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European Policy Failure during the Refugee Crisis: Partial Empowerment, Reluctant Agents, a Cacophony of Voices, and Unilateral Action

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Abstract

How can we explain the EU's policy failure during the refugee crisis? In this contribution, I argue that EU policy failure was a function of four causal mechanisms. First, a complex delegation design with partial empowerment of supranational institutions on migration and asylum policy issues hindered an effective response and strengthened disintegration dynamics. Second, a reluctant European Commission was unable to provide leadership during the refugee crisis. Third, Member States' inability to speak with a single voice negatively impacted their external and internal effectiveness and reinforced disintegration dynamics. Finally, this cacophony of voices led to unilateral action eroding the authority of the Commission and explains EU policy failure during the refugee crisis. The findings of this paper suggest that the mantra that the EU undergoes many crises but always emerges stronger has lost plausibility.

Keywords

Introduction[*]

Over the past few years, EU governance has been in crisis mode with Member States and European institutional representatives literally moving from one crisis to the next without finding a common denominator to sustainably and effectively solve several crises. The EU has been criticized by scholars, policymakers and public opinion for a commitment-compliance gap (Börzel 2016, Menéndez 2016, Schimmelfennig 2016) and for the inexistence of coherent and coordinated policymaking in the face of the refugee crisis (Juncker 2016), with some scholars contending that the EU is part of the problem because it undermines the capacity of Member States to provide effective solutions at the national level (Scharpf 2015; Majone 2014). Even though the Syrian refugee crisis has raised awareness that the management of local pressure on borders and asylum processes can only be solved collectively at the European level, Member States were unable to find a common European solution to the migration crisis. The rise of populism and nationalist parties is a consequence of the refugee crisis that has strengthend the "constraining dissensus" (Hooghe and Marks 2009). The turn from depoliticization through non-majoritarian supranational institutions led paradoxically to more rather than less politicization (Börzel and Risse 2018) during the euro and refugee crises. The "disintegration turn" (Webber 2014) has already led to refocused scholarship, with several scholars elaborating on disintegration theories to explain the current situation (Lefkofridi and Schmitter 2015; Bulmer and Joseph 2016; Jones 2018). The refugee inflows changed identity politics, with Eurosceptic populist parties framing the crisis in terms of borders and advocating a "fortress Europe" (Börzel and Risse 2018).

Against this background, this piece focuses on the policy failure dimension of the refugee crisis. The concept of policy failure refers to the inability of supranational institutions to provide an effective answer to cope with the migration flows. Even though the refugee crisis provided a policy window to gather more competences at the European level, Member States and the European institutions were unable to find a joint decision-making solution. EU policy failure can be explained in terms of four different causal mechanisms: partial empowerment, reluctant agents, internally low cohesive collective principal, and unilateral action. *First*, a partial empowerment of supranational institutions on migration and asylum policy without clearly defined competences between the Council of the EU and the European Commission (henceforth, the Commission) hindered effective and rapid action by Frontex and the European Asylum Support Service (EASO), the agencies in charge of refugees and mass migration issues. *Second*, contrary to the assumptions of neo-functionalist and principal-agent approaches that supranational institutions constantly attempt to widen their own powers, the Commission took a low profile by acting reluctantly during the refugee crisis and was thus unable to take a transformational leadership role. *Third*, the inability of EU Member States to attain internal cohesion and to speak with a single voice impacted their external and internal effectiveness in solving the refugee crisis and explains the EU's poor response. Finally, this cacophony of voices has led to unilateral action, culminating in the temporary suspension of the Schengen system, with several Member States closing their borders. The paper concludes with some remarks on the consequences of this policy failure for the integration process.

2. Causal mechanisms leading to policy failure

The choice of a delegation design in which supranational institutions were partially empowered is the first causal mechanism that helps explain policy failure during the refugee crisis. Shared competences

between Member States and the Commission hindered effective action at the European level. A reluctant and weakened Commission during the refugee crisis was unable to provide political leadership to overcome the crisis situation. Third, a highly divided collective principal (the Council) was unable to agree on a common position with single Member States, such as Germany, taking the lead. This low cohesiveness among Member States, in turn, led to opting for unilateral action and a poor EU response. In what follows I turn to these four causal mechanisms to explain the reinforcement of disintegration dynamics during the refugee crisis.

