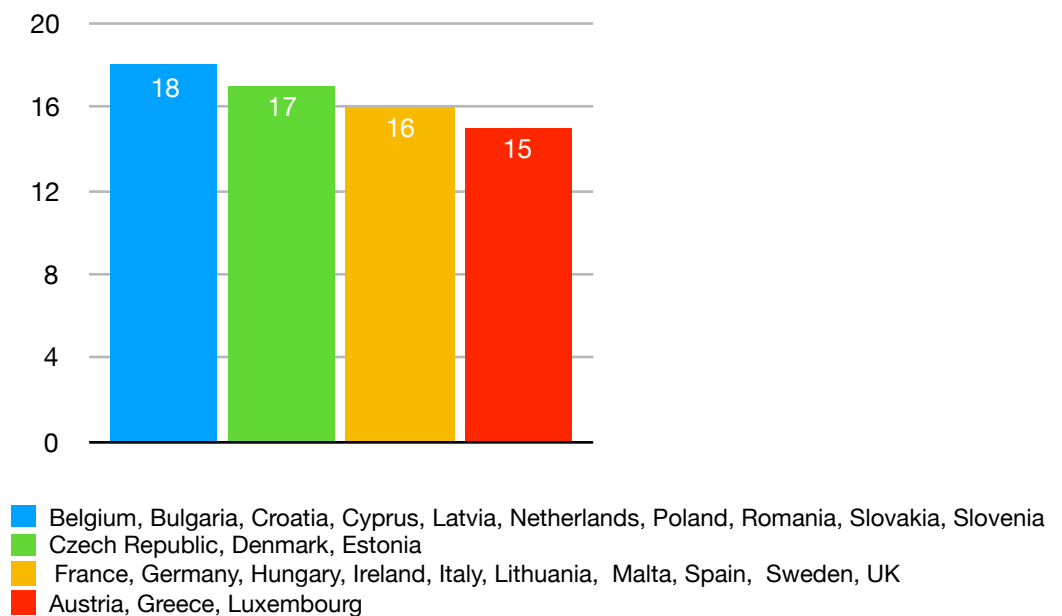


Figure 7.8: Access to education for asylum-seeking children, 2017 (Compiled by the author using data from AIDA 2017 and EMN 2017 country reports).

Although access to the educational system for minors appears to be the least ‘securitised’ area compared to the other aspects examined above, it does not come without obstacles, including primarily long delays, language problems and accessibility with regard to distance. All in all, despite the legal provisions laid out in the Reception Conditions Directive, member states’ interpretations of reception conditions have proved to be increasingly stringent and highly divergent.

7.3.6 Discussion of findings

The analysis above has revealed that significant differences exist in the implementation of the asylum *acquis*, as a result of the heterogeneous interests of EU member states vis-à-vis irregular migration. More importantly, however, it illustrates that following the refugee crisis, most member states introduced amendments to their asylum legislation reducing the rights of asylum seekers and beneficiaries of international protection in order to discourage irregular arrivals. Besides the negative impact on the rights of asylum seekers and migrants, the analysis, therefore, highlights that the tightening up of national asylum policies largely reflects the overall restrictive approach in the EU and the increasing shift towards the 'securitisation of migration'. Consequently, it reveals that this policy area exhibits elements of both convergence and divergence, characterised by the diversity of national interests and the common goal of preventing irregular migration.

In this regard, the lenses of securitisation and social constructivism help to explain how the perception of irregular migration in the EU as a threat has given rise to security measures, with the former focusing on the threat to national security and the latter emphasising its impact on national tradition and social homogeneity. Following the unprecedented arrival of irregular migrants during the so-called 'refugee crisis', the issue of irregular migration emerged as a key public concern across Europe, hence governments were under pressure to implement restrictive policies. Indeed, as mentioned earlier, public opinion is one of the main factors influencing member states' approaches to irregular migration. Therefore, although member states were not affected to the same degree, most EU governments tightened their policies, implementing securitising practices to prevent irregular migration, shifting their focus towards the 'securitisation of migration'. As the analysis revealed, EU member states'

approaches to irregular migration are increasingly converging towards restrictive policies such as restricting family reunification and granting lower recognition rates, however, such practices have not been harmonised among EU member states - resulting in friction.

The following section builds on this analysis and looks into the question of how the diversity in national approaches towards irregular migration impacts on the relations between member states as well as on EU migration governance. It also explores how member states located in the three main regions of the EU - Northwestern, Central-Eastern and Southern - differ in their approach to irregular migration, primarily due to the relative impact of the phenomenon.

7.4 Incoherency in EU approaches to irregular migration

A major difficulty in developing a common approach to irregular migration concerns the lack of common EU rules which has given rise to a patchwork of *ad hoc* measures, often proving unsatisfactory. Despite the political guidelines set out in the Tampere Conclusions of 1999 to develop a common migration policy, affirmed a decade later in the Treaty of Lisbon (Art. 79), member states remain reluctant to delegate decision-making in this sovereignty-sensitive policy domain beyond the national level. The complexity in EU migration policymaking thus is hampered by the inherent tension between the setting up of supranational rules and the ceding of national sovereignty. In the absence of a common migration policy, EU member states have adopted a wide range of legislative measures to prevent irregular migration, often culminating in disagreement with other member states.

As highlighted in the previous section, following the refugee crisis, member states are increasingly tightening their asylum and migration policies in order to discourage irregular arrivals. In practice, most member states have adopted or proposed domestic legal or policy amendments that limit the rights of asylum seekers and beneficiaries of international protection, such as reducing the possibilities of family reunification. Furthermore, other areas of legislation such as healthcare, education and social welfare, as well as criminal law are increasingly being used as additional instruments to deter irregular migrants.

Consequently, migration policy in the EU remains a largely national endeavour, where member states continue to develop their own migration policies and where clear political objectives for a common migration policy are lacking (Calleja Ragonesi, 2014). The following section draws on a case study illustrating how the diversity in national approaches towards irregular migration impacts on the relations between member states as well as on EU migration governance. The case concerns the diplomatic row between France and Italy in April 2011 which exposed critical weaknesses related to asylum and border policies, spilling over to the Schengen area and causing a rift among EU states over what should be done and who should shoulder the responsibility for migrants. The importance of the case also lies in that it was the first instance of Schengen border closure to prevent secondary movements of asylum seekers from neighbouring states. (Later, as discussed in chapter 5, following the outbreak of the refugee crisis in 2015, several member states reintroduced internal border controls under the guise of national security).

7.4.1 Suspension of Schengen rules: the Franco-Italian dispute

In February 2011, the arrival of around 4,000 irregular migrants in Lampedusa (as a result of the Arab Uprisings) prompted the Italian government to declare the situation a humanitarian emergency and to develop a strategy aimed at returning migrants to their country of origin or departure, as well as to prevent new departures. Consequently, on 5 April 2011, a bilateral agreement was signed between the Italian Interior Minister and his Tunisian counterpart, in which the latter committed to cooperate in facilitating the return of its citizens in return for financial aid and equipment for its Coast Guard. The Italian government also implemented, by decree, a 6-month temporary residence permit for those migrants who could not be returned to their country of origin, or who had arrived prior to the date of the agreement (Zaiotti, 2013).

The issue triggering the dispute with France concerned a provision in the temporary permits authorising the permit holder to ‘travel freely within the EU, in accordance with Schengen rules and EU law’.¹⁶⁶ Italy justified its action on the grounds of lack of solidarity from its EU partners, a theme that would resonate throughout the spat. On 11 April 2011, following a request to activate the Temporary Protection Directive (2001)¹⁶⁷ during a meeting of EU Interior Ministers - though only finding the support of Greece and Spain - the Italian Interior Minister claimed: “Italy has been left alone”.¹⁶⁸ A month later, during a G8+ ministerial meeting,¹⁶⁹ the

¹⁶⁶ ‘Il permesso di soggiorno consente all’interessato, titolare di un documento di viaggio, la libera circolazione nei Paesi dell’Unione europea, conformemente alle previsioni della Convenzione di applicazione dell’Accordo di Schengen del 14 Giugno 1995 e della normativa comunitaria.’ Decreto del Presidente del Consiglio dei Ministri, 5 Aprile 2011, Art. 2 (3).

¹⁶⁷ The provisions within this Directive, based on solidarity between EU member states, have never been triggered as yet.

¹⁶⁸ ‘L’Italia è stata lasciata da sola’

¹⁶⁹ Held on 9-10 May 2011 in Paris, France.

Minister reiterated his discontent “Europe does not give answers and it is not nice to see that other member states are just watching”¹⁷⁰ (Ibid.).

The French government agreed to honour the humanitarian visas but, fearing a mass movement of the new permit holders, stated it would only allow in those migrants having the necessary financial means.¹⁷¹ The threat of border closure within the Schengen area thus started the diplomatic spat with Italy. In an attempt to avert further escalation of the dispute, the Italian and French Interior Ministers, Roberto Maroni and Claude Guéant, agreed to jointly patrol the Tunisian coasts and set up a working group to deal with the situation (D’Argenio, 2011).

Tensions between the two states, however, remained high and escalated following the French government’s decision, on 17 April 2011, to close the Ventimiglia frontier, the last Italian town before the French border. This resulted in France pushing back hundreds of migrants holding the new permits and blocking trains. The French government defended its decision claiming that the measures taken had been necessary, following a non-authorised demonstration by Italian activists in support of those migrants that had not been allowed to cross the border to France (Hatton, 2011).

The French Interior Minister asserted that France was complying with Schengen rules ‘to the letter’,¹⁷² referring to the provision in the Schengen Borders Code (2006) allowing the temporary reintroduction of border control at internal borders where there is a serious threat to public policy or internal security (Art. 23). Meanwhile, the Italian Minister of Foreign Affairs, Franco Frattini, argued that the number of demonstrators involved (around 300) did not constitute a serious threat to public

¹⁷⁰ “L’Europa non dà risposte e non è bello vedere gli altri Paesi dell’Unione che stanno a guardare.” Roberto Maroni quoted in *La Repubblica*, 2011.

¹⁷¹ According to Art. 5 Schengen Agreement, migrants should possess adequate financial resources and documentation.

¹⁷² ‘Guéant estime que la France respecte ‘à la lettre’ les accords de Schengen’, quoted in *Le Monde*, 2011.

order, and thus France did not have the right to push back the migrants (Zaiotti, 2013).

This chain of events stimulated debates at EU level regarding the justifications and procedures for reinstating internal border controls, culminating on 26 April 2011, in a joint letter by French President Nicolas Sarkozy and Italian PM Silvio Berlusconi to the Presidents of the European Council and the Commission, Herman Van Rompuy and Jose Manuel Barroso. The letter requested a revision of Schengen rules allowing for internal border controls to be reinstated in exceptional circumstances, calling for a common European solution. Home Affairs Commissioner, Cecilia Malmström, supported Italy stating that member states at the external borders should not be left to deal with extraordinary migratory situations and encouraged member states to support such states (BBC, 2011).

Nevertheless, although Italy received over 25,000 migrants from (or transiting through) Tunisia and Libya between January and April 2011, most member states ignored the appeal for solidarity. Those which at the time were dealing with more irregular migrants than Italy, such as Germany and Sweden, claimed the numbers were not high enough to trigger an EU response. Others simply refused to offer support given Italy's previous collaboration with former Libyan ruler Gaddafi to prevent irregular migration across the Mediterranean¹⁷³ (Collett, 2011).

Ultimately, the political impact of the dispute reverberated throughout the EU. The temporary impasse between France and Italy challenged the liberal values of the EU resulting in amendments to clauses in the Schengen Borders Code granting member states more power to control migration and internal borders.¹⁷⁴ The new rules now provide that member states can reintroduce temporary border control at internal

¹⁷³ This refers to the infamous Treaty on Friendship, Partnership and Cooperation signed on 30 August 2008.

¹⁷⁴ Regulation (EU) No 1051/2013 of the EP and of the Council of 22 October 2013 amending Regulation (EC) No 562/2006 in order to provide for common rules on the temporary reintroduction of border control at internal borders in exceptional circumstances.

borders in 'exceptional circumstances' (although it does not fully explain what this means in practice) (Triandafyllidou and Dimitriadi, 2014). Consequently, member states such as Austria, Belgium, Denmark, Germany and the Netherlands threatened to follow suit and reinstate internal border controls (Phull, 2013).

The case of the Franco-Italian dispute illustrates that diversity in member states' policy approaches to irregular migration impacts on the relations between states as well as on EU migration governance. More specifically, it highlights that policy decisions adopted by a single member state may have unwanted spillover effects for other (particularly neighbouring) member states (Collett, 2011). It also illustrates a 'race to the bottom' in terms of the principle of solidarity and fair sharing of responsibility (Art. 80 TFEU) (Carrera et al. 2011, p. 2), as well as weaknesses in the Schengen system. As regards the former, this primarily results from the current (Dublin) rules which lack a permanent system of 'burden sharing' and thus favour those states that are more protected against direct irregular entries. In other words, while some member states remain geographically exposed to spontaneous and irregular flows (Italy), others are more protected against direct irregular entries (France) and hence are not interested in changing the status quo.

As mentioned earlier in this chapter, geographical location is a key factor influencing member states' approaches to irregular migration, particularly given Dublin's 'state of first entry' rule which assigns asylum responsibility to the first EU state in which an asylum seeker arrives. The asymmetrical impact of migration pressures across EU member states thus hinders the development of a common approach to irregular migration. Accordingly, the realities of migration pressures differ widely in each national context, leading to divisions over a common approach to irregular migration.

Moreover, the different regions of the EU have had different experiences with irregular migration 'and this may result in different understandings of 'threat', 'insecurity' or the need for a policy response' (Neal 2009, p. 337). These differences have translated into different national policy approaches to deal with the phenomenon, reflected in the analysis of the implementation of the EU asylum instruments. In other words, the different regions of the EU experience different migration pressures and this impacts on the approaches of member states within each region. Within this context, three main migration regimes can be observed. The first comprises the Northwestern states, having an older history of immigration and traditionally offering the most attractive conditions for migrants being wealthy states. Second, the Central-Eastern 'new' members, comprising the former Soviet satellite states and having little experience of irregular migration. The third group, the southern bloc includes those member states located on the external border which by default assume a much higher degree of responsibility for irregular migration flows across the Mediterranean, particularly due to the Dublin rules. Before examining the three main regions mentioned above, it is worth mentioning that there is also a fourth group comprising member states that have chosen not to participate in JHA legislation and hence are not involved in policymaking in this area.

7.4.2 JHA 'opt-outs'

An additional complication in developing a common approach to irregular migration concerns the issue of variable geometry. This means that the processes of supranationalisation in the area of JHA have not been applied equally to all member states. In practice, those states that joined in the first (1973) enlargement - Denmark,

Ireland and the UK - have managed to avoid cooperation in selected parts in order to safeguard national sovereignty (Adler-Nissen, 2008).



Figure 7.9: JHA 'opt-outs (Compiled by the author).

These states have individual agreements thereby allowing them to opt out of EU legislation in the realm of JHA (Figure 7.10). Hence, the asylum *acquis* does not apply equally to all EU member states, highlighting a further challenge in policymaking in this area. In addition, Ireland and the UK, unlike Denmark, have retained the possibility of opting into certain aspects of the CEAS. It appears, therefore, that these member states are the principal beneficiaries of variable geometry, having obtained positions that new accession states are unable to achieve.

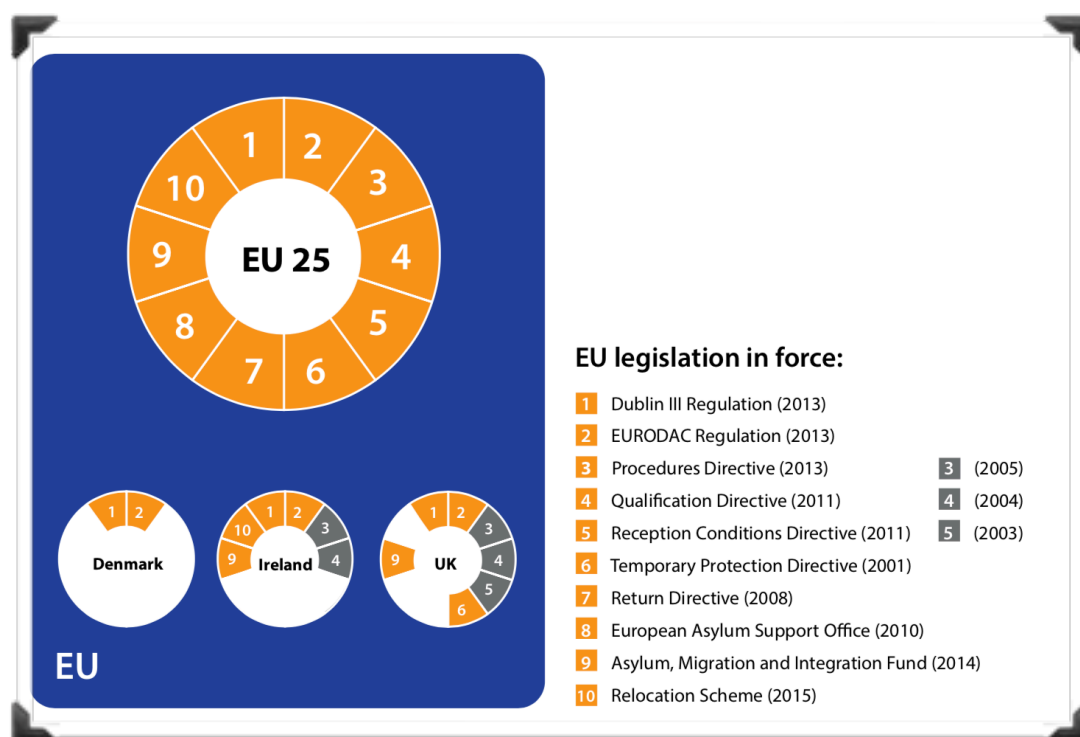


Figure 7.10: Variable geometry in JHA policy: Opt-ins and opt-outs¹⁷⁵

This has resulted in a situation where the only legislative instrument of the CEAS that applies to all EU member states is the Dublin Regulation (and Eurodac which is part of the Dublin System),¹⁷⁶ given that its rules shift the burden of asylum responsibility to the (southern) frontline states. Besides hindering a common approach to irregular migration, variable geometry, therefore, also hinders the EU aim of establishing of a genuine 'level playing field', whereby asylum seekers would receive equal treatment and the same outcome on their asylum application.

¹⁷⁵ Since July 2018, Ireland is bound by (5) Reception Conditions Directive (2011).

¹⁷⁶ Denmark signed an agreement with the EU in 2006, thereby adopting the previous Regulation, Dublin II (2003).

7.4.3 Northwestern states

Traditionally regarded as the preferred destination states for asylum seekers, of late several Northwestern states have introduced amendments to their asylum and migration legislation in order to reduce the attractiveness of their respective territories and hence prevent irregular migration.



Figure 7.11: Northwestern migration regime (Compiled by the author).

Following the outbreak of the 'refugee crisis in 2015, Sweden rapidly changed from promoting one of the EU's most open immigration policies to embracing one of its most restrictive. Similarly, other states such as Germany and the Netherlands

introduced restrictive measures to discourage asylum seekers. For instance, both states introduced policies to determine the compatibility of potential migrants with their societies. In Germany, migrants must now pass tests to become German citizens involving questions related to religion, gender equality, culture and politics, while in the Netherlands the concept of '*inburgering*',¹⁷⁷ which obliges most migrants to learn Dutch and hence subscribe to Dutch values, has been revived (Orgad 2010, pp. 66-67).

In 2017, the new Austrian government introduced changes to national legislation lowering social security for migrants with limited or no German language skills and reducing funding for integration measures. It also shut down several mosques deemed radical in their political philosophy of Islam and announced plans to ban children from wearing headscarves in kindergarten and elementary school. Moreover, the 'protection' of the EU external border was at the centre of the Austrian Presidency of the Council of the EU in 2018, a goal which was also shared with other Northwestern governments (Weisskircher, 2018).

Consequently, the focus of the Northwestern member states is increasingly on the 'securitisation of migration'. Indeed, following the refugee crisis, attitudes began to shift, with more governments adopting tougher policies to reduce the number of irregular arrivals. This new consensus resulted in the signing of the EU-Turkey statement in March 2016, spearheaded by Germany (Lehne, 2018). The unifying factor, therefore, in the approach of the Northwestern states concerns the shared view on preventing irregular secondary movements of migrants from neighbouring member states by amending national legislation to reduce the attractiveness of their respective territories.

¹⁷⁷ Integration law for immigrants to the Netherlands.

7.4.4 Central-Eastern states

In addition to sharing a post-communist past, the Central and Eastern European states are all 'new' EU members, having joined the Union from 2004 onwards. Prior to the refugee crisis, these states were mainly characterised by emigration (and some immigration involving migrants sharing similar cultures), however, following the outbreak of the crisis many of them started to receive large numbers of asylum applicants and, as a result, the issue of irregular migration gained salience in the political debate.



Figure 7.12: Central-Eastern migration regime (Compiled by the author).

For example, in Hungary, besides its history of strong nationalistic policies, migrants are perceived as a threat to the Hungarian culture and national identity

(Butler, 2007). Prior to the crisis, irregular migration was not a prevalent political issue in Hungary, however, since 2015, it has become the symbol of harsh closure of borders to asylum seekers (Taylor, 2018) and has also introduced controversial legislation. Under the so-called 'Stop Soros' plan, passed in June 2018, NGO workers face imprisonment if they are found to help migrants seek asylum when they are not entitled to it, i.e., facilitating illegal immigration (Reuters, 2018b). Scholars like Krastev (2017) and Stojanov (2018) attempt to give a region-wide general explanation for this radical shift in national politics. Both ascribe it as a result of the post-communist transition. According to Krastev, the demographic exodus that many member states in Central-Eastern Europe experienced is a major factor, with many of the proponents of liberal democracy during the communist era leaving their homeland. Hence these states experienced a political and physical void - the former being the lack of solid base for the protection of the new European centric liberal order and the latter, the actual depopulation of the region. The physical void is key in understanding the perception of fear which the refugee crisis generated in many Central-Eastern member states of demographic replacement in the region by the new arrivals and also explains the willingness of parties like Fidesz to harness the electoral potential migration fears.

As highlighted in the case study of the refugee crisis, fierce opposition from an alliance of four Central-Eastern states, known as the Visegrád Group (also known as Visegrád Four or V4), with regard to intra-EU relocation of asylum seekers from Greece and Italy exposed a new East-West divide. The relevance of coalitions, particularly regional constellations, therefore, has increased in EU migration governance following the refugee crisis. In the case of the V4, although, the Czech Republic, Hungary, Poland and Slovakia, have cooperated in this framework since 1991 in order to facilitate Euro-Atlantic integration of its members, since 2015 it

transitioned into a more self-assertive or ‘rebellious’ alliance in terms of its approach to irregular migration (Zalan, 2016), primarily focusing on strengthening border security to prevent irregular migrants from entering the territory.

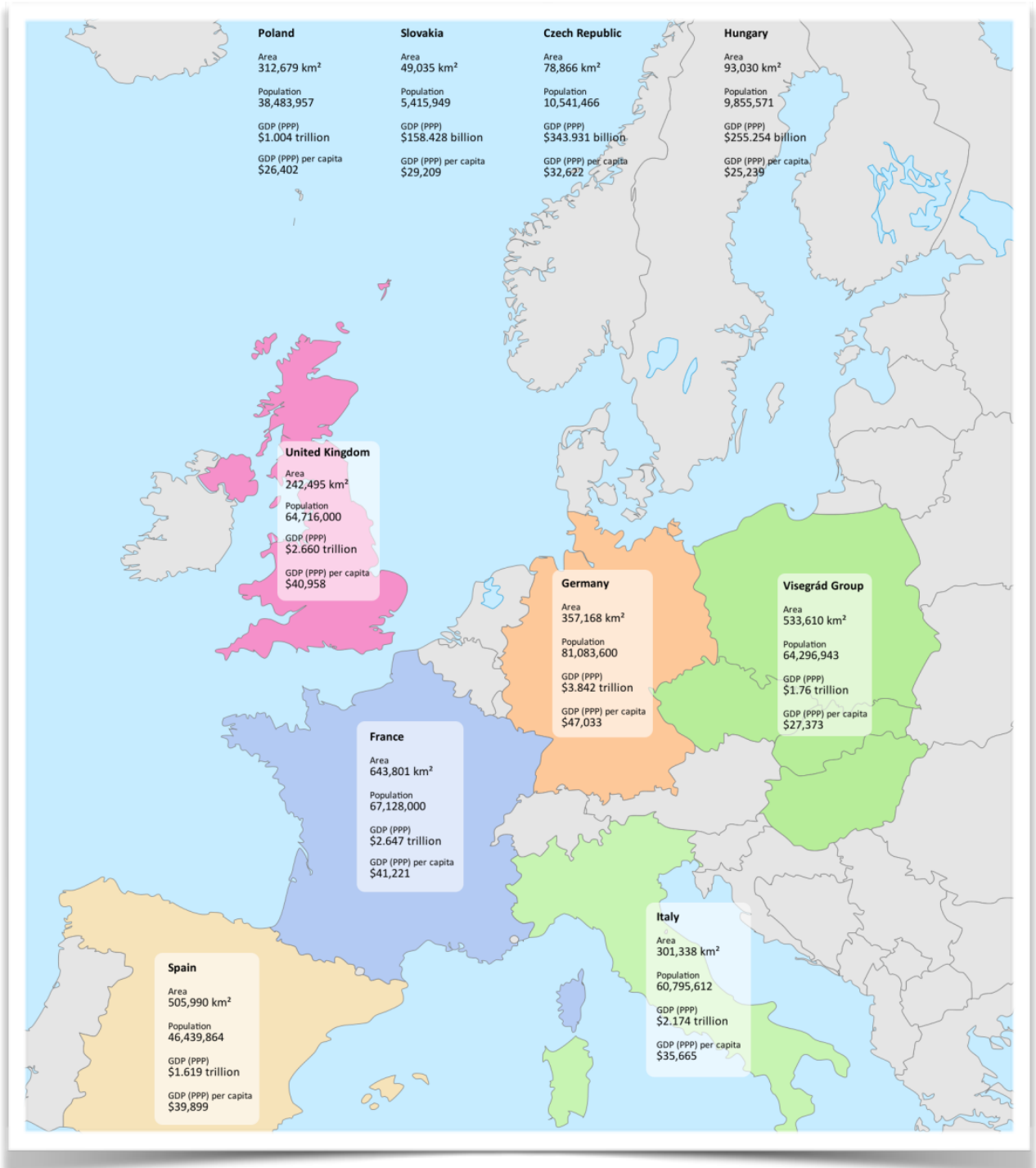


Figure 7.13: Visegrád Group as a whole compared to the five largest EU member states, 2016 (Source: Imgur, 2016).

If it were a single country, the population of the V4 (Figure 7.13) would rank 4th in Europe (3rd following the UK's exit from the EU on 31 January 2020) with Poland having the largest population (over 38 million), followed by the Czech Republic (10.5 million), Hungary (nearly 10 million) and Slovakia (nearly 5.5 million). Notwithstanding differences in size, population and economic power, the refugee crisis indeed brought the V4 members together (Nagy, 2017). So far, they have succeeded in defending their interest, in terms of preventing irregular migration, and could potentially find allies across Central and Eastern Europe (Luining, 2017). The uniting factor, therefore, in the approach of the Central-Eastern member states is the shared view on preventing irregular migration by tightening legislation and erecting borders as well as opposing any form of intra-EU relocation mechanism of asylum seekers as revealed in the case study of the refugee crisis and in the reform of Dublin III.

7.4.5 Southern states

The southern members have assumed a much higher degree of responsibility for irregular migration flows due to their geographical location and the Dublin rules which shift asylum responsibility on the member states of first entry. Consequently, the southern states have joined forces on several occasions to oppose or push forward a proposal related to irregular migration.



Figure 7.14: Southern migration regime (Compiled by the author).

Back in 2008, Italy, Greece, Cyprus and Malta formed the ‘Quadro Group’¹⁷⁸ to highlight the challenges they were facing due to irregular migration across the Mediterranean, and in 2009 presented a paper to the JHA Council stressing the need to reform the Dublin system and establish a mechanism to distribute asylum seekers across the EU. On another occasion, in February 2011, Italy, Spain, Cyprus and Malta, together with France, called for EU assistance via a ‘Joint Communiqué’ underlining their difficulties in dealing with irregular migration across the Mediterranean. This was reiterated in April 2011, following the events of the Arab Spring, when they adopted ‘Joint Communiqué II’ calling for an urgent revision to the

¹⁷⁸ Quadro Group, ‘Cyprus, Greece, Italy and Malta Paper’, January 2009. See: <https://data.consilium.europa.eu/doc/document/ST%205689%202009%20INIT/EN/pdf>

Dublin rules, in particular, to establish a mechanism providing for the suspension of transfers to member states under particular migratory pressure (O’Nions, 2014).

Following the mass influx of irregular migrants in 2015 and 2016, the five southern members - Italy, Greece, Spain, Cyprus and Malta - opposed a proposal aimed at revising the Dublin rules for the fourth time, laid out in a joint position paper in 2018.¹⁷⁹ Under the current Dublin rules, a migrant must apply for asylum in the first point of entry and is prohibited from seeking asylum elsewhere during the following six months. The current proposal, pushed by some member states including Germany and Sweden, aimed to increase that duration to ten years. In other words, frontline states would become responsible for all new irregular arrivals for a decade (Paravicini and Herszenhorn, 2018). Hence, the common factor in the Southern states’ approach to irregular migration is the need to reform the Dublin system and replace the ‘state of first entry’ rule with a permanent relocation mechanism to distribute asylum seekers more evenly across EU member states. In the following pages, the approaches of the five southern member states are explored in more detail.

The Dublin rules and the recent creation of so-called ‘hotspots’ on Italian territory, combined with the reluctance of other member states to share the ‘burden’ of asylum seekers, has put **Italy** in a difficult situation in the context of irregular migration (Ambrosini, 2018). In 2016 and 2017, Italy received the second-highest number of asylum applications in the EU, recording over 120 thousand applications in both years (Eurostat, 2018). In the absence of a common EU approach to irregular migration, Italy has adopted a more bilateral and reactive response. Most notably, in 2017, the previous Italian (centre-left) government signed a bilateral agreement

¹⁷⁹ Position paper of Cyprus, Greece, Italy, Malta and Spain on the Proposal recasting the Dublin Regulation <https://g8fip1kplyr33r3krz5b97d1-wpengine.netdna-ssl.com/wp-content/uploads/2018/04/Position-paper-Dublin.pdf>

(Memorandum of Understanding)¹⁸⁰ with Libya in order to stem irregular migration flows by securitising Libya's borders and preventing departures. Cooperation with Libya on migration and border control, however, is not a new policy choice for Italy. Agreements focusing on preventing irregular migration and increasing readmission were also concluded under the Berlusconi (centre-right) government in the 2000s with the then Gaddafi regime. However, this partnership ceased in 2012 following the downfall of the Libyan government and the outbreak of civil war coupled with the Judgment delivered by the Strasbourg Court¹⁸¹ which found Italy in violation of the principle of *non-refoulement* and the prohibition of collective expulsions (Palm, 2017). Although the Italian strategy has succeeded in decreasing irregular arrivals, the agreements with Libya remain fragile.

Moreover, prior to the refugee crisis, Italy had for years unofficially allowed irregular migrants to cross internal borders and reach other member states. This, however, is no longer possible since the creation of 'hotspots' on its territory in 2015, as well as due to France reintroducing internal border checks at the French-Italian border (Figure 7.15) (Ambrosini 2018, p. 81). Besides being disadvantaged by the Dublin rules, the Italian approach to irregular migration has also been influenced by social acceptance issues and high unemployment rates with the issue taking centre stage in the general election campaign of 2018. In June 2018, the refusal of the newly instated populist government to allow NGO migrant rescue vessels to dock reflects Italy's new hardline approach¹⁸² yet is also reflects lack of EU solidarity given that other member states are not willing to take in migrants rescued at sea.

¹⁸⁰ See http://eumigrationlawblog.eu/wp-content/uploads/2017/10/MEMORANDUM_translation_finalversion.doc.pdf

¹⁸¹ *Hirsi Jamaa and Others v Italy*, Application No. 27765/09, Grand Chamber Judgment of 23 February 2012.

¹⁸² The previous year, in June 2017, the previous centre-left government had threatened to deny entry to foreign ships operated by NGOs from docking in its ports to pressure the Commission in taking action.

Also as in the case of Italy, irregular secondary movements of migrants from Greece have been halted following the establishment of 'hotspots' by the EU on the Greek islands from 2015. As a result, asylum applications skyrocketed to nearly 60 thousand in 2017 compared to just over 9 thousand in 2014¹⁸³. The EU-Turkey statement dramatically cut new irregular inflows, however, as with the agreement between Italy and Libya, the deal remains fragile. Similarly to its southern counterparts, Greece is disadvantaged due to the Dublin rules and has also been struggling under the weight of economic recession for several years. In addition, rising xenophobic attitudes among the Greek population and high unemployment rates have resulted in a focus on restrictive asylum and migration policies in order to prevent irregular migration.

Along the same lines, **Spain** is increasingly focusing on restrictive asylum and migration policies, primarily granting very low recognition rates for refugee status (around 5 per cent)¹⁸⁴ and offering very little assistance to beneficiaries of international protection. In recent years, it has also bolstered cooperation with Morocco and other West African countries to stop irregular crossings to its enclaves on North African soil, Ceuta and Melilla as well as the Canary Islands (Ribas-Mateos 2015, p. 50). In contrast to Italy and Greece, Spain did not receive a mass influx of irregular migrants during the refugee crisis, however in 2017, it received twice as many asylum applications (30,000) compared to the previous year.¹⁸⁵ Although Spain presently does not have a strong anti-immigrant political party, and thus is an exception in the EU together with Portugal and Malta, in recent years, negative public attitudes towards irregular migrants are increasing (González-Enríquez 2014 cited in

¹⁸³ AIDA country report: Greece 2015; 2018.

¹⁸⁴ In 2017, 5.2% of applicants received refugee status, 35.2% received subsidiary protection and 59.6% of total applications were rejected.

¹⁸⁵ AIDA country report: Spain 2017; 2018.

Ambrosini 2018, p. 76). Also similarly to Italy and Greece, the tightening of asylum and migration policies in Spain to prevent irregular migration, is primarily attributed to the economic decline and high unemployment rates (Hellgren and Serrano 2017 cited in Ambrosini 2018, p. 78).

The Mediterranean island state of **Cyprus** is the smallest member state in the EU after Malta and Luxembourg. Cyprus joined the EU as a *de facto* divided island but the whole of Cyprus is EU territory. This has placed it in a unique position in the entire EU (Drevet and Theophanous, 2012). Still, Cyprus has the classic features of what has been called the 'Southern European model of migration' although it is a late addition to that distinctive group of southern European states which experienced a dramatic 'migration turnaround', from mass emigration to mass immigration (King and Thomson, 2008). Indeed, the island state, constituting a natural border for entering the EU from the South East, rapidly shifted into an immigrant-receiving country during the late 1990s (Trimikliniotis and Demetriou 2014; Vrasidas et al. 2009). As with its southern counterparts, the sudden shift to an immigrant host country caught both the government and society unprepared for the socioeconomic challenges (Mainwaring, 2008).

Consequently, irregular migrants in Cyprus are often depicted as a 'burden' on the social and economic sectors of the country. An example is the discourse used by the media and police when identifying irregular immigrants. They call such processes 'operation broom', implying that the police are 'cleaning' the island. Asylum seekers in Cyprus thus face racism, xenophobia, political and civic exclusion, and marginalisation (Trimikliniotis and Demetriou, 2014). In addition, despite the existence of well-defined legal guarantees under EU law, asylum seekers in Cyprus face considerable barriers to accessing protection and procedural safeguards against

detention and deportation¹⁸⁶ (Mouzourakis, 2014). Moreover, Trimikliniotis and Demetriou (2014), highlight that restrictive migration policies are defended as necessary in order to protect the fabric of the nation, which is already under threat from the northern occupiers. Hence, the focus of the migration debate and ensuing policies in Cyprus has shifted into the realm of security and control, rather than human rights and integration.

Finally, **Malta**, the smallest EU member state both in terms of population and territory, found itself geographically and politically on the periphery of the EU, following its accession in 2004. As a result, it has experienced new influxes of migration and has had to comply with the EU asylum *acquis*. Furthermore, it has a very large search and rescue region (SRR), covering around 250,000 square kilometres, spanning from Tunisia to Crete (Lutterbeck 2009, p. 128), thus it is responsible for monitoring the search and rescue of persons in distress in this area. Together with other EU southern members, Malta has been one of the member states most impacted by irregular migration across the Mediterranean. In 2016, it was ranked fourth in the EU in terms of asylum applications per capita (Eurostat, 2018). The increase in irregular migration could be attributed to a shift in migration routes into Europe towards the Central Mediterranean route, in response to increased migration controls in southern Spain, the Canary Islands, and along the West African coast (Lutterbeck, 2009), as well as the EU-Turkey Statement which entered into force in March 2016.

The Maltese government has addressed this influx via a two-pronged strategy. First, limiting the rights and opportunities of asylum seekers and beneficiaries of international protection to discourage further arrivals, and second, advocating for a 'burden-sharing' approach at the EU level (Mainwaring 2011, pp. 436-437). With

¹⁸⁶ ECtHR Judgment of 23 July 2013 in the case of *Case of M.A. v Cyprus* (application no. 41872/10) aims to ensure the correct application of human rights guarantees to asylum seekers in the country.

regard to the latter, it has exploited policy networks such as the 'Quadro Group', mentioned earlier, to raise its profile and draw attention to the issue (Mainwaring, 2014). Furthermore, at the end of June 2018, as was the case in Italy, the Maltese government officially closed its ports to NGO migrant rescue vessels (Times of Malta, 2018).

