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978-1-009-45653-1 — Coming to Terms with the European Refugee Crisis

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Excerpt

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Part I

The Refugee Crisis in the EU and Its
Member States: Our Approach in Context

1 Introduction

This book is about the crisis management of the European Union (EU) and its member states during the refugee crisis of 2015–16 and its aftermath. We focus on crisis policymaking and crisis politics during this crisis, which reached its peak in 2015–16, but continued to occupy European policymakers for several additional years. This was not the first refugee crisis in Europe, and its coming was not entirely unexpected. The inflow of asylum seekers into the EU had already started to rise before 2015, but in the first half of 2015, the number of arrivals accelerated, and it virtually exploded in the fall of that year. The asylum seekers crossed the Mediterranean between Turkey and Greece in ever larger numbers, proceeded along the Balkan route, and arrived in Hungary, from where they continued their journey toward Austria, Germany, and the Scandinavian countries. The crisis's emblematic event occurred on September 4, 2015, when thousands of asylum seekers decided to leave the central train station in Budapest, where they had been stuck for some time, and to march on along the Hungarian highways in pursuit of their stated goal of reaching German soil. The Hungarian government, all too pleased by the asylum seekers' decision to move on, facilitated their arduous trek toward the Austrian border by sending buses to accommodate them and bring them to the border. Faced with the prospect of the approaching caravan, the Austrian government urgently sought the help of the German government. It was during the night of this Saturday in September 2015, under the immediate pressure of the refugees proceeding toward the Austrian–Hungarian border, that the German chancellor made the critical decision to suspend the Dublin III Regulation and to admit asylum seekers to Germany, although they had already passed through several other member states of the union. This decision was later to haunt her as she tried to find a joint solution to the crisis with her fellow heads of government in the EU. It proved to be very hard to come to a joint approach to the crisis, and it was impossible to share the burden among the EU's member states.

The puzzle we are trying to elucidate in our study of the refugee crisis is why the German chancellor, Angela Merkel, had come to be trapped

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in such a desperate situation in early September 2015, and why she and her fellow heads of government together with EU agencies proved to be unable to reform the Common European Asylum System (CEAS). It is not as if the European policymakers did not see the crisis coming. But although they were aware of what was brewing, they did not jointly prepare to meet the inflow of asylum seekers in the short term. Nor did they, once the policy failure of the CEAS was there for everyone to see, get their act together to reform the system in the long term. They only came up with a stop-gap solution, which made them dependent on less-than-reliable third countries. Answers to this puzzle do not just speak to the refugee crisis 2015–16 (from now on referred to as “the refugee crisis”); the way the EU and its member states faced this crisis goes a long way toward clarifying how the EU works more generally.

In the two-year period 2015–16, the member states of the EU received no less than 2.5 million asylum applications, mainly – but not exclusively – from Syrian refugees who had fled the civil war in their country. Under the pressure of this exceptional inflow of asylum seekers, the prevailing EU asylum policy and the asylum policies in the member states were put under enormous pressure, and existing conflicts within and between member states relating to the management of refugee flows and asylum requests were exacerbated. The pressure varied, however, from one member state to another, with important implications for policy-making. The way the EU and its member states reacted to this pressure demonstrates how cooperation is difficult in a situation, where they are not all hit in the same way, and in a policy domain where the EU and its member states share competences. In asylum policy, cooperation is rendered even more difficult by the fact that it is highly contested in the member states themselves. Already before the refugee crisis 2015–16, the humanitarian imperative to accommodate asylum seekers had been challenged by the European radical right in the name of national sovereignty and the protection of national cultural traditions. The refugee crisis served to increase the salience of migration issues and to reinforce the resistance of the radical right to the reception and integration of refugees.

It is important to study the refugee crisis because it has been most salient among the European publics, as we found in a survey put into the field in summer 2021. Asked about the “most serious threat to the survival of the European Union” in the decade before the arrival of the Covid-19 pandemic,¹ almost a third (32 percent) of the citizens from

¹ The question was formulated like this: “Thinking about the past decade before the COVID-19 pandemic, the European Union has faced a number of challenges. Which of the following challenges do you think represented the most serious threat to the survival of the European Union?”

sixteen countries considered the refugee crisis to be the most important threat,² outdistancing the other recent EU crises, such as the Euro area and Brexit crisis. Importantly, the assessment of the threat to the EU's survival varied by region: It was particularly in the northwestern European member states where most asylum applications were registered and in the eastern European member states where resistance to joint burden-sharing was the most intense that the population deemed the refugee crisis to be the most threatening to the EU. By contrast, while the refugee crisis was ranked highly by a significant portion of the population there, too, southern Europeans considered the threat of the financial and economic crisis and of the poverty and employment crisis as considerably more important than the refugee crisis, and the citizens of the UK and Ireland perceived the Brexit crisis as the biggest threat.