Partial empowerment of supranational institutions

The delegation of power in migration and asylum policy corresponds to the partial empowerment of the Commission. Partial empowerment refers here to the gradual transfer of decision-making authority and capabilities from the national to the European (supranational) level. Member States delegated only some powers to the Commission while retaining others in migration and asylum policy. Empowerment has three components: tasks, issue scope, and capabilities (Börzel 2005, Heldt and Schmidtke 2017, Hooghe and Marks 2015).

Principal agent studies addressing the EU dissect situations where Member States (principals) delegate authority to supranational organizations (agents) (Conceição-Heldt 2010, Hawkins *et al.* 2006, Pollack 1997). By so doing, the collective principal (the Council of the EU) empowers agents to perform specified tasks on its behalf. The delegation contract between principals and agents specifies the types of task the organization is to perform and the scope of issue areas in which these tasks are to be carried out (Hawkins *et al.* 2006). So far, the literature assessing the extent of formal delegation to international organizations (IOs) has focused mainly on two principal components of IO power: tasks and issue scope (Börzel 2005, Hooghe and Marks 2015). In contrast, the capability of IOs to perform tasks formally delegated to them has received considerably less attention. In this contribution, I view financial and staff capabilities as a third component of power of supranational institutions. When Member States decide to only partially transfer power (tasks, issues and capabilities) to the European level, this might affect the ability of the agent to act effectively. A supranational institution is powerful when it performs a broad set of tasks – such as agenda setting, dispute settlement, and fund distribution – carries out these tasks in a broad array of domestically intrusive issue areas, *and* possesses the necessary financial and staff capabilities to perform these tasks. Capabilities are thus not only an important element of a supranational institution's power: they are also a key prerequisite for high-quality performance (see also Heldt and Schmidtke 2017).

The *number and types of tasks* delegated to the European level are a principal component of delegation design (Koremenos *et al.* 2001). Examples of tasks performed by European institutions include agenda-setting, representation, re-delegation, monitoring compliance, and distribution of funds (Hawkins *et al.* 2006, Heldt and Schmidtke 2017). Börzel (2005) was one of the first to attempt to systematically map out the centralization of tasks at the EU in more detail, combining decision-making rules among Member States (pooling) and the performance of agenda setting and judicial review tasks by an international administration (delegation). Franchino (2007) and Pollack (2003) measured delegation and the discretion of the Commission using two indicators: delegation ratio and procedural constraints. More recently, Hooghe and Marks (2015) in their study on the authority of 72 IOs, distinguish between pooling and delegation. Regarding delegation, the authors assess whether an IO is formally empowered to perform certain tasks in the following domains: executive functions, policy initiation, budget drafting, financial non-compliance, member state accession, suspension of a member state, and constitutional revision. I follow this perspective, arguing that supranational perspectives are expected to become more powerful when more tasks are delegated to them and when these tasks become more intrusive. By the same token, the choice of a delegation design with partial empowerment constrains the performance of agents in a given policy field (see also Heldt and Schmidtke 2017).

Scope refers to the issue areas in which supranational institutions are allowed to operate (Koremenos *et al.* 2001). Scholars map whether IOs are designed for narrow, policy specific issues, whether they operate more generally within an entire issue area or are general purpose organizations operating in a variety of issue areas. In international relations, there have been several early attempts to classify IOs according to their scope (Jacobson *et al.* 1986, Shanks *et al.* 1996), with a large number of empirical studies applying more detailed lists of issue areas. Whereas Haftel (2013) looks at the scope of the economic activity of regional economic IOs in 24 issue areas, Hooghe and Marks (2015) use a list of 25 issue areas to gauge the scope of 72 IOs. Finally, Börzel (2005) codes 18 issue areas to analyze the issue scope of the EU and looks at the procedures by which policy decisions are taken at the European level (scope) and shows that since Maastricht there has been significant task expansion of the EU into justice and home affairs. As with tasks transferred to the European level, I expect that when the number of issue areas delegated to European institutions increases and the type of issue area becomes more intrusive, European institutional power is more likely to increase (see also Heldt and Schmidtke 2017).