Back in 2010, the Maltese government had decided to suspend participation in Frontex missions given that the rules of engagement required that persons rescued at sea be taken to the state hosting the mission, rather than the nearest port (Pace, 2013). The approach of Malta illustrates how in certain cases and under specific circumstances, individual member states contest supranational institutions and international rules. Indeed, disregard of EU rules in the context of irregular migration takes various forms (Bernardie-Tahir and Schmoll, 2014c), such as the laissez-faire approach of Italy and Greece, prior to the refugee crisis, allowing irregular migrants to move on to other member states, thus ignoring EU rules obliging them to identify irregular arrivals.

This illustrates that the southern states share a common approach to irregular migration, primarily as a result of their geography which renders them more exposed to irregular flows. At the same time, they are also disadvantaged by the Dublin rules as well as lack of EU solidarity and fair sharing of responsibility and thus have repeatedly called for an overhaul of the Dublin rules replacing the 'state of first entry' rule with a permanent relocation mechanism. It has also been revealed that the southern bloc, as the other groupings of states, is increasingly focusing on restrictive asylum and migration policies such as granting lower recognition rates and reducing rights of asylum seekers and beneficiaries of international protection to discourage irregular arrivals. In sum, despite certain differences between national approaches to irregular migration, this section has highlighted that the dominant focus is

increasingly on the ‘securitisation of migration’ to prevent irregular migration. In other words, member states are increasingly focusing on national security rather than on human rights. The likelihood, therefore, is that the southern members will continue to form *ad hoc* coalitions, particularly in blocking Commission proposals, rather than proposing new measures. Nevertheless, as the next section illustrates, at times the policy approaches of member states within the same groupings clash. This has been most visible in the context of state responsibility for the rescue and disembarkation of migrants rescued at sea, which presents a further challenge for the southern member states in dealing with irregular migration.

7.4.5.1 Disputes over migrants rescued at sea

The duty to rescue persons in distress at sea is a fundamental rule of international law (IL).¹⁸⁷ At the same time, however, the law is unclear in terms of who is legally responsible for taking them in, thus revealing a serious deficiency in the international legal framework governing maritime security (Williamson and Sunderland, 2013). In the context of the EU, the difficulty, therefore, centres around which member state is legally responsible for persons rescued at sea. This situation has given rise to several disputes between member states, particularly between Italy and Malta, given their geographical proximity to zones of instability and conflict (Di Filippo, 2014). The main bone of contention has been over Malta’s vast SAR zone (Figure 7.16), with the Italian authorities claiming that Malta should be responsible for taking in all persons who are rescued within this area (Lutterbeck, 2009).

¹⁸⁷ The issue first emerged in international instruments in 1910. Since then it has been codified in various forms in the 1958 Conventions on the Law of the Seas, the 1982 UN Convention on the Law of the Sea (UNCLOS, replacing the 1958 Conventions), the 1974 International Convention for Safety of Life at Sea, the 1979 International Convention on Maritime SAR and the 1989 International Convention on Salvage. It is further established as a general principle of IL (Miltner, 2006).

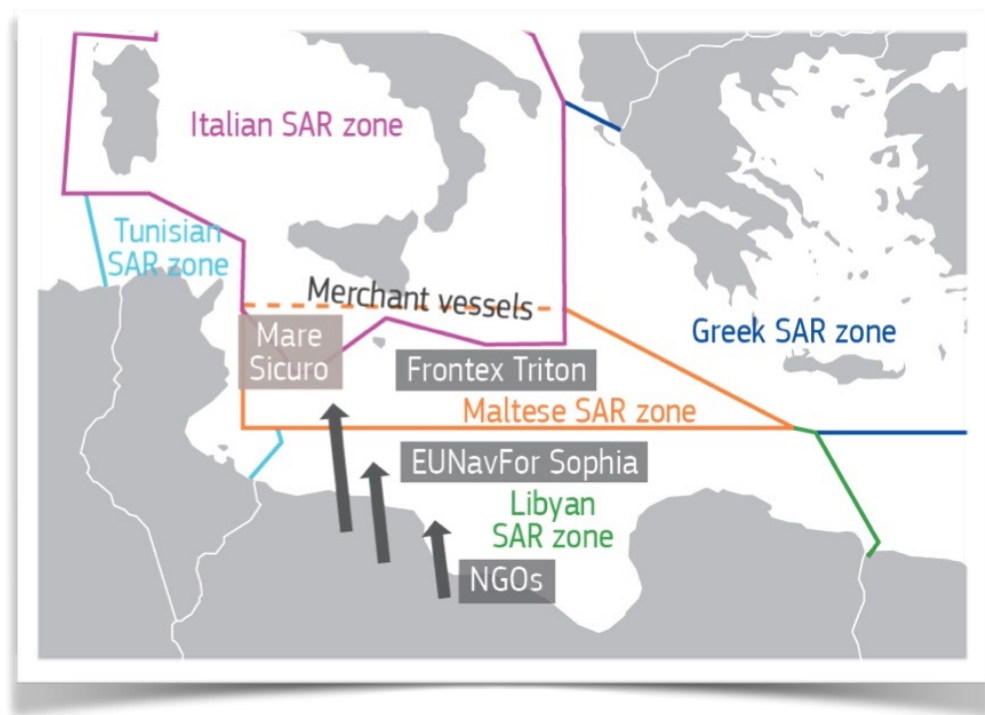


Figure 7.16: Central Mediterranean: Main Search and Rescue Activity Zones (Source: EPSC, 2017a).

Tensions relating to responsibility for persons rescued at sea escalated in June 2018 when Italy and Malta effectively closed their ports to NGO vessels, initially by denying safe harbour to migrants rescued by an NGO vessel, the *Aquarius*.¹⁸⁸ The decision marked a turning point in the southern states' approach to irregular migration. Eventually, Spain opened its port for the migrant rescue vessel, however, Spanish ministers stressed that this was an exceptional move and that Spain would *not* become a refuge for vessels rejected by other member states.

Although it transpires that by refusing entry to migrant rescue vessels, Italy and Malta are not fully compliant with IL, this is contested in light of a legal lacuna wherein the obligation to rescue persons in distress is laid down in law, yet the criteria for disembarkation are somehow unclear. The law merely stipulates that rescued persons must be brought to a 'safe place' without elaborating on whether

¹⁸⁸ See: The *Aquarius* incident: navigating the turbulent waters of international law by Fink and Gombeer, 2018 <https://www.ejiltalk.org/the-aquarius-incident-navigating-the-turbulent-waters-of-international-law/>

this means bringing them to land, to a larger ship or an inflatable life raft. This has also resulted in situations where persons rescued at sea are forced to stay aboard rescue vessels for days or weeks in international waters (Talmon 2018 as cited in Pundy 2018). Clashes among member states regarding the identification of the place of safety, therefore, may postpone the disembarkation and act as a disincentive for potential rescuing units (Di Filippo, 2013).

An additional complication in assigning state responsibility for persons rescued at sea arises from the provisions of the International Convention on Maritime Search and Rescue. According to the original draft of 1979, rescued persons should be taken to the 'nearest place of safety', however, the 2004 amendments to the Convention state that such persons should be taken to a port belonging to the country whose SRR they were rescued in. As a result, Malta refused to sign the amendments, given that it would have been made responsible for almost every rescue mission across the Mediterranean under the new rules. The crux of the problem thus lies in the fact that Italy and Malta are bound by different laws. Hence, in principle, they are both correct when they claim to be respecting IL (Falzon quoted in Borg, 2018).

In July 2018, Italy attempted to pressure its EU partners to share the 'burden' of persons rescued at sea by threatening to refuse ships from the bloc's 'Operation Sophia'¹⁸⁹ to disembark migrants in Italy. Under the terms of the naval mission, migrants are automatically disembarked at Italian ports. Rome gave the EU until the end of August 2018 to come up with concrete measures of solidarity (Baczynska 2018; Winter 2018). Discussions on the reform of operational rules are ongoing at the time of writing with Italy pushing for rotating landings between Mediterranean ports to share what they view as an unfair 'burden'. It is highly unlikely, however, that member states will reach agreement on sharing this 'burden' in the near future.

¹⁸⁹ Replaced by 'Operation Iriini' in March 2020. See <https://www.consilium.europa.eu/en/press/press-releases/2020/03/31/eu-launches-operation-irini-to-enforce-libya-arms-embargo/>

The above illustrates that the clash over persons rescued at sea stems from the likelihood that such persons will apply for asylum, though it also highlights the lack of EU solidarity reflected in the unwillingness of other member states to take in rescued persons and share the ‘burden with the frontline members. Unfortunately, the increasing focus of EU member states’ on restricting irregular migration, has resulted in ‘episodes of non-rescue, frequent disputes over responsibility, and diversion of vessels to ports in third countries’ (Moreno-Lax, 2017). According to Human Rights Watch (HRW, 2018), ‘member states’ failure to ensure adequate SAR capacity in the Central Mediterranean is contrary to the spirit of international maritime law and may, in certain circumstances, give rise to liability for preventable loss of life and for direct breaches of the prohibition of *refoulement*.’

An important development occurred in this context at the end of June 2018 when Libya opened its Maritime Rescue Coordination Centre (MRCC), assuming responsibility for its SRR in accordance with the International Maritime Organization (IMO), a move that has been severely criticised by NGOs, claiming it will block asylum seekers from reaching safety (Cuddy, 2018). Triggered by this development, EU heads of state adopted a joint statement in which they stated:

All vessels operating in the Mediterranean must respect the applicable laws and not obstruct operations of the Libyan Coastguard.¹⁹⁰

Prior to the change, Libya had no official SRR, with the coordination of responses to persons in distress there typically falling to Italy. In practice, migrant rescue vessels operating in the area around Libya, where many of the rescues take place, can now be ordered to return rescued migrants back to the country they fled (Cuddy, 2018). ‘Enabling Libyan coast guard units to intercept people in international waters,

¹⁹⁰ European Council Conclusions, 28 June 2018, para 3.

therefore, may constitute aiding or assisting serious human rights violations. Likewise facilitating the interception and forced return to Libya of migrants seeking protection breaches international refugee law because Libya is not a party to the 1951 Refugee Convention and does not have a refugee law or procedure. In other words, returned migrants have no effective remedy for their protection needs' (HRW, 2018). Thus it appears that the EU is prioritising the externalisation of migration controls to third countries over the provision of international protection. As indicated in the report of HRW (2016):

[T]he EU and its member states struggled to develop an effective and principled response to the hundreds of thousands of migrants who reached Europe. Narrow government interests too often displaced sound policy responses, delaying protection and shelter for vulnerable people and raising questions about the union's purpose and limits.

7.5 Discussion and conclusion: convergence and divergence in member states' approaches

This chapter explored the diversity in national policy approaches to irregular migration and the resulting impact on the relations between member states as well as on EU migration governance. Accordingly, first, it examined the major factors influencing member states' approaches in order to gain a better understanding of *why* national approaches differ. Second, it analyzed inconsistencies in the implementation of certain aspects of the asylum *acquis* into national legislation, in order to highlight divergences among member states as well as the impact on policy outcomes. Finally, it explored how member states located in the three main regions of the EU - Northwestern, Central-Eastern and Southern - differ in their approach to irregular migration due to the relative (and perceived) impact of the phenomenon.

The chapter revealed that although the Northwestern members are the intended destination for most asylum seekers - given their attractive conditions being wealthy states - in practice they hide behind the shield of Dublin, shifting the asylum 'burden' onto the Southern states which are the first point of entry for asylum seekers crossing the Mediterranean. At the same time, the Central-Eastern members, which became states of transit during the refugee crisis with migrants passing through to reach Northwestern states, have taken a tough stance with regard to intra-EU relocation of asylum seekers, resulting in tensions between member states over how to deal with irregular migration. In this regard, the reform of Dublin has become the most divisive issue within the context of EU asylum and migration policymaking, with those member states facing high migratory pressures calling for the 'state of first entry' rule to be replaced with a mandatory relocation mechanism, while others more protected against direct irregular entries, openly rejecting it. The stalled negotiations on the Dublin reform emphasise lack of EU solidarity and fair sharing of responsibility given that the current rules favour those states that do not have external borders. In consequence, disagreement between member states has resulted in strained core-periphery relations.

The findings thus concur with the hypothesis that EU policymaking in the context of irregular migration has led to suboptimal outcomes that do not fully cater for the realities of migration pressures in the frontline member states. Still, they reveal an apparent paradox: despite differences in national approaches to irregular migration, it appears that all member states share a common aim, that is, to prevent irregular entry. Indeed, although member states have thus far proved unable (and unwilling) to act cohesively in developing a common approach to irregular migration - due to clashing interests - the analysis on the implementation of the CEAS highlights an overall tendency towards more restrictive policy prescriptions across Europe. Thus,

besides underlining the lack of policy harmonisation in this field the analysis illustrates that particularly following the refugee crisis, member states are increasingly tightening national asylum and migration policies to discourage irregular migration. As was also revealed in the case study of the refugee crisis, they are increasingly resorting to unilateral solutions to prevent irregular crossings, with some member states reinstating internal border controls and building walls, and others concluding bilateral agreements with third states. EU member states' policy approaches towards irregular migration, therefore, are increasingly characterised by securitising practices, reflected in the dominant focus on strengthening border security and tightening national asylum and migration policies to prevent the phenomenon. In other words, the focus of EU member states is increasingly on the 'securitisation of migration'.

Within the context of the theoretical framework, the lenses of securitisation and social constructivism allow for a better understanding of how irregular migration is increasingly viewed as a threat to national security as well as identity, norms and culture. Through the lens of social constructivism, non-material social factors, such as identity, emerge as the driving forces in shaping national interests and preferences. As a result, irregular migration is increasingly perceived as a key security issue giving rise to securitised practices. Furthermore, although the 'securitisation of migration' varies from one member state to another, giving rise to a different set of policy responses, the underlying objective of EU member states is to prevent irregular entry. Therefore, although the increasing perception of irregular migration as a threat has resulted in the implementation of securitising practices in most member states, such practices have not been harmonised across the EU resulting in tensions in this policy domain and impacting on relations between member states as well as on EU migration governance.

In interpreting the findings, the application of public policy models helps to shed light on the complexity of EU policymaking in this field, which results from the diverse preferences of EU member states - which are in constant flux. This has resulted in a more heterogeneous Union, characterised by diverging approaches towards irregular migration, thus impacting on EU migration governance. According to the findings, this has primarily given rise to (a) lack of harmonisation in this policy domain, reflected in the divergences in the implementation of the asylum *acquis*, (b) suboptimal policy outcomes such as the amendments to national policies to lower standards and restrict rights for asylum seekers and migrants, and (c) negotiation deadlock, given the impasse in Dublin negotiations since 2016. This has resulted in the lack of a common EU response to the challenge of irregular migration.

Plott's equation - *Preferences x Institutions = Outcomes* - states that (1) if preferences change, outcomes will change, even if institutions remain constant, and (2) if institutions change, outcomes will change, even if preferences remain constant. The equation, however, fails to take into account that, in practice, national preferences in the context of irregular migration are constantly changing as a result of the changing context within which policymaking takes place, resulting in friction in EU asylum and migration policymaking. Nevertheless, it does shed light on the importance of identifying national preferences in seeking to understand the complexities behind EU policymaking in this sovereignty-sensitive domain.

As in the case of Plott's equation, despite their usefulness in shedding light on the different preferences within the EU, the three steps of the public policy process described as *Politics, Polity, Policy* in the 3Ps model and *Inputs, Conversion/Throughput, Outputs* in Easton's system model, do not provide for the complexity in EU asylum and migration policymaking. In practice, the diversity of national preferences, which impacts on member states' policy approaches to irregular

migration, is constantly changing due to various factors, primarily, new governments taking office. In this regard, the past decade has witnessed a decline in traditional mainstream political parties, which had dominated national politics since the end of WWII, and a rise in support for right-wing populist parties in several member states, with some taking the reins of government. Although this new political scenario has led to different outcomes (policies/outputs), overall it has resulted in more restrictive migration policies.

Finally, the findings contribute to answering the research questions, in particular with regard to *why* EU asylum and migration policymaking in the context of irregular migration is resulting in tensions between member states and *how* the diversity of policy approaches is impacting on EU migration governance as well as on the relations between states. Indeed, the chapter illustrates the difficulty in policymaking in this field due to the diverse interests of EU member states which translate into **divergent** national approaches. At the same time, it also reveals that despite friction between national policy approaches to irregular migration, EU member states are increasingly **converging** towards more restrictive policies and on strengthening the EU's external borders to prevent irregular migrants, reflecting an increasing focus on the 'securitisation of migration'. Having concluded the empirical part of the study, the following chapter puts forward and interprets the key findings of the study within the context of the theoretical framework and research questions.

Discussion of research findings

This chapter interprets the key findings of the study within the context of the theoretical framework and research questions. First, it outlines the development of EU asylum and migration policies in the context of irregular migration. Second, it assesses the usefulness and limitations of the theoretical framework and the public policy models in investigating the research question. It also examines whether the key findings support the working hypothesis and identifies the knowledge gap filled by the study. The third part of the chapter explains how the research findings contribute to answering the research questions. Lastly, the chapter provides a brief discussion on the future of EU migration governance.

8.1 Introduction

This study investigated one of the most important issues confronting the EU. Indeed, the question of how to deal with irregular migration has become a highly divisive issue within the EU. In seeking to answer the research questions, the study shed light on the complexity in EU asylum and migration policymaking in the context of irregular migration stemming from the multiplicity of interests, both at the institutional and national level, which are in constant flux due to the context within which policymaking takes place. As a result, policy responses to irregular migration are in constant conflict, both at the national and institutional level.

The protection of asylum seekers and refugees have been fundamental rights as established by the Geneva Convention relating to the Status of Refugees, which dates back to 1951. Within the EU though, the field of asylum policy was addressed decades later and it was only in 1999 that the Tampere European Council outlined the creation of a CEAS, to be based on the full implementation of the Refugee Convention. After the Tampere Programme, further progress was made through the adoption of the Hague (2004) and the Stockholm (2009) multiannual JHA programmes, as well as through the adoption of the 2014 Strategic Guidelines. In 2009, the Lisbon Treaty introduced changes in the context of JHA cooperation, most notably by ending the former pillar divide and bringing most JHA issues under the ordinary legislative procedure - placing the EP and the Council on an equal footing in the legislative process.

European cooperation in asylum and migration, however, was initially triggered by member states' aim to safeguard internal security and prevent irregular arrivals. Hence cooperation in establishing the CEAS was conceived as a flanking measure of EU integration to compensate for the abolition of internal borders in the early 1990s

as a result of the Schengen rules. Yet as this study has illustrated, although a CEAS was established on paper in 2013, in practice its weaknesses became strikingly obvious following the outbreak of the refugee crisis in 2015. The ambiguous provisions in the asylum directives resulted in wide divergences among member states, such as varying recognition rates, housing and employment conditions, and the right to family reunification. In addition, the Dublin Regulation shifted asylum responsibility to the frontline member states. Although the 'cornerstone' of the CEAS has been declared 'dead' and 'obsolete' countless times over the past decade, its reform remains deadlocked due to lack of EU solidarity, since scrapping the 'state of first entry' rule would effectively shift the 'burden' of asylum from the periphery of the EU to the core.

Furthermore, despite two decades of cooperation, the EU has not managed to forge a common migration policy given member states' reluctance to delegate decision-making in this sovereignty-sensitive policy domain beyond the national level. In terms of Schengen, one of the major achievements of European integration, the borderless area came under huge stress following the refugee crisis, with several member states 'temporarily' reinstating border controls to prevent irregular secondary movements. Suspension of Schengen rules is still in place at the time of writing, highlighting the absence of solidarity and mutual trust among member states.

The following section interprets the key findings of the study within the context of the theoretical framework and research questions. In short, it explains how the study contributes, both empirically and theoretically, to academic research on EU migration studies, in particular with regard to EU asylum and migration policymaking in the context of irregular migration, by providing a greater understanding of what both facilitates and limits the interaction between the national and supranational levels of migration governance.

8.2 Reflection on the theoretical framework, literature review and hypothesis

This study started from the following empirical puzzle: the diverse policy approaches of EU institutions and member states towards irregular migration are impacting on relations between EU member states, among EU institutions, and among EU member states and institutions, and ultimately on migration governance. The complexities in analysing the EU, however, are augmented due to its unique institutional setup making it a *sui generis* project. Indeed, the EU is so unique that besides functioning at the supranational level it also functions at the national level - involving a power struggle between twenty-eight sovereign states which still retain certain competences.

EU asylum and migration policymaking is characterised by the clash between intergovernmental and supranational approaches given the shared nature of EU competence only in some issues related to irregular migration. This inherent tension between the setting up of supranational rules and the ceding of national sovereignty is reflected in member states' unwillingness to develop binding long-term solutions as opposed to short-term *ad hoc* measures to deal with the phenomenon.

Migration governance, therefore, has proved to be the most difficult area of governance in the EU. In addition to the (ever-changing) diverse interests within the EU, a key obstacle to developing a common approach to irregular migration lies in that most member states perceive no benefits in EU cooperation, given the costs attached to the granting of asylum. In other words, the possibility that irregular migrants may claim asylum hinders cooperation in this field and has resulted in the tendency to 'free-ride' at the expense of the frontline states. This is reflected in the lack of EU solidarity and fair sharing of responsibility. Despite that Article 80 of the

TFEU states that asylum and migration policies are to be governed by this principle, in practice, it is largely lacking. Consequently, the governance of migration has become increasingly fragmented as national interests are increasingly given precedence over common ones.

As a result, no single theory was able to analyze and interpret the research objectives in a satisfactory manner and therefore, multiple theories had to be used. This is because the thesis is about governance at different levels, at the national and supranational, involving member states and institutions as well as the relationships between these different levels. To illustrate the complexity of these different relationships, different theories were required. As a result, various theories from both disciplines of IR and political science have been applied to the study in order to fully respond to different aspects of the research question. More precisely, the argument in this study has been constructed utilising a political science model and governance theories together with classical theories of IR. The different approaches have shed light on how policymaking in this field has been influenced by various actors which interact across the multiple levels of governance in both national and supranational arenas, impacting on EU migration governance.

Although the concept of public policy has been defined and described by various theorists in different ways, the definition of Dye (2016, p. 1) 'whatever governments choose to do or not to do' emerges as the most comprehensive definition. As demonstrated in Figure 8.1, within the public policy process (Policy Cycle), problems are conceptualised and brought to the government agenda (*Problem (re)definition/ Agenda Setting*), alternatives and selected solutions are formulated by public institutions and numerous actors (*Formulation*), and policy proposals are applied, evaluated and revised (*Implementation, Evaluation and Termination*) (Sabatier, 2007).

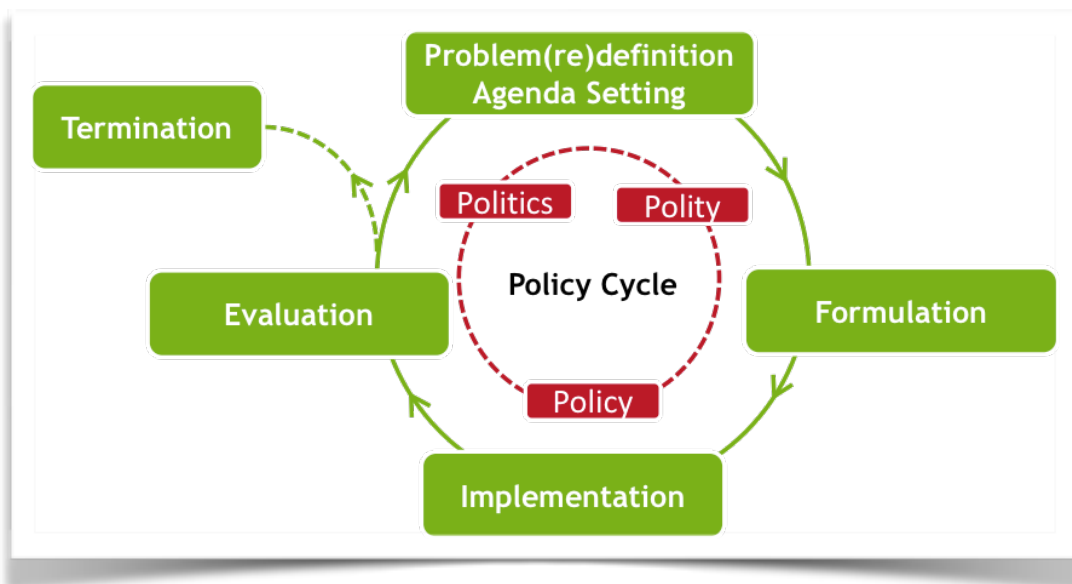


Figure 8.1: The public policy cycle model.

Therefore, rather than being based on a sole decision, the process involves a series of decisions and actions (Hill and Varone, 2016). This highlights the usefulness of public policy models in examining the dynamics in EU asylum and migration policymaking. The study has made use of Plott's equation (*Preferences x Institutions = Outcomes*), the 3Ps model (*Politics, Polity, Policy*) and Easton's system model (*Inputs, Conversion/Throughput, Outputs*) to analyze the challenges facing policymakers in developing EU policies in the context of irregular migration stemming from the diversity of ever-changing interests of EU actors involved in the decision-making process. The following section (re)assesses the usefulness and limitations of the theoretical framework. It then examines whether the key findings support the working hypothesis, and identifies the knowledge gap filled by the study.

8.2.1 Theoretical analysis of key findings

The relevance of the public policy models in the study lies in the fact that IR are influenced by preferences. More specifically, EU member states and institutions are interested in pursuing their own political preferences, resulting in friction in EU policymaking. In terms of EU policymaking in the context of irregular migration, the key difficulty in achieving political agreement on common positions is indeed a result of clashing national and institutional preferences.

As highlighted in this study, the EU has nearly doubled in size since 2004, hence political diversity has increased resulting in a more heterogeneous Union (*Preferences/Politics/Inputs*). In addition, the context within which policymaking takes place is constantly changing as a result of, among other things, national elections which often shift the negotiating approach of individual member states (*Institutions/Polity/Conversion*). Thus as the issue of irregular migration gained salience in the political debate, particularly following the outbreak of refugee crisis, the salience of national identity and border security resulted in EU member states and institutions converging towards more restrictive outcomes in order to prevent irregular arrivals (*Outcomes/Policy/Outputs*). The models, therefore, have allowed for a better understanding of the diversity and constant fluctuation of interests both within EU institutions and EU member states, as well as between the levels in pursuing their preferences.

The other theories applied to the study, allowed to elaborate further on these changing preferences and institutions/rules by detailing methods of play and motives, and hence in understanding the intricacies therein. They therefore constitute an analytical set of tools, involving relationships and governing institutions. As a result, the inclusion of the supplementary theories allowed a more in-depth analysis of these structures.

Starting with the challenge in developing a common approach to irregular migration, the findings indicate that one of the main factors influencing member states' approaches concerns the asymmetrical impact of the phenomenon as a result of geographical location. As highlighted in the literature, member states located on the external borders of the EU have become the main entry points for irregular migrants by accident of geography and are staggering under the weight of irregular migration, while other member states, such as those located in the core of Europe, are more protected against direct irregular entries. Consequently, this results in clashing national interests with regard to how to tackle the phenomenon.

Given that the practice of providing international protection is costly, EU member states are increasingly aiming to discourage migrants from seeking protection in their territories by restricting the rights of asylum seekers, thus encouraging them to seek protection elsewhere. As Barbou des Places (2003, p. 12) explains, this leads to a situation where 'one country's gains become the others' costs'. Member states have also reintroduced internal border controls and built walls and fences along their borders to prevent irregular secondary movements of migrants from neighbouring member states. Thus by restricting the rights of asylum seekers, such member states are not only 'free-riding' on their EU counterparts but are also jeopardising the development of a common approach to irregular migration.

According to **neorealists**, their theory is the natural and necessary starting point in most cases when the issue under investigation represents a top issue in international politics. From this perspective, states cooperate only if doing so serves their own interests (Waltz, 1979). The lens of neorealism sheds light on the challenges in establishing a 'burden-sharing' mechanism to distribute asylum seekers more evenly across EU member states. Given that member states have little incentive to agree on common rules if no benefits are perceived, the approach captures the reality on the

ground particularly with regard to the contested issues of solidarity and fair sharing of responsibility among EU member states.

Game theory also provides useful insights in analysing the question of 'burden-sharing', which is central to the goal of a common EU approach to irregular migration. According to the theory, 'a risk decrease for one party means a risk increase for another party, and the aggregate level of risk will remain the same whatever strategies parties choose' (Noll 2003, p. 241). This highlights the difficulties in securing political agreement on the reform of Dublin III and the establishment of a mandatory relocation mechanism to correct the unbalanced distribution of asylum seekers in the EU. The asymmetry of asylum responsibility, as a result of the Dublin rules, is indeed the main impediment to establishing a permanent EU relocation mechanism. Thus from the game-theoretic approach, although the issue of irregular migration necessitates a common EU response since states are rational actors - and hence strive to pursue their own interests - the perceived risks hinder any form of agreement.

The gap between what the EU can be expected to achieve, and what it is capable of achieving, can be summed up by the '**capability-expectations gap**' theory (Hill, 1993). Although the concept of a gap between capabilities and expectations was first introduced in analysing the EU as a foreign policy actor, it could also apply to EU inability to develop a common approach to irregular migration as well as the deficiencies of the current EU regulatory asylum framework.

In terms of the classic integration theories - **neofunctionalism** and **liberal intergovernmentalism** (LI) - even though both assume that states are guided by national interest, they view different actors as the most influential during the policymaking process. Thus, besides directly opposing each other, they are also complementary. This has been confirmed in previous chapters and is further

highlighted in the following analysis. From the lens of neofunctionalism, the development of the CEAS emerged from member states' need for a common policy to secure full functionality of the Schengen Area, as well as to protect them against transnational organised crime. From this perspective, therefore, the creation of the border-free area coordinated one segment of policymaking at the supranational level and 'spilled over' to the asylum and migration domain. In contrast, according to liberal intergovernmentalists, it was a rational decision of EU member states to cooperate in order to circumvent exogenous and endogenous pressures. Hence from the state-centric view, the EU institutions merely operate as a framework for the promotion of intergovernmental interests, since they are 'embedded in the varied national interests and values of the societies that form their constituent parts' (Kleine 2010, p. 2). Although the traditional approaches have been useful in shedding light on what prompted EU member states to cooperate, or otherwise, in matters of asylum and migration and why EU policymaking in the context of irregular migration is resulting in tensions both between and within the national and supranational levels, they fail to take into account the complex reality of EU asylum and migration policymaking.

The **multi-level governance** (MLG) approach possibly takes a more accurate approach - since from this view member states remain the primary actors - however, decision-making responsibility is shared among a variety of actors that interact at the supranational, national and sub-national levels. The approach, thus has offered a better understanding of the complex interaction between the different levels of migration governance. Consequently, the application of the concept of MLG has contributed to a deeper understanding of which factors drive policymaking at the different levels of governance, and the extent to which such factors lead to convergence or divergence of EU policies in this field.

In terms of understanding the interactive form of governance which is specific to the supranational approach, the lens of **historical institutionalism** (HI) has been useful in providing a theoretical basis to help explain how the EU's institutional framework in the field of asylum and migration has developed over time, as well as the changing impact of EU institutions on member states. The lens of HI has also shed light on the question of whether member states are gaining or losing control in the asylum and migration policy domain, and how this is impacting on the relations between the EU and its member states. According to HI, leeway for a radical change of previous policies is limited, given that in establishing supranational institutions, EU member states' constrained their own behaviour. Hence, the approach has been particularly pertinent in the investigation of the reform of 'the Achilles heel of the CEAS', the Dublin Regulation, which has been deadlocked since 2016 over lack of inter-institutional consensus.

In the context of EU policymaking, given the power imbalance among EU member states (mainly due to area/land size and economical/wealth factors) when coordinating policy and ensuring system preferences, the lens of **alliance theory** has shed light on negotiation dynamics within the JHA Council. The theory has been useful in seeking to understand alliances in terms of EU policymaking in the context of irregular migration over a period of time. Indeed, the approach highlights that while an alliance of southern member states is pushing to replace Dublin's 'state of first entry' rule with the establishment of a permanent relocation mechanism, the alliance of Central-Eastern members, comprising the V4 group, are strongly opposing such reform. Alliance theory also provides insight on coalition formation in the JHA Council in the negotiations preceding, during and post the refugee crisis, in the field of asylum and migration. As the findings indicate, while the issue of irregular migration gained salience across the EU following the outbreak of the crisis, at the same time,

the number of alliances also increased. Consequently, all member states actively pushed their own agenda, increasing alliance behaviour and making it harder to reach a consensus, compared to previous negotiations. The lens, therefore, has allowed for a better understanding of alliances in the JHA Council and have shed light on the fact that they have become more complex in contrast to negotiations prior to the crisis when the Northwestern states were able to subvert southern states' interests, and the Central-Eastern members, being less-affected by the issue, did not have any national preferences.

In terms of the most contentious measure proposed by the Commission during the refugee crisis, the relocation programme of asylum seekers from Italy and Greece, the study illustrated how this exposed the strength of state-centrism and the notion that cooperative efforts are all shaped by state interests. The **neofunctionalism** lens shed light on how the relocation Council Decision was determined by supranational-oriented interest groups and pressures by the Commission. Indeed, the Decision was based on a Commission proposal. By contrast, **liberal intergovernmentalism** highlights that pressures from domestic-oriented interest groups and interstate bargaining ultimately drove the process, which also fits the case, with Germany constituting the driving force of intergovernmental negotiations. Furthermore, since LI posits that member states are rational actors, they are assumed to respond rationally in the face of a crisis and negotiate to achieve the outcome that maximises their national preferences. The intergovernmental conflict that developed, particularly between Eastern and Western member states, following the adoption of the Council Decision, thus is in line with LI expectations.

The Relocation Decision, however, also embodies an appropriate model of **MLG** since this approach distinguishes the multiplicity of levels and actors as the essential feature of EU migration governance. The multi-level system thus suggests a high

degree of complexity, involving a group of various actors interacting on various levels, however, states remain the primary actors. Indeed, it was the EU member states that emerged as the main protagonists in the Council negotiations establishing the temporary relocation scheme, forcing through the Council Decision via QMV.

A more nuanced approach, provided by the **historical institutionalist** lens, sheds light on the changing relationship between EU member states and institutions over a period of time and offers a more compelling explanation of the new dynamic of EU asylum and migration policymaking as well as migration governance. Arguably, the HI approach provides a more convincing account of the outcome than the classical and MLG alternatives. The Relocation Decision featured intergovernmental conflict, particularly resulting in a new East-West divide, hence the relevance of the latter theories. Nevertheless, they fail to fully explain the outcome. HI enables an understanding of how member states gained significant control in policy areas that are intimately connected with national sovereignty, demonstrated by the resulting Council Decision. Still, although member states were behind the wheel, not all were in favour of the outcome, and ultimately the scheme failed.

The different theoretical perspectives thus explain *why* it appears unlikely that member states will reach agreement on the establishment of a mandatory relocation mechanism - as a basis for the development of a genuine common approach to irregular migration. Nevertheless, they fail to explain *how* the EU could implement such a mechanism to correct the uneven distribution of asylum seekers. As illustrated elsewhere in this study, past attempts to establish a permanent mechanism have hitherto failed, with debates and discussions proving particularly contentious. Finally, the theories are not able to predict events, such as the refugee crisis of 2015-2017.

With regard to the key finding that both EU member states and institutions are shifting towards restrictive policies to prevent irregular migration, particularly following

the refugee crisis, the lenses of social constructivism and securitisation provide insight into the drive behind this shift. As revealed in the empirical analysis, the political mood changed within the EU in terms of how to deal with the phenomenon, with priorities shifting from establishing and harmonising common rules on asylum to the renationalisation of asylum and migration policies in order to discourage irregular entry.

The lens of **social constructivism** highlights the importance of non-material social factors, most notably identity, in determining member state policy approaches to irregular migration. Such factors are becoming increasingly relevant resulting in member states tightening asylum and migration policies and adopting unilateral measures to protect their domestic political interests against the perceived threats of irregular migration. This is explained by the fact that member states' policy approaches are influenced by public opinion as national governments need electoral support to remain in office. In the case of irregular migration, since the issue is problematised in the media, resulting in high salience, national governments are increasingly under pressure to satisfy public opinion. Hence the response of the governing party or coalition, acting with the next general election in mind, tends to pander to public opinion.

Furthermore, within the **securitisation** framework, the issue of irregular migration is increasingly viewed as a security threat due to its link with Islamic terrorism. The approach sheds light on the fact that although 'the securitisation of migration' varies from one member state to another, different perceptions of irregular migration have given rise to similar (restrictive) policy responses. Hence, the framing of irregular migration as a threat has given rise to securitising measures aimed at preventing irregular migration, particularly by strengthening the EU's external borders and the tightening up of national policies.

The lenses of social constructivism and securitisation build on each other and have allowed for a better understanding of how the security aspect is increasingly influencing national preferences in terms of how to deal with irregular migration. With regard to the concept of securitisation, its importance lies in that following 9/11 and a series of terrorist attacks in several EU member states, the issue of irregular migration is increasingly linked to Islamic terrorism and thus is increasingly perceived as a security threat. This has resulted in the EU focus increasingly shifting towards restrictive migration policies. In addition, at the national level, besides the perception of irregular migration as a threat to national security, the issue is also being increasingly viewed as a threat to cultural identity. In this regard, the application of the lens of social constructivism adds credence to the securitisation theory by exploring further how social interaction changes the way security is perceived over time. The theory, therefore, has helped to provide a deeper understanding of how the issue of irregular migration is increasingly viewed as a threat to cultural identity, and that as a result, EU governments are pursuing more restrictive national migration policies.