As a matter of fact, the way the refugee crisis was managed has left behind conflicts between member states, which have been further exacerbated in subsequent crises and which are likely to haunt the EU in times to come. Moreover, against the background of the underlying integration–demarcation conflict in the national European party systems, asylum policy constitutes a latent time bomb that might explode at any moment if inflows of asylum seekers increase again and the issue becomes once again more salient. Asylum policy remains a potent means for electoral mobilization on the left and on the right. The large opposition to immigration in some member states is bound to constrain the future options available to policymakers, as it is likely to constitute a major obstacle to joint solutions.

At both the EU level and the level of the member states, we investigate the kind of conflicts that were triggered by the problem and political pressure the EU and its members were exposed to during the crisis, how these conflicts influenced the way they attempted to deal with the pressure, and the kinds of policy solutions they adopted in the short and longer term. At the EU level, cooperation between the member states was, if anything, even more demanding than at the national level, because of the fragmented competence structures in asylum policy and because both the intensity and the type of problem pressure varied significantly between the member states. While the member states that were directly hit by the crisis in one way or another sought the cooperation of the others, the more fortunate among the member states were not prepared to contribute to joint solutions, or at least not to lasting joint solutions. We

² The countries are: Austria, France, Finland, Germany, the Netherlands, and Sweden (northwestern Europe); Italy, Spain, Portugal, and Greece (southern Europe); Hungary, Latvia, Romania, and Poland (eastern Europe); and the UK and Ireland (Anglo-Saxon Europe).

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investigate the attempts to overcome the initial unilateral scramble to the exit by the member states and ask what kind of transnational conflicts were exacerbated or newly created by these attempts and to what extent they prevented joint solutions. We pay particular attention to the interaction patterns between the national and the transnational conflicts in policymaking during the crisis.

As we shall see, conflicts within and between member states during the refugee crisis were very intense, and the prevailing EU asylum policy proved to be impossible to reform during the crisis. This does not mean that any joint solution was impossible. We demonstrate that the member state governments found provisional stop-gap solutions that did reduce the problem and political pressure in the short and medium term, even if they did not produce a long-term policy solution. As a result, asylum policy remains an unfinished construction site that constitutes a latent threat to the resilience of the EU polity to the date of writing.

To answer our key puzzle, we intend to embed the refugee crisis in a broader theoretical framework that allows us to situate crisis policymaking and crisis politics more generally in the EU polity and in Europe's underlying conflict structures. In order to understand the difficulty of coming to joint decisions in asylum policy, we need to first grasp the fragmented and nontransparent decision-making structure in the multi-level EU polity in general and in EU asylum policy in particular. Second, we need to get a sense of the already existing fractures in the member states and between them – fractures that were then exacerbated in the crisis or complemented by newly created divides as a result of the way some member states attempted to come to terms with it.

A General Framework for the Analysis of Crisis Policymaking and Crisis Politics

At a first glance, the refugee crisis threatened at most the resilience of the Schengen area and the principle of free movement. Designating it as a “deep” crisis that threatened the survival of the polity as a whole might, therefore, seem somewhat overblown. However, we claim that it should be at least considered as such a crisis, because it revealed fundamental tensions undermining the resilience of the EU polity and its capacity for designing joint EU policy. To understand this, we build on Stein Rokkan's structural approach to the formation of the European state system as it has been applied to the process of European integration by Stefano Bartolini (2005). This approach has the advantage of being situated at the intersection of the literatures on European integration and comparative politics. We complement this macro-structural approach

with insights from the grand theories on European integration and concepts of policy analysis, which will allow us to link the macro-structural context to policymaking in general and to policymaking under crisis conditions in particular.³

Our framework is not generally applicable; rather, it is specifically focused on the context of the EU polity, since we are interested in how the refugee crisis was managed in Europe. As is well known, of course, the EU is quite an exceptional polity, which has important implications for the way the refugee crisis – or, for that matter, any Europe-wide crisis – is managed. The EU is composed of a set of heterogeneous member states that are constituted as nation-states – that is, polities characterized by the successful integration of their economic, cultural, administrative, and coercive boundaries (Bartolini 2005). Over a period covering several centuries, in each member state, the closure of external boundaries has created three processes of internal consolidation: center formation (the creation of authority structures), system maintenance (the creation of loyalty, identity, and solidarity among the locked-in population), and political structuring (the creation of organizations, movements, and institutional channels for the articulation of the population's voice). The combination of boundary building (bounding), center formation (binding), and system maintenance (bonding) – the three B's of the “polity approach” to the EU integration process (Ferrera, Kriesi, and Schelkle 2023) – has provided the member states with an idiosyncratic structure of opportunities and constraints for the internal political structuring.