In this contribution *capabilities* refers to the financial and human resources available to the European Commission and agencies in charge of implementing migration policies. Regardless of which specific tasks are delegated to supranational institutions and how broad the scope of their application is, the performance of any task by supranational institutions necessitates personnel and financial resources. Without these basic resources, supranational institutions cannot act. In other words, empowerment requires the delegation of power by stipulating in a treaty an agent's tasks, scope, and capabilities. *When it comes to a crisis situation, insufficient resources are more likely to lead to ineffectiveness and hinder supranational organizations in performing their tasks.* The empirical part of this contribution will assess the tasks, scope of issues, and capabilities of the European migration agencies, Frontex and EASO.

Reluctant agents: absence of transformational leadership

Principal-agent approaches assume that agents are opportunistic actors. As Williamson (1985: 30) puts it, agents are "self-interest seeking with guile". The European Commission is now the most studied international bureaucracy (Franchino 2007, Hartlapp *et al.* 2014, Hooghe 2001, Kassim *et al.* 2013, Pollack 2003) with a large body of research opening up the box of preference formation. For neo-functionalists, the Commission is mainly a technocracy aiming to efficiently and effectively solve problems (Haas 1958, 1961). In line with classical rational choice approaches (Downs 1957, Niskanen 1971), principal-agent students view the Commission as a competence-maximizer (Pollack 1997, 2003). Hooghe (2005), in turn, brings ideological considerations into the preference formation of the Commission. However, the literature has hitherto focused less on whether agents can also be *reluctant competence-maximizers*, by which I mean that they avoid actively demanding more competences. Even though this might seem irrational or counterintuitive at first sight, this kind of behaviour can occur when supranational institutions are weakened and aware that some Member States do not support further competence transfer to the European level. Supranational institutions thus anticipate that a majority of Member States are unlikely to support the further delegation of power and refrain from attempting to ask for more competences.

Political leadership by supranational institutions is a crucial dimension in overcoming disintegration dynamics. Political leadership can be seen as a social process in which leaders attempt to influence and mobilize other actors to achieve a common goal (Nye 2006, Schoeller 2017). Transformational leadership, which refers to leaders' ability to encourage followers by appealing to their collective interests (Bass and Riggio 2008), is thus a crucial dimension in solving a crisis situation and weakening erosion of the integration process. Transformational leadership means that the leader (the Commission) is able to increase the number or range of those who accept a new situation and unite them along an objective or a common identity (the European integration process). When a supranational institution is able to generate awareness of a shared identity and then prepare and share technical proposals to overcome a crisis situation, it demonstrates leadership. In other words, if a supranational institution is able to provide a solution to collective action problems along the neo-functionalist tradition (Haas 1961),

so that Member States do not question its authority and accept the proposed solution as the best way to solve a crisis, it acts as a transformational leader. A supranational institution can thus take the lead and is more likely to be able to integrate the different positions of all Member States in a common proposal. Expertise capacity, the inclusiveness of different bargaining positions and awareness of a shared identity constitute three crucial elements of transformational leadership. The failure of the European Commission to provide this leadership and entrepreneurship, that is to say, the failure of the Commission's president to assume a leadership role in dealing with crises might produce low internal cohesiveness within the collective principal, unilateral action by Member States, and thus policy failure.

Low internal cohesiveness and external ineffectiveness

Low internal cohesiveness is the third causal factor that is more likely to lead to policy failure, since external effectiveness cannot develop in the absence of internal cohesiveness. The inability of EU Member States to achieve cohesiveness internally and to speak with a single voice impacts their external and internal effectiveness in solving the refugee crisis. By effectiveness we mean the ability of the EU to solve crises. By degree of cohesiveness we mean the ability of the EU to internally formulate and externally represent consistent positions with a single voice, even if they are not the preferred positions of all Member States (Conceição-Heldt and Meunier 2014). Internal cohesiveness is not synonymous with the homogeneity of preferences – rather it means that Member States neither undermine nor overrule the collective position to be unanimously defended. This also means that without a common position there can be no unanimous cohesiveness. According to Conceição-Heldt and Meunier (2014) cohesiveness can be low, medium, or high. *Low internal cohesiveness* means that Member States reach a common position only with difficulty and with the likelihood of future renegotiation, and without unified external presentation. This could be called a cacophony of voices. *Medium cohesiveness* means that Member States easily reach a common position but still without unified presentation. Finally, *high cohesiveness* exists when Member States have a single position and are able to present it with a single voice (Conceição-Heldt and Meunier 2014). Several studies have showed that internal cohesiveness can have a positive impact (Conceição-Heldt 2014, Meunier 2014), no impact, or even a negative impact on external effectiveness (Macaj and Nicolaïdis 2014). In this study, the focus is only on low internal cohesiveness.