The different theoretical approaches thus have shed light on how the diverse policy responses to irregular migration, both at the national and institutional level, are impacting on relations between EU member states and institutions, as well as on EU migration governance. They also provide insight into the challenges in EU asylum and migration policymaking in the context of irregular migration and in the implementation of the asylum *acquis*, resulting from the multiplicity of interests within the Union, which are in constant flux, and their impact on policy outcomes. Nevertheless, they are not fully able to capture and/or predict the dynamics of the phenomenon under investigation.

Having assessed the usefulness of the theoretical framework in the context of the research questions, the next section examines whether the key findings support the working hypothesis.

8.2.2 Testing the hypothesis

This study is structured around the hypothesis that **EU policymaking in the context of irregular migration has led to suboptimal outcomes that do not fully cater for the realities of migration pressures in the frontline member states.**

The findings reveal that divisions within the EU over a common approach to irregular migration primarily results from the asymmetrical impact of migration pressures as a consequence of geographical position. In other words, the realities of migration pressures differ widely in each national context resulting in different approaches to deal with the phenomenon. Moreover, as EU membership has expanded, national preferences have increased, resulting in more diversity within the Union. This further complicates the decision-making process, hindering the development of EU policies that would cater for the realities of migration pressures in the frontline member states.

As illustrated in this study, particularly in the analysis of the EU response to the refugee crisis and in the implementation of the asylum directives, EU policymaking in the context of irregular migration is characterised by suboptimal policy outcomes and/or negotiation deadlock. The findings reveal that since the Council is in the driving seat in this policy area, outcomes are increasingly reflecting its prioritisation of a security-oriented approach to irregular migration. Indeed, the Council's objectives, based on EU member states' concerns over sovereign issues, primarily involving the securitisation of their borders and the growing prejudice of the electorate towards

migrants, results in a more realist approach to irregular migration whereby governments act with the next general election in mind.

The findings also shed light on an added complication in EU asylum and migration policymaking, that is, the context within which it takes place changes over space and time. Policies in this field, however, fail to reflect these changes, resulting in suboptimal outcomes. As this study has illustrated, the EU agreed to establish common rules on asylum over two decades ago, in a very different context compared to the present. The CEAS thus has proved unable to deal with the challenges of irregular migration as it failed to reflect the change in preferences within the EU, both at the institutional and national level. Hence, the findings confirm the working hypothesis.

Furthermore, the study reveals a high level of dissonance between the different levels of migration governance in the EU, which hinders the ability to articulate a coherent strategy to address irregular migration - that would also alleviate pressure on the frontline (presumably overburdened) states. It also reveals that although EU member states have shared competences with the supranational level in terms of asylum, they continue to jealously guard national sovereignty in terms of migration policies. Consequently, EU migration governance is mainly driven by national interest considerations and, hence has tended towards the lowest common denominator resulting in suboptimal policy outcomes and/or negotiation deadlock. This has involved, *inter alia*, amendments to national legislation restricting the rights of asylum seekers and beneficiaries of international protection - setting in motion a 'race to the bottom' among EU member states - and stalled negotiations on the Dublin reform, reflecting lack of EU solidarity and fair sharing of responsibility.

Finally, the complexities in EU policymaking in this field also result from the EU decision-making process itself. Despite the changes to decision-making in the

Council, introduced by Lisbon, providing for the use of QMV, a blocking minority comprising a minimum of four member states representing not less than 35 per cent of the total EU population can, in practice, veto any proposal. Thus it is highly unlikely, under the Lisbon rules, that the frontline member states will succeed in garnering enough support from other member states towards the establishment of a permanent relocation mechanism to distribute asylum seekers more evenly across EU member states. Furthermore, as long as the principle of solidarity remains voluntary, EU policymaking in the context of irregular migration will continue to produce suboptimal outcomes. Having tested the working hypothesis, the next section identifies the knowledge gap filled by the study.

8.2.3 Addressing the knowledge gap

This study explores an extremely pertinent and current issue that has frustrated deeper European integration and pits the EU principle of solidarity against state sovereignty. The impact of the diverse policy approaches to irregular migration, particularly following the refugee crisis, stimulated academic debate in the topic, however, the bulk of this research focuses on the impact of such approaches on the rights of asylum seekers and migrants. Indeed, the focus in this nascent body of literature is on the humanitarian dimension, i.e., how EU responses to irregular migration, as well as structural deficiencies in the CEAS, negatively impact on human rights. Furthermore, since research has generally been law-based rather than politics-based, the question of *how* the levels of policymaking interact, conflict, or disengage is so far relatively under-researched. Thus, despite this recent surge in academic interest, not enough is known on the impact of the diverse policy

approaches to irregular migration on EU migration governance. To some extent, this can also be attributed to the complex and changing dynamics of irregular migration.

Hence, a substantial knowledge gap exists in the literature on EU asylum and migration policymaking in the context of irregular migration, more specifically, with regard to the impact of the different EU policy approaches both between and within the national and supranational levels, as well as on EU migration governance. This study redresses this lacuna by identifying the problems in developing a successful migration policy in the context of governance issues via a comprehensive analysis of the various EU policy responses to the refugee crisis as well as their attendant impact on relations between the different levels of governance, and ultimately on policy outcomes. The following section interprets the key findings from the study within the context of the research questions.

8.3 Evaluation of research: discussion of research questions

This study set out to investigate how the diverse EU policy approaches to irregular migration impact on relations between the national and supranational levels as well as on EU migration governance, which implied providing an answer for the three following questions: (1) Why is EU asylum and migration policymaking in the context of irregular migration resulting in tensions both between and within the national and supranational levels? (2) How are the diverse EU policy approaches to irregular migration impacting on EU migration governance? and (3) What implications can be drawn from the EU responses, both at the institutional and national levels, towards the refugee crisis (2015-2017), and how has this affected relations between the EU and its member states? Accordingly, the following pages explain how the research findings contribute to answering these questions.

8.3.1 Why is EU asylum and migration policymaking in the context of irregular migration resulting in tensions both between and within the national and supranational levels?

This study has highlighted how the EU has developed into a heterogeneous group of states. Originally a 6-state group, by the mid-1990s the EU comprised fifteen member states, most of which prosperous and of a Northwestern European cultural trope. The end of the decades-long Cold War and the collapse of communist regimes in CEE provided the possibility to ensure security and stability to the continent in a post-Cold War world through further EU expansion. Subsequently, the accessions from 2004 onwards nearly doubled EU membership. Moreover, most of the new members comprised post-Soviet satellite states from Central and Eastern Europe.

Within the context of EU asylum and migration policymaking, the asymmetrical distribution of asylum responsibility across member states together with varying political cultures and migration traditions, have shaped differing national policy preferences. For example, the focus of destination states, such as Austria and Germany, has been on secondary movements, whereas frontline states, such as Italy and Greece, have long called for the abolishment of Dublin's 'state of first entry' rule which shifts the 'burden' of asylum responsibility on these states.

In addition to differing national policy preferences, at times there is also discord between the objectives of the EU Commission, Parliament and Council. In general, the security-oriented focus of the (JHA) Council contrasts with that of the Commission and Parliament, which tend to advocate for harmonised asylum policies and the promotion of a human rights-based approach. This multiplicity of interests of the actors involved results in constant friction across the multiple governance levels in both national and supranational arenas. Furthermore, as aforementioned, these

diverse interests are constantly changing, both within EU institutions and EU member states.

The findings reveal that although the issue of irregular migration has been at the top of the EU political agenda for over a decade, rendering it a matter of common concern, EU asylum and migration policymaking continues to be characterised by constant friction between the different levels of governance. Hence by illustrating why policymaking in this field results in tensions between and within the national and supranational levels, the study also sheds light on the difficulty in reaching political agreement in this sovereignty-sensitive policy domain.

8.3.2 How are the diverse EU policy approaches to irregular migration impacting on EU migration governance?

Building on the findings from the first research question which shed light on *why* policymaking in the field of asylum and migration results in tensions between and within the national and supranational levels, this section reveals *how* the different EU policy approaches to irregular migration, both at the national and supranational level, are impacting on EU migration governance. Firstly, the findings highlight that clashing interests in terms of how to deal with irregular migration have hindered progress towards a common approach. This would include: (1) a (much needed) common migration policy involving the creation of safe and legal pathways into Europe, (2) reform of the Dublin System to foster a more equitable distribution of asylum seekers across EU member states, and (3) harmonised and less ambiguous asylum rules in order to ensure a 'level playing field' for asylum seekers.

The diverse policy approaches of EU member states and institutions have also resulted in a more divided EU. As illustrated in the case study of the refugee crisis, the Commission failed to provide leadership in persuading EU member states to find a common solution to the unprecedented arrival of irregular migrants due to clashing interests in the Council, particularly on the question of intra-EU relocation, which eventually culminated in the emergence of a new East-West cleavage, in addition to an exacerbated North-South dispute. Consequently, the governance of migration has become increasingly fragmented as national interests are given precedence over common ones, which brings me to my next point.

EU failure to act cohesively has also resulted in member states increasingly resorting to intergovernmental agreements that operate outside the EU legislative framework, as well as unilateral action such as concluding bilateral agreements with third states and/or building walls and fences to prevent irregular migration. These measures, however, neither reflect the goal set out at the Tampere European Council in 1999 to develop a common asylum and migration policy, nor the Union's fundamental values including respect for human dignity and human rights. Moreover, member states' reluctance to cede national competences to the supranational level reveals that EU migration governance remains in the hands of the member states (in the JHA Council), hence a weakening of the supranational role of the EU in this policy area.

Yet despite significant divergence between EU policy approaches, the findings also highlight that EU member states and institutions are increasingly converging towards a common goal: to prevent irregular migration. Indeed, the framing of EU successes reflects the priorities of the EU. In other words, reducing the number of migrants equals a successful policy. This has resulted in a paradigm shift towards

more restrictive policy prescriptions across Europe, involving strengthening the EU's external borders and outsourcing border controls to third countries.

In addition, at the national level, member states are tightening their asylum and migration policies to discourage irregular entry, particularly following the refugee crisis. Paradoxically, this *has* led to a form of harmonisation among EU member states and institutions, however, towards more restrictive migration policies. I call this occurrence 'negative harmonisation' given that the exclusive (security-oriented) approach has been adopted over the comprehensive (rights-based) one, contrary to the EU goal laid out in 1999.

8.3.3 What implications can be drawn from the EU responses, both at the institutional and national levels, towards the refugee crisis (2015-2017), and how has this affected relations between the EU and its member states?

The unprecedented influx of irregular migrants during the so-called 'refugee crisis' of 2015-2017 generated conflicting responses both between and within EU member states and institutions over how to deal with the challenge. The findings shed light on how the EU responses, both at the institutional and national levels, impact on the relations between EU actors as well as on EU migration governance. Primarily, this resulted in: (1) a shift towards restrictive migration policies and intergovernmental decision-making, (2) the emergence of *ad hoc* and unilateral measures, and (3) the Schengen area under threat. At the same time, EU failure to provide an adequate and unitary response exposed fault lines in the EU so far as to threaten the European project.

In terms of the EU response to the crisis, the initiative that most impacted on the relations both between and within EU member states and institutions was the relocation scheme to distribute 160,000 migrants from frontline states Italy and Greece to other member states. As the study revealed, the issue resulted in deep divisions within the EU, culminating in a new East-West divide. The reluctance of the Central-Eastern, as well as other member states, to implement the relocation scheme illustrates the lack of solidarity among member states, *even in times of crisis*. It also highlights the tendency for member states to 'free-ride' in a context in which a particular phenomenon directly affects only a few member states. Eventually, most members, including those that had supported the relocation proposal, failed to fulfil their obligations under the Council Decision. Therefore, besides undermining the authority of EU decisions, non-implementation of the relocation scheme demonstrates the extent to which the EU was challenged in dealing with the crisis.

At the domestic level, several member states resorted to short-term *ad hoc* solutions in response to the crisis, not perceiving any benefits in developing long-term solutions. Overall, national policy responses comprised a series of responsibility-shifting actions including the closure of national borders to prevent irregular secondary movements of migrants from neighbouring member states. Some members, such as Austria, Denmark, Germany, France and Sweden reintroduced internal border controls, while others such as Bulgaria, Hungary and Slovenia erected fences on their borders. Hence the Schengen regime came under fire, given that 'temporary' border controls remain in place at the time of writing. Indeed, Schengen rules have been suspended since 2015. The state of affairs also casts doubt on whether the area without internal borders has become an achievement of the past as well as its implications for the future of the European project.

Furthermore, most member states amended their asylum and migration legislation tightening rules in order to discourage irregular arrivals. This illustrates that even those member states that were initially more liberal towards asylum seekers, in particular, Germany and Sweden, introduced restrictive provisions in their national legislation to prevent irregular migration.

With regard to the impact on inter-institutional relations, the Commission ultimately remained dependent on member states in the Council during the crisis. Similarly, the EP, historically critical of how ‘the fight against illegal migration’ was being waged, adopted a more appeasing approach, possibly a result of the increasing presence of right-wing populist parties. This sheds light on the weakening of the supranational role of the EU in this policy area. By contrast, the European Council assumed an increased leadership position, with many special summits held dealing with irregular migration, and with most major EU political decisions approved at meetings of national leaders, and taken in the Council, suggesting a shift towards intergovernmental policymaking. Although decision-making in JHA has been characterised by an intergovernmental bias, following the refugee crisis the emerging balance between intergovernmentalism and supranationalism tilted towards the former at the expense of the latter.

As the findings indicate, a marked feature of the EU response to the crisis has been in favour of policy solutions which operate outside legislative frameworks including intergovernmental agreements and soft policy approaches, as part of an implicit or explicit strategy to evade or shift legal and fundamental rights responsibilities, as exemplified by the EU-Turkey agreement. The findings also highlight a change in coalition building dynamics in the Council, following the outbreak of the crisis, involving the emergence of new alliances, such as the Visegrád group, comprising four new members from Central and Eastern Europe

having a post-communist past. Previous research suggests that, until the crisis, the accession of these states had little impact on EU decision-making in this field, however, during the negotiations of the relocation proposal this research was challenged. The Visegrád members formed strong opposition to intra-EU relocation of asylum seekers, primarily on the grounds of their different cultural background. This illustrates that the accessions since 2004 have diversified the EU, both in terms of values and cleavages.

In conclusion, the diverse responses significantly impacted, first, on the relations between EU actors, resulting in a serious political crisis possibly threatening the European project, and second, on EU migration governance. In terms of the latter, Europe experienced a 'race to the bottom' with member states amending their asylum and migration legislation to lower standards and restrict rights for asylum seekers - resulting in suboptimal policy outcomes. Meanwhile, at the EU level, the focus shifted towards strengthening the EU's external borders and the externalisation of migration controls to third countries to prevent irregular migration. Consequently, the EU response has contributed to 'negative harmonisation' in this policy domain whereby EU institutions and member states are increasingly converging towards the 'securitisation of migration'. Nonetheless, EU actors remain divided over a common approach to irregular migration, reflected in the stalled negotiations of Dublin III and border closures within the Schengen area, highlighting the absence of EU solidarity and mutual trust.

8.4 Beyond the refugee crisis: future governance of EU migration

As discussed above, although the EU remains strongly divided following the refugee crisis, EU member states and institutions are increasingly converging towards restrictive migration policies. Austria's motto - 'a Europe that protects'¹⁹¹ - when it took over the Presidency of the Council of the EU in 2018, indeed reflects the shift in EU focus towards the 'securitisation of migration'.

The unprecedented influx of irregular migrants in 2015 and 2016 placed considerable pressure on the Union collectively - exposing the shortcomings of both the CEAS and the Schengen *acquis* - and on the frontline member states in particular - as these states assumed a much higher degree of asylum responsibility due to their geographical location and Dublin's 'state of first entry' rule. Meanwhile, several member states chose to 'go it alone', resorting to unilateral actions and suspending Schengen rules or building fences along their borders, to prevent secondary movements. Such *ad hoc*, piecemeal measures, however, will need to be replaced with long-term solutions that reflect European values, namely the principle of solidarity and fair sharing of responsibility. Nevertheless, it remains uncertain whether the EU will succeed, in the current political climate, characterised by several cleavages, to overcome the challenges of migration governance.

Against this background, gaining public support is crucial for EU policymakers. While the issue of (how to deal with) irregular migration gained salience in the aftermath of the refugee crisis, national governments are finding themselves under increasing pressure to satisfy public opinion. This means that public opinion is increasingly influencing policy choices in the context of EU asylum and migration policymaking. Accordingly, the relationship between rising inequality and public

¹⁹¹ The motto implies that the focus of the EU is on protecting its citizens by preventing irregular migration.

attitudes towards irregular migration has become more pertinent. Primarily, this is because, in addition to the perception of migration as a threat to national security, anti-immigration sentiment is often caused by concerns over job security and pressure on the welfare state.

Deepening inequality in Europe underpins the rise of protectionism, nationalism and extremism. Indeed, the EU is a hugely unequal union. In member states such as Bulgaria, Croatia, Hungary, Latvia, Poland and Romania, the Actual Individual Consumption (AIC)¹⁹² per capita is only half the level of Germany. According to the OECD (2017b), seventeen member states currently rank below the average AIC. Significant social inequality is also found within EU member states and since the 1970s this has risen sharply. Currently, the richest 10 per cent of households hold 50 per cent of all wealth, with the widest gaps found in the southern and eastern member states (OECD, 2017b).

Meanwhile, voting behaviour analysis often finds lower educated middle-aged working men affected by precarity and holding extreme views. Rising inequality, therefore, impacts on (diminished) enthusiasm for mainstream political parties and has become a key EU challenge as irregular migration is increasingly perceived as the cause for the deterioration of living conditions (Düvell, 2017). In view of this, the next section discusses the recent EP elections. More specifically, it explores how the electoral performance of right-wing populist parties could impact on EU asylum and migration policymaking.

8.4.1 The impact of the 2019 European elections on EU migration governance

¹⁹² AIC refers to all goods and services actually consumed by households. It encompasses consumer goods and services purchased directly by households, as well as services provided by non-profit institutions and the government for individual consumption, such as health and education services.

The European Parliament held its last elections in a very different political context: prior to the withdrawal of a member state from the EU. Furthermore, following the UK's withdrawal from the EU, on 31 January 2020, the EP shrunk from 751 to 705 MEPs, leaving room (46 seats) for future member states. The remaining 27 seats have already been allocated (Bijsmans, 2018), with France and Spain making the largest gains (Figure 8.2).

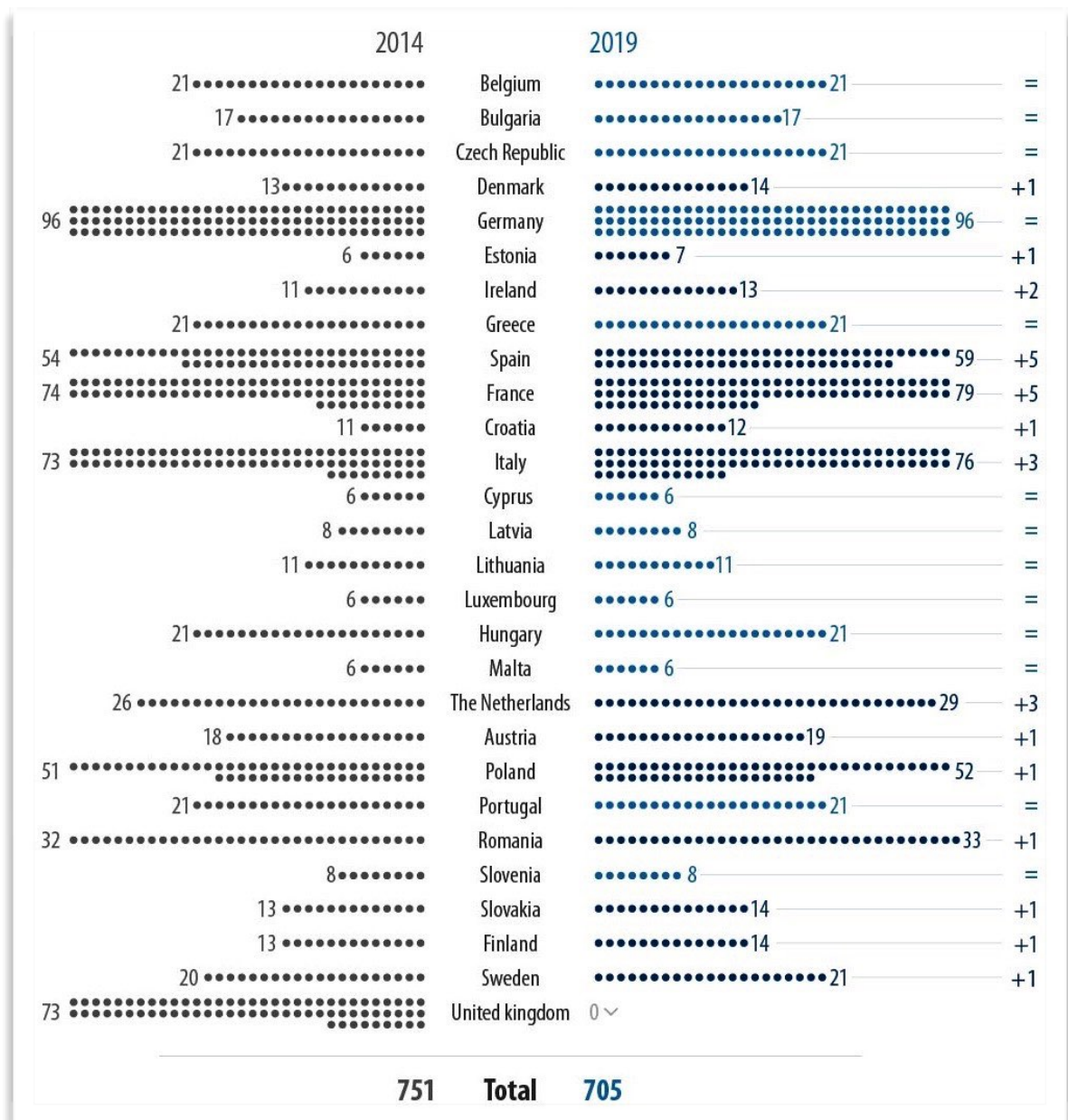


Figure 8.2: 8th and 9th EP, seats per member state (EP, 2018b).

The elections also reflected the changes that occurred in the European socio-political landscape since the 2014 EU elections, hence resulting in the weakening of some traditional forces and the strengthening of emerging challengers. Traditional centrist forces thus were much more at risk of losing their monopoly on Europe.

According to predictions based on opinion polls, despite heavy losses, the centre-right EPP and centre-left S&D were set to remain the two largest groups in the Parliament after the 2019 elections (Politico 2018; Votewatch Europe 2018). Although this was the case, the two largest groups lost their majority - losing seats to the Greens, Liberals, right-wing nationalists and populists, as well as non-attached members - thus altering the traditional balance of power in the EP (Figure 8.3).

The composition and political positioning of the EP following the 2019 elections is of great importance in the context of EU asylum and migration policymaking. One of the most prominent debates has revolved around the question of whether right-wing populist parties would manage to increase their presence and, if so, whether they would form a bloc. The question here is whether they could unite as a single force and start implementing their agenda at the EU level.

At the national level, right-wing populist and nationalist parties have made significant gains in recent elections, such as in Italy, France, Germany and Sweden. Domestic electoral successes, however, were not reflected at the supranational level, possibly a result of increased voter participation across Europe. In practice, the 2019 EP elections recorded the highest voter turnout since 1994, at 50.66 per cent (EP, 2019). Participation in the previous elections, in 2014, reached an all-time low of 42.61 per cent (see Figure 6.2). Still, despite modest electoral gains in the EP 2019 elections, the results underestimate the increasing relevance of right-wing populism and nationalism, i.e., the influence of such parties is now unprecedented (Zulianello, 2019). The question now arises of how influential these parties will be in the 9th

Parliament (Schulz, 2019) and whether the EU be able to win back control of the migration debate from right-wing populists and nationalists.

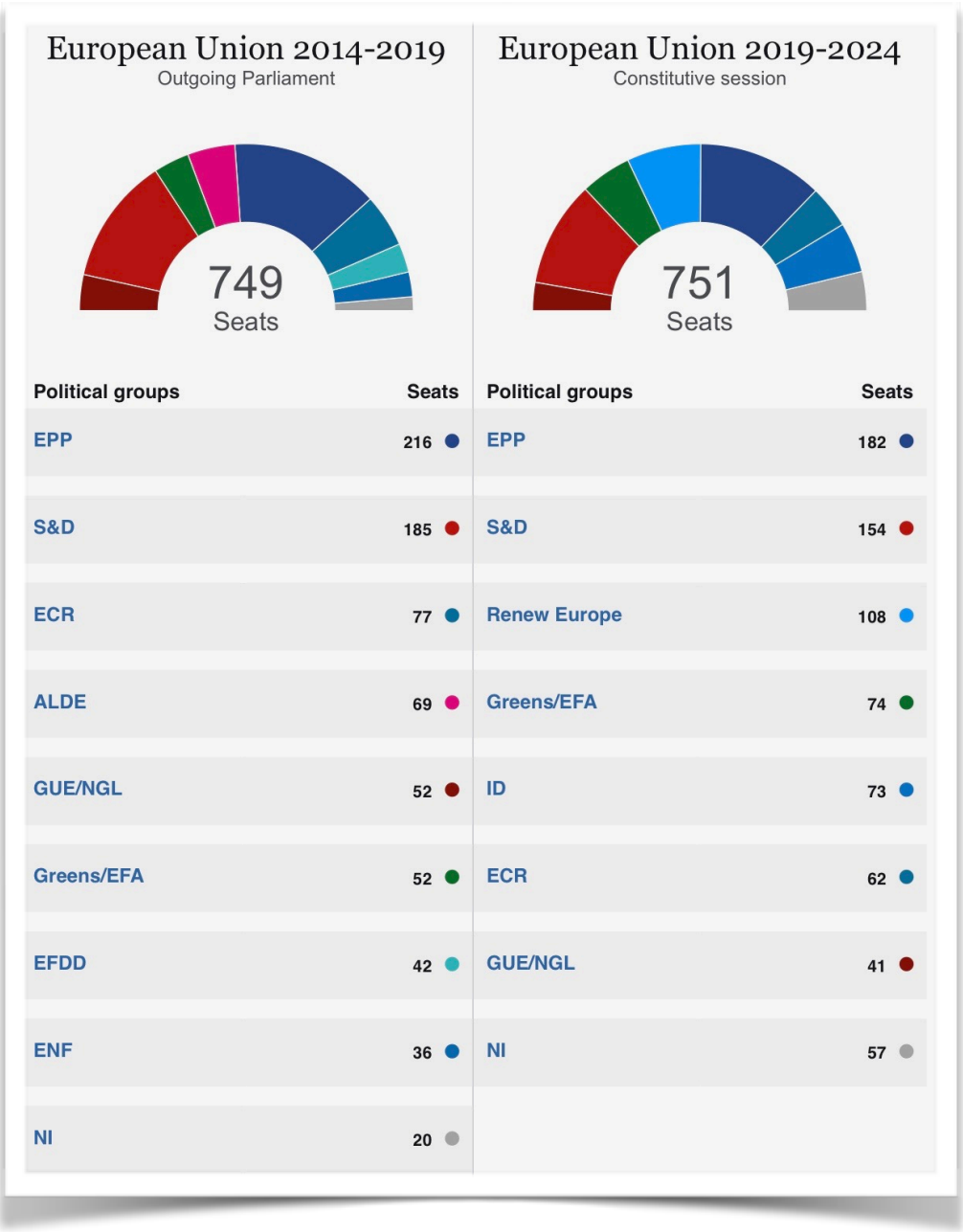


Figure 8.3: Composition of 8th and 9th European Parliament pre-Brexit (EP 2019).

To conclude, the rise of such parties and the crisis of traditional political parties in the EU appears to be inextricably linked with irregular migration as the issue is becoming more and more important for European citizens. At the same time, the

mainstream in most member states has responded by trying to adopt some of the populist's restrictionist agenda. The 9th EP, therefore, could turn out to be more fragmented than ever in terms of EU asylum and migration policymaking in the context of irregular migration as 'the certainties of the past have been disrupted by a new political situation' (Joannin, 2019).

8.5 Conclusion

This chapter interpreted the key findings of the study within the context of the theoretical framework and research questions. First, it outlined the development of EU asylum and migration policymaking in the context of irregular migration. Second, it assessed the usefulness and limitations of the theoretical framework and the public policy models in investigating the research question. Next, it examined whether the key findings support the working hypothesis and identified the knowledge gap filled by the study. The third part of the chapter explained how the research findings contribute to answering the research questions. In the final part, it briefly discussed the impact of the 2019 European elections on EU migration governance. The following chapter concludes the thesis. It puts forward the benefits of the research and recommendations for future research.

Conclusion and recommendations

This chapter concludes the study. First, it reiterates the importance of the issue of irregular migration in the EU and the challenges in developing a common approach. Next, it summarises the key findings of the study. The third section questions whether the EU lives up to its motto, 'in varietate concordia', in the context of EU asylum and migration policymaking. Fourth, it explains how the study contributes to the existing body of knowledge. Lastly, it proposes new avenues for research on EU asylum and migration policymaking.

9.1 Irregular migration remains high on the political agenda

Although irregular migration has been at the top of the EU agenda for over a decade, the political importance it achieved following the refugee crisis when the EU received over three million asylum applications, is without parallel. The EU response to the crisis ended in an unprecedented political polarisation between member states and in a serious impasse in the negotiations between EU institutions. This polarisation crystallised in particular in the disputes concerning the mandatory distribution of asylum seekers among EU member states.

The EU, bringing together 28 member states and a population of over 500 million, has always declared its purpose to be seen in the world as a 'single voice' (Postolache, 2012), however, it lacked a common position and internal unity in dealing with the crisis, resulting in a litmus test for the future of the European project. Furthermore, EU failure to develop a concerted response to the crisis influenced general elections in several member states such as Austria, France, Germany, Italy and Sweden, boosting support for right-wing populist and nationalist parties. The question of how to deal with irregular migration has also spilled into wider debates about Europe's economic, cultural and political identities, becoming Europe's most divisive issue due to the diverse policy approaches of EU member states and institutions.

The contradiction between the Commission's liberal commitment to an inclusive approach to migration, Parliament's concerns for migrants' human rights and the JHA Council's pragmatic implementation of restrictive policies, mirrors the cognitive dissonance experienced within the EU - resulting in the inability to articulate a coherent and effective strategy to deal with the issue of irregular migration.

Indeed, as this study has illustrated, the area of asylum and migration has become increasingly fragmented, marked by member states' unilateral actions to protect their domestic political interests against the perceived threats posed by irregular migration, often to the detriment of human rights. The EU, therefore, is continually challenged to balance its commitment to international and European norms and values against public pressure at the national level. As former European Commission President, Jean-Claude Juncker has stated:

Europe is and must remain the continent of solidarity where those fleeing persecution can find refuge (EC 2017b, p. 4).

Nevertheless, this study has revealed that the EU focus is increasingly on preventing irregular migration to Europe and reducing the legal and social rights of asylum seekers and beneficiaries of international protection. As a result, EU responses to the phenomenon have given rise to ever-higher barriers to decrease the number of irregular migrants arriving on EU territory (Drent et al. 2018).

9.2 Key findings

The empirical analysis highlights that developing common *and* harmonised asylum and migration policies is indeed a Herculean task. The complexity of decision-making in this field results from the diversity of interests within the EU as well as the inherent tension between the setting up of supranational rules and the ceding of national sovereignty. Consequently, this policy domain is characterised by clashing interests of EU actors as well as member state desire to maintain national control, explained by the enduring friction between neofunctionalism and liberal intergovernmentalism.

The findings underline that although the EU did succeed in establishing common rules on asylum, variation in national asylum practices has resulted in the unequal treatment of asylum seekers. Hence the EU has not managed to achieve the goal of creating a 'level playing field' whereby asylum seekers would receive equal treatment and the same outcome on their asylum application irrespective of the member state in which it is lodged. Indeed, as this study has highlighted, member states are increasingly amending national asylum and migration legislation to reduce the attractiveness of their respective territory, thus encouraging asylum seekers to seek protection elsewhere. This state of affairs indicates lack of solidarity and mutual trust among member states, where precedence is given to national over common interests. The absence of EU solidarity also hinders reform of the Dublin Regulation which has been in a stalemate since 2016, given that the current rules favour those states that are more protected against direct irregular entries. At the same time, despite two decades of EU cooperation in this field, the EU has not managed to develop a common migration policy reflecting member states' reluctance to delegate decision-making in this sovereignty-sensitive policy domain beyond the national level. The study, therefore, reveals that European cooperation in the field of asylum and migration has not automatically translated into EU integration. Quite the contrary, in practice, this policy domain has developed into one of the most, if not the most, highly contested areas in the EU.

Adding to the complexity in EU policymaking in the context of irregular migration is the fact that the diversity of interests within the EU changes both over space and time as a consequence of the changing context within which policymaking takes place. This means that EU interests and approaches are in constant flux, both across EU member states and institutions as well as over time. As illustrated in the case study, following the refugee crisis, the growing perception of irregular migration as a

security threat resulted in a shift in EU focus towards the 'securitisation of migration', i.e., on strengthening the EU's external borders and on the externalisation of migration controls to third countries. The Commission's approach changed significantly, from strengthening asylum seekers' rights and safeguards prior to the crisis, to satisfying political interest in the Council in the wake of the crisis. Likewise, the EP appears to have 'gone backwards' in terms of human rights. As co-legislator, Parliament has often emphasised the need for a holistic and solidary EU approach to irregular migration, however, the rise of right-wing populist groups in the EP are influencing EU policy choices as the political centre is being pulled further right. Meanwhile, the European Council assumed an increased leadership position, with many special summits held dealing with irregular migration. Moreover, given that most major EU political decisions were approved at meetings of national leaders and taken in the Council indicates a shift towards intergovernmental policymaking as well as the bypassing of supranational institutions, exemplified by the EU-Turkey deal.

In other words, EU asylum and migration policymaking is increasingly shaped by the control and security-oriented preferences of JHA officials. As a result, following the refugee crisis, the supranational institutions have a lesser role in EU asylum and migration policymaking, leaving member states in the Council in the driving seat. The shift towards the 'securitisation of migration' has also been illustrated at the domestic level, with member states tightening up their asylum and migration legislation, adopting unilateral measures and reinstating internal border controls to protect their domestic political interests against the perceived threats of irregular migration.

Another key aspect impacting on the development of a common approach to irregular migration concerns the rise of right-wing populism. Arguably, this is one of the major European political developments of the past decade in terms of EU asylum and migration policymaking, resulting in the end of the centre-left/centre-right duopoly that has dominated EU politics in the post-war era. In practice, national party systems across the EU have become more fragmented in recent years, and most have shifted towards the right. As the issue of irregular migration is increasingly viewed as a threat to national security, as well as to national identity, the welfare system and employment opportunities, European citizens are increasingly turning to right-wing populists to respond to their concerns. This is also impacting on dynamics in the EP, primarily in terms of changes to the balance of power.

Figure 9.1 compares three time periods - preceding, during and post the refugee crisis - revealing that traditional centre-right and centre-left governments are losing out to new forces. Interestingly, despite changes in national governments across Europe, there is a marked continuity in policy and practice, in general, geared towards the tightening of rules on asylum and migration in order to prevent irregular migration.

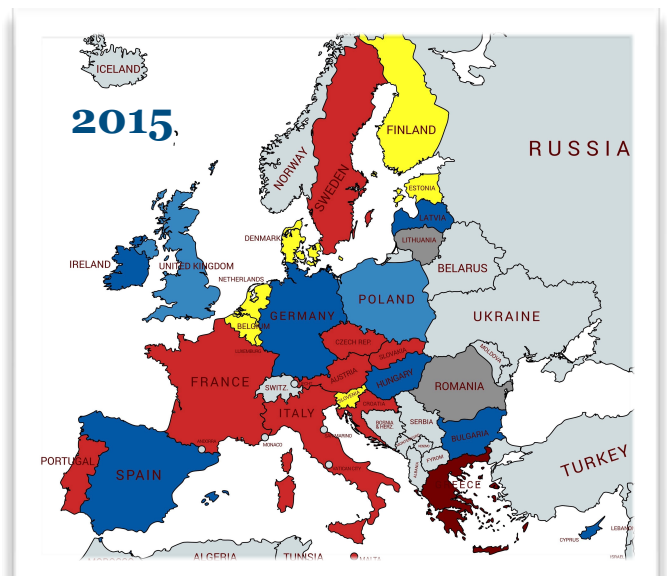
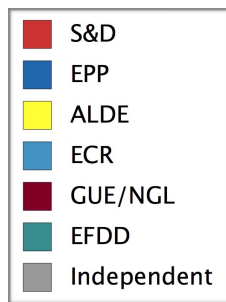
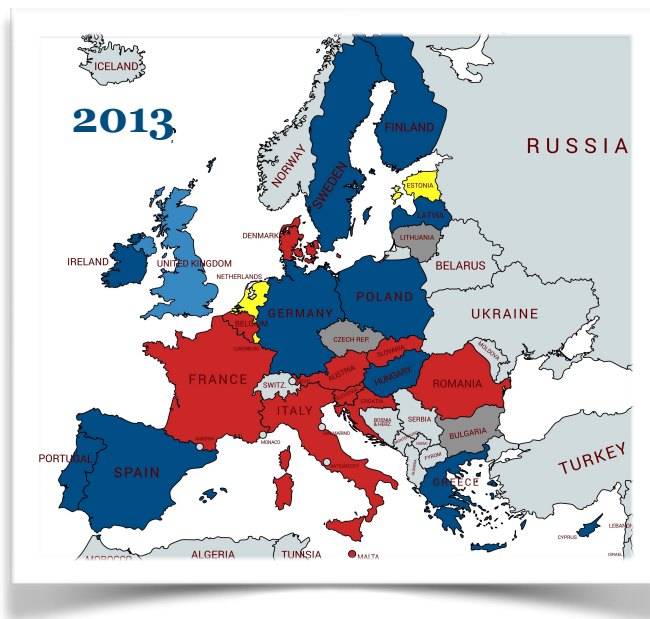


Figure 9.1: EU governments in 2013/2015/2018 (Compiled by the author).