In the nation-state, external closure and internal structuring (voice) are intimately linked, as are opening and destructuring (exit)⁴: As the people in a given territory can no longer escape the binding decisions of the political authorities at the center, they demand participation in the political process and organize collectively in order to make their claims known and to impose themselves against opposing claims. The external closure induces social interactions among the locked-in actors, which increases the likelihood of collective action among them, “domesticates” the actors' strategies, and focuses them on central elites (forcing them to become responsive to pressures from below). Political structuring within the nation-states results from the strategic interaction of collective actors and the stabilization of these interaction patterns, which produce

³ This general framework has been developed for the study of crisis management in the EU more generally (Ferrera, Kriesi, and Schelkle 2023).

⁴ Ferrera (2005) called this the “bounding-bonding” mechanism, Giddens (1985: 202) referred to this link as the “dialectic of control,” while Poggi (1990: 76) has pointed to the intimate link between the concentration of power and participation in the exercise of power in the process of political modernization in Europe.

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national policies. Importantly, this structuring has occurred in a way that is specific to each nation-state and has focused policymaking and politics on the national center.

Compared to the nation-state, the EU and its member states constitute a new type of polity with a rather unique character that we attempt to capture by the notion of the “compound polity of nation-states” (Ferrera et al. 2023). At its core is a fundamental tension that the European integration process has introduced in the European system of nation-states (Bartolini 2005: 368, 375), a tension that is exacerbated by the fact that it is the governments of the nation-states that are the drivers of the integration process. On the one hand, the process of European economic (and other forms of) integration is predicated upon the removal of boundaries between the European nation-states. On the other hand, the national, democratic, and welfare features of the union’s member states (the features that were left outside the initial integration project) are predicated upon the continued control over redistributive capacities, cultural symbols, and political authority by the member states. The integration project progressively represents a direct challenge to these other features of the member states. The integration process breaks up the three-layered coherence between identities, practices, and institutions; dismantles the coincidence among the different types of state boundaries; and leads to the dedifferentiation of European nation-states after five centuries of a progressive differentiation in their legal and administrative systems, social practices and cultural and linguistic codes, economic transactions and market regulation, and social and political institutions. As Bartolini (2005) points out, the integration process is causing the destructuring of national polities without sufficient restructuring at the EU level.

This was never more evident than in the period of the refugee crisis. The fundamental tension between the integration process and the destructuring of the national polities becomes particularly critical in crisis situations, above all in a policy field like asylum policy, where some, albeit not all, member states are jealously defending their national sovereignty against the encroachment of European integration. Routine policies in established polities (such as nation-states) have only marginal implications for the maintenance of the polity itself. However, the combination of the lack of a joint policy on border control, outdated asylum policies that were concocted at a different juncture, the ability to follow beggar-thy-neighbor approaches, isolated national policies, and finally a resistance to share the common burden meant that what should have been a routine policy problem challenged the bounding, the binding, and ultimately the bonding of the EU member states, revealing the fundamental tensions in the EU’s architecture. In other words, policymaking

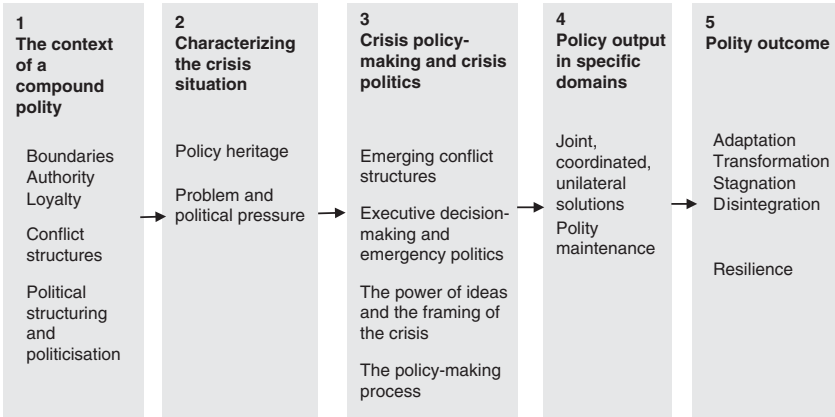


Figure 1.1 The analytical building blocks of the theoretical framework

in crisis situations is more likely to impinge on the maintenance of the polity as such, and this applies in particular for a compound polity like the EU, where a stable underlying structure has not (yet) been established. As a compound polity, the EU is constantly testing new modes of combining its three constitutive elements, that is, boundaries, binding authority, and bonding ties.