Low internal cohesiveness is more likely to have negative internal and external consequences. Externally, EU bargaining power is expected to be weakened as the EU is unable to present a common position in dealing with other countries, for instance when negotiating with Turkey on the conditions under which this country would carry the costs of caring for two million refugees on its territory. In a situation of low internal cohesiveness, characterized by a cacophony of voices, a reluctant and weakened agent and partial empowerment, Member States are more likely to resort to unilateral action, and policy is more likely to fail. In the next section, we turn to the fourth causal mechanism, unilateral action, that explains the EU's poor response to refugee flows.

Unilateral action and hierarchy in EU governance

If a weakened agent fails to act as a transformational leader in providing public goods such as European integration or internal security, internal cohesiveness within the collective principal is low and principals have chosen a delegation design characterized by partial empowerment, some Member States are more likely to fill this "power gap" and act unilaterally, undermining the authority of the Commission. This might introduce hierarchy into European integration and can lead to policy failure. This is because, in the European integration process, single Member States usually do not take the lead and problems are rather solved collectively and consensually. Lacking leadership on the part of the Commission produces hierarchy. Hierarchy means that one country – the dominant member – possesses the right to make residual decisions, while the other parties – the subordinate members (e.g., smaller Member States) – lack that right. Regardess of whether the parties have entered into this new type of relationship

voluntarily or by chance (Lake 2011), the simple fact that a benign hegemon exists weakens the integration process because one dominant Member State acts unilaterally. The choice of unilateral action, in turn, is more likely to weaken the willingness of Member States to support the provision of public goods by supranational institutions and further integration.

If Member States anticipate sustained and vocal opposition to potential unilateral action by other Member States or the Commission, they may rationally forgo acting unilaterally, fearing that the consequent public blaming could prevent them from pursuing other items on their political agenda in future EU negotiations (Christenson and Kriner 2017). In other words, if Member States are aware that the Commission or influential Member States are capable of eroding support for unilateral action, they are more likely to refrain from this kind of action. The next section turns to the four different causal mechanisms that help explain the poor EU response to the refugee crisis.

3. Policy failure during the refugee crisis

Partial empowerment in the migration and asylum policy

How does the principal-agent relationship look in the specific case of migration and asylum issues? The delegation of power from Member States to European institutions on migration and asylum issues was partial with multi-layered levels of delegation. In this section, I map out the tasks, issues, and capabilities transferred to the European level.

Under the Treaty of Amsterdam, the collective principal constituted by the 28 Member States at the European Council or at ministerial level (Council of Justice and Internal Affairs) transferred competencies for immigration, asylum and civil law to the Commission in the framework of the Schengen Agreement. However, the extent of these competencies remained limited in scope, with Member States playing the main role. At the same time, Denmark, Ireland, and the United Kingdom were explicitly given the right to opt in or out of specific proposals. With the 2010 Lisbon Treaty, decisions on migration and asylum no longer required unanimity but only a qualified majority. A proposal is now deemed passed if it receives the votes of 55% of Member States, which corresponds basically to 16 of the 28 states or if it is supported by Member States representing 65% the total EU population. The Treaty of Lisbon makes a clear distinction between EU and national competences, stipulating that measures related to migration taken at the European level that "do not affect the right of Member States to determine volumes of admission of third-country nationals coming from third countries to their territory in order to seek work, whether employed or self-employed" can be decided by a qualified majority. This means that external borders remain under the sovereignty of Member States and the tasks delegated to the Commission relating to asylum policy are limited. First of all, the Commission does not have the power to enforce a mandatory relocation system without the consent of Member States and the EP. Second, the Commission lacks effective enforcement mechanisms to ensure compliance with Common European Asylum System standards and directives. Finally, competence for the establishment of fair responsibility-sharing mechanisms in the form of resettlement from countries hosting a large number of refugees and the provision of humanitarian visas or mobility schemes remains under the exclusive competence of individual Member States.