Nevertheless, despite a common goal of preventing irregular migration, EU member states and institutions have not overcome their differences on fundamental principles of migration governance, namely solidarity and fair sharing of responsibility. The risk is that without a credible European strategy, the philosophy of each individual member state will prevail, culminating in the renationalisation of migration policies, the permanent closure of national borders and the breakdown of the Schengen system, hence a fatal blow to the European project. Thus, despite the importance of the issue, the necessary political will and solidarity to forge a way forward in this policy domain are largely lacking.

At the same time, in recent years, there *has* been some form of harmonisation of EU asylum and migration policies, however, towards more restrictive ones. I have described this as ‘negative harmonisation’, meaning that in practice, EU member states and institutions *are* increasingly converging - however towards more restrictive policies to prevent irregular migrants from reaching Europe rather than towards the objective set out in Tampere over two decades ago to create a ‘level playing field’ that would allow asylum seekers to receive equal treatment and the same outcome on their asylum application irrespective of the member state in which it is lodged. Hence, as the issue of irregular migration is increasingly being perceived as a security threat within the EU, the implementation of restrictive asylum and migration policies has made it more difficult for asylum seekers to reach the EU, undermining their rights. Furthermore, it is resulting in anti-immigration and racial politics which have permeated the mainstream in most EU member states. This, therefore, provides insight into the importance of a critical approach in migration research, which indeed, has been integrated into the research questions this study examined.

9.3 *In varietate concordia?*

As indicated above, an interesting paradox emerges: EU member states and institutions are, on the one hand, divided over how to deal with irregular migration and, on the other, united in preventing it. Indeed, the study has illustrated that the multiplicity of interests with the Union, both at the national and institutional level, has hindered the development of a common approach to irregular migration, yet when it comes to strengthening the EU's external borders and the externalisation of migration control to third countries, EU member states and institutions tend to be surprisingly '*united in diversity*'.¹⁹³

Taking into account the divisiveness in the internal dimension of EU asylum and migration policies, one would not expect unity in the external dimension. Nonetheless, in recent years and particularly following the refugee crisis, it appears that EU member states and institutions are converging in their efforts to prevent irregular migration. In other words, despite clashing interests with regard to a common approach to irregular migration, EU actors all support the same pragmatic strategy in terms of external migration policies, that is, offering benefits, notably funding, to third states, in exchange for a reduction of irregular migration fluxes. At the national level, there has also been a shift towards the tightening of asylum and migration policies, for instance with regard to family reunification, whereby member states are increasingly using such policies as tools to limit migration - resulting in a 'race to the bottom' driven by policy convergence. In practice, the EU has pragmatically (and temporarily) found unity at the expense of its principles, namely solidarity and respect for the human rights of asylum seekers and migrants.

¹⁹³ *In varietate concordia* (in English: United in diversity) is the official motto of the EU, adopted in 2000.

9.4 Benefits of the research

This study examined one of the most important and complex issues in the EU, dividing both states and institutions. Indeed, the question of how to deal with irregular migration has become one of the most contentious and emotive issues in the EU. Although a substantial body of literature has emerged on irregular migration in the EU since the 1990s, driven primarily by events on the ground, the impact of the diverse EU policy responses to irregular migration - both between and within the national and supranational levels - on EU migration governance remains an under-researched topic. To a large extent, this is due to the fact that most research has been law-based rather than politics-based. As a result, the dominant focus in the current state of knowledge in the field of EU asylum and migration policymaking is on the humanitarian dimension of migration, namely the adverse human rights impact of EU and national asylum and migration policies.

The study, therefore, filled this gap in the knowledge by identifying the problems in developing a successful migration policy in the context of governance issues. The research furthers knowledge on the impact of the diverse EU approaches to irregular migration on EU migration governance as well as on the relations between EU member states and institutions. It also furthers knowledge on how EU member states and institutions have dealt with the policy area of asylum and migration over the period 2013-2018 - that is, before, during and after the refugee crisis - through the lenses of the various theoretical approaches.

Consequently, it captures a specific period of time in EU migration governance - prior to, during and post the refugee crisis by carrying out a comprehensive analysis of the impact of EU and national initiatives on policy outcomes. Despite that considerable research has been devoted to the refugee crisis in terms of the

unfolding humanitarian crisis and the failure of the CEAS, rather less attention has been paid to how EU responses impacted on the relations between member states and institutions, and on EU migration governance.

The study, therefore, fills a vacuum in the literature on EU asylum and migration policymaking as well as EU policymaking in times of crisis. Finally, it sheds light on other aspects to the research question that fall outside the scope of this study. The following pages draw attention to some of these aspects, suggesting how they could open new avenues for research on EU asylum and migration policymaking in the context of irregular migration.

9.5 Recommendations for future research

The abundance of literature on irregular migration in the EU highlights the growing importance of this field of study and the amount of academic research it attracts. Yet despite advances in this area, there is a clear need to develop further research taking into account the changing character of the Union's diversity of interests (national and institutional) in the context of irregular migration - giving rise to diverse policy approaches, which in turn impact on policy outcomes, and hence on EU migration governance.

First, there is a need for more research on the rise of right-wing nationalism and populism across Europe, both at the national and EU level, and the related impact on EU asylum and migration policymaking. A number of aspects could be explored here. Future research could examine whether the 'securitisation of migration' is in effect a result of the rise of such parties or whether the increase in voter support is a result of dissatisfaction with how traditional mainstream parties have dealt with the issue of

irregular migration. As the study illustrated, most restrictive changes in national asylum and migration policies were implemented irrespective of the political coalition or party currently holding government office.

Research could also be carried out to gain more insight into the impact of irregular migration on right-wing nationalist and populist sentiments across EU member states. Related to this, another aspect of future research could explore how these sentiments are impacting on national policy approaches to irregular migration as well as whether change in public opinion towards irregular migration is also affecting changes in how traditional mainstream parties are approaching the phenomenon. It would also be interesting to carry out a comparative study involving voter share of right-wing nationalist and populist parties in the European elections of 2014 and 2019, and to explore the impact of such parties on EU asylum and migration policymaking during these two legislatures (i.e., covering the period 2014-2024).

The second avenue for future research involves the (slow and inefficient) EU decision-making processes in the area of asylum and migration. As this study has highlighted, EU policymaking tends to be slow-moving given the long and complex decision-making process. Consequently, policy outcomes do not reflect the change in EU actors' preferences due to this mismatch in timeframe between policy inputs and policy outputs, and hence fail to respond to the needs on the ground. Clearly, the current framework for policymaking in this field needs to be replaced with a new structure allowing for more flexibility and efficiency, in order to be able to swiftly develop policy responses, possibly even increasing unity in the EU decision-making process. There is, therefore, a need for new research exploring ways in which the policymaking process could be amended in order to improve and/or simplify it, thus making it more efficient. Given that currently decision-making in this field is dominated by member states in the Council, new research could assist EU

policymakers in finding solutions to overcome the influence of vested interests in asylum and migration policymaking. This would result in producing better policy outcomes to deal with the needs on the ground, thus enhancing the effectiveness of such policies.

Third, in view of the lack of solidarity and fair sharing of responsibility among EU member states with regard to 'burden sharing' of asylum seekers, particularly as regards the reform of the Dublin rules and the question of whether to abolish the 'state of first entry' rule, future research could concentrate on how the EU is to establish a (much-needed) permanent relocation mechanism to distribute asylum seekers more evenly across the EU. It is worth noting that at the time of writing, the irregular migration situation has intensified via the Western Mediterranean (to Spain) but remains somewhat constant via the Central Mediterranean route (to Italy and Malta). Nevertheless, the present state of affairs is characterised by deadlocked inter-institutional negotiations on the reform of the CEAS in addition to member state unwillingness to lift internal border controls.

One last avenue for future research concerns border closure in the Schengen area. Presently there is limited research on the economic and political consequences of border controls in the Schengen area and the extent to which Schengen is at risk. The borderless zone within the EU is one of the most, if not the most, tangible achievements of the European project. Although Schengen rules allow for the *temporary* reintroduction of border controls in the case of serious threat to national security, the outbreak of the refugee crisis in 2015 marked the first time they have been reinstated for such a long period. Indeed, member states' unwillingness to lift border controls (still in place at the time of writing), highlights the lack of solidarity and mutual trust among member states. Further research thus is needed to establish

whether the borderless territory in Europe has become an achievement of the past as well as the economic and political consequences of non-Schengen.

9.5.1 Current developments in the field

Before concluding this study I would like to point out that the EU is currently facing another crisis, that of the coronavirus pandemic. This crisis is giving rise to a similar response from EU member states as in the case of the refugee crisis where national interests are given precedence over common ones, thus highlighting lack of EU solidarity and unity. Moreover, the EU response to COVID-19 - including the closure of EU external borders, the imposition of travel bans by national authorities, and the reintroduction of internal border controls - is placing a greater strain on the founding pillars of free movement and border management (Montaldo, 2020). Some states - such as Austria, Germany and Sweden - have indicated that they will not be reopening Schengen borders before November 2021, stretching Schengen rules beyond their maximum duration.

Consequently, the EU's fragmented response to the coronavirus crisis is resulting in even more restrictive migration policies - namely border closures in most member states - making it even more difficult for potential asylum seekers to reach the EU. It has also resulted in a more inward-looking EU where member states' priority is on advancing national interests, rather than on human rights. Clearly, the EU response to the pandemic has exacerbated the drive towards the securitisation of migration across EU member states, leading to restrictions impeding access to asylum.

Furthermore, the coronavirus pandemic has exposed a deep divide in Europe, with EU member states arguing over how to tackle the economic fallout. In May 2020, a court ruling in Germany's constitutional court disputed the legitimacy of the European Central Bank's (ECB) public sector purchase programme, launched in 2015, possibly limiting the bank's strength in the future. Potentially more damaging, the ruling challenges the authority of the CJEU as the ultimate arbitrator in the Union. In other words, possibly, Courts in other member states could rule that their national central banks cannot participate in certain policies. The German ruling thus raises risks for the entire legal order in the EU (Chrysoloras 2020; Wolf 2020). Hence, as revealed in previous crises in the EU, the pandemic has exposed the inability (or unwillingness) of EU leaders to act cohesively in the face of a major crisis.

Another important development in the context of the research question concerns the 'new Pact on Migration and Asylum', presented by the European Commission in September 2020 as a 'fresh start for migration in Europe'.¹⁹⁴ The document outlines the objectives for EU policies in the area of asylum and migration until 2024. Yet disappointingly, rather than focusing on ensuring that asylum and migration policies are governed by the principle of solidarity and fair sharing of responsibility, the text consolidates the EU strategy of preventing irregular migration. This is most visible in the emphasis on enhancing the return of failed asylum seekers and strengthening the role of Frontex, particularly in return operations. The above mentioned issues, therefore, could open up new avenues that could be explored in future studies on EU policymaking in the context of irregular migration.

¹⁹⁴ EC 2020b, European Commission Press Release, 23 September 2020.

9.6 Concluding remarks

Irregular migration continues to be a very divisive issue on the EU political agenda. Given that politicians derive their legitimacy from national elections, the issue is approached from the perspective of domestic politics. European citizens vote for their governments, and it is representatives from these governments that form the JHA ministers that sit around the Council table governing asylum and migration. These governments are first and foremost accountable to the voters that elect them in their member state, and currently, these populations are becoming increasingly concerned with irregular migration. Despite the countless emergency EU summits, a widening gap has emerged between European ideals and European actions. The most striking example highlighted in this study has been the failed Commission relocation plans to ease pressure on frontline member states Italy and Greece during the peak of the refugee crisis, which resulted in increased polarisation among member states.

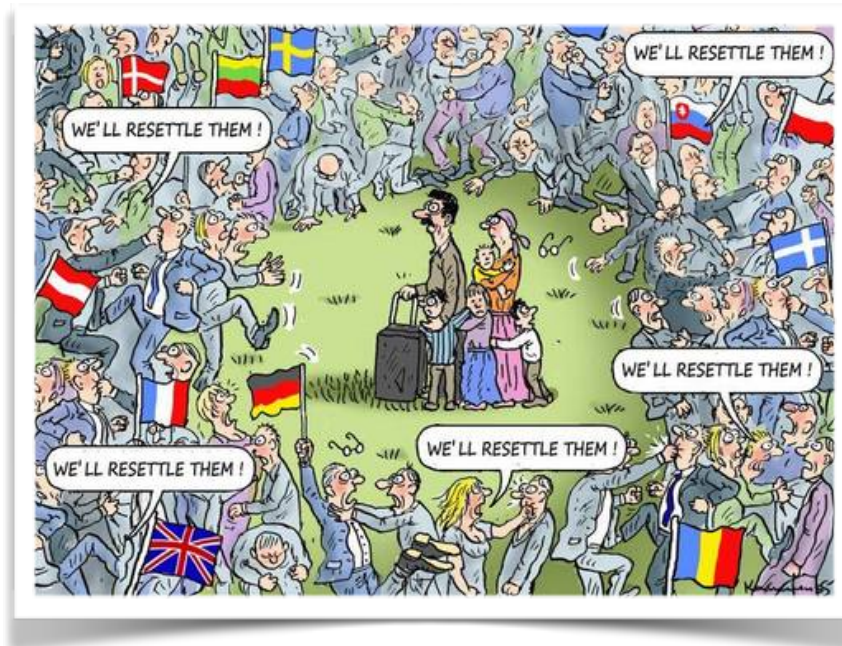


Figure 9.2: The failure of the EU relocation system (Source: Migszol, 2016).

The EU approach to the crisis brought to the fore the weaknesses of the asylum *acquis* and clashing interests of EU actors. Five years into the crisis, the EU is still stuck in a political impasse. Additionally, most measures - such as the creation of walls, fences, border closure and controls - besides being taken with the aim to satisfy public opinion, are contradicting European values and principles. The words of the former European Council President, Donald Tusk, following the informal meeting in Salzburg in September 2018 clearly highlight that the EU focus is on the 'securitisation of migration':

The migration debate showed that we may not agree on everything but **we agree on the main goal, which is stemming illegal migration to Europe.**¹⁹⁵

The challenges posed by irregular migration in the EU will likely persist in the foreseeable future. As a result, the EU will need to develop a long-term comprehensive strategy encompassing new instruments and mobilising the required resources. In turn, this could deepen European integration and have positive spillover effects in other fields. Nonetheless, this can only be achieved if EU actors overcome the cleavages identified in this study and show solidarity and unity in dealing with the phenomenon. Given the current political climate, it is unlikely that common positions will be found in the near future. In all probability, as the diverse EU policy approaches to irregular migration continue to create friction between EU actors, the future governance of migration will remain characterised by the EU's piecemeal approach, involving *ad hoc* initiatives, rather than a long-term coherent strategy. This inevitably raises the question: will the EU split further or will it manage to revitalise itself?

¹⁹⁵ Tusk quoted in European Council (2018).

Overall, three distinct scenarios emerge: (1) the pessimistic view, meaning that this state of affairs will lead to the disintegration of the EU, (2) the optimistic view, which implies that the EU will emerge even stronger than it was prior to the refugee crisis, or (3) the middle-way/more realistic scenario where the EU will ‘muddle through’ as it has in previous crises, which would also imply forgoing the development of a coherent, long-term strategy. I conclude this study with a famous quote from one of the most important novels of 20th-century Italian literature, ‘*Il Gattopardo*’,¹⁹⁶ in order to show my appreciation towards the Erasmus+ Programme for the enriching experience ‘*nel bel paese*’:

*Se vogliamo che tutto rimanga come è, bisogna che tutto cambi.*¹⁹⁷

In terms of the research question, this would suggest that the time has come for the EU to take a stand in developing a common approach to irregular migration. It can either resist the forces of change - such as increasing right-wing nationalism and populism as well as the move towards unilateral measures - and risk potential fragmentation of the European project, or it can come to terms with them - and build trust and solidarity among member states and institutions, and work towards the reform of the CEAS and the development of a common migration policy as part of a long-term comprehensive strategy. Therefore, the phrase ‘if we want things to stay as they are, things will have to change’ serves as a strong reminder that if the desired goal remains that of an ‘ever-closer Union’, this will require fundamental changes to the slow and complex decision-making process to better respond to the realities of migration pressures on the ground, and thus change the status quo.

¹⁹⁶ ‘*Il Gattopardo*’ (The Leopard) is a novel by Giuseppe Tomasi di Lampedusa that chronicles the changes in Sicilian life and society during the *Risorgimento* (Italian unification). Published posthumously in 1958, it became the top-selling novel in Italian history and is considered one of the most important novels in modern Italian literature.

¹⁹⁷ Tomasi di Lampedusa 1958, p. 40.

APPENDIX A

Consent for Participation in a Research Interview

PhD in International Relations

I agree to participate in a research project by Ms Nadia Petroni (483572M), PhD student in International Relations at the University of Malta. The purpose of this document is to specify the terms of my participation in the project through being interviewed.

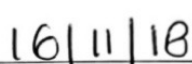
1. I have been given sufficient information about this research project. The purpose of my participation as an interviewee in this project has been explained to me and is clear.
2. My participation as an interviewee in this project is voluntary. There is no explicit or implicit coercion whatsoever to participate.
3. Participation involves being interviewed by Nadia Petroni. The interview will last approximately 30-45 minutes. I allow the researcher to take written notes during the interview.
4. I have the right not to answer any of the questions. I have the right to withdraw from the interview session at any time without prejudice.
5. I have been given the explicit guarantees that, if I wish so, the researcher will not identify me by name or function using information obtained from this interview, and that my confidentiality as a participant in this study will remain secure.
6. I have been given the guarantee that this research project has been reviewed and approved by the University of Malta Research Ethics Committee (UREC).
7. I have read and understood the points and statements of this form. I have had all my questions answered to my satisfaction, and I voluntarily agree to participate in this study.
8. I have been given a copy of this consent form co-signed by the interviewer.

Participant's Signature

Date



Researcher's Signature



Date

Supervisor's Signature

Date

APPENDIX B

Voting on asylum and migration issues in the European Parliament (2014-2018)

Vote ID	Date of vote	Subject
269	17/12/2014	Situation in the Mediterranean and the need for a holistic EU approach to migration - Motion for resolution: <i>Paragraph 12</i>
759	29/04/2015	Report of the extraordinary European Council meeting (23 April 2015) - The latest tragedies in the Mediterranean and EU migration and asylum policies - Joint motion for resolution: <i>Paragraph 2</i> , amendment 6
760	29/04/2015	<i>Paragraph 4</i> , amendment 7
761	29/04/2015	<i>Paragraph 4</i> , amendment 2
762	29/04/2015	<i>Paragraph 4</i> , amendment 11
763	29/04/2015	<i>Paragraph 6</i> , amendment 3
764	29/04/2015	<i>Paragraph 6</i> , amendment 4
765	29/04/2015	<i>Paragraph 8</i>
766	29/04/2015	<i>Paragraph 9</i> , amendment 8
767	29/04/2015	<i>Paragraph 10</i> , amendment 9
768	29/04/2015	<i>Paragraph 10</i> , amendment 1
769	29/04/2015	<i>Paragraph 10</i> , amendment 2
770	29/04/2015	<i>Paragraph 14</i> , amendment 10
771	29/04/2015	<i>Recital G</i> , amendment 1
772	29/04/2015	<i>Recital G</i> , amendment 5
773	29/04/2015	<i>Resolution</i>
1407	09/09/2015	Provisional measures in the area of international protection for the benefit of Italy and Greece - Draft legislative resolution: <i>Article 2, paragraph 1, after point f</i> , amendment 27 - consultation
1408	09/09/2015	<i>Article 5, after paragraph 1</i> , amendment 44/1 - consultation
1409	09/09/2015	<i>After article 11</i> , amendment 42 - consultation
1410	09/09/2015	<i>After annex II</i> , amendment 43 - consultation
1411	09/09/2015	<i>After recital 4</i> , amendment 3 - consultation
1412	09/09/2015	<i>Recital 5</i> , amendment 4 - consultation
1413	09/09/2015	<i>After recital 7</i> , amendment 6 - consultation
1414	09/09/2015	<i>After recital 13</i> , amendment 9 - consultation
1415	09/09/2015	<i>Recital 19</i> , amendment 13 - consultation
1416	09/09/2015	<i>After recital 20</i> , amendment 14 - consultation
1417	09/09/2015	<i>Recital 21</i> , amendment 15 - consultation
1418	09/09/2015	<i>After recital 21</i> , amendment 16 - consultation
1419	09/09/2015	<i>Recital 26</i> , amendment 18 - consultation
1420	09/09/2015	<i>After recital 26</i> , amendment 19 - consultation
1421	09/09/2015	<i>Recital 30</i> , amendment 22 - consultation
1422	09/09/2015	<i>After recital 30</i> , amendment 23 - consultation
1423	09/09/2015	<i>Vote: legislative resolution</i> - consultation

Vote ID	Date of vote	Subject
2133	24/11/2015	Repealing certain acts from the Schengen acquis - Draft legislative resolution: <i>single vote</i> - ordinary legislative procedure, first reading
2134	24/11/2015	Repealing certain acts from the Schengen acquis in the field of police cooperation and judicial cooperation in criminal matters - Draft legislative resolution: <i>single vote</i> - ordinary legislative procedure, first reading
2309	02/12/2015	Special report of the European Ombudsman in own-initiative inquiry concerning Frontex - Motion for resolution: <i>AMR</i> , amendment 1
2310	02/12/2015	Special report of the European Ombudsman in own-initiative inquiry concerning Frontex - Motion for resolution: <i>vote: (LIBE/PETI) committee resolution</i>
2344	15/12/2015	Arrangement with the Swiss Confederation on the modalities of its participation in the European Asylum Support Office - Draft legislative resolution: <i>single vote</i> - consent
2913	12/04/2016	The situation in the Mediterranean and the need for a holistic EU approach to migration - Motion for resolution: <i>After paragraph 3</i> , amendment 1
2914	12/04/2016	<i>Paragraph 4</i> , amendment 2
2915	12/04/2016	<i>Paragraph 13</i> , amendment 3
2916	12/04/2016	<i>Paragraph 23</i>
2917	12/04/2016	<i>Paragraph 38</i>
2918	12/04/2016	<i>Paragraph 46</i>
2919	12/04/2016	<i>After paragraph 48</i> , amendment 27
2920	12/04/2016	<i>After paragraph 63</i> , amendment 4
2921	12/04/2016	<i>After paragraph 64</i> , amendment 5
2922	12/04/2016	<i>Paragraph 75</i> , amendment 6
2923	12/04/2016	<i>Paragraph 80</i>
2924	12/04/2016	<i>After paragraph 89</i> , amendment 7
2925	12/04/2016	<i>After paragraph 97</i> , amendment 34
2926	12/04/2016	<i>After paragraph 97</i> , amendment 35
2927	12/04/2016	<i>After paragraph 104</i> , amendment 8
2928	12/04/2016	<i>After paragraph 115</i> , amendment 38
2929	12/04/2016	<i>Paragraph 123</i>
2930	12/04/2016	<i>After recital R</i> , amendment 21
2931	12/04/2016	<i>After recital U</i> , amendment 22
2932	12/04/2016	<i>After recital AA</i> , amendment 23
2933	12/04/2016	<i>Resolution</i>
3319	26/05/2016	Provisional measures in the area of international protection for the benefit of Sweden - Draft legislative resolution: <i>Proposal to reject the Commission proposal</i> , amendment 4 - consultation
3320	26/05/2016	<i>Legislative resolution</i> - consultation
3661	06/07/2016	European Border and Coast Guard - Draft legislative resolution: <i>Proposal to reject the Commission proposal</i> , amendment 178 - ordinary legislative procedure, first reading
3662	06/07/2016	<i>Legislative resolution</i> - ordinary legislative procedure, first reading
3922	15/09/2016	Travel document for the return of illegally staying third-country nationals - Draft legislative resolution: <i>vote: legislative resolution</i> - ordinary legislative procedure, first reading

Vote ID	Date of vote	Subject
3923	15/09/2016	Asylum: provisional measures in favour of Italy and Greece - Draft legislative resolution: <i>vote: legislative resolution</i> - consultation
4908	16/02/2017	Reinforcement of checks against relevant databases at external borders - Draft legislative resolution: <i>Provisional agreement</i> , amendment 30 - ordinary legislative procedure, first reading
5169	05/04/2017	Application of the provisions of the Schengen acquis relating to the Schengen Information System in Croatia - Draft legislative resolution: <i>single vote</i> - consultation
6037	25/10/2017	Establishing an Entry/Exit System (EES) to register entry and exit data of third country nationals crossing the EU external borders - Draft legislative resolution: <i>Provisional agreement</i> , amendment 219 - ordinary legislative procedure, first reading
6038	25/10/2017	Amendment of the Schengen Borders Code as regards the use of the Entry/ Exit System - Draft legislative resolution: <i>Provisional agreement</i> , amendment 35 - ordinary legislative procedure, first reading
6153	16/11/2017	Establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast) - Draft legislative resolution: <i>Vote: decision</i>

Results of votes on asylum and migration issues in the European Parliament
(2014-2018) (for/against/abstentions)

Vote ID	ALDE	ECR	EFDD	ENF	EPP	Greens/ EFA	GUE- NGL	Non- Inscrits	S&D
269	65/1/0	63/1/0	16/26/0	no vote	196/2/1	48/0/0	45/0/2	5/39/6	175/0/0
759	1/63/0	1/62/0	18/6/7	no vote	6/191/1	47/0/0	50/0/0	2/43/0	5/177/1
760	0/64/0	1/63/0	18/5/8	no vote	0/203/0	0/0/47	51/0/0	2/43/0	4/176/0
761	51/7/5	3/61/0	18/10/3	no vote	10/194/0	47/0/0	51/0/0	1/42/2	176/2/3
762	3/60/1	0/60/1	19/11/1	no vote	6/191/1	47/0/0	0/7/42	1/42/0	179/2/1
763	1/62/1	1/63/0	18/12/0	no vote	1/200/3	46/0/0	46/0/3	2/37/6	72/48/60
764	51/7/3	1/63/0	17/13/0	no vote	5/197/1	48/0/0	46/0/2	3/41/0	104/24/54
765	46/16/2	1/63/0	17/14/0	no vote	107/91/6	46/0/2	41/4/6	4/27/4	176/4/1
766	44/17/3	2/61/0	24/4/2	no vote	3/200/1	48/0/0	48/2/1	1/42/2	171/6/4
767	3/59/1	3/59/0	17/5/7	no vote	4/197/1	48/0/0	47/2/0	4/39/2	14/159/4
768	54/9/1	59/5/0	20/1/19	no vote	196/3/4	47/0/0	7/41/2	8/35/2	177/5/0
769	49/14/1	1/16/1	17/11/2	no vote	136/63/3	48/0/0	43/0/5	1/42/2	177/3/0
770	2/61/1	1/63/0	18/5/8	no vote	1/205/0	47/0/1	49/0/2	1/42/2	4/174/1
771	1/62/1	1/63/0	18/13/0	no vote	3/200/2	48/0/0	51/0/0	2/43/0	64/75/42
772	0/63/1	1/61/0	18/5/8	no vote	2/199/3	48/0/0	51/0/0	3/42/0	102/25/54
773	49/10/2	3/54/4	18/9/3	no vote	158/2/41	46/0/0	0/11/38	1/44/0	174/0/5
1407	58/2/0	2/64/0	17/25/1	5/34/0	181/15/6	47/0/0	45/1/0	0/7/2	177/0/4
1408	7/55/0	29/7/30	22/20/1	37/2/0	22/182/0	0/48/0	10/34/2	5/2/2	4/172/4
1409	55/6/0	7/60/0	1/39/2	28/9/2	157/39/5	44/2/0	44/2/0	1/7/1	175/4/0
1410	56/3/1	3/57/1	17/24/1	0/37/2	181/12/5	45/0/0	43/2/0	0/9/0	176/1/3
1411	51/8/3	13/54/0	17/26/0	0/39/0	139/55/8	47/0/0	42/2/1	0/9/0	162/11/5
1412	50/9/1	13/54/0	17/7/19	5/33/1	145/49/6	48/0/0	45/0/1	0/8/0	166/7/9
1413	59/0/1	16/49/0	20/2/21	5/33/1	199/1/2	48/0/0	46/0/0	2/6/1	179/0/0
1414	58/4/0	6/60/1	17/25/1	0/38/1	203/0/0	47/1/0	42/0/4	0/8/1	181/0/1
1415	54/6/2	12/54/1	1/5/36	0/38/1	170/30/2	48/0/0	44/2/0	0/8/1	173/4/3
1416	55/7/0	6/59/0	17/25/1	5/34/0	161/39/4	48/0/0	43/3/0	2/6/1	174/4/3
1417	56/5/0	11/55/0	18/5/20	0/39/0	193/6/0	48/0/0	44/2/0	2/6/1	176/0/1
1418	59/0/3	7/51/8	16/24/1	7/32/0	193/5/4	48/0/0	42/0/4	2/6/1	178/0/1
1419	58/2/2	3/63/1	16/24/3	5/30/2	186/16/2	47/0/0	43/2/1	0/8/1	175/0/4
1420	58/2/2	3/61/2	16/24/3	5/32/2	182/11/8	47/0/0	43/21	0/9/0	174/0/8
1421	58/2/1	3/61/2	17/25/1	5/33/0	180/11/9	48/0/0	42/2/0	2/6/1	173/4/4
1422	52/3/6	3/63/1	16/25/2	0/39/0	191/2/9	46/0/0	45/0/0	1/8/0	177/0/4
1423	51/7/4	9/58/0	17/25/1	0/37/1	158/18/26	48/0/0	42/2/2	0/8/1	173/3/2
2133	62/0/0	44/0/18	42/0/2	5/5/25	190/0/0	44/0/0	40/2/4	2/3/7	171/0/0

Vote ID	ALDE	ECR	EFDD	ENF	EPP	Greens/ EFA	GUE- NGL	Non- Inscrits	S&D
2134	65/0/0	44/0/18	42/0/2	5/5/25	198/0/0	44/0/0	43/1/3	3/2/7	173/0/0
2309	2/59/0	6/56/1	17/17/0	29/0/0	3/188/0	0/41/0	0/41/2	7/1/1	6/162/0
2310	61/0/0	3/59/1	19/15/0	0/29/0	185/1/1	41/0/0	12/1/30	0/9/0	167/0/1
2344	54/0/0	42/0/4	12/19/2	0/22/7	174/0/0	32/0/0	36/0/0	2/8/1	153/0/0
2913	0/64/2	12/51/7	22/15/1	35/0/0	7/199/1	0/46/0	0/49/0	12/2/1	0/186/0
2914	0/64/2	6/5/58	22/15/1	34/0/2	1/202/3	0/45/0	0/48/0	10/2/3	2/180/2
2915	0/63/3	4/10/57	22/15/2	36/0/0	0/207/0	1/44/0	0/49/0	9/1/15	1/185/0
2916	52/8/7	2/69/0	15/23/0	0/36/0	131/69/5	46/0/0	39/6/4	0/14/1	157/8/21
2917	58/7/2	4/65/3	15/23/0	0/36/0	142/41/23	45/0/0	38/7/4	0/15/0	154/7/25
2918	61/4/2	8/62/2	15/23/0	0/36/0	198/2/5	47/0/0	41/0/8	2/12/1	183/0/3
2919	9/3/54	1/68/2	15/6/17	0/36/0	4/198/5	47/0/0	48/1/0	1/14/0	32/150/1
2920	0/65/2	4/27/21	22/15/1	35/1/0	0/206/0	0/47/0	0/48/1	9/1/5	2/184/0
2921	0/65/2	3/68/1	21/16/1	36/0/0	0/207/0	0/47/0	1/48/0	11/3/1	1/185/0
2922	1/65/1	4/62/5	22/15/1	35/0/0	10/193/3	0/47/0	0/47/2	12/2/1	2/182/2
2923	63/1/1	22/13/37	0/38/0	0/36/0	188/12/7	47/0/0	35/1/13	0/12/3	185/0/1
2924	0/66/1	3/64/4	22/15/1	36/0/0	1/203/3	0/47/0	1/45/3	6/6/3	1/184/1
2925	11/5/51	7/64/1	16/4/18	0/32/4	3/200/4	47/0/0	49/0/0	2/13/0	35/141/8
2926	4/50/11	0/72/0	15/21/1	0/36/0	1/203/0	47/0/0	44/0/4	2/11/2	18/163/4
2927	3/63/1	6/63/3	22/16/0	36/0/0	6/192/8	0/47/0	1/46/2	8/6/1	0/186/0
2928	4/8/55	0/71/1	15/18/5	0/36/0	1/205/1	47/0/0	48/0/1	0/14/1	22/153/9
2929	65/1/1	4/67/0	16/20/2	0/36/0	163/37/6	47/0/0	42/6/1	1/14/0	183/0/3
2930	9/11/47	1/70/1	15/22/1	0/36/0	3/202/2	47/0/0	47/0/2	1/14/0	18/150/16
2931	10/9/48	1/70/1	18/16/4	21/15/0	0/200/6	47/0/0	48/0/1	7/8/0	12/156/15
2932	64/1/2	66/6/0	18/2/17	5/30/1	203/2/2	47/0/0	49/0/0	4/8/3	180/1/6
2933	56/7/4	2/68/2	15/23/0	0/36/0	159/33/14	46/0/1	7/20/22	0/15/0	174/4/9
3319	45/9/6	2/29/33	16/18/0	5/25/5	1/186/0	38/0/0	41/2/0	6/5/1	16/136/3
3320	14/40/4	28/3/34	16/20/0	0/29/6	187/3/0	0/39/0	1/44/0	2/9/1	148/3/5
3661	0/67/0	2/59/3	44/0/0	34/0/0	0/205/0	47/0/0	44/1/7	12/2/0	5/177/0
3662	63/2/3	39/3/23	0/44/0	0/29/5	202/2/1	1/44/1	0/44/8	2/12/1	175/1/6
3922	59/0/0	52/0/15	21/0/15	0/21/12	184/0/0	0/44/1	5/39/5	3/7/2	170/1/0
3923	51/4/5	6/41/20	17/19/0	0/33/0	149/19/14	44/0/0	43/3/3	0/9/3	160/3/5
4908	60/0/0	48/0/11	18/0/1	6/6/24	186/0/0	3/39/0	2/42/0	8/5/1	138/28/5
5169	65/0/0	66/1/10	19/20/0	2/31/2	204/0/0	46/0/0	38/1/8	7/11/0	173/0/0
6037	46/0/11	51/1/15	16/19/0	4/22/7	192/0/0	1/43/0	3/42/1	7/9/1	157/3/15
6038	57/0/1	48/1/17	14/18/3	4/23/6	193/1/0	2/42/0	3/41/2	5/10/2	170/1/1
6153	49/5/3	4/56/1	0/33/0	0/27/6	122/30/25	36/0/0	35/2/2	0/15/2	144/7/5

Bibliography

- ABIRI, E. (2000) The Changing praxis of 'generosity': Swedish Refugee Policy during the 1990s, *Journal of Refugee Studies*, 13(1), pp. 11-28.
- ADITUS (2020) Migrants quarantined on a ship: our views, 10 August. Available from: <https://aditus.org.mt/migrants-quarantined-on-a-ship-our-views/#.YHGyUS1h3oy> [Accessed 10 April 2021].
- ADLER, E. (1997) Seizing the Middle Ground: Constructivism in World Politics, *European Journal of International Relations*, 3 (3), pp. 319-363.
- ADLER-NISSEN, R. (2008) The Diplomacy of Opting Out: A Bourdieudian Approach to National Integration Strategies, *Journal of Common Market Studies*, 46 (3), pp. 663-684.
- ADST, Association for Diplomatic Studies & Training (2016) How Did We Get Here? A Look Back at the Creation of the European Union, 22 June. Available from: <https://adst.org/2016/06/get-look-back-creation-european-union/> [Accessed 14 June 2018].
- AI, Amnesty International (2017) EU-Turkey Deal: A shameful stain on the collective conscience of Europe, 17 March. Available from: <https://www.amnesty.org/en/latest/news/2017/03/eu-turkey-deal-a-shameful-stain-on-the-collective-conscience-of-europe/> [Accessed 28 October 2018].
- AIDA, Asylum Information Database (2014a) Denmark suspends returns of asylum seekers to Bulgaria under the Dublin Regulation, 7 February. Available from: <http://www.asylumineurope.org/news/25-05-2017/denmark-suspends-returns-asylum-seekers-bulgaria-under-dublin-regulation> [Accessed 18 July 2016].
- AIDA, Asylum Information Database (2014b) Belgium temporarily suspends Dublin transfers to Bulgaria, 21 February. Available from: <http://www.asylumineurope.org/news/02-03-2017/belgium-temporarily-suspends-dublin-transfers-bulgaria> [Accessed 18 July 2016].
- AIDA, Asylum Information Database (2016a) Asylum on the Clock? Duration and review of international protection status in Europe, June. Available from: <https://www.ecre.org/wp-content/uploads/2016/07/AIDA-Briefing-Asylum-on-the-Clock-duration-and-review-of-international-protection-status-in-Europe-June-2016.pdf> [Accessed 30 June 2018].