Taking this into account, Figure 1.1 (taken from Kriesi, Ferrera, and Schelkle 2021) presents the five building blocks of our general analytical framework. The three B’s and the preceding discussion are located as the initial “block” of our model and structure the policy space afforded to European policymakers. The actual policymaking, which lies at the heart of our analysis, is constrained by this “compound” EU structure and the conflicts it generates and, furthermore, by the policy heritage begotten by this structure, that is, the lackluster border control coordination and the semifunctional joint asylum framework, and also by the immediate problem and political pressure. In turn, the crisis policymaking reshapes the bounding, binding, and bonding status quo as new institutions and actions attempt to face the crisis, contributing to or hindering polity maintenance and eventually leading to one of the outcomes indicated in our final building block.

The challenge of the refugee crisis focused on bounding, that is, on the internal and external bordering of the EU, with important implications for binding and bonding. In the EU, the master tension is exacerbated by the fact that the integration process breaks down internal borders without, at the same time, providing for commensurate joint external border controls. Accordingly, migration governance currently has two

components in the EU: free movement internally, and a common migration and asylum policy with regard to third country nationals (TCNs). Put simply, the EU has an open borders framework internally (the Schengen area) but external migration restrictions (Geddes and Scholten 2016). However, while EU member states have little control over internal movements,⁵ they remain in charge of regulating admission of TCNs, a prominent group among whom have been asylum seekers.⁶ Though matters of asylum are notionally a shared competence between the EU and national governments (article 4 of the Treaty on the Functioning of the European Union [TFEU]), at the end of the day, it is the member states themselves that determine access to their territory and whether and how they will abide by international norms (Schain 2009), the amount of resources they are willing to invest in the assessment of asylum claims, policing efforts against irregular migration, deportation procedures, and the integration of successful asylum applicants. Moreover, the ability of the EU to control its external borders extends only as far as the capacity of the member states at its external borders to fulfill this task. As a result of insufficient control of external borders, the refugee crisis was first an instance of the breakdown of external borders in the southern European border countries most exposed to the inflow of refugees. Greece, in particular, had border control issues, which created tensions that jeopardized the Schengen area's continued existence.

As they struggled to regain control, decision-makers both in the EU supranational institutions and in the member states, particularly those most affected by the refugee crisis due to their country's exposure, implemented a set of measures that amounted to what Schimmelfennig (2021: 314) calls "defensive integration," that is, a combination of measures of mainly internal rebordering (the resurrection of barriers between member states or their exit from common policies or the EU altogether) with external rebordering, that is, the creation and guarding of "joint" external EU borders, policed partially by a common armed force, that are institutionally recognized as the union's borders in treaties and agreements with third countries. Combined with internal debordering, external rebordering contributes to "effective integration" (Schimmelfennig 2021: 314), as the bounding process of the EU acquires meaningfulness at the expense of the national bounding. By contrast, the combination of internal and external debordering would lead to an outcome of "disintegration." From

⁵ On free movement, there are some limits (public health and security) that have become more relevant as a result of asylum/refugee arrivals, terrorism, and Covid-19.

⁶ Note, however, that labor and family migration have been – and will likely remain – the main migration flows into the EU.

the perspective of the European integration process, “defensive integration” appears as a second-best solution that is basically one step forward, one step backward – or a “failing forward” (Jones, Kelemen, and Meunier 2016, 2021; Lavenex 2018) – approach with regard to integration, an outcome that combines elements of stagnation and adaptation in our framework. While our description of the outcome of the crisis is in line with the failing forward approach, we focus on the policymaking process, which is given short shrift by this approach.

Our Argument in Brief

Our focus on the policymaking process puts the making of binding decisions at the center of the analysis. Our basic argument is that, against the background of the underlying conflict structures at the EU and the national levels, the policy-specific institutional context within the compound polity (the competence distribution in the policy domain and the institutionalized decision-making procedures governing crisis interventions) and the characteristics of the crisis situation (the intensity and distribution of the problem and political pressure among member states) jointly determine to a large extent the way policymakers attempt to come to terms with the crisis.

Generally, the crisis-induced distribution of problem and political pressure may be more or less symmetrical. Crucially, in the refugee crisis, the incidence of the crisis across EU member states was asymmetric. Some member states were hit hard by the crisis, while others hardly experienced any problem pressure at all. Uneven exposure to a crisis creates a differential burden of adjustment, which increases the salience of national identities and limits transnational solidarity. In other words, an asymmetric crisis activates the underlying integration–demarcation conflict. In the case of the refugee crisis, the activation of this conflict was enhanced by the fact that it concerned, above all, external and internal boundaries. By contrast, the presence of a common, symmetrical threat experienced by all the member states of the EU multilevel polity is likely to be a powerful driver of expanded solidarity between member states. As in the Covid-19 crisis, the shared experience of a crisis may reduce the salience of constraints imposed by national identities and facilitate an extension of transnational solidarity. The uneven incidence of the refugee crisis among the member states makes for a complex configuration of transnational interests and facilitates the creation of “circles of bonding,” that is, coalitions of member states that are strengthened by the crisis and that lead to divisive bonding instead of systemic bonding that enhances the integration process.