At the second level of delegation, the Commission delegates power to the European migration agencies, EASO and Frontex. The decision to divide competencies between these two agencies also illustrates the complexity of the actors and division of labour in this field. Before the refugee crisis, Frontex was simply in charge of controlling EU borders and carrying out missions such as search and rescue operations at sea or the return of third-country nationals to their countries (Frontex 2017). EASO, in turn, provides expertise and technical support to Member States to help them implement the Common European Asylum System (EASO 2017).

During the refugee crisis, following a proposal by the European Commission, Member States agreed to broaden the scope of Frontex's mandate and to increase Frontex and EASO capabilities. From 2014 to 2016, the Frontex budget grew from 100 to 250 million Euros and that of EASO from 10 to 70 million Euros. In late September 2015, Member States also agreed on new additional funding of 1.3 million Euros to be shared between Frontex, EASO, and Europol to finance 60 new permanent staff for Frontex, 30 for EASO and 30 for Europol. For 2016, a package of 600 million Euros was provided to increase the emergency funding budget and support the work of the three European agencies (Agence Europe 2015i). The staff of Frontex and EASO was also increased from 311 to 417 and from 79 to 149, respectively. This slight increase in the number of staff was, however, insufficient to respond to the refugee crisis (EASO 2014, 2016). Even though the president of the European Commission, Jean Claude Juncker, and the Executive Director of Frontex, Fabrice Leggeri, had in 2015 and 2016 requested Member States to increase the number of European border and coast guards, Member States reluctantly responded by sending 450 border guards (European Commission 2016). The inadequacy of border manning became apparent in late 2015, when Frontex asked Member States to provide an additional 775 coastguards at the hotspots in Greece. Only 447 were sent. EASO, in turn, requested 374 experts and Member States sent only 201(Agence Europe 2016c). In 2016, when it came to implementing the EU-Turkey refugee agreement, the Commission estimated that 1,500 additional staff from sixteen Member States were necessary (Agence Europe 2016b). However, Member States provided only 396 police officers and 33 legal experts, with Germany and France providing the majority of reinforcements (Agence Europe 2016a). These insufficient capabilities explain why Frontex and EASO were unable to respond efficiently to the refugee crisis.

The tasks and scope of issues delegated to Frontex are also very limited. One of the main weaknesses is that there is no EU coastguard. This means that Member States are still in charge of managing the external borders under the conditions established by the Schengen Borders Code, that is to say, in such a way as to ensure the mutual trust on free movement underlying the Schengen Agreement. As these borders are also the EU's external borders, Member States under particular migration pressure receive support from the EU and the other Member States under the principle of solidarity (art. 80 of the TFEU). This was the rationale behind the creation of Frontex in 2004, whose mission is to strengthen cooperation between national border authorities by coordinating joint operations of Member States through risk analysis research and by providing training and assistance for Member States.

Insufficient Frontex capabilities in terms of personnel lead to ineffectiveness in tackling the crisis and hinder the migration agency in performing its tasks. Even though the Frontex mandate includes the deployment of European border guard teams (EBGTs) in joint operations and rapid border intervention, it has no operational capabilities of its own. This means that Frontex's ability to perform its tasks is very limited in the absence ships and aircraft of its own for joint operations. In addition, EBGTs comprise border guards from Member States and border management experts. This increases the dependency of migration agency on the willingness of Member States to provide sufficient human resources and delays the resolution of acute refugee crisis situations. The limited tasks, issue scope and insufficient capabilities of Frontex and EASO hindered a quick European response. Partial empowerment is accordingly the first causal mechanism that explains why EU policy failure occurred during the Syrian refugee crisis.

Member States have opted for a complex delegation of authority involving the European Commission and migration agencies without providing them with sufficient resources to fulfil their mandates. Together with a system of parallel competences that allows Member States to pursue their own policies alongside EU migration policy, this led to bad performance by the Commission and Frontex during the refugee crisis. The next section now turns to the second causal mechanism that explains EU policy failure, a weakened and reluctant agent unable to provide transformational leadership.