- AIDA, Asylum Information Database (2016b) The length of asylum procedures in Europe, October. Available from: <https://www.ecre.org/wp-content/uploads/2016/10/AIDA-Brief-DurationProcedures.pdf> [Accessed 2 July 2018].
- AIDA, Asylum Information Database (2016c) Refugee rights subsiding? Europe's two-tier protection regime and its effect on the rights of beneficiaries, December. Available from: <https://www.refworld.org/pdfid/58e795c94.pdf> [Accessed 14 July 2018].
- AIDA, Asylum Information Database (2017) The detention of asylum seekers in Europe: Constructed on shaky ground? June. Available from: https://www.ecre.org/wp-content/uploads/2017/06/AIDA-Brief_Detention-1.pdf [Accessed 2 October 2018].
- ALGAN, Y., GURIEV, S., PAPAIOANNOU, E. and PASSARI, E. (2017) The European Trust Crisis and the Rise of Populism, Brookings Papers on Economic Activity (BPEA), 7 September, pp. 309-400. Available from: <https://www.brookings.edu/wp-content/uploads/2018/02/algantextfa17bpea.pdf> [Accessed 9 October 2018].
- AMBROSINI, M. (2018) *Irregular Immigration in Southern Europe: Actors, Dynamics and Governance*. Cham: Palgrave Macmillan.
- ANGELONI, S. and SPANO, F. M. (2018) Asylum Seekers in Europe: Issues and Solutions, *Journal of International Migration and Integration*, 19 (2), pp.473-495.
- ANGENENDT, S. (ed.) (1999) *Asylum and Migration Policies in the European Union*. Research Institute of the German Society for Foreign Affairs (DGAP): Europa Union Verlag.
- ANGENENDT, S. (2008) Irregular Migration as an International Problem: Risks and Options, SWP Research Paper 4, German Institute for International and Security Affairs, July. Available from: https://www.swp-berlin.org/fileadmin/contents/products/research_papers/2008_RP04_adt_ks.pdf [Accessed 23 March 2016].
- ARDITTIS, S. (2016) Flexible solidarity: Rethinking the EU's refugee relocation system after Bratislava, European Politics and Policy (EUROPP) blog, London School of Economics and Political Science (LSE), 21 September. Available from: <http://bit.ly/2cCR3Yo> [Accessed 26 September 2016].
- AUTOR, D., DORN, D., HANSON, G. and MAJLESI, K. (2017) Importing Political Polarization? The Electoral Consequences of Rising Trade Exposure, NBER Working Paper 22637, December. Available from: <https://www.nber.org/papers/w22637.pdf> [Accessed 13 October 2018].

- AWESTI, A. (2007) The European Union, New Institutionalism and Types of Multi-Level Governance, *Political Perspectives*, 2 (8), pp. 1-23. Available from: <http://www.politicalperspectives.org.uk/wp-content/uploads/2010/08/EPRU-2007-S1-08.pdf> [Accessed 4 May 2016].
- AXELROD, R. M. (1970) *Conflict of interest: A theory of divergent goals with applications to politics*. Chicago, IL: Markham Publishing.
- AZAROV, V. (2009) ECJ Elgafaji judgment and the 'exceptional objectivity' test for refugee protection, *International Law Observer*, 21 February. Available from: <http://www.internationallawobserver.eu/2009/02/21/the-ecj-elgafaji-ruling-and-the-exceptional-objectivity-test-for-refugee-protection/> [Accessed 4 June 2017].
- BACZYNSKA, G. (2018) Italy's anti-migrant stance puts EU Mediterranean mission at risk, *Reuters*, 28 August. Available from: <https://www.reuters.com/article/us-europe-migrants-italy-eu/italys-anti-migrant-stance-puts-eu-mediterranean-mission-at-risk-idUSKCN1LD15I> [Accessed 5 September 2018].
- BALCER, A. (2017) Beneath the surface of illiberalism: The recurring temptation of 'national democracy' in Poland and Hungary - with lessons for Europe, Heinrich Böll Stiftung, 7 February. Available from: <https://pl.boell.org/en/2017/02/07/beneath-surface-illiberalism-recurring-temptation-national-democracy-poland-and-hungary> [Accessed 29 April 2018].
- BALDACCHINO, G. (2014) Islands and the offshoring possibilities and strategies of contemporary states: insights on/for the migration phenomenon on Europe's southern flank, *Island Studies Journal*, 9 (1), pp. 57-68.
- BALDACCHINO, G. (2018) Book review: small states and shelter theory: Iceland's external affairs, by THORHALLSSON, B., (ed.) *Small States & Territories*, 1 (2), pp. 199-200.
- BALDWIN-EDWARDS, M. (1997) The Emerging European Immigration Regime: Some Reflections on Implications for Southern Europe, *Journal of Common Market Studies*, 35 (4), pp. 497-519.
- BALDWIN-EDWARDS, M. (2012) The Southern European 'model of immigration': A sceptical view. In: OKOLSKI, M., (ed.) *European Immigrations: Trends, Structures and Policy Implications*. Amsterdam: Amsterdam University Press, pp. 149-158.
- BALDWIN-EDWARDS, M., BLITZ, B. K. and CRAWLEY, H. (2018) The politics of evidence-based policy in Europe's 'migration crisis', *Journal of Ethnic and*

Migration Studies, Special Issue: Against the evidence: Europe's migration challenge and the failure to protect, 30 May, pp. 1-17.

BALDWIN-EDWARDS, M. and LUTTERBECK, D. (2018) Coping with the Libyan migration crisis, *Journal of Ethnic and Migration Studies*, Special Issue: Against the evidence: Europe's migration challenge and the failure to protect, 29 May, pp. 1-17.

BANULESCU-BOGDAN, N. and FRATZKE, S. (2015) Europe's Migration Crisis in Context: Why Now and What Next? Migration Policy Institute (MPI), 24 September.

BARBAGLI, M. and SCHMOLL, C. (2011) *Stranieri in Italia: La generazione dopo*. Bologna: Il Mulino.

BARBOU DES PLACES, S. (2003) Evolution of Asylum Legislation in the EU: Insights from Regulatory Competition Theory, European University Institute (EUI) Working Paper No. 16. Available from: http://cadmus.eui.eu/bitstream/handle/1814/1858/03_16.pdf;sequence=1 [Accessed 10 June 2017].

BARKER, C., PISTRANG, N. and ELLIOTT, R. (2002) *Research methods in clinical psychology: An introduction for students and practitioners*. 2nd ed. Chichester: John Wiley & Sons.

BARONE, G., D'IGNAZIO, A., de BLASIO, G. and NATICCHIONI, P. (2016) Mr. Rossi, Mr. Hu and politics: The role of immigration in shaping natives' voting behavior, *Journal of Public Economics*, 136, pp. 1-13.

BARTHEL, F. and NEUMAYER, E. (2015) Spatial Dependence in Asylum Migration, *Journal of Ethnic and Migration Studies*, 41 (7), pp. 1131-1151.

BAUBOCK, R. (2018) Refugee Protection and Burden-Sharing in the European Union, *Journal of Common Market Studies*, Special Issue: EU Refugee Policies and Politics in Times of Crisis, 56 (1), pp. 141-156.

BAUMAN, Z. (1998) *Globalisation: The Human Consequences*. New York, NY: Columbia University Press.

BAUMGARTNER, F. and JONES, B. (1993) *Agendas and Instability in American Politics*. Chicago: Chicago University Press.

BAUN, M. and MAREK, D. (2014) *Cohesion Policy in the European Union*. London, New York: Palgrave Macmillan.

- BAX, D. (2017) Divided continent, *D+C Development and Cooperation*, 19 January. Available from: <https://www.dandc.eu/en/article/rise-right-wing-populism-throwing-europe-balance> [Accessed 18 May 2018].
- BAXTER, P. and JACK, S. (2008) Qualitative Case Study Methodology: Study Design and Implementation for Novice Researchers, *The Qualitative Report*, 13 (4), pp. 544-559.
- BBC News (2011) EU moves to tighten border controls in Schengen zone, 4 May. Available from: <http://www.bbc.com/news/world-europe-13277695> [Accessed 12 November 2016].
- BBC News (2017) German election: How right-wing is nationalist AfD? 13 October. Available from: <https://www.bbc.com/news/world-europe-37274201> [Accessed 8 June 2018].
- BBC News (2020) Coronavirus: Malta says 65 rescued migrants test positive, 29 July. Available from: <https://www.bbc.com/news/world-europe-53576765> [Accessed 10 April 2021].
- BECKER, S. O. and FETZER, T. (2017) Does Migration Cause Extreme Voting? Competitive Advantage in the Global Economy (CAGE) Online Working Paper Series 306, 23 April. Available from: [http://www.ceistorvergata.it/public/CEIS/file/seminari/2017/Becker\(1\).pdf](http://www.ceistorvergata.it/public/CEIS/file/seminari/2017/Becker(1).pdf) [Accessed 9 October 2018].
- BECKER, S. O., FETZER, T. and NOVY, D. (2017) Who Voted for Brexit? A Comprehensive District-Level Analysis, *Economic Policy*, 32 (92), pp. 601-650.
- BEESON, M. and DIEZ, T. (2018) Responding to crises: Europe and Southeast Asia, *Asia Europe Journal*, 16 (2), pp. 115-124.
- BEIRENS, H. (2018) Cracked Foundation, Uncertain Future: Structural Weaknesses in the Common European Asylum System, Migration Policy Institute (MPI) and Bertelsmann Stiftung Report, March. Available from: <https://www.migrationpolicy.org/research/structural-weaknesses-common-european-asylum-system> [Accessed 11 June 2018].
- BERGMANN, J. and NIEMANN, A. (2015) Theories of European Integration and their Contribution to the Study of European Foreign Policy. In: JORGENSEN, K. E. et al. (eds.) *The SAGE Handbook of European Foreign Policy*. London: Sage Publications, pp.166-182.

- BERMAN, P. (2012) From Laeken to Lisbon: The Origins and Negotiation of the Lisbon Treaty. In: BIONDI, A. et al. (eds.) *EU law after Lisbon*. Oxford: Oxford University Press, pp. 3-39.
- BERNARDIE-TAHIR, N. and SCHMOLL, C. (2014a) The uses of islands in the production of the southern European migration border, *Island Studies Journal*, 9 (1), pp. 3-6.
- BERNARDIE-TAHIR, N. and SCHMOLL, C. (2014b) Islands and Undesirables: Introduction to the Special Issue on Irregular Migration in Southern European Islands, *Journal of Immigrant and Refugee Studies*, 12 (2), pp. 87-102.
- BERNARDIE-TAHIR, N. and SCHMOLL, C. (2014c) Opening up the island: a 'counter-islandness' approach to migration in Malta, *Island Studies Journal*, 9 (1), 43-56.
- BERNHARD, L. and KAUFMANN, D. (2018) Coping with the asylum challenge: tightening and streamlining policies in Western Europe, *Journal of Ethnic and Migration Studies*, 44 (15), pp. 2506-2523.
- BEST, E. (2016) *Understanding EU Decision-Making*. Cham: Springer.
- BETTS, A. (2009) *Forced Migration and Global Politics*. Chichester: John Wiley & Sons.
- BETTS, A. (2016) The Elephant in the Room: Islam and the Crisis of Liberal Values in Europe, *Foreign Affairs*, 2 February.
- BETTS, A., COSTELLO, C. and ZAUN, N. (2017) A Fair Share: Refugees and Responsibility-Sharing, Delmi report 2017:10. Available from: https://mafiadoc.com/report_5c9fe04d097c477d4c8b45e1.html [Accessed 13 September 2018].
- BICCHI, F. (2001) European Security Perceptions vis-à-vis the Mediterranean: Theoretical and Empirical Considerations from the 1990s, Jean Monnet Working Paper in Comparative and International Politics No. 39, Department of Political Studies, University of Catania. Available from: <http://aei.pitt.edu/393/1/jmwp39.htm> [Accessed 27 November 2016].
- BIERMANN, F., GUERIN, N., JAGDHUBER, S., RITTBERGER, B. and WEISS, M. (2017) Political (non-)reform in the euro crisis and the refugee crisis: a liberal intergovernmentalist explanation, *Journal of European Public Policy*, 26 (2), pp. 246-266.

- BIGO, D. (2001) Migration and Security. In: GUIRAUDON, V. and JOPPKE, C., (eds.) *Controlling a New Migration World*. London: Routledge, pp. 121-149.
- BIJSMANS, P. (2018) Brexit and the 2019 European Elections, *E-International Relations*, 9 November. Available from: <https://www.e-ir.info/pdf/76330> [Accessed 27 November 2018].
- BLACK, R. (1993) Refugees and Asylum Seekers in Western Europe: New Challenges. In: BLACK, R. and ROBINSON, V., (eds.) *Geography and Refugees: Patterns and Processes of Change*, London: Belhaven Press, pp. 87-103.
- BLAIR INSTITUTE (2017) European Populism: Trends, Threats and Future Prospects, Tony Blair Institute for Global Change, Report, 29 December. Available from: <https://institute.global/policy/european-populism-trends-threats-and-future-prospects> [Accessed 1 July 2018].
- BLAXTER, L., HUGHES, C. and TIGHT, M. (2010) *How to research*. 4th ed. Maidenhead: McGraw-Hill/Open University Press.
- BOCCARDI, I. (2002) *Europe and Refugees: Towards an EU Asylum Policy*. The Hague: Kluwer Law International.
- BOCKER, A and HAVINGA, T. (1998) Asylum Applications in the European Union: Patterns and Trends and the Effects of Policy Measures, *Journal of Refugee Studies*, 11 (3), pp. 245-267.
- BOHM, D. (1983) *Wholeness and the Implicate Order*. London, NY: Ark.
- BOHMER, M., LIMBERS, J., PIVAC, A. and WEINELT, H. (2016) Departure from the Schengen Agreement: Macroeconomic impacts on Germany and the countries of the European Union, Global Economic Dynamics (GED) Study, Bertelsmann Stiftung. Available from: https://www.bertelsmann-stiftung.de/fileadmin/files/BSt/Publikationen/GrauePublikationen/NW_Departure_from_Schengen.pdf [Accessed 15 July 2018].
- BONIFAZI, C. (2008) Evolution of regional patterns of international migration in Europe. In: BONIFAZI, C. et al. (eds.) *International Migration in Europe: New Trends and New Methods of Analysis*, IMISCOE research. Amsterdam: Amsterdam University Press, pp. 107-128.
- BORG, B. (2018) Italy and Malta's migration stand-off: your questions answered: What has prompted the impasse, and who is right according to the law? *Times of Malta*, 11 June. Available from: <https://timesofmalta.com/articles/view/italy-and->

[maltas-migration-stand-off-your-questions-answered.681486](#) [Accessed 18 November 2018].

- BORRAS, S. (2007) Governance Networks in the EU: the Case of GMO Policy. In: MARCUSSEN, M. and TORFING, J., (eds.) *Democratic Network Governance in Europe*. Basingstoke: Palgrave Macmillan, pp. 232-251.
- BORZEL, T. A. (2018) Governance Approaches to European Integration, Kolleg-Forschergruppe (KFG) Working Paper Series, No. 84, May, 'The Transformative Power of Europe', Freie Universität Berlin. Available from: https://www.polsoz.fu-berlin.de/en/v/transformeurope/publications/working_paper/wp/wp84/WP_84_Boerzel_WEB.pdf [Accessed 13 August 2018].
- BORZEL, T. A. and RISSE, T. (2003) Conceptualizing the Domestic Impact of Europe. In: FEATHERSTONE, K. and RADAELLI, C. M., (eds.) *The Politics of Europeanization*. Oxford: Oxford University Press, pp. 57-82.
- BOSSWICK, W. (2000) Development of Asylum Policy in Germany, *Journal of Refugee Studies*, 13 (1), pp. 43-60.
- BOSWELL, C. (2005) Migration in Europe, Paper prepared for the Policy Analysis and Research Programme of the Global Commission on International Migration (GCIM), September. Available from: https://www.iom.int/jahia/webdav/site/myjahiasite/shared/shared/mainsite/policy_and_research/gcim/rs/RS4.pdf [Accessed 20 August 2016].
- BOULANGER, Q. (2011) The Greek wall and Fortress Europe: security prioritized in the Area of Freedom, Security and Justice, *The New Federalist*, 14 March. Available from: <https://www.thenewfederalist.eu/The-Greek-wall-and-Fortress-Europe-security-prioritized-in-the-Area> [Accessed 4 April 2017].
- BOURBEAU, P. (2011) *The Securitization of Migration: A study of movement and order*. Abingdon: Routledge.
- BOUTRUCHE, S. (2003) Immigration and asylum in the harmonisation policies of the EU: the need for balance. In: TURTON, D. and GONZALEZ, J., (eds.) *Immigration in Europe: Issues, Policies and Case Studies*. HumanitarianNet: Thematic Network on Humanitarian Development Studies. University of Deusto, pp. 75-88.
- BOVENS, L., CHATKUPT, C. and SMEAD, L. (2012) Measuring common standards and equal responsibility-sharing in EU asylum outcome data, *European Union Politics*, 13 (1), pp. 70-93.

- BOYLE, P., HALFACREE, K., and ROBINSON, V. (1998) *Exploring contemporary migration*. Essex: Pearson Education Limited.
- BROCHMANN, G. and HAMMAR, T. (1999) *Mechanisms of Immigration Control: A Comparative Analysis of European Regulation Policies*. Oxford / New York: Berg Publishers.
- BROUWER, E. (2016) Sharing responsibility: A proposal for a European Asylum System based on solidarity, *Odysseus Network Blog*, 17 February. Available from: <https://eumigrationlawblog.eu/sharing-responsibility-a-proposal-for-a-european-asylum-system-based-on-solidarity/> [Accessed 18 March 2017].
- BRUBAKER, R. (1992) *Citizenship and Nationhood in France and Germany*. Cambridge, MA: Harvard University Press.
- BUCHAN, G. (2012) National Interests and the European Union, The Bruges Group. Available from: https://www.brugesgroup.com/images/issues/civil_liberties/national_interests_and_the_european_union_pdf.pdf [Accessed 18 November 2018].
- BUCHS, M. (2008) The Open Method of Coordination as a 'two-level game', *Policy and Politics*, 36 (1), pp. 21-37.
- BUONANNO, L. (2017) The European Migration Crisis. In: DINAN, D. et al. (eds.) *The European Union in Crisis*. London: Palgrave Macmillan, pp. 100-130.
- BUONFINO, A. (2004) Between unity and plurality: the politicization and securitization of the discourse of immigration in Europe, *New Political Science*, 26 (1), pp. 23-49.
- BUONO, L. (2009) From Tampere to The Hague and beyond: towards the Stockholm Programme in the area of freedom, security and justice, *ERA Forum*, 10 (3), pp. 333-342.
- BURNI, A. (2018) European Union Issues and Party Competition: How Does the Popularity of Extreme Right Parties Affect EU Positions of Mainstream Parties? Paper presented at ECPR joint session 'The Political Consequences of Euroscepticism: Who, What, When and Where?' 10-14 April, University of Nicosia. Available from: <https://ecpr.eu/Filestore/PaperProposal/25a5879b-0798-41b4-90fb-0a3ee57b44e5.pdf> [Accessed 25 April 2018].
- BUTLER, E. (2007) Hungary and the European Union: The Political Implications of Societal Security Promotion, *Europe-Asia Studies*, 59 (7), pp.1115-1144.

- BUZAN, B., WAEVER, O. and DE WILDE, J. (1998) *Security: A New Framework for Analysis*. Boulder, CO: Lynne Rienner Publishers.
- CALLEJA RAGONESI, I. (2012) The politics of Integration in a Small Island Peripheral State: the Case of Malta. In: XUEREB, P. G., (ed.) *Migration and Asylum in Malta: Rights and Realities*. Malta: Malta University Press, pp. 191-212.
- CALLEJA RAGONESI, I. (2014) Valletta - How Malta is being squeezed between the EU's asylum and migration policies, *Europe's World*, Views from the Capitals, 15 June. Available from: <https://www.friendsofeurope.org/insights/valletta-how-malta-is-being-squeezed-between-the-eus-asylum-and-migration-policies/> [Accessed 7 July 2016].
- CAMPESI, G. (2014) Frontex, the Euro-Mediterranean Border and the Paradoxes of Humanitarian Rhetoric, *South East European Journal of Political Science*, 2 (3), pp. 126-134.
- CANNIZZARO, E. (2017) Denialism as the Supreme Expression of Realism – A Quick Comment on NF v. European Council, *European Papers*, 2 (1), pp. 251-257. Available from: http://www.europeanpapers.eu/en/system/files/pdf_version/EP_EF_2017_I_021_Enzo_Cannizzaro_3.pdf [Accessed 6 November 2018].
- CAPOCCIA, G. and KELEMEN, R. D. (2007) The Study of Critical Junctures: Theory, Narrative, and Counterfactuals in Historical Institutionalism, *World Politics*, 59 (3), pp. 341-369.
- CARR, E. H. (1964) *The Twenty Years' Crisis, 1919-1939: An Introduction to the Study of International Relations*, 2nd ed. New York: Harper and Row.
- CARRERA, S., BLOCKMANS, S., GROS, D. and GUILD, E. (2015) The EU's Response to the Refugee Crisis Taking Stock and Setting Policy Priorities, Centre for European Policy Studies (CEPS) Essay No. 20, 16 December. Available from: http://aei.pitt.edu/70408/1/EU_Response_to_the_2015_Refugee_Crisis.pdf [Accessed 7 October 2016].
- CARRERA, S. and DEN HERTOOG, L. (2016) A European Border and Coast Guard: What's in a Name? CEPS Paper in Liberty and Security in Europe No. 88, Brussels, 8 March. Available from: <https://www.ceps.eu/ceps-publications/european-border-and-coast-guard-whats-name/> [Accessed 1 September 2018].
- CARRERA, S. and GUILD, E. (2010) Undocumented migrants and the Stockholm Programme. In: CARRERA, S. and MERLINO, M., (eds.) *Assessing EU Policy on Irregular Immigration under the Stockholm Programme*, CEPS Papers in Liberty

and Security in Europe, 14 October, pp. 1-9. Available from: <https://www.ceps.eu/ceps-publications/assessing-eu-policy-irregular-immigration-under-stockholm-programme/> [Accessed 14 January 2016].

CARRERA, S., GUILD, E., MERLINO, M. and PARKIN, J. (2011) A Race against Solidarity: The Schengen Regime and the Franco-Italian Affair, CEPS Papers in Liberty and Security in Europe, 29 April. Available from: <https://www.ceps.eu/ceps-publications/race-against-solidarity-schengen-regime-and-franco-italian-affair/> [Accessed 20 March 2016].

CARRERA, S. and GUILD, E. (2012) Does the Stockholm Programme matter?: The Struggles over Ownership of AFSJ Multiannual Programming, CEPS Papers in Liberty and Security in Europe, No. 51, December, Centre for European Policy Studies. Available from: <http://aei.pitt.edu/38964/> [Accessed 8 November 2016].

CARRERA, S. and GUILD, E. (2015) Can the New EU Refugee Relocation System Work? Perils in the Dublin Logic and Flawed Reception Conditions in the EU, CEPS Policy Brief No. 334, 1 October. Available from: <https://www.ceps.eu/ceps-publications/can-new-refugee-relocation-system-work-perils-dublin-logic-and-flawed-reception/> [Accessed 29 December 2017].

CARRERA, S. and LANNON, K. (2018) We're in this boat together: Time for a Migration Union, CEPS Policy Contribution No. 9, 22 June. Available from: https://www.ceps.eu/wp-content/uploads/2018/06/SCandKL_PI2018_09_MigrationUnion.pdf [Accessed 6 September 2018].

CARUANA, C. (2018) Malta closes ports to migrant NGO ships - government confirms, *Times of Malta*, 29 June. Available from: <https://timesofmalta.com/articles/view/malta-closes-ports-to-migrant-ngos-ships-government-confirms.683102> [Accessed 28 October 2018].

CASOLARI, F. (2016) The EU's Hotspot Approach to Managing the Migration Crisis: A Blind Sport for International Responsibility? *The Italian Yearbook of International Law*, 25 (1), pp.109-134. Available from: <https://ssrn.com/abstract=2800537> [Accessed 6 January 2018].

CASTLES, S. (1984) *Here for Good: Western Europe's New Ethnic Minorities*. London: Pluto Press.

CASTLES, S. (2004) Why migration policies fail, *Ethnic and Racial Studies*, 27 (2), pp. 205-227.

- CASTLES, S. and MILLER, M. J. (1993) *The Age of Migration: International Population Movements in the Modern World*. New York, NY: Guilford Press.
- CESARANI, D. and FULBROOK, M. (eds.) (1996) *Citizenship, Nationality and Migration in Europe*. London: Routledge.
- CHALMERS, D., DAVIES, G. and MONTI, G. (eds.) (2014) *European Union Law: Text and Materials*. 3rd ed. Cambridge: Cambridge University Press.
- CHARI, R. S. and KRITZINGER, S. (2006) *Understanding EU Policy Making*. London: Pluto Press.
- CHECKEL, J. T. (2001) Why Comply? Social Learning and European Identity Change, *International Organization*, 55 (3), pp. 553-558.
- CHETAIL, V. (2016) The Common European Asylum System: Bric-à-brac or System? In: CHETAIL, V. et al. (eds.) *Reforming the Common European Asylum System: The New European Refugee Law*. Boston: Brill Nijhoff, pp. 3-38.
- CHETAIL, V., DE BRUYCKER, P. and MAIANI, F. (2016) *Reforming the Common European Asylum System: The New European Refugee Law*. Boston: Brill Nijhoff.
- CHOLEWINSKI, R. (2005) *Study on Obstacles to Effective Access of Irregular Migrants to Minimum Social Rights*. Strasbourg: Council of Europe Publishing.
- CHRISTIANSEN, T., JORGENSEN, K. E. and WIENER, A., (1999) The Social Construction of Europe, *Journal of European Public Policy*, 6 (4), pp. 528-544.
- CHRISTIANSEN, T. (2019) Governance in the European Union. In: CINI, M. and PEREZ-SOLORZANO BORRAGAN, N., (eds.) *European Union Politics*, 9th ed. Oxford: Oxford University Press, pp. 102-114.
- CHRYSOLORAS, N. (2020) Debt Crisis, Brexit, Now Virus. Can the EU Survive? Bloomberg, 13 May. Available from: <https://www.bloomberqqint.com/quicktakes/how-the-virus-poses-an-existential-threat-to-the-eu-quicktake> [Accessed 22 May 2020].
- CHRYSSOGELOS, A. (2016) The EU's Crisis of Governance and European Foreign Policy, *Chatham House*, The Royal Institute of International Affairs, Research Paper, Europe Programme, November. Available from: <https://www.chathamhouse.org/publication/eu-crisis-governance-and-european-foreign-policy> [Accessed 24 August 2017].

- CICCHI, L. (2016) *Is Euro-voting truly supranational? National affiliation and political group membership in the European Parliament*. Pisa: Pisa University Press.
- CICCHI, L. (2017) The European Parliament's political groups: between high cohesion and recurrent breakdowns, *Parliamentary Democracy in Europe (PADEMIA)*, Research Notes on Parliamentary Democracy No. 3. Available from: https://cadmus.eui.eu/bitstream/handle/1814/51451/Cicchi_L_2017_The_European_Parliaments.pdf?sequence=1 [Accessed 4 April 2018].
- CIR, Consiglio Italiano per i Rifugiati (Italian Council for Refugees) (2014) Landings by Sea: 85,000 persons have arrived; 25,000 asylum requests to date, 27 July. Available from: http://cir-onlus.org/old_site_2016/en/media2/news/1373-landings-by-sea-85-000-persons-have-arrived-25-000-asylum-requests-to-date [Accessed 10 August 2016].
- CLEMENS, M. A. (2011) Economics and Emigration: Trillion-Dollar Bills on the Sidewalk? *Journal of Economic Perspectives*, 25 (3), pp. 83-106.
- COLLETT, E. (2011) Faltering Movement: Explaining Europe's Schengen Struggle, Migration Policy Institute (MPI), 2 November. Available from: <https://www.migrationpolicy.org/article/faltering-movement-explaining-europes-schengen-struggle/> [Accessed 18 March 2016].
- COLLETT, E. and MUNZ, R. (2010) The Future of European Migration: Policy Options for the European Union and its Member States, Background Paper 2010 World Migration Report (WMR), International Organization for Migration (IOM). Available from: http://publications.iom.int/system/files/pdf/wmr2010_migration_policy_options_eu.pdf [Accessed 19 August 2016].
- COLLINSON, S. (1993) *Beyond Borders: West European Migration Policy Towards the 21st Century*. London: Pinter Publishers.
- COLLYER, M. (2008) Towards Mediterranean Migration Management 2008? Developing Discourse and Practices (ARI), No. 54, Real Instituto Elcano, Madrid, June. Available from: http://www.realinstitutoelcano.org/wps/portal/rielcano_en/contenido?WCM_GLOBAL_CONTEXT=/elcano/elcano_in/zonas_in/demography+population/ari54-2008 [Accessed 7 March 2016].
- CONNOLLY, K. (2017) German election: Merkel wins fourth term but far-right AfD surges to third, *The Guardian*, 24 September. Available from: <https://www.theguardian.com/world/2017/sep/24/angela-merkel-fourth-term-far-right-afd-third-german-election> [Accessed 18 April 2018].

- COOPER, A. F. and SHAW, T. M. (eds.) (2009) *The Diplomacies of Small States: Between Vulnerability and Resilience*. Basingstoke: Palgrave Macmillan.
- CORNELIUS, W. A., MARTIN, P. L. and HOLLIFIELD, J. (1994) *Controlling Immigration: A Global Perspective*. Stanford, CA: Stanford University Press.
- COSTELLO, C. and HANCOX, E. (2016) The Recast Asylum Procedures Directive 2013/32/EU: Caught between Stereotypes of the Abusive Asylum-Seeker and the Vulnerable Refugee. In: CHETAIL, V. et al. (eds.) *Reforming the Common European Asylum System: The New European Refugee Law*. Boston: Brill Nijhoff, pp. 377-445.
- CRAWLEY, H. (2017) Named and shamed: EU countries are failing to share responsibility for refugees, *The Conversation*, 19 July. Available from: <http://theconversation.com/named-and-shamed-eu-countries-are-failing-to-share-responsibility-for-refugees-80918> [Accessed 4 November 2017].
- CRAWLEY, H. and SKLEPARIS, D. (2018) Refugees, migrants, neither, both: categorical fetishism and the politics of bounding in Europe's 'migration crisis', *Journal of Ethnic and Migration Studies*, 44 (1), pp. 48-64.
- CRESWELL, J. W. (2013) *Qualitative Inquiry and Research Design: Choosing among five approaches*. London: Sage Publications.
- CRISP, J. and VAN HEAR, N. (1998) Refugee Protection and Immigration Control: Addressing The Asylum Dilemma, *Refugee Survey Quarterly*, 17 (3), pp. 1-27.
- CUDDY, A. (2018) Prompted by EU, Libya quietly claims right to order rescuers to return fleeing migrants, *euronews*, 6 July. Available from: <https://www.euronews.com/2018/07/06/prompted-by-eu-libya-quietly-claims-right-to-order-rescuers-to-return-fleeing-migrants> [Accessed 26 November 2018].
- CUTHBERT, M. (2015) *Q&A European Union Law*. Abingdon: Routledge.
- D'ARGENIO, A. (2011) Il governo pronto alla prova di forza con l'Ue, "Ci aiuti o non controlleremo più i confini", *La Repubblica*, 8 April. Available from: https://www.repubblica.it/esteri/2011/04/08/news/il_governo_pronto_alla_prova_di_forza_con_l_ue_ci_aiuti_o_non_controlleremo_pi_i_confini-14650458/ [Accessed 2 February 2016].
- DE BRUYCKER, P. (2016) The European Border and Coast Guard: A New Model Built on an Old Logic, *European Papers*, 1 (2), pp. 559-569. Available from: <https://doi.org/10.15166/2499-8249/53> [Accessed 15 November 2016].

- DE HAAS, H., NATTER, K. and VEZZOLI, S. (2016) Growing Restrictiveness or Changing Selection? The Nature and Evolution of Migration Policies, *International Migration Review*, 50 (3), pp. 1-44.
- DEN HEIJER, M., RIJPMAN, J. and SPIJKERBOER, T. (2016) Coercion, Prohibition, and Great Expectations: The continuing failure of the Common European Asylum System, *Common Market Law Review*, 53 (3), pp. 607-642.
- DI FILIPPO, M. (2013) Irregular Migration across the Mediterranean Sea: Problematic Issues concerning the International Rules on Safeguard of Life at Sea, *Paix et Sécurité Internationales*, No. 1, pp. 53-76. Available from: <http://www.statewatch.org/news/2014/jan/psi-01-etudes-di-filippo-irregular-migration.pdf> [Accessed 10 December 2016].
- DI FILIPPO, M. (2014) After Mare Nostrum: delinking the acceptance of disembarkation and the assumption of responsibility for asylum seekers rescued at sea, December. Available from: https://www.academia.edu/9828630/After_Mare_Nostrum_delinking_the_acceptance_of_disembarkation_and_the_assumption_of_responsibility_for_asylum_seekers_rescued_at_sea [Accessed 23 March 2017].
- DI FILIPPO, M. (2016a) The Reform of the Dublin System and the first (half) move of the Commission, SIDIBlog, Volume 3, 12 May. Available from: <http://www.sidiblog.org/2016/05/12/the-reform-of-the-dublin-system-and-the-first-half-move-of-the-commission/> [Accessed 31 May 2016].
- DI FILIPPO, M. (2016b) Dublin 'reloaded' or time for ambitious pragmatism? *Odysseus Network Blog*, 12 October. Available from: <http://eumigrationlawblog.eu/dublin-reloaded/> [Accessed 27 October 2016].
- DI FILIPPO, M. (2017) The strange procedural fate of the actions for annulment of the EU relocation scheme, *eurojus.it Rivista*, 4 March. Available from: <http://rivista.eurojus.it/the-strange-procedural-fate-of-the-actions-for-annulment-of-the-eu-relocation-scheme/> [Accessed 15 November 2017].
- DI FILIPPO, M. (2018) The allocation of competence in asylum procedures under EU law: The need to take the Dublin bull by the horns, *Revista de Derecho Comunitario Europeo*, 59, pp. 41-95.
- DAVITTI, D. and URSU, A.-E. (2018) Why securitising the Sahel will not stop migration, *Clingendael Magazine*, Forced Migration Unit (FMU) Policy Brief, No. 02/2018, 10 January. Available from: <https://www.clingendael.org/publication/why-securitising-sahel-will-not-stop-migration> [Accessed 25 August 2018].

- DELOUVIN, P. (2000) The Evolution of Asylum in France, *Journal of Refugee Studies*, 13 (1), pp. 61-73.
- DELVINO, N. (2020) European Union and National Responses to Migrants with Irregular Status: Is the Fortress Slowly Crumbling? In: SPENCER S. and TRIANDAFYLLIDOU, A., (eds) *Migrants with Irregular Status in Europe*. IMISCOE Research Series. Cham: Springer, pp.73-97.
- DENSCOMBE, M. (2002) *Ground Rules for Good Research: a 10 point guide for social researchers*. Buckingham: Open University Press.
- DENZIN, N. K. (1978) *The Research Act*. New York, NY: McGraw-Hill.
- DENZIN, N. K. (ed.) (2006) *Sociological Methods: A Sourcebook*. 5th ed. New York, NY: Aldine Transaction.
- DEWEY, J. (1938) *Logic: The Theory of Inquiry*. New York: Holt, Rinehart and Winston.
- DEY, I. (2005) *Qualitative Data Analysis: A User-Friendly Guide for Social Scientists*. London: Taylor & Francis e-Library.
- DIETZ, B. and KACZMARCZYK, P. (2008) On the demand side of international labour mobility: The structure of the German labour market as a causal factor of seasonal Polish migration. In: BONIFAZI, C. et al. (eds.) *International Migration in Europe: New Trends and New Methods of Analysis*, IMISCOE research. Amsterdam: Amsterdam University Press, pp. 37-64.
- DIMITRIADI, A., KAYA, A., KALE, B. and ZURABISHVILI, T. (2018) EU-Turkey Relations and Irregular Migration: Transactional Cooperation in the Making, FEUTURE Paper No. 16, March. Available from: http://www.feuture.uni-koeln.de/sites/feuture/user_upload/FEUTURE_Online_Paper_No_16_D6.3.pdf [Accessed 26 April 2018].
- DINAN, D., NUGENT, N. and PATERSON, W. E., (eds.) (2017) *The European Union in Crisis*. London: Palgrave Macmillan.
- DRENT, M. (2018) Militarising migration? EU and NATO involvement at the European border, *Clingendael Spectator*, 72 (4), Item 6 of 8. Available from: https://spectator.clingendael.org/pub/2018/4/_pdf/CS-2018-4-drent.pdf [Accessed 26 August 2018].

- DRENT, M. et al. (2018) Clingendael State of the Union 2018: towards better European integration, Clingendael Report, January. Available from: https://www.clingendael.org/sites/default/files/2018-01/Report_Clingendael_State_of_the_Union_2018.pdf [Accessed 19 September 2018].
- DREVET, J.-F. and THEOPHANOUS, A. (2012) Cyprus and the EU: Appraisal and Challenges, Notre Europe and Cyprus Center for European and International Affairs (CCEIA), Policy Paper 58, September. Available from: <https://institutdelors.eu/wp-content/uploads/2018/01/eucyprusdrevet-theophanousne-cceiasept12.pdf> [Accessed 19 February 2017].
- DREYER-PLUM, D. (2017) On the Legal Priorities of the Common European Asylum System and its Incapacity to Handle the Asylum Migration in 2015, EUSA Conference Paper, 15th Biennial Conference, Miami, May 4-6. Available from: <https://eustudies.org/conference/papers/14?page=4> [Accessed 3 May 2018].
- DRIESSEN, H. (1996) At the Edge of Europe: Crossing and Marking the Mediterranean Divide. In: O'DOWD, L. and WILSON, T. M., (eds.) *Borders, Nations and States: Frontiers of sovereignty in the new Europe*. Aldershot: Avebury, pp. 179-199.
- Dublin Transnational Project (2013) Dublin II Regulation: Lives on hold, European Comparative Report, February. Available from: <https://www.refworld.org/docid/513ef9632.html> [Accessed 26 March 2016].
- DURRHEIM, K. (2007) Research design. In: TERRE BLANCHE, M., DURRHEIM, K. and PAINTER, D., (eds.) *Research in Practice: Applied Methods for the Social Sciences*, 2nd. ed. Cape Town: University of Cape Town Press, pp. 33-59.
- DUSTMANN, C. and FRATTINI, T. (2012) Immigration: The European Experience, Norface Migration, Discussion Paper No. 2012-01. Available from: https://www.norface-migration.org/publ_uploads/NDP_01_12.pdf [Accessed 18 April 2020].
- DUVELL, F. (2006) *Illegal Immigration in Europe, Beyond Control?* Basingstoke: Palgrave Macmillan.
- DUVELL, F. (2008) Clandestine migration in Europe, *Social Science Information*, 47 (4), pp. 479-497.
- DUVELL, F. (2017) The EU's International Relations and Migration Diplomacy at Times of Crisis: Key Challenges and Priorities, *Perceptions, Journal of*

International Affairs, 22 (4), pp. 35-54. Available from: <http://sam.gov.tr/the-eus-international-relations-and-migration-diplomacy-at-times-of-crisis-key-challenges-and-priorities-frank-duvell/> [Accessed 19 June 2018].

DWIVEDI, S. S. (2012) Alliances in International Relations Theory, *International Journal of Social Science & Interdisciplinary Research*, 1 (8), pp. 224-237.

DYE, T. R. (2016) *Understanding Public Policy*. 15th ed. Upper Saddle River, N.J.: Pearson Education.

EAC, European Asylum Curriculum (2012) Introduction to EU Asylum Law and Policy, The European Asylum Curriculum Project, February.

ECRE, European Council on Refugees and Exiles (2002) Seville Summit: Blocking Access to Europe is not the Answer, Press Release, 17 June. Available from: <http://www.statewatch.org/news/2002/jun/PRecre17-06.pdf> [Accessed 21 July 2017].

ECRE, European Council on Refugees and Exiles (2011) Comments on the Amended Commission Proposal to recast the Asylum Procedures Directive (COM(2011) 319 final), September. Available from: <https://www.ecre.org/wp-content/uploads/2016/07/Comments-on-the-amended-Commission-Proposal-to-recast-the-Reception-Conditions-Directive.pdf> [Accessed 3 April 2021].

ECRE (2020) Med: 150 Stranded at Sea as Malta and Italy Declare Ports “unsafe”, 10 April. Available from: <https://www.ecre.org/med-150-stranded-at-sea-as-malta-and-italy-declare-ports-unsafe/> [Accessed 10 April 2021].

EDKINS, J. and VAUGHAN-WILLIAMS, N. (2009) *Critical Theorists and International Relations*. Abingdon and New York, NY: Routledge.

EISENHARDT, K. M. (1989) Building Theories from Case Study Research, *The Academy of Management Review*, 14 (4), pp. 532-550.

EKMAN, I. (2018) Swedish Unexceptionalism: Sweden's Elections Show That a Strong Far Right Is Europe's New Normal, *Foreign Affairs*, 10 September.

ELLIOT, R. and TIMULAK, L. (2005) Descriptive and interpretive approaches to qualitative research. In: MILES, J. and GILBERT, P., (eds.) *A Handbook of Research Methods for Clinical and Health Psychology*. Oxford: Oxford University Press, pp.147-160.

- ENGBERSEN, G. (2001) The Unanticipated Consequences of Panopticon Europe: Residence Strategies of Illegal Immigrants. In: GUIRAUDON, V. and JOPPKE, C., (eds.) *Controlling a New Migration World*. London: Routledge, pp. 222-246.
- ETTE, A. and FAIST, T. (2007) The Europeanization of National Policies and Politics of Immigration: Research, Questions and Concepts. In: FAIST, T. and ETTE, A., (eds.) *The Europeanization of National Policies and Politics of Immigration: Between Autonomy and the European Union*. Basingstoke: Palgrave Macmillan, pp. 3-31.
- EurActiv (2006) Interview with European Commission Secretary-General Catherine Day, 26 September. Available from: <https://www.euractiv.com/section/future-eu/interview/interview-with-european-commission-secretary-general-catherine-day/> [Accessed 3 November 2018].
- FABBRINI, S. and PUETTER, U. (2016) Integration without supra-nationalisation: studying the lead roles of the European Council and the Council in post-Lisbon EU politics, *Journal of European Integration*, 38 (5), pp. 481-495.
- FAIST, T. (2005) The Migration-Security Nexus: International Migration and Security before and after 9/11, Working Paper No. 9, Center on Migration, Citizenship and Development (COMCAD). Available from: <https://nbn-resolving.org/urn:nbn:de:0168-ssaoar-378981> [Accessed 7 March 2016].
- FASSMANN, H. and MUNZ, R. (1992) Patterns and Trends of International Migration in Western Europe, *Population and Development Review*, 18 (3), pp. 457-480.
- FASSMANN, H. and MUNZ, R. (1994) European East-West Migration, 1945-1992, *International Migration Review*, 28 (3), pp. 520-538.
- FAUSER, M. (2006) Transnational Migration – A National Security Risk? Securitization of Migration Policies in Germany, Spain and the United Kingdom, Center for International Relations (CIR), Report No. 2. Available from: <https://core.ac.uk/download/pdf/11870015.pdf> [Accessed 11 April 2021].
- FAVELL, A. and HANSEN, R. (2002) Markets against politics: Migration, EU enlargement and the idea of Europe, *Journal of Ethnic and Migration Studies*, 28 (4), pp. 581-601.
- FERREIRA, M. F. (2018) Critical Theory. In: MCGLINCHEY, S., WALTERS, R. and SCHEINPFLUG, C., (eds.) *International Relations Theory*. Bristol: E-International Relations Publishing, pp.49-55.

- FERREIRA, N. (2017) Seeking Asylum in Europe: Delving into Sexual Orientation and Gender Identity Asylum Claims, Paper Presented at the UACES 47th Annual Conference Krakow, 4-6 September. Available from: <https://www.uaces.org/documents/papers/1701/ferreira.pdf> [Accessed 11 May 2018].
- FERREIRA, S. (2018) From Narratives to Perceptions in the Securitisation of the Migratory Crisis in Europe, *E-International Relations*, 3 September. Available from: <https://www.e-ir.info/2018/09/03/from-narratives-to-perceptions-in-the-securitisation-of-the-migratory-crisis-in-europe/> [Accessed 27 September 2018].
- FINK, M. and GOMBEER, K. (2018) The Aquarius incident: navigating the turbulent waters of international law, *EJIL: Talk!* 14 June. Available from: <https://www.ejiltalk.org/the-aquarius-incident-navigating-the-turbulent-waters-of-international-law/> [Accessed 24 June 2018].
- FINOTELLI, C. and SCIORTINO, G. (2009) The Importance of Being Southern: The Making of Policies of Immigration Control in Italy, *European Journal of Migration and Law*, 11 (2), pp.119-138.
- FRATZKE, S. (2015) Not Adding Up: The fading promise of Europe's Dublin System, Brussels: Migration Policy Institute (MPI) Report, March. Available from: <https://www.migrationpolicy.org/research/not-adding-fading-promise-europes-dublin-system> [Accessed 19 October 2016].
- FREEMAN, G. P. (1986) Migration and the Political Economy of the Welfare State, *The Annals of the American Academy of Political and Social Science*, 485 (1), pp. 51-63.
- FREEMAN, G. P. (1992) Migration Policy and Politics in the Receiving States, *International Migration Review*, 26 (4), pp. 1144-1167.
- FREEMAN, G. P. (1995) Modes of immigration politics in liberal democratic states, *International Migration Review*, 29 (4), pp. 881-902.
- FREEMAN, G. P. (2006) National models, policy types, and the politics of immigration in liberal democracies, *West European Politics*, 29 (2), pp. 227-247.
- FUKUYAMA, F. (2018) *Identity: The Demand for Dignity and the Politics of Resentment*. London: Profile Books.
- FURUSETH, R. (2003) Creating Security through Immigration Control: An analysis of European immigration discourse and the development towards a common EU

asylum and immigration policy, NUI Report 274, Oslo. Available from: <https://www.jstor.org/stable/resrep08084> [Accessed 18 April 2016].

- GARLICK, M. (2016) The Dublin System, Solidarity and Individual Rights. In: CHETAIL, V. et al. (eds.) *Reforming the Common European Asylum System: The New European Refugee Law*. Boston: Brill Nijhoff, pp. 159-194.
- GATTI, M. (2018) Too Much Unity in the European Union's External Migration Policy? EU Immigration and Asylum Law and Policy Blog, Odysseus Network, 20 July. Available from: <http://eumigrationlawblog.eu/too-much-unity-in-the-european-unions-external-migration-policy/> [Accessed 21 July 2018].
- GEDDES, A. (2006) *The Politics of Immigration in Europe*. London: Sage Publications.
- GEDDES, A. (2008) *Immigration and European integration: Beyond fortress Europe?* 2nd ed. Manchester: Manchester University Press.
- GEDDES, A. (2018) The politics of European Union migration governance, *Journal of Common Market Studies*, Annual Review 56, pp. 120-130.
- GEDDES, A. and SCHOLTEN, P. (2016) *The Politics of Migration and Immigration in Europe*. 2nd ed. London: Sage Publications.
- GEERZ, C. (1973) *The Interpretation of Cultures*. New York, NY: Basic Books.
- GEOLOGY.COM (2007) Europe Map Image. Available from: <https://geology.com/world/europe-satellite-image.shtml> [Accessed 1 July 2018].
- GERRING, J. (2017) *Case Study Research: Principles and Practices*. 2nd ed. Cambridge: Cambridge University Press.
- GIVENS, T. E. and LUEDTKE, A. (2004) The Politics of European Union Immigration Policy: Institutions, Salience, and Harmonization, *Policy Studies Journal*, 32 (1), pp. 145-165.
- GOKSUN, E. (2017) Influencing the EU's Foreign Policy on Asylum and Migration: Populist Political Dynamics and Cooperation with (Un)safe Third Countries, *Global Politics Review*, 3 (2), pp. 26-38.
- GOLDNER-LANG, I. (2018) Towards 'Judicial Passivism' in EU Migration and Asylum Law? Preliminary Thoughts for the Final Plenary Session of the 2018 Odysseus Conference, 24 January. Available from: <http://eumigrationlawblog.eu/towards->

[judicial-passivism-in-eu-migration-and-asylum-law-preliminary-thoughts-for-the-final-plenary-session-of-the-2018-odysseus-conference/](#) [Accessed 16 September 2018].

- GONZALEZ-ENRIQUEZ, C. (2014) Spain. In: TRIANDAFYLLIDOU, A. and GROPAS, R., (eds.) *European Immigration: A Sourcebook*, 2nd ed., Farnham: Ashgate, pp. 339–350.
- GOODMAN, S. W. (2012) Fortifying Citizenship: Policy Strategies for Civic Integration in Western Europe, *World Politics*, 64 (4), pp. 659-698.
- GPF, Geopolitical Futures (2018) In Europe, as Migration Falls, Nationalism Rises, 22 May. Available from: <https://geopoliticalfutures.com/europe-migration-falls-nationalism-rises/> [Accessed 1 June 2018].
- GRANT, C. and OSANLOO, A. (2014) Understanding, Selecting, and Integration a Theoretical Framework in Dissertation Research: Creating the Blueprint for your “House”, *Administrative Issues Journal*, 2 (4), pp. 12-26.
- GRIGONIS, S. (2016) EU in the face of migrant crisis: Reasons for ineffective human rights protection, *International Comparative Jurisprudence*, 2 (2), pp. 93-98.
- GRIMMEL, A. and GIANG, S. M. (eds.) (2017) *Solidarity in the European Union: A Fundamental Value in Crisis*. Cham: Springer.
- GUILD, E. (2006) The Europeanisation of Europe’s asylum policy, *International Journal of Refugee Law*, 18 (3-4), pp. 630-651.
- GUILD, E., COSTELLO, C., GARLICK, M. and MORENO-LAX, V. (2015) Enhancing the Common European Asylum System and Alternatives to Dublin, CEPS Paper No. 83, September. Available from: https://www.ceps.eu/wp-content/uploads/2015/09/CEPS_LSE_83_0.pdf [Accessed 21 April 2016].
- GUILD, E., COSTELLO, C. and MORENO-LAX, V. (2017) Implementation of the 2015 Council Decisions establishing provisional measures in the area of international protection for the benefit of Italy and of Greece, Study commissioned by the EP’s LIBE Committee, PE 583 132, March. Available from: [http://www.europarl.europa.eu/RegData/etudes/STUD/2017/583132/IPOL_STU\(2017\)583132_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2017/583132/IPOL_STU(2017)583132_EN.pdf) [Accessed 11 July 2018].
- GUILD, E. and NIESSEN, J. (1996) *The Developing Immigration and Asylum Policies of the European Union: Adopted Conventions, Resolutions, Recommendations, Decisions and Conclusions*. The Hague: Kluwer Law International.

- GUIRAUDON, V. (1998) Citizenship Rights for Non-Citizens: France, Germany and the Netherlands. In: JOPPKE, C., (ed.) *Challenge to the Nation-State: Immigration in Western Europe and the United States*. New York: Oxford University Press, pp. 272-318.
- GUIRAUDON, V. (2000) European integration and migration policy: vertical policy-making as venue shopping, *Journal of Common Market Studies*, 38 (2), pp. 251-271.
- GUIRAUDON, V. (2003) The Constitution of a European Immigration Policy Domain: A Political Sociology Approach, *Journal of European Public Policy*, 10 (2), pp. 263-282.
- GURZU, A. (2012) Safe Country of Origin List at the EU level: the bargaining process and the implications, *Review of European and Russian Affairs*, 7 (1), pp. 1-14.
- HAAS, E. B. (1958) *The Uniting of Europe*. Stanford, CA: Stanford University Press.
- HADFIELD, A. (2017) European Neighbourhood Policy and the Migration Crisis. In: HADFIELD, A. et al. (eds.) *Foreign Policies of EU Member States: Continuity and Europeanisation*. London; New York: Routledge, pp.181-200.
- HAILBRONNER, K. and THYM, D. (2016) Legal Framework for EU Asylum Policy. In: HAILBRONNER, K. and THYM, D., (eds.) *EU Immigration and Asylum Law. Commentary*. 2nd ed. Munich/Oxford/Baden-Baden: C.H. Beck/Hart/Nomos, pp. 1023-1053.
- HALL, P. A. and TAYLOR, R. C. R. (1996) Political Science and the Three New Institutionalisms, *Political Studies*, 44 (5), pp. 936-957.
- HAMPSHIRE, J. (2016) European migration governance since the Lisbon treaty: introduction to the special issue, *Journal of Ethnic and Migration Studies*, 42 (4), pp. 537-553.
- HARTLEY, J. (2004) Case study research. In: CASSELL, C. and SYMON, G., (eds.) *Essential guide to qualitative methods in organizational research*. London: Sage Publications, pp. 323-333.
- HARTNELL, H. E. (2015) A Bird's Eye View of the EU's Civil Justice Policy Field: Discursive and Institutional Dimensions, Paper presented at EUSA 14th Biennial Conference, Panel 11 C: Individuals, Elites and Rules in EU Justice Policies Boston, 5-7 March.

- HATTON, T. J. (2009) The Rise and Fall of Asylum: What Happened and Why? *The Economic Journal*, 119 (535), pp. F183-F213.
- HATTON, T. J. (2011) *Seeking Asylum: Trends and Policies in the OECD*. Centre for Economic Policy Research (CEPR), London.
- HATTON, T. J. (2016) Immigration, Public Opinion and the Recession in Europe, *Economic Policy*, 31 (86), pp. 205-246.
- HATTON, T. J. and WILLIAMSON, J. G. (1998) *The Age of Mass Migration: Causes and Economic Impact*. New York: Oxford University Press.
- HATTON, T. J. and WILLIAMSON, J. G. (2004) Refugees, Asylum Seekers and Policy in Europe, IZA Discussion Papers, No. 1230, Institute of Labor Economics (IZA), Bonn. Available from: <http://hdl.handle.net/10419/20493> [Accessed 29 March 2021].
- HAYERLAND, M., DE RUITER, M. and VAN DE WALLE, S. (2016) Agenda-setting by the European Commission. Seeking public opinion? *Journal of European Public Policy*, 25 (3), pp. 327-345.
- HAY, C. (1998) The tangled webs we weave: the discourse, strategy and practice of networking. In: MARSH, D., (ed.) (1998) *Comparing Policy Networks*. Buckingham: Open University Press, pp. 33-51.
- HAYES-RENSHAW, F. and WALLACE, H. (2006) *The Council of Ministers*, 2nd ed. Basingstoke: Palgrave Macmillan.
- HAYTER, T. (2000) *Open Borders. The case against immigration controls*. London: Pluto Press.
- HELD, D. (1980) *Introduction to Critical Theory: Horkheimer to Habermas*. Cambridge: Polity Press.
- HELLGREN, Z. and SERRANO, I. (2017) Transnationalism and Financial Crisis: The Hampered Migration Projects of Female Domestic Workers in Spain, *Social Sciences*, 6 (8), pp. 1–18.
- HENRY, G. and PASTORE, F. (2014) The Governance of Migration, Mobility and Asylum in the EU: A Contentious Laboratory. In: TOCCI, N., (ed.) *Imagining Europe: Towards a More United and Effective EU*. Roma: Edizioni Nuova Cultura, pp. 163-198.

- HERITIER, A. (1996) The accommodation of diversity in European policy-making and its outcomes: Regulatory policy as a patchwork, *Journal of European Public Policy*, 3 (2), pp. 149-167.
- HERMANS, L., CUNNINGHAM, S. and SLINGER, J. (2014) The usefulness of game theory as a method for policy evaluation, *Evaluation SAGE Journal*, 20 (1), pp. 10-25.
- HEYMAN, J. and SMART, A. (1999) States and illegal practices: An overview. In: HEYMAN, J., (ed.) *States and illegal practices*. Oxford: Berg Publishers, pp. 1-24.
- HILL, C. (1993) The Capability–Expectations Gap, or Conceptualizing Europe's International Role, *Journal of Common Market Studies*, 31 (3), pp. 305-328.
- HILL, M. and VARONE, F. (2016) *The Public Policy Process*. 7th ed. Abingdon: Routledge.
- HIMMRICH, J. (2018) A 'Hybrid Threat'? European militaries and migration, Dahrendorf Forum, London School of Economics and Political Science (LSE) Ideas, 2 March. Available from: <http://www.dahrendorf-forum.eu/wp-content/uploads/2018/03/Militarising-Migration-Himmrich.pdf> [Accessed 25 August 2018].
- HIX, S. (1994) The Study of the European Community: The Challenge to Comparative Politics, *West European Politics*, 17 (1), pp. 1-30.
- HIX, S. (1998) The study of the European Union II: the 'new governance' agenda and its rival, *Journal of European Public Policy*, 5 (1), pp. 38-65.
- HIX, S. (2002) Parliamentary Behavior with Two Principals: Preferences, Parties, and Voting in the European Parliament, *American Journal of Political Science*, 46 (3), pp. 688-698.
- HIX, S. (2008) The EU as a Political System. In: CARAMANI, D., (ed.) *Comparative Politics*. Oxford: Oxford University Press, pp. 573-601.
- HIX, S. and HOYLAND, B. (2011) *The Political System of the European Union*. 3rd ed. Basingstoke: Palgrave Macmillan.
- HIX, S. and HOYLAND, B. (2013) Empowerment of the European Parliament, *Annual Review of Political Science*, 16, pp. 171-189.

- HIX, S., KREPPEL, A. and NOURY, A. (2003) The Party System in the European Parliament: Collusive or Competitive? *Journal of Common Market Studies*, 41 (2), pp. 309-331.
- HIX, S., NOURY, A. and ROLAND, G. (2005) Power to the Parties: Cohesion and Competition in the European Parliament, 1979-2001, *British Journal of Political Science*, 35 (2), pp. 209-234.
- HIX, S. and NOURY, A. (2007) Politics, not economic interests: determinants of migration policies in the European Union, *International Migration Review*, 41 (1), pp. 182-205.
- HIX, S. and NOURY, A. (2009) After Enlargement: Voting Patterns in the Sixth European Parliament, *Legislative Studies Quarterly*, 34 (2), pp. 159-174.
- HLAVAK, M. (2010) Less Than a State, More Than an International Organization: The *Sui Generis* Nature of the European Union, Munich Personal RePEc Archive, MPRA Paper No. 27179, Georgetown University, 3 December. Available from: https://mpra.ub.uni-muenchen.de/27179/1/MPRA_paper_27179.pdf [Accessed 16 July 2018].
- HOFFMANN, S. (1964) The European Process at Atlantic Crosspurposes, *Journal of Common Market Studies*, 3 (2), pp. 85-101.
- HOFFMANN, S. (1966) Obstinate or Obsolete? The Fate of the Nation-State and the Case of Western Europe, *Daedalus*, 95, pp. 862-915.
- HOLLIFIELD, J. (1992) *Immigrants, markets, and states: The Political Economy of Postwar Europe*. Cambridge, MA: Harvard University Press.
- HRUSCHKA, C. (2016) Dublin is dead! Long live Dublin! The 4 May 2016 proposal of the European Commission, *Odysseus Network Blog*, 17 May. Available from: <http://eumigrationlawblog.eu/dublin-is-dead-long-live-dublin-the-4-may-2016-proposal-of-the-european-commission/> [Accessed 13 October 2017].
- HRW, Human Rights Watch (2016) World Report 2016: European Union Events of 2015. Available from: <https://www.hrw.org/world-report/2016> [Accessed 29 August 2018].
- HRW, Human Rights Watch (2018) EU/Italy/Libya: Disputes Over Rescues Put Lives at Risk, 25 July. Available from: <https://www.hrw.org/news/2018/07/25/eu/italy/libya-disputes-over-rescues-put-lives-risk> [Accessed 10 September 2018].

- HUNTINGTON, S. P. (1993) The Clash of Civilizations? *Foreign Affairs*, 72 (3), pp. 22-49.
- HUYSMANS, J. (2000) The European Union and the securitization of migration, *Journal of Common Market Studies*, 38 (5), pp. 751-777.
- IGLESIAS, S. (2015) Book Review: *The EU Accession to the ECHR*, edited by KOSTA, V. et al. Oxford: Hart Publishing, *Common Market Law Review*, 52 (6), pp. 1722-1723.
- IL GIORNALE (2018) "I porti italiani sempre chiusi". Così Salvini mette al bando le Ong, 30 June. Available from: <http://www.ilgiornale.it/news/i-porti-italiani-sempre-chiusi-cos-salvini-mette-bando-ong-1547001.html> [Accessed 20 August 2018].
- IMGUR (2016) Visegrád Group as a whole compared to some other EU countries, map, 2 January. Available from: <https://imgur.com/r/MapPorn/Kh7OiYo> [Accessed 14 September 2018].
- INDELICATO, M. (2020) I primi 53 migranti sono saliti a bordo della nave quarantena, *Il Giornale*, 16 May. Available from: <https://www.ilgiornale.it/news/cronache/funzione-moby-zaza-nave-quarantena-i-migranti-1863407.html> [Accessed 10 April 2021].
- INGEBRITSEN, C., NEUMANN, I. B., GSTOHL, S., and BEYER, J. (eds.) (2006) *Small States in International Relations*. Seattle, WA: University of Washington Press.
- INZETTA, M. A. (2012) EU Member States and Asylum Policy: Theoretical Approaches, *E-International Relations*, 28 May. Available from: <https://www.e-ir.info/2012/05/28/eu-member-states-and-asylum-policy-theoretical-approaches/> [Accessed 14 January 2018].
- IOM, International Organization for Migration (2004) *International Migration Law: Glossary on Migration*. Geneva: IOM. Available from: https://publications.iom.int/system/files/pdf/iml_1_en.pdf [Accessed 19 June 2018].
- IOM, International Organization for Migration (2019) *International Migration Law: Glossary on Migration*, No.34. Available from: https://publications.iom.int/system/files/pdf/iml_34_glossary.pdf [Accessed 31 March 2021].
- JACHTENFUCHS, M. (2001) The Governance Approach to European Integration, *Journal of Common Market Studies*, 39 (2), pp. 245-264.

- JACOBSEN, K. (1996) Factors Influencing the Policy Responses of Host Governments to Mass Refugee Influx, *International Migration Review*, 30 (3), pp. 655-675.
- JACOBSON, D. (1996) *Rights across Borders: Immigration and the Decline of Citizenship*. Leiden: Brill Nijhoff.
- JAKOBSEN, P. V. (2009) Small State, Big Influence, *Journal of Common Market Studies*, 47 (1), pp. 81-102.
- JEANDESBOZ, J. and PALLISTER-WILKINS, P. (2016) Crisis, Routine, Consolidation: The Politics of the Mediterranean Migration Crisis, *Mediterranean Politics*, 21 (2), pp. 316-320.
- JEPPERSON, R. et al. (1996) Norms, Identity and Culture in National Security. In: KATZENSTEIN, P. K., (ed.), *The Culture of National Security: Norms and Identity in World Politics*. New York: Columbia University Press, pp. 33-74.
- JOANNIN, P. (2019) The 9th European legislature, a new political landscape, European Issue No. 525, Fondation Robert Schuman, 22 July. Available from: <https://www.robert-schuman.eu/en/european-issues/0525-the-9th-european-legislature-a-new-political-landscape> [Accessed 15 December 2019].
- JOHANSEN, A. I. (2017) Assessing the European Union's strategic capacity: the case of EUNAVFOR MED Operation Sophia, *European Security*, 26 (4), pp. 507-526.
- JOLY, D. (1996) *Haven or Hell: Asylum Policies and Refugees in Europe*. London: Macmillan.
- JOPPKE, C. (1998) Why Liberal States Accept Unwanted Immigration, *World Politics*, 50 (02), pp. 266-293.
- JUNEMANN, A., SCHERER, N. and FROMM, N. (eds.) (2017) *Fortress Europe? Challenges and Failures of Migration and Asylum Policies*. Wiesbaden: Springer.
- KAN, H. (2010) Processes of Governing in European Networks, Thesis Submitted in Fulfilment of the Requirements for the Degree of Doctor of Philosophy, Department of Social and Policy Sciences, University of Bath. Available from: https://purehost.bath.ac.uk/ws/portalfiles/portal/187935030/PhD_Thesis_Hester_Kan_Sept_10.pdf [Accessed 27 September 2017].

- KARAKAYALI, S. and TSIANOS, V. (2005) Mapping the Order of New Migration: Undocumented work and the autonomy of migration, *Peripheral*, 97/98, pp. 35-64.
- KARNIELI-MILLER, O., STRIER, R. and PESSACH, L. (2009) Power Relations in Qualitative Research, *Qualitative Health Research*, 19 (2), pp. 279-289.
- KARYOTIS, G. (2007) European Migration Policy in the Aftermath of September 11: The security-migration nexus, *Innovation: The European Journal of Social Science Research*, 20 (1), pp. 1-17.
- KARYOTIS, G. (2012) Securitization of Migration in Greece: Process, Motives, and Implications, *International Political Sociology*, 6 (4), pp. 390-408.
- KATSANIDOU, A. and LEFKOFRIDI, Z. (2018) Shifting dynamics: Mapping the divisions between and within party groups in the European Parliament ahead of the 2019 elections, London School of Economics and Political Science (LSE), 2 November. Available from: <https://www.printfriendly.com/p/g/2mzpCW> [Accessed 2 November 2018].
- KATZENSTEIN, P. K. (ed.) (1996) *The Culture of National Security: Norms and Identity in World Politics*. New York: Columbia University Press.
- KAUNERT, C. (2010) *European Internal Security: Towards Supranational Governance in the Area of Freedom, Security and Justice*. Manchester: Manchester University Press.
- KAUNERT, C. and LEONARD, S. (2012a) The Development of EU Asylum Policy: Venue Shopping in Perspective, *Journal of European Public Policy*, 19 (9), pp. 1396-1413.
- KAUNERT, C. and LEONARD, S. (2012b) The European Union Asylum Policy after the Treaty of Lisbon and the Stockholm Programme: Towards Supranational Governance in a Common Area of Protection? *Refugee Survey Quarterly*, 31 (4), pp. 1-20.
- KEOHANE, R. O. and NYE, J. S. (2001) *Power and Interdependence*. 3rd ed. New York, NY: Longman.
- KING, R., FIELDING, A. J. and BLACK, R. (1997). The International Migration Turnaround in Southern Europe. In: KING, R. and BLACK, R., (eds.) *Southern Europe and the New Immigrations*. Brighton: Sussex Academic Press, pp. 1-25.

- KING, R. and THOMSON, M. (2008) The Southern European model of immigration: do the cases of Malta, Cyprus and Slovenia fit? *Journal of Southern Europe and the Balkans*, 10 (3), pp. 265-291.
- KINGDON, J. W. (2003) *Agendas, Alternatives, and Public Policies*. 2nd ed. New York: Longman.
- KJAER, A. M. (2004) *Governance*. Cambridge: Polity Press.
- KJAERUM, M. (2002) Refugee protection between state interests and human rights: where is Europe heading? *Human Rights Quarterly*, 24 (2), pp. 513-536.
- KLEIN, P. and VENTURA, G. (2009) Productivity differences and the dynamic effects of labor movements, *Journal of Monetary Economics*, 56 (8), pp. 1059-1073.
- KLEINE, M. O. (2010) Making Cooperation Work: Informal Governance in the EU and Beyond, APSA 2010 Annual Meeting Paper. Available at SSRN: <https://ssrn.com/abstract=1641953> [Accessed 10 January 2018].
- KNILL, C. and TOSUN, J. (2012) *Public Policy: A New Introduction*. Basingstoke: Palgrave Macmillan.
- KOHLER-KOCH, B. (1996) Catching up with change: The transformation of governance in the European Union, *Journal of European Public Policy*, 3 (3), pp. 359-380.
- KOHLER-KOCH, B. and EISSING, R. (1999) *The Transformation of Governance in the European Union*. London: Routledge.
- KOHLER-KOCH, B. and RITTBERGER, B. (2006) The 'Governance Turn' in EU Studies, *Journal of Common Market Studies*, 44 (s1), pp. 27-49.
- KOSER, K. (1997) Negotiating Entry into 'Fortress Europe': the Migration Strategies of 'spontaneous' Asylum Seekers'. In: MUUS, P., (ed.) *Exclusion and Inclusion of Refugees in Contemporary Europe*. Utrecht: European Research Centre on Migration and Ethnic Relations, University of Utrecht, pp. 157-170.
- KOSER, K. (1998) Out of the Frying Pan and into the Fire: A Case Study of Illegality Amongst Asylum Seekers. In: KOSER, K. and LUTZ, H., (eds.) *The New Migration in Europe: Social Construction and Social Realities*. Basingstoke: Macmillan, pp. 185-198.

- KOSER, K. (2007) *International Migration: A Very Short Introduction*. Oxford: University Press.
- KOSER, K. (2011) When is Migration a Security Issue? Brookings Institution, 31 March. Available from: <https://www.brookings.edu/opinions/when-is-migration-a-security-issue/> [Accessed 17 November 2018].
- KOULISH, R. (2016) Sovereign Bias, Crimmigration, and Risk. In: GUIA, M. J. et al. (eds.) *Immigration Detention, Risk and Human Rights - Studies on Immigration and Crime*. Cham: Springer International Publishing, pp. 1-12.
- KRASTEV, I. (2017) *After Europe*. Philadelphia, PA: University of Pennsylvania Press.
- KREPPEL, A. (2001) *The European Parliament and Supranational Party System: A Study in Institutional Development*. Cambridge: Cambridge University Press.
- KRITZ, M. M., LIM, L. L. and ZLOTNIK, H. (eds.) (1992) *International Migration Systems: a Global Approach*. Oxford: Clarendon Press.
- KRUEGER, R. A. and CASEY, M. A. (2000) *Focus Groups: A Practical Guide for Applied Research*. 3rd ed. Thousand Oaks, CA: Sage Publications
- KVALE, S. (1996) *Interviews. An Introduction to Qualitative Research Interviews*. London: Sage Publications.
- La REPUBBLICA (2011) Berlino all'Italia: "Basta lamentarsi per arrivi. Solidarietà è anche adempiere agli obblighi", 10 May. Available from: https://www.repubblica.it/cronaca/2011/05/10/news/berlino_all_italia_basta_lamentarsi_per_25mila_arrivi-16037028/ [Accessed 12 January 2018].
- LABAYLE, H. and DE BRUYCKER, P. (2012) The influence of ECJ and ECtHR case law on asylum and immigration, Study requested by LIBE, PE 462.438. Available from: [https://www.europarl.europa.eu/RegData/etudes/etudes/join/2012/462438/IPOL-LIBE_ET\(2012\)462438\(SUM01\)_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/etudes/join/2012/462438/IPOL-LIBE_ET(2012)462438(SUM01)_EN.pdf) [Accessed 10 May 2018].
- LAHAV, G. (1998) Immigration and the State: The Devolution and Privatisation of Immigration Control in the EU, *Journal of Ethnic and Migration Studies*, 24 (4), pp. 675-694.
- LAHAV, G. (2004) *Immigration and Politics in the New Europe: Reinventing Borders*. Cambridge: Cambridge University Press.

- LAMBERT, H. (1995) *Seeking Asylum: Comparative Law and Public Practice in Selected European Countries*. Dordrecht: Martinus Nijhoff.
- LANGFORD, L. M. (2013) The Other Euro Crisis: Rights Violations Under the Common European Asylum System and the Unraveling of EU Solidarity, *Harvard Human Rights Journal*, 26, pp. 217-264.
- LAVENEX, S. (2018) 'Failing Forward' Towards Which Europe? Organized Hypocrisy in the Common European Asylum System, *Journal of Common Market Studies*, 56 (5), pp. 1195-1212.
- LAVENEX, S. and SCHIMMELFENNIG, F. (2009) EU Rules Beyond EU Borders: Theorizing External Governance in European Politics, *Journal of European Public Policy*, 16 (6), pp. 791-812.
- LAVENEX, S. and WALLACE, W. (2005) Justice and Home Affairs: Towards a 'European Public Order'? In: WALLACE, H., WALLACE, W. and POLLACK, M. A., (eds.) *Policy-Making in the European Union*. Oxford: Oxford University Press, pp. 457-480.
- LAZAROWICZ, A. and PASCOUAT, Y. (2013) The Stockholm programme: what's next? European Policy Centre (EPC), 11 July. Available from: https://www.epc.eu/pub_details.php?pub_id=3671 [Accessed 7 November 2016].
- LEGRAIN, P. (2006) *Immigrants: your country needs them*. London: Little, Brown Book Group.
- LEHNE, S. (2016) How the Refugee Crisis Will Reshape the EU, *Carnegie Europe*, 4 February. Available from: <https://carnegieeurope.eu/2016/02/04/how-refugee-crisis-will-reshape-eu/itj7> [Accessed 27 September 2017].
- LEHNE, S. (2018) The EU Remains Unprepared for the Next Migration Crisis, *Carnegie Europe*, 3 April. Available from: <https://carnegieeurope.eu/2018/04/03/eu-remains-unprepared-for-next-migration-crisis-pub-75965> [Accessed 7 August 2018].
- LE MONDE (2011) Guéant estime que la France respecte "à la lettre" les accords de Schengen, 18 April. Available from: https://www.lemonde.fr/societe/article/2011/04/18/gueant-estime-que-la-france-respecte-a-la-lettre-les-accords-de-schengen_1509265_3224.html [Accessed 10 January 2018].

- LEONARD, S. (2010) EU border security and migration into the European Union: FRONTEX and securitisation through practices, *European Security*, 19 (2), pp. 231-254.
- LEWIS, J. (2010) How institutional environments facilitate co-operative negotiation styles in EU decision-making, *Journal of European Public Policy*, 17 (5), pp. 648-664.
- LISKA, G. (1962) *Nations in Alliance: The Limits of Interdependence*. Baltimore, MD.: Johns Hopkins University Press.
- LOCHOCKI, T. (2014) The unstoppable far right? How established parties' communication and media reporting of European affairs affect the electoral advances of right-wing populist parties, Europe Policy Paper No. 4, *The German Marshall Fund of the United States* (GMF), 24 September. Available from: <http://brussels.gmfus.org/publications/unstoppable-far-right> [Accessed 25 April 2018].
- LOESCHER, G. (1989) The European Community and Refugees, *International Affairs*, 65 (4), pp. 617-636.
- LOPATIN, E. (2013) The Changing Position of the European Parliament on Irregular Migration and Asylum under Co-decision, *Journal of Common Market Studies*, 51 (4), pp. 740-755.
- LUCASSEN, L. (2018) Peeling an onion: the "refugee crisis" from a historical perspective, *Ethnic and Racial Studies*, 41 (3), pp. 383-410.
- LUEDTKE, A. (2009) Fortifying Fortress Europe? The Effect of September 11 on EU Immigration Policy. In: GIVENS, T. E. et al. (eds.) *Immigration Policy and Security*. London: Routledge, pp. 130-147.
- LUINING, M. (2017) The Challenge of the Visegrad Group: Benefiting from its positions in the EU's coalition patterns. In: UGROSDY, M., (ed.) *Foreign Policy Review*, Institute for Foreign Affairs and Trade, Budapest, Volume 10, pp. 31-54. Available from: https://kki.hu/assets/upload/FPR_2017.pdf [Accessed 16 March 2018].
- LUTTERBECK, D. (2006) Policing Migration in the Mediterranean. *Mediterranean Politics*, 11 (1), pp. 59-82.
- LUTTERBECK, D. (2008) Coping with Europe's Boat People: Trends and Policy Dilemmas in Controlling the EU's Mediterranean Borders. Istituto per gli Studi di

Politica Internazionale (ISPI) Policy Brief 76. Available from: https://www.ispionline.it/it/documents/PB_76_2008.pdf [Accessed 18 June 2016].