Weakened Commission and Lack of Leadership

During the refugee crisis, the European Commissioner for Migration, Dimitris Avramapoulos, urged Member States to agree to draw up a Community list of safe countries and to introduce a permanent and obligatory relocation system (Agence Europe 2015h). Member States, however, were highly divided and the Commission was unable to provide transformational leadership in persuading them to find a common solution for these two issues. In late August 2015, after several deadlocked ministerial summits, the president of the European Commission, instead of trying to unite Member States around the common objectives (relocation criteria and the exact quota for reallocating refugees), openly criticized their attitude towards the refugee crisis in an opinion piece published in German and French newspapers. At the same time, he announced that the Commission would issue a list of safe third countries and would propose a permanent mechanism for sharing refugees across Europe. The German chancellor, Angela Merkel, reacted immediately by organizing a bilateral meeting with the French president François Hollande to draft a list of safe countries of origin and to speed up the putting into place of hot spots, the centres for the identification for refugees arriving in Italy and Greece (Agence Europe 2015g). This example illustrates that, instead of accepting the proposals presented by the Commission, Germany undermined the authority of the Commission on migration issues by taking the lead and contributed to EU policy failure.

Low internal cohesiveness and cacophony of voices

During the refugee crisis, Member States were highly divided on two issues. First, they disagreed on the type of mechanism (permanent or temporary) and resettlement criteria (population, national GDP, rates of unemployment, as well as efforts made in terms of providing asylum) to be used to distribute around 40,000 asylum seekers between Member States in order to take the pressure off the two first entry countries in which most refugees arrived, Italy and Greece. After five months of negotiations, Member States agreed to share 32,256 refugees on a voluntary and consensual basis. But they initiated a bargaining process to minimize the number of relocation places. Jean-Claude Juncker openly criticized Member States for their inability to reach a common solution. However, the Commission failed to act as a transformative leader: Germany took on this role instead. Angela Merkel met again with François Hollande to find a quick bilateral response to the refugee crisis including the establishment of hot spots, identification centres with experts from the Commission, Member States, and EASO for migrants arriving in Greece and Italy. Germany and France assumed the political leadership by calling for a "unified" response from the EU to the refugee crisis, calling on the other EU Member States to "work together" to solve the migration crisis (Agence Europe 2015f). The Visegrad states (Hungary, Poland, the Czech Republic and Slovakia) fiercely opposed the redistribution of 40.000 asylum seekers among Member States (Agence Europe 2015e).

Following this low internal cohesiveness and inability to agree on a redistribution mechanism, Member States turned to unilateral action, which included closing their borders. In late August 2015, when the Hungarian government decided to close its borders and Austria introduced tighter border controls, Germany once again took over political leadership from the weakened European Commission by stating that, without an agreement on the fair distribution of asylum seekers between EU countries, the future of the Schengen area of free movement would be threatened. The re-introduction of internal border controls between Schengen Member States (Agence Europe 2015e) was the beginning of unilateral action that explains EU policy failure.

In early September, with the number of refugees entering Europe increasing daily over and above the 40,000 refugees to be reallocated, the European Commission proposed an emergency mechanism to relocate 120,000 refugees from Greece, Italy, and Hungary to other EU Member States. Germany, France, and Spain committed themselves to taking the highest number, respectively 31,443, 24,031 and 14,931 refugees (Agence Europe 2015d).

However, because the Visegrad states opposed the emergency resettlement measures, in mid-September the German's interior minister, Thomas de Maizière, threatened the countries refusing to accept quotas for refugees with sanctions entailing freezing the allocation of European structural funds. Even though de Maizière stated that this idea had come originally from Jean-Claude Juncker, the latter counterargued that the Commission had not been informed about this plan. He added that the multiannual budget did not provide a legal basis for reducing European structural funds. If a country refused to participate in the relocation mechanism, incentives rather than sanctions were required (Agence Europe 2015c).

Due to the disagreement among Member States, a consensual decision on the emergency resettlement of 120,000 refugees within EU Member States was not possible in the face of opposition from Slovakia, Hungary, the Czech Republic, and Romania. However, the Luxemburg presidency decided to sidestep the opposition of these four countries with a decision of the European home affairs ministers by qualified majority vote on September 22, 2015. The Luxembourg minister, Asselborn, defended the use of the vote stating that "the EU would have come out even more 'divided' if no decision had been reached" (Agence Europe 2015b).