LUTTERBECK, D. (2009) Small Frontier Island: Malta and the Challenge of Irregular Immigration, *Mediterranean Quarterly*, 20 (1), pp. 119-144.

LUTZ, P., KAUFMANN, D. and STÜNZI, A. (2020) Humanitarian Protection as a European Public Good: The Strategic Role of States and Refugees, *Journal of Common Market Studies*, 58 (3), pp. 757-775.

McLEAN, I. and McMILLAN, A. (2009) *The Concise Oxford Dictionary of Politics*. Oxford: Oxford University Press.

McMAHON, S. (2015) Regional integration and migration in the European Union. In: TALANI, L. S. and McMAHON, S., (eds.) *Handbook of the International Political Economy of Migration*. Cheltenham/Northampton, MA: Edward Elgar Publishing, pp. 285-303.

MAIANI, F. (2016a) Hotspots and Relocation Schemes: the right therapy for the Common European Asylum System? Migration Policy Centre (MPC) blog, 8 February. Available from: <https://blogs.eui.eu/migrationpolicycentre/hotspots-and-relocation-schemes-the-right-therapy-for-the-common-european-asylum-system/> [Accessed 30 May 2016].

MAIANI, F. (2016b) The Reform of the Dublin III Regulation, Study for the LIBE Committee, June. Available from: [http://www.europarl.europa.eu/RegData/etudes/STUD/2016/571360/IPOL_STU\(2016\)571360_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2016/571360/IPOL_STU(2016)571360_EN.pdf) [Accessed 10 November 2017].

MAINWARING, C. (2008) On the Edge of Exclusion: The Changing Nature of Migration in Cyprus and Malta, *The Cyprus Review*, 20 (2), pp. 19-49.

MAINWARING, C. (2011) In the Face of Revolution: the Libyan Civil War and Migration Politics in Southern Europe. In: CALLEYA, S. et al. (eds.) *The EU and Political Change in Neighbouring Regions: Lessons for EU's Interaction with the Southern Mediterranean*. Malta: University of Malta Press, pp. 431-451.

MAINWARING, C. (2014) Small States and Nonmaterial Power: Creating Crises and Shaping Migration Policies in Malta, Cyprus, and the European Union, *Journal of Immigrant & Refugee Studies*, 12 (2), pp. 103-122.

MAINWARING, C. (2018) Malta's History of Failed Migration Deterrence, *News Deeply, Refugees Deeply*, 20 August.

- MAJONE, G. (1994) The rise of the regulatory state in Europe, *West European Politics*, 17 (3), pp. 77-101.
- MARKS, G., HOOGHE, L. and BLANK, K. (1996) European Integration from the 1980s: State-Centric v. Multi-level Governance, *Journal of Common Market Studies*, 34 (3), pp. 341-378.
- MASSEY, D. S. (1999) International Migration at the Dawn of the Twenty-First Century: The Role of the State, *Population and Development Review*, 25 (2), pp. 303-322.
- MENZ, G. (2008) *The Political Economy of Managed Migration: Non-state Actors, Europeanization, and the Politics of Designing Migration Policies*. Oxford: Oxford University Press.
- MERRIAM, S. B. (1998) *Qualitative research and case study applications in education*. San Francisco, CA: Jossey-Bass Publishers.
- MEYER, J. W. and ROWAN, B. (1977) Institutionalized Organizations: Formal Structure as Myth and Ceremony, *American Journal of Sociology*, 83 (2), pp. 340-363.
- MIGSZOL, Migrant Solidarity Group of Hungary (2016) The quota system - what it actually is about? What Migszol thinks about the plans of the European Union, 27 July. Available from: <http://www.migszol.com/blog/the-quota-system-what-it-actually-is-about-what-migszol-thinks-about-the-plans-of-the-european-union> [Accessed 19 June 2018].
- MILES, R. and THRANHARDT, D. (eds.) (1995) *Migration and European Integration: The Dynamics of Inclusion and Exclusion*. London: Pinter Publishers.
- MILTNER, B. (2006) Irregular Maritime Migration: Refugee Protection Issues in Rescue and Interception, *Fordham International Law Journal*, 30 (1), pp. 75-125.
- MILWARD, A. S. (1992) *The European Rescue of the Nation State*. Berkeley and Los Angeles: University of California Press.
- MONEY, J. (1999) *Fences and Neighbors: The Political Geography of Immigration Control*. Ithaca, NY: Cornell University Press.
- MONTALDO, S. (2020) The COVID-19 Emergency and the Reintroduction of Internal Border Controls in the Schengen Area: Never Let a Serious Crisis Go to Waste,

European Papers e-Journal, 25 April, pp. 1-9. Available from:
[10.15166/2499-8249/353](https://doi.org/10.15166/2499-8249/353) [Accessed 26 May 2020].

- MORAVCSIK, A. (1993) Preferences and Power in the European Community: A Liberal Intergovernmentalist Approach, *Journal of Common Market Studies*, 31 (4), pp. 473-524.
- MORAVCSIK, A. (1995) Liberal Intergovernmentalism and Integration: A Rejoinder, *Journal of Common Market Studies*, 33 (4), pp. 611-628.
- MORAVCSIK, A. (1997) Taking Preferences Seriously: A Liberal Theory of International Politics, *International Organization*, 51 (4), pp. 513-553.
- MORAVCSIK, A. (1998) *The Choice for Europe: Social Purpose and State Power from Messina to Maastricht*. Ithaca, NY: Cornell University Press.
- MORAVCSIK, A. (1999) A New Statecraft? Supranational Entrepreneurs and International Cooperation, *International Organization*, 53 (2), pp. 267-306.
- MORAVCSIK, A. and SCHIMMELFENNIG, F. (2009) Liberal Intergovernmentalism. In: WEINER, A. and DIEZ, T., (eds.) *European Integration Theory*. 2nd ed. Oxford: Oxford University Press, pp. 67-87.
- MORENO-LAX, V. (2017) *Accessing Asylum in Europe: Extraterritorial Border Controls and Refugee Rights under EU law*. Oxford: Oxford University Press.
- MOUZOURAKIS, M. (2014) Cyprus: Detention of Syrian asylum seekers and access to an effective remedy, Rights in Exile Newsletter, 1 March. Available from: <https://rightsinexile.tumblr.com/post/78228834063/cyprus-detention-of-syrian-asylum-seekers-and> [Accessed 23 February 2016].
- MOUZOURAKIS, M. (2016) The reception of asylum seekers in Europe: failing common standards, EU Immigration and Asylum Law and Policy, Odysseus Network, 20 April. Available from: <http://eumigrationlawblog.eu/the-reception-of-asylum-seekers-in-europe-failing-common-standards/> [Accessed 3 May 2017].
- MUHLBOCK, M. and RITTBERGER, B. (2015) The Council, the European Parliament, and the paradox of inter-institutional cooperation. In: NEUHOLD, C. and VANHOONACKER, S., (eds.) *Dynamics of institutional cooperation in the European Union: Dimensions and effects*, European Integration online Papers (EIoP), 19 (1), Article 4, pp. 1-20. Available from: <http://eiop.or.at/eiop/pdf/2015-004.pdf> [Accessed 11 October 2018].

- MUNGER, M. C. and MUNGER, K. M. (2015) *Choosing in Groups: Analytical Politics Revisited*. Cambridge: Cambridge University Press.
- MUNZ, R. and ULRICH, R. (1998) Germany and its Immigrants: A Socio-Demographic Analysis, *Journal of Ethnic and Migration Studies*, 24(1), pp. 25-56.
- MURRAY, D. (2018) *The Strange Death of Europe*. London: Bloomsbury Publishing.
- NAGY, B. (2017) Sharing the Responsibility or Shifting the Focus? The Responses of the EU and the Visegrad Countries to the Post-2015 Arrival of Migrants and Refugees, Central European University, Budapest, Working Paper 17. Available from: http://www.iai.it/sites/default/files/gte_wp_17.pdf [Accessed 20 June 2017].
- NAURIN, D. and WALLACE, H. (eds.) (2008) *Unveiling the Council of the European Union: Games Governments Play in Brussels*. Houndmills: Palgrave Macmillan.
- NEAL, A. W. (2009) Securitization and risk at the EU border: The origins of FRONTEX, *Journal of Common Market Studies*, 47 (3), pp. 333-356.
- NEUMAYER, N. (2005) Asylum Recognition Rates in Western Europe: Their Determinants, Variation, and Lack of Convergence, *Journal of Conflict Resolution*, 49 (1), pp. 43-66.
- NIEMANN, A. (2012) The Dynamics of EU Migration Policy: From Maastricht to Lisbon. In: RICHARDSON, J., (ed.) *Constructing a Policy-Making State? Policy Dynamics in the EU*. Oxford: Oxford University Press, pp. 209-233.
- NIEMANN, A. and SCHMITTER, P. (2009) Neofunctionalism. In: WIENER, A. and DIEZ, T., (eds.) *European Integration Theory*. Oxford: Oxford University Press, pp. 45-66.
- NIEMANN, A. and ZAUN, N. (2018) EU Refugee Policies and Politics in Times of Crisis: Theoretical and Empirical Perspectives, *Journal of Common Market Studies*, 56 (1), pp. 3-22.
- NOLL, G. (2003) Risky Games? A Theoretical Approach to Burden-Sharing in the Asylum Field, *Journal of Refugee Studies*, 16 (3), pp. 236-252.
- NUGENT, N. (2017) *The Government and Politics of the European Union*. 8th ed. Basingstoke: Palgrave Macmillan.
- NUNEZ FERRER, J. (2017) EU-Turkey marriage vows, drawing, p. 5. In: CARRERA, et al. (2017) *It wasn't me! The Luxembourg Court Orders on the EU-Turkey*

Refugee Deal, CEPS Policy Insights, No. 2017-15, April. Available from: <https://www.ceps.eu/system/files/EU-Turkey%20Deal.pdf> [Accessed 18 July 2018].

O'NEILL, M. (2009) *The Struggle for the European Constitution: A Past and Future History*. Abingdon: Routledge.

O'NIONS, H. (2014) *Asylum - A Right Denied: A Critical Analysis of European Asylum Policy*. Surrey: Ashgate.

OECD, Organisation for Economic Co-operation and Development (2015) Indicators of Immigrant Integration 2015: Settling In. Paris: OECD Publishing. Available from: <http://dx.doi.org/10.1787/9789264234024-en> [Accessed 7 August 2018].

OECD, Organisation for Economic Co-operation and Development (2017a) Migration Policy Debates, No. 13, January. Available from: <https://www.oecd.org/els/mig/migration-policy-debates-13.pdf> [Accessed 9 October 2018].

OECD, Organisation for Economic Co-operation and Development (2017b) Understanding the socio-economic divide in Europe, 26 January. Available from: <http://oe.cd/cope-divide-europe-2017> [Accessed 17 June 2018].

ORGAD, L. (2010) Illiberal Liberalism: Cultural Restrictions on Migration and Access to Citizenship in Europe, *The American Journal of Comparative Law*, 58 (1), pp. 53-105.

PACE, Council of Europe Parliamentary Assembly (2006) Resolution 1509, Human Rights of Migrants, 27 June.

PACE, R. (2013) Migration in the Central Mediterranean, Jean Monnet Occasional Paper 02/2013, University of Malta, Institute of European Studies. Available from: <http://aei.pitt.edu/57577/> [Accessed 2 July 2018].

PALM, A. (2016) Did 2016 Mark a New Start for EU External Migration Policy, or Was It Business as Usual? Istituto Affari Internazionali (IAI) Working Papers No. 33, November. Available from: <http://www.iai.it/sites/default/files/iaiwp1633.pdf> [Accessed 24 August 2018].

PALM, A. (2017) The Italy-Libya Memorandum of Understanding: The baseline of a policy approach aimed at closing all doors to Europe? *EU Immigration and Asylum Law and Policy Blog*, 2 October. Available from: <http://eumigrationlawblog.eu/the-italy-libya-memorandum-of-understanding-the-baseline-of-a-policy-approach-aimed-at-closing-all-doors-to-europe/> [Accessed 22 June 2018].

- PALM, A. (2018) TEPSA Explainer: “The meaning of the Italian elections for European migration policies”, Trans European Policy Studies Association (TEPSA), 23 April. Available from: <http://www.tepsa.eu/tepsa-explainer-the-meaning-of-the-italian-elections-for-the-european-migration-policy/> [Accessed 30 May 2018].
- PANIZZON, M. and van RIEMSDIJK, M. (2018) Introduction to Special issue: ‘migration governance in an era of large movements: a multi-level approach’, *Journal of Ethnic and Migration Studies*, 45 (8), pp. 1225-1241.
- PANKE, D. (2010) *Small States in the European Union. Coping with Structural Disadvantages*. Surrey: Ashgate.
- PANKE, D. (2011) Small States in EU Negotiations. Political Dwarfs or Power-Brokers? *Cooperation and Conflict*, 40 (2), pp. 123-143.
- PAPADEMETRIOU, D. G. (2015) Top 10 of 2015 – Issue #1: Migration Crisis Tests European Consensus and Governance, Migration Policy Institute (MPI), 18 December. Available from: <https://www.migrationpolicy.org/article/migration-crisis-tests-european-consensus-and-governance> [Accessed 6 August 2018].
- PARAVICINI, G. and HERSZENHORN, D. M. (2018) Southern rim rebels against EU migration proposal, *Politico*, 26 April. Available from: <https://www.politico.eu/article/eu-migration-crisis-italy-spain-rebels-bulgaria-dublin-quotas-proposal/> [Accessed 22 May 2018].
- PARKES, R. (2008) Immigrant Integration meets European Integration, Working Paper FG 1/6, German Institute for International and Security Affairs (SWP), March. Available from: https://www.swp-berlin.org/fileadmin/contents/products/arbeitspapiere/Immigrant_Update2_KS.pdf [Accessed 29 October 2017].
- PARKES, R. (2017) Nobody move! Myths of the EU migration crisis, Chaillot Paper No. 143, EU Institute for Security Studies. Luxembourg: Publications Office of the European Union. Available from: https://www.iss.europa.eu/sites/default/files/EUISSFiles/CP_143_Migration_0.pdf [Accessed 2 September 2018].
- PARKES, R. and ANGENENDT, S. (2009) The re-nationalisation of migration policy-making? EU cooperation after the Immigration Pact, Working Paper FG 1/02 and FG 8/05, German Institute for International and Security Affairs (SWP), January. Available from: https://www.swp-berlin.org/fileadmin/contents/products/arbeitspapiere/pact_KS_discpap.pdf [Accessed 27 August 2016].

- PARKIN, J. (2013) The Criminalisation of Migration in Europe: A State-of-the-Art of the Academic Literature and Research, CEPS Paper in Liberty and Security in Europe, No. 61, 25 October. Available from: <https://www.ceps.eu/ceps-publications/criminalisation-migration-europe-state-art-academic-literature-and-research/> [Accessed 12 October 2018].
- PASCOUUAU, Y. and GUILLAUME, S. (2016) The rise of national borders and the fall of a symbol. In: GHEMIS, A. et al. Schengen in the spotlight: a Europe with or without borders? European Policy Centre (EPC), April, pp. 25-26. Available from: <http://www.europeanmigrationlaw.eu/en/articles/points-of-view/the-rise-of-national-borders-and-the-fall-of-a-symbol.html> [Accessed 24 April 2017].
- PASTORE, F. (2002) Just Another European Dream? Why Did the Communitarization of Immigration and Asylum Policies almost Fail and How We Should Revive It, Paper presented at the seminar 'European Migration and Refugee Policy: New Developments', organised by the Cicero Foundation, Rome, 15 November.
- PASTORE, F. (2017) Beyond the Migration and Asylum Crisis: Options and lessons for Europe, Aspen Institute Italia, January. Available from: <http://www.aspeninstitute.it/attivita/E-book/beyond-migration-and-asylum-crisis-options-and-lessons-europe> [Accessed 17 March 2018].
- PASTORE, F. and HENRY, G. (2016) Explaining the Crisis of the European Migration and Asylum Regime, *The International Spectator*, 51 (1), pp. 44-57.
- PAYNE G. and PAYNE, J. (2004) *Key Concepts in Social Research*. London: Sage Publications.
- PEERS, S. (2012) The Revised Directive on Asylum-seekers' Reception Conditions: The Member States hit rock-bottom, *Statewatch Analysis*, March. Available from: <http://www.statewatch.org/analyses/no-172-reception.pdf> [Accessed 27 April 2016].
- PEERS, S. (2013) The second phase of the Common European Asylum System: A brave new world – or lipstick on a pig? *Statewatch Analysis*, 8 April. Available from: <http://www.statewatch.org/analyses/no-220-ceas-second-phase.pdf> [Accessed 19 May 2018].
- PEERS, S. (2015) The EU's Accession to the ECHR: The Dream Becomes a Nightmare, *German Law Journal*, (16) 1, pp. 213-222.

- PEERS, S. (2016) The final EU/Turkey deal: a legal assessment, EU Law Analysis Blog, 18 March. Available from: <http://eulawanalysis.blogspot.com/2016/03/the-final-euturkey-refugee-deal-legal.html> [Accessed 25 October 2018].
- PENEV, D. (2017) Normative Power Europe and Migration: A 'Refugee Crisis' or a 'Normative Crisis'? Thesis Submitted in Partial Fulfilment of the Requirements for the degree of Master of Arts in International Relations, Central European University, Budapest, CEU eTD Collection. Available from: http://www.etd.ceu.edu/2017/penev_daniel.pdf?cv=1 [Accessed 3 February 2018].
- PENNINX, R. (2010) European research on international migration and settlement of immigrants: a state of the art and suggestions for improvement. In: AUDEBERT, C. and DORAI, M. K., (eds.) *Migration in a Globalised World: New Research Issues and Prospects*. Amsterdam: Amsterdam University Press, pp. 21-39.
- PETERS, B. G. (1999) *Institutional Theory in Political Science: the 'New Institutionalism'*. London: Pinter.
- PETERS, B. G. (2001) Agenda-setting in the European Union. In: RICHARDSON, J., (ed.) *European Union: Power and Policy-making*. 2nd ed. London/New York: Routledge, pp. 77-94.
- PHULL, K. (2013) Securitization and the Arab Spring Migration Crisis in the EU, *Political Science Graduate Student Journal*, 2, Trends and Dynamics in Global Politics, Department of Political Science, Concordia University, Montréal, Québec, pp. 1-30.
- PICARRA, N. (2016) Control and Closure of Internal Borders in the Schengen Area, Searching for Solidarity in EU Asylum and Border Policies: A Collection of Short Papers following the Odysseus Network's First Annual Policy Conference, 26-27 February, Université libre de Bruxelles, pp.15-18. Available from: <http://odysseus-network.eu/wp-content/uploads/2015/09/Searching-for-Solidarity-Short-Papers.pdf> [26 April 2016].
- PIERRE, J. (ed.) (2000) *Debating Governance: Authority, Steering and Governance*. Oxford: Oxford University Press.
- PLOTT, C. R. (1991) Will Economics Become an Experimental Science? *Southern Economic Journal*, 57 (4), pp. 901-919.
- PolicyNL (2013) Policy Models. Available from: <https://www.policynl.ca/policydevelopment/pages/policymodels.html> [Accessed 26 September 2018].

- POLITICO (2018) Projected composition of the next EU Parliament, 12 November. Available from: <https://www.politico.eu/europe-poll-of-polls/european-parliament-elections-2019/> [Accessed 18 November 2018].
- POLLACK, M. A. (1997) Delegation, Agency, and Agenda Setting in the European Community, *International Organization*, 51 (1), pp. 99-134.
- POLLACK, M. A. (2003) *The Engines of European Integration: Delegation, Agency and Agenda Setting in the EU*. Oxford: Oxford University Press.
- POLLACK, M. A. (2007) Rational Choice and EU Politics. In: JORGENSON, K. E. et al. (eds.) *Handbook of European Union Politics*. London: Sage Publications, pp. 31-55.
- POLLACK, M. A. (2009) The New Institutionalisms and European Integration. In: WEINER, A. and DIEZ, T., (eds.) *European Integration Theory*. 2nd ed. Oxford: Oxford University Press, pp. 125-144.
- POLLACK, M. A. (2010) Theorizing EU Policy-Making. In: WALLACE, H. et al. (eds.) *Policy-Making in the European Union*. 6th ed. Oxford: Oxford University Press, pp. 15-44.
- POSTOLACHE, A. (2012) The Power of a Single Voice: The EU's Contribution to Global Governance Architecture, *Romanian Journal of European Affairs*, 12 (3), pp. 5-18. Available from: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2142364 [Accessed 30 August 2018].
- PRINCEN, S. (2007) Agenda-setting in the European Union: A theoretical exploration and agenda for research, *Journal of European Public Policy*, 14 (1), pp. 21-38.
- PRINCEN, S. (2012) Agenda-Setting and the Formation of an EU Policy-Making State. In: RICHARDSON, J., (ed.) *Constructing a Policy-Making State? Policy Dynamics in the EU*. Oxford: Oxford University Press, pp. 29-45.
- PRUDENTE, T. (2017) The reform of the Dublin regulation: a step towards a new system to better share responsibilities, *Lexology*, 23 November. Available from: <https://www.lexology.com/library/detail.aspx?g=faafbb9c-3903-46a6-8b54-cb3a198c8229> [Accessed 29 November 2017].
- PUNDY, D. (2018) By refusing entry to migrant rescue ship, Italy and Malta reveal legal shortcomings, *Deutsche Welle* (DW), 12 June. Available from: <https://p.dw.com/p/2zOzk> [Accessed 9 September 2018].

- QU, S. Q and DUMAY, J. C. (2011) The qualitative research interview, *Qualitative Research in Accounting & Management*, 8 (3), pp. 238-264.
- REUTERS (2018a) Fear of migrants galvanizes PM Orban's supporters in rural Hungary, 21 March. Available from: <https://www.reuters.com/article/us-hungary-election-orban-voters/fear-of-migrants-galvanizes-pm-orbans-supporters-in-rural-hungary-idUSKBN1GX1HW> [Accessed 8 June 2018].
- REUTERS (2018b) Hungary approves 'STOP Soros' law, defying EU, rights groups, 20 June. Available from: <https://www.reuters.com/article/us-hungary-soros/hungary-approves-stop-soros-law-defying-eu-rights-groups-idUSKBN1JG1VN> [Accessed 25 June 2018].
- REYNERI, E. (1998) The role of the underground economy in irregular migration to Italy: cause or effect? *Journal of ethnic and migration studies*, 24 (2), pp. 313-331.
- RIBAS-MATEOS, N. (2015) *Border Shifts. New Mobilities in Europe and Beyond*. Basingstoke: Palgrave Macmillan.
- RICHMOND, M. (2014) What Light can Constructivism Shed on the EU? *E-International Relations*, 17 January. Available from: <https://www.e-ir.info/2014/01/17/what-light-can-constructivism-shed-on-the-eu/> [Accessed 1 December 2016].
- RIKER, W. H. (1962) *The Theory of Political Coalitions*. New Haven, CT: Yale University Press.
- RIPOLL SERVENT, A. and TRAUNER, F. (2014) Do supranational EU institutions make a difference? EU asylum law before and after 'Communitarization', *Journal of European Public Policy*, 21 (8), pp. 1142-1162.
- RISSE, T. (2004) Social Constructivism and European Integration. In: WIENER, A. and DIEZ, T., (eds.) *European Integration Theory*. Oxford: Oxford University Press, pp. 159-176.
- RIST, R. C. (1979) Migration and Marginality: Guestworkers in Germany and France, *Daedalus*, 108 (2), Old Faiths and New Doubts: The European Predicament, pp. 95-108.
- ROBERTS, A. (1998) More Refugees, less Asylum: A Regime in Transformation, *Journal of Refugee Studies*, 11 (4), pp. 375-395.

- ROBSON, S. and HEDGES, A. (1993) Analysis and interpretation of qualitative findings, *Journal of the Market Research Society*, 35 (1), pp. 23-35.
- ROSA LUXEMBURG STIFTUNG (2018) The Far Right in Government: Six Cases from Across Europe, New York Office, June. Available from: http://www.rosalux-nyc.org/wp-content/files_mf/farrightingovernmenten_web.pdf [Accessed 30 October 2018].
- ROSAMOND, B. (2007) New Theories of European Integration. In: CINI, M. and BORRAGAN, N., (eds.) *European Union Politics*. 2nd ed. Oxford: Oxford University Press, pp. 117-136.
- ROSATI, J. A. (1981) Developing a Systematic Decision-Making Framework: Bureaucratic Politics in Perspective, *World Politics*, 33 (2), pp. 234-252.
- SABATIER, P. A. (ed.) (2007) *Theories of the Policy Process*. 2nd ed. Boulder, CO: Westview Press.
- SALT, J. and ALMEIDA, J. C. (2006) International Migration in Europe: Patterns and Trends since the mid-1990s, *Revue européenne des migrations internationales*, 22 (2), pp. 155-175. Available from: <https://journals.openedition.org/remi/2828?lang=en> [Accessed 4 April 2016].
- SALT, J. and HUGH, C. (eds.) (1976) *Migration in Post-War Europe: Geographical Essays*. London: Oxford University Press.
- SARDELIC, J. (2017) The Western Balkan Route: A new form of forced migration governance in Europe? *Green European Journal*, 31 August. Available from: <https://www.greeneuropeanjournal.eu/the-western-balkan-route-a-new-form-of-forced-migration-governance-in-europe/> [Accessed 9 July 2018].
- SASSEN, S. (1996) *Losing Control? Sovereignty in an Age of Globalization*. New York: Columbia University Press.
- SCHAIN, M. A. (2009) The State Strikes Back: Immigration Policy in the European Union, *European Journal of International Law*, 20 (1), pp. 93-109.
- SCHARPF, F. W. (1988) The Joint-Decision Trap. Lessons from German Federalism and European Integration, *Public Administration*, 66 (3), pp. 239-278.
- SCHARPF, F. W. (2006) The Joint-Decision Trap Revisited, *Journal of Common Market Studies*, 44 (4), pp. 845-864.

- SCHIMMELFENNIG, F. (2018a) European Integration (Theory) in Times of Crisis. A comparison of the euro and Schengen crises, *Journal of European Public Policy*, 25 (7), pp. 969-989.
- SCHIMMELFENNIG, F. (2018b) Liberal Intergovernmentalism and the Crises of the European Union, *Journal of Common Market Studies*, 56 (7), pp. 1578-1594.
- SCIPIONI, M. (2017) Failing forward in EU Migration Policy? EU Integration after the 2015 Asylum and Migration Crisis, *Journal of European Public Policy*, 25 (9), pp. 1357-1375.
- SCHMALTER, J. (2018) A European response to non-compliance: the Commission's enforcement efforts and the Common European Asylum System, *West European Politics*, 41 (6), pp. 1330-1353.
- SCHNEIDER, G., STEUNENBERG, B. and WIDGREN, M. (2006) Evidence with insight: what models contribute to EU research. In: THOMSON, F. N. et al. (eds.) *The European Union Decides*. Cambridge: Cambridge University Press, pp. 299-316.
- SCHNEIDER, J. (2017) EU Policy Options to Manage the Migration and Refugee Situation: An Insufficient Toolbox? Euromed Survey 7th edition, IEMed, pp. 40-47. Available from: https://www.iemed.org/recursos-compartits/pdfs/EuroMedSurvey16_EU_Policy_Toolbox_Schneider.pdf [Accessed 14 August 2017].
- SCHOLTEN, P. and PENNINX, R. (2016) The Multilevel Governance of Migration and Integration. In: GARCES-MASCARENAS, B. and PENNINX, R., (eds.) *Integration Processes and Policies in Europe: Contexts, Levels and Actors*. Cham: Springer, pp. 91-108.
- SCHULZ, F. (2019) How strong is right-wing populism after the European elections? *Euractiv*, 5 June. Available from: <https://www.euractiv.com/section/eu-elections-2019/news/how-strong-is-right-wing-populism-after-the-european-elections/> [Accessed 10 October 2019].
- SHIELDS, P. M. and TAJALLI, H. (2006) Intermediate Theory: The missing link in successful student scholarship, *Journal of Public Affairs Education*, 12 (3), pp. 313-334.
- SIGONA, N. (2016) The flop of relocation and the sinking of the Dublin Regulation, Open Migration, 24 January. Available from: <https://openmigration.org/en/op-ed/>

[the-flop-of-relocation-and-the-sinking-of-the-dublin-regulation/](#) [Accessed 11 May 2016].

- SINGLETON, A. (2016) Migration and Asylum Data for Policy-making in the European Union: The problem with numbers, CEPS Paper No. 89, March. Available from: <https://www.ceps.eu/system/files/LSE%2089%20AS%20Migration%20and%20Asylum%20Data.pdf> [Accessed 4 May 2016].
- SMITH, M. (1996) The European Union and a Changing Europe: Establishing the Boundaries of Order, *Journal of Common Market Studies*, 34 (1), pp. 6-27.
- SMYTHE, W. E. and MURRAY, M. J. (2000) Owning the Story: Ethical Considerations in narrative Research, *Ethics and Behaviour*, 10 (4), pp. 311-336.
- SNYDER, G. H. (1990) Alliance Theory: A Neorealist First Cut, *Journal of International Affairs*, 44 (1), pp. 103-123.
- SOMMER, S. (2013) Opening Fortress Europe? Constructing a new approach to EU migration policy, *Brussels Journal of International Studies*, 10, pp. 42-82. Available from: <https://gmdac.iom.int/research-database/opening-fortress-europe-constructing-new-approach-eu-migration-policy> [Accessed 15 September 2016].
- SOYSAL, Y. N. (1994) *Limits of Citizenship: Migrants and Postnational Membership in Europe*. Chicago: University of Chicago Press.
- SQUIRES, N. (2018) Silvio Berlusconi says illegal migrants are 'social time bomb', as race dominates Italian election campaign, *The Telegraph*, 5 February. Available from: <https://www.telegraph.co.uk/news/2018/02/05/silvio-berlusconi-says-illegal-migrants-social-time-bomb-race/> [Accessed 1 June 2018].
- STAN, R. (2006) Irregular Migration of Romanian Workers to European Union: Factors, Practices and Management, Research Paper, Center for Policy Studies, Budapest. Available from: http://www.policy.hu/razvan/IPF_Research_Paper.pdf [Accessed 4 December 2017].
- STATISTA (2019a) The Relentless Rise Of Populism In Europe, 2 May. Available from: <https://www.statista.com/chart/17860/results-of-far-right-parties-in-the-most-recent-legislave-elections/> [Accessed 15 November 2019].
- STATISTA (2019b) European Election Turnout Reaches 20-Year High, Statista Charts, 27 May. Available from: <https://www.statista.com/chart/18167/turnout-in-the-european-parliament-elections/> [Accessed 5 April 2021].

- STEINMO, S. (2008) Historical Institutionalism. In: DELLA PORTA, D. and KEATING, M., (eds.) *Approaches and Methodologies in the Social Sciences: A Pluralist Perspective*. Cambridge: Cambridge University Press, pp. 118-138.
- STERLING, J. (2017) Far-right party in Austria's new government, *CNN World*, 16 December. Available from: <https://edition.cnn.com/2017/12/15/europe/austria-government-coalition/index.html> [Accessed 14 June 2018].
- STOJANOV, K. (2018) Educational justice and transnational migration, *Journal of Global Ethics*, 14 (1) Special Issue: Education and Migration, pp. 34-46.
- STRATFOR (2017) Map: Which Schengen Borders Are Closed to Passport- Free Travel in August 2017, 7 August. Available from: <https://worldview.stratfor.com/article/map-which-schengen-borders-are-closed-passport-free-travel-august-2017> [Accessed 26 June 2018].
- STRAUSS, A. and CORBIN, J. (1990) *Basics of qualitative research: Grounded theory procedures and techniques*. Newbury Park, CA: Sage Publications.
- STUMPF, J. (2006) The Crimmigration Crisis: Immigrants, Crime, and Sovereign Power, *American University Law Review*, 56 (2), pp. 367-419.
- TALLBERG, J. (2010) Explaining the Institutional Foundations of European Union Negotiations, *Journal of European Public Policy*, 17 (5), pp. 633-647.
- TARTAR, A. (2017) How the Populist Right Is Redrawing the Map of Europe, *Bloomberg*, 11 December. Available from: <https://www.bloomberg.com/graphics/2017-europe-populist-right/> [Accessed 20 May 2018].
- TASC (2018) How the main EU bodies work together - graphic. Available from: <https://www.tasc.ie/opengovtoolkit/public-decision-making/european-union/> [Accessed 6 November 2018].
- TAYLOR, P. (1983) *The Limits of European Integration*. New York: Columbia University Press.
- TAYLOR, P. (2018) Europe's center right cannot hold, *Politico*, 21 June. Available from: <https://www.politico.eu/article/europe-center-right-cannot-hold-epp-angela-merkel-christian-democrats-migration/> [Accessed 21 June 2018].
- THELEN, K. (1999) Historical Institutionalism in Comparative Politics, *Annual Review of Political Science*, 2, pp. 369-404.

- THEMISTOCLEOUS, A. (2013) Securitizing Migration: Aspects and Critiques, The Globalized World (GW) Post Research Paper, May. Available from: <https://thegwpost.files.wordpress.com/2013/05/securitizing-migration-aspects-and-critiques-themistocleous-2013.pdf> [Accessed 6 November 2016].
- THIELEMANN, E. R. (2009) Towards a common European asylum policy: forced migration, collective security and burden-sharing. In: GIVENS, T. et al. (eds.) *Immigration Policy and Security: U.S., European, and Commonwealth Perspectives*. Abingdon: Routledge, pp. 167-186.
- THIELEMANN, E. R. (2010) The Common European Asylum System: In Need of a More Comprehensive Burden-Sharing Approach. In: LUEDTKE, A., (ed.) *Migrants and Minorities: The European Response*. Newcastle upon Tyne: Cambridge Scholars Publishing, pp. 82-97.
- THIELEMANN, E. R., WILLIAMS, R. and BOSWELL, C. (2010) What System of Burden-sharing between Member States for the Reception of Asylum Seekers? Study prepared for LIBE, Brussels, Report PE 419.620, 22 January. Available from: [https://www.europarl.europa.eu/RegData/etudes/etudes/join/2010/419620/IPO-LIBE_ET\(2010\)419620_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/etudes/join/2010/419620/IPO-LIBE_ET(2010)419620_EN.pdf) [Accessed 7 January 2018].
- THOMPSON, C. (2013) Frontiers and Threats: Should Transnational Migration Be Considered a Security Issue? *Global Policy Journal*, 20 November.
- THOMSON, R. and HOSLI, M. O. (2006) Explaining legislative decision-making in the European Union. In: THOMSON, R. et al. (eds.) *The European Union Decides*. Cambridge: Cambridge University Press, pp.1-24.
- Times of Malta (2018) Malta closes ports to migrant NGO ships - government confirms, 29 June. Available from: <https://timesofmalta.com/articles/view/malta-closes-ports-to-migrant-ngos-ships-government-confirms.683102> [Accessed 28 October 2018].
- TOMASI DI LAMPEDUSA, G. (1958) *Il Gattopardo*. Milano: Feltrinelli.
- TORMEY, S. and TOWNSHEND, J. (2006) *Key Thinkers from Critical Theory to Post-Marxism*. London: SAGE Publications.
- TORPEY, J. (1998) Coming and Going: On the State Monopolization of the Legitimate "Means of Movement", *Sociological Theory*, 16 (3), pp. 239-259.

- TOSHKOV, D. D. (2013) The dynamic relationship between asylum applications and recognition rates in Europe (1987–2010), *European Union Politics*, 15 (2), pp. 192-214.
- TOYGUR, I. and BENVENUTI, B. (2016) The European Response to the Refugee Crisis: Angela Merkel on the Move, IPC-Mercator Policy Brief, June. Available from: https://www.academia.edu/26926023/THE_EUROPEAN_RESPONSE_TO_THE_REFUGEE_CRISIS_ANGELA_MERKEL_ON_THE_MOVE [Accessed 20 December 2017].
- TRAUNER, F. (2016) Asylum policy: the EU's 'crises' and the looming policy regime failure, *Journal of European Integration*, 38 (3), pp. 311-325.
- TRIANDAFYLLIDOU, A. (ed.) (2010) *Irregular Migration in Europe: Myths and Realities*. Aldershot: Ashgate.
- TRIANDAFYLLIDOU, A. and DIMITRIADI, A. (2014) Governing Irregular Migration and Asylum at the Borders of Europe: Between Efficiency and Protection, *Istituto Affari Internazionali* (IAI), Issue 6, May. Available from: <https://www.iai.it/en/pubblicazioni/governing-irregular-migration-and-asylum-borders-europe> [Accessed 5 June 2016].
- TRIANDAFYLLIDOU, A. and GROPAS, R. (2014) Greece. In: TRIANDAFYLLIDOU, A. and GROPAS, R., (eds.) *European Immigration: A Sourcebook*. 2nd ed. Aldershot: Ashgate, pp. 141-154.
- TRIMIKLINIOTIS, N. (1999) Racism and New Migration to Cyprus: The Racialisation of Migrant Workers. In: ANTHIAS, F. and LAZARIDES, G., (eds.) *Into the Margins: Exclusion and Migration in Southern Europe*. Aldershot: Ashgate, pp. 139-178.
- TRIMIKLINIOTIS, N. (2008) Borders, Migration, Security and Trafficking Dilemmas: Current Debates and Cypriot Challenges, *The Cyprus Review*, 20 (2), pp. 207-232.
- TRIMIKLINIOTIS, N. (2019) Cyprus as a new refugee "hotspot" in Europe?: Challenges for a Divided Country, Friedrich-Ebert-Stiftung (FES) Report. Available from: <https://library.fes.de/pdf-files/bueros/zypern/16001.pdf> [Accessed 30 May 2021].
- TRIMIKLINIOTIS, N. (2020a) Public sociology, social justice and struggles in the era of austerity-and-crises, *International Social Work*, 63 (1), pp. 5-17.
- TRIMIKLINIOTIS, N. (2020b) *Migration and the Refugee Dissensus in Europe*. Abingdon and New York, NY: Routledge.

- TRIMIKLINIOTIS, N. and DEMETRIOU, C. (2005) Active Civic Participation of Immigrants in Cyprus, Country Report prepared for the European research project POLITIS, Oldenburg. Available from: <http://www.politis-europe.uni-oldenburg.de/download/Cyprus.pdf> [Accessed 19 November 2016].
- TRIMIKLINIOTIS, N. and DEMETRIOU, C. (2011) Tolerance and Cultural Diversity Discourses in Cyprus, ACCEPT PLURALISM Working Paper 1, European University Institute, Robert Schuman Centre for Advanced Studies. Available from: <http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.470.7591&rep=rep1&type=pdf> [Accessed 19 October 2018].
- TRIMIKLINIOTIS, N. and DEMETRIOU, C. (2014) Cyprus In: TRIANDAFYLLIDOU, A. and GROPAS, R., (eds.) *European Immigration: A Sourcebook*. 2nd ed. Aldershot: Ashgate, pp. 67-82
- TRIMIKLINIOTIS, N. and DEMETRIOU, C. (2018) Legal and Procedural Information For Asylum Seekers in Cyprus and Europe, Country Report, 3 April. Available from: https://works.bepress.com/nicos_trimikliniotis/49/ [Accessed 10 June 2018].
- TRIPATHI, M. (2015) Theoretical Underpinnings of European Union, International Organization of Scientific Research (IOSR) *Journal Of Humanities And Social Science*, 20 (1), pp. 29-33. Available from: <http://iosrjournals.org/iosr-jhss/papers/Vol20-issue1/Version-3/E020132933.pdf> [Accessed 11 February 2016].
- TSEBELIS, G. and GARRETT, G. (2000) Legislative politics in the EU, *European Union Politics*, 1 (1), pp. 9-36.
- TSOURDI, E. (2016) Intra-EU solidarity and the implementation of the EU asylum policy: a refugee or governance 'crisis'? Searching for Solidarity in EU Asylum and Border Policies: A Collection of Short Papers following the Odysseus Network's First Annual Policy Conference, 26-27 February, Université libre de Bruxelles, pp. 5-9. Available from: <http://odysseus-network.eu/wp-content/uploads/2015/09/Searching-for-Solidarity-Short-Papers.pdf> [26 April 2016].
- UCARER, E. M. and PUCHALA, D. J. (eds.) (1997) *Immigration into Western Societies: Problems and Policies*. London: Pinter.
- UNAOC, United Nations Alliance of Civilizations (2014) Media-Friendly Glossary on Migration. Available from: https://www.unaoc.org/wp-content/uploads/UNAOC-Panos-Europe-Institute_Media-Friendly-Glossary-on-Migration.pdf [Accessed 31 March 2021].

- UNHCR, United Nations High Commissioner for Refugees (2017a) Border fences and internal border controls in Europe, March. Available from: <https://data2.unhcr.org/fr/documents/download/55249> [Accessed 18 July 2018].
- UNHCR, United Nations High Commissioner for Refugees (2017b) More action needed to share responsibility for refugees, 10 July. Available from: <http://www.unhcr.org/uk/news/latest/2017/7/5964977c4/action-needed-share-responsibility-refugees.html> [Accessed 31 July 2017].
- UNHCR, United Nations High Commissioner for Refugees (2018) What is a Refugee? Available from: <https://www.unrefugees.org/refugee-facts/what-is-a-refugee/> [Accessed 7 November 2018].
- University of Portsmouth, European Studies Hub (2013a) Intergovernmentalism & Liberal Intergovernmentalism, Module 4: Theorising the European Union. Available from: <http://hum.port.ac.uk/europeanstudieshub/learning/module-4-theorising-the-european-union/3-intergovernmentalism-liberal-intergovernmentalism/> [Accessed 8 March 2018].
- University of Portsmouth, European Studies Hub (2013b) Understanding EU Policy Making: The Lisbon Treaty. Available from: <http://hum.port.ac.uk/europeanstudieshub/learning/module-2-understanding-eu-policy-making/pillars/> [Accessed 8 March 2018].
- VAN DE PEER, P. (2016) Negotiating the Generation of the Common European Asylum System Instruments: A Chronicle. In: CHETAIL, V., DE BRUYCKER, P. and MAIANI, F., (eds.) *Reforming the Common European Asylum System: The New European Refugee Law*. Boston: Brill Nijhoff, pp. 55-73.
- VAN HEAR, N., BRUBAKER, R. and BESSA, T. (2009) Managing Mobility for Human Development: The Growing Salience of Mixed Migration, United Nations Human Development Research Paper 2009/20. Available from: http://hdr.undp.org/sites/default/files/hdrp_2009_20.pdf [Accessed 11 July 2018].
- VAN MOL, C. and DE VALK, H. A. G. (2016) Migration and Immigrants in Europe: A Historical and Demographic Perspective. In: GARCES-MASCARENAS, B. and PENNINX, R., (eds.) *Integration Processes and Policies in Europe: Contexts, Levels and Actors*. Cham: Springer, pp. 31-55.
- VAN MUNSTER, R. (2004) The Desecuritisation of Illegal Migration: The Case for a European Belonging without Community, Marie Curie Working Papers No. 7, Department of International Politics, University of Wales, Aberystwyth.

- VAN OUDENAREN, J. (2004) The European Union: From Community to Constitution. In: TIERSKY, R., (ed.) *Europe Today: National politics, European integration, and European security*, 2nd ed. Lanham, MD: Rowman & Littlefield Publishers, pp. 21-58.
- VAN REEKUM, R. (2016) The Mediterranean: Migration Corridor, Border Spectacle, Ethical Landscape, *Mediterranean Politics*, 21 (2), pp. 336-341. Available from: <https://doi.org/10.1080/13629395.2016.1145828> [Accessed 1 June 2018].
- VEDSTED-HANSEN, J. (2016) Reception Conditions as Human Rights: Pan-European Standard or Systemic Deficiencies? In: CHETAIL, V. et al. (eds.) *Reforming the Common European Asylum System: The New European Refugee Law*. Boston: Brill Nijhoff, pp. 317-352.
- VELLUTI, S. (2014) *Reforming the Common European Asylum System - Legislative Developments and Judicial Activism of the European Courts*. London: Springer.
- VERSLUIS, E., VAN KEULEN, M. and STEPHENSON, P. (2011) *Analyzing the European Policy Process*. Basingstoke: Palgrave Macmillan.
- VINK, M. P. (2013) Dublin System. *The Encyclopedia of Global Human Migration*, Chicester: Wiley-Blackwell, vol. III, pp. 1269-1271.
- VOLDEN, C. and CARRUBBA, C. J. (2004) The Formation of Oversized Coalitions in Parliamentary Democracies, *American Journal of Political Science*, 48 (3), pp. 521-537.
- VoteWatch Europe (2011) Voting in the 2009-2014 European Parliament: How do MEPs Vote after Lisbon. Available from: https://www.votewatch.eu/blog/wp-content/uploads/2011/01/votewatch_report_voting_behavior_26_january_beta.pdf [Accessed 17 May 2018].
- VoteWatch Europe (2018) 5 takeaways from our special event with Prof. Simon Hix, *VoteWatch Europe*, 26 November. Available from: <https://www.votewatch.eu/blog/5-takeaways-from-our-special-event-with-prof-simon-hix/> [Accessed 27 November 2018].
- VRASIDAS, C., THEMISTOKLEOUS, S., and ZEMBYLAS, M. (2009) Cyprus: Immigration and Intercultural Education. In: STOCKER, S. and SELLERS, S., (eds.) *Migrants in Europe as Development Actors: Between hope and vulnerability*, pp. 52-53. Available from: http://www.socialwatch.org/sites/default/files/European_SW_Report_2009-eng.pdf [Accessed 14 February 2018].

- WAEVER, O. (1995) Securitization and Desecuritisation. In: LIPSCHUTZ, R., (ed.) *On Security*. New York: Columbia University Press, pp. 46-86.
- WAEVER, O., BUZAN, B. and KELSTRUP, M. (1993) *Identity, Migration and the New Security Agenda in Europe*. Boulder, CO: Westview Press.
- WAGNER, M. (2018) What remains 'common' in the "European Asylum System" if Dublin fails? International Centre for Migration Policy Development (ICMPD), 16 April. Available from: <https://www.icmpd.org/news-centre/news-detail/expert-voice-what-remains-common-in-the-european-asylum-system-if-dublin-fails/> [Accessed 17 July 2018].
- WAGNER, M., DIMITRIADI, A., O'DONELL, R., PERUMADAN, J., SCHLOTZHAUER, J. H., SIMIC, I., and YABASUN, D. (2016) The Implementation of the Common European Asylum System, Study for the EP LIBE Committee, 16 May. Available from: [http://www.europarl.europa.eu/RegData/etudes/STUD/2016/556953/IPOL_STU\(2016\)556953_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2016/556953/IPOL_STU(2016)556953_EN.pdf) [Accessed 13 March 2018].
- WAGNER, M., BAUMGARTNER, P. and MOUZOURAKIS, M. (2019) Harmonising asylum systems in Europe – a means or an end per se? CEASEVAL research on the CEAS, no. 25, April. Available from: http://ceaseval.eu/publications/25_WP2_HarmonisationWP.pdf [Accessed 29 May 2021].
- WALLACE, H. (1983) Distributional Politics: Dividing Up the Community Cake. In: WALLACE, H. et al. (eds.) *Policy-Making in the European Communities*. 2nd ed. Chichester: John Wiley & Sons, pp. 81-113.
- WALLACE, H. (2000) The Policy Process: A Moving Pendulum. In: WALLACE, H. et al. (eds.) *Policy-Making in the European Communities*. 4th ed. Oxford: Oxford University Press, pp. 39-64.
- WALLACE, H., POLLACK, M. A. and YOUNG, A. R. (2015) *Policy-Making in the European Union*. 7th ed. Oxford: Oxford University Press.
- WALT, S. M. (1985) Alliance Formation and the Balance of World Power, *International Security*, 9 (4), pp. 3-43.
- WALTZ, K. N. (1979) *Theory of International Politics*. New York: McGraw-Hill.
- WARNTJEN, A. (2009) Mode(l)s of Decision-Making in the Council of the European Union, UCD Dublin European Institute Working Paper 09-06, May. Available from: https://www.ucd.ie/t4cms/WP_09-06_Andreas_Warntjen.pdf [Accessed 17 August 2017].

- WARNTJEN, A. (2010) Between Bargaining and Deliberation: Decision-making in the Council of the European Union, *Journal of European Public Policy*, 17 (5), pp. 665-679.
- WARNTJEN, A. (2011) Measuring Saliency in EU Legislative Politics, *European Union Politics*, 13 (1), pp. 168-182.
- WARNTJEN, A. (2017) Do votes matter? Voting weights and the success probability of member state requests in the Council of the European Union, *Journal of European Integration*, 39 (6), pp. 673-687.
- WARRINGTON, E. (1990) Taking account of small scale and insularity in administrative reform strategies: the case of Malta 1988-1990, *Economic and Social Studies* (New Series), 5, 1989-1990, pp. 25-37.
- WARRINGTON, E. (1997) Three Views of 'The New Public Administration', *Public Administration and Development*, 17, pp. 3-12.
- WARRINGTON, E. (2005) The Europeanization of Maltese Public Administration: Mirror Image, Laboratory, or Paradigm? *Revue française d'administration publique*, 114 (2), p. 293-307.
- WEBER, M. (1991) Social Psychology of the World's Religions. In: GERTH, H. H. and WRIGHT MILLS, C., (eds.) *From Max Weber: Essays in Sociology*. Abingdon: Routledge, pp. 267-301.
- WEINAR, A., BONJOUR, S. and ZHYZNOMISKA, L. (eds.) (2019) *The Routledge Handbook of the Politics of Migration in Europe*. Abingdon / New York, NY: Routledge.
- WEINER, M. (1995) *The global migration crisis: challenges to states and human rights*. New York: Harper Collins.
- WEISSKIRCHER, M. (2018) Austria's right-wing government at six months: What's the record so far? European Politics and Policy (EUROPP) blog, London School of Economics and Political Science (LSE), 18 June. Available from: <https://www.printfriendly.com/p/g/yPY4tT> [Accessed 17 October 2018].
- WENDT, A. (1992) Anarchy is what States Make of It: The Social Construction of Power Politics, *International Organization*, 46 (2), pp. 391-425.
- WENDT, A. (1995) Constructing International Politics, *International Security*, 20 (1), pp. 71-81.

- WHYTE, A. (2012) Neorealism and neoliberal institutionalism: born of the same approach? *E-International Relations*, 11 June. Available from: <https://www.e-ir.info/pdf/22166> [Accessed 14 April 2015].
- WIENER, A. and DIEZ, T. (2009) Introducing the Mosaic of Integration Theory. In: DIEZ, T. and WIENER, A., (eds.) *European Integration Theory*, 2nd Ed., Oxford: Oxford University Press, pp. 1-22.
- WIKIMEDIA COMMONS (2015a) Top recipients of asylum applications in the EU-28, 2015, figure. Available from: [https://commons.wikimedia.org/wiki/File:Top_recipients_of_asylum_applications_in_the_EU-28_\(2015\).png](https://commons.wikimedia.org/wiki/File:Top_recipients_of_asylum_applications_in_the_EU-28_(2015).png) [Accessed 12 June 2017].
- WIKIMEDIA COMMONS (2015b) The European Union Justice and Home Affairs Council majority vote to relocate 120,000 refugees, figure. Available from: https://commons.wikimedia.org/wiki/File:2015-09-22_EU_JHA_Council_majority_vote_to_relocate_120.000_refugees.svg [Accessed 19 July 2017].
- WIKIPEDIA (2021) Elections to the European Parliament, Results. Available from: https://en.wikipedia.org/wiki/Elections_to_the_European_Parliament [Accessed 5 April 2021].
- WILLIAMSON, H. and SUNDERLAND, J. (2013) Shipwrecked: No Easy Fix For Europe's Asylum Policy, *Foreign Affairs*, 24 October.
- WINTER, C. (2018) Italy threatens to block ships from EU's Mediterranean migrant mission, *Deutsche Welle* (DW), 20 July. Available from: <https://p.dw.com/p/31oJ7> [Accessed 6 September 2018].
- WOLF, M. (2020) German court decides to take back control with ECB ruling, *Financial Times*, 12 May.
- WOLFF, S. (2010) EU Integrated Border Management beyond Lisbon: Contrasting Policies and Practice. In: ZAPATA-BARRERO, R., (ed.) *Shaping the normative contours of the European Union: a Migration- Border framework*. Barcelona: Edicions Bellaterra, p. 32.
- WOLFF, S. (2017) Immigration: An issue in the French Presidential campaign, *Clingendael Magazine*, EU forum, 19 April. Available from: <https://www.clingendael.org/publication/immigration-issue-french-presidential-campaign> [Accessed 9 June 2018].

- YEATS, W. B. (1920) 'The Second Coming' (1919), *The Dial*, November.
- YIN, R. K. (2009) *Case study research: Design and methods*. 4th ed. Thousand Oaks, CA: Sage Publications.
- YOUNG, A. R. (2015) The European Policy Process in Comparative Perspective. In: WALLACE, H., POLLACK, M. A. and YOUNG, A. R. (eds.) *Policy-Making in the European Union*. 7th ed. Oxford: Oxford University Press, pp. 46-71.
- ZABOROWSKI, M. (2015) Why eastern Europe's resistance to refugee quotas is not 'selfish', *The Guardian*, 16 September. Available from: <https://www.theguardian.com/commentisfree/2015/sep/16/eastern-european-migrants-refugees-selfish> [Accessed 30 May 2018].
- ZAIOTTI, R. (2013) The Italo-French Row over Schengen, Critical Junctures, and the Future of Europe's Border Regime, *Journal of Borderlands Studies*, 28 (3), pp. 337-354.
- ZALAN, E. (2016) The rise and shine of Visegrad, *EUobserver*, 30 December. Available from: <https://euobserver.com/europe-in-review/136044> [Accessed 17 March 2018].
- ZAMMIT, D. E. (2016) Vernacularising Asylum Law in Malta. In: COLCELLI, V. and ARNOLD, R., (eds.) *Europeanization through private law instruments*. Regensburg: Schnell & Steiner, pp. 73-107.
- ZAUN, N. (2016) Why EU asylum standards exceed the lowest common denominator: the role of regulatory expertise in EU decision-making, *Journal of European Public Policy*, 23 (1), pp. 136-154.
- ZAUN, N. (2017) *EU Asylum Policies: The Power of Strong Regulating States*. London: Palgrave Macmillan.
- ZIGOURA, V. (2007) The European Union Immigration Regime and the Greek Immigration Policy: How Relevant? Paper presented at the 3rd Hellenic Observatory, PhD Symposium LSE, 14-15 June. Available from: http://www.lse.ac.uk/europeanInstitute/research/hellenicObservatory/pdf/3rd_Symposium/PAPERS/ZIGOURA_VASSILIKI.pdf [Accessed 1 March 2016].
- ZOLBERG, A. R. (1999) Matters of State: Theorizing Immigration Policy. In: HIRSCHMAN, C., KASINITZ, P. and DeWIND, J., (eds.) *The Handbook of International Migration: the American Experience*. New York: Russell Sage Foundation, pp. 71-93.

ZOLBERG, A. R. (2001) Beyond the crisis. In: ZOLBERG, A. R. and BENDA, P. M., (eds.) *Global migrants, global refugees: problems and solutions*. New York: Berghahn, pp. 1-16.

ZU HOHENLOHE, D. (2017) Dealing with the Refugee Crisis: The Recent Asylum Law Reforms in Germany - From Asylum Procedure Acceleration to Fostering Integration, Max Planck Institute for Comparative Public Law and International Law (MPIL) Research Paper Series Nr. 6.

ZULIANELLO, M. (2019) Right-wing populist parties made only modest electoral gains in the EP elections, but their influence is now unprecedented, European Politics and Policy (EUROPP) blog, London School of Economics and Political Science (LSE), 30 May. Available from: <https://www.printfriendly.com/p/g/SgRJFp> [Accessed 21 November 2019].

International Conventions and Protocols

UN Convention Relating to the Status of Refugees, 28 July 1951

UN Protocol Relating to the Status of Refugees, 31 January 1967

Charter of Fundamental Rights of the European Union, 2010/C 83/02 [OJ C83/389, 30.3.2010]

Convention for the Protection of Human Rights and Fundamental Freedoms, European Convention on Human Rights (ECHR), as amended by Protocol Nos. 11 and 14, 4 November 1950, ETS 5.

EU Treaties and Conventions

Treaty establishing the European Economic Community. Rome, 25 March 1957 (not published in the Official Journal).

Single European Act, 17 February 1986 [OJ L 169, 29.6.1987]

The Schengen acquis - Agreement between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders, 14 June 1985 [OJ L 239, 22.9.2000]

Convention implementing the Schengen Agreement of 14 June 1985 between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic, on the Gradual Abolition of Checks at their Common Borders ('Schengen Implementation Agreement') [OJ L 239, 22.9.2000]

Convention determining the State Responsible for examining applications for asylum lodged in one of the Member States of the European Communities - Dublin Convention, 15 June 1990 [OJ C 254, 19.8.1997]

Treaty on European Union (Maastricht Treaty), 7 February 1992 [OJ C 191, 29.7.1992]

Treaty of Amsterdam amending the Treaty of the European Union, the Treaties establishing the European Communities and certain related acts, 2 October 1997 [OJ C 340, 10.11.1997]

Treaty of Nice amending the Treaty on European Union, the Treaties establishing the European Communities and certain related acts, 26 February 2001 [OJ C 80, 10.3.2001]

Treaty of Lisbon amending the Treaty on European Union [OJ C 83, 30.3.2010] and the Treaty establishing the European Community (renamed the Treaty on the Functioning of the European Union) [OJ C 83, 30.3.2010], Lisbon, 13 December 2007 [OJ C 306, 17.12.2007]

EU Regulations

Council Regulation No 2725/2000 of 11 December 2000 concerning the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of the Dublin Convention [OJ L 316, 15.12.2000]

Council Regulation (EC) No 343/2003 of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national [OJ L 50, 25.2.2003] ('Dublin II')

Council Regulation (EC) No 2007/2004 of October 2004 establishing a European Agency for the management of Operational Cooperation at the External Borders of the Member States of the European Union [OJ L 349, 25.11.2004] (Frontex)

Regulation (EU) No 439/2010 of the EP and of the Council of 19 May 2010 establishing a European Asylum Support Office [OJ L 132, 29.5.2010]

Regulation (EU) No 1168/2011 of the EP and of the Council of 25 October 2011 amending Regulation (EC) No 2007/2004 establishing Frontex [OJ L 304, 22.11.2011]

Regulation (EU) No 603/2013 of the EP and of the Council of 26 June 2013 on the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of Regulation (EU) No 604/2013 and amending Regulation (EU) No 1077/2011 establishing a European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice [OJ L 180, 29.6.2013]

Regulation (EU) No 604/2013 of the EP and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of

the Member States by a third-country national or a stateless person (recast) [OJ L 180, 29.6.2013] ('Dublin III')

Regulation (EU) No 399/2016 of the EP and of the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code) [OJ L 77, 23.3.2016]

Regulation (EU) No 2016/1624 of the EP and of the Council of 14 September 2016 on the European Border and Coast Guard and amending Regulation (EU) 2016/399 of the EP and of the Council and repealing Regulation (EC) No 863/2007 of the EP and of the Council, Council Regulation (EC) No 2007/2004 and Council Decision 2005/267/EC [OJ L 251, 16.9.2016]

EU Directives

Council Directive 2001/51/EC of 28 June 2001 supplementing the provision of Article 26 of the Convention implementing the Schengen Agreement of 14 June 1985 [OJ L 187, 10.7.2001]

Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof [OJ L 212, 7.8.2001] (TPD)

Council Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum seekers [OJ L 31, 6.2.2003] ('Reception Conditions Directive')

Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of TCNs or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted [OJ L 304, 30.9.2004] ('Qualification Directive')

Council Directive 2005/85/EC of 1 December 2005 on minimum standards on procedures in Member States for granting and withdrawing refugee status [OJ L 326, 13.12.2005] ('Asylum Procedures Directive')

Directive 2008/115/EC of the EP and of the Council of 16 December 2008 on common standards and procedures in member states for returning illegally staying TCNs ('Returns Directive')

Directive 2011/95/EU of the EP and of the Council of 13 December 2011 on standards for the qualification of TCNs or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast) [OJ L 337, 20.12.2011] ('Qualification Directive')

Directive 2013/32/EU of the EP and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (recast) [OJ L 180, 29.6.2013] ('Asylum Procedures Directive')

Directive 2013/33/EU of the EP and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection (recast) [OJ L 180, 29.6.2013] ('Reception Conditions Directive')

Other EU documents

CJEU (2015a) Slovak Republic v. Council of the European Union, Case C-643/15: Action brought on 2 December 2015. Available from: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A62015CN0643> [Accessed 3 March 2016].

CJEU (2015b) Hungary v. Council of the European Union, Case C-647/15: Action brought on 3 December 2015. Available from: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A62015CN0647> [Accessed 3 March 2016].

CJEU (2017) The Court dismisses the actions brought by Slovakia and Hungary against the provisional mechanism for the mandatory relocation of asylum seekers, Press Release No 91/17, Luxembourg, 6 September. Available from: <https://curia.europa.eu/jcms/upload/docs/application/pdf/2017-09/cp170091en.pdf> [Accessed 22 September 2018].

CJEU (2018) 2017 Annual Report: The year in review. Available from: https://curia.europa.eu/jcms/upload/docs/application/pdf/2018-04/ra_pan_2018.0421_en.pdf [Accessed 5 October 2018].

Council of the EU (2017) EU Agency for Asylum: Presidency and European Parliament reach a broad political agreement, Press Release 431, 29 June.

Council of the EU (2018) Infographic - Irregular arrivals to the EU, 2007-2018, 15 October. Available from: <https://www.consilium.europa.eu/en/infographics/irregular-arrivals-since-2008/> [Accessed 18 October 2018].

Council of the EU (2020) Infographic - Asylum applications in the EU, 1990-2019, 30 November. Available from: <https://www.consilium.europa.eu/en/infographics/asylum-applications-since-1990/> [Accessed 15 April 2021].

CURIA (2014) OPINION 2/13 of the Court (Full Court), 18 December 2014. Available from: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:62013CV0002&from=EN> [Accessed 29 May 2021].

CURIA (2017) General Court of the EU, Orders of the General Court in Cases T-192/16, T-193/16 and T- 257/16 NF, NG and NM v European Council, 28 February 2017, Press Release No 19/17. Available from: <https://curia.europa.eu/jcms/upload/docs/application/pdf/2017-02/cp170019en.pdf> [Accessed 2 September 2018].

EASO, European Asylum Support Office (2012) EASO fact finding report on intra-EU relocation activities from Malta, July. Available from: <https://www.refworld.org/pdfid/52aef8094.pdf> [Accessed 10 April 2021].

EASO, European Asylum Support Office (2016) An Introduction to the Common European Asylum System for Courts and Tribunals: A Judicial Analysis, August. Available from: <https://easo.europa.eu/sites/default/files/public/BZ0216138ENN.PDF> [Accessed 25 May 2018].

EASO, European Asylum Support Office (2017) Annual Report on the Situation of Asylum in the European Union 2016. Luxembourg: Publications Office of the EU.

EC, European Commission (2015a) Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, A European Agenda on Migration, 13 May [COM(2015) 240 final].

EC, European Commission (2015b) Refugee Crisis – Q&A on Emergency Relocation, Fact Sheet, 22 September. Available from: https://europa.eu/rapid/press-release_MEMO-15-5698_en.htm [Accessed 13 July 2018].

EC, European Commission (2016) Completing the reform of the Common European Asylum System: towards an efficient, fair and humane asylum policy, Press Release IP/16/2433, 13 July. Available from: https://europa.eu/rapid/press-release_IP-16-2433_en.htm [Accessed 10 August 2016].

- EC, European Commission (2017a) Joint Communication to the EP, the European Council and the Council: Migration on the Central Mediterranean route Managing flows, saving lives, 25 January [JOIN/2017/04 final].
- EC, European Commission (2017b) State of the Union 2017 – Annual State of the EU address by President Juncker at the European Parliament, 13 September. Available from: https://ec.europa.eu/commission/presscorner/detail/en/SPEECH_17_3165 [Accessed 22 July 2018].
- EC, European Commission (2017c) Relocation: EU Solidarity between member states, November. Available from: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/20171114_relocation_eu_solidarity_between_member_states_en.pdf [Accessed 10 July 2018].
- EC, European Commission (2017d) Communication from the Commission to the EP, the European Council and the Council: Commission contribution to the EU Leaders' thematic debate on a way forward on the external and the internal dimension of migration policy, 7 December 2017 [COM(2017) 820 final].
- EC, European Commission (2017e) Migration: A Roadmap, 7 December. Available from: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/20171207_migration_a_roadmap_en.pdf [Accessed 30 July 2018].
- EC, European Commission (2017f) Europe – the continent of solidarity: Joint Statement on the occasion of International Migrant Day, STATEMENT/ 17/5344, 18 December. Available from: https://europa.eu/rapid/press-release_STATEMENT-17-5344_en.htm [Accessed 5 May 2018].
- EC, European Commission (2018a) State of the Union 2018 – Annual State of the EU address by President Juncker at the European Parliament, 12 September. Available from: https://ec.europa.eu/commission/sites/beta-political/files/soteu2018-speech_en_0.pdf [Accessed 20 September. 2018].
- EC, European Commission (2018b) Standard Eurobarometer 90 – Autumn 2018 'Public opinion in the European Union, First results'. Available from: <https://ec.europa.eu/commfrontoffice/publicopinion/index.cfm/Survey/getSurveyDetail/instruments/STANDARD/surveyKy/2215> [Accessed 28 November 2018].
- EC, European Commission (2020a) Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee

and the Committee of the Regions on a New Pact on Migration and Asylum, 23 September 2020 [COM/2020/609 final].

EC, European Commission (2020b) A fresh start on migration: Building confidence and striking a new balance between responsibility and solidarity, Press Release IP/20/1706, 23 September.

EMN, European Migration Network (2017) 2016 Annual Report on Migration and Asylum, 25 April. Available from: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/00_apr2016_synthesis_report_final_en.pdf [Accessed 20 July 2018].

EP, European Parliament (2014) Changed rules for qualified majority voting in the Council of the EU, December. Available from: https://www.europarl.europa.eu/RegData/etudes/ATAG/2014/545697/EPRS_ATA%282014%29545697_REV1_EN.pdf [Accessed 20 May 2018].

EP, European Parliament (2016) The economic impact of suspending Schengen, At a glance, March. Available from: [https://www.europarl.europa.eu/RegData/etudes/ATAG/2016/579074/EPRS_ATA\(2016\)579074_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/ATAG/2016/579074/EPRS_ATA(2016)579074_EN.pdf) [Accessed 15 July 2018].

EP, European Parliament (2017) The Common European Asylum System - third reform, Fact Sheets on the European Union, PE 580.866, 28 February. Available from: [https://www.europarl.europa.eu/RegData/etudes/PERI/2017/580866/IPOLE_PERI\(2017\)580866_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/PERI/2017/580866/IPOLE_PERI(2017)580866_EN.pdf) [Accessed 2 November 2018].

EP, European Parliament (2018a) Eurobarometer Survey 89.2, Democracy on the move: European elections - one year to go, PE 621.866, May. Available from: https://www.europarl.europa.eu/pdf/eurobarometre/2018/oneyearbefore2019/eb89_one_year_before_2019_eurobarometer_en_opt.pdf [Accessed 24 May 2018].

EP, European Parliament (2018b) EU elections: how many MEPs will each country get in 2019? 1 February. Available from: <https://www.europarl.europa.eu/news/en/headlines/eu-affairs/20180126STO94114/infographic-how-many-seats-does-each-country-get-in-in-the-european-parliament> [Accessed 27 November 2018].

EP, European Parliament (2019) 2019 European election results, 23 October. Available from: <https://www.europarl.europa.eu/election-results-2019/en> [Accessed 12 December 2019].

EP, European Parliament (2020) Size of Political Groups in the EP - February 2020, At a Glance, Infographic, 13 February. Available from: <https://epthinktank.eu/>

[2019/07/09/size-of-political-groups-in-the-ep-2019-2024/eprs-aag-646184-size-of-political-groups-13022020-final-rev/](https://www.europa.eu/epsc/publications/strategic-notes/irregular-migration-central-mediterranean_en) [Accessed 5 April 2021].

EPRS, European Parliamentary Research Service (2014) Asylum and irregular immigration in the EU: state of play, 25 March. Available from: [https://www.europarl.europa.eu/RegData/bibliotheque/briefing/2014/140776/LDM_BRI\(2014\)140776_REV1_EN.pdf](https://www.europarl.europa.eu/RegData/bibliotheque/briefing/2014/140776/LDM_BRI(2014)140776_REV1_EN.pdf) [Accessed 7 April 2014].

EPRS, European Parliamentary Research Service (2016) The European Council in 2015 - Overview of Decisions and Discussions, European Council Oversight Unit (ECOU), PE 581.406, July. Available from: [https://www.europarl.europa.eu/RegData/etudes/IDAN/2016/581406/EPRS_IDA\(2016\)581406_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/IDAN/2016/581406/EPRS_IDA(2016)581406_EN.pdf) [Accessed 18 July 2018].

EPRS, European Parliamentary Research Service (2017a) The European Council In 2016: Overview of Decisions and Discussions, European Council Oversight Unit (ECOU), PE 603.249, July. Available from: <https://epthinktank.eu/2017/07/14/the-european-council-in-2016-overview-of-decisions-and-discussions/> [Accessed 3 August 2017].

EPRS, European Parliamentary Research Service (2017b) Agenda-setting in the European Council, December 2014 – June 2017, European Council Oversight Unit (ECOU), PE 603.270, September. Available from: [https://www.europarl.europa.eu/RegData/etudes/STUD/2017/603270/EPRS_STU\(2017\)603270_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2017/603270/EPRS_STU(2017)603270_EN.pdf) [Accessed 21 May 2018].

EPRS, European Parliamentary Research Service (2018a) The European Council In 2017: Overview of Decisions and Discussions, European Council Oversight Unit (ECOU), PE 621.824, June. Available from: [https://www.europarl.europa.eu/RegData/etudes/IDAN/2018/621824/EPRS_IDA\(2018\)621824_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/IDAN/2018/621824/EPRS_IDA(2018)621824_EN.pdf) [Accessed 4 November 2018].

EPSC, European Political Strategy Centre (2017a) Irregular Migration via the Central Mediterranean: From emergency responses to systemic solutions, Issue 22, 2 February. Available from: https://ec.europa.eu/epsc/publications/strategic-notes/irregular-migration-central-mediterranean_en [Accessed 5 April 2018].

EPSC, European Political Strategy Centre (2017b) 10 Trends Shaping Migration, December. Available from: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/10_trends_shaping_migration.pdf [Accessed 23 April 2018].

- EUROFOUND (2011) Preliminary reference procedure, EurWORK, 4 May. Available from: <https://www.eurofound.europa.eu/observatories/eurwork/industrial-relations-dictionary/preliminary-reference-procedure> [Accessed 27 September 2018].
- Europa (2018) The EU in slides, Enlargement: from six to 28 countries, 8 March. Available from: https://europa.eu/european-union/documents-publications/slide-presentations_en [Accessed 9 March 2018].
- European Council (2017) Remarks by President Donald Tusk ahead of the European Council meetings, Press Release 803/17, 14 December.
- European Council (2018) Remarks by President Donald Tusk after the Salzburg informal summit, Press Release 519/18, 20 September.
- European Council Conclusions, 28 June 2018 [EUCO 9/18 CO EUR 9 CONCL 3].
- European Council Presidency Conclusions, 18/19 June 2009 [11225/2/09 REV 2].
- European Council Presidency Conclusions, 18 October 2018 [EUCO 13/18 CO EUR 16 CONCL 5].
- Eurostat (2017) Asylum in the EU Member States: 1.2 million first time asylum seekers registered in 2016, Press Release 46/2017, 16 March. Available from: <https://ec.europa.eu/eurostat/documents/2995521/7921609/3-16032017-BP-EN.pdf/e5fa98bb-5d9d-4297-9168-d07c67d1c9e1> [Accessed 19 November 2018].
- Eurostat (2018) Asylum statistics, 22 June. Available from: https://ec.europa.eu/eurostat/statistics-explained/index.php/Asylum_statistics [Accessed 25 June 2018].
- FRA, European Agency for Fundamental Rights (2016) Fundamental Rights Report 2016, May, Luxembourg: Publications Office of the European Union. Available from: <https://fra.europa.eu/en/publication/2016/fundamental-rights-report-2016> [Accessed 29 July 2018].
- FRONTEX (2016) Risk Analysis for 2016, March. Available from: https://frontex.europa.eu/assets/Publications/Risk_Analysis/Annula_Risk_Analysis_2016.pdf [Accessed 26 June 2018].
- FRONTEX (2017) Risk Analysis for 2017, February. Available from: https://frontex.europa.eu/assets/Publications/Risk_Analysis/Annual_Risk_Analysis_2017.pdf [Accessed 26 August 2018].

FRONTEX (2018) Risk Analysis for 2018. Available from: https://frontex.europa.eu/assets/Publications/Risk_Analysis/Risk_Analysis/Risk_Analysis_for_2018.pdf [Accessed 19 November 2018].

Proposal for a Regulation of the EP and of the Council on the European Border and Coast Guard and repealing Regulation (EC) No 2007/2004, Regulation (EC) No 863/2007 and Council Decision 2005/267/EC [15.12.2015].

Proposal for a Regulation of the EP and of the Council establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a TCN or a stateless person (recast) [4.5.2016].

Proposal for a Regulation of the EP and of the Council on the European Union Agency for Asylum and repealing Regulation (EU) No 439/2010, COM/2016/0271 final - 2016/0131 (COD) [4.5.2016].

Report of the EP LIBE Committee on the situation in the Mediterranean and the need for a holistic EU approach to migration, 23 March 2016 (2015/2095(INI)).

The Hague Programme: strengthening freedom, security and justice in the European Union 4-5 November 2004 [OJ C 53, 3.3.2005].

The Stockholm Programme – An open and secure Europe serving and protecting the citizens, 2 December 2009 [OJ C 115, 4.5.2010].