The final outcome foresaw the resettlement of 120,000 refugees from Greece and Italy over two years. In the first year, 66,000 would be resettled. Because Hungary refused to take some asylum seekers, the quota for Hungary was set at 1,294 refugees. Instead, the 54,000 asylum seekers initially to be resettled from Hungary would be allocated to Greece and Italy in the second year. The final agreement excluded the temporary solidarity clause, that is to say a financial compensation mechanism made available to the Member State unable to host refugees, which had been set at 0.002% of the GDP of the country to be paid into the EU budget. The agreement stipulated that no Member State would be allowed to refuse its quota. However, in exceptional situations, including natural disasters, Member States would be allowed to delay the resettlement of 30% of their share until 12 months after the entry into force of the decision following a positive vote by the Council of the EU. At the same time, Member States would be allowed to suspend their obligations related to the resettlement of the 120,000 refugees if they were subjected to a sudden influx of migrants by requesting the activation of Article 78 (3) of the Lisbon Treaty. Member States also deleted any reference to the Commission's obligatory criteria (distribution on the basis of GDP, population size, unemployment rate and hosting efforts). This compromise solution was then accepted by countries such as Poland, as the new proposal foresaw specific exceptions that would allow countries to suspend the agreement if necessary. For example, the Polish minister Piotr Stachanczyk stated that he could accept the agreement because all of Poland's demands had been taken into account: "There are safeguards which will allow this mechanism to be suspended" and that Poland's quota of around 5,082 would be manageable for his country (Agence Europe 2015b).

Unilateral action: Closing the borders

Hungary was one of the first countries to resort to unilateral action by deciding to build up a 175 kilometre-long fence along the border with Serbia. Further central measures were the re-introduction of border controls in late August 2015 by Hungary, tighter controls by Austria, and Germany's decision in mid-September to re-establish border controls at its border with Austria due to the sudden migration pressure – with over 20,000 refugees arriving in Munich in a day. Even though the Schengen agreement allows the introduction of border controls and their extension for a maximum period of two months, in some cases, Member States (Hungary and Austria) simply decided to take unilateral action without even initially notifying the European Commission (Agence Europe 2015a). For example, under Hungarian leadership several informal meetings between Visegrad countries took place in the absence of Commission representatives.

The Commissioner Avramopoulos also criticized the decisions made by the German government to suspend application of the Dublin regulation for Syrians as this unilateral action had contributed to the chaos and the "collapse of the Dublin system". The temporary and permanent refugee relocation

mechanisms formed an amendment to the Dublin system so that more in-depth reform of the Schengen system would be necessary in the future.

Conclusion

In this paper, I have argued that EU policy failure during the refugee crisis can be explained by the sequencing of four mechanisms. The partial empowerment of European institutions on migration and asylum issues contributed to the Commission's inability to provide transformational leadership when the crisis reached its peak, and low internal cohesiveness within the Council of the EU allied with a weakened Commission led countries to act unilaterally. First, a partial delegation of power to the European level on migration issues without clearly defined competences between the Commission, Member States, European Parliament and migration agencies has hindered effective action by Frontex. Second, contrary to the assumptions of neo-functionalist approaches that the Commission constantly attempts to widen its power, this piece shows that the Commission took a low profile and refrained from concentrating more power at the supranational level. Against the common wisdom that European integration goes in only one direction, namely more integration, we are currently witnessing stagnation and even a reverse process, as the temporary suspension of the Schengen Treaty illustrates. Finally, the inability of Member States to speak with a single voice together with the other factors explains why policy failure during the refugee crisis occurred.

What are the implications of the refugee crisis for the European integration process? Will it gain transcending or descending momentum (leading to more integration or to disintegration), to use Lefkofridi and Schmitter (2015) terminology? The refugee crisis has several implications for European integration that are likely to be strengthened in the current "existential crisis" (Juncker 2016) sparked by the British vote to leave the EU. The mantra that the EU undergoes many crises but always emerges stronger has lost plausibility. New challenges that started with the Euro crisis were exacerbated by the refugee crisis and have now deepened with the existential crisis driving Member States apart. The refugee crisis has strengthened hierarchical governance within the EU, which was initiated during the Eurozone crisis with Germany acting as benevolent hegemon. Even though the EU is the most successful case of regional integration, a vehicle for peace and prosperity on the European continent, its inability to govern effectively in time of crisis raises questions about its performance and future.